

# **CIVIL SERVICE MERIT BOARD RULES – CITY OF KNOXVILLE**

## **Article 29– Layoffs and Reductions In Force**

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### **SECTION 2901. NOTIFICATION OF LAYOFF**

The Department Head, upon determining that there is a need to reduce the number of employees within a section of a department, or within the department as a whole, shall determine the positions in which layoffs or reductions in force are necessary. When these positions have been identified, this shall be indicated to the Board. The staff of the Board shall then develop retention registers for the affected position. Notification of layoff shall be sent to the individuals involved based upon the list developed from the retention registers as certified by the Board.

### **SECTION 2902. SECTION**

A "Section" is defined as a recognized division or subdivision of a department and not the department as a whole. Determination of what constitutes the "sections" of a department may be based upon reference to prior or present budgets, organizational charts, or any other manner by which a recognized section in the organizational structure can be determined.

### **SECTION 2903. EMPLOYEE IN SAME CLASS PERFORMING DIFFERENT WORK**

Employees having the same classification shall be construed as holding different positions if the nature of the work actually done by such employees is substantially different. If the Department Head determines that a situation exists in which two individuals have the same title but are involved in substantially different work, the Department Head shall submit a letter to the Executive Secretary/Director containing, with specificity, the nature of the work of the employees in the position from which layoffs are to occur and the justification for his determination that the work done by one or more of the said employees is substantially different from the work done by the remainder of these employees. If the Executive Secretary/Director finds that the justification is well founded, the employees shall be determined to hold different classifications and the Executive Secretary/Director shall recommend reclassification accordingly. The Executive Secretary/Director is authorized, at his discretion, to institute investigations into the nature of a position which is scheduled for layoffs if the Executive Secretary/Director has reason to believe that there are individuals within that position which are engaged in substantially different work although they hold the same classification.

### **SECTION 2904. REVERSE SENIORITY**

The layoffs or reductions in force of a classification shall be executed on the basis of reverse seniority, with those persons having the least seniority in the classification being laid off first. This procedure shall continue until the reduction reaches a satisfactory level.

### **SECTION 2905. TRANSFER**

Employees who are laid off shall be entitled to a transfer to a like position in any section or department for which they are qualified which is occupied by an employee with the least seniority in the classification. For positions which were covered by the civil service system prior to January 3, 1981, an employee shall be considered qualified if that employee has been certified to that position by the Board and has previously completed the probationary period. For positions which did not come under the civil service system until January 3, 1981, an employee will be considered qualified if he has held a like position for the required probationary period.

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### **SECTION 2906. RETREAT**

Employees who are laid off and are unable to transfer or elect not to transfer to a like position in any section or department for which they are qualified shall be entitled to retreat to any existing lesser position which they previously occupied. Employees who have been laid off shall be entitled to return to any lesser position in any section or department for which they are qualified and for which they have the greatest seniority. As to positions which were covered by the Civil Service system prior to January 3, 1981, an employee is qualified for a position if that employee was certified through the Board and completed the appropriate probationary period. For positions coming under the Civil Service system as of January 3, 1981, an employee is qualified for that position if he has previously served in that position for the appropriate probationary period. If an employee elects to retreat to a position in a lesser skill level, the employee shall be entitled to receive the salary which is within the skill level of the lower position which provides for the least reduction in salary. Once an employee has been demoted for cause (a result of poor work performance, disciplinary action, etc.) from a classification, he or she shall not have retreat rights to the classification from which he or she has been demoted.

### **SECTION 2907. ABSENT RETREAT OR TRANSFER RIGHTS**

If the employee who is to be laid off and who is not eligible to transfer to a like position or to retreat to a former classification as defined in Sections 2905 and 2906, then said employee can only be laid off.

### **SECTION 2908. RIGHTS OF AN EMPLOYEE WHO HAS BEEN BUMPED**

An employee, who is laid off as a result of another employee transferring to or returning to the first employee's position, is eligible to transfer or return to another position pursuant to these rules and regulations.

### **SECTION 2909. RE-EMPLOYMENT ELIGIBILITY FOR TWO YEARS**

For a period of two years from the date of his layoff, any employee laid off in connection with a reduction in force is entitled to return to any position in any section or department of the City formerly held by him in the event a vacancy occurs in that position. This right to return is dependent upon the employee being on the re-employment list in accordance with the Rules and Regulations of the Board.

#### **Section 2909.1 Re-Employment Seniority Status**

Any classified employee laid off in connection with a reduction in force who is re-employed within two (2) years of his/her layoff shall retain all seniority rights and privileges obtained prior to the layoff. Any classified employee who is laid off and is not re-employed within two years of the layoff shall be considered as having a break in service; therefore, any re-employment thereafter will be as a new employee.

### **SECTION 2910. ELIGIBILITY LIST FOR TWO YEARS**

Any employee laid off in connection with a reduction in force, for a period of two years thereafter, will, without taking any examination, be placed at the head of the civil service eligibility list in accordance with the Rules and Regulations of the Board.

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### **Section 2910.1. Promotional Preference for Two Years**

Any classified employee laid off in connection with a reduction in force, for a period of two years thereafter, shall receive promotional preference in their standing on the eligibility register for classifications for which they apply and meet all the necessary qualifications or requirements as provided in Section 2107.

### **SECTION 2911. RIGHTS LIMITED TO OCCUPIED POSITIONS**

An employee's rights, due to layoff, to transfer to a like position or return to a lesser position are limited to occupied positions, and the City is not obligated to fill a vacant position to comply with these rules.

### **SECTION 2912. WORK HISTORY RIGHTS**

The staff of the Board shall develop a work history status for each employee who is laid off so that the employee's rights of transfer and return are known. The employee shall then be advised of those rights. If the employee does not agree with this determination, he may appeal the same to the Executive Secretary/Director. The Executive Secretary/Director shall make a decision regarding the employee's appeal of the determination of his/her work history rights within three (3) working days. This decision shall be final and shall not be grievable under Article 28 of these Rules and Regulations.

### **SECTION 2913. BOARD WILL REVIEW UNUSUAL SITUATIONS**

Should a situation arise in which the above set out rules and regulations do not adequately provide guidance, the Board shall consider the individual case and make a determination pursuant, to the greatest extent possible, to these rules.

### **SECTION 2914. QUALIFIED TO FILL A VACANT POSITION**

If a person on the reinstatement or re-employment list is referred to a Department where a vacant position exists and the Department Head determines that the individual is not qualified for the specific duties of the position which is vacant, the Department Head shall return the application of the individual along with a position description and justification for this determination. The Executive Secretary/Director shall then obtain from the individual, his former supervisor, or any other reliable source of description of the duties performed by this individual prior to being laid off. The Executive Secretary/Director shall then compare this information to determine if the individual is qualified for the vacant position based upon his previous duties. If the Executive Secretary/Director determines that the individual is qualified, his application shall be returned for consideration. If the decision is that the individual is not qualified, the next individual on the reinstatement or re-employment list (whichever is applicable) shall be referred to the Department Head. Absent individuals being available on these two lists, other lists shall be referred in accordance with the Rules and Regulations. (See Rule 15, Sections 1505, 1512, and 1515.)

### **SECTION 2915. VOLUNTARY TRANSFER TO A CLASSIFICATION IN THE SAME SKILL LEVEL**

In a layoff situation caused by economic reasons, an employee requesting a transfer to a vacancy in a different classification in the same skill level may be considered for transfer to said classification providing he/she is fully qualified to fill the position. The Department Head of an agency where the employee is to serve must certify in writing to the Executive

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Secretary/Director that the employee is fully qualified to fill the position. No action will be taken until the Board approves and certifies the employee in the new classification.