

REDUCTION IN FORCE POLICY

THE LANGUAGE USED IN THIS POLICY DOES NOT CREATE A BINDING EMPLOYEE CONTRACT BETWEEN THE EMPLOYEE AND THE CITY OF MEMPHIS GOVERNMENT. THE CITY OF MEMPHIS GOVERNMENT RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY, IN WHOLE OR IN PART.

THIS POLICY HEREBY VOIDS ANY PREVIOUSLY-ISSUED POLICIES.

PURPOSE AND SCOPE

The purpose of this policy is to prescribe the manner in which covered employees in the City of Memphis Government (City) are released. The release of an employee should be both positive and equitable should a reduction in force (RIF) becomes necessary. A RIF may require the separation, lay off, involuntary demotion, reassignment, or reduction in work hours of a covered employee. **A covered employee is defined as a regular, full-time civil service employee who has satisfactorily completed his/her required probationary period.** A non-covered employee is one who is serving in an temporary, probationary or part-time position for purposes of this policy.

The City may implement a RIF for reasons that include, but not limited to, the following:

- Loss of funding
- Shortage of work
- Reorganization
- Outsourcing

If there is a conflict between the provisions of this policy and federal, state, local mandates or laws, or provisions of existing Memoranda of Understanding, the discrepancy shall be reviewed by the Director of Human Resources and a recommendation made to the Chief Administrative Officer for final disposition.

MANAGEMENT RESPONSIBILITIES

The Mayor or his/her designee will determine the reason for the reduction in force, number of positions to be eliminated, and classifications to be affected by the RIF.

Non-covered employees within the impacted service centers shall be separated from City employment prior to the RIF of covered employees in the same classification and division. This procedure shall prevail except when it is

determined that it will in fact increase City or Divisional operational costs, thus having the effect of not achieving the desired cost-effective purpose of the layoff.

Only covered employees affected by a RIF are entitled to rights connected with this policy.

PROCEDURES

The Mayor or his/her designee will communicate to the Director of Human Resources his/her intent to implement a RIF. The request will include the reason for the RIF and the effective date for its implementation.

The Director of Human Resources in conjunction with the Director of Finance will work with the various Division Director(s) to develop and implement the RIF plan. Upon approval, the Plan will be submitted to the Mayor or his/her designee.

The Plan shall include:

- A statement of the circumstances requiring the reduction in force;
- The affected classification(s);
- The affected employee(s); and
- A listing of measures that will be taken to assist the affected employees.

If possible, the affected employees will receive written notification prior to their release. It is incumbent upon the affected employee(s) to maintain a current record of address with the Division of Human Resources/Compensation-Data Management Administration.

SENIORITY

For purposes of this policy, City-wide seniority will be utilized. City-wide seniority shall be determined based on the provisions contained within the City of Memphis Personnel Policy and Procedures Manual, PM 66-01.

When determining seniority of affected employee(s) hired on the same day and in the same classification, the Division Director will review the overall personnel records. If no significant difference exists, ties will be broken by the drawing of lots. If the affected employee falls under a Memorandum of Understanding which provides for the breaking of ties, that procedure shall be utilized.

Any such grant employee, who has certified seniority from a previously held City-funded position, shall have the same rights granted to other regular, full-time City employees as defined in this policy, as related only to previously held City-funded certified positions.

Employees, who are on layoff status, shall not receive seniority credit during their period of layoff. Employees shall have their date of employment frozen effective the date of layoff.

LAY-OFFS

A layoff shall be defined as an interruption of continuous employment caused by a RIF. In the event that a layoff should become necessary, the following guidelines herein shall prevail unless amended by the Mayor or his/her designee.

PROCEDURE

- When a layoff occurs, requests for voluntary layoff within the affected classification(s) and from the appropriate work unit will be considered and granted at the discretion of the appropriate Division Director. Employees, who volunteer to take layoff, shall not be eligible for involuntary retirement benefits, but will be eligible for unemployment compensation benefits.
- When practical, employees will be given reasonable notice prior to being laid off.

LAY OFF ROSTER

The Division of Human Resources/ Labor Relations' Service Center shall maintain a Layoff Roster. The Roster shall include, by classification and according to City-wide seniority, all employees who have been laid off, those who opted to bump to another classification, and those employees who are laid off when bumped.

- Employees, who are on layoff status, may remain on the Layoff Roster for a period of time not to exceed twenty-four (24) consecutive months. Within said twenty-four (24) month period, the employee's employment status will have been finalized either by recall, termination, resignation, or retirement.
- Employees on the Layoff Roster, who have previously exercised their bumping rights and remain in City employment, shall maintain their recall rights to the classification from which the layoff occurred for a period of time not to exceed twenty-four (24) months.
- Removal from the Layoff Roster which results in separation from City service shall occur when an employee has:
 - 1) Been discharged;
 - 2) Resigned;

- 3) Been laid off for a period of twenty-four (24) consecutive months from the effective date of layoff;
 - 4) Failed to report for work at the designated date and time;
 - 5) Retired under service, involuntarily, or deferred retirement; and
 - 6) Been determined to be unable to satisfactorily perform the duties in the classification to which they were recalled.
- Removal from the Layoff Roster which results in the employee being permanent in their current classification occurs if the employee has:
 - 1) Been on the Layoff Roster for twenty-four (24) consecutive months after exercising bumping rights; or
 - 2) Failed to accept an offered position after exercising bumping rights.

RECALL PROCEDURE

When a job is to be filled in a given classification, it shall be offered to the most senior employee within that same classification who is on the Layoff Roster.

Vacancies created by lay-offs shall continue to be offered in descending order on the Layoff Roster.

- All laid off or bumped employees, who are subject to recall, shall be contacted by the Director of Human Resources or his/her designee by certified mail to the address of record. It is the responsibility of the employee to maintain a current address and telephone number with the Compensation/Records' Administration located within the Human Resources Division.
- When a recall position becomes available, the recalled employee shall have ten (10) working days from the date the letter is post-marked, in which to contact the Division of Human Resources/ Labor Relations' Service Center with acceptance or rejection of the recall offer.
- An employee on the Layoff Roster, who is in a layoff status and who is offered a position, shall accept the offer or be separated from the City's payroll.
- If an employee working for the City in the classification he/she bumped into rejects an offer to return to his/her previously-held classification, the offer for that position shall be extended to the next person on the Layoff Roster. In this case, the employee, who chooses not to accept the position, shall be removed from the Layoff Roster and shall be considered permanent in the current classification.

- An employee, who is on layoff status and has bumping rights and not currently working for the City in another classification, shall be terminated from City service for failure to respond within ten (10) working days or failure to report to work as designated.
- When an employee is recalled, the employee's service credit shall be reinstated effective the date the employee returns to active payroll.
- Employees, who are reinstated to their pre-layoff classification, shall be compensated at their previous rate, plus any normal or special adjustments that occurred while on layoff.

NON-AFFECTED VACANCIES

When a job is to be filled in a given classification where no Layoff Roster exists, the job may be filled by an active employee eligible for promotion or transfer.

If no active employees are selected, qualified employees on the Layoff Roster and probationary employees terminated due to the layoff shall be encouraged to apply. Qualified employees, on the Layoff Roster, who make application, and are relatively equal to other applicants, shall be given preference.

EMERGENCY/TEMPORARY OR PART-TIME EMPLOYEES

When it becomes necessary to fill a temporary or part-time position in a classification which a Layoff Roster exists, the position shall be filled by first offering the temporary job to employee(s) on the Layoff Roster who meet the qualifications of the temporary/ part-time assignment.

- An employee on the Layoff Roster, who is offered a temporary/ part-time position and chooses not to accept it, shall not be removed from the Layoff Roster.
- An employee on the Layoff Roster, who chooses to accept a temporary / part-time position, shall remain on the Layoff Roster. In such a case, the employee shall be paid an hourly rate and receive no additional benefits while working as a temporary/ part-time employee. Temporary/ part-time work shall have no effect on the employee's seniority, pension, or layoff status.

BENEFITS

Employees eligible for service retirement may elect to retire. The following set forth their benefit rights:

PENSION

- Employees, who are members of the City of Memphis Retirement System with twelve (12) or more years of creditable services whose positions with the City have been affected by the RIF, may make application for retirement.
- Employees with ten (10) or more years of creditable service may make application for their deferred pension benefit.
- Employees affected by the RIF may opt to leave their pension contribution on deposit or choose to accept a refund of their contribution.
- Employees under the City of Memphis Pension, who opt not to withdraw their retirement funds, shall upon recall be reinstated with prior pension credit.
- Employees under the City of Memphis Pension Plan, who opt to have their contributions refunded, shall upon recall be reinstated with no prior pension credit.
- All benefits associated with pension membership shall cease when an employee withdraws his/her contributions.
- Upon removal from the Layoff roster, which results in termination of City employment, the employee may request a refund of his/her pension contribution, or may elect to accept pension benefits for which the employee may be eligible.
- All matters of pension are governed by the rules and regulations of the City of Memphis Retirement System as set forth in the City of Memphis Code of Ordinances.

HOSPITALIZATION/LIFE INSURANCE

Employees on layoff status may continue their Health Care Plan and Employee Life Insurance coverage in the following manner:

- The City will make available Employee Life Insurance coverage for one (1) year from date of layoff. If the employee elects to continue coverage, the employee shall pay the full amount.
- The Health Care Plan may be continued for eighteen (18) months. The first twelve (12) months, the employee will pay the total premium. The remaining six (6) months, the amount of premium will be in accordance

with the Federal Consolidation Omnibus Budget Reconciliation Act guidelines (COBRA).

- Employees, who are thirty (30) days delinquent in payment either on the employee's Health Care Plan or Employee Life Insurance coverage, shall have their insurance benefits cancelled. Arrangement for payment of employee contributions can be made by contacting the Benefits office located in Room 438, City Hall.
- Employees, who elect not to continue their Health Care Plan or Employee Life Insurance coverage while on layoff, shall have their coverage ceased. The employee's Health Care Plan and the Employee Life Insurance coverage will continue for thirty (30) days from the date of the last payment for cost of benefits. If such employees are returned to City employment, they will be eligible to re-enroll into either of the group plans.
- Employees, who elect not to continue in the City's Life Insurance Program, are eligible to apply for conversion coverage into a private plan. Employees must apply for conversion coverage within thirty (30) days of their last payment. Conversion coverage will be at the existing individual market rate and not at the group rate. Interested employees should contact the Benefits' office for details.

ON-THE-JOB INJURY

Medical Benefits: Employees, who sustain an eligible OJI prior to being placed on the Layoff Roster, shall be entitled to continue medical coverage under the existing OJI policy.

Leave Benefits: Eligible employees, who are receiving OJI leave benefits at the time they were scheduled for layoff, shall have their layoff temporarily postponed until such time their OJI benefits cease in accordance with existing OJI City policy. Such a condition may affect the number of employees laid off in the affected employee's classification and at the time the OJI employee's status is resolved.

ACCRUED BENEFITS

- Employees, who are affected by a RIF, shall receive payment for all eligible leave (all accrued vacation and up to four (4) accrued bonus days). However, no sick leave benefits will be distributed unless the employee retires.
- Leave or pension benefits will not accrue while an employee is on layoff status.

UNEMPLOYMENT COMPENSATION

An employee, who is affected by a RIF, may make application for unemployment compensation benefits by applying to the Tennessee Department of Employment Security.

TUITION REIMBURSEMENT

Employees that are affected by a RIF, while attending an approved course of study under the Tuition Reimbursement Program, will be allowed to continue those course(s) and receive tuition reimbursement benefits. No further reimbursement for course work will be allowed upon completion of said courses.

MILITARY LEAVE

An employee, who is on military leave, will not be subject to a RIF until the employee returns to active employment status.

BUMPING RIGHTS

Bumping rights occur when a senior laid-off employee exercises his/her right to displace a junior employee who is not being laid-off in a position for which the senior employee is otherwise qualified. A senior employee may bump division-wide unless he/she is covered under a Memorandum of Understanding that reads differently. Nevertheless, a position shall not be bumped into more than once for purposes of efficiency.

An affected employee, who opts not to exercise his /her bumping rights per this policy, may opt to be placed on the recall list.

The following categories of employees do not have bumping rights:

- Temporary employees
- Part-Time employees
- Probationary employees
- Management employees
- Grant-funded employees
- Appointed employees

Employees serving in an **out of class position** shall have his/her seniority and bumping rights determined based on his/her permanent position.

BUMPING RESTRICTIONS AND ALLOWANCES

- No employee may bump into an appointed, grant-funded or management-level position.

- Regular, full-time employees may bump part-time/temporary employees. However, the regular, full-time employee must be qualified to perform the part-time/temporary duties, and the employee can only bump within their division. Under this scenario, leave benefits for full-time employee(s) bumping into a part-time/temporary position will be prorated for future accruals in accordance with the most recent Personnel Policies and Procedures.
- Any affected employee who is on an approved leave of absence shall be included in any determination regarding bumping and/or RIF. If it is determined the affected employee has bumping rights into a position, the employee will continue on leave of absence and may be placed in the newly vacated position or exercise his/her bumping rights upon return from leave in accordance with this policy.
- When an employee's position in a given classification is designated as a part of a lay-off plan, the employee occupying that position shall have the right to bump the least senior employee within that classification Division-wide, or go on layoff status. The senior employee exercising such bumping rights shall assume the duties, responsibilities, and work location of the bumped employee.
- Employees, who are unable to bump into their own classification, but who have obtained permanent status in a previously held City-funded classification, have the option to bump the least senior employee in the previously-held City-funded classification. However, the following guidelines apply.
 - 1) The senior employee shall not have a break in service since last serving in the previously-held classification.
 - 2) The senior employee shall have a one-time option in which to bump. The option must be exercised immediately upon notification of layoff.
 - 3) The senior employee shall bump into the most recently held City-funded classification in which the employee has seniority.
 - 4) No employee can bump into a grant-funded, appointed or management position.
 - 5) The senior employee is required to meet all current qualifications of the previously-held classification.
 - 6) The senior employee must be able to carry out the full duties required for the classification.

- 7) Employees, who opt to bump, shall be paid at a rate determined by their last monthly salary in the previously-held classification, plus all normal or special adjustments that have occurred from the date the employee left the classification, up to and including the date the actual bump occurred. Where a pay scale exists, the employee shall be paid at the appropriate rate on the scale.
- 8) Employees, who are subsequently bumped due to this process, shall have the same rights as defined above.
- 9) The previously-held position must be within the impacted employee's current division's compliment.

WAGES

The wages of an affected employee who bumps laterally or to a lower level classification will be determined in accordance with the Human Resources' Compensation Salary Guidelines or provisions within the applicable Memorandum of Understanding. The service center receiving the affected employee shall be required to pay the salary of the employee who held the position prior to the vacancy or bump, or the agreed rate for the position.

REPRESENTED EMPLOYEES

Any bumping rights covered by the various Memoranda of Understanding shall be applied.