

Livermore Area Recreation and Park District Staff Report

TO: Chair Palajac and Board of Directors

FROM: Mat Fuzie, General Manager

PREPARED BY: Jeffrey Schneider, Administrative Services Manager
Megan Shannon, Human Resources Officer

DATE: August 12, 2020

SUBJECT: District Notice 0005 – Reduction in Force

COMMITTEES: Personnel Commission July 7, 2020 (recommended approval w/ changes incorporated)
Personnel Committee July 14, 2020 (recommended approval w/ changes incorporated)

RECOMMENDATION: That the Board of Directors approve District Notice 0005, “Reduction in Force”.

This District Notice (DN) supersedes Section XV, “ABOLITION OF POSITION”, and Section XVI, “REDUCTION IN FORCE -- COMPETITIVE SERVICE EMPLOYEES” of the District’s Personnel Rules and Regulations), which are attached as Exhibit A.

Purpose: To establish procedures for implementing and managing temporary furloughs and permanent layoffs, ensuring the fair and equitable treatment of all District staff in the event a reduction in force is deemed necessary.

Highlights: principal changes to Personnel Rules and Regulations:

1. A specific consideration of furloughs (previously, only layoffs were addressed);
2. Elimination of the “bump” process outlined in Exhibit A, whereby a full-time employee who is subject to a layoff could supplant another employee in a job classification for which she/he is qualified, based upon seniority with the District;
3. Elimination of any unique process for “competitive service” employees (defined as full time staff); this DN0005 outlines processes that are fair and clear for all employees;
4. Explicit mention that there are no appeal rights within the District for employees who are affected by a furlough or layoff action;
5. Specific criteria are outlined to guide management in determining who is to be furloughed, who is subsequently invited back to work, and who is to be laid off;
6. Specific statements about what employees can expect if they are furloughed.

DISTRICT NOTICE 0005 – REDUCTION IN FORCE

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Purpose: To establish procedures for implementing and managing temporary furloughs and permanent layoffs, ensuring the fair and equitable treatment of all District staff in the event a reduction in force is deemed necessary.

Scope: DN0005 applies to all employees.

1. Furloughs – a temporary layoff :

- 1.1. The General Manager may furlough benefited employees because of lack of work and/or concerns over the financial viability of the District.
- 1.2. A specific duration for a furlough must be announced to employees at the time of the furlough; however the existence of an end date of a furlough is not a guarantee of the return to work of anyone who is subject to the furlough. The District may elect to extend the furlough and/or determine that layoffs are necessary.
- 1.3. Prior to the termination of a furlough period, the General Manager may elect to renew the furlough for some, or all, of the furloughed employees depending on the availability of work and the financial condition of the District.
- 1.4. If conditions warrant it, the General Manager may elect to pursue permanent layoffs (see section 2, below) for some, or all, of the furloughed employees.
- 1.5. Furloughs will be implemented by job classification. If work exists for a particular job classification, factors that will determine which employees will remain at work include (in order of importance):
 - 1.5.1. District needs / special skills: the employee has special skills, knowledge or abilities which are necessary for effective operation of the District.
 - 1.5.2. Employee standing – based upon considerations including, but not limited to, the existence of any disciplinary cases in the past 12 months and the existence of a performance improvement plan (active or not).
 - 1.5.3. Seniority, defined as time in that job classification.
 - 1.5.4. Employee Type, in order of priority: full-time, part-time benefited, and casual;

- 1.6. While on furlough, employees:
 - 1.6.1. May file for unemployment;
 - 1.6.2. May use leave credits (vacation, floating holidays, sick, compensatory time, administrative leave) up to their normally scheduled hours (40 per week for Regular staff, 32 per week for part-time benefited staff), unless doing so is no longer financially viable for the District.
 - 1.6.3. Will continue to receive their normal District contributions to their health and retirement plans unless doing so is no longer financially viable for the District.
 - 1.6.4. Will not accrue vacation and sick hours, and floating holidays will not be replenished until they return to active status.
 - 1.6.5. Must notify Human Resources immediately of a change in:
 - 1.6.5.1. Contact information (address, email, phone number);
 - 1.6.5.2. Employment status;
 - 1.6.5.3. Enrollment in another health plan.
 - 1.6.6. Will not receive any change in salary, including cost of living adjustments (COLAs) and step increases.
 - 1.6.7. Must not conduct District work during the duration of the furlough period.
- 1.7. Returning to work: When demand for work in a particular job classification and the District's financial condition supports it, the General Manager may invite furloughed employees to return to active status.
 - 1.7.1. The District will consider return to work by job classification, with the following priorities in determining the order of invitations to return to active status:
 - 1.7.1.1. District needs / special skills: the employee has special skills, knowledge or abilities which are necessary for effective operation of the District.
 - 1.7.1.2. Employee standing (as defined in 1.5.2).
 - 1.7.1.3. Seniority in that job classification (as defined in 1.5.3).
 - 1.7.1.4. Employee Type (as defined in 1.5.4).
 - 1.7.2. Upon being returned to active status, an employee who does not to return to work and who misses 5 scheduled work days over a two week period without an acceptable explanation for his/her absences (Manager's assessment), will be considered to have abandoned his/her job and will be subject to termination.
 - 1.7.3. Employees returning to active status will be eligible to receive a step increase in their salary to the extent that it is financially feasible for the District to provide for step

increases. The next step increase for furloughed employees will be determined in one of two ways, depending on the timing of their current anniversary date and their return to work. The following examples illustrate the two possible scenarios:

- Example 1 (anniversary date occurs after the employee returns to duty): an employee returns to work on March 1st, has an anniversary date of April 15th, and was furloughed for 90 days. This employee will be eligible for a step increase on July 14th (90 days after their current anniversary date) and any subsequent step increases, assuming the employee is not at the top step already, will occur on July 14th (which will become their new anniversary date for purposes of determining step increase timing).
- Example 2: (anniversary date occurs while an employee is on furlough): an employee returns to work on April 15th, has an anniversary date of March 1st, and was furloughed for 90 days. This employee will be eligible for a step increase on July 14th (90 days after their return to work) and any subsequent step increases, assuming the employee is not at the top step already, will occur on July 14th (which will become their new anniversary date for purposes of determining step increase timing).

1.8. Furlough (and layoff) decisions are not subject to District appeal.

2. Layoff – permanent employment termination(s)

- 2.1. The General Manager may lay off employees because of material changes in duties or assignment, reorganization/position elimination, concerns about the financial stability of the District, or simply a lack of work for a particular job classification.
- 2.2. If work exists for a particular job classification, factors that will determine which employees will remain employed versus those who will be included in a layoff include (in order of importance):
 - 2.2.1. District needs / special skills: the employee has special skills, knowledge or abilities which are necessary for effective operation of the District
 - 2.2.2. Employee standing (as defined in 1.5.2).
 - 2.2.3. Seniority (as defined in 1.5.3).
 - 2.2.4. Employee Type (as defined in 1.5.4).
- 2.3. Employees who are subject to a layoff will, upon the effective layoff date, be terminated.

- 2.3.1. Final payout of accrued leave balances, which includes Vacation and Comp. Time balances as of the layoff date, will be provided to employees who are laid off no later than the next payroll process.
- 2.3.2. Benefited employees who are laid off will be eligible for COBRA health benefits; District contributions to health care will cease at the end of the calendar month during which the layoff occurred.
- 2.3.3. District contributions to retirement plans (Pension or 457 plan) will cease as of the effective layoff date.

2.4. As stated in section 1.8 above, layoff decisions are not subject to District appeal.

2.5. Re-employment Rights

- 2.5.1. Former employees appointed from re-employment lists within 12 months of their layoff date shall have the following restored as applicable:
 - 2.5.1.1. Seniority for purposes of determining vacation and sick leave accrual rates (hours per pay period);
 - 2.5.1.2. Seniority for consideration of any future furlough or layoff actions if a subsequent reduction in force is deemed necessary (one of several factors to be considered for such actions);
 - 2.5.1.3. The base salary for an employee who returns to the District will be determined by the General Manager and will be based on the then-current Salary Schedule for the employee's new job classification. If the employee is returning to his/her last job classification, they will return to their prior salary grade and step at the then-current salary level.
- 2.5.2. An employee who declines to accept an offer of re-employment for which he/she is qualified within 12 months of having been laid off, shall relinquish all of the re-employment rights that are outlined in section 2.5.1.

EXHIBIT A – Extract from LARPD’s Personnel Rules and Regulations

XV. ABOLITION OF POSITION

The Board of Directors reserves the right to abolish any position in the best interest of the District, for reasons such as lack of work, lack of funds, reorganization, or changes in duties and assignments. If the position abolished is held by an employee in the competitive service, the employee shall be laid off in accordance with the Reduction in Force Rules. If the position abolished is held by a noncompetitive service employee, the employee shall have no right to remain employed or to be re-employed with the District following abolition of the position.

XVI. REDUCTION IN FORCE -- COMPETITIVE SERVICE EMPLOYEES

This section applies solely to competitive service employees. Noncompetitive service employees who are impacted by a reduction in force shall have no right to remain employed or to be re-employed with the District following the reduction in force.

A. General Layoff Provisions

1. The General Manager, subject to the approval of the Board of Directors, may lay off an employee in the competitive service because of material changes in duties or assignment, reorganization, lack of work or lack of funds, or because a position has been abolished.
2. Layoff shall be accomplished within the competitive service by classification in inverse order of seniority. For purposes of these Rules and Regulations, seniority shall be defined as the total number of days on paid status as a competitive service employee for the District.
3. An employee in a classification affected by a reduction in force may, in lieu of layoff, elect to demote to a lower paying classification provided that such employee is capable by virtue of prior training and experience to perform the work required. The General Manager shall determine whether an employee who elects a demotion in lieu of layoff is capable of performing the work. When a demoted employee and an employee in the lower paying classification have equal seniority, the employee in the lower paying classification shall be laid off first.
4. The Board of Directors, upon recommendation of the General Manager and Personnel Commission, may authorize retention of any employee, irrespective of the employee’s seniority; if it is determined the employee has special skills, knowledge or abilities which are necessary for effective operation of the District.
5. The District shall give as much notice as possible to employees who are to be laid off, but in no case shall notice be less than 10 working days prior to the effective date of the layoff.
6. If an employee elects demotion in lieu of layoff, and if the employee's previous salary level falls within the salary range for the new classification, the compensation shall be set at the salary level the employee had earned in the prior classification. If the salary range for the new classification is lower than the salary level in the previous classification, then the compensation shall initially be set at the top of the new classification's salary range. If the General Manager determines that the employee’s pay will be set lower

than the top of the new classification's salary range, the reduction in pay will be phased in over a period of three months in equal increments.

7. Employees who have been laid off shall not continue to accrue seniority or receive District-paid benefits.

B. Re-employment Rights

1. Employees who have been laid off, or who have been demoted in lieu of layoff, shall have re-employment rights to future vacancies in their former classification and to all other lower classifications for which the employee is qualified. The names of laid off or demoted employees shall be placed in order of seniority on the re-employment list for the classification. These names shall remain on the re-employment lists for a period of 15 months following the date of termination, subject to section 4 below. Vacancies in classifications for which there is a re-employment list shall be filled in order of seniority.

2. Former employees appointed from re-employment lists within 15 months of their layoff date shall have the following benefits restored:

a. Prior sick leave accrual.

b. Seniority at the time of layoff for purposes of determining merit increases, vacation accrual, and future reductions in force.

c. The same base salary that the employee earned before the layoff, unless that base salary is not within the salary range assigned to the new position, in which case, the base salary will be set at the top of the salary range for the new classification.

d. Employees electing demotion in lieu of layoff shall be subject to a probationary period of six months in a position they have previously held with the District. The probationary period shall be one year when demoting to a position the employee has never previously held with the District.

3. Preferential rehire rights are limited to vacant positions.

4. An employee who is on a re-employment list, and who declines to accept an offer of re-employment for which he/she is qualified, shall be dropped from the re-employment list for that position and from any positions of equal or lower salary level. Acceptance of an appointment from a re-employment list for a lower classification shall not affect the right of any employee to re-employment in the class from which the employee was laid off or from which the employee accepted demotion. Such acceptance will result in the employee's name being removed from all other re-employment lists for positions of equal or lower salary. A written offer of re-employment shall be mailed to the employee's last known address. Failure to respond in writing within 15 days of mailing will be deemed a rejection of the offer and the employee will be dropped from the re-employment list.

5. When multiple layoffs occur, one re-hire list will be made for each classification.

6. An employee who has re-employment rights in accordance with this Section shall have the same right to compete for promotion.