



## **FREQUENTLY ASKED QUESTIONS REGARDING SENIORITY AND LAYOFF – May 3, 2013**

### **1. I RECEIVED A LAYOFF NOTICE, WILL I REALLY BE LAID OFF?**

It is impossible to know right now what the final impacts will be. You may or may not be laid off depending on the final decision of the Council on the budget and your City employment history.

### **2. HOW DO LAYOFFS GET DECIDED?**

- The Mayor and City Administration determine that budget reductions are necessary to balance the City's budget.
- The Mayor presents Council with a proposed budget that includes reductions to the number of vacant and filled positions in the budget.
- The Department of Human Resources Management (DHRM) takes the list of potentially impacted classifications and calculates seniority in those classes according to Civil Service Rule 9.
- City Council reviews and publicly discusses the proposed budget. During that process Council usually makes changes and then votes to adopt an amended budget.
- If the amended budget includes position reductions, a list of the positions eliminated is provided to DHRM and DHRM uses seniority lists to determine which employees will move (bump), revert to a formerly held classification, or be laid off. Impacted employees are moved to available vacant positions in their classification before they are either reverted or laid off.

### **3. WHAT IS SENIORITY WITHIN A CLASSIFICATION?**

Employees receive one seniority point per month in their classifications. For example, an employee who has been employed by the City for 12 months as a full-time Account Clerk I will have 12 seniority points as an Account Clerk I. Days count toward seniority on a fractional basis, so for example if you have been in a classification for one month and 15 days, you would have 1.5 (approximately) seniority points in the class.

### **4. HOW CAN I FIND OUT ABOUT MY SENIORITY?**

- Seniority lists are published during the time that Council is discussing potential layoffs and in advance of the actual layoff. Seniority lists for potentially affected classifications are available on DHRM's website; updates will be posted as they become available. You may also get a copy from your union representative.
- If you have questions about your own seniority, you can submit a "Seniority Review Request Form" to DHRM. The form is available at DHRM's website or from your department personnel liaison, union representative, or the Personnel Office at 150 Frank H. Ogawa Plaza, 2<sup>nd</sup> Floor.

### **5. WHAT IF I BELIEVE THAT THERE IS AN ERROR IN MY SENIORITY CALCULATION?**

Fill out and submit a "Seniority Review Request Form." In the space provided, be sure to say clearly the reasons you believe the seniority calculation is incorrect and attach any information or documents that support your claims. DHRM staff will do research to figure out if a correction is required and will notify you of the results.



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### **6. WHAT IS BUMPING?**

“Bumping” is when a position is eliminated and the person in that position is more senior to another employee in the same classification. The more senior employee moves into the position of the less senior employee and is said to “bump” into the position.

### **7. CAN AN EMPLOYEE BUMP INTO ANOTHER POSITION OR ANOTHER DEPARTMENT/AGENCY?**

Yes, if the employee has enough seniority to bump a less senior employee within the same classification.

### **8. WHAT IF I’VE WORKED FOR THE CITY FOR A LONG TIME?**

Seniority is only calculated by classification. If you have very little seniority in a classification but you’ve worked for the City for a long time, your overall City service would only be counted if your seniority was tied with another employee’s in your current classification.

### **9. DO PERFORMANCE APPRAISALS FACTOR INTO SENIORITY?**

No. performance ratings were eliminated as a factor in seniority calculations when the Civil Service Rules were revised on May 12, 2011.

### **10. DO PROVISIONAL, TEMPORARY, OR EXEMPT ASSIGNMENTS COUNT TOWARD SENIORITY?**

No, only permanent service in civil service classifications counts toward seniority.

### **11. DOES LEAVE-WITHOUT-PAY COUNT AGAINST SENIORITY?**

Yes, if the unpaid leave is not a protected leave such as Workers Compensation, and the leave consisted of more than 30 consecutive days – all days of the unpaid leave are counted, for example, if an employee was on unpaid leave for 45 days, all 45 days would be deducted from the employees time in class. Unpaid leave that is 30 consecutive days or less does NOT count against seniority – none of the leave would be deducted.

### **12. CAN AN EMPLOYEE WHO IS ON LEAVE BE LAID OFF?**

Yes, layoffs affect employees in civil service positions based strictly on seniority.

### **13. DO PART-TIME OR EXEMPT EMPLOYEES ACCRUE SENIORITY?**

No, part-time employees and Civil Service exempt (“at will”) employees do not accrue seniority.

### **14. WHAT HAPPENS TO MY SENIORITY IF I LEFT THE CITY AND CAME BACK LATER TO THE SAME CLASSIFICATION?**

If you voluntarily left City employment in good standing, it depends on how long you were separated from the City. Under Civil Service Rule 9.09, if you were separated for two years or more, your seniority in your previous assignment is terminated. If the break in service was less than two years, then the two terms of service would be added together to calculate your seniority.



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### **15. ARE POSITIONS REQUIRING SELECTIVE CERTIFICATIONS SUBJECT TO BUMPING?**

Maybe. If an employee was hired as selectively certified for his/her position, only another employee who has the same required skills may bump the person. So, for instance, if a person was hired into a position selectively certified for Spanish language skills, only a person who is more senior in the same classification AND was bilingual in Spanish could bump into that position. The employee may have to be tested for their qualifications in the required skill before they could be assigned to the new position.

### **16. HOW ARE TIES BROKEN?**

If after the initial seniority is calculated and the seniority of two or more employees is tied, there are four ways the tie can be broken for non-sworn civil service employees.

- (1) Employee with greatest actual time in class in which the layoff is being made and in classes with the same or higher maximum salary (this step includes an adjustment for any disciplinary suspensions);
- (2) Employee with greatest total time in City service;
- (3) Employee who received the highest score on the entrance examination in the class; and
- (4) Employee whose application for the position in the subject class was first received.

In breaking a tie, the first rule is applied, if after applying that rule two or more employees are still tied, then the second rule is applied, and so forth.

### **17. WHAT IS REVERSION?**

If an employee is impacted by layoffs and the employee has time in another classification and is more senior in that classification than other employees, then the employee can be moved to a position in their former classification. They are said to “revert” to their former classification.

### **18. IF I REVERT TO A PREVIOUS CLASSIFICATION WHAT WILL BE MY SALARY STEP?**

Employees will usually be placed at the salary rate that is closest to, but does not exceed their current rate of pay.

### **19. ARE EXEMPT EMPLOYEES ELIGIBLE FOR REVERSION?**

Maybe. If they formerly had permanent status in a civil service classification, have taken a leave of absence from their former class to accept the exempt appointment, and are more senior to other people in that classification, they may revert to their former classification.

### **20. HOW WOULD I KNOW IF I CAN REVERT TO MY FORMER CLASSIFICATION?**

If you passed your probationary period in the former class, you usually have reversion rights to that class. However, you must have enough seniority to bump another employee in the classification, if you are not more senior than another employee, you will be laid off.



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**21. CAN I BE LAID OFF IF I HAVE NOT PASSED PROBATION?**

Yes, and you will not have reinstatement rights in that classification. If you are laid off and the eligible list you were hired from is still active, your name will be returned to the eligible list.

**22. HOW LONG WILL I REMAIN ON THE REINSTATEMENT LIST?**

Usually for three years. Check your union [MOU](#) for the agreements related to your specific group.

**23. WILL I BE REINSTATED?**

Maybe. It depends on whether positions in your classification become available while you are eligible for reinstatement.

**24. IF I AM LAID OFF AND THEN REINSTATED, WILL I RETAIN MY SENIORITY?**

Laid off employees do not lose seniority if they have passed probation and are reinstated (versus employees who voluntarily leave City service). However, you do not accrue additional seniority while you are laid off. If you are reinstated from a current reinstatement list, seniority from the two terms of service (before and after the layoff) will be combined in future seniority calculations.

**25. IF I AM REINSTATED, DO I HAVE TO SERVE ANOTHER PROBATIONARY PERIOD?**

No, reinstated employees are not placed on probation again.

**26. IF I AM REINSTATED, WHAT WILL BE MY SALARY RATE UPON RETURN TO THE CITY?**

Reinstated employees typically return to the City at the same rate of pay or salary step that they were receiving prior to being laid off.

**27. ARE REINSTATEMENT LISTS GIVEN PRIORITY OVER ELIGIBLE LISTS?**

Yes, active reinstatement lists must be exhausted before positions can be filled by candidates from other eligible lists.

**28. IF I AM OFFERED REINSTATEMENT, DO I HAVE TO ACCEPT THE POSITION BEING OFFERED?**

Yes, if it is a position in your former classification at the same status (if you were laid off from a full time position and are offered a full time reinstatement, for instance). An offer of reinstatement is an offer of employment. Unless you provide, in writing, reasonable grounds for declining the offer of employment, your name will be removed from the reinstatement list. (See Civil Service Rules 4.21 and 4.22 governing employment eligibility.)

**29. WILL MY VACATION, COMP TIME, FLOATING HOLIDAYS, AND MANAGEMENT LEAVE BE CASHED OUT IF I AM LAID OFF?**

Yes. Vacation, compensatory time, floating holidays, and management leave will be cashed out and included in your final check. Sick leave is lost unless you have been employed by the City for more than 10 years; in this case, you will be paid for one-third your sick leave balance.



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### **30. WILL MY SICK LEAVE BE CASHED OUT IF I AM LAID OFF?**

Maybe. If you have worked for the City 10 years or less, you do not receive any payment for sick time on the books. If you have been employed by the City for more than 10 years, you will be paid for one-third your sick leave balance.

### **31. WHAT HAPPENS TO MY HEALTH BENEFITS IF I AM LAID OFF?**

The City will no longer pay for your health benefits once your employment with the City ends. You are entitled to coverage through a program called COBRA, but you may have to pay for it yourself. All laid off employees are provided with detailed information about the options available for continuing your health benefits once you are laid off.

### **32. WHAT WILL HAPPEN TO MY RETIREMENT CONTRIBUTIONS IF I AM LAID OFF?**

Please contact the City's Retirement Office at (510) 238-6479 for specific information regarding your options.

### **33. IF I AM LAID OFF, ARE THERE ANY RESOURCES AVAILABLE TO ME?**

The City will provide on-site Support Center services to assist you with your transition. These services may include consultations with Employee Assistance Program counselors, City representatives from the Benefits and Retirement Division, and individuals or agencies to assist you with unemployment information and job placement and opportunities.

### **34. WHAT DO THE CIVIL SERVICE RULES SAY ABOUT LAYOFFS?**

Sections of Civil Service Rule 9 pertain to Layoffs and can be found in the Civil Service Rules (Personnel Manual) adopted by the Civil Service Board on March 14, 2013 and posted on the City's website at:

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/EmployeeRelations/MOUandCivilServiceRules/index.htm>