

Guide to Contractual Layoff Rights for Employees of the State of Maine Executive Branch

*(Administrative Services, Operations, Maintenance
& Support Services, Professional & Technical
Services, Supervisory Services)*



FREQUENTLY ASKED QUESTIONS

Q: If I have questions on layoff rights that are not answered here, or if I need more information, who can I talk to?

A: Please call your MSEA-SEIU Field Rep for more information. If you don't know who your Field Rep is, ask for the Rep of the Day and you'll be directed to the right person. You may contact your Field Rep or the Rep of the Day at 622-3151 or 1-800-452-8794. You will be able to talk to the Rep of the Day on the same day you call. If you leave a message for your Field Rep, you should get a call back within 24 hours. You may also speak to your worksite Steward or Chief Steward. If that individual can't answer your questions, he or she will direct you to your Field Rep.

Q: What is a layoff?

A: A layoff is the loss of a job due to the elimination of a position.

Q: Who has the right to eliminate positions and decide which positions to eliminate?

A: Management has the right to eliminate specified positions, but their decisions on position eliminations may not violate other contract provisions or State or Federal laws (for example, regarding illegal discrimination), and those decisions may be reviewed and overturned by the Legislature. If you believe management is acting illegally or in violation of the contract, please contact your Field Rep immediately. (If you don't know who your Field Rep is, ask for the Rep of the Day and you'll be directed to the right person.) MSEA-SEIU attends every hearing or work session on budgetary issues that may affect the bargaining units we represent. The Union works to ensure that the Legislature protects your interests as State workers as well as the interests of the public in quality public services.

Q: How will I know if I'm going to be laid off?

A: Management must give any employee at least five workdays notice of any layoff. If you receive a layoff notice, you must respond within three workdays, stating your decision on how you will use your layoff, reassignment or displacement rights. (These rights are described below.) If you are not being

reassigned and are not displacing another employee -- and thus will be laid off -- you are entitled to 10 workdays notice before the layoff.

Q: Are there other actions besides layoff that could cause me to lose my current job?

A: Under certain circumstances, described below, you may be *reassigned* from one position to another in your same job class, or you may be *displaced* from your position by another employee who is exercising his or her layoff rights. (Another term used to describe displacement is “bumping”.)

Q: How will I know if I’m going to be reassigned or displaced?

A: Management must give any employee at least five workdays notice of any reassignment or displacement.

Q: I’ve been told that my position is being eliminated. What does that mean?

A: If there’s only one position in your job class in your unit division, it means that you are being laid off. If there’s more than one position in your job class in your unit division, and you have more seniority than at least one other employee in your job class in your unit division, you will not be laid off. Instead, the least senior employee in the class and in your unit division will be laid off, and you will be reassigned to another position in the class. (Unit division is defined below.)

Q: I’ve been told I will be laid off. Do I have any rights to another State job?

A: You may have rights to another State job. Your rights depend on your seniority, and on the organizational unit and unit division in which you currently work.

Q: What is seniority?

A: Your seniority is your continuous service since your last date of hire into a permanent job in a bargaining unit represented by MSEA-SEIU. (If you left State employment and were later rehired, service in any jobs you held before the break in service do not count in determining your seniority.)

Q: How can I be sure the State has figured my seniority right, and how can I compare my seniority to the seniority of other employees?

A: Your Department or Service Center maintains seniority lists. You can contact your Field Rep at MSEA-SEIU to review the list, make sure it’s accurate, and see where you stand in relation to other employees. If you don’t know who your Field Rep is, ask for the Rep of the Day and you’ll be directed to the right person.

Q: What is an organizational unit?

A: The Union and management jointly define organizational units in written agreements reached through negotiations. Organizational units are large, usually consisting of an entire Department.

Q: How do I know what my organizational unit is?

A: When the Union and management have completed their review and negotiations on organizational units, the agreements (or relevant information from those agreements) will be posted on the MSEA-SEIU website. If the agreements are not on the website, or if you have questions anyway, please call your Field Rep. If you don't know who your Field Rep is, ask for the Rep of the Day and you'll be directed to the right person.

Q: What is a unit division?

A: The Union and management also jointly define unit divisions in written agreements reached through negotiations. Unit divisions are parts of an organizational unit. For example, they may be defined regions or areas served by a Department, or specific offices, institutions or facilities run by the Department.

Q: How do I know what my unit division is?

A: When the Union and management have completed their review and negotiations on unit divisions, the agreements (or relevant information from those agreements) will be posted on the MSEA-SEIU website. In the meantime, or if you have questions, please call your Field Rep. If you don't know who your Field Rep is, ask for the Rep of the Day and you'll be directed to the right person.

Q: So, if I'm laid off, what are my rights to another State job?

A: You have reassignment, displacement and recall rights. These are described in detail below.

Q: What are my reassignment and displacement rights?

A: Your reassignment and displacement options are listed below. Whether you can exercise any of these options will depend on your seniority, your organizational unit and unit division, and whether there are vacant positions or less senior employees in your current job class, your last previously held job class, or any job classes you previously held that are lower related to your current job class. Each option requires that you be qualified to perform the job, meaning that you meet the minimum qualifications required to be hired into the position. These options are exercised in order of seniority, and employees displaced in the process have the same displacement rights as the employees who were subject to layoff.

When your position is eliminated, your options are as follows:

- a. You will be reassigned to a **vacancy, if available, in your same job class and unit division.**

- b. If you cannot exercise any options under (a), you may accept reassignment into a **vacancy, if available, in the same unit division in the job class you last previously held.**
- c. If you cannot exercise any options under (a) or (b), you may either: **displace the least senior employee in your last previously held job class in the same unit division, OR accept reassignment into a vacancy, if available, in the same unit division in a job class that is lower related to your current job class.**

Displacement options under (b) and (c) apply to positions in other MSEA-SEIU bargaining units, even if the employee's previously held job class has since been moved to a new unit, and even if the title or pay range of the job class has changed.

Q: What are my recall rights?

A: If you are subject to layoff and you have no reassignment or displacement rights, or if you choose not to exercise those rights, you will be laid off. In that case, you will have the following rights to be recalled to a State job:

- Recall registers must be set up for each job class from which an employee has been laid off, transferred, or demoted in lieu of layoff. These registers are set up by organizational unit and unit division.
- **An affected employee must make a written request to the Bureau of Human Resources to be put on recall registers.** Once you make this request, BHR must place you on the recall register for:
 - (a) the job class from which you were laid off, and
 - (b) your last previously held job class.
- Recall is offered to the most senior employee on the recall register in the following order:
 - (a) unit division
 - (b) organizational unit
 - (c) statewide
- In order to be recalled, you must meet the minimum qualifications required to be hired into the position.
- If you refuse recall, you will be removed from the recall register.

Q: If I'm subject to layoff and I'd like to find out specifically what my reassignment and displacement rights are, how do I determine whether there are vacancies to which I can be reassigned, or whether there are less senior employees I can displace?

A: The Union will be working with your Department and/or Service Center to get this information. Please call your Field Rep with your questions. If you don't know who your Field Rep is, ask for the Rep of the Day and you'll be directed to the right person.

Q: What do I do if I think there is an available position that my Department may be “hiding” or saying is not available?

A: Again, call your Field Rep. (If you don't know who your Field Rep is, ask for the Rep of the Day and you'll be directed to the right person.) With the help of our lobbyists and research analysts, we'll be working to find every available position. Any information you have and can share with us on that subject will help us make sure that happens.

Q: Do I have reassignment or displacement rights to positions throughout my unit division, even if the positions are in another worksite or section?

A: Yes. You have reassignment or displacement rights (as specified above) throughout your unit division.

Q: Do I have reassignment or displacement rights to positions outside my unit division?

A: No.

Q: Who determines if I meet the minimum qualifications for a position?

A: Management will make that determination. If management decides you do not meet the minimum qualifications and you believe you do, you may file a grievance challenging that decision. Speak to your worksite Steward or Chief Steward, or call your Field Rep, about filing a grievance. **Any grievance must be initiated with management within fifteen workdays of the action triggering the grievance.**

Q: What do I do if I think management is violating the contract in laying me off, or in denying me the reassignment, displacement or recall rights I believe I'm entitled to?

A: You may file a grievance to challenge management's actions. Speak to your worksite Steward or Chief Steward, or call your Field Rep, about filing a grievance. **Any grievance must be initiated with management within fifteen workdays of the action triggering the grievance.**

**THIS IS ONLY A SUMMARY.
CALL THE UNION (AT 622-3151 or 1-800-452-8794)
IF YOUR QUESTION IS NOT CLEARLY ANSWERED BY THIS SUMMARY.**