

MEMORANDUM OF AGREEMENT

I. Parties to the Agreement

The parties to this Memorandum of Agreement (MOA) are Multnomah County, Oregon hereinafter referred to as the "County", Local 88 of the American Federation of State County and Municipal Employees (AFSCME), AFL-CIO, hereinafter referred to as the "Union".

II. Background

The County and the Union are parties to a Collective Bargaining Agreement (CBA) with a term of July 1, 2017 through June 30, 2020. The CBA includes a provision at Article 21 controlling the process for determining seniority of bargaining unit employees, as well layoff, bumping, and recall rights. After the layoff process in fiscal year 2018, the parties met and discussed improving the layoff and bumping process, including modification of some the terms of Article 21. The parties reached an agreement on the following subjects:

A. 3-10 Status: Currently Article 21 provides bumping rights to employees within their current full-time and part-time status. If an employee changes from full-time status to part-time status, or vice versa, because of a layoff, that employee will have recall rights to their former status. Under Article 2.IV, employees who are regularly scheduled to work thirty (30) or more hours per week on a ten (10) hour per day schedule is considered full-time while other employees who work thirty (30) hours a week are considered part-time. By this agreement the parties are creating a third status for employees with a 3-10 work schedule.

B. Project Save and Recall Rights: An employee that voluntarily accepts placement in a classification not previously held to avoid a layoff, waives their recall rights under Article 21. The parties agree that an employee who accepts a project save placement will not waive their recall rights as described in Article 21.IV and V.

C. Program Specialist & Program Specialist Senior: During the 2018 layoff cycle, the parties acknowledged that placement of employees in the Program Specialist and Program Specialist Senior classifications was particularly difficult because of the significant variation between assignments in these classifications. In order to facilitate placement and allow management adequate time to determine if an employee is qualified to perform the duties of a new assignment, the parties agree that an employee that elects to use their bumping rights to a position in either of these classifications may be subject to a longer orientation period of up to (6) months. Additionally the parties will designate a sub-committee to review reassignment of options in the Program Specialist and Program Specialist Senior classifications.

This MOA comprises the agreement between the parties during the discussions referenced above. Article 21 is amended as follows:

III. Agreement

ARTICLE 21 **SENIORITY AND LAYOFF**

I. Definitions

A. Layoff

A reduction in force in classification for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department. Reductions in force include both the elimination of positions and changes in a position's status from full-time to 3-10 time or part-time.

B. Continuous Service

Means uninterrupted employment with Multnomah County subject to the following provisions:

1. Continuous service shall include uninterrupted employment with another governmental agency accomplished in accordance with and subject to ORS 236.610 through 236.650.
2. Continuous service is terminated by voluntary termination, involuntary termination due to expiration of a recall list, removal from a recall list after layoff pursuant to "Section IV.F" of this article, or discharge for cause.

C. Bumping

The displacement of the least senior regular employee in the affected classification by another regular employee within the department with more seniority or if there is not a less senior employee in the classification in the department, then the displacement of the least senior regular employee in the classification in the County.

D. Equivalent Classification

Refers to matching by the County HR Director or his/her designee of an abolished classification with a current classification that has substantially the same duties, authority, and responsibility.

E. Classification Previously Held

Refers to a classification or its equivalent in which the employee gained regular status and for which he or she continues to qualify.

F. Regular Employee

Refers to the status a classified employee acquires after successful completion of the Trial Service period for the classification to which the employee was appointed.

G. Regular Position

Refers to a county service position budgeted for each fiscal year.

H. Lateral Classification

Refers to a classification or its equivalent which has the same top step as the employee's current classification.

I. Affected by Layoff

Refers to an employee who was demoted, laid off, or reassigned as a result of a layoff process under the provisions of this article.

J. Regular Appointment

Refers to the appointment of an employee to a regular position from a certified list of eligibles.

II. Seniority

A. Seniority will be determined as follows:

1. The total length of continuous service with the County; if a tie occurs, then
2. Test score on the Civil Service Examination, if available, for the classification; if a tie occurs or if the test scores are not available, then
3. It shall be broken by random selection using a computerized logarithm with a member of Central Human Resources and the Union present when the order is selected.

B. In computing seniority for regular employees, the following factors will be taken into account:

1. Part-time work will count on a full-time basis.
2. Time on authorized leave taken with pay will count.
3. When an authorized non-FMLA/OFLA leave without pay exceeds thirty (30) days, no time spent on that leave will count.
4. Time spent in unclassified or management service appointment status will not count, except for purposes of vacation accrual.
5. Time spent in on-call status will not count.
6. Prior to regular appointment, all continuous, contiguous service, performing duties consistent with work done by members of a bargaining unit, in temporary status, limited duration or work out of class shall count.
7. When a layoff exceeds thirty (30) days, no time spent on layoff will count.
8. Time spent in a trainee capacity, e.g., in state or federal trainee programs, will not count.
9. Time spent working for another government will count if the employee was transferred to a bargaining unit position in Multnomah County pursuant to ORS 236.610 through 236.650.
10. Seniority shall be forfeited by discharge for cause, voluntary termination, or, after layoff, by removal from all recall lists pursuant to "Section IV" of this article.

11. Current rules for calculation of seniority as contained in this article do not alter seniority determinations under prior Local 88 contracts.

III. Layoff Rules

The County will notify regular employees affected by layoff of the reason for the action and of their reassignment or layoff, according to the provisions of this section.

A. Reassignment of Regular Employees during a Layoff

Layoffs will be identified by classification within the affected department and County. Employees holding positions that perform functions to be discontinued will be subject to the following in order of seniority:

1. Reassignment to a regular position in the same classification and within the employee's current department, or if the employee does not have enough seniority, then
2. Reassignment to a regular position County wide, in the following order:
 - a. Reassignment to a position in the same classification; or, if the employee does not have enough seniority, then
 - b. Reassignment to a position in a lower or equivalent classification previously held, or if the employee does not have enough seniority, then
 - c. Change of status between full-time, 3-10 time and part-time, or if the employee does not have enough seniority, then

3. Reassignment to a limited duration position, in the same order as in Article 21.III.2, above, provided the Union and the County mutually agree to the placement.

4. Layoff.

B. Voluntary layoff, bumping, or reduction in hours

1. Lower Bumping Options:

An employee may voluntarily choose to take a lower bumping option provided such option is available and does not adversely affect another regular employee who would not have been impacted had the employee bumped in the order specified above, and will not result in increased costs to the County. Such election will be made in writing within three (3) working days and submitted to Central Human Resources. Where more than one option exists, the employee shall list his or her preference(s) in rank order.

2. Reduction in Hours:

Any employee in a classification affected by layoff may request to be reassigned to a vacant position with fewer assigned hours per week if such reassignment would mitigate the impact of the layoff on other employees and does not result in increased costs to the County.

3. Voluntary Layoff:

Any employee in a classification affected by layoff may request voluntary layoff if such action does not result in increased costs to the County. When management identifies classifications to be laid off, management will first in order of seniority, look for volunteers to be laid off. Employees who agree to a voluntary layoff out of seniority order will have no bumping rights and such employee will be placed on a recall list in accordance with this Article.

C. Non-Regular Employees during a Layoff

1. Within an affected classification and department, temporary, non-regular Initial Trial Service, and other employees who do not have classified status and who are occupying budgeted positions will be terminated before employees with classified status are affected by layoff. Employees without status who are terminated will not be placed on recall lists and do not have bumping rights.

2. An employee who has not completed a Promotional Trial Service period following promotion to a classified position and is affected by layoff shall be returned to the position previously held.

3. Trial Service employees terminated or demoted in accordance with "Subsection 1" and "Subsection 2" above will be placed on reinstatement lists for one (1) year from the date of their termination or demotion. They may, at the County's discretion, be reinstated to their former classification if there are no regular employees who are on a recall list for that classification. Trial Service employees who are reinstated will be treated as if they have been on a leave of absence for purposes of computing seniority and length of Trial Service period.

D. Layoff Processing for Employees on a Leave of Absence without Pay

1. Employee Notification:

Employees who are on a leave of absence without pay which is scheduled to continue after the layoff effective date and whose classifications are expected by the County to be affected by an upcoming layoff process will be notified in writing and given an option to return from leave.

2. Use of Positions During the Layoff Process:

If no response is received by the County within five (5) days of written notification, or if the employee declines to return from leave of absence, or if the employee is unable to return from leave of absence, the position from which the employee is on leave of absence will be treated as a vacant position during the layoff process and will be available to be filled by another employee who is affected by the layoff process, according to the provisions of this article.

3. Return from Family Medical Leave Without Pay:

After a layoff process affecting the employee's classification has occurred, employees who are on Family Medical Leave without pay immediately prior to returning to work will return to the position formerly held, and the employee occupying that position will be reassigned according to seniority pursuant to this article.

4. Return from other Leave Without Pay:

After a layoff process affecting the employee's classification has occurred, employees not on Family Medical Leave without pay immediately prior to returning to work will be reassigned according to seniority pursuant to this article.

5. Recalculation of Seniority after Leave of Absence Without Pay:

All employees on leave of absence without pay that exceeds thirty (30) days will have their seniority recalculated upon their return from leave so that none of the time on the leave of absence without pay counts toward seniority per "Section II.B.3" of this article.

E. The Bumping Process

Regular status employees who are affected by layoff are reassigned using the rules listed in Article 21.III.A. In addition, the bumping process is administered with the following considerations:

1. Budgeted Positions:

Vacancies that are created and approved by the Board of County Commissioners to be effective the day following the layoff date shall be treated as vacancies available during a layoff process.

2. Reassignment to Vacancies and Employee Preferences:

Reassignment of employees to vacant positions within the employee's current department, if available, will always take precedence over their bumping another employee; where multiple vacancies are available within the employee's current department, the County will take into account the employee's preferences for shift assignment, part-time, 3-10 time, or full-time status, work location, and work assignment to the extent practical prior to reassignment of the employee to a vacancy. An employee who is offered options must indicate a preference within three (3) working days of receipt of notice of the options in order to exercise that option.

3. Bumping Less Senior Employees:

If bumping is necessary, the least senior employee in the affected classification in the department will be bumped. If there is no employee with less seniority in the classification in the department, then assignment to a vacant position in the County in the affected classification, if no vacant position, then the least senior employee in the affected classification in the County will be bumped.

4. Previously Held Classifications:

If there is no employee in the classification in the County with less seniority than the employee will be bumped to a classification previously held. If the employee held more than one previous classification, order shall be to the previous class held and so forth. Employee bumping rights includes right to bump into a previous classification with a higher maximum salary only if the higher salary rate of the previously held class is due to a salary adjustment for that class resulting from a classification /compensation study and the employee moved from the class as a result of a lateral transfer, promotion or reclass. If an employee bumps to a classification previously held and did not complete the probationary

period in the class, employee will be required to complete probation according to the terms of Article 2, Section XII.

5. **Change of Full-Time, Three-Quarter Time, and Part-Time Status:**

a. Full-time employees will be reassigned only to full-time positions, 3-10 time employees will be reassigned only to 3-10 time positions, and part-time employees will be reassigned only to part-time positions, unless reassignment to another status is the only available option other than layoff.

b. In the event that reassignment to a full-time position is unavailable to a full-time employee, that employee will utilize their reassignment options to 3-10 status positions, and then if unavailable to part-time status positions.

c. In the event that reassignment to a 3-10 time position is unavailable to a 3-10 time employee, that employee will utilize their reassignment options to full-time status positions, and then if unavailable to part-time status positions. Full-time employees who bumped to 3-10 time positions during the 2017 and 2018 layoff cycles will have recall rights to a full-time position as described in Article 21, IV and V for twenty-eight months (28) months commencing on March 1, 2019.

d. In the event that reassignment to a part-time position is unavailable to a part-time employee, that employee will utilize their reassignment options to 3-10 status positions, and then if unavailable to full-time status positions.

6. **Library Specific Classifications:**

a. An employee being laid off from a Library specific classification and demoting into a previously held Library specific classification as a result of a layoff may request to exercise layoff options based on the FTE:

- i. The employee holds at the time of the layoff; or
- ii. The employee held immediately prior to promoting into his/her current classification.

b. The employee must notify the Library Layoff Coordinator within three (3) business days (Monday-Friday) of receipt of notice of the FTE he or she chooses, otherwise the employee will be laid off or reassigned based on part or full-time status in the classification held at the time of receipt of the layoff notice.

7. **Job Share Agreements:**

a. Employees who are participating in job share agreements at the time the layoff process is being administered will be treated like part-time employees for the purposes of bumping and reassignment.

b. If a part-time employee bumps into a position that has an existing job share agreement, the employee must agree to the terms of the existing job share agreement.

8. **Shift Assignment:**

Shift assignment will not have an effect on the layoff process.

9. **Failure to Accept a Reassignment:**

Employees who are reassigned to a position pursuant to these provisions and do not accept that position will be deemed to have resigned.

10. **Qualified to Perform the Duties of the Position:**

a. Employees may not be reassigned to positions under this article unless qualified to perform the duties of that position. An accurate job description, including any approved special knowledge, skills, or abilities required for the position, must be on file with Central Human Resources prior to issuance of layoff notices. If layoffs are effective at the end of a fiscal year, the County must provide notification of any KSA prior to March 1, except the County may add cultural knowledge KSAs, bilingual KSAs, and a KSA to a position when the position is vacant or there has been a substantial change in job duties necessitating a change in the minimum qualifications for the position. Employees may be denied rights otherwise available under these provisions only if they lack knowledge, skills or abilities required for the position that are not easily learned on the job within ninety (90) days. If an employee is on paid or unpaid leave for more than fourteen (14) consecutive calendar days during the ninety (90) day orientation period, the orientation period will be extended by the amount of the leave. Employees may be required to take and pass qualifying examinations in order to establish their rights to specific positions.

b. **In order to facilitate placement and allow management adequate time to determine if an employee is qualified to perform the duties of the new assignment, the parties agree that an employee that elects to use their bumping rights to a position in either the Program Specialist or Program Specialist Senior classifications may be subject to an orientation period of up to six (6) months. In the event that management determines that a six (6) month orientation period is appropriate for a particular position in either of these classifications, it will notify the Union and the employee contemplating reassignment to that position as soon as possible but no later than the official fifteen (15) day notice to the employee described in Article 21.IV.A.**

b. When the County determines that knowledge, skills or abilities (KSAs) in addition to minimum qualifications are required for a position, the Union may appoint a Steward or officer familiar with that job classification to participate in discussions about the required KSAs and the content of any qualifying examination used as part of the bumping process. Nothing requires the County to develop an examination at the time the KSAs are approved nor prevents it from modifying an examination at a

later date provided the Union is provided an opportunity to participate in discussions regarding the new or revised exam used during bumping.

11. Request for Leave:

Employees who are reassigned or demoted pursuant to these provisions may request up to three (3) days of leave without pay prior to reporting to their new work assignment, consistent with the County's voluntary furlough program, and subject to approval of the appropriate manager.

12. Freezing of Personnel Actions:

To ensure that data about vacancies and employee work assignments are reliable and that bumping options are accurate, the County HR Director may freeze all personnel transactions as determined appropriate beginning four (4) weeks prior to the date a layoff is implemented and ending the day immediately following the effective date of the layoff.

13. Evaluation of Layoff Activities:

The County will regularly evaluate layoff and bumping activities, including giving affected employees an opportunity to provide feedback to improve layoff and bumping processes.

IV. Notice and Recall List

A. Employees who are subject to reassignment, demotion, or layoff pursuant to the provisions of this article shall receive a notice in writing at least fifteen (15) days prior to such action. The notice shall state the reason for the action and shall further state that the action does not reflect discredit on the employee. The Union will be provided a copy of the notice.

B. Employees in limited duration assignments will be placed on recall lists only for classifications in which they have previously achieved regular status. Limited duration employees who have not previously achieved regular status do not have recall rights.

C. Employees who are laid off, demoted, or reassigned to a lateral classification, including Project Save placements as defined in Article 21.IX and/or reassigned between full-time, 3-10 time, and, part-time status will be placed on the recall lists, according to seniority. Employees will be placed on all the recall lists that meet the criteria below. (For example, employees who are demoted and reassigned from full-time to part-time will be placed on the recall lists for full-time appointment in the current classification, for part-time appointment in the higher classification, and for full-time appointment in the higher classification):

1. Employees who are laid off will be placed on the recall list for the classification held by the employee at the beginning of the layoff process.

2. Employees who are demoted will be placed on the recall list for all the classifications held by the employee at the beginning of the layoff process to, but not including, the one the employee demoted to.

3. Employees who are reassigned to a lateral classification or to a classification previously held will be placed on the recall list for the classification held by the employee at the beginning of the layoff process.

4. Employees who are reassigned from full-time to 3-10 or part-time will be placed on the list for recall to full-time assignment.

5. Employees who are reassigned from 3-10 time to full-time or part-time will be placed on the recall list to a 3-10 time assignment.

6. Employees who are reassigned from part-time to 3-10 time or full-time will be placed on the list for recall to part-time assignment.

D. Employees who are placed on a recall list pursuant to these provisions will be provided with appropriate information concerning the rights after layoff, and their responsibilities. Information will include, but not be limited to, information concerning the County's rules on reinstatement, and will offer employees the opportunity to provide alternate contact information for recall notice.

E. Prior to issuing an open competitive recruitment for a vacancy, hiring managers should review any active recall lists and determine if the vacancy should be announced for internal applications first, in order to allow employees on recall lists in other classifications to have the opportunity to be considered.

F. Employees who are reassigned to positions in the same classification, resign, or elect to retire will not be placed on recall lists.

G. Removal from Recall List

Employees will remain on a recall list for twenty-four (24) months from the date of placement on the list. Within that time period, employees will be removed from the recall list only under the following circumstances:

1. Upon written request of the employee; or
2. Upon their retirement; or
3. Upon acceptance of recall from the list; or
4. Upon declining an offer of recall (unless the offer is for a limited duration appointment); or
5. Upon the employee's failure to respond to a certified letter or electronic notice sent to the employee's last known address within seven (7) days of mailing; or
6. Disciplinary termination for cause.

H. Effect of Recall on Seniority

Employees who are laid off and are on recall list(s) and return to regular County employment for any reason will be treated as if they have been on a leave of absence without pay for the purpose of computing seniority.

V. Recall

A. Employees on a recall list will be certified in order of seniority, before applicants who qualify through examination, provided they are qualified to perform the duties of the position. Employees on a recall list shall be offered appointment to vacancies, in order of seniority, except when they lack knowledge, skills or abilities required for the position that are not easily learned on the job within ninety (90) days.

B. Employees may be required to take and pass qualifying examinations in order to establish their rights to specific positions. The hiring manager is required to state in writing what qualification(s) the employee lacks that the position requires. The employee will remain on the recall list for certification to other vacancies during his or her term of eligibility.

C. Failure to recall an employee, except as provided above, will be deemed a dismissal of that employee for cause, and will be reviewed and processed according to the provisions of Article 17, Disciplinary Action.

VI. Seniority Application

A. The above terms for determination of seniority shall apply not only to the layoff process, but also to other situations in which seniority is applied, including total service for the purpose of vacation accrual rates.

B. Seniority determinations shall have no application to retirement matters.

C. The County agrees to make available to the Union upon request copies of any personnel list the County maintains regarding seniority or classification changes.

VII. Posting Process

A. Seniority List Posting

Lists showing seniority within the County and seniority within classification shall be provided to the Union, posted electronically, and posted on Union bulletin boards in work units where employees do not have readily available computer access, on or about March 1st of each year or anytime an employee or employees are notified that their position(s) is being eliminated. Employees may request a copy of the seniority list from their department human resources unit at any time.

B. Seniority List Appeals

1. Employees who have concerns about the calculation of their seniority shall notify Central Human Resources with a copy to the Union. If an employee's concerns remain unresolved, the Union may file a formal written grievance at Step 3 of the grievance procedure within thirty (30) days of his or her initial consultation with Central Human Resources. If no grievance is filed within the thirty (30) days, the seniority calculation is deemed correct and no grievances may be filed on that issue at a later date. If a Step 3 grievance is filed, and Central Human Resources denies the grievance by upholding the seniority calculation, the Union may exercise its' right to move the issue to arbitration in accordance with

Article 18, Section III. If the Union chooses to not move the issue to arbitration by making such a request within fifteen (15) days of the Step 3 response, the seniority calculation will be deemed correct and no grievances may be filed on the issue again in the future.

2. Employees may only file grievances over seniority calculations that have been accrued since the effective date of the previous contract. (For example, in the 2017-2020 contract, employees may only file grievances over seniority that has been accrued since the July 1, 2014, which is the effective date of the 2014-2017 contract.)

3. Seniority dates will be frozen during the bumping/layoff process consistent with the release of the Chair's Executive Budget.

4. When a seniority date is changed due to a grievance, the affected employees and the Union shall receive written notification of the new seniority ranking for the affected classification.

VIII. Seniority of and Bumping by Non-Bargaining Unit Employees and Other Bargaining Units

Except as returning to a previously held classification falling a Promotional Trial Service period, non-bargaining unit employees (non-represented or a member of another bargaining unit) may not bump or deny a bump option to current regular status Local 88 bargaining unit members even if the non-bargaining unit employee has greater length of County employment or greater length of service in the bargaining unit.

IX. Special Provisions to Save Employees from Layoff - Project Save

It is recognized by the parties that employees who are to be laid off or involuntarily demoted because of their seniority within a classification within a department face difficult circumstances in being placed in alternative employment within the County. Any such employee who is placed in a classification not previously held shall be subject to a trial service period of ninety (90) days to demonstrate his or her ability to perform or fulfill the requirements of the new classification. Employees who refuse an offer to be placed in alternative employment will not be deemed to have waived their bumping rights or right to placement on the recall list. Employees who, in the opinion of the County, are unsuccessful during this ninety (90) day trial service period will be removed from their new classification and placed on the appropriate recall list. Such employees shall continue to be eligible for placement under the provisions of this section as long as alternative employment opportunities are being explored by management for affected employees. **An employee reassigned to another position via Project Save, shall have recall rights in accordance with Article 21.IV and V.**

IV. Term of Agreement

This Agreement shall go into effect upon execution of and shall remain in effect through June 30, 2020. This Agreement shall be automatically renewed from year to year and thereafter

unless either party shall notify the other in writing no later than January 31st that it wishes to modify or terminate this Agreement for any reason.

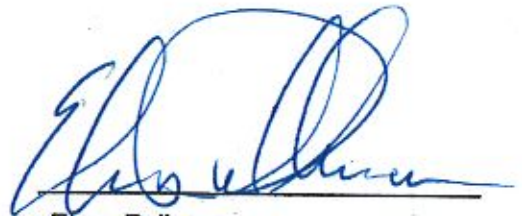
This represents the complete agreement of the parties agreed to, this 22nd day of February, 2019.

For the County:



Shelly Kent
Labor Relations Manager

For the Union:



Eben Pullman
Oregon AFSCME Council 75
Representative

