

**808.37 SUBJECT: EMPLOYEE RIGHTS UPON  
REEMPLOYMENT/REINSTATEMENT**

:1 OBJECTIVE:

Define rules governing Reduction In Force (RIF) and former regular employees upon reemployment/reinstatement or with certain other interruptions to City service. Sworn Civil Service positions excepted.

:2 AUTHORITY:

This procedure amended by City Council, June 8, 2009.

:3 DIRECTION:

Human Resources Division Manager, as an appointed official, serves at the pleasure of the Mayor, and receives direction through the Chief Administrative Officer (CAO) or designee.

:4 METHOD OF OPERATION:

A. Definitions

The following words or phrases as used herein shall be defined for the purposes of these procedures as:

1. Adjusted Length of Service

Length of City employment calculated by deducting time not credited by the City. The resulting adjusted date of hire will be used for the purpose of the personal/vacation leave accrual, service awards, longevity payment, and pension benefits. To be eligible to have length of service adjusted, employee must be reemployed by the City within sixty (60) months from date of termination and meet the criteria specified in Section 4H Rights of an Employee upon Reemployment. [For those with adjusted dates of hire prior to May 6, 1991, those dates shall henceforth govern all benefits (vacation, personal leave, longevity, service awards) except pension date. That pension date shall be based upon the General Employee Pension Plan records as of April 28, 1991.]

2. City Seniority

Computed from an employee's *most recent* date of employment in a permanent position.

3. Classification Seniority

Length of continuous employment in a current classification.

4. Key positions

Positions determined by Department Director/Office Head to be vital to the continuing operating efficiency of that particular department or office. Identification of "key" positions is subject to final approval of the CAO or designee.

5. Reduction in Force

Termination of an employee from the City due to cessation of, or reduction in, program activity.

6. Reemployment

Employment of a person who has previously worked for the City of Orlando. The term reemployment shall be synonymous to the term rehired.

7. Reinstatement

Restoring all rights, privileges, and benefits to an employee who has been administratively returned to a regular position.

B. Reduction in Force

1. In the event of a reduction in force, the City reserves the right to retain employees working in "key" positions if necessary, regardless of seniority. Otherwise, every effort will be made to follow City seniority in selecting employees in affected programs and classifications for layoff. Employees hired last (having least seniority) are normally the first to be released.
2. Employees not in an initial probationary period who are eligible for Veterans Preference in retention under Florida Statute Chapter 295 will receive one (1) year and three (3) months (1.25 years) added to their total City service for computation of City seniority. Disabled Veterans under Florida Chapter 295 will have two (2) years six (6) months (2.5 years) added to total City service. This additional time represents five percent (5%) and ten percent (10%) respectively of a twenty five (25) year tenure.
3. Should there be two or more employees with the same City seniority, the following criteria will be used to determine which employees are subject to a reduction in force:
  - a) Classification Seniority.
  - b) Performance and disciplinary records.
4. Bumping
  - a) A permanent employee who loses his position as a result of a layoff in his Department Classification shall have the right to either lateral or downward movement to a classification in his job progression ladder or any job within the City, which he/she previously held in the City, provided he/she has greater City seniority than the employee being displaced and had at least one (1) year of employment in that position. The employee bumping into a previously held position must still meet the current minimum requirements of the position bumping into. The displaced employee should have the least amount of City Seniority in that Classification.
  - b) No employee shall have any right to bump down or laterally move to a job classification in which he was never employed or held permanent status in said classification.

- c) Employees bumping down or laterally moving to other classifications outside of their current Division as a result of a lay off situation will serve a ninety (90) days probationary period in the job moving to. Employees bumping to positions previously held within the same Division do not have to serve a probationary period.
  - d) Employees bumping down into a previously held position will maintain their current rate of pay provided it falls within the range of the position they are moving into. If the employee's rate of pay is above the maximum of the new range, the rate will be lowered to the range maximum.
5. Employees not on an initial probationary period who are laid off will receive a minimum of one month's severance pay.
  6. Voluntary separation incentives

In the event of an anticipated reduction in force, the Human Resources Division Manager, with approval from the Chief Administrative Officer and Chief Financial Officer, may offer a "voluntary separation incentive" to all employees, categories of employees or individual employees. The Human Resources Division Manager will notify appropriate employees when this voluntary separation incentive will be offered, the eligibility requirements to receive this incentive, and the time period when an employee may elect to receive the incentive. The Human Resources Division Manager shall also fix the date upon which an employee receiving this incentive must voluntarily terminate employment with the City. Nothing contained in this provision shall obligate the City to offer any voluntary separation incentive; nor shall it authorize any change in terms established within the City's pension plans.

C. Employees affected by any layoff action may:

1. Exercise the option of accepting the layoff and be removed from the active payroll or,
2. If available, accept a one-time option per Reduction In Force (RIF) to bump down to a position, in a previously held classification, or in a lower classification in their job progression ladder, City Seniority permitting and provided the employee meets the minimum service requirement for bumping down to that classification.
3. Any employee who is laid off and accepts a bump-down position and who subsequently decides not to continue in that position, will be considered to have resigned.
4. A laid off employee bumping down to a previously held job classification shall be assigned to a vacant position in that classification if a Department intends to fill it, before bumping an incumbent employee from that classification. If the employee declines to accept the assignment, the employee shall be immediately placed on lay-off.
5. Laid off employees applying for vacant positions in classifications not previously held, but who are qualified for these positions, shall be placed in these positions based on City Seniority calculated as indicated in B. above with the approval of the hiring authority.

D. Recalls

1. Current employees laid-off or who are working in a lower classification as a result of a bump down, shall retain recall rights for twenty-four (24) months to the classification from which they were originally laid off or reassigned. Laid off employees recalled within these twenty-four (24) months shall have seniority restored based on adjusted date of hire. If re-employed after twenty-four (24) months, the provisions of City Policy 808.37 :4. G, H & K (Employee Rights Upon Reemployment/Reinstatement) will apply. Laid off employees originally hired prior to 1/1/06 and recalled within the twenty-four (24) months shall be eligible for City payment of retiree health benefit in effect either at the time of recall or what was in effect prior to 1/1/06 based on credited years of pensionable service. Recall to laid-off employees will be made by certified mail to the last address as shown in the City's records.
  2. Within ten (10) calendar days of the certified receipt date, laid-off employees must convey their intention of accepting the job and returning to work to the Human Resources Division or forfeit their seniority and recall rights.
    - a) Recall will be offered to laid-off employees if they are qualified to perform the essential functions of and meet the qualifications for the job. A recalled employee must be able to return to work within two (2) weeks of receipt of notification of recall. If the recalled employee is unable, unavailable, or unwilling to return, due to a documented physical or mental condition, the City will proceed to the next person in line per seniority, or post the position if no one else is on the recall list. A recalled person unable to return to work due to a documented physical or mental condition will be removed from the recall list until the individual notifies the City and provides documentation that he/she is able to perform the essential functions of the position. This process is only available during the recall period. Once the person provides the City appropriate notice and documentation of ability to return to work they will be placed back on the recall list based in order of seniority.
    - b) The City reserves the right to require successful completion of a physical examination prior to any recalled employee being placed back on the active payroll.
    - c) Upon recall to fill vacancies in their laid-off classification, employees shall receive the same hourly rate they held at the time of layoff and, in addition, any generated wage increases that may be applicable.
    - d) No probationary period will be required for recall to the position held at the time of the Reduction in Force (RIF). Recalled employees will serve a ninety (90) day probationary period if recalled to a position previously held.
- E. Seniority for all other purposes shall be in accordance with City Policy and Procedure, Section 808.37, as currently written or amended.

- 
- F. Employees laid off and in a Recall Status shall be allowed to apply for “City Employee Only” posted positions provided the employee meets the current minimum qualifications for such positions, and is named on a Reduction In Force (RIF) list within a previous twenty-four (24) month period.
  - G. Rights of an Employee Terminated by Reduction in Force and who is subsequently reemployed.

An employee terminated by the City due to a reduction in force, as reflected in the employee's records retained in the Human Resources Division, and reemployed will:

- 1. Receive credit for prior service, as provided by this policy (see Section H. below).
  - 2. Have his/her sick leave account credited with any accrued sick leave available at the time of termination if reemployed within twelve (12) months.
- H. Rights of an Employee upon Reemployment – refer to the retirement plan employee was a participant of at time of separation.

- 1. *Defined Benefit Retirement Plan*

- a) Non-Vested Employee

A former City employee who is *not* vested in accordance with provisions of the General Employee Defined Benefit Retirement Plan document may receive credit for prior credited pension service if reemployed within sixty (60) months from date of termination.

An adjusted date of hire, reflecting credited pension service, will be granted after the employee pays the General Employee Defined Benefit Retirement Plan all contributions required by the plan. Such payment must be completed within six (6) months from date of reemployment; failure to make required payment within this period of time will result in forfeiture of any future claim for prior service, and the most recent hire date shall become the employee's governing date for pension and other City benefits (i.e., vacation, personal leave, longevity, sick leave).

- b) Vested Employee

A former City employee who is vested in accordance with the provisions of the General Employee Defined Benefit Retirement Plan document and who is reemployed within sixty (60) months from date of termination will be given an adjusted date of hire upon completing 90 days' service and based upon prior credited pension service.

A former City employee who is vested in accordance with the provisions of the General Employee Defined Benefit Retirement Plan and received a refund of pension contributions may receive credit for prior credited pension service if reemployed within sixty (60) months from date of termination.

An adjusted date of hire, reflecting prior credited pension service, will be granted after the participating employee pays the General Employee Defined Benefit Retirement Plan all contributions required by the plan.

Such payment must be completed within six (6) months from date of reemployment; failure to make required payment within this period of time will result in forfeiture of any future claim for prior service, and the most recent hire date shall become the employee's governing date for pension and other City benefits (i.e., vacation, personal leave, longevity, sick leave).

A former City employee who is vested in accordance with the provisions of the General Employee Defined Benefit Retirement Plan and who is reemployed *after* a period of sixty (60) months from date of termination is not eligible to have length of service adjusted. However, the employee will retain the previously vested service time for pension purposes only.

2. Defined Contribution Retirement Plan [401(a)]

A former employee may receive credit for prior credited service under the Defined Contribution Retirement Plan if reemployed within sixty (60) months from date of termination.

An adjusted Date of Hire, reflecting prior credited Pension Service, will be granted if no portion of the participant's Defined Contribution Retirement Plan Aggregate Account balance has been paid to the participant.

The most recent hire date shall become the employee's governing date for City Benefits (i.e., vacation, personal leave, longevity, sick leave) if the Participant in the General Employee Defined Contribution Retirement Plan [401(a)] has withdrawn or received distribution of any portion of his Aggregate Account balance. However, prior credited service will be reinstated for prospective vesting purposes only.

A former City employee, who is reemployed after sixty (60) months from the date of termination, shall forfeit any prior credited service and is not eligible to have length of service adjusted.

I. Service Records

The official record of employment is retained by the Human Resources Division and shall be maintained in accordance with Federal and State of Florida Laws.

J. Military Service

Reemployment Rights for those who serve in the Armed Forces of the United States and who are rehired by the City of Orlando will be in accordance with Federal and State of Florida Laws.

K. Leave of Absence – Pension Service Credit

1. An employee participating in the General Employee Defined Benefit Retirement Plan and placed in an excused absence without pay status in excess of eighty (80) cumulative hours per calendar year may maintain the period of absence as credited service as long as the employee pays the Defined Benefit Retirement Plan all participant contributions that would have been deducted from earnings during the period of time the employee was on leave of absence. Total service credited under this section shall not exceed six (6) months.

---

Excused absence without pay for less than eighty (80) hours per Fiscal Year shall not affect the employee's service date.

2. If the employee does not pay the required contributions to the Defined Benefit Retirement Plan by April 30<sup>th</sup> of the following year, length of service will be adjusted by deducting the time spent in a non-pay status (see Policy & Procedure 808.25).
3. An employee participating in the General Employee Defined Contribution Retirement Plan [401(a)] shall not be credited with service for any period of unpaid absence from work. Length of service will be adjusted by deducting the time spent in a non-pay status.
4. Notwithstanding the above, any employee furloughed for budget purposes for a period of 40 hours or less shall not lose service time for pension purposes, but will be treated as though on a leave of absence with pay. For pension calculation purposes in any defined benefit plan, the employee will be credited with earnings for the furloughed period at the employee's then current hourly rate. For employees in the defined contribution plan, the City will make the same contribution it would otherwise have made for the affected period of work had no furlough occurred.
5. If a voluntary furlough program is activated for a budget year as part of the adoption of the City's annual budget, an employee may, with the consent of the Department Director, voluntarily furlough, for budget purposes, for one or more periods during the FY in an amount not to exceed that which was defined in the budget. Notwithstanding any other provision of this policy, during any voluntary furlough period conforming to the voluntary furlough program within the budget, the employee will continue to accrue leave and other benefits and will not lose service time for pension purposes, but will be treated as though on a Leave of Absence with pay.

:5 FORMS:

None.

:6 COMMITTEE RESPONSIBILITIES:

None.

:7 REFERENCE:

Council action of April 1, 1968, Item 31. Procedure approved by City Council March 31, 1975, Item 16; amended June 30, 1975, Item 36; amended May 16, 1977, Item 6; amended June 30, 1980, Item 7; renumbered from 708.37 and amended by City Council June 2, 1986, Item 8A-29; amended May 6, 1991, Item 3/31; amended June 21, 1993; amended March 11, 1996, Item KK amended April 3, 2000, Item 2PPP; amended September 11, 2000, Item 7X; amended April 14, 2003, Item A7; amended September 15, 2003; re-formatted only April 2004; amended June 18, 2007, Item A-2; amended June 8, 2009, Item K-2.

:8 EFFECTIVE DATE:

This procedure effective June 8, 2009.