

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 8A.104 and 8A.413, the Department of Administrative Services hereby amends Chapter 60, "Separations, Disciplinary Actions and Reduction in Force," Iowa Administrative Code.

The purpose of this amendment is to comply with 2010 Iowa Acts, Senate File 2088, enacted by the second session of the Eighty-Third General Assembly and signed by the Governor on March 10, 2010. 2010 Iowa Acts, Senate File 2088, division V, section 67, restricts the ability of a supervisory employee to bump a junior employee in a layoff. 2010 Iowa Acts, Senate File 2088, division V, effective upon enactment, requires the amendment of existing administrative rules.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable due to the immediate need for rule making to implement the statute.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on April 30, 2010, as it limits the ability of supervisory employees to bump junior employees during a layoff.

The Department adopted this amendment on April 30, 2010.

This amendment is intended to implement 2010 Iowa Acts, Senate File 2088, and Iowa Code section 8A.413.

This amendment became effective on April 30, 2010.

The following amendment is adopted.

Amend subrule 60.3(5) as follows:

60.3(5) Bumping (class change in lieu of layoff). Employees who are affected by a reduction in force may, in lieu of layoff, elect to exercise bumping rights.

a. Supervisory employees, with the exception of supervisory employees of the department of public safety, may not bump or replace junior employees who are not being laid off. For purposes of this subrule, "junior" employee means an employee with less seniority or fewer retention points than a supervisory employee.

a. b. Employees who choose to exercise bumping rights must do so to a position in the applicable reduction in force unit. Bumping may be to a lower class in the same series or to a lower formerly held class (or its equivalent if the class has been retitled) in which the employee had nontemporary status while continuously employed in the state service. Bumping shall not be permitted to classes from which employees were voluntarily or disciplinarily demoted. Bumping by nonsupervisory employees shall be limited to positions in nonsupervisory classes. Bumping to classes that have been designated as collective bargaining exempt shall be limited to persons who occupy classes with that designation at the time of the reduction in force. Bumping shall be limited to positions covered by merit system provisions and positions covered by a collective bargaining agreement. The director may, at the request of the appointing authority, approve specific exemptions from the effects of bumping where special skills or abilities are required and have been previously documented in the records of the department of ~~personnel~~ administrative services as essential for performance of the assigned job functions.

b. c. When bumping as set forth in paragraph "a b" of this subrule, the employee shall indicate the class, but the appointing authority shall designate the specific position assignment within the reduction in force unit. The appointing authority may designate a vacant position if the department of management certifies that funds are available and after all applicable contract transfer and recall provisions have been exhausted. The appointing authority shall notify the employee in writing of the exact location of the position to which the employee will be assigned. After receipt of the notification, the employee shall have five calendar days in which to notify the appointing authority in writing of the acceptance of the position or be laid off.

Bumping to another noncontract class in lieu of layoff shall be based on retention points regardless of full-time or part-time status and shall not occur if the result would be to cause the removal or reduction of an employee with more total retention points. If bumping occurs, the employee with the ~~least~~ fewest total retention points in the class shall then be subject to reduction in force.

~~Bumping to another class in lieu of layoff from a class covered by a collective bargaining agreement to a class not covered by a collective bargaining agreement, or vice versa, shall only occur if the move can be accomplished in accordance with the reduction in force order (retention points or seniority date) governing the class into which the employee moves.~~

Pay upon bumping shall be in accordance with 11—subrule 53.6(11).

[Filed Emergency 4/30/10, effective 4/30/10]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/19/10.