

May 23, 1947

To: Mr. John Byers, DP
From: Harold Weisberg
Subject: Appeal from personnel action

On May 15 I was informed by the Acting Chief of DRA, Mr. Donald Dozer, that I had been selected for separation from the division and possibly from the Department.

This decision is in apparent disregard of my standing as an overseas veteran with 10 years of government seniority, including military service. I desire to appeal this decision because:

- 1) It is motivated by prejudice;
- 2) It violates regulations;
- 3) It seeks to accomplish an improper separation under the guise and protection of a reduction in force.

Examination of the Department's files, especially those of DP, will reveal that DRA has never ended its persistent efforts to get rid of me for the stated reason that I do not possess a doctorate. Mr. R. D. Hussey, Division Chief, so informed me on our very first meeting a year ago, before he had seen so much as a sentence of my work. He communicated his desire to DP on a number of occasions, both verbally and in writing.

During the past year I have been subjected to a number of pressures and threats in an effort to persuade me to leave after DP refused to comply with the division's request. These include:

- 1) Refusing to assign work to me;
- 2) Refusing to consider all my work in the efficiency ratings;
- 3) Prolonged withholding of research data basic to a major project on which I was working;
- 4) Misrepresenting my competence in monthly reports;
- 5) Threatening to give me a low efficiency ratings;
- 6) Giving me a low efficiency rating, preparing it without even pro-forma compliance with regulations.

Last summer, after being threatened with this low efficiency rating, I discussed with Mr. Merle of DP the division's efforts to get rid of me while processing papers for new non-veteran personnel. Mr. Merle informed me that DP had approved these actions only after receiving assurances that my status would not be jeopardized thereby. The threat of separation is a violation of these assurances.

On May 15 Mr. Dozer assembled the division and announced that an impending appropriations cut forced DRA to separate five persons. He stated that three were selected because they planned to leave soon in any event and the other two because they had the lowest efficiency ratings in the division. When questioned about the latter point, Mr. Dozer repeated that efficiency ratings were the basis of selection.

Thereafter, on at least five separate occasions, he has maintained this position in conversations with me. The most recent occasion was last night. Even though I informed him that this basis was improper, not until the fourth of these talks did he suggest that any other factor was considered, though he still insisted that the controlling and basic reason was efficiency rating.

In the face of this repeated stand, any other statement or reasons that may be advanced by the division to justify this act are subterfuges and constitute an effort to achieve an otherwise unattainable end under the cloak of reduction in force.

Examination with also reveal that those persons who intended to leave in any case were separately informed by the division that, if they did not wish to leave, they would be retained. The fourth person selected confirms that Mr. Dozer cited her efficiency rating as the sole basis in her case.

In addition, Mr. Dozer admitted at the meeting that these actions involved nonconsideration of veterans' rights or retention registers.

Yesterday you informed me that the division had denied making the statements I attributed to it. Immediately, I spoke to other members of the staff. They will substantiate my statements to you. Because my integrity is at stake, I urge you to satisfy yourself that I have been completely honest with you and others in DP.

I address this appeal to you, not only that the justice I seek be done me, but also in the hope that thereby the integrity of departmental personnel actions be maintained and the rights of individual employees be preserved.

OPERATION OF RETENTION REGULATIONS
FOR USE IN REDUCTION IN FORCE

I The following information on the operation of Retention Regulations for use in Reduction in Force is extracted from the Federal Personnel Manual which is the operating guide issued by the Civil Service Commission to all departments and independent agencies of the Federal Government.

II The regulations for the establishment of Retention Registers, for use in Reduction in Force to establish degrees of retention preference and uniform rules for reduction in force are issued under authority of the Veterans' Preference Act of 1944. They apply to all civilian employees in the Executive branch of the Federal government, except those whose appointments are required to be approved by the Senate and those who are appointed by the President of the United States.

III Reduction in force means the involuntary separation from the rolls of a department, or furlough in excess of thirty days, of one or more employees in order to reduce personnel. The term does not apply to the termination of temporary appointments limited to one year or less, retirement of employees, or separations for unsatisfactory service.

IV Retention groups and sub-groups mean classes of employees entitled to the same degree of retention preference on the basis of tenure of employment and Veteran preference.

V Retention credits are credits for length of service and efficiency ratings in determining retention order in each retention subgroup. They are computed by allowing one point for each full year of Federal government service plus five points for an "Excellent" efficiency rating.

VI Federal government service means the total of all periods of service eligible for consideration for Civil Service retirement purposes without regard to whether the employee is eligible or will be eligible actually to receive retirement benefits. All active military service is counted whether or not Veteran preference is given therefor, or whether it is eligible to be considered for Civil Service retirement purposes. Total service shall consist only of full years of creditable service.

VII A Veteran preference employee means that individual who is entitled to Veteran's preference under the Veterans' Preference Act of 1944.

(over)

TO ALL EMPLOYEES

(5-10-46)

VIII The competitive area means a governmental entity. In the case of the Department of State it means the entire Department, exclusive of Foreign Service personnel stationed in Washington. The New York and San Francisco offices of OIC are separate areas unto themselves.

IX Competitive level means all positions in the same grade of the same service, trade, or profession (although they may have different titles or different pay rates), in which interchange of personnel is feasible for the purpose of determining relative retention preference in reduction in force.

X Employees shall be classified, according to tenure of employment, in competitive retention groups and sub-groups. Initially these groups are divided into three categories known as Group A, Group B, and Group C.

XI Group A includes all employees currently serving under absolute or probational Civil Service appointments or who were appointed, re-appointed, transferred or promoted from absolute or probational Civil Service appointments to War Service Indefinite or Trial Period appointments without a break in service of thirty days or more. This also includes all Schedule B appointees.

XII Group B includes all employees serving under appointments limited to the duration of the present war or for the duration of the war and not to exceed six months thereafter or otherwise limited in time to a period in excess of one year.

XIII Group C includes all employees serving under appointments specifically limited to one year or less, all non-citizen employees serving within the Continental limits of the United States, all employees continued beyond the automatic retirement age, and all annuitants appointed under Section 2 (b) of the Civil Service Retirement Act as amended.

XIV Under these three main groups there are four sub-groups which are the same for each main group with the exception of one addition in Group A. These sub-groups are divided as follows:

- 1 An individual with Veterans' preference and an efficiency rating of "Good" or better.
- 2 An individual without Veterans' preference who has an efficiency rating of "Good" or better.
- 3 An individual with Veterans' preference who has an efficiency rating of "Fair" or "Unsatisfactory".
- 4 An individual without Veterans' preference who has an efficiency rating of "Fair" or "Unsatisfactory".

XIV (continued)

To these sub-groups is added one addition under Group A. That is known as A-1 plus and is granted to an individual who is a Veteran and has reemployment rights under the Selective Training and Service Act, which guarantees him a one year period of employment after his return to duty following a term of active military service. At the end of this one year period the individual then drops into the A-1 group.

XV When a reduction in force is ordered DP will make a determination of the competitive level or levels to be affected. Each employee whose official position is in such a competitive level shall be considered in competition in his retention group in any reduction in force whether he is in a duty or leave status, pay or non-pay status, or actually engaged or work in another department excluding only those in the active military service of the United States or in the Merchant Marine. A retention register shall be compiled at that time for each competitive level for which a reduction in force is to be made, showing the names of all employees in competition by retention groups and sub-groups. It shall be arranged in sequence showing sub-group A-1 plus with the highest retention preference followed in order by sub-group A-1 through 4, B-1 through 4, and C-1 through 4. Names will be arranged in sequence according to retention credits, with higher retention preference accorded to those with a greater number of retention credits. No computation of retention credits will be made for employees in any retention sub-group which will not be affected by the reduction in force, nor will any computation of retention credits be made in Group C since any individual in this group can be terminated at the pleasure of the Secretary without reference to a retention register. Whenever there is a tie for a position in retention Group A or B such tie will be broken first by considering half year of service in excess of total years for which retention credits were granted and then by giving consideration to differences in months and days of creditable service.

XVI In unusual situations an employee performing necessary duties which cannot be taken over by any other available employee with higher retention preference, without undue interruption to the activity involved, may be retained although employees with higher retention preference may be affected. A written statement of the reasons for such exception shall be made for inspection by employees adversely affected and for review by representatives of the Civil Service Commission. Employees serving on a ~~when-actually-employed~~ (WAE) basis, shall be considered in competition only with other ~~when-actually-employed~~ employees in reduction in force.

(over)

XVII A thirty day notice in advance of proposed termination of an employee affected by a reduction in force will be prepared by DP and given to each employee so affected by his Administrative or Executive Officer. Also each employee so affected will be given the opportunity to elect to accept a ninety day furlough following the thirty day period covered by the notice. However it should be understood that such ninety day furlough is purely for voluntary election by the employee and will not be automatic. The employee must advise DP in writing through the Administrative or Executive Officer of his wish to be placed on such ninety day furlough; otherwise the appointment will be terminated at the close of the thirty day period. It should be definitely understood that no employee can receive a lump-sum payment for his accrued annual leave during the ninety day furlough period. This can only be granted on the absolute separation from the Federal service.

XVIII Any employee who feels that there has been a violation of his rights under these regulations may appeal to the Civil Service Commission within ten days from the date he received his notice of the action to be taken. Any questions you may have with regard to the operation of the reduction in force procedure or its application to you should be directed to your Administrative or Executive Officer.

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EH*REDUCTION IN FORCE

I Since the House of Representatives has denied the Department's total request for funds for the Fiscal Year 1948, it is essential that the Department prepare immediately for the reduction of personnel which will be necessary in the event that the funds requested are not restored by the final action of the Congress. Law and regulations of the Civil Service Commission require that employees forced to leave the service because of lack of funds must be notified of such separation thirty days in advance of its effective date. In complying with the law and the regulations, the Department is sending an official notice to each employee who may be reached for separation.

II NOTICE. Employees reached for reduction will receive a notice placing them on leave immediately subject to separation effective June 30, 1947, or will receive notices permitting continuance on active duty but requiring separation to become effective June 30, 1947, should funds not be restored to the Department's appropriation. Employees whose accumulated annual leave is not sufficient to carry them through June 30, 1947, will be placed on leave without pay at the expiration of their annual leave for the balance of the period. Lump sum payments will be made for annual leave remaining to the credit of the employee after the actual date of separation, should separation become necessary.

III COMPETITIVE AREA. A competitive area is that part of the Department for which approval has been received from the Civil Service Commission within which employees of a competitive level are considered to be in competition. The Department with the approval of the Civil Service Commission has established four competitive areas:

- A. Office of International Information and Cultural Affairs
- B. Offices under the Special Assistant for Research and Intelligence
- C. Office of the Foreign Liquidation Commissioner
- D. The remainder of the Department exclusive of those previously mentioned.

Personnel to be reduced in any one of the four areas will compete directly for retention with other personnel within their own area only.

IV COMPETITIVE LEVEL. Competitive level means all positions in the same grade of the same service, trade, or profession (although they may have different titles or different pay rates), in which interchange of personnel is feasible.

(over)

TO BE READ AND INITIALED BY ALL EMPLOYEES

5-26-47

V RIGHTS OF STATUS EMPLOYEES AND VETERANS. Under the rules of the Civil Service Commission, a veteran who possesses competitive status is entitled to be considered for any position in the entire Department for which he is qualified, provided such position is not occupied by a veteran with competitive Civil Service status. A non-veteran with status is entitled to be considered for any appropriate position in the entire Department that is not occupied by another status employee. A veteran without status is entitled to be considered for any appropriate position in the entire Department not occupied by a status employee or a veteran. Immediate action is being taken in line with this policy to review the background of training and experience of such employees and to determine other positions in the Department in which they may be placed in the event a change of assignment becomes necessary.

VI APPEAL WITHIN THE DEPARTMENT. Requests for reconsideration of the action taken by the Division of Departmental Personnel should be filed with DP within three days after receipt of such notices, either by an individual employee or by qualified Officers on behalf of Divisions, Offices, or other organizational units of the Department. Such requests must be in writing and must state in detail the reasons for and factual information supporting the request for reconsideration. Memoranda and calls should be directed to Fred R. Haskell, Division of Departmental Personnel, Room 202, Walker-Johnson Building, telephone extension 2824.

DEPARTMENT OF STATE
WASHINGTON



May 26, 1947

In reply refer to
DP-6

My dear Mr. Weisberg:

The action taken by the House of Representatives on the Department's 1948 fiscal year appropriation requires an immediate substantial reduction in personnel expenditures. To do this it will be necessary to place a number of employees on leave.

The Civil Service Regulations governing the establishment of retention registers have been used to determine which employees must take this leave.

Since your name has been reached on the register for your class of positions, you will be placed on annual leave effective tomorrow through June 30, 1947. If you do not have a sufficient amount of annual leave for this purpose, you will be placed on leave without pay for the balance of the period.

If the subsequent final action by the Congress permits, you will be recalled to active duty as soon as possible thereafter. In the event of a partial restoration of funds, a proportionate number of employees on leave will be recalled to active duty in the order of their standing on the retention register.

In the event that final action by the Congress is such that funds are not available to restore you to duty, you will be separated at the close of business June 30, 1947, and this letter constitutes your notice of separation. If you are separated you will be given a lump sum payment for annual leave remaining to your credit.

Under the

Mr. Harold Weisberg,
Division of Research for American Republics,
Department of State,
Washington, D.C.

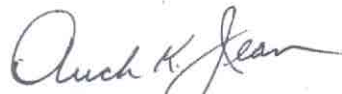
Under the rules of the Civil Service Commission, a veteran who possesses competitive status is entitled to be considered for any position in the Department for which he is qualified, provided such position is not occupied by a veteran with competitive status. A non-veteran with status is entitled to be considered for any appropriate position in the Department that is not occupied by another status employee. A veteran without status may be considered for any appropriate position not occupied by another status or veteran employee. Immediate action is being taken in line with this policy to review your background of training and experience and to determine other positions in the Department in which you may be placed in the event a change of assignment becomes necessary.

If you wish, you may review the Civil Service Regulations and the retention list on which your name appears in Room 104, Walker-Johnson Building. If you feel that the Civil Service Rules and Regulations have not been properly applied in your case, you are free to appeal to the Civil Service Commission, Washington 25, D.C., within ten days from the date of this letter.

You may feel free to get in touch with the Personnel Relations Branch of this Division, Room 252, Walker-Johnson Building, telephone extension 2022, for information or assistance.

We sincerely regret that circumstances make this action necessary in your case. We are confident that you recognize the need for this action and we hope that the final determination of the Congress will permit us to withdraw this notice.

Sincerely yours,



Arch K. Jean
Acting Chief

Division of Departmental Personnel