



The Enforcer

A PEF Newsletter Devoted to Civil Service Issues

The Jeff Satz Civil Service Enforcement Quarterly Newsletter

Volume 1, Number 3 – Convention Issue (Fall 2002)



CIVIL SERVICE ALERT !

PEF FIGHTS & WINS against Parenthetics-R-Us

There's more than one way to circumvent an eligible list, as PEF members in the Department of Health (DOH) recently found out.

In 2001, the Department of Civil Service (DCS) held the first exam for the Management Specialist 3 (SG-27) title, which had been newly created as the result of a title consolidation. The eligible list was established in 2002 and DOH was preparing to fill a position when it suddenly decided that the highest level of Spanish language proficiency was necessary. DOH was required to submit a request to the Division of Classification & Compensation (C&C) for approval of this position, as no Spanish Language parenthetic existed at the SG-27 level for this or any other title series.

Instead of waiting for C&C approval, DOH personnel began canvassing candidates for the Spanish Language position. Our members were shocked by this, because employees in this particular program deal with Medicaid providers rather than a client or patient population. Therefore, Spanish language pro-

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PRIORITY ISSUE UPDATE: Reassignments



PEF's proposed legislation that would provide safeguards to our members against certain reassignments has passed both the NYS Senate and Assembly and has been sent to the Governor. This legislation would require that reassignments to other than contiguous counties be made on the basis of inverse seniority (i.e., the least senior employee would be reassigned first). There was no news at press time as to whether the Governor would sign the bill. Check the PEF website (<http://www.pef.org>) for updates.

CIVIL SERVICE UPDATE: Tentative Classification Standards

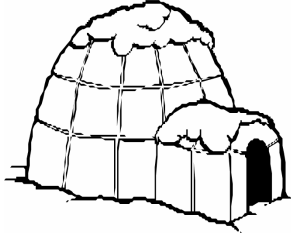
When Civil Service issues tentative classification standards (i.e. official duties descriptions) for a title, individuals and employee unions have a 30-day period in which to submit comments before the standards are finalized. The PEF Research Department has been sending copies of tentative classification standards to Executive Board members in the affected agencies, asking them to distribute copies to PEF members in the job title.

Recently, PEF has decided to include tentative standards in the weekly Friday mailings to all Executive Board members and Council Leaders for wider distribution to affected members. Comments or concerns must be submitted to PEF leaders **immediately** due to the tight timeframe. In particular, members should note whether the standard seeks to increase the level or complexity of duties, which may be management's attempt to make an out-of-title grievance "moot." Check future issues of *The Enforcer* for more information.

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FROZEN LOGIC: When Contracting Out Costs More



The latest repercussion of the October 2001 hard hiring freeze appears to be an acceleration of the contracting-out trend. In fact, Labor/Management teams from

both the Department of Health and the Department of Transportation report that management asserts that obtaining a budget waiver is so difficult that it is easier to contract out for needed services than it is to seek a waiver to hire state employees. Ironically, since contracting out is frequently more expensive, it appears that the hard freeze may be costing the State rather than saving money.

In order to better address this issue, we need our members to increase their awareness of their agencies' contracting out practices and report what they see to their Statewide Labor/Management Chairs, who can obtain additional information from agency management. The L/M Committees, in conjunction with the PEF Civil Service Enforcement/Research Department, can then analyze the information for possible action.

The contracting-out trend is just one more negative implication of the hard hiring freeze

for state employees. Other consequences including possible increases in out-of-title work, negative interviewing incidents, and creative attempts by agencies to reach otherwise unreachable provisional incumbents. These types of incidents should be reported to PEF Field Representatives and Executive Board members immediately.

Parenthetics-R-U

(Continued from Page 1)

iciency is not necessary for most of the Management Specialist 1 (SG-18) and 2 (SG-23) positions, let alone the Management Specialist 3 title, which supervises employees in the lower grades.

PEF advised candidates to respond to the canvass with a letter stating that they *were* interested in the Management Specialist 3 job, but they did not understand how the agency could canvass for a Spanish Language position when that title does not exist in State service. In the meantime, PEF made immediate verbal and written objections to C&C, which stated that it had not yet acted on the agency's request. DOH, however, took it upon itself to begin scheduling Spanish proficiency oral exams.

When PEF brought the agency's latest actions to C&C's attention, C&C issued a written determination denying the agency's request for a Management Specialist 3 Spanish Language position. C&C stated that its practice is to approve foreign language parenthetics when "language proficiency in addition to English is critical to the efficient and effective delivery of State services to non-English speaking **patients, clients and individual consumers**" (emphasis added). In light of this determination, DOH was forced to cancel the proficiency exams it had scheduled. Now, DOH will either have to fill the position from the Management Specialist 3 list or leave the position vacant even though it has already been funded.

When an agency suddenly changes the way it plans to fill a position, PEF members should consider it a red flag, and should contact their PEF Field Representative or Executive Board Member immediately.

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For general questions, comments, or suggestions, please e-mail EnforcerNews@pef.org, or write to: The Enforcer, c/o PEF Civil Service Enforcement Dept., P.O. Box 12414, Albany, New York 12212-2414. Questions specific to individuals or particular situations should be referred to the appropriate PEF Field Representative or Executive Board member.

The information in this newsletter represents general civil service guidelines; readers should be aware that some exceptions to these guidelines may exist.

Top Five Reasons to File an Out-of-Title (OOT) Grievance

5. Nobody gets promoted if you're doing the work for free! Getting away with out-of-title assignments gives the agency an incentive to avoid promotions – for you or anyone else.

4. Looking for layoffs? Out-of-title work can lead agencies to believe they can get by with fewer employees. Don't give the State a reason to lay off you or your union brothers and sisters!

3. Out-of-title work is bad for workplace morale because employees know that management is trying to avoid promotions – which are already scarce enough!

2. It's illegal – and with good reason!

1. You're not getting paid for it!

And don't think that ten years later, you'll get a huge backpay check that will let you retire early. Backpay awards for successful out-of-title grievances are only retroactive to fifteen days prior to the filing of the grievance. **So file those OOT grievances right away!**

Remember, if you are assigned out-of-title duties, you must **WORK NOW, GRIEVE LATER**. If you simply refuse to do the work, you could face disciplinary action on the grounds of insubordination. However, do contact your PEF shop steward or Field Representative immediately.

Also keep in mind that the **union** can be the aggrieved party in an out-of-title grievance, if for some reason the employee is unwilling or unable to do so. Therefore, even if you're not directly involved, you should bring out-of-title situations to PEF's attention.

Jeff Satz Civil Service Enforcement Committee

The Jeff Satz Civil Service Enforcement Committee consists of Committee Chair & PEF Vice President Joe Fox and the following members: Nancy Becker (T&F), George Buldrini (DOH), John Clark (DOT), Edith Cooper (DOL), Casimir Czarkowski (DEC), Jeff Janiszewski (DED), Bernie Kahn (SIF), Ron Manuli (DOCS), and Bill Wurster (DEC).



Test Your Civil Service IQ



True / **False** 1. The State cannot change exam minimum qualifications from one exam holding to the next without seeking input from employee unions.

True / **False** 2. The State may transfer an employee to a position with a higher salary grade.

True / **False** 3. Exam disqualifications can be successfully challenged in some cases.

Answers on page 4



Exam Tips... Finders, Keepers are Winners

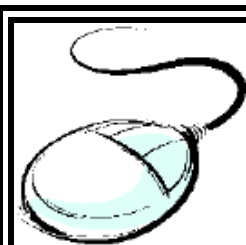
What's the first step for civil service exam success? Finding the announcements and applying for the exams on time. The best source for announcements is the Civil Service website (<http://www.cs.state.ny.us>).

Announcements can also be obtained directly from Civil Service or agency personnel offices.

It's also a wise practice to keep exam announcements from the time an exam is announced until the resulting eligible list expires. This allows you to refer back to the announcement for questions about minimum qualifications for appointment (which can differ from the minimum qualifications to take the exam) and order of certification, for example.

NEW TRAINING AVAILABLE ON PEF WEBSITE

At the request of the PEF Statewide Job Security Committee, a new training module, "How Transfers and Reassignments Can Be Used to Improve Your Job Security," is now available on the PEF website. Go to <http://www.pef.org>, and click on the following: "PEF Departments", "Civil Service Enforcement/Research", "CSE Training Resources", and "Transfer and Reassignment Training". This will take you to a webpage that allows you to click through "slides" explaining procedures and policies related to reassignments, transfers, and the new Career Mobility Office.



Visit *The Enforcer* on the PEF website! Click on "PEF Departments", "Civil Service Enforcement", and "The Enforcer." Both current and back issues will be available. Spread the word!

<http://www.pef.org>

Test Your CS IQ – Answers



1. **False.** Civil Service Law gives the State wide latitude in determining exam minimum qualifications. More specifically, the State has the right to expand or restrict minimum qualifications based on a number of factors, such as changing education and experience needs or the potential candidate field (i.e. how many potential candidates exist for **each** anticipated vacancy). For instance, the State may anticipate filling seven Senior positions in the next few years, but there are only fourteen employees in the direct-line lower title, or two per anticipated vacancy. Therefore, even though the State has traditionally required direct line experience for this exam, it may decide to open up the minimum qualifications to other candidates for this particular exam holding. Conversely, when the State has a very large candidate field, it may exclude titles that previously were permitted to take the exam. Generally, PEF attempts to ensure that opportunities to take promotion exams are preserved, but ultimately the decision rests with the State.
2. **True.** A job transaction may be deemed a transfer (and therefore may occur in the face of an eligible list) as long as it does not result in an increase of more than two salary grades or one M-grade. Remember, a **reassignment** is different than a **transfer!**
3. **True.** In some cases, individuals have been able to successfully demonstrate that they have the equivalent qualifications and should be admitted to the exam. When in doubt, **apply for the exam** so that you have the opportunity to appeal a disqualification. However, if you miss the application deadline, you have no grounds to appeal and you are out of luck!