

## TSEA TEAM Act FAQ's

Q: Am I still a civil service employee?

A: The term "civil service" has been used interchangeably over the years and really refers to the protections of employment with the state. Presently, employees who have civil service protections are called career service employees. Under the TEAM Act, all career service employees will now be called preferred service employees. This is simply a change in wording, because preferred service still has civil service protections, just as career service has now.

Q: Have I lost my civil service rights?

A: No. Civil Service rights include the right to not be fired without cause and the right to grieve disciplinary actions. Under the TEAM Act, no preferred service employees can be fired without cause, and all still have grievance rights.

Q: Will we still have promotion opportunities?

A: Yes. Through negotiations, TSEA was able to secure a promotional list. This list is defined in the TEAM Act, but the specifics as to the length of time on the list and the rankings on the list are still under negotiations with DOHR, as they develop new Rules and Policies. Present promotional lists remain in effect until October 1. Once the new rules are approved, TSEA will notify you of any changes to the promotion process.

Q: How will we keep supervisors from hiring and firing based upon "friendships" or favoritism?

A: Under the TEAM Act, the hiring policies will be very different. Supervisors will be able to read all applications and resumes of applicants that are qualified. This will hopefully allow them to hire employees faster and have a larger pool of applicants to interview from. However, there is the possibility of abuse. As we all know, some supervisors might take

advantage of this. The Legislature has asked and expects TSEA to report any abuse of the hiring system to DOHR and to the entire legislative body. TSEA needs every employee to report incidents where this is happening so we can address it immediately. We will be implementing a monitoring project, aimed at keeping an eye out for potential abuses.

Q: Will I be getting a raise this year?

A: Yes, all employees will receive a 2.5% raise in July. The Legislature helped TSEA negotiate with the administration to ensure all employees will receive the raise, regardless of performance and disciplinary records. This will be a true across-the-board raise.

Q: Will Higher Ed employees get the same raise as other state employees?

A: After talking with both TBR and UT, it appears that both systems intend to give the same 2.5% raise to all employees. Within the Higher Ed system, the schools determine the distribution of funds allocated for raises, so TSEA is watching this closely. The Executive Director is in the process of writing both school systems, outlining our expectations to give at least a 2.5% raise to all higher education employees as funded by the legislature. The letter will also ask both systems to honor the intent of the Legislature by ensuring it will be a true across-the-board raise with no one denied. Higher Ed budgets are approved by the Higher Education Commission in June. At that time, we will know absolutely how the raise funds will be disbursed. There is still the chance that higher education will actually fund a larger raise if tuition increases as well.

Q: If I am suspended, will I be able to appeal the suspension thru the grievance process?

A: Yes. All suspensions over 2 days are appealable through all levels of the new grievance system established by the TEAM Act. Suspensions of 2 days and under can be appealed to steps 1 and 2 of the 3-step process. Presently, there are only a handful of suspensions under 3 days that go to the final level of appeals. If we see that departments are abusing this and

actually giving more 2 day suspensions to prevent employees from grieving thru the whole process, TSEA will notify the Administration and the Legislature. Again, this is an area where we will be monitoring closely as the TEAM Act is implemented.

Q: Why are they giving out 3's instead of 5's on the Performance Evaluations?

A: We all know the present performance evaluation system is broken. Some employees never get evaluated while other departments give everyone 5's for showing up to work. The goal of the new system is to make sure every employee is evaluated annually and that each evaluation states how the employee is to improve his/her performance. To do that, supervisors have been asked to rate an employee based upon a job plan. A 3 means that you are performing all duties as required. If you get a 3, it means you are a good employee and are properly doing your job. If you get a 3, the evaluation should also tell you what you can do to improve and get a 4 or a 5. With this system, a 3 should not be considered bad or a negative reflection on you as an employee. All a 3 means is that you can improve. If you get a 3 and do not get any feedback on how to improve, we need to know. Please call TSEA so we can report these incidents to DOHR. We have discussed this with the Commissioner of DOHR; if we see trends within certain work units of a failed performance evaluation system, she has asked us to contact her directly. They will review the whole department if necessary to force the supervisors to be accountable and actually do proper evaluations.

Q: I have always gotten 5's on my evaluations and I feel a 3 is not fair. Will it be used against me at some point?

A: Anyone who receives a 3 under the new system should be proud of a 3. It is not a negative reflection of your performance. In fact, in a good system, most employees in a work unit should receive 3's. If everyone is getting a 3, then they cannot hold a 3 against you. If you work in an office where you are the only 3 and everyone else is higher, please notify TSEA. That is when we have a problem that would need to be addressed. If very few people get 3's then it might be a sign of targeting certain employees.

Q: Will I still get raises if my performance evaluation is a 3?

A: Yes. After June 30, 2013, raises can only be denied if you have a 2 or lower on your evaluation, which has been standard practice for decades, or if your disciplinary record merits a raise denial. TSEA hopes that the Administration will actually have a cost-of-living raise where everyone gets it, and that any additional funding above the cost-of-living be used for merit raises. Merit raises will be given out based upon the evaluation system, so we need the system in place and working properly before merit raises will ever be funded.

Q: What is a merit raise?

A: A merit raise would be in addition to the across-the-board raise and would be based upon performance. After many discussions, TSEA was able to ensure that everyone will be considered for merit pay with clear qualifications defined in policy. This will ensure that the funds will be spread out among all levels of employees, those at the front line and those in the central office. TSEA is working with DOHR to develop the specific criteria for merit raises and will notify all employees of what you need to do or have on your evaluations to get a merit raise. These raises will not be handed out randomly as they have in the past. Also, merit raises will not be funded by the Legislature until after June, 2013.

Q: Will we ever get the final third of compression?

A: The amount to fund compression will have to be re-calculated because every year compression is compacted and gets worse without an adjustment. The final third of compression that was not paid out in 2008 is now outdated and the compression problem has increased since 2008. Because of this, we must change our way of thinking and stop using the term "final third". We must now ask the Legislature to fully fund compression. Our argument is that the promise to fix the compression problem was never kept. We need an updated compression study, with new payment charts. Then we need the Legislature to fund it. So, to

answer the question: the final third of compression from 2008 will never be paid, but full compression payment based upon today's salaries is a priority, and TSEA is working very hard to see this funding within the next few years.

Q: Will the salary comparison study fix compression?

A: No, this study is to compare the salaries of state employees with the private sector employees doing similar work. Compression occurs when a new employee is hired in at the same rate or higher as an employee who has worked that job for 10 years. This salary study will allow for salary upgrades so that you will make more money for the job you do. The positive thing about doing this study now is that it will help fix the problem of inadequate pay scales, which will make fully funding compression a smaller budget item. The Administration wants to adjust the salaries and then see where we are with the compression problem. On the House floor, legislators recognized that this study is only a partial fix and that they would have to fund compression once the salary study has been completed. We anticipate that the salary upgrades will start in January 2013 and will continue for 2 years. Once complete, TSEA will ask the Legislature to revisit the compression problem. You can be assured that your Legislators are aware of this issue and will not forget their promise to fund this.

Q: If the new performance evaluation system does not work, what will we do?

A: State employees must document any and all irregularities in the new system. TSEA will be meeting with DOHR on a regular basis to hold the various departments accountable for the evaluations. In addition, Commissioner Hunter has said that if TSEA sees a negative trend in any office, we should contact her immediately. If necessary, DOHR will analyze a whole work unit to identify the problem. We must hold the managers and supervisors to strict standards so that everyone is evaluated fairly and with the same expectations. The Legislature agreed with TSEA, and in the TEAM Act they included language that a full report of the system must be submitted to the State and Local Committees for review next year. At that time, TSEA will be able to testify as to whether the system is working and if it is fair. Until this time, we must

document all of your concerns and ask for audits in areas where we think it is being abused. In addition, all the rules associated with implementing the new system must be approved by the Legislature as well. This gives us another opportunity to fix any area that is not working fairly.

Q: What civil service rights have we lost?

A: I would say the biggest change coming because of the TEAM Act that can be considered a loss is the right to bump and retreat in a layoff situation based upon seniority. Employees do not have the right to a job of another employee just because they have worked there longer. TSEA protected seniority as a prime factor to consider when making layoffs, but we could not save your right to bump someone lower than you out of a job. This is a philosophical difference of opinion and we were not able to find any agreement on this topic. The Administration believes it should be allowed to retain the highest performers if a layoff is necessary.

Q: Will my seniority be considered if I am laid off?

A: Yes, but it will not be the only factor. For each RIF, each department will have to rank employees first by performance and then by seniority, ability and disciplinary record. Seniority must remain a factor. TSEA is still working with DOHR on the rules and policies for layoffs, so we will work very hard to have seniority weighted as heavily as possible. Once these policies are established, we will notify everyone what their new rights are in this area.

Q: Is it true that I can be fired easier because of this new law?

A: No, you can only be fired for cause. You will still have progressive discipline, and you will still be able to appeal disciplinary actions and terminations. Departments must still document all infractions and prove that you should be fired.

Q: If I am laid off, will I still be considered for other state jobs?

A: Yes. TSEA was able to negotiate a new recall list in the TEAM Act. All employees laid off will remain on a recall list for 1 year. If you are on the list, you will be contacted for any job that comes open in any department in your job classification. You will be asked to apply and you will be guaranteed an interview. TSEA was also able to negotiate back into the bill a requirement that your department and the Department of Human Resources use the layoff notice period to offer you job counseling and to help you search for other employment within the state system.

Q: What happened to the Civil Service Commission?

A: The present Civil Service Commission rules on final grievance hearings. In the TEAM Act, it has been replaced with a Board of Appeals. This board is made up of 9 members just like the present commission, and existing commissioners will be put on this new board. Also, once appointed, no board member can be removed without cause, just like with the present commission. Administrative Law Judges will preside over the hearings like today, but now the Board members will actually make the ruling instead of the judge. This will allow for 3 panels of 3 board members hearing 3 cases at the same time, which will help prevent unnecessary delay. Both employees and employers feel the present system takes too long, so we hope the new, streamlined system will benefit everyone involved.

Q: When will the TEAM Act start impacting me?

A: TSEA and DOHR will be developing the rules and policies for the TEAM Act and the implementation of the new performance standards over the next several months. All rules and policies will be approved by the Legislature before October 1, 2012, at which time the TEAM Act will go into effect. Between now and October, all existing policies will remain in place. The only impact you will see before October 1st will be the establishment of your

individual job plans based upon SMART goals. This is the beginning phase of the new evaluation system. All employees will have an approved job plan with measurable goals outlined. Then your next performance evaluation will be based upon this new job plan. After October 1st, the new hiring procedures and layoff procedures will go into effect based upon the new rules. Merit pay rules and policies will not be established until 2013 and will not go into effect until July 1, 2013. In addition, performance will not be considered for layoffs until after July 1, 2013.

Q: Will they now start laying off all the senior employees just because they can?

A: The Administration has repeatedly stated on record that it is not the intent to lay off all senior staff members. They are worried about senior staff retiring, thus the need to make the hiring system easier and less time consuming. TSEA will be monitoring each RIF to make sure that proper procedure is followed and no one is discriminated against because of age. If we feel the Administration is using a layoff to eliminate senior employees, we will ask for a full investigation by the Legislature. Layoffs are only necessary and only approved under certain circumstances, primarily due to budgetary restraints. The Legislature expects us to report back to them if layoffs are abused and being used to terminate employees.

Q: Has our pension plan changed this year?

A: No, the pension plan has not changed, although there were a few bills being considered. In talking to the sponsors of the bills, the fear is that as more and more employees retire, the system will become strained and will not be able to fund itself. If this happens, employees in the system may not be guaranteed benefits that they have worked towards for years. The sponsors feel that the system needs to be modified now, only for new hires, in anticipation of more and more retirees. Both sponsors withdrew the bills this year and plan on studying the issue and looking at the rate of retirement expected over the next decade. A change in the pension system in the coming years is a possibility, but if it happens, according to the Treasurer, the changes will only affect new hires. TSEA will always insist that existing

employees in the present system can maintain the benefits they were promised when they began working for the state.

Q: Was longevity and the 401K match funded in this year's budget?

A: Yes, both were funded. Employees who have worked for the State for 3 years will continue to get \$100 per year of service as a longevity payment on your anniversary date. Also, the State will continue to match your contributions up to \$50 per month in your 401K account. According to Governor Haslam, this will remain a priority in his budget. He sees this as the first benefit to be funded, separate from and at a higher priority than a salary increase.

Q: When will my performance evaluation be used to judge me when it comes to raises or being laid off?

A: Between now and June 30, 2013, all state employees will get an approved job plan and receive a new evaluation. This evaluation will be used to determine if you qualify for any merit raise and, possibly, any "across-the-board" raise funded by the Legislature for July 1, 2013, and every year after. All layoffs between October of 2012 and June of 2013 will be based upon seniority, ability, and disciplinary record. In July of 2013, layoffs will begin to be based on your last performance evaluation, which could be the one you receive this year under the new system.

Q: I was denied the 1.6% pay raise last year because of performance. When will I be eligible for that raise?

A: If you were denied the 1.6% raise because you had a 1 or a 2 on your performance evaluation, you are eligible for that raise if you receive an evaluation of a 3 or better during the next evaluation cycle. If you have not received an annual evaluation yet and were denied, you must make a request to be evaluated to receive the raise. For example, if you received a 2 on your PE in May 2011 which made you ineligible for the 1.6% raise, you should have

another evaluation by May 2012. If you get a 3 or better, you will get the raise the next month. If you were denied based upon disciplinary action, you are not eligible to get the 1.6% at a later date. If you have improved your performance but have not been given the raise, please contact us so we can help solve the problem before this next raise is due. As stated earlier, the 2.5% will not be denied to anyone.

Q: I am being laid off this June. Will I get a severance package?

A: Yes, the severance package was funded in this budget. The severance package is not guaranteed and must be included each year in the budget by the Legislature. This year the package is the same as last year: a one-time payment of \$3,200, and 2 years of college tuition assistance. The only difference this year is that if you receive the severance payment and then take a state job within 60 days, you will have to pay back a prorated portion of the \$3,200. DOHR is presently evaluating which jobs this would apply to. TSEA does not want employees who have been laid off to have to pay back their severance if they are called back to work or if a new position opens up within the 60 days. We will continue to advocate for this as DOHR develops the policy.

Q: If I receive a disciplinary action and file a grievance, will I have a hearing?

A: Yes, you will have a face-to-face meeting with the commissioner of your department at the first step of the new grievance process. At the second step, you will have a written appeal to the Commissioner of DOHR, and the final step would be to appeal to the Board of Appeals for a full, formal hearing before 3 board members and an Administrative Law Judge.

Q: Do employees still get on "registries" to be considered for a job that is in preferred service?

A: Certain jobs will have promotional registries, but the rules and policies of this registry have not been developed yet. TSEA is working with DOHR on these policies now. There will no

longer be a ranked registry for all jobs, but the new registry system being formulated now will encourage promotional opportunities.

Q: Do you have to be in the top 3 on the list to get a promotion?

A: Requirements regarding the top 5 or top 3 for appointment or promotional lists may be changed in the new policies being developed, although the lists will still be used.

Q: Can I appeal a performance evaluation if I feel I was evaluated unfairly?

A: Performance evaluations are not presently appealable and probably will not be appealable under the new rules. However, the procedure used to complete the evaluation is appealable. It is very important that we report all unfair evaluations now, while the TEAM Act is under a microscope, to ensure that they are completed properly. In addition, we hope that problems with performance evaluations will be considered under a new mediation program that is being developed. The mediation program will allow an outside, trained mediator to help remedy workplace issues – even those that cannot be appealed. This program is presently being developed and hopefully will be available to employees in 2013.

Q: If my supervisor is breaking the rules, what options do I have?

A: You should contact TSEA Employee Rights immediately so the issue can be investigated. It will be our goal to fix any problems that arise through this new bill, even if it means involving the Legislature next year. If you are not a member of TSEA, you can call DOHR and ask to speak to their employee rights division to make a formal complaint. According to the Administration, they want better supervisors and better employees. Supervisors are to be held accountable in this new system, just like the employees on the front line.