

123:1-41-11

Displacement and appeal rights of employees.

- (A) Exercising of option to displace. An employee who is to be laid off, or displaced as a result of a layoff, may exercise displacement rights under the provisions of this chapter or be laid off. Displacement occurs on the date an employee is notified that another employee has exercised his or her right of displacement and that the employee with fewer retention points is to be displaced. A displaced employee may exercise the right to displace another employee if such right to displace exists. Displacement rights of an employee may only be exercised within the employees appointing authority and within the layoff jurisdiction as established in this chapter. If the displaced employee does not have the right to displace another employee, then the displaced employee shall be laid off.
- (B) Displacement related to the abolishment of a position. Any displace of an employee paid by warrant of the director of budget and management to another headquarter county within the same layoff jurisdiction due to the abolishment of positions and the operation of this chapter shall not be construed to be a transfer.
- (C) Time to exercise displacement rights. Employees shall notify their appointing authorities, in writing, of their intention to exercise their displacement rights within five calendar days after receipt of notice of layoff or displacement.
- (D) Displacement of employee with fewest retention points. Within the order of displacement set forth in rule 123:1-41-12 of the Administrative Code a laid-off employee exercising displacement rights shall displace the employee with the fewest retention points. Employees shall only have the right to displace employees with fewer retention points in the order established in rule 123:1-41-07 of the Administrative Code.
- (E) Classifications with parenthetical subtitles. For purposes of displacement, the parenthetical subtitles of a classification are deemed separate, but equivalent, classifications. Employees in positions with a parenthetical subtitle may displace into the classification(s) in the classification series with the equivalent or lower pay range(s). Employees in positions in a classification series that contains parenthetical subtitles may displace employees in positions with parenthetical subtitles.
- Any displacement rights into or from positions with parenthetical subtitles are subject to the displacement provisions of this chapter.
- (F) Displacement into positions with special qualifications. No employee shall displace an employee for whose position or classification requires special minimum qualifications unless the employee desiring to displace another employee possesses the requisite minimum qualifications or bona fide occupational qualifications for the position or the classification. The special qualifications must be established by a position description for the position, by classification specification minimum

qualifications statement, or by bona fide occupational qualifications for the position(s) or classification. The appointing authority shall be responsible for establishing the necessity of special qualifications for a position.

- (G) Rate of pay for an employee following displacement. An employee exercising displacement rights to a position, or an employee displaced as a result of a layoff or abolishment, shall be paid according to the pay range assigned to the classification into which the employee displaced or was displaced. The employee shall be assigned to a rate in the pay range assigned to the new classification which is equivalent or nearest to, but not exceeding, the rate the employee was paid in his or her prior classification. If the rate the employee was assigned in his or her prior classification exceeds the highest rate in the pay range assigned to the new classification the employee will be assigned the highest rate assigned to the new classification.
- (H) Appeal rights. A classified employee may appeal a layoff, or a displacement which is the result of a layoff, to the state personnel board of review. Such appeal must be filed or postmarked no later than ten calendar days after the employee receives notice of the layoff or the date the employee is displaced. An employee shall be considered displaced the date the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position. An appeal shall be made in accordance with the rules promulgated by the state personnel board of review.

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