

ARTICLE 19 - LAYOFF PROCEDURES

19.1 Purpose - Employees covered by this MOU may be laid off due to material changes in the essential duties of their job or due to material changes in the organization. Likewise, the shortage of work or funds available to the City may also cause layoffs. If a layoff is deemed necessary, the appointing authority shall notify the Administrative Services Director of the layoff with reasons therefore thirty (30) calendar days before the effective date of layoff. Said employee shall be considered for re-employment as provided by the Personnel Rules.

19.2 Procedure - When a position within a class is abolished thereby necessitating a layoff, the following procedure shall be followed:

- A. Reductions in the workforce shall be made by class within a department except that, where appropriate, the City Manager may authorize a layoff by division or smaller unit within a department. In the event of a comprehensive reduction in the workforce, the City Manager may decide to lay off by class City-wide regardless of department.
- B. In accordance with Rule 14, Section 9 of the Personnel Rules and Regulations, thirty (30) calendar days before the effective date of layoff, the appointing authority shall notify the Administrative Services Director of the intended action with reasons therefore. In the event a decision is made by the City to contract out for a specific service performed by City employees, the City will give the affected employees a minimum of six (6) months advance notification in which to evaluate their own situation and assist in planning for the future. The City shall meet and consult with CMCEA on such matters as the timing of the layoff and the number and identity of the employees affected by the layoff.
- C. A reassignment or voluntary demotion within the employee's division or department to an equivalent or lower job class may be made to prevent a layoff, provided the employee is qualified by education and/or experience, is capable of performing the duties of the classification and has satisfactory performance evaluations for the preceding two (2) years. An employee so reassigned or demoted shall be placed on the salary step within the new classification range closest to the rate of pay which the employee previously received. Whenever an employee is reassigned or demoted to a vacant position in the same class, an equivalent class, or lower class as herein provided, he or she shall retain the same anniversary date for purposes of merit pay increases. An employee so reassigned or demoted shall be reinstated to his or her former job class and salary step status when positions in the former job class within the affected division or department become vacant, provided that the employee has performed satisfactorily in the current position and requests reinstatement to the former position. Such reinstatement shall be on the basis of City-wide seniority.
- D. In the event of a layoff, those employees in the classification affected with the least City-wide seniority shall be laid off first. Seniority shall be defined as continuous City service based upon hire date. Strict application of seniority shall prevail unless exceptional circumstances occur of which the concerned employee organization shall be fully apprised in advance. The order of layoff shall be:

1. Part-time and temporary employees in the affected classification shall be separated first.
 2. Probationary employees in the affected classification shall be separated next.
 3. Permanent employees with the least City seniority will be laid off first. Other affected employees will be laid off in sequential order thereafter.
 4. Exceptional circumstances, as used above, includes the City's maintenance of a qualified workforce of competent employees based upon the persons employed having satisfactory performance evaluations for the preceding two (2) years.
 5. Exceptional circumstances also include the recognition of the need to retain employees possessing special technical skill, training or knowledge within an affected classification as dictated by the work or services being performed. This exception can only be applied to those classifications within the occupational series utilizing said skills, knowledge or training. The determination to grant such an exception can be made only with the approval of the City Manager. The City will share the findings of any proposed exception with CMCEA prior to making any recommendation to the City Manager.
 6. Employees who have not successfully completed promotional probation by the layoff notification date shall revert back to the last class in which the employee held permanent status for purposes of determining order of layoff.
 7. When two (2) or more employees have *equal* seniority, the department shall determine the layoff order for these employees based upon merit and ability as determined by their performance evaluations for the preceding two (2) years and possession of specific technical skills utilized in the job.
- E. An employee scheduled to be laid off is entitled to displace, or "bump," into a position in a classification within the same occupational series which is currently being held by an incumbent with less overall City seniority, provided it is in a position in which the employee formerly held permanent status or one in which the employee is qualified by education and/or experience, and is capable of performing.. The employee must exercise his or her displacement rights in writing within five (5) working days from receipt of layoff notification.
- F. When the employee with the least City seniority is displaced by the person scheduled for layoff, the displaced employee shall be considered as laid off for the same reason as the person who displaced him or her and shall in the same manner be eligible to displace to a position in the same manner as described above.
- G. An employee laid off from City employment shall be eligible for the same sick leave payoff as defined in the Sick Leave Incentive Program for retirees.
- H. The name of an employee who has been laid off due to the reduction in the workforce shall be placed on the reemployment list for his or her job class.

The reemployment list shall be used by all appointing authorities within the affected division or department whenever a vacancy for that class is to be filled. Names will remain on the appropriate reemployment list for a period of three (3) years from the date of separation. Persons on the reemployment list shall be reemployed within the division or department from which they were laid off at his or her former salary step status when positions in his or her former job class become vacant. Reemployment shall be on the basis of previous City seniority. After separation from City employment for more than one (1) year, a person rehired may be required to successfully pass a physical and competency examination.

- I. Whenever an employee is reemployed to a vacant position in his or her former job class, he or she shall be given a new anniversary date for purposes of merit pay increases and performance reviews in accordance with the provisions of the City's Personnel Rules and Regulations.
- J. An employee rehired from the reemployment list shall be considered to have continuous service for seniority purposes and may be credited with the amount of accumulated vacation and sick leave he or she had accrued at the time of layoff if he or she remits to the City of Costa Mesa the payments received by the employee under the City's separation provisions and the Sick Leave Incentive Program.
- K. Failure to return to work from layoff within twenty-one (21) calendar days after notice to return has been served upon the former employee by certified or registered mail at his or her last known address on file with the City Personnel Division shall constitute the employee's waiver of any right to return to work and eliminates any future reemployment requirements placed on the City.
- L. All other benefits or programs in effect at the time of layoff shall be forfeited upon reemployment unless they are still applied to the old classification at the time of rehire or provided to new hires as of that date.
- M. Employees subject to layoff may file a grievance under Rule 25 of the Personnel Rules and Regulations only if there has been an improper interpretation or misapplication of this procedure.