

Personnel Rule 6.2 - Layoff

6.2.0 Authority

SMC 4.04.050 and subsequent revisions thereto, Rule-making authority

SMC 4.04.220 and subsequent revisions thereto, Layoff

SMC 4.24.030 and subsequent revisions thereto, Change in position or department

RCW 73.16.010 and subsequent revisions thereto, Preference in public employment

6.2.1 Definitions

- A. "Appointing authority" shall mean the head of an employing unit, authorized by ordinance or City Charter to employ others on behalf of the City. The term includes and can be used interchangeably with department head, department director, superintendent, or chief.
- B. "Bump" shall mean to displace a less senior employee in lieu of layoff.
- C. "Classification" shall mean any group of positions that the Seattle Human Resources Director determines is sufficiently similar in nature and level of work that the same title may be equitably applied to all.
- D. "Classification series" shall mean 2 or more classifications that perform similar tasks or work but differ in degree of difficulty and responsibility.
- E. "Classified service" shall mean all employment positions in the City of Seattle that are not excluded by ordinance, City Charter, or State law from the provisions of the Seattle Municipal Code and the Personnel Rules.
- F. "Layoff" shall mean the discontinuation of employment and suspension of pay of any regular or probationary employee because of lack of work, lack of funds, or through reorganization.
- G. "Seattle Human Resources Director" shall mean the head of the Seattle Department of Human Resources or his or her designated management representative.
- H. "Probationary employee" shall mean an employee who has not yet completed a probationary period of employment.
- I. "Referral program" shall mean a program administered by the Seattle Human Resources Director that provides job referrals to individuals who are at risk of layoff or who are on a reinstatement list.
- J. "Regular employee" shall mean an employee who has been appointed to a position in the classified service and who has completed a 1-year probationary period of employment.
- K. "Regularly appointed employee" shall mean an individual with a probationary, regular or exempt appointment to a position of City employment.
- L. "Reinstatement" shall mean the reappointment of an employee within 12 months of layoff from a reinstatement list to a position in the same classification or title from which the employee was laid off.

- M. "Seniority" shall mean a regular employee's length of continuous service, based on total straight-time regular pay hours, in his or her present classification and all higher classifications since original appointment to the present classification.
- N. "Standing" shall mean the classification in which an employee accrues service credit for layoff purposes.
- O. "Status" shall mean the condition of being probationary, trial service, or regular in the current classification.
- P. "Step Progression Pay Program" shall mean a compensation system that provides for salary progression based on length of service.
- Q. "Straight-time regular pay hours" shall mean all hours up to 40 per workweek for which an employee is compensated.
- R. "Temporary worker" shall mean an individual who is employed to fill a temporary, emergency or short-term need, with no guaranteed minimum number of hours of employment.
- S. "Trial Service" shall mean a 12-month trial period of employment for a regular employee who has completed a probation period and who is subsequently appointed to a position in another classification.
- T. "Trial Service Employee" shall mean an employee who has not yet completed a period of trial service.
- U. "Veterans' preference" shall mean preference for retention in employment of any honorably discharged soldier, sailor or marine who is a veteran of any war of the United States, or of any military campaign for which a campaign ribbon shall have been awarded, the widow or widower of same, and/or the spouse of an honorably discharged veteran who has a service-connected permanent and total disability.

6.2.2 Application of this Rule

- A. The provisions of this Rule apply to employees who are regularly appointed to positions in the classified service.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any established and recognized practice relative to the members of the bargaining unit.
- C. Except as specifically provided, this Rule does not apply to individuals hired by the City on a temporary, intermittent or seasonal basis, or for a work schedule of fewer than 20 hours per week; nor does it apply to individuals hired under contract to the City.
- D. This Rule does not apply to individuals who are employed under the terms of a grant that includes layoff provisions that conflict with this Rule.
- E. Appointing authorities may establish written policies and procedures for the implementation and administration of this Rule to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

6.2.3 Conditions of Layoff

- A. A condition of layoff exists when an employing unit must abrogate or unfund a position of employment in the classified service, and there are no vacant funded positions in the classification or title within the employing unit.
- B. A management-initiated reduction in scheduled work hours shall not constitute a layoff unless the reduction is to less than 20 hours per workweek.

6.2.4 Order of Layoff

- A. Within an employing unit, in a given classification affected by layoff, the order of layoff of employees shall be as follows:
 - 1. Probationary employees;
 - 2. Trial service employees who cannot be reverted in accordance with Personnel Rule 4.1.8 C (1);
 - 3. Regular employees

Temporary workers shall be separated prior to the layoff of any probationary, trial service, or regular employee in the same employing unit and classification or title.

Among probationary or trial service employees, order of layoff shall be at the discretion of the appointing authority.

Among regular employees, order of layoff shall be in the order of seniority; the employee with the least seniority being laid off first.

- B. After completion of the probationary period, service credit for purposes of seniority will be given for the length of continuous service in the employee's present classification and all higher classifications since original regular appointment to the present classification. Unpaid absences for active duty training or mobilization with the United States Armed Forces shall not be deducted from an employee's seniority.
- C. In case of a tie among employees with equal seniority in the affected classification, any employee who qualifies for veterans' preference shall be retained over an employee who does not qualify for veterans' preference. Where ties continue to exist after application of veterans' preference, order of layoff shall be at the discretion of the appointing authority.

6.2.5 Out-of-Order Layoff

- A. Upon a showing by the appointing authority that the operating needs of an employing unit require such action, the Seattle Human Resources Director may authorize an exception to the normal order of layoff and the retention in active employment of any employee who has some critically necessary special experience, training or skill.

- B. A written request for an out-of-order layoff, signed by the appointing authority, shall be accompanied by documentation that shows that the employee who would be retained over the more senior employee was recruited specifically for his or her special experience, training or skill; or has been specially trained by the employing unit to fulfill a critical business need of his or her position.
- C. In addition, a request for an out-of-order layoff must include compelling evidence that the more senior employee does not possess the special experience, training or skill required to perform the work of the position and could not be expected to satisfactorily perform the work of the position within a reasonable period of time.
- D. If the Seattle Human Resources Director approves the retention of the least senior employee, the more senior employee shall be allowed to bump the next least senior employee, continuing in sequential order as necessary until the Seattle Human Resources Director determines that the more senior employee has the required skills to satisfactorily perform the work of the position within a reasonable period of time.

6.2.6 Procedure for Layoff

- A. The appointing authority or designated management representative shall request from the Seattle Human Resources Director an order of layoff for the incumbents of the position(s), by classification, affected by the layoff and the effective date of layoff. The Seattle Human Resources Director shall provide to the appointing authority an order of layoff for the affected classification(s).
- B. The order of layoff shall show each affected employee's length of continuous service in the classification as determined by the Seattle Human Resources Director based upon the employee's regular straight-time pay hours, projected through close of business on the effective date of the layoff. The appointing authority shall notify the Seattle Human Resources Director if any employee's relative position on the order of layoff is subject to change prior to its implementation as a result of a change in work hours, unpaid leave of absence, etc.
- C. Upon approval of the authorizing legislation or direction by the appropriate authority, the appointing authority or designated management representative shall officially notify an affected employee that his or her position is being abrogated or unfunded and he or she is subject to layoff on the effective date of such action.
- D. Where regular or trial service employment is terminated by layoff, when possible, 30 calendar days notice shall be given the affected employee(s), and at least 15 calendar days notice shall be given unless:
 - 1. Delaying the layoff would cause the employing unit to exceed its revenue for personal services for the affected work program; or
 - 2. The layoff is 1 of a number of layoffs and delaying the layoff would cause serious financial detriment to the City; or
 - 3. The layoff is caused by fire, storm damage, earthquake, destruction of property, strike, or any other such event that could not reasonably have been foreseen, or by preemptory state or federal legislation.

Nothing in this Rule shall preclude transfer in accordance with Rule 4.3.5 or reduction in accordance with Rule 4.3.3.

- E. Upon receiving formal notification of layoff, the affected employee(s) shall, within 3 working days, submit an option selection form to the appointing authority specifying his or her irrevocable selection of 1 of the following options insofar as the option is available:
 - 1. Transfer to avoid layoff (bumping) within the employing unit to the position held by the least senior employee in the same classification as the employee who has received notification of layoff; or
 - 2. Accept layoff with placement of the employee's name on a reinstatement list for the classification from which laid off.
- F. Failure of the employee to submit a completed option form to the appointing authority or designated management representative within 3 working days shall be construed as a resignation unless another time limit is approved by the appointing authority.
- G. The appointing authority or designated management representative may give an affected employee informal notification before a proposed action is finalized that the action may result in the employee's layoff. The employee is not obligated to select an option as provided in Rule 6.2.6 (E) until he or she receives formal notification of layoff. An employee who has received informal notification shall be eligible to participate in any formal referral program(s).

6.2.7 Employee Options for Transfer To Avoid Layoff (Bumping)

- A. Within the same employing unit, any regular employee subject to being laid off may displace the employee who has least seniority in the displacing employee's classification.
- B. The least-senior regular employee or a trial service employee who cannot be reverted in accordance with Personnel Rule 4.1.8 C (1) who is laid off or is displaced pursuant to Rule 6.2.7 A may displace the employee having the least seniority in the next lower classification in the same classification series when (1) the displacing employee has had an appointment to such lower classification, and (2) the employee to be sequentially displaced has less length of service than the displacing employee.

6.2.8 Referral Programs

- A. The Seattle Human Resources Director may establish programs for the referral of employees who have been informally or formally notified of pending layoff, or who have been laid off, to appropriate employment positions.
- B. The appointing authority or a designated management representative shall certify employee eligibility to participate in referral programs by submitting an official nomination to the Seattle Human Resources Director.
- C. Each employee who participates in a referral program shall be responsible for meeting all the terms and conditions of participation.

- D. The Seattle Human Resources Director may refer eligible employees to positions that have a maximum pay rate that is equivalent to or lower than the maximum pay rate associated with the position from which the employee will be or has been laid off.
- E. Eligibility for participation in a referral program ends 12 months after actual layoff.

6.2.9 Reinstatement

- A. The Seattle Human Resources Director shall establish and maintain for 12 months following layoff a reinstatement list for any classification or title from which City employees have been laid off, and shall provide it to any employing unit that has a position vacancy in a classification for which a reinstatement list exists. The appointing authority shall appoint an employee from the reinstatement list to fill the available position.
 - 1. If there is more than 1 eligible employee on the reinstatement list for a particular classification, the appointing authority shall conduct a selection process and appoint from among all eligible employees.
 - 2. The appointing authority may refuse to appoint an eligible employee from a reinstatement list only with the Seattle Human Resources Director's concurrence that the employee is not qualified for the available position. The employee shall remain eligible for reinstatement for the term of the list.
- B. An employee who is reinstated shall:
 - 1. Be placed at the salary step in effect at the time of his or her layoff, with combined service counting toward progression to the next step, if he or she is appointed to a position in the Step Progression Pay Program.
 - 2. Have his or her seniority in the classification, from the time of original appointment to the classification to the time of layoff, restored.
 - 3. Have his or her accumulated and unused sick leave balance restored.
 - 4. Earn vacation at the accrual rate that was in effect at the time of his or her layoff, with combined service counting toward progression to the next increment in accrual rate. The employee need not satisfy the 6-month eligibility waiting period for vacation use if he or she previously satisfied that requirement.
 - 5. If the employee closed his or her account with the City Employees' Retirement System upon layoff, be eligible to redeposit in the City Employees' Retirement Fund an amount equal to that which he or she withdrew, plus interest, subject to any rules established by the Retirement Board.
- C. An employee who refuses an offer of employment shall be removed from the reinstatement list unless his or her continued eligibility is approved by the Seattle Human Resources Director.
- D. An employee who accepts appointment to a position in a classification or title other than that to which he or she has reinstatement rights shall be removed from the reinstatement list.

- E. An employee who accepts appointment to a position in a classification or title other than that from which he or she was laid off within 12 months following layoff shall:
 - 1. Have his or her salary step placement calculated as in transfer, reduction or promotion, depending upon whether the maximum step of the new salary range is the same, lower or higher than the maximum step of the range associated with the classification or title from which the employee was laid off; provided both classifications or titles are assigned to the Step Progression Program.
 - 2. Complete a probationary or trial service period, as appropriate, in the new classification or title, if the position is in the classified service. Seniority in the classification or title shall begin to accrue upon completion of the probationary or trial service period. If the employee has prior standing in the classification or title, this requirement does not apply.
 - 3. Have his or her accumulated and unused sick leave balance restored.
 - 4. Earn vacation at the accrual rate that was in effect at the time of his or her layoff, with combined service counting toward progression to the next increment in accrual rate. The employee need not satisfy the 6-month eligibility waiting period for vacation use if he or she previously satisfied that requirement.
 - 5. If the employee closed his or her account with the City Employees' Retirement System upon layoff, be eligible to redeposit in the City Employees' Retirement Fund an amount equal to that which he or she withdrew, plus interest, subject to any rules established by the Retirement Board.
- F. An employee who is not reinstated or rehired within 12 months of layoff shall be considered to have been separated from City employment.
- G. An employee who is rehired more than 12 months following layoff shall not be considered to have been reinstated. He or she shall be treated as a new hire except for purposes of vacation accrual and use, and eligibility to redeposit in the City Employees' Retirement Fund an amount equal to that which he or she withdrew, plus interest, subject to any rules established by the Retirement Board.

6.2.10 Voluntary Layoff

- A. When a condition of layoff exists within an employing unit, an employee in the affected classification who would not be subject to layoff in a normal order of layoff may make a written request to the appointing authority to be laid off in lieu of the least senior employee in the classification.
- B. The appointing authority may approve a request for voluntary layoff as long as it mitigates the need for another layoff in the classification.
- C. An employee who elects a voluntary layoff as described herein shall be subject to all terms and conditions of layoff and shall be eligible for participation in referral and reinstatement programs.