

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
Policy Bulletin #13-01**

1400 Eligible Lists / 2200 Separations and Leaves

January 2013

Agency Reduction Transfer Lists

**THIS SUPERCEDES POLICY BULLETIN #04-01
AND PROVIDES CLARIFICATION ON THE
AGENCY REDUCTION TRANSFER PROGRAM**

Section 78 of the Civil Service Law permits the transfer of employees, without examination, from one department or agency to another department or agency of the State where necessitated by reasons of economy, efficiency, consolidation or abolition of functions, curtailment of activities or otherwise. (See copy of section 78 at the end of this policy). The Agency Reduction Transfer Program is a discretionary tool to be used to realign the workforce to meet programmatic and/or fiscal needs. Participation is voluntary on the part of eligible employees.

Who is eligible for the ARTL Program?

- Permanent and contingent permanent competitive class employees and eligible permanent non-competitive class and labor class employees whose positions may be impacted as a result of an action taken by reason of economy, efficiency, consolidation, or abolition of functions, curtailment of activities or otherwise. Agencies may, at their discretion, extend ARTL eligibility to other employees in the titles. Whatever method an agency chooses to determine eligibility must be objective and consistent across titles, and based upon operational needs. This Department may extend eligibility to permanent, non-tenured, non-competitive and labor class employees.
- Permanent and contingent permanent competitive class employees and eligible permanent non-competitive and labor class employees whose positions are relocated to a different county, and decline reassignment.

Who is not eligible for the ARTL Program?

- Exempt class employees
- Non-competitive class employees serving in policy-influencing or confidential positions
- Provisional employees

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- Temporary employees
- Employees who decline reassignment within the same county
- Employees impacted by the return of incumbent in accordance with sections 4.11 and 4.12 of the Classified Service. (4 NYCRR section 4.11 and 4.12)

How is the ARTL Program Initiated?

The ARTL program may be initiated at any time prior to the target date for the intended action. Agencies should contact staff from the Career Mobility Office (CMO) prior to initiating this process and provide the CMO with a list of impacted titles and their locations, and an agency contact for the ARTL process. Staff from the CMO may be reached at:

Phone: (518) 485-6199 or (800) 553-1322

Fax: (518) 457-9430

E-Mail: cs.sm.careermobility@cs.ny.gov

The agency contact for the ARTL process should also serve as the agency's internal contact to answer employee questions about the ARTL program and their status. Staff from the CMO will provide the agency's Staffing Services Representative with this information.

After consulting with the CMO, agencies should notify eligible employees that they may volunteer for participation in the ARTL program. It is recommended that agency human resources representatives arrange with the CMO to meet with the eligible employees, explain the ARTL transfer process, and assist the employees in completing ARTL Form S-295.6 (commonly known as the "Blue Card"). Employees should also be provided with a copy of the Employee Guide for Agency Reduction Transfer List booklet published by the Department of Civil Service. This meeting is separate from and subsequent to the initial employee notification meeting hosted by the agency.

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All information on ARTL Form S-295.6 must be verified by the agency before being submitted electronically to the Department of Civil Service using the Electronic Reemployment Card System (ERCS). Agencies should retain the paper forms for their records and employees should be encouraged to keep a photocopy of their completed forms as well. Please contact the CMO for assistance in using ERCS.

How Does the ARTL Program Work?

Eligible employees will have their names certified on transfer lists to fill vacant positions in their current titles, in lower-level direct-line titles, and to positions in titles declared comparable by this Department. Title comparability determinations are based on similarities in duties, minimum requirements, salary grades, and/or examination plans, and are generally the same as reemployment roster determinations. Existing title determinations may be found in the Title Transfer Reference System (TTRS), which is part of the Department of Civil Service Applications System.

How is the ARTL Certified?

An ARTL is one of a number of mechanisms used to transfer employees and is intended to provide continuity of employment. It is accessed through the Reemployment Lists Program, which is part of the Department of Civil Service Applications System. The order of certification follows:

1. Redeployment List – a list established pursuant to Section 79 of the Civil Service Law for permanent employees who are or will be suspended or demoted due to “contracting out.”
2. Agency Reduction Transfer List (ARTL) – a list established prior to the date of the triggering action containing the names of employees who have been identified by their agency as being impacted by such action. Within an ARTL, the specific order of certification is:
 1. Title-for-title eligibles

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2. Direct-line title eligibles
3. Comparable title eligibles
3. Preferred List – a mandatory list established pursuant to Civil Service Law section 81 as of the date of layoff containing the names of laid off employees ranked by layoff unit and seniority, for reinstatement to their layoff title and direct-line lower-level titles.
4. Reemployment Roster – a mandatory list established pursuant to Civil Service Law section 81-a as of the date of layoff containing the names of laid off employees for appointment to titles other than those for which they are eligible for reinstatement from a preferred list. These generally are titles in their former occupational field as determined to be appropriate by the Department of Civil Service. The names are certified without regard to seniority, probationary status, or layoff unit.
5. Placement Roster – a mandatory list established pursuant to Civil Service Law section 81-b prior to the date of layoff containing the names of employees who have been specifically identified for layoff who will have preferred and reemployment roster list rights as of the date of layoff as long as they are not reemployed from the placement roster at their same status and salary grade level. These eligibles are certified without regard to seniority, probationary status or layoff unit.

Eligible candidates in the title-for-title category and the direct-line category are ranked in seniority order within their respective titles. The eligibles in the comparable title category are not ranked and if there are no acceptors via title-for-title or direct-line, any comparable title eligible can be considered.

ARTL eligibles have preference over preferred list eligibles except in the following situation:

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If there are title-for-title preferred list eligibles, seniority as determined in accordance with Civil Service Law, sections 80.3, 80-a.3 and 85.7, must be compared between the ARTL eligible and the highest ranked preferred list eligible. NOTE: When making this comparison, layoff unit designation and probationary status play no role for the ARTL eligible; seniority is the only relevant factor.

Only a title-for-title preferred list eligible with more seniority may block an ARTL appointment.

Preferred list eligibles who are in direct-line or appropriate-titles will not block an ARTL transfer, even if those preferred list eligibles have greater seniority.

How do ARTLs and Eligible Lists Work?

When filling a vacancy, agencies must use ARTLs before using eligible lists resulting from examinations. The one exception is newly established eligible lists. Upon the establishment of an eligible list resulting from a competitive examination for a title which there are ARTL eligibles, an appointing authority has 90 days from the date the eligible list is established to appoint a non-permanent employee in the title who is reachable for appointment. Thereafter, ARTLs shall take precedence over the eligible list.

How Does Accepting or Declining Job Offers Affect ARTL Eligibility?

Employees' responses to canvasses, interviews, and job offers will affect their continuing eligibility on ARTLs. Timeliness is crucial since one employee's decision may affect the eligibility of others. Replies to a canvass must be made within the same timeframes as replies to canvass from eligible lists. Responses to an invitation for interview and/or to a job offer must be made within a reasonable period of time (usually 48 hours unless there are mitigating circumstances, such as a geographic move). **In situations where an agency is unable to reach an employee using their regular canvass procedures to set up an interview after the employee has indicated an**

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interest, the agency must send the employee a registered letter (return receipt requested) indicating the interview date, time and place.

Any of the following is considered to be a declination of a canvass:

- The employee fails to respond to a canvass letter within the period specified in the canvass letter.
- The employee fails to reply to a telephone canvass within two business days following actual contact. An agency representative must actually speak with the employee in order for the canvass to be valid.
- The employee returns a canvass letter indicating no interest in a position for any reason.
- The employee fails to appear for an interview or report to work.

Other policies applicable to canvass, interview and job offer responses are described below:

1. An employee is contacted regarding a permanent contingent or permanent appointment to a position at the **same** grade level, in the **same** county in which that employee currently works:
 - If the employee declines the canvass/interview/appointment, the employee is no longer eligible for the ARTL program. The employee's name will be removed from the ARTL for all titles and counties.
 - If the employee is appointed to this position, the employee's name will be removed from the ARTL program.
2. An employee is contacted regarding a permanent contingent or permanent appointment to a position at the **same grade level**, in a **different county** from which that employee currently works:

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- If the employee declines the canvass/interview/appointment, the employee is no longer **eligible** for the ARTL program for that county only.
 - If the employee is appointed to this position, the employee's name will be removed from the ARTL program.
3. An employee is contacted regarding a permanent contingent or permanent appointment to a **lower grade** position than which that employee currently works:
- If the employee declines the canvass/interview/appointment, the employee is no longer **eligible** for the ARTL program for **all titles at that salary level and below for all counties**.
 - If the employee is appointed to this lower grade position in the county of the triggering action, the employee's name will remain active on ARTLs for appropriate higher level positions in all counties selected.
4. An employee is contacted regarding a permanent contingent or permanent appointment to a **lower grade** position in a **different county** from which that employee currently works:
- If the employee declines the canvass/interview/appointment, the employee is no longer **eligible** for the ARTL program for all titles at that grade level and below in all counties within that area, **except** for the county in which the individual currently works. (See the "Employee Guide for Agency Reduction Transfer List" for the listing of "areas.")
 - If the employee is appointed to this lower-level position, the employee's name will remain active on ARTLs for appropriate higher level positions for all counties selected.

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5. If an employee accepts or declines a temporary position that is three months or more in duration, the employee will be ineligible for future temporary positions, but **will remain eligible** for permanent positions. If an employee accepts or declines a temporary position that is less than three months duration, the employee will remain eligible for other temporary positions.
6. Employees, who decline jobs which require working a shift other than a normal day shift, **will remain eligible** for day-shift jobs.
7. If an employee declines an appointment to a traineeship position that leads to a journey-level title in the same or higher salary grade as their permanent title, they are considered to have declined a same-grade level position.
8. If an employee accepts or declines a part-time position, they will still be considered for full-time positions.

When do ARTL Appointments have to be made?

Appointment from ARTLs must be made on or before close of business on the date of the triggering action. As of close of business on the date of the triggering action, the names of all remaining ARTL eligibles are removed from the Reemployment List System.

Appointments resulting from managed placement referrals must be called in to the CMO by the appointing agency prior to the submission of the NYSTEP transaction, so that staff of the CMO staff can update the Reemployment System.

Where the Triggering Action will result from a Reduction in Force, the following will apply:

Leaves of Absence

Agencies must grant certain leaves of absence in other than probationary situations in order to protect the ARTL appointees' layoff and reemployment rights. While such

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leaves are considered discretionary, agencies may not rescind the leaves until the employee's name is inactivated from the ARTL. Non-probationary appointees have no right to return.

Generally, the "losing agency" must grant a leave of absence to any employee who accepts an ARTL appointment to any position at a lower salary grade, until inactivated from the ARTL, regardless of the transferring employee's probationary status. Such leave of absence will ensure the employee's layoff and reemployment rights from the previous, higher-level title.

- Employees not currently on probation who transfer via an ARTL to positions in their current titles do not serve probationary periods and are not given leaves of absence from their former positions.
- Those who transfer via ARTL to positions in lower level direct-line titles do not serve probation but must be granted leaves of absence from their former positions until inactivated from the ARTL.
- Current probationers who transfer to positions in their current titles are required to complete the remainder of their probationary periods, and must be given leaves of absence for the duration.
- Employees transferring to "comparable titles" must serve full probationary periods, which may not be waived, and must be granted leaves of absence for the duration of the probationary period.
- Employees who complete probation in their new, **lower-graded** positions prior to the date of the triggering action must be continued on leave of absence until inactivated from the ARTL.

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Ability to Return to a Hold Item

An ARTL transferee on probation, who decides to return to his/her hold item, or fails probation before the date of the triggering action must be allowed to return. If the employee is not the least senior in the original title and agency, the employee's return may impact the retention rights of other employees in the original title and agency. If the employee had the least retention rights in the original title and agency, the employee may be impacted by the triggered action.

An ARTL transferee on probation who decides to return to his/her hold item, or fails probation after the date of the triggering action, was not the least senior employee and would not have been impacted in his/her original appointment, must be allowed to return. Another employee with less retention status might be displaced to accommodate the return. If the probationer were the least senior, however, he/she could only return if a position exists to return to. Otherwise, the employee would be entitled to reemployment rights to the position from which he/she transferred.

This Department will review the circumstances of employees who fail probation or resign before completing probation on a case-by-case basis. These employees could be restricted from a reemployment list certification to certain agencies, titles, or locations, depending on the reasons for resignation or termination.

An ARTL transferee who received an appointment at the same level of his/her original position and is not on probation has no right to return. The original agency may choose to reinstate the employee but that action is entirely discretionary on the part of the agency and is subject to the normal reinstatement criteria.

If an ARTL transferee's hold item is not abolished, he/she has no further reemployment rights.

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Note: If the action is triggered by anything other than a reduction in force, once the target date for the triggering action is reached, only those employees serving probation at that time will have a hold on their former position.

Special Considerations for ARTL Appointments

- Under certain circumstances, individuals on ARTLs may not be fully qualified for appointment to specific titles which require “special qualifications.” These include titles with physical and/or medical standards, required background checks, completion of specified course work, or possession of certifications or licensure in required areas. For such titles, the appointing agency is required to determine that individuals on ARTLs are fully qualified for appointment. Questions concerning specific situations should be addressed to the Career Mobility Office at (518) 485-6199.
- ARTL and reemployment roster appropriate-title determinations involving traineeship titles often specify appointment eligibility at a particular salary grade level. For example, a Senior Personnel Administrator vacancy may be filled at the Trainee 2 level by an ARTL candidate whose eligibility derives from permanent service as a Senior Budgeting Analyst. While the specified fill level for this type of appointment is Trainee 2, an agency has the option to fill at the Senior level if the ARTL eligible meets the normal criteria for transfer (e.g., via §52.6 or §70.1). Please note that such transactions should be submitted as ARTL appointments, NOT as transfers.

How Do ARTL Eligibles Become Inactive?

Agencies may inactivate titles as they meet their reduction goals. When that happens, the agency is required to notify the CMO and its affected employees in writing that the titles have been inactivated and are no longer ARTL eligible.

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The names of ARTL eligibles are continually inactivated by the Department of Civil Service as appointments and declinations occur.

Employees may also inactivate themselves on ARTLs by contacting the CMO.

This Department will automatically inactivate the names of all of an agency's employees on the day of the triggering action, unless the date is extended and the agency requests to leave employees active.

While the ARTL program is voluntary, if a reduction in force occurs, it must be carried out in accordance with Civil Service Laws, Rules and Regulations to determine who will be impacted and who will have mandatory rights following separation. For those employees who have not been appointed from an ARTL and are to be laid off, agencies must submit a Preferred List Form 295.5 (formerly known as a "Green Card") to the CMO at least 20 calendar days in advance of the layoff target date. Laid off employees will be automatically transitioned from the ARTL to the Preferred List/Reemployment Roster system if a Preferred List Form 295.5 has not been received.

What are the NYSTEP Reason Codes for ARTL-Related Activities?

Appointments – the NYSTEP code **TRL** must be used by agencies to report an appointment from an ARTL.

Separations – The NYSTEP reason code **RSN** must be used for those employees who receive an ARTL appointment and do not have to serve a probationary period. **PBL** should be used for probationary employees who receive an ARTL appointment — until such time as the position is abolished or they are displaced from their hold item. At that time, one of the codes described below must be used:

LAF - Separation of the employee from his/her hold item pursuant to Section 80 or Section 80a.

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LAD - Layoff of the employee from his/her hold item due to “bumping” by a higher-level employee in the direct promotion line.

LAR - Layoff of the employee from his/her hold item due to the retreat of a higher-level employee.

RFR – Termination of the employee who refuses reassignment across county lines.

Further questions about the ARTL process may be directed to the CMO at 1-800-553-1322 or (518) 485-6199.

§78. Transfer of personnel upon the abolition of positions in state civil service.

1. Where necessitated by reasons of economy, efficiency, consolidation or abolition of functions, curtailment of activities or otherwise, employees may be transferred, without further examination, from one agency or department of the state, or from the Roswell Park Cancer Institute as defined in subparagraph (i) of paragraph d of section one of chapter forty-one of the laws of nineteen hundred ninety-seven, as amended, to positions in the same title or any comparable title, as determined by the department, in another department or agency of the state. Where more than one employee in the title and location from which transfer is to be made is eligible and willing to accept transfer, the department shall place the names of those employees upon a transfer list, and certify such list for filling vacancies, as hereinafter provided, first, in the same position; second, in any position in a lower grade in line of promotion; and third, in any comparable position. Such transfer list may be certified for filling a vacancy in any such position before certification is made from any other eligible list, placement roster, reemployment or preferred list, except as provided in subdivision four of this section.
2. Order of certification of names from transfer list. a. The names of persons on a transfer list established to fill vacancies in the same position or a position in a

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lower grade in line of promotion shall be certified there from in the order of their original appointments, in accordance with the provisions of subdivision three of section eighty, subdivision three of section eighty-a and subdivision seven of section eighty-five of this chapter. b. The names of persons on a transfer list established to fill vacancies in a comparable position shall be certified there from with equal ranking for appointment.

3. Probation. a. Upon appointment to a position in the same title, a probationer shall be required to complete his or her probationary term. b. Completion of a probationary term, to the extent provided for in the rules promulgated by the commission pursuant to subdivision two of section sixty-three of this chapter, shall be required for all appointments to a position in a comparable title.
4. Relative seniority. Where a preferred list exists containing the names of persons who have been suspended or demoted from a position in the same title to which an appointment is to be made, the relative seniority, determined in accordance with the provisions of subdivision three of section eighty, subdivision three of section eighty-a and subdivision seven of section eighty-five of this chapter, of the person certified first on such preferred list willing to accept appointment and the person certified first on the transfer list willing to accept appointment shall be compared and the person with the greater seniority shall be certified first.
5. Termination of eligibility. Eligibility for appointment from a transfer list shall terminate on the date of the suspension, demotion or relocation. Notwithstanding any other provision of this chapter, any employee may voluntarily remove his or her name from a transfer list by application to the department.
6. Rulemaking authority. The president shall adopt rules for carrying into effect the provisions of this section, including rules for the relinquishment of eligibility.
7. The department shall continue to establish lists under the provisions of this section.