

1983 WL 181737 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 8, 1983

*1 Thomas J. Cleary
Director of Administration

J. P. Pratt, II
Executive Director
S.C. Department of Parole and Community Corrections
Post Office Box 50666
Columbia, South Carolina 29250

Dear Messrs. Cleary and Pratt:

Your January 28, 1983, letter to Assistant Attorney General Donald J. Zelenka has been referred to me for response

Your reduction-in-force policy provides:

It shall be mandatory, regardless of competitive areas, to provide any permanent state employee affected by a reduction in force, the right to any position within the agency which the employee has previously held permanent status and which is occupied by a temporary, probationary, provisional, or other non-permanent employee.

You advise that the Department interprets this provision to mean that an employee must have held permanent status in a position not affected by the RIF in order to be entitled to oust a non-permanent employee from such position. You have asked for our interpretation of the quoted provision.

Although on its face, your interpretation seems sound, any ambiguity that might exist could be resolved by your specifically declaring, in the RIF policy itself, that employees holding permanent status in positions affected by the RIF will not be entitled to oust ('bump') non-permanent employees holding the same position within the agency but not within the competitive area. This would obviate any possible misunderstanding over whether, for example, an employee who was hired as and attained permanent status as a Probation Agent I, who has occupied no other position during his tenure with the agency, and whose position is slated for RIF would be entitled, under your policy, to bump a non-permanent Probation Agent I outside the competitive area.
Sincerely,

Vance J. Bettis
Assistant Attorney General

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