



### Visiting the Auditor's Office at City Hall

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## ARA-3.07 - Employee Movement

Administrative Rules Adopted by Bureaus Pursuant to Rule Making Authority (ARB)

Policy category: [Human Resources Adopted Rules for the Auditor's Office](#)

Policy number: ARA-3.07

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 [ARA 3.07 Employee Movement - full text of policy](#) 308.41 KB

### CHAPTER I: DEFINITIONS

For purposes of this rule, unless stated otherwise or applicable law requires:

- A. "Affected employee" means an employee in the Auditor's Office classified service who is scheduled for layoff.
- B. "Authorized health care provider" means a health care professional who meets the definition of attending physician, as provided in [Oregon workers' compensation laws](#).
- C. "Day" means a calendar day, unless otherwise indicated.
- D. "Demotion" means a change in the status of an employee, which occurs when the employee is placed in a position in another class with a lower maximum salary rate than the position in which the employee previously held status.
- E. "Expanded transfer" means a transfer to a job classification that has a maximum pay rate of not more than 20% above or below the maximum rate of the job classification from which the transferring employee holds regular status.
- F. "Good standing" means that an employee left City service after giving appropriate written notice and did not resign in lieu of discipline or termination or during the course of a disciplinary investigation.

- G. "Injured employee" means an Auditor's Office employee with a workers' compensation claim accepted by the City's Risk Management Division.
- H. "Layoff" means the separation of a non-represented employee in the Auditor's Office classified service caused by the elimination of a position, a lack of funds, or curtailment of work.
- I. "Limited term position" means a position that has been approved and established by the Auditor's Office for a specific and finite period of time to allow coverage for specific needs related to grants, one-time funds, or special projects.
- J. "Medically stationary" means no further material improvement would reasonably be expected from medical treatment or the passage of time.
- K. "Promotion" means a change in the status of an employee to a position in a classification for which the maximum pay is higher.
- A temporary appointment, including to a higher-level position in which an employee's civil service classification does not change, is not considered a promotion. See [Auditor's Office Administrative Rule 3.03, Chapter II: Types of Appointments](#) for more information about temporary appointments.
- L. "Regular status" means an employee's classification status upon successful completion of the probationary period. See [Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period](#).
- M. "Seniority" means the length of service in a permanent appointment to a specific job classification in the classified service. Seniority begins on the date of permanent appointment to that class and includes all time on:
- approved paid leaves of absences; and
  - approved absence from duty without pay because of military leave, family medical leave, or injury in the line of duty.
- N. "Transitional duty" means temporary changes in the work environment to allow an employee with temporary limitations or restrictions to work at modified tasks during the employee's recovery from a work-related injury / illness. Transitional duties may involve job restructuring, assistive devices, workstation modification, reduced hours, or reassignment to another job. Transitional duty is also known as "temporary modified duty" or "light duty."

## CHAPTER II: TRANSFERS

### A. Lateral Transfers

Lateral transfers to vacant budgeted positions within the Auditor's Office or between a City bureau and the Auditor's Office are available to employees who hold regular status and have completed their probational period. Transfer opportunities will be posted on [www.portlandoregon.gov/jobs](http://www.portlandoregon.gov/jobs) under the "Lateral Transfer Opportunities" section.

1. An employee seeking a lateral transfer within the Auditor's Office must submit a transfer request to Operations Management.
2. An employee seeking a lateral transfer between the Auditor's Office and a City bureau must submit an application.
3. Eligible employees in the classification will be placed on the active transfer Eligible List to be considered for a vacancy within that classification.
  - a. When certifying qualified candidates from the appropriate Eligible List, the Bureau of Human Resources or the City Auditor, as applicable, will also identify the names of those employees who have requested a transfer within the classification; however, there is no guaranteed right of transfer to a vacant position.
  - b. An employee's name will be removed from the appropriate Eligible List if the employee transfers or receives a promotion or demotion to a new classification or if the employee requests that their name be removed from the active Eligible List.
4. A limited duration employee may transfer to a permanent position in the same classification, but must serve a probationary period in accordance with Chapter III: Promotion and Demotion. The City Auditor may waive this requirement for transfers into the Auditor's Office, and Human Resources may waive this requirement for transfers from the Auditor's Office to a City bureau, upon request and demonstration that the limited duration employee has been subject to an appropriate evaluation period.

### B. Expanded Transfers

1. Expanded transfers may be used as follows:
  - a. A competitive process available to all interested employees must be used in recruiting and selecting an employee to fill the position.
    - i. The City Auditor may waive the competitive process if the expanded transfer is being offered to an employee whose position is being eliminated or who is going to be bumped.

- ii. This waiver does not apply to classification actions that impact an employee's position unless there is clear evidence that the position had been misclassified, the position is being reclassified to more accurately describe the work, and there are no substantive changes to the duties and responsibilities assigned to the position.
  - b. The employee must meet the minimum qualifications for the position, as determined by the City Auditor in consultation with Operations Management.
  - c. The City Auditor or designee and the hiring authority of the affected bureau must approve the transfer.
  - d. No layoff list can exist in the classification for which the transfer is being sought, and there can be no qualified injured workers available.
2. An employee who transfers to a different job class through an expanded transfer must serve a probationary period, in accordance with Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period or [City Human Resources Rule 3.08 – Probationary Period](#), as applicable. If an employee is dismissed during the probationary period following an expanded transfer, they will have return rights to a classification in which they formerly held status, beginning with the most recently held classification.
  3. Expanded transfers may also be used during a period declared by Council in response to a fiscal emergency or other decrease in City revenue sources. The City Auditor may waive the competitive process because an employee whose position is being eliminated or is being bumped as the result of the elimination of a position has applied for the transfer.
  4. An expanded transfer to a classification with a lower maximum pay rate will be considered a voluntary demotion for purposes of compensation and seniority accruals.
  5. An expanded transfer to a classification with a higher maximum pay rate will be considered a promotion for purposes of compensation and seniority accruals.
  6. An employee who voluntarily demotes through an expanded transfer may return to the higher classification through the reinstatement process.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.01 – Transfers](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.



## CHAPTER III: PROMOTION AND DEMOTION

### A. Promotion

1. Employees who promote must serve a probationary period, in accordance with [Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period](#).
2. The salary of a promoted employee will be determined in accordance with [Auditor's Office Administrative Rule 3.08 – Classification and Compensation, Chapter V: Compensation](#).
3. Seniority in the higher classification will begin to accrue on the date an employee is appointed to the higher classification. Seniority in the previous class is frozen when the employee is appointed to the higher classification.

### B. Demotion

1. Demotions may be involuntary (made by the appointing authority for cause), or may be voluntary, upon a written request by the employee to retain employment when a layoff is imminent or for reasons other than discipline. For purposes of this Chapter, it is not considered a voluntary demotion when an employee is appointed to a lower classification through a competitive process.
2. Employees who demote to a position in which they did not previously hold status will be required to serve a new probationary period. Employees who demote to a position in which they previously held status and completed a probationary period will not be required to serve a new probationary period.
3. The salary of a demoted employee will be determined in accordance with [Auditor's Office Administrative Rule 3.08 – Classification and Compensation, Chapter V: Compensation](#).
4. The anniversary date of a demoted employee will be determined in accordance with [Auditor's Office Administrative Rule 3.08 – Classification and Compensation, Chapter V: Compensation](#). Seniority in the higher classification will be frozen effective the date seniority is established in the lower class. Seniority, if not otherwise established in the lower class, will commence on the effective date of the demotion. A voluntary demotion that is the result of a fiscal emergency will not cause seniority in the higher class to be frozen for purposes of layoff.

### C. Approval Process for a Voluntary Demotion

1. An employee may be granted a voluntary demotion if the following criteria are met:
  - a. The employee has attained regular status in their current classification;
  - b. A vacancy exists and the employee meets the qualifications of the position;
  - c. There is no one on the layoff list for the targeted position and there are no qualified injured workers available for the targeted

position; and

- d. The City Auditor determines that no impediments to independence are presented by the employee's voluntary demotion.

2. A voluntary demotion must be approved as follows:

- a. An employee seeking a voluntary demotion must first obtain approval from the Division manager.
- b. Upon approval by the Division manager, the employee must submit a written request for a voluntary demotion to Operations Management.
- c. The City Auditor or designee may approve the request after determining that there are no disciplinary issues or other mitigating circumstances involved and the criteria listed in Subsection C(1) are met.

#### **D. Reinstatement Following a Voluntary Demotion**

1. Any employee who has taken a voluntary demotion that was not the result of a layoff, has attained permanent status in the requested classification, and is still qualified to perform the work may be reinstated within three years from the date the employee voluntarily demoted, at the request and discretion of the Division manager and with approval by the City Auditor or a designee, if:
  - a. The request is made within three years from the date the employee obtained the voluntary demotion; and
  - b. There are no employees on the layoff list for the classification the employee would be reinstated to, and there are no qualified injured workers available for the targeted classification.
2. Employees being reinstated to a position in which they previously held status and completed a probationary period will not be required to serve another probationary period.
3. The salary rate for employees reinstated from a voluntary demotion will be at the same position in the salary range as when the employee last served in the classification, or at the position in the salary range that affords them the least reduction in pay from their current position. Their anniversary date is the date of reinstatement.

#### **E. Demotion for Physical or Mental Inability to Perform**

If an employee becomes physically or mentally unable to perform the essential duties of their position even with reasonable accommodation, the employee may be given status and appointed to a vacant position in a class carrying the same or a lower compensation without previously acquiring status in the lower class. The employee must meet the qualifications and be able to perform the duties of the position, as determined by Operations Management. The City Auditor or a designee and the appointing manager must approve all demotions for inability to perform due to disability.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.02 - Promotion](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised October 15, 2002.

[City Human Resources Administrative Rule 7.03 - Demotion](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

## **CHAPTER IV: SEPARATION FROM SERVICE**

### **A. Resignations**

1. Employees wishing to leave service in the Auditor's Office in good standing must file a written resignation with their supervisor and provide a copy to Operations Management. This notice must be given at least two weeks before leaving and must state the date the resignation becomes effective.
2. Unless unforeseen circumstances intervene, or as otherwise agreed to by the Division manager in consultation with Operations Management, failure to give proper notice of resignation will render an employee ineligible for reinstatement under Chapter VII: Reinstatement.

### **B. Retirement**

1. Employees retiring under PERS are encouraged to submit their [Application for Service Retirement](#) 90 days before the effective retirement date. More information about the procedure and documents that must be submitted to apply for retirement is available on the [PERS website](#). Any employees covered under the Police & Fire Pension Fund should also consult the plan documents for information regarding retirement.
2. Employees should notify their supervisor at the time they submit their application to PERS to complete the appropriate paperwork required by the Auditor's Office. Once notified, the timekeeper will notify Payroll and all necessary information will be forwarded to PERS.
3. Information about continued employment following retirement is set forth in [Auditor's Office Administrative Rule 3.03 – Recruitment and Hiring, Chapter VI: Employment of Retirees](#).

### **C. Appointment Ended**

An "appointment ended" separation occurs when a limited duration employee's appointment has ended or a limited term position has expired. If the employee voluntarily resigns before the date the appointment ends, it will be considered a resignation rather than an expiration of the term.

See [Auditor's Office Administrative Rule 3.03 – Recruitment and Hiring, Chapter II: Types of Appointments](#).

## D. Job Abandonment

Any unauthorized absence from work may result in discipline up to and including discharge. Depending on its length, the Auditor's Office may consider an unauthorized absence to be job abandonment resulting in discharge.

## E. Termination and Layoff

Termination of employment will be conducted in accordance with [Auditor's Office Administrative Rule 3.05 - Discipline](#). Layoffs will be conducted in accordance with Chapter V: Layoff, Recall, and Redeployment.

## F. Severance Program

In 2018, through [Ordinance No. 188895](#), Council established the Auditor's Severance Program, authorized the City Auditor to enter into Severance Agreements with eligible Auditor's Office employees, and authorized the City Auditor to revise Severance Program guidelines by administrative rule.

1. The goals of the Severance Program are to:
  - Provide an incentive for eligible employees to voluntarily resign from City employment in order to create vacancies to address budget shortfalls or fiscal crises,
  - Avoid a disruptive bumping and layoff process,
  - Lessen the effect of a budgetary reduction,
  - Support staffing reorganization or allow for more efficient staffing, and
  - Provide a tool to otherwise aid in organizational change.
2. Permanent Auditor's Office employees with at least one year of continuous service are eligible to participate in the Severance Program, when authorized by the City Auditor.
3. The City Auditor is responsible for determining the details of Severance Agreements pursuant to this rule, and approving or declining Severance Program payments to eligible employees. The City Auditor may, in the City Auditor's discretion, authorize a Severance Agreement when:
  - a. A severance will result in savings or increase efficiency or effectiveness of the Auditor's Office through reorganization; or
  - b. The City Auditor otherwise determines that a severance is in the best interest of the City.
4. If the City Auditor approves an employee to participate in the Severance Program, the employee must resign their employment and will have no recall rights.
5. Approved employees receive:
  - a. A Severance Program salary payment (cash payout), which shall be in an amount to be determined by the Auditor in consideration of the employee's length of service at the City. The

total Severance Program salary payment may not exceed 12 months' pay.

- b. Continued healthcare coverage. The City will pay medical and dental premiums under federal continuation coverage (COBRA) for employees and their eligible dependents for up to six months, or the date the employee or their eligible dependents otherwise lose eligibility, whichever comes first. For employees for whom COBRA will have a negative impact on Medicare, a lump sum payout of the value of the COBRA benefit is authorized.

6. All Severance Program salary payments will be made via lump sum and are subject to tax withholding. All funding for the Severance Program will be absorbed by the Auditor's budget.

- a. Severance Program payments are restricted from funding existing deferred compensation accounts by IRS rules.
- b. PERS guidelines prohibit contributions to an employee's PERS account from their Severance Program salary payment. The employee is not eligible for participation in a Retirement Severance Program.
- c. Unemployment insurance eligibility is determined by the State of Oregon.

7. Operations Management is responsible for administering the Severance Program, including but not limited to:

- a. Maintaining information and materials necessary to implement the Severance Program.
- b. Communicating Severance Program information to Auditor's Office employees.
- c. Communicating Severance Program requests for employee and City Auditor consideration.
- d. Once the City Auditor has authorized a Severance Program request, notifying the affected employee of the offer and confirming the employee's interest in the Severance Program.
- e. Transmitting signed Auditor's Office Severance Agreements to the Bureau of Human Resources, and coordinating with Human Resources to ensure that Auditor's Office employees who enter into Severance Agreements pursuant to this rule receive Severance Program salary payments and/or continued healthcare coverage in accordance with the agreement.
- f. Ensuring compliance with this rule.

8. Employees who are interested in participating in the Severance Program are responsible for communicating their interest to Operations Management.

9. Employees who are approved to participate in the Severance Program must sign an Employee Agreement and Release. Employees have 21 days from receipt of the Employee Agreement and Release to consider and sign the agreement.

- a. By signing the Employee Agreement and Release, the employee voluntarily releases and forever discharges the City, the City

Auditor, and each of the City Commissioners, officers, employees, agents, and insurers and their successors, individually and collectively, of and from all claims arising from or in any way related to their employment as a City of Portland employee or their resignation from City employment.

- b. An employee who participates in the Severance Program agrees to be barred from applying for, accepting, or otherwise seeking employment with the City during a three-year period after the effective date of the resignation, and that any hiring or application will be deemed null and void.
  - i. The employment prohibition includes all full-time, part-time, exempt from classified service, and temporary positions, as well as contract work.
  - ii. The City Auditor may authorize an exception to the employment prohibition only if the employee has been gone equal to or longer than the time equivalent of the salary payment received (for example, an employee who receives a six-month Severance Program salary payment may not be rehired prior to the expiration of six months) or the Auditor determines there are exceptional circumstances that merit the exception.

## G. Employee Separation Procedures

When an employee separates from service:

1. Operations Management will prepare an [Off-Cycle Check Request](#) and submit the original to the Central Time Administrator before 10:00 a.m. for same day payment.
2. Operations Management will complete a personnel action in SAP.
3. The employee or their timekeeper will complete the employee's timesheet in SAP.
4. It is the responsibility of the employee's supervisor, in consultation with Operations Management, to ensure that an [exit checklist](#) is completed. Exit checklists are used to ensure that all City property is returned (e.g., access badges, phones, laptops / tablets, keys, procurement cards, etc.). At a minimum, the employee's supervisor, in consultation with Operations Management, must notify:
  - a. The Bureau of Technology Services, to disable the employee's network access.
  - b. The Facilities Services Division, to disable the employee's identification card.
  - c. The Procurement Card Program Administrator, if applicable, to cancel the employee's procurement card.
5. Managers must also ensure that the departing employees' data, including emails and electronic files, are properly retained or disposed of. Managers should contact [Archives and Records Management](#) with questions.



6. Employees should contact Operations Management for information about unused leave and pension eligibility, and should contact Human Resources' Benefits Office for information about life and health insurance benefits. Operations Management will refer benefits questions to the Benefits Office.

## H. Death of an Employee

In the unfortunate event of the death of an Auditor's Office employee, in addition to the applicable procedures set forth in Section G:

1. Operations Management will process a personnel action in SAP and inform the Human Resources' Benefits Office. The Benefits Office will verify the employee's beneficiary designation, and will send the beneficiary a letter and death claim form for filing with Standard Insurance and COBRA insurance information.
2. The employee's final paycheck will be issued in accordance with [City Code Sections 5.08.160 – 5.08.180](#). Central Payroll will process any PERS reconciliation. Beneficiaries should contact PERS and Standard Insurance directly regarding benefits.
3. Operations Management will arrange to transfer any of the employee's personal items located in the Auditor's Office to the employee's surviving spouse or beneficiary.
4. The employee's co-workers and family members are encouraged to access the [Employee Assistance Program](#) for any personal assistance they may need.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.05 – Separation from Service](#).

Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised November 4, 2011.

Section F is adapted from and amends the Auditor's Office Severance Program, adopted by City Council on April 18, 2018, through [Ordinance No. 188895](#).

## CHAPTER V: LAYOFF, RECALL, AND REDEPLOYMENT

### A. Layoff Overview

In the event of a layoff, it is the goal of the Auditor's Office to minimize negative effects on operations and maximize employment opportunities for laid-off regular status employees by offering the opportunity to accept part time, seasonal, and temporary positions, if available and appropriate. Employees in positions outside the Auditor's Civil Service do not have layoff or recall rights. Non-represented employees do not have the option to bump.

## B. Layoffs

All layoffs must comply with this rule and be approved by the City Auditor.

1. Before approving a layoff, the City Auditor must consider transferring employees to vacancies, eliminating vacant positions, and/or transferring employees into positions held by temporary employees. Temporary employees in a classification within the Auditor's Office must be terminated before a permanent employee is laid off.
2. After the City Auditor approves a layoff, Operations Management will provide written notice to the affected employee(s), as far in advance of the effective date of the layoff as possible.
3. An Auditor's Office employee who is scheduled for layoff will be placed first in any declared vacancy in the employee's current classification within the Auditor's Office, if they are qualified for the position. If no declared vacancies exist in the employee's classification for which the employee is qualified, the employee will be placed in any position in the affected employee's current classification within the Auditor's Office occupied by a temporary employee.
4. If more than one non-represented employee in the Auditor's Office is in a classification for which a layoff is required, the Auditor's Office will consider the following factors when determining which employee(s) will be impacted:
  - a. The needs of the Auditor's Office, in terms of the types of positions and special knowledge, skills, and competencies necessary to accomplish its work, and the qualifications of the affected employees in terms of needed special skills and expertise.
  - b. The seniority and overall performance of the affected employees. The Auditor's Office will determine seniority in accordance with [City Human Resources Administrative Rule 7.06 – Layoff & Recall](#).

## C. Safety Net Voluntary Layoff Program

Consistent with the City's Safety Net Program, during an emergency or fiscal crisis, the City Auditor may enter into agreements with Auditor's Office employees to allow such employees to voluntarily layoff and receive healthcare benefits for three months. An Auditor's Office employee must have Division Director approval to be eligible for a voluntary layoff.

## D. Redeployment

It is in the interest of the Auditor's Office to place affected employees into vacant positions if possible. While this Section does not guarantee placement, it is the intent of the Auditor's Office to redeploy affected employees in lieu of layoff when possible.

1. Non-represented employees whose employment is impacted due to fiscal emergencies, reorganizations, and/or decreases in City revenues

are eligible for redeployment. If such an employee cannot be reassigned within the Auditor's Office, the Auditor's Office and Bureau of Human Resources will make an effort Citywide to re-deploy the impacted employee into an existing vacant position in their current classification, or to any other vacant position in the City, provided the employee is qualified to perform the work. The employee has no guarantee, however, of a position in another bureau.

2. The City Auditor has discretion to:

- Place a hiring freeze on Auditor's Office classifications until affected employees have been considered,
- Grant exceptions to an existing hiring process for internal hiring of affected employees, and
- Waive the competitive process for participation in a training plan.

3. Hiring managers are expected to be full participants in the redeployment process, and are required to interview all qualified affected employees and give them priority consideration when filling vacancies. Hiring managers retain discretion to extend a job offer to the most qualified candidate, even if that person is not in the redeployment program.

4. Operations Management will work with Human Resources to coordinate the redeployment program, including to:

- Give employees information about the redeployment program and appropriate vacancies;
- Provide names and qualifications of employees to the hiring manager for consideration when filling vacancies;
- Allow employees to participate in limited recruitments while they are in the redeployment program; and
- Inform employees that if they obtain a permanent position through redeployment, their name will not be placed on the layoff list for recall to their former position.

5. Employees who receive a regular status appointment to a regular position through the redeployment process have no recall rights to the Auditor's Office or their former classification.

## **E. Recall Lists**

Impacted employees, at their discretion, may be placed on the recall list for their current classification.

1. Operations Management will coordinate placement on the recall list and will send a confirmation letter to the employee confirming their placement on the recall list. Each employee who is placed on a recall list is responsible for providing Operations Management with their current mailing address and phone number(s).
2. Employees will be placed on a recall list:

- a. For a period equal to the length of their total City service, but in no event less than three years or more than five years; or
- b. Until they are recalled to the classification from which the layoff occurred or removed from the recall list. An employee may be removed from a recall list for reasons that would have resulted in discharge from active employment.

## **F. Recall from Layoff**

1. Non-represented employees laid off by the Auditor's Office are only eligible for recall to positions within the Auditor's Office.
2. When the Auditor's Office wishes to recall an employee from the recall list and the recall list contains multiple employees in the classification of the vacancy, the Auditor's Office will use the following factors to determine which employee to recall:
  - a. The needs of the Auditor's Office, in terms of the types of positions and special knowledge, skills, and competencies necessary to accomplish its work, and the qualifications of the affected employees in terms of needed special skills and expertise.
  - b. The seniority and overall performance of the affected employees.
3. If an employee on the recall list is not recalled due to a lack of specific skill or knowledge, Operations Management must state, in writing, what qualification(s) the laid off employee lacks, for approval by the City Auditor. The employee will remain on the recall list for the next declared vacancy during their term of eligibility.
4. Recalled employees are entitled to accrue and use leave quotas immediately upon rehire and are not required to exhaust the eligibility period required under applicable administrative rules. Upon recall:
  - a. Any sick leave accruals carried on the books at the time of separation will be reinstated. Dependent care leave hours are part of the employee's total sick leave accruals, so upon recall, the employee will be eligible for up to 104 hours of dependent care leave, depending on the number of sick leave hours reinstated. If an employee is recalled within the same calendar year, the number of available dependent care hours will be reduced by any hours previously used in the year.
  - b. The employee will be credited with three personal holidays, except that if the employee is recalled during the same calendar year in which they separated, the employee will not receive any additional personal holidays for the year.

## **G. Outplacement Services**

Outplacement services may be available to assist employees who are facing a layoff. If layoffs become necessary, Operations Management will give employees information about available outplacement services.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.06 – Layoff & Recall](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 13, 2019.

[City Human Resources Administrative Rule 7.04 – Redeployment](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

Section C is adapted from the City of Portland's Safety Net Program.

## **CHAPTER VI: MEDICAL LAYOFF**

### **A. Rule**

After applicable rights under the Americans with Disabilities Act (ADA), Oregon law ([ORS 659A](#)), and/or family medical leave laws (FMLA / OFLA) have been exhausted, the Auditor's Office may place a permanently appointed regular status employee who cannot perform the essential duties of their regular assignment on medical layoff.

1. An employee who is qualified and participates in vocational assistance is not eligible for medical layoff. If an employee is medically laid off and then participates in vocational assistance, the employee's name will be removed from the recall list and the employee will no longer be eligible for recall.
2. This rule does not alter the City Auditor's right to terminate an employee for cause, in accordance with Auditor's Office Administrative Rule 3.05 - Discipline.

### **B. Medical Information**

Decisions regarding a medical layoff, including an employee's ability to perform the essential duties of their position with a reasonable accommodation if applicable, will be based on medical information from the employee's treatment provider or other competent source.

1. The employee's Division manager will gather the medical information needed to make a recommendation regarding whether to medically lay off an employee. The City Auditor will make the final decision, in consultation with the employee's Division manager, Human Resources, and/or legal counsel.
2. If the employee refuses to provide needed medical information or to sign a release of information allowing the release of needed medical

information, medical layoff decisions will be based on the information that is available.

### **C. Medical Layoff Process**

1. The Auditor's Office must give an employee advance written notice of the intent to place the employee on medical layoff.
2. The Auditor's Office must notify Human Resources of the decision to medically layoff an employee. Human Resources will place the employee on the medical layoff list for a period of up to five years, after which their name will be removed from the recall list and the employee will no longer be eligible for recall.
  - a. Potential recall will be subject to Chapter IV: Layoff, Recall, and Redeployment.
  - b. If an employee is medically laid off as a result of a work-related injury or occupational disease, they will only be eligible for recall during the five-year period following the date of injury. The employee's name will be removed from the recall list once five years have passed from that date.

### **D. Reappointment Procedure**

While a medically laid off employee is on the recall list and eligible for recall, the employee may notify the Auditor's Office of their intent to return to work by submitting a written statement from their treatment provider, which states that the employee is released to return to work and can perform the essential functions of the position, and which includes any requests for reasonable accommodations.

1. The notification and release to return to work must be provided to the Auditor's Office within 90 days of the date the treatment provider issues the release to work. Employees who are released to return to work but do not provide timely notice will be removed from the recall list and will not be eligible for recall.
2. The City Auditor or a designee may request additional information or require an independent medical exam to verify the employee's ability to return to work. The employee will then be placed on the recall list for the classification that they held at the time of medical layoff.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.09 – Medical Layoff](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.



## **CHAPTER VII: REINSTATEMENT**

### **A. Purpose**

Reinstatement allows the Auditor's Office to fill a vacancy with a former employee who has known qualifications for the position and knowledge of the organization. A former employee may be rehired in their former or an equivalent classification if they meet the requirements of this rule.

### **B. Reinstatement of Former Regular Status Employees**

1. Any former employee who took a voluntary demotion or resigned from the Auditor's Office in good standing and had attained permanent status in the classification prior to separation may be reinstated within three years of the date of voluntary demotion or separation, if the following requirements are met:
  - a. The request must be made within three years from the date the former employee left City service.
  - b. There can be no employees on the layoff list for the classification the person would be reinstated to, and there can be no qualified injured workers available for the targeted classification.
  - c. The former employee must still be qualified to perform the work.
  - d. Reinstatement can only be to a vacant position. Under-fill, over-fill, double-fill, and working out of class may not be used to reinstate a former employee.
  - e. The former employee must have held status in the classification in which the vacancy occurs.
2. The City Auditor must approve a hiring manager's request to fill a vacancy through reinstatement of a former employee. Even if all criteria set forth in this Section are met, reinstatement is at the City Auditor's discretion and is not guaranteed.

### **C. Reinstatement of Former Probationary Employees**

1. Former probationary employees who have left City service in good standing, and who served at least 60 days of their probationary period prior to leaving, may be reinstated, within one year of the date of separation, to their previous probationary status and classification, at the request and discretion of the Division manager and with approval by the City Auditor or a designee, if:
  - a. The request is made within one year from the date the former employee left City service;
  - b. The former employee is qualified to do the work; and
  - c. There are no employees on the layoff list for the classification the former employee would be reinstated to, and no qualified injured workers available for the targeted classification.
2. A former employee who is reinstated under this Section will be required to serve a new probationary period, as described in Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period.

## **D. Process for Requesting Reinstatement**

Upon receipt of a request for reinstatement from a former regular status or probationary employee:

1. If Operations Management and the appropriate Division manager determine that all criteria for reinstatement are met, Operations Management will prepare a written request to fill a vacancy and will submit the request to the City Auditor.
2. The City Auditor or designee may approve or deny the reinstatement request, and will provide notice of the decision to Operations Management and the hiring manager.
3. Operations Management will notify the former employee of the decision.

## **E. Salary Rate, Vacation, Sick Leave Accruals, and Seniority**

When an employee is reinstated under this rule:

1. The salary rate will be at the same position in the pay range as when the employee last served in the classification. The date of reinstatement to the classification is the employee's new anniversary date.
2. The employee's vacation accrual rate will be set at the same rate that was in effect at the time of separation, and the accrual date will be adjusted to account for the time the employee was not working for the City.
3. The employee will be credited with three personal holidays, provided that if the employee is reinstated during the same calendar year in which they separated, the employee will not receive any additional personal holidays for the year.
4. Any sick leave accruals that were carried on the books at the time of separation will be reinstated. Dependent care leave hours are part of the employee's total sick leave accruals.
5. Seniority in the class will be adjusted to include previous permanent time in the classification upon reinstatement.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.07 - Reinstatement](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

## CHAPTER VIII: INJURED EMPLOYEE RETURN TO WORK

### A. Applicability

1. This rule applies to all Auditor's Office employees, except those who are covered under the Fire and Police Disability and Retirement Fund.
2. The rights under Oregon law (ORS 659A.043 and ORS 659A.046) for eligible injured employees expire three years from the date of injury.
3. Guidance regarding frequently asked questions is set forth in [Attachment A](#).

### B. Early Return to Work Program

A permanent, temporary, or probationary employee who has suffered an on-the-job injury will be returned to a suitable assignment as soon after the injury as possible.

1. Prior to returning to work, the injured employee must provide a return-to-work release from their authorized health care provider specifying medical restrictions, if any.
2. Whenever practical, the Auditor's Office will provide transitional duty to an injured employee who is not able to return to regular duties because of temporary medical restrictions. Transitional duty may include temporary changes in the work environment, assigned tasks, or the manner by which assigned tasks are completed.
  - a. The assignment to such duty must be in writing, and must state that the assignment is for a maximum of 90 consecutive calendar days.
  - b. The Auditor's Office, in consultation with the City's Risk Management Division, will review the assignment for possible extension of transitional duty at least 15 business days prior to the end of the assignment.
  - c. If a decision to extend the assignment beyond 90 consecutive days is made, it will occur in accordance with Risk Management protocols and take into account the particular circumstances of the situation, as well as reliable medical information from a qualified medical professional. Transitional duty assignments beyond 90 days are extremely rare and, in most cases, will not exceed a total 90 additional consecutive days.
  - d. The Auditor's Office may require injured employees working transitional duty to update their medical restrictions following each visit with their authorized health care provider. Employees with injuries resulting in permanent restrictions prohibiting return to the job will be subject to the rules governing re-employment (Section D).
  - e. Under no circumstances will a transitional duty assignment exceed 12 months from the first day of the assignment.
3. The employee's progress while participating in the Early Return to Work Program will be monitored by Operations Management, in consultation with Risk Management.

4. The Auditor's Office may have the employee perform any suitable assignment that is not outside the medical restrictions defined by the employee's authorized health care provider.
5. The Early Return to Work Program will end when the employee is released for regular work, or at any point that the employee's authorized health care provider determines that the employee's medical restrictions are expected to be permanent and the employee will not be capable of returning to their regular work.
6. The employee's base wage rate while participating in the Early Return to Work Program will be the same as what the employee received for the job at the time of the injury.
7. Injured workers who are temporary employees only have rights to return to a temporary position, and in no case does the temporary employee have job rights in excess of the terms of their temporary hire with the Auditor's Office.
8. The Auditor's Office may modify, change, or discontinue the Early Return to Work Program or conditions of the program at any time.

### **C. Reinstatement to Regular Job**

This Section applies to injured employees who are released to return to their regular job (reinstatement).

1. In accordance with Oregon workers' compensation law (ORS 656.340(3)), within five days after notification that an employee's authorized health care provider has released the employee to return to their regular work, Risk Management will notify the injured employee, by certified mail, that they have been released for reinstatement to their job-at-injury, if not already working at their regular work.
  - a. If they are not working in a City job at the time of notification, the injured employee must make a demand for reinstatement within seven days following receipt of the notice from Risk Management.
  - b. The demand for reinstatement must be made to Risk Management and must comply with ORS 659A.043. Risk Management will notify the Auditor's Office.
2. The Auditor's Office may question the employee's medical ability to do the job. The Auditor's Office may arrange for a fitness-for-duty examination only after consultation with Risk Management.
3. The Auditor's Office will consult with Human Resources to determine if there are any limitations on the injured employee's reinstatement rights under ORS 659A.043.
4. Within seven days of the date of the employee's demand for reinstatement, the Auditor's Office must determine if the employee's job is available. If so, barring any limitations by statute or rule, the job must be offered to the employee.
5. If the job is not available in the Auditor's Office but one is vacant elsewhere in the City, barring any limitations by statute or rule, the

vacant job must be offered to the injured employee. Risk Management will work with Human Resources to assist in facilitating the employee's return to work.

6. If the job is not available in the Auditor's Office or elsewhere in the City, the Auditor's Office will follow the re-employment process below within 14 days of the employee's demand for reinstatement.
7. An injured worker who does not accept an offer of reinstatement may lose the right to return to work.

## **D. Re-employment**

This Section applies to injured employees who are not released by their health provider to return to their regular job.

1. In accordance with Oregon law (ORS 656.340(3)), within five days after notification that an employee's authorized health care provider has released the employee to return to work with permanent restrictions, Risk Management will send the required notification to the employee.
  - a. The employee must make a demand for re-employment within seven days following receipt of the notice from Risk Management. The demand must be made to Risk Management, who will immediately send a copy to the Auditor's Office.
  - b. The Auditor's Office may consult with Risk Management, Human Resources, and legal counsel to determine if changes to the regular job or worksite can be made to allow the employee to successfully perform the duties of their regular job. The Auditor's Office will keep documentation regarding the employee's permanent restrictions and any final job or worksite changes.
2. If changes cannot be made, the Auditor's Office has 14 days from the date of the employee's demand to identify an available and suitable job and offer it to the employee.
3. If no available and suitable job exists within the Auditor's Office, Human Resources will meet with the employee and search for available work within the job classes identified as suitable until the employee is reemployed or their rights are terminated in accordance with ORS 659A.046(3). When a suitable job becomes vacant, Human Resources will determine if the employee is qualified for the job.
4. If Human Resources determines the employee is qualified, the authorized health care provider has released the employee to do the job, and the City does not contest the employee's ability to do the job, the job must be offered to the employee.
5. If an injured employee qualifies for re-employment to a job class for which the employee has no status and there are employees on a lay-off for that job class, the laid-off employee's right for recall supersedes the injured employee's right to re-employment. If both employees have status in the job class, higher seniority prevails.
6. An injured worker who does not accept an offer of re-employment will lose the right to return to work.

## **E. Process for Medical Layoff**

If a medically stationary injured employee or an injured employee with documented restrictions is not able to return to work, the employee may be laid off for medical reasons. See Chapter VI: Medical Layoff. Human Resources will provide instructions to the injured employee being medically laid off about their right, if any, to reemployment or reinstatement, as provided by ORS 659A.043 and 659A.046.

## **F. Vocational Rehabilitation**

An injured employee may also be entitled to vocational rehabilitation, as provided under ORS 656.340. Risk Management, in conjunction with Human Resources, will ensure that the employee is informed of these benefits and services. An employee who accepts vocational rehabilitation will not be placed on medical layoff and will lose all reinstatement and reemployment rights under ORS 659A.043 and ORS 659A.046.

This Chapter was adapted from:

[City Human Resources Administrative 7.08 – Injured Employee Return to Work](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

# **CHAPTER IX: UNEMPLOYMENT CLAIMS**

## **A. Unemployment Claims**

1. The City is a covered employer under State of Oregon unemployment insurance. Auditor's Office employees may be eligible for unemployment insurance compensation if employment is terminated under circumstances that meet the eligibility criteria established by the State of Oregon Employment Department.
2. A former Auditor's Office employee must file a claim with the Employment Department to be considered for unemployment insurance. Information provided by the claimant and the City will be considered before the Employment Department determines an individual's eligibility for unemployment benefits.

## **B. Disqualifying Conditions**

Generally, voluntary resignations, a refusal to accept a reasonable offer of employment or reemployment, unavailability for work, or misconduct may be disqualifying conditions for unemployment insurance.



## C. Procedure

Human Resources coordinates all matters related to unemployment insurance and provides the Auditor's Office's responses to inquiries from unemployment insurance offices.

1. If a division of the Auditor's Office receives a "Notice of Claim Filed," the Division must immediately notify Operations Management and forward the notice to Human Resources.
2. All questions, concerns, or unemployment insurance forms should be immediately directed Human Resources.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.11 – Unemployment Claims.](#)

Adopted by Council on March 6, 2002 (Ordinance No. 176302).

## Questions

Questions about this administrative rule may be directed to the [Auditor's Office's Operations Management Division](#).

## History

Adapted from [Human Resources Adopted Rules for the Auditor's Office](#), AUHR-7.01, 7.02, 7.03, 7.05, 7.06, 7.09, 7.07, 7.08, 7.11 on December 23, 2022. *NOTE:* These rules were originally adopted by the City Auditor on December 11, 2017, and are adapted from [City of Portland Human Resources Administrative Rules](#), as noted below.

Chapter IV is based on Auditor's Office Administrative Rule 7.05 – Separation from Service, which was revised by the City Auditor as an interim rule on October 5, 2020.

Chapter V is based on Auditor's Office Administrative Rule 7.06 – Layoff, Recall, and Redeployment, which was revised by the City Auditor as an interim rule on October 5, 2020.

As above, adopted by the City Auditor on December 23, 2022.

Amended by the City Auditor on July 5, 2023 as interim rules for a period no greater than 180 days.

Amended by the City Auditor on December 28, 2023, after a minimum 30-day public comment period.

Related documents

 [AUHR to ARA Crosswalk Document](#) 167.88 KB



## **ARA 3.07 EMPLOYEE MOVEMENT**

### **Chapters:**

- I. Definitions
  - II. Transfers
  - III. Promotion and Demotion
  - IV. Separation from Service
  - V. Layoff, Recall, and Redeployment
  - VI. Medical Layoff
  - VII. Reinstatement
  - VIII. Injured Employee Return to Work
  - IX. Unemployment Claims
- 

### **Auditor's Office Administrative Rule Information and History**

Questions about these administrative rules may be directed to the [Auditor's Office's Operations Management Division](#).

These rules were originally adopted by the City Auditor on December 11, 2017, and are adapted from [City of Portland Human Resources Administrative Rules, as noted below](#).

Chapter IV is based on Auditor's Office Administrative Rule 7.05 – Separation from Service, which was revised by the City Auditor as an interim rule on October 5, 2020.

Chapter V is based on Auditor's Office Administrative Rule 7.06 – Layoff, Recall, and Redeployment, which was revised by the City Auditor as an interim rule on October 5, 2020.

Amended by the City Auditor as ARA 3.07 on December 23, 2022.

Amended by the City Auditor as an interim rule on July 5, 2023.

Amended by the City Auditor on December 28, 2023, after a minimum 30-day public comment period.

## CHAPTER I: DEFINITIONS

For purposes of this rule, unless stated otherwise or applicable law requires:

- A. "Affected employee" means an employee in the Auditor's Office classified service who is scheduled for layoff.
- B. "Authorized health care provider" means a health care professional who meets the definition of attending physician, as provided in [Oregon workers' compensation laws](#).
- C. "Day" means a calendar day, unless otherwise indicated.
- D. "Demotion" means a change in the status of an employee, which occurs when the employee is placed in a position in another class with a lower maximum salary rate than the position in which the employee previously held status.
- E. "Expanded transfer" means a transfer to a job classification that has a maximum pay rate of not more than 20% above or below the maximum rate of the job classification from which the transferring employee holds regular status.
- F. "Good standing" means that an employee left City service after giving appropriate written notice and did not resign in lieu of discipline or termination or during the course of a disciplinary investigation.
- G. "Injured employee" means an Auditor's Office employee with a workers' compensation claim accepted by the City's Risk Management Division.
- H. "Layoff" means the separation of a non-represented employee in the Auditor's Office classified service caused by the elimination of a position, a lack of funds, or curtailment of work.
- I. "Limited term position" means a position that has been approved and established by the Auditor's Office for a specific and finite period of time to allow coverage for specific needs related to grants, one-time funds, or special projects.

- J. "Medically stationary" means no further material improvement would reasonably be expected from medical treatment or the passage of time.
- K. "Promotion" means a change in the status of an employee to a position in a classification for which the maximum pay is higher.
- A temporary appointment, including to a higher-level position in which an employee's civil service classification does not change, is not considered a promotion. See [Auditor's Office Administrative Rule 3.03, Chapter II: Types of Appointments for more information about temporary appointments.](#)
- L. "Regular status" means an employee's classification status upon successful completion of the probationary period. See [Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period.](#)
- M. "Seniority" means the length of service in a permanent appointment to a specific job classification in the classified service. Seniority begins on the date of permanent appointment to that class and includes all time on:
- approved paid leaves of absences; and
  - approved absence from duty without pay because of military leave, family medical leave, or injury in the line of duty.
- N. "Transitional duty" means temporary changes in the work environment to allow an employee with temporary limitations or restrictions to work at modified tasks during the employee's recovery from a work-related injury / illness. Transitional duties may involve job restructuring, assistive devices, workstation modification, reduced hours, or reassignment to another job. Transitional duty is also known as "temporary modified duty" or "light duty."



## CHAPTER II: TRANSFERS

### A. Lateral Transfers

Lateral transfers to vacant budgeted positions within the Auditor's Office or between a City bureau and the Auditor's Office are available to employees who hold regular status and have completed their probational period. Transfer opportunities will be posted on [www.portlandoregon.gov/jobs](http://www.portlandoregon.gov/jobs) under the "Lateral Transfer Opportunities" section.

1. An employee seeking a lateral transfer within the Auditor's Office must submit a transfer request to Operations Management.
2. An employee seeking a lateral transfer between the Auditor's Office and a City bureau must submit an application.
3. Eligible employees in the classification will be placed on the active transfer Eligible List to be considered for a vacancy within that classification.
  - a. When certifying qualified candidates from the appropriate Eligible List, the Bureau of Human Resources or the City Auditor, as applicable, will also identify the names of those employees who have requested a transfer within the classification; however, there is no guaranteed right of transfer to a vacant position.
  - b. An employee's name will be removed from the appropriate Eligible List if the employee transfers or receives a promotion or demotion to a new classification or if the employee requests that their name be removed from the active Eligible List.
4. A limited duration employee may transfer to a permanent position in the same classification, but must serve a probationary period in accordance with [Chapter III: Promotion and Demotion](#). The City Auditor may waive this requirement for transfers into the Auditor's Office, and Human Resources may waive this requirement for transfers from the Auditor's Office to a City bureau, upon request

and demonstration that the limited duration employee has been subject to an appropriate evaluation period.

## **B. Expanded Transfers**

1. Expanded transfers may be used as follows:
  - a. A competitive process available to all interested employees must be used in recruiting and selecting an employee to fill the position.
    - i. The City Auditor may waive the competitive process if the expanded transfer is being offered to an employee whose position is being eliminated or who is going to be bumped.
    - ii. This waiver does not apply to classification actions that impact an employee's position unless there is clear evidence that the position had been misclassified, the position is being reclassified to more accurately describe the work, and there are no substantive changes to the duties and responsibilities assigned to the position.
  - b. The employee must meet the minimum qualifications for the position, as determined by the City Auditor in consultation with Operations Management.
  - c. The City Auditor or designee and the hiring authority of the affected bureau must approve the transfer.
  - d. No layoff list can exist in the classification for which the transfer is being sought, and there can be no qualified injured workers available.
2. An employee who transfers to a different job class through an expanded transfer must serve a probationary period, in accordance with Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period or [City Human Resources Rule 3.08 – Probationary Period](#), as applicable. If an employee is dismissed during the probationary period following an expanded

transfer, they will have return rights to a classification in which they formerly held status, beginning with the most recently held classification.

3. Expanded transfers may also be used during a period declared by Council in response to a fiscal emergency or other decrease in City revenue sources. The City Auditor may waive the competitive process because an employee whose position is being eliminated or is being bumped as the result of the elimination of a position has applied for the transfer.
4. An expanded transfer to a classification with a lower maximum pay rate will be considered a voluntary demotion for purposes of compensation and seniority accruals.
5. An expanded transfer to a classification with a higher maximum pay rate will be considered a promotion for purposes of compensation and seniority accruals.
6. An employee who voluntarily demotes through an expanded transfer may return to the higher classification through the reinstatement process.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 7.01 – Transfers](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

## CHAPTER III: PROMOTION AND DEMOTION

### A. Promotion

1. Employees who promote must serve a probationary period, in accordance with [Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period.](#)
2. The salary of a promoted employee will be determined in accordance with [Auditor's Office Administrative Rule 3.08 – Classification and Compensation, Chapter V: Compensation.](#)
3. Seniority in the higher classification will begin to accrue on the date an employee is appointed to the higher classification. Seniority in the previous class is frozen when the employee is appointed to the higher classification.

### B. Demotion

1. Demotions may be involuntary (made by the appointing authority for cause), or may be voluntary, upon a written request by the employee to retain employment when a layoff is imminent or for reasons other than discipline. For purposes of this Chapter, it is not considered a voluntary demotion when an employee is appointed to a lower classification through a competitive process.
2. Employees who demote to a position in which they did not previously hold status will be required to serve a new probationary period. Employees who demote to a position in which they previously held status and completed a probationary period will not be required to serve a new probationary period.
3. The salary of a demoted employee will be determined in accordance with [Auditor's Office Administrative Rule 3.08 – Classification and Compensation, Chapter V: Compensation.](#)
4. The anniversary date of a demoted employee will be determined in accordance with [Auditor's Office Administrative Rule 3.08 – Classification and Compensation,](#)

[Chapter V: Compensation](#). Seniority in the higher classification will be frozen effective the date seniority is established in the lower class. Seniority, if not otherwise established in the lower class, will commence on the effective date of the demotion. A voluntary demotion that is the result of a fiscal emergency will not cause seniority in the higher class to be frozen for purposes of layoff.

### **C. Approval Process for a Voluntary Demotion**

1. An employee may be granted a voluntary demotion if the following criteria are met:
  - a. The employee has attained regular status in their current classification;
  - b. A vacancy exists and the employee meets the qualifications of the position;
  - c. There is no one on the layoff list for the targeted position and there are no qualified injured workers available for the targeted position; and
  - d. The City Auditor determines that no impediments to independence are presented by the employee's voluntary demotion.
2. A voluntary demotion must be approved as follows:
  - a. An employee seeking a voluntary demotion must first obtain approval from the Division manager.
  - b. Upon approval by the Division manager, the employee must submit a written request for a voluntary demotion to Operations Management.
  - c. The City Auditor or designee may approve the request after determining that there are no disciplinary issues or other mitigating circumstances involved and the criteria listed in Subsection C(1) are met.

#### **D. Reinstatement Following a Voluntary Demotion**

1. Any employee who has taken a voluntary demotion that was not the result of a layoff, has attained permanent status in the requested classification, and is still qualified to perform the work may be reinstated within three years from the date the employee voluntarily demoted, at the request and discretion of the Division manager and with approval by the City Auditor or a designee, if:
  - a. The request is made within three years from the date the employee obtained the voluntary demotion; and
  - b. There are no employees on the layoff list for the classification the employee would be reinstated to, and there are no qualified injured workers available for the targeted classification.
2. Employees being reinstated to a position in which they previously held status and completed a probationary period will not be required to serve another probationary period.
3. The salary rate for employees reinstated from a voluntary demotion will be at the same position in the salary range as when the employee last served in the classification, or at the position in the salary range that affords them the least reduction in pay from their current position. Their anniversary date is the date of reinstatement.

#### **E. Demotion for Physical or Mental Inability to Perform**

If an employee becomes physically or mentally unable to perform the essential duties of their position even with reasonable accommodation, the employee may be given status and appointed to a vacant position in a class carrying the same or a lower compensation without previously acquiring status in the lower class. The employee must meet the qualifications and be able to perform the duties of the position, as determined by Operations Management. The City Auditor or a designee and the appointing manager must approve all demotions for inability to perform due to disability.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.02 - Promotion](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised October 15, 2002.

[City Human Resources Administrative Rule 7.03 - Demotion](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

## CHAPTER IV: SEPARATION FROM SERVICE

### A. Resignations

1. Employees wishing to leave service in the Auditor's Office in good standing must file a written resignation with their supervisor and provide a copy to Operations Management. This notice must be given at least two weeks before leaving and must state the date the resignation becomes effective.
2. Unless unforeseen circumstances intervene, or as otherwise agreed to by the Division manager in consultation with Operations Management, failure to give proper notice of resignation will render an employee ineligible for reinstatement under [Chapter VII: Reinstatement](#).

### B. Retirement

1. Employees retiring under PERS are encouraged to submit their [Application for Service Retirement](#) 90 days before the effective retirement date. More information about the procedure and documents that must be submitted to apply for retirement is available on the [PERS website](#). Any employees covered under the Police & Fire Pension Fund should also consult the plan documents for information regarding retirement.
2. Employees should notify their supervisor at the time they submit their application to PERS to complete the appropriate paperwork required by the Auditor' Office. Once notified, the timekeeper will notify Payroll and all necessary information will be forwarded to PERS.
3. Information about continued employment following retirement is set forth in [Auditor's Office Administrative Rule 3.03 – Recruitment and Hiring, Chapter VI: Employment of Retirees](#).



### **C. Appointment Ended**

An “appointment ended” separation occurs when a limited duration employee’s appointment has ended or a limited term position has expired. If the employee voluntarily resigns before the date the appointment ends, it will be considered a resignation rather than an expiration of the term. See [Auditor’s Office Administrative Rule 3.03 – Recruitment and Hiring, Chapter II: Types of Appointments](#).

### **D. Job Abandonment**

Any unauthorized absence from work may result in discipline up to and including discharge. Depending on its length, the Auditor’s Office may consider an unauthorized absence to be job abandonment resulting in discharge.

### **E. Termination and Layoff**

Termination of employment will be conducted in accordance with [Auditor’s Office Administrative Rule 3.05 - Discipline](#). Layoffs will be conducted in accordance with [Chapter V: Layoff, Recall, and Redeployment](#).

### **F. Severance Program**

In 2018, through [Ordinance No. 188895](#), Council established the Auditor’s Severance Program, authorized the City Auditor to enter into Severance Agreements with eligible Auditor’s Office employees, and authorized to City Auditor to revise Severance Program guidelines by administrative rule.

1. The goals of the Severance Program are to:

- Provide an incentive for eligible employees to voluntarily resign from City employment in order to create vacancies to address budget shortfalls or fiscal crises,
- Avoid a disruptive bumping and layoff process,
- Lessen the effect of a budgetary reduction,
- Support staffing reorganization or allow for more efficient staffing, and

- Provide a tool to otherwise aid in organizational change.
2. Permanent Auditor's Office employees with at least one year of continuous service are eligible to participate in the Severance Program, when authorized by the City Auditor.
  3. The City Auditor is responsible for determining the details of Severance Agreements pursuant to this rule, and approving or declining Severance Program payments to eligible employees. The City Auditor may, in the City Auditor's discretion, authorize a Severance Agreement when:
    - a. A severance will result in savings or increase efficiency or effectiveness of the Auditor's Office through reorganization; or
    - b. The City Auditor otherwise determines that a severance is in the best interest of the City.
  4. If the City Auditor approves an employee to participate in the Severance Program, the employee must resign their employment and will have no recall rights.
  5. Approved employees receive:
    - a. A Severance Program salary payment (cash payout), which shall be in an amount to be determined by the Auditor in consideration of the employee's length of service at the City. The total Severance Program salary payment may not exceed 12 months' pay.
    - b. Continued healthcare coverage. The City will pay medical and dental premiums under federal continuation coverage (COBRA) for employees and their eligible dependents for up to six months, or the date the employee or their eligible dependents otherwise lose eligibility, whichever comes first. For employees for whom COBRA will have a negative impact on Medicare, a lump sum payout of the value of the COBRA benefit is authorized.

6. All Severance Program salary payments will be made via lump sum and are subject to tax withholding. All funding for the Severance Program will be absorbed by the Auditor's budget.
  - a. Severance Program payments are restricted from funding existing deferred compensation accounts by IRS rules.
  - b. PERS guidelines prohibit contributions to an employee's PERS account from their Severance Program salary payment. The employee is not eligible for participation in a Retirement Severance Program.
  - c. Unemployment insurance eligibility is determined by the State of Oregon.
7. Operations Management is responsible for administering the Severance Program, including but not limited to:
  - a. Maintaining information and materials necessary to implement the Severance Program.
  - b. Communicating Severance Program information to Auditor's Office employees.
  - c. Communicating Severance Program requests for employee and City Auditor consideration.
  - d. Once the City Auditor has authorized a Severance Program request, notifying the affected employee of the offer and confirming the employee's interest in the Severance Program.
  - e. Transmitting signed Auditor's Office Severance Agreements to the Bureau of Human Resources, and coordinating with Human Resources to ensure that Auditor's Office employees who enter into Severance Agreements pursuant to

- this rule receive Severance Program salary payments and/or continued healthcare coverage healthcare coverage in accordance with the agreement.
- f. Ensuring compliance with this rule.
8. Employees who are interested in participating in the Severance Program are responsible for communicating their interest to Operations Management.
  9. Employees who are approved to participate in the Severance Program must sign an Employee Agreement and Release. Employees have 21 days from receipt of the Employee Agreement and Release to consider and sign the agreement.
    - a. By signing the Employee Agreement and Release, the employee voluntarily releases and forever discharges the City, the City Auditor, and each of the City Commissioners, officers, employees, agents, and insurers and their successors, individually and collectively, of and from all claims arising from or in any way related to their employment as a City of Portland employee or their resignation from City employment.
    - b. An employee who participates in the Severance Program agrees to be barred from applying for, accepting, or otherwise seeking employment with the City during a three-year period after the effective date of the resignation, and that any hiring or application will be deemed null and void.
      - i. The employment prohibition includes all full-time, part-time, exempt from classified service, and temporary positions, as well as contract work.
      - ii. The City Auditor may authorize an exception to the employment prohibition only if the employee has been gone equal to or longer than the time equivalent of the salary payment received (for example, an employee who receives a six-month Severance Program salary payment may not be rehired prior to the expiration of six months) or the Auditor determines there are exceptional circumstances that merit the exception.

## **G. Employee Separation Procedures**

When an employee separates from service:

1. Operations Management will prepare an [Off-Cycle Check Request](#) and submit the original to the Central Time Administrator before 10:00 a.m. for same day payment.
2. Operations Management will complete a personnel action in SAP.
3. The employee or their timekeeper will complete the employee's timesheet in SAP.
4. It is the responsibility of the employee's supervisor, in consultation with Operations Management, to ensure that an [exit checklist](#) is completed. Exit checklists are used to ensure that all City property is returned (e.g., access badges, phones, laptops / tablets, keys, procurement cards, etc.). At a minimum, the employee's supervisor, in consultation with Operations Management, must notify:
  - a. The Bureau of Technology Services, to disable the employee's network access.
  - b. The Facilities Services Division, to disable the employee's identification card.
  - c. The Procurement Card Program Administrator, if applicable, to cancel the employee's procurement card.
5. Managers must also ensure that the departing employees' data, including emails and electronic files, are properly retained or disposed of. Managers should contact [Archives and Records Management](#) with questions.
6. Employees should contact Operations Management for information about unused leave and pension eligibility, and should contact Human Resources' Benefits Office for information about life and health insurance benefits. Operations Management will refer benefits questions to the Benefits Office.

## H. Death of an Employee

In the unfortunate event of the death of an Auditor's Office employee, in addition to the applicable procedures set forth in Section G:

1. Operations Management will process a personnel action in SAP and inform the Human Resources' Benefits Office. The Benefits Office will verify the employee's beneficiary designation, and will send the beneficiary a letter and death claim form for filing with Standard Insurance and COBRA insurance information.
2. The employee's final paycheck will be issued in accordance with [City Code Sections 5.08.160 – 5.08.180](#). Central Payroll will process any PERS reconciliation. Beneficiaries should contact PERS and Standard Insurance directly regarding benefits.
3. Operations Management will arrange to transfer any of the employee's personal items located in the Auditor's Office to the employee's surviving spouse or beneficiary.
4. The employee's co-workers and family members are encouraged to access the [Employee Assistance Program](#) for any personal assistance they may need.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 7.05 – Separation from Service](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised November 4, 2011.

Section F is adapted from and amends the Auditor's Office Severance Program, adopted by City Council on April 18, 2018, through [Ordinance No. 188895](#).

## **CHAPTER V: LAYOFF, RECALL, AND REDEPLOYMENT**

### **A. Layoff Overview**

In the event of a layoff, it is the goal of the Auditor's Office to minimize negative effects on operations and maximize employment opportunities for laid-off regular status employees by offering the opportunity to accept part time, seasonal, and temporary positions, if available and appropriate. Employees in positions outside the Auditor's Civil Service do not have layoff or recall rights. Non-represented employees do not have the option to bump.

### **B. Layoffs**

All layoffs must comply with this rule and be approved by the City Auditor.

1. Before approving a layoff, the City Auditor must consider transferring employees to vacancies, eliminating vacant positions, and/or transferring employees into positions held by temporary employees. Temporary employees in a classification within the Auditor's Office must be terminated before a permanent employee is laid off.
2. After the City Auditor approves a layoff, Operations Management will provide written notice to the affected employee(s), as far in advance of the effective date of the layoff as possible.
3. An Auditor's Office employee who is scheduled for layoff will be placed first in any declared vacancy in the employee's current classification within the Auditor's Office, if they are qualified for the position. If no declared vacancies exist in the employee's classification for which the employee is qualified, the employee will be placed in any position in the affected employee's current classification within the Auditor's Office occupied by a temporary employee.
4. If more than one non-represented employee in the Auditor's Office is in a classification for which a layoff is required, the Auditor's Office will consider the following factors when determining which employee(s) will be impacted:

- a. The needs of the Auditor's Office, in terms of the types of positions and special knowledge, skills, and competencies necessary to accomplish its work, and the qualifications of the affected employees in terms of needed special skills and expertise.
- b. The seniority and overall performance of the affected employees. The Auditor's Office will determine seniority in accordance with [City Human Resources Administrative Rule 7.06 – Layoff & Recall](#).

### **C. Safety Net Voluntary Layoff Program**

Consistent with the City's Safety Net Program, during an emergency or fiscal crisis, the City Auditor may enter into agreements with Auditor's Office employees to allow such employees to voluntarily layoff and receive healthcare benefits for three months. An Auditor's Office employee must have Division Director approval to be eligible for a voluntary layoff.

### **D. Redeployment**

It is in the interest of the Auditor's Office to place affected employees into vacant positions if possible. While this Section does not guarantee placement, it is the intent of the Auditor's Office to redeploy affected employees in lieu of layoff when possible.

1. Non-represented employees whose employment is impacted due to fiscal emergencies, reorganizations, and/or decreases in City revenues are eligible for redeployment. If such an employee cannot be reassigned within the Auditor's Office, the Auditor's Office and Bureau of Human Resources will make an effort Citywide to re-deploy the impacted employee into an existing vacant position in their current classification, or to any other vacant position in the City, provided the employee is qualified to perform the work. The employee has no guarantee, however, of a position in another bureau.
2. The City Auditor has discretion to:



- Place a hiring freeze on Auditor's Office classifications until affected employees have been considered,
  - Grant exceptions to an existing hiring process for internal hiring of affected employees, and
  - Waive the competitive process for participation in a training plan.
3. Hiring managers are expected to be full participants in the redeployment process, and are required to interview all qualified affected employees and give them priority consideration when filling vacancies. Hiring managers retain discretion to extend a job offer to the most qualified candidate, even if that person is not in the redeployment program.
4. Operations Management will work with Human Resources to coordinate the redeployment program, including to:
- Give employees information about the redeployment program and appropriate vacancies;
  - Provide names and qualifications of employees to the hiring manager for consideration when filling vacancies;
  - Allow employees to participate in limited recruitments while they are in the redeployment program; and
  - Inform employees that if they obtain a permanent position through redeployment, their name will not be placed on the layoff list for recall to their former position.
5. Employees who receive a regular status appointment to a regular position through the redeployment process have no recall rights to the Auditor's Office or their former classification.

## **E. Recall Lists**

Impacted employees, at their discretion, may be placed on the recall list for their current classification.

1. Operations Management will coordinate placement on the recall list and will send a confirmation letter to the employee confirming their placement on the recall list. Each employee who is placed on a recall list is responsible for providing Operations Management with their current mailing address and phone number(s).
2. Employees will be placed on a recall list:
  - a. For a period equal to the length of their total City service, but in no event less than three years or more than five years; or
  - b. Until they are recalled to the classification from which the layoff occurred or removed from the recall list. An employee may be removed from a recall list for reasons that would have resulted in discharge from active employment.

#### **F. Recall from Layoff**

1. Non-represented employees laid off by the Auditor's Office are only eligible for recall to positions within the Auditor's Office.
2. When the Auditor's Office wishes to recall an employee from the recall list and the recall list contains multiple employees in the classification of the vacancy, the Auditor's Office will use the following factors to determine which employee to recall:
  - a. The needs of the Auditor's Office, in terms of the types of positions and special knowledge, skills, and competencies necessary to accomplish its work, and the qualifications of the affected employees in terms of needed special skills and expertise.
  - a. The seniority and overall performance of the affected employees.
3. If an employee on the recall list is not recalled due to a lack of specific skill or knowledge, Operations Management must state, in writing, what qualification(s)

the laid off employee lacks, for approval by the City Auditor. The employee will remain on the recall list for the next declared vacancy during their term of eligibility.

4. Recalled employees are entitled to accrue and use leave quotas immediately upon rehire and are not required to exhaust the eligibility period required under applicable administrative rules. Upon recall:
  - a. Any sick leave accruals carried on the books at the time of separation will be reinstated. Dependent care leave hours are part of the employee's total sick leave accruals, so upon recall, the employee will be eligible for up to 104 hours of dependent care leave, depending on the number of sick leave hours reinstated. If an employee is recalled within the same calendar year, the number of available dependent care hours will be reduced by any hours previously used in the year.
  - b. The employee will be credited with three personal holidays, except that if the employee is recalled during the same calendar year in which they separated, the employee will not receive any additional personal holidays for the year.

## **G. Outplacement Services**

Outplacement services may be available to assist employees who are facing a layoff. If layoffs become necessary, Operations Management will give employees information about available outplacement services.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 7.06 – Layoff & Recall](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 13, 2019.

[City Human Resources Administrative Rule 7.04 – Redeployment](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

Section C is adapted from the City of Portland's Safety Net Program.

## **CHAPTER VI: MEDICAL LAYOFF**

### **A. Rule**

After applicable rights under the Americans with Disabilities Act (ADA), Oregon law ([ORS 659A](#)), and/or family medical leave laws (FMLA / OFLA) have been exhausted, the Auditor's Office may place a permanently appointed regular status employee who cannot perform the essential duties of their regular assignment on medical layoff.

1. An employee who is qualified and participates in vocational assistance is not eligible for medical layoff. If an employee is medically laid off and then participates in vocational assistance, the employee's name will be removed from the recall list and the employee will no longer be eligible for recall.
2. This rule does not alter the City Auditor's right to terminate an employee for cause, in accordance with Auditor's Office Administrative Rule 3.05 - Discipline.

### **B. Medical Information**

Decisions regarding a medical layoff, including an employee's ability to perform the essential duties of their position with a reasonable accommodation if applicable, will be based on medical information from the employee's treatment provider or other competent source.

1. The employee's Division manager will gather the medical information needed to make a recommendation regarding whether to medically lay off an employee. The City Auditor will make the final decision, in consultation with the employee's Division manager, Human Resources, and/or legal counsel.
2. If the employee refuses to provide needed medical information or to sign a release of information allowing the release of needed medical information, medical layoff decisions will be based on the information that is available.

### **C. Medical Layoff Process**

1. The Auditor's Office must give an employee advance written notice of the intent to place the employee on medical layoff.
2. The Auditor's Office must notify Human Resources of the decision to medically layoff an employee. Human Resources will place the employee on the medical layoff list for a period of up to five years, after which their name will be removed from the recall list and the employee will no longer be eligible for recall.
  - a. Potential recall will be subject to [Chapter IV: Layoff, Recall, and Redeployment](#).
  - b. If an employee is medically laid off as a result of a work-related injury or occupational disease, they will only be eligible for recall during the five-year period following the date of injury. The employee's name will be removed from the recall list once five years have passed from that date.

### **D. Reappointment Procedure**

While a medically laid off employee is on the recall list and eligible for recall, the employee may notify the Auditor's Office of their intent to return to work by submitting a written statement from their treatment provider, which states that the employee is released to return to work and can perform the essential functions of the position, and which includes any requests for reasonable accommodations.

1. The notification and release to return to work must be provided to the Auditor's Office within 90 days of the date the treatment provider issues the release to work. Employees who are released to return to work but do not provide timely notice will be removed from the recall list and will not be eligible for recall.
2. The City Auditor or a designee may request additional information or require an independent medical exam to verify the employee's ability to return to work. The employee will then be placed on the recall list for the classification that they held at the time of medical layoff.

This Chapter was adapted from:

[City Human Resources Administrative Rule 7.09 – Medical Layoff](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

## **CHAPTER VII: REINSTATEMENT**

### **A. Purpose**

Reinstatement allows the Auditor's Office to fill a vacancy with a former employee who has known qualifications for the position and knowledge of the organization. A former employee may be rehired in their former or an equivalent classification if they meet the requirements of this rule.

### **B. Reinstatement of Former Regular Status Employees**

1. Any former employee who took a voluntary demotion or resigned from the Auditor's Office in good standing and had attained permanent status in the classification prior to separation may be reinstated within three years of the date of voluntary demotion or separation, if the following requirements are met:
  - a. The request must be made within three years from the date the former employee left City service.
  - b. There can be no employees on the layoff list for the classification the person would be reinstated to, and there can be no qualified injured workers available for the targeted classification.
  - c. The former employee must still be qualified to perform the work.
  - d. Reinstatement can only be to a vacant position. Under-fill, over-fill, double-fill, and working out of class may not be used to reinstate a former employee.
  - e. The former employee must have held status in the classification in which the vacancy occurs.
2. The City Auditor must approve a hiring manager's request to fill a vacancy through reinstatement of a former employee. Even if all criteria set forth in this Section are met, reinstatement is at the City Auditor's discretion and is not guaranteed.

### **C. Reinstatement of Former Probationary Employees**

1. Former probationary employees who have left City service in good standing, and who served at least 60 days of their probationary period prior to leaving, may be reinstated, within one year of the date of separation, to their previous probationary status and classification, at the request and discretion of the Division manager and with approval by the City Auditor or a designee, if:
  - a. The request is made within one year from the date the former employee left City service;
  - b. The former employee is qualified to do the work; and
  - c. There are no employees on the layoff list for the classification the former employee would be reinstated to, and no qualified injured workers available for the targeted classification.
2. A former employee who is reinstated under this Section will be required to serve a new probationary period, as described in Auditor's Office Administrative Rule 3.09 – Employee Development, Chapter I: Probationary Period.

### **D. Process for Requesting Reinstatement**

Upon receipt of a request for reinstatement from a former regular status or probationary employee:

1. If Operations Management and the appropriate Division manager determine that all criteria for reinstatement are met, Operations Management will prepare a written request to fill a vacancy and will submit the request to the City Auditor.
2. The City Auditor or designee may approve or deny the reinstatement request, and will provide notice of the decision to Operations Management and the hiring manager.
3. Operations Management will notify the former employee of the decision.



## **E. Salary Rate, Vacation, Sick Leave Accruals, and Seniority**

When an employee is reinstated under this rule:

1. The salary rate will be at the same position in the pay range as when the employee last served in the classification. The date of reinstatement to the classification is the employee's new anniversary date.
2. The employee's vacation accrual rate will be set at the same rate that was in effect at the time of separation, and the accrual date will be adjusted to account for the time the employee was not working for the City.
3. The employee will be credited with three personal holidays, provided that if the employee is reinstated during the same calendar year in which they separated, the employee will not receive any additional personal holidays for the year.
4. Any sick leave accruals that were carried on the books at the time of separation will be reinstated. Dependent care leave hours are part of the employee's total sick leave accruals.
5. Seniority in the class will be adjusted to include previous permanent time in the classification upon reinstatement.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 7.07 - Reinstatement](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

## **CHAPTER VIII: INJURED EMPLOYEE RETURN TO WORK**

### **A. Applicability**

1. This rule applies to all Auditor's Office employees, except those who are covered under the Fire and Police Disability and Retirement Fund.
2. The rights under Oregon law (ORS 659A.043 and ORS 659A.046) for eligible injured employees expire three years from the date of injury.
3. Guidance regarding frequently asked questions is set forth in [Attachment A](#).

### **B. Early Return to Work Program**

A permanent, temporary, or probationary employee who has suffered an on-the-job injury will be returned to a suitable assignment as soon after the injury as possible.

1. Prior to returning to work, the injured employee must provide a return-to-work release from their authorized health care provider specifying medical restrictions, if any.
2. Whenever practical, the Auditor's Office will provide transitional duty to an injured employee who is not able to return to regular duties because of temporary medical restrictions. Transitional duty may include temporary changes in the work environment, assigned tasks, or the manner by which assigned tasks are completed.
  - a. The assignment to such duty must be in writing, and must state that the assignment is for a maximum of 90 consecutive calendar days.
  - b. The Auditor's Office, in consultation with the City's Risk Management Division, will review the assignment for possible extension of transitional duty at least 15 business days prior to the end of the assignment.

- c. If a decision to extend the assignment beyond 90 consecutive days is made, it will occur in accordance with Risk Management protocols and take into account the particular circumstances of the situation, as well as reliable medical information from a qualified medical professional. Transitional duty assignments beyond 90 days are extremely rare and, in most cases, will not exceed a total 90 additional consecutive days.
  - d. The Auditor's Office may require injured employees working transitional duty to update their medical restrictions following each visit with their authorized health care provider. Employees with injuries resulting in permanent restrictions prohibiting return to the job will be subject to the rules governing re-employment (Section D).
  - e. Under no circumstances will a transitional duty assignment exceed 12 months from the first day of the assignment.
- 3. The employee's progress while participating in the Early Return to Work Program will be monitored by Operations Management, in consultation with Risk Management.
  - 4. The Auditor's Office may have the employee perform any suitable assignment that is not outside the medical restrictions defined by the employee's authorized health care provider.
  - 5. The Early Return to Work Program will end when the employee is released for regular work, or at any point that the employee's authorized health care provider determines that the employee's medical restrictions are expected to be permanent and the employee will not be capable of returning to their regular work.
  - 6. The employee's base wage rate while participating in the Early Return to Work Program will be the same as what the employee received for the job at the time of the injury.

7. Injured workers who are temporary employees only have rights to return to a temporary position, and in no case does the temporary employee have job rights in excess of the terms of their temporary hire with the Auditor's Office.
8. The Auditor's Office may modify, change, or discontinue the Early Return to Work Program or conditions of the program at any time.

### **C. Reinstatement to Regular Job**

This Section applies to injured employees who are released to return to their regular job (reinstatement).

1. In accordance with Oregon workers' compensation law (ORS 656.340(3)), within five days after notification that an employee's authorized health care provider has released the employee to return to their regular work, Risk Management will notify the injured employee, by certified mail, that they have been released for reinstatement to their job-at-injury, if not already working at their regular work.
  - a. If they are not working in a City job at the time of notification, the injured employee must make a demand for reinstatement within seven days following receipt of the notice from Risk Management.
  - b. The demand for reinstatement must be made to Risk Management and must comply with ORS 659A.043. Risk Management will notify the Auditor's Office.
2. The Auditor's Office may question the employee's medical ability to do the job. The Auditor's Office may arrange for a fitness-for-duty examination only after consultation with Risk Management.
3. The Auditor's Office will consult with Human Resources to determine if there are any limitations on the injured employee's reinstatement rights under ORS 659A.043.

4. Within seven days of the date of the employee's demand for reinstatement, the Auditor's Office must determine if the employee's job is available. If so, barring any limitations by statute or rule, the job must be offered to the employee.
5. If the job is not available in the Auditor's Office but one is vacant elsewhere in the City, barring any limitations by statute or rule, the vacant job must be offered to the injured employee. Risk Management will work with Human Resources to assist in facilitating the employee's return to work.
6. If the job is not available in the Auditor's Office or elsewhere in the City, the Auditor's Office will follow the re-employment process below within 14 days of the employee's demand for reinstatement.
7. An injured worker who does not accept an offer of reinstatement may lose the right to return to work.

#### **D. Re-employment**

This Section applies to injured employees who are not released by their health provider to return to their regular job.

1. In accordance with Oregon law (ORS 656.340(3)), within five days after notification that an employee's authorized health care provider has released the employee to return to work with permanent restrictions, Risk Management will send the required notification to the employee.
  - a. The employee must make a demand for re-employment within seven days following receipt of the notice from Risk Management. The demand must be made to Risk Management, who will immediately send a copy to the Auditor's Office.
  - b. The Auditor's Office may consult with Risk Management, Human Resources, and legal counsel to determine if changes to the regular job or worksite can be made to allow the employee to successfully perform the duties of their

- regular job. The Auditor's Office will keep documentation regarding the employee's permanent restrictions and any final job or worksite changes.
2. If changes cannot be made, the Auditor's Office has 14 days from the date of the employee's demand to identify an available and suitable job and offer it to the employee.
  3. If no available and suitable job exists within the Auditor's Office, Human Resources will meet with the employee and search for available work within the job classes identified as suitable until the employee is reemployed or their rights are terminated in accordance with ORS 659A.046(3). When a suitable job becomes vacant, Human Resources will determine if the employee is qualified for the job.
  4. If Human Resources determines the employee is qualified, the authorized health care provider has released the employee to do the job, and the City does not contest the employee's ability to do the job, the job must be offered to the employee.
  5. If an injured employee qualifies for re-employment to a job class for which the employee has no status and there are employees on a lay-off for that job class, the laid-off employee's right for recall supersedes the injured employee's right to re-employment. If both employees have status in the job class, higher seniority prevails.
  6. An injured worker who does not accept an offer of re-employment will lose the right to return to work.

#### **E. Process for Medical Layoff**

If a medically stationary injured employee or an injured employee with documented restrictions is not able to return to work, the employee may be laid off for medical reasons. See [Chapter VI: Medical Layoff](#). Human Resources will provide instructions to the injured employee being medically laid off about their right, if any, to reemployment or reinstatement, as provided by ORS 659A.043 and 659A.046.

## **F. Vocational Rehabilitation**

An injured employee may also be entitled to vocational rehabilitation, as provided under ORS 656.340. Risk Management, in conjunction with Human Resources, will ensure that the employee is informed of these benefits and services. An employee who accepts vocational rehabilitation will not be placed on medical layoff and will lose all reinstatement and reemployment rights under ORS 659A.043 and ORS 659A.046.

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This Chapter was adapted from:

[City Human Resources Administrative 7.08 – Injured Employee Return to Work.](#)

Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

## **CHAPTER IX: UNEMPLOYMENT CLAIMS**

### **A. Unemployment Claims**

1. The City is a covered employer under State of Oregon unemployment insurance. Auditor's Office employees may be eligible for unemployment insurance compensation if employment is terminated under circumstances that meet the eligibility criteria established by the State of Oregon Employment Department.
2. A former Auditor's Office employee must file a claim with the Employment Department to be considered for unemployment insurance. Information provided by the claimant and the City will be considered before the Employment Department determines an individual's eligibility for unemployment benefits.

### **B. Disqualifying Conditions**

Generally, voluntary resignations, a refusal to accept a reasonable offer of employment or reemployment, unavailability for work, or misconduct may be disqualifying conditions for unemployment insurance.

### **C. Procedure**

Human Resources coordinates all matters related to unemployment insurance and provides the Auditor's Office's responses to inquiries from unemployment insurance offices.

1. If a division of the Auditor's Office receives a "Notice of Claim Filed," the Division must immediately notify Operations Management and forward the notice to Human Resources.
2. All questions, concerns, or unemployment insurance forms should be immediately directed Human Resources.



This Chapter was adapted from:

[City Human Resources Administrative Rule 7.11 – Unemployment Claims](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302).