

The Continuation of Employment of Affected Employees

Work Force Adjustment Directive: <http://www.njc-cnm.gc.ca/directive/wfad-dre/index-eng.php>

Positions are eliminated every day in the federal public service; they have been forever and for various reasons. Deciding on what work will be done and how it will be done is the employer's prerogative. But public service bargaining agents have negotiated work force adjustment obligations on the employer directly or indirectly into collective agreements in order to guarantee to some extent that a decision to eliminate a position will not necessarily translate into the elimination of an employee's employment.

Bargaining agents, either at the National Joint Council or at bargaining tables have bargained entitlements and rights for their members that impose on management responsibilities that must be met before an employee is faced with the prospect of leaving involuntarily the public service. For CAPE members these entitlements and rights are found in the National Joint Council's *Work Force Adjustment Directive*.

The most important right is a right to a reasonable job offer. Where the employer knows or anticipates that an affected employee (an employee for whom the elimination of his or her substantive position has been decided and announced to the employee) could carry out the duties of another position in the employee's department and even outside the department, the employer must facilitate with the cooperation of the employee the appointment of the affected employee to the position.

However, the right to a reasonable job offer is not unconditional. There are instances where the employer cannot make such an offer. This does not mean that the employee's employment will necessarily be terminated when his or her position disappears. The *Work Force Adjustment Directive* includes a provision according to which the employer has the responsibility to facilitate what are called alternations.

An alternation is a situation where the employee who is declared surplus and has not been provided with a reasonable job offer (called opting employee) can change places with an employee who wishes to leave the public service. Thus, the opting employee maintains employment, while the employee who volunteers to leave will receive either a lump-sum payment (Transition Support Measure) equivalent to up to 52 weeks of pay depending on years of service (see Appendix D of the *Work Force Adjustment Directive*), or up to 52 weeks of pay plus up to \$11,000 in tuition fees (Education Allowance). Opting employees have the choice of the TSM and the Education Allowance: but if they wish to remain employed they can trade the entitlements for continuation of employment in another public service job if they can find an alternate.

For EC members of CAPE, considering the wide range of skills that are typical of the membership and considering current demand for these skills, in most instances it should be expected that a notice of affected status will be followed shortly with a reasonable job offer. Where a reasonable job offer is not made, in most cases where alternates come forth, alternation will occur.

The employer has responsibilities regarding the alternation process including informing affected employees of how alternation can occur. But to facilitate the alternation process, CAPE will be setting up an exchange facilitation service. CAPE invites members who wish to voluntarily leave the public service and vacate a position that could be filled with an opting employee to communicate with the Association and have their names and contact information put on a list. The list will then be made available to opting EC members who communicate with the Association

Both volunteers to leave and opting employees should write to options@acep-cape.ca

Volunteers to leave should write on the subject line of their email: *Volunteer – Contact Information*. The contact information should include name, the classification level of the substantive position that would be vacated, and an email address where the member wishes to receive expressions of interest from an opting member of CAPE. Opting members who wish to participate in the exchange facilitation process, i.e. members who have been declared surplus and have not received a reasonable job offer and who wish to stay in the public service, should entitle their email as follows: *Opting Employee – Request for an Updated Volunteers List*.

Alternation is not automatic. The conditions are stipulated in Section 6.2 of the *Work Force Adjustment Directive*. CAPE encourages affected CAPE members to avail themselves of the right to be informed about the process and to communicate with CAPE to explore the possibility of alternation for the purpose of continuing employment in the public service by getting a copy of the alternates list.

The employer's obligations include providing detailed information to employees regarding their rights and entitlements under the *Work Force Adjustment Directive*. If at any time you have reason to believe that the employer's interpretation of the Directive is inaccurate, do not hesitate to call CAPE at your earliest opportunity.

It is trite to say that work force adjustment situations are unpleasant. Work force adjustment can be devastating when an employee feels that the future is unemployment. CAPE will do everything that it can in order to support members, and assist members. In the spirit and intent of the Work Force adjustment Directive CAPE will work to minimize involuntary departures. And the Association expects the employer will do the same: it is the employer's responsibility.