

123:1-41-16

Reinstatement rights.

- (A) Creation of recall lists for reinstatement. Each appointing authority which has laid-off employees shall prepare recall lists of the names and appointment types of the employees laid off. The recall lists shall be compiled by the classifications in which the employees were laid off. The names shall be listed in descending retention point order in each appointment category. These lists shall be arranged by layoff jurisdiction and shall be in reverse order of the order of layoff as established in this chapter.

The recall lists shall contain the employee's name, type of appointment, retention points, and date of commencement of continuous service. In cases of identical retention point ratings, the order of recall shall be the reverse order of the layoff. Any ties of retention points shall be broken in accordance with the procedure established in rule 123:1-41-09 of the Administrative Code.

- (B) Period of eligibility on layoff lists. An employee's name shall remain on the appropriate list for a period of one year from the date the employee was first laid off or displaced from his or her original classification. These recall lists shall be thereafter administered by the director. Recall lists shall be utilized by the appointing authority only within a layoff jurisdiction.
- (C) Administration of recall lists for reinstatement to vacancies without position-specific minimum qualifications.

Vacancies that occur in a classification series for which a recall list exists must be accepted or declined in writing by the first person on the recall list for that classification series before the next person on the recall list may be offered a vacancy.

- (D) The administration of recall lists for reinstatement to vacancies with position-specific minimum qualifications, established pursuant to rule 123:1-7-04 of the Administrative Code, shall comply with the following requirements:
- (1) Appointing authorities may request up to five names off the recall list in response to a position that has position-specific minimum qualifications. The first five names, ranked in retention point order, will be sent to the agency.
 - (2) Appointing authorities shall administer a valid proficiency instrument to the first person on the recall list to determine whether the person meets the position-specific minimum qualifications. Therefore, for efficiency, the appointing authority may contact all five people at once asking each one to demonstrate how that person meets the position-specific minimum qualifications attached to the position. The appointing authority must notify each contacted individual that the individuals shall only be considered in retention point order. The

person with the most retention points that meets the position-specific minimum qualifications shall be awarded the position.

- (3) After the appointing authority identifies the person with the most retention points that meets the position-specific minimum qualifications, that person must accept or decline the vacancy in writing before the next person on the recall list may be considered for reinstatement. If the person with the most retention points that meets the position-specific minimum qualifications declines the position, and the appointing authority contacted five people at once, the agency may review the next person from the recall list in retention point order.
 - (4) During the time when five names are released to one appointing authority, the director will continue to send the same five names to other agencies requesting the classification in question.
- (E) In no event shall any employee on the recall list be offered a position in a classification with a higher pay range assignment or appointment category than that of the classification or appointment category from which the employee was laid off or displaced.
- (F) Failure to exercise displacement rights. A laid-off or displaced employee who chooses not to exercise the option to displace shall only be entitled to reinstatement to the classification from which the employee was laid off or displaced.
- (G) Prohibition of movement into classifications for which recall lists exist. In any layoff jurisdiction in which an appointing authority has any employee on a recall list, the appointing authority shall not hire or promote into the classification or the classification series subject to the recall list. An appointing authority may reassign or transfer employees within a classification and within the layoff jurisdiction for which a recall list exists unless the director determines the reassignment or transfer circumvents the recall process. Transfers of employees may not be made into a different layoff jurisdiction if a recall list exists for that layoff jurisdiction.
- (H) Probationary period. Any employee reinstated under this rule shall not serve a new probationary period when reinstated; except, any employee laid off or displaced while serving an original or promotional probationary period shall begin a new probationary period upon reinstatement.

Five Year Review (FYR) Dates: 9/15/2017 and 09/15/2022

CERTIFIED ELECTRONICALLY

Certification

09/15/2017

Date

Promulgated Under: 119.03
Statutory Authority: 124.09
Rule Amplifies: 124.327
Prior Effective Dates: 07/31/1982, 02/04/1996, 04/05/1999, 01/18/2009