

Layoffs & Furloughs

Frequently Asked Questions

Arm yourself with knowledge as you Get Organized! Use this FAQ to familiarize yourself with layoff terminology, then use AFSCME's Layoff & Furlough Preparation Tool to outline the key provisions in both your civil service law and your CBA.

What is a layoff or reduction in force?

A layoff or reduction in force (RIF) is when an employer reduces the size of its workforce through terminations that are not related to job performance. Layoff and RIF are interchangeable terms. The employer does not need to have a "just cause" and usually one cannot grieve individual termination decisions unless the process is laid out in the collective bargaining agreement (CBA), and it was not followed.

What is a furlough?

Furloughs are a cost-saving measure where staff are put on unpaid leave, thus saving the employer's payroll costs for the duration of the furlough. Furloughs are done to avoid or reduce layoffs. The length of a furlough will depend on the total amount of cost savings needed.

What causes layoffs or furloughs?

A layoff or furlough process is usually caused by a significant budget deficit where a state, county or local government does not have sufficient funds to cover its budget. Such a deficit can be caused by unplanned federal funding reductions, insufficient tax revenue collections or another unexpected event. For local governments, a cut in state aid can also be a factor, including those caused by a cut in federal support to the state. Compounding such impact is that many state, municipal and local governments are required to have balanced budgets and are barred from budgeting for deficit spending.

What is seniority?

Seniority is a system where those who have been employed longer are afforded greater workplace benefits. This can include rate of pay, accrual rates of vacation time, work location assignment and opportunities for promotion. In terms of layoffs, staff with more tenure have greater protection, meaning staff with less time in the organization are laid off before more senior staff.

Why does seniority in layoffs matter?

Objectivity - Seniority is objective and makes it easy to understand who is being laid off and why. Other criteria such as work history, performance or skills are subjective and may be easily manipulated by management to achieve pre-determined outcomes. Without using objective criteria like seniority, management can potentially rig the process in ways that protect people they like or remove people they do not, such as union activists.

Protecting longer tenured staff - Senior staff tend to have higher wages. Where there is no seniority protection, the more senior staff are more vulnerable to layoffs than less senior staff. In a layoff context, agencies are typically given a dollar amount of savings that they are ordered to achieve. This forces managers to make a raw calculation. Do they keep a longer tenured civil servant who makes, for example, \$80,000 a year or lay off two civil servants making \$40,000 each? Laying off a smaller number of more senior civil servants is often an easier way to achieve short-term cost savings.

What are the impacts of layoffs which do not respect seniority on the job?

Seniority is a backbone of a merit based civil service system. Removing seniority protections drains the workplace of valuable institutional knowledge and experience that can be critical to providing efficient, quality public services. For example, a senior building engineer has the deepest experience with a specific building's HVAC system and how to repair it without calling a more expensive outside contractor.

How is seniority or “service time” calculated?

Seniority is usually calculated using one of two common methods.

Continuous (uninterrupted) employment – The length of a time an employee has been continuously employed without interruption. If one leaves their civil service employment and later is rehired for their position or hired for a different position, the clock usually starts over to their most recent start date.

Exceptions or allowable breaks in service time – Exceptions to this general rule can vary greatly, but common exemptions include time spent on medical leave or military duty. In such cases, the individual is considered to have uninterrupted time.

Total length of employment – In contrast to continuous employment, total employment includes all the individual's time of employment, regardless of any interruptions in their employment. This means if an employed individual left their job but later was hired into their former position or a new position, their total combined time of employment would be considered.

Reach out to research@afscme.org if you have further questions.

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What is a seniority or layoff unit?

Many civil service rules and union CBAs specify that, in the context of layoffs, seniority be calculated by classification or title within a defined subcategory of the employer. These subcategories can be by department or agency, or a subcategory within a department or agency. In the case of some employers, work location is combined with other subcategories. These subcategories are often referred to as “seniority units” or “layoff units.” How a specific employer defines these units can usually be found in your local civil service rules and/or in the CBA (often as an appendix).

What is a seniority list?

This is a list of individuals ranked in order of calculated seniority within the seniority or layoff unit as defined by civil service rules and/or CBA. You can use the Job Training and Development Center’s Layoff & Furlough Preparation Tool to keep track of how seniority works with a specific employer. It is important that there be a defined process for individual employees to appeal their placement on the list. This can be important for staff who start at the same time or have had an allowable break in their employment, such as for military deployment. It also allows opportunities to challenge and correct inaccurate records.

Who assembles and keeps the seniority list?

This can vary by employer. Often it is kept by a central human resources or personnel department. In other cases, it might be maintained by the individual department or agency. You can record who assembles the list on the Layoff & Furlough Preparation Tool.

What are bumping rights?

Bumping rights allow a more tenured civil servant to avoid a layoff when their position is eliminated by allowing them to assume a position occupied by a less tenured co-worker for which they are qualified. This “bumping” process can continue until the qualified positions are exhausted.

The mechanics of how the bumping process works can vary by employer. Sometimes it is limited to the same title or classification in the individual’s unit, agency, department or the same seniority unit that is used for layoff purposes. Sometimes it can include other similar positions, classifications or titles requiring similar qualifications. These specifics are laid out in the local civil service rules and/or CBAs. Use our Layoff & Furlough Preparation Tool to capture the specifics.

Layoffs create real anxiety and financial distress for your members. While bumping rights will protect the employment of some, others will lose their job. It is important to let your affected members know of any financial assistance programs that your union has or partnerships with local non-profit service agencies who may be able to assist. Also, remind your members that the union is not the one causing the financial pressures. These layoffs are the results of funding cuts

to state and local government and policy makers' decision to balance their budgets on the backs of our members.

Can some workers be exempted from layoffs or furloughs?

There are cases when management may want to exempt specific staff with unique skills or specific job classifications from layoffs or furloughs. It is important to determine who makes that final decision and what, if any, standards are used to come to a determination.

How do civil service rules and collective bargaining agreements fit together?

How specific civil service rules and specific CBAs fit together can be a bit like putting together a jigsaw puzzle. While on first blush it may be hard to see how the pieces fit together, after taking the time to look at the full board, you may begin to make connections. So, where it might initially appear that there is a conflict in provisions, civil service rules and CBAs might actually be able to co-exist.

Civil service rules may:

Overlap with CBAs – This means that both the civil service rules and CBAs have identical language. This helps us lock in the provisions in case the civil service rules are later changed. Importantly, if the language is in the CBA, it allows the union to use the full array of contract enforcement tools such as grievance and ultimately arbitration.

Exempt CBAs – In many cases, the civil service rules may outline some specifics, but then include a statement to the effect of, “unless there is a collective bargaining agreement.” Exempting a CBA allows for a different set of negotiated requirements applying exclusively to those workers covered by the CBA. In essence, there is one set of rules for the non-union workers and a different set of rules for the unionized workers. Depending on how many different unions represent workers at the employer, there could be multiple sets of union rules covering different groups of workers.

Preempt bargaining – In some cases, the fact that something is covered in the civil service rules means that we are preempted from bargaining on those topics.

What other actions can be taken to avoid or lessen layoffs and furloughs?

Saving money and balancing budgets on the backs of working people should be the employer's last resort. Options we can encourage our employers to consider first include:

- Raise revenue.
 - Possible revenue generators include progressive tax increases on the wealthiest and business tax and fee increases.
- Selling unused or underused government properties.
 - Some state and local governments own properties that are currently not being used or can be freed up by consolidating government offices. Consolidating or selling these properties could raise both a one-time injection of funds and generate annual property tax revenue if sold to a for-profit entity or individual.
- Tapping reserve funds to cover revenue shortfalls.
 - This method is most effective if the revenue shortfall is considered temporary or is not a result of a structural deficit. (A structural deficit is when there is a persistent shortfall between government spending and actual spending.) When the revenue shortfall is considered temporary, governments can reduce spending on non-personnel items, such as travel restrictions, capital purchases, contractors and consultants.
- Implementing a hiring freeze for both management and bargaining unit positions.
- Limiting overtime.
- Providing early retirement incentives or implementing an early retirement buyout.
 - CAUTION: Retirement buyouts can create an increase in spending in the short term but when paired with hiring freezes, can decrease overall spending in the long term.
- Implementing furloughs or reduced work weeks.
 - Look into Unemployment Insurance Work Share programs to minimize the impacts of furloughs on members.
- Exploring delayed pay increases, wage re-openers and bonuses in lieu of cost of living adjustments.