

and then those with the least seniority, in positions being vacated, reclassified or abolished.

(c) Appointing authorities shall consult with affected negotiations representatives prior to initiating measures under this section.

(d) Upon request by an appointing authority, assistance may be provided by the Department of Personnel in implementing pre-layoff measures.

Amended by R.2000 d.12, effective January 3, 2000.

See: 31 N.J.R. 2827(a), 32 N.J.R. 39(a).

Rewrote (d).

Amended by R.2003 d.304, effective August 4, 2003.

See: 35 N.J.R. 345(a), 35 N.J.R. 3551(b).

Rewrote (b) through (d).

Petition for Rulemaking.

See: 41 N.J.R. 3850(b).

Petition for Rulemaking.

See: 42 N.J.R. 1911(a).

Case Notes

There was no bad faith in displacement of employee. *Snyder v. Department of Human Services*, 92 N.J.A.R.2d (CSV) 709.

4A:8-1.4 Review by Department of Personnel

(a) At least 30 days prior to issuance of layoff notices, or such other period as permitted by the Department of Personnel, the following information shall be submitted by an appointing authority to the Department of Personnel:

1. The reason for the layoff;
2. The projected effective date of layoff;
3. Sample copies of the layoff notice and the projected date for issuance;
4. The number of positions (including position numbers in State service) by title to be vacated, reclassified, or abolished and the names, status, layoff units, locations and, as of the effective date of the layoff, permanent titles of employees initially affected, including employees on leave;
5. The vacant positions in the layoff unit (including position numbers in State service) that the appointing authority is willing to fill as of the effective date of the layoff;
6. A detailed explanation of all alternative and pre-layoff actions that have been taken, or have been considered and determined inapplicable;
7. A summary of consultations with affected negotiations representatives; and
8. A list of affected negotiations representatives, including addresses and the units they represent.

(b) In local jurisdictions having a performance evaluation program approved by the Department of Personnel, the appointing authority shall also submit the names of permanent employees who have received a rating below Commendable

or equivalent in their permanent title within the 12-month period preceding the effective date of the layoff.

(c) Following submission of the information required in (a) above, all vacant positions identified in (a) 5 above shall be filled, except under exceptional circumstances with the approval of the Commissioner, and may only be filled through layoff procedures.

(d) Upon review of the information required to be submitted in (a) and (b) above, or in the absence of timely submission of such information, the Commissioner may take appropriate remedial action, including:

1. Requiring submission of additional or corrected information;
2. Providing needed assistance to the appointing authority;
3. Directing implementation of appropriate alternative or pre-layoff measures; or
4. Directing necessary changes in the layoff notice, which may include the effective date of the layoff.

(e) Upon approval of the layoff plan, the Department of Personnel shall provide affected negotiations representatives with a copy of the plan as it affects their represented employees.

Amended by R.1995 d.251, effective May 15, 1995.

See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Amended by R.2000 d.12, effective January 3, 2000.

See: 31 N.J.R. 2827(a), 32 N.J.R. 39(a).

In (a), deleted a former 4, and recodified former 5 through 9 as 4 through 8; in (b), substituted "below Commendable" for "of Marginally Below Standards or Significantly Below Standards" following "rating"; and in (c), made an internal reference change.

Petition for Rulemaking.

See: 41 N.J.R. 3850(b).

Petition for Rulemaking.

See: 42 N.J.R. 1911(a).

Case Notes

Municipal ordinance allocating to mayor authority to lay off subordinates of municipal clerk did not violate doctrine of separation of powers. *City Council, City of Orange Tp. v. Brown*, 249 N.J.Super. 185, 592 A.2d 260 (A.D.1991).

4A:8-1.5 Layoff units and job locations

(a) In State service, the layoff unit shall be a department or autonomous agency and include all programs administered by that department or agency. An autonomous agency is one which is in, but not under the supervision of, a principal department.

(b) In local service, the layoff unit shall be a department in a county or municipality, an entire autonomous agency (see N.J.A.C. 4A:8-2.1(c)1i), or an entire school district. However, prior to the time set by N.J.A.C. 4A:8-1.4 for submission of information to the Department of Personnel, a different layoff unit consisting of one or more departments

may be approved by the Commissioner under the following procedures:

1. A request may be submitted by an appointing authority to the Commissioner or the matter may be initiated by the Commissioner.

2. Notice of the request shall be provided by the appointing authority to affected negotiations representatives upon submission to the Commissioner.

3. After receipt of the request, the Commissioner shall specify a period of time, which in no event shall be less than 20 days, during which affected employees and negotiations representatives may submit written comment and recommendations.

4. Thereafter, the Commissioner shall issue a determination approving, modifying or rejecting the proposed lay-off unit, after considering:

- i. The need for a unit larger than a department;
- ii. The functional and organizational structure of the local jurisdiction;
- iii. The number of employees, funding source and job titles in the proposed unit;
- iv. The effect upon employee layoff rights; and
- v. The impact upon service to departmental clientele and the public.

(c) In State service, the Commissioner of Personnel shall determine job locations within each department or autonomous agency.

1. Each job location shall consist of a county.

2. The Commissioner of Personnel shall assign a job location to every facility and office within a department or autonomous agency.

3. See N.J.A.C. 4A:8-2.2 for exercise of lateral and demotional rights within job locations. See N.J.A.C. 4A:8-2.3 for exercise of special reemployment rights within job locations.

(d) In local service, the entire political subdivision is the job location and includes any facility operated by the political subdivision outside its geographic borders.

Amended by R.1995 d.251, effective May 15, 1995.

See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Amended by R.2000 d.12, effective January 3, 2000.

See: 31 N.J.R. 2827(a), 32 N.J.R. 39(a).

Rewrote (a).

Amended by R.2003 d.304, effective August 4, 2003.

See: 35 N.J.R. 345(a), 35 N.J.R. 3551(b).

Rewrote (a).

Petition for Rulemaking.

See: 41 N.J.R. 4833(b).

Petition for Rulemaking.

See: 42 N.J.R. 1085(a).

Case Notes

Commissioner of Personnel's failure to consider factors other than the effect on those adversely impacted at the Board of Public Utilities by the potential expansion of the Department of Environmental Protection layoff unit to include the Board of Public Utilities required remand for reconsideration by the Commissioner of her decision denying the Department of Environmental Protection rate analysts' petition to