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Donald E. Cates, Chief, Class. & Pay Personnel

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Federally funded Limited Appointment Employee

This replies to your memo of November 27, 1973, concerning the subject.

You ask:

1. Does Section 11 of the Preamble supercede the Personnel Law and Rules and the term "limited appointment employee" as used therein in fact mean that such employees will be unconditionally terminated, or

2. Does the term "limited appointment" as used in the Preamble refer to the definition set forth in Personnel Law and Rules, Rule 8.11, whereby such limited appointment employees must be laid off in accordance with that rule?

The answer to question 1 is negative and to question 2 is affirmative, subject to the following explanation.

P. & S. L. 1973, C. 100, § 11, states:

"It is the intent of the Legislature that in the event matching federal funds are not available as anticipated for programs in this Act, there is no obligation to provide state funds in excess of the appropriations listed in this Act. Personnel employed by programs partially funded by federal funds shall be considered limited appointment employees, notwithstanding the figures in parentheses representing numbers of employees, should federal funds be withdrawn or reduced."

This constitutes a legislative declaration that personnel in the programs which are partially federally funded "shall be considered limited appointment employees." It has the force of law and is binding on the Department of Personnel. However, it does not purport to modify any of the "Rules Governing the Administration of the Personnel Law," other than to add this group to the category of "limited appointment" employees. It must be assumed that the Legislature was aware of those Rules, since it authorized their adoption and they have been in existence for many years. Compare In re John S. Goff Inc., 141 F. Supp. 862; State v. Crommett, 151 Me. 188, 116 A.2d 614; Opinion of the Justices, 38 A.2d 566. The Legislature is assumed to have a consistent design and policy. State v. Beck, 156 Me. 403, 165 A.2d 433. A new

statute will not be construed as intending a reversal of long established principles unless such intent unmistakably appears. Haggett v. Hurley, 91 Me. 542, 40 A. 56.

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