

## LAYOFF AND DISPLACEMENT SENIORITY

**LAYOFF SENIORITY** in a class means the length of continuous service in that class and all higher classes since original regular appointment to that class, after deducting all absences without seniority credit.

**DISPLACEMENT SENIORITY** is the length of service in a class group (time in that class for a specific department) and in all higher classes since original regular appointment to such class, after deducting all absences without seniority credit.

Note: For both layoff and displacement seniority computations, higher class time can only be counted if it occurred after the regular appointment to the class for which seniority is being computed.

### **SERVICE IN A CLASS THAT CANNOT BE COUNTED**

1. Service in a class, or higher class time, that occurs before a break in service (separation from City employment caused by abandonment of position, resignation, retirement, or discharge for cause).
2. Absence **without** pay exceeding seven calendar days.
3. Service in a class during a probationary period shall **not** be credited to that class if the probationary period is not completed because of discharge or resignation from that class.
4. Service in a class for the following types of appointments (seniority will continue to accrue in prior class):

Emergency appointments  
Exempt appointments  
Intermittent appointments  
Limited appointments  
Appointments to temporary training positions

5. Service in a class because of a tentative transfer, if transfer does not become final.
6. Service in a class if the employee is legally employed (seniority is accrued in the employee's status class).
7. Seniority shall **not** be credited for any period during which an employee is retained in error out of seniority order.

### **SENIORITY IN A CLASS THAT CAN BE COUNTED**

1. Absence with pay (except that seniority for any such absence resulting from disability not incurred in the line of duty shall be limited to a maximum of one year).

2. **Service in a class during a probationary period shall be credited to that class if the probationary period is not completed because of a layoff or termination to accept another City position.**
3. **Absence on leave for the following:**
  - **Active service in the U.S. armed forces.**
  - **To receive veterans' educational benefits**
  - **Service in the Merchant Marine.**
  - **Service in the U.S. Peace Corps.**
4. **Absence on leave made necessary by disability incurred in the line of duty (normally employees will be on workers' compensation).**
5. **Absence on leave for the purpose of loaning the employee to another governmental agency or a private agency engaged in work of interest to the City.**
6. **Seniority shall be credited for any period that an employee is laid off if it is found that the employee should have been employed during that time.**
7. **Every employee retiring from City service on disability or voluntary service retirement shall be considered as being on leave of absence with seniority from the effective date of his retirement, as designated in his application for such retirement, to the date upon which the board of administration acts upon such application.**
8. **For seniority purposes, half time or part-time employees are counted as if they were regular full-time employees if they are not in exempt positions.**
9. **On 1014 transfers, all layoff and displacement seniority is credited from the class the employee is leaving to the class in which the employee is transferring to.**

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## **LAYOFFS AND DISPLACEMENTS**

### **QUESTIONS AND ANSWERS**

The following are questions that arose during the course of the DWP layoffs and answers that were researched and developed to respond to these questions by the Classification Division of the Personnel Department. The purpose of documenting these questions and answers is to retain a record for future layoffs, and to provide departments with information on layoffs, displacements and layoff related issues.

#### **Question No.1**

If a layoff is requested for a class series (simultaneous layoffs, CSC Rule 8.8), must layoffs in the highest class result in displacements throughout the entire series (layer by layer) before a layoff can be done in the next highest class, or can we layoff in the highest class, allow only the initial displacement to occur, and then layoff in the next highest class and so on...?

#### **Answer**

CSC Rule 8.8 states that displacements in the lower class must have been completed before layoffs in the lower class can occur. This has been interpreted to mean that displacements will occur throughout the lower classes (layer by layer) before the next lower class lays off.

#### **Question No.2**

If an employee is laid off in a class in a department, can this employee displace to the same class in another department assuming that this employee was formerly employed by this other department?

#### **Answer**

Yes. Charter Section 1015 states that an employee who has been laid off can "displace a person holding a position in a class-group in which a regular position was formerly held by the person so suspended." Therefore, if the employee transferred to several positions in his/her class before being laid off, then this employee's displacement seniority must be matched against other employees in those class groups to determine if he/she can displace.

#### **Question No. 3**

If a department is faced with a departmental reserve list, can they instead fill a vacant position by transfer? Is the answer the same for a general reserve list?

#### **Answer**

Charter Section 1015 states a vacant position can be filled by a transfer even if a departmental reserve list exists, but the transferee must have more seniority than

anyone on the reserve list. Since the Charter only refers to reserve list, it is assumed that this would apply also to a general reserve list.

**Question No. 4**

Can an employee who is laid off displace to a class group in which he/she has not completed probation? If yes, does the employee start a new probation or continue probation from where he/she left off from?

**Answer**

Yes. Charter Section 1015 specifies that an employee can displace to a class group that he/she formally held, and class group is not dependent on passing probation. However, if an employee is discharged or resigns from a class while on probation, his/her seniority in the probationary class is credited to the class in which the employee was previously accruing seniority (CSC Rule 7.10) and therefore would be unable to displace in the class because he/she would have no displacement seniority in that class.

There is no specific written authority that covers the situation of what should happen to the probationary period of an employee who displaces to a class in which he/she has not completed probation. However, it appears that CSC Rule Section 5.26(a) can be applied and that the employee will resume his/her probation from where he/she left off. This is reinforced with a similar interpretation we gave on an exempt employee who returned from protective leave to a position in a class that he/she did not complete probation. We also considered that employees that revert, transfer or who are 1014 transferred, or who are on probation, are required to start a new probation. However, these are conditions in which the employees may end up in a different department.

**Question No. 6**

Can an employee who is laid off displace into his/her own class group?

**Answer**

Normally no, however there is an exception for functional transfers. Layoffs and displacements occur instantaneously, and an employee can only displace to a position in a class group in which he/she formerly held a regular appointment and in which there is an employee with less displacement seniority.

**Question No. 7**

If an employee is displaced out of a class and has no other displacement rights, what seniority would be shown on the reserve list (displacement seniority or layoff seniority)?

**Answer**

Even though the employee was displaced out, he/she was technically laid off. Therefore, the reserve list would show the employee's layoff seniority. CSC Rule 1.30 also states that reserve list means the list by class of the names in order of **layoff seniority** as of the time of layoff of those persons who have completed the probationary period and have been laid off.

**Question No.8**

**In computing layoff and displacement seniority, does all higher-class time count?**

**Answer**

**No. Any higher-class time acquired prior to a break in service (as defined in CSC Rule 1.34 as a separation from City employment caused by abandonment of position, resignation, retirement, or discharge for cause) is not counted in computing layoff and displacement seniority. In addition, CSC Rule 1.33 limits the amount of higher-class time that can be counted for layoff and displacement seniority to only higher-class time acquired after the original appointment to the class that the seniority is being computed for.**