

Non-seasonal Layoff Planning For Non-represented Employees

This communication details the process for general city departments to follow in preparing layoff plans involving non-represented employees for the City Service Commission. Any questions on seniority and bumping rights should be directed to Louise Dumke at 286-3394. Questions on preparing the layoff plan can be directed to Andrea Knickerbocker at 286-3387. This communication does not address differences in layoff plans before the Fire & Police Commission. Questions on layoff plans for the Fire and Police departments should be addressed to Sandy Zelazny at 286-5061.

Context of Non-seasonal Layoffs

Non-seasonal layoffs, also known as reductions in force or 'RIF's,' are usually associated with budget reductions as a result of an organization's decision to reduce the number of employees. It is not unusual for RIF's to occur in conjunction with a department's reorganization.

The order and manner of layoffs for employees represented by a bargaining unit is formalized in specific contract language. The policy decision to reduce staff or to reorganize are separate issues from the actual direction and implementation of the layoffs.

Milwaukee Civil Service Layoff Rules (City Service Commission)

The Rules of the Board of City Service Commissioners (CSC) regarding layoffs only apply to non-management/non-represented and management employees. The layoffs of represented employees are determined by the appropriate labor agreements. The CSC Rules that govern layoff include:

- Rule X—Layoff, Leave of Absence, Resignations and Reinstatement, and
- Rule XII—Seniority and Efficiency

Rule X, Section 1. Layoff. Specifies that the least senior employees are to be laid off before more senior employees, unless the Commission approves an efficiency-based method (more on this later). It also specifies that employees with temporary and provisional appointments and those with regular appointments but still within their probationary periods are to be laid off before those with regular appointments and those who have completed their probationary periods. Employees who have not completed a probationary period do not possess a property right as defined by law. It should be noted that exempt employees must also be laid off prior to employees with regular appointments. Exempt employees do not obtain any seniority as defined under CSC Rule XII and also do not possess any property right to their positions. The Wisconsin Supreme Court has upheld this principle.

Under this rule, the Commission has reserved the right to approve any reduction in force/layoff plan, which in its judgment is for the general good of the city.

Rule X, Section 6. Reinstatement Following Layoff. Requires that persons laid off are to be placed on reinstatement lists for a period of two years. Laid off persons are to be reinstated in the reverse order of layoff and are to have preference over all other types of lists for vacancies in their classification in the department from which they were laid off. They may also be considered for vacancies in other city departments.

Rule XII, Section 1. Seniority Rights. Provides the uses and basis for determining seniority. The Commission uses a date of appointment method for establishing seniority as opposed to a time in grade methodology, although it may allow for adjustment to a seniority date for extended "absence from the service." In those instances where two or more individuals were appointed to the same job class in the same department on the same date, their exam scores for the position determine their relative seniority. Where that is not possible, as a result of promotion without examination, the seniority ranking is determined by the drawing of lots by the affected persons.

Seniority rankings are made by job class within each department or subdivisions thereof. The rule provides for the grouping of "aggregations of persons holding positions differing in title but similar in responsibility and general nature of duties" on the same seniority list with the approval of the Commission.

Efficiency based layoffs are allowed for with the approval of the Commission. To our knowledge this has been done once. This requires an in-depth, documented analysis of the efficiency and performance of the affected employees. Our experience with this methodology was that the morale of the affected organization was adversely affected in the extreme.

Application of Rules/Procedures to Actual Situations—Or, How Does this Work Anyway?

The work flow/dynamics usually happens something like this:

1. Notification to DER regarding potential layoff by the affected department. Departments must communicate all potentially eliminated positions and affected employees to Louise Dumke at 286-3394.
2. Dialog between DER and affected department on the requirements for a legal layoff. Legal layoff takes into consideration seniority rights, civil service status, and/or bumping rights. In many cases the employee in the position to be eliminated is not the employee who will ultimately be affected. Confidentiality in discussing the department's plan is critical at this step since seniority and civil service rules may impact and/or change the original intent.
3. DER determines the civil service status/seniority of the initially affected employees. This involves researching which if any jobs the initially affected employees previously held within their current department and their seniority dates for those jobs. DER also needs to determine the seniority dates for all current employees in those jobs. This process will reveal whether the initially affected employee has enough seniority to bump out the least senior employee in that job classification in that department. If the position previously held by the affected manager or non-represented employee is represented by a union, the person's ability to bump back will be governed by the union contract.
4. The department needs to determine if there are any vacancies in jobs previously held by the affected employee, that the employee could fill. Also, determine if there are any

vacancies that an affected employee is qualified to fill, that the department would consider filling with an affected employee.

5. Repeat steps 3 and 4 above for all employees who can be bumped by more senior affected employees until all of the 'dominos' are accounted for.
6. The department then compiles a summary of the information determined above in a 'layoff plan' to be presented to the City Service Commission. Examples are enclosed. To clarify, this layoff plan will summarize what is occurring with non-represented employees only. For affected employees who are represented by a union, the department will follow the union contract.
7. The department must notify all affected employees of the layoff plan before the plan is scheduled to be heard by the City Service Commission. Notification of at least two weeks prior to the meeting is best. This communication is to include notification to the affected employee that they have the right to appear before the Commission when the plan is before the Commission for approval.

Any questions or issues on the process should be addressed to Andrea Knickerbocker, Human Resources Manager, 286-3387 or Louise Dumke, Certification & Salary Systems Administrator, 286-3394.