



ADMINISTRATIVE REGULATION (AR)

AR-00003 REDUCTION-IN-FORCE (Revised from City AR-00003)
FFSSAM #7D.1

Effective: 01/01/2016

I. SCOPE:

This Administrative Regulation applies to all Loveland Fire Rescue Authority (LFRA) Regular full-time benefit eligible and regular part-time benefit eligible LFRA employees. This regulation does not apply to Probationary, Temporary, Seasonal or other non-regular employees as described in the Administrative Regulation "Pay and Employment Decisions".

II. PURPOSE:

This Administrative Regulation ensures that all LFRA employees have an understanding of the reduction-in-force (RIF) process that will provide a method for reducing the number of regular LFRA employees, reduction in hours worked, or reassignment of an employee which would result in an adverse impact to base pay while, to the extent possible, retaining staff with the skills, knowledge and abilities necessary for effective operations. RIF actions that do not adversely affect base pay do not require the procedures outlined in this policy.

III. DEFINITIONS:

- **RIF** refers to Reduction-in-Force resulting in an adverse impact to base pay unrelated to disciplinary actions.
- **Defined Group** may be a position, division, or work group performing the functions/services being reduced, eliminated, restructured or otherwise affected.
- **Business days** refers to Monday through Friday, but excludes LFRA designated holidays.
- **Base Pay** refers to the hourly wage for a positions budgeted hours, not including any additional payments such as overtime, benefits, stipends, and/or bonuses.

IV. POLICY:

When a RIF results in an employee's loss of employment, that loss will be considered a permanent termination of employment. However, employees terminated as a result of a RIF are eligible to apply for open LFRA positions. A RIF may not always require termination of employment, but may include a reduction in hours or the reassignment of an employee to a different position if the reassignment results in a loss of base pay. The salary of the reassigned employee will be within the salary range established for the position to which the employee is reassigned. If a RIF does not result in termination, the employee will still have access to the pre-reduction-in-force procedure and the post-RIF hearing procedure. If the employee rejects a change that adversely impacts base pay but does not include termination, he or she will be eligible for a separation agreement if the employee does not elect to appeal the RIF action through a post-RIF hearing.

The Fire Chief, in his or her discretion, will determine whether a RIF is necessary. Any RIF decisions will consider the need to provide essential services to the community and the efforts of LFRA management to minimize the impact of any reductions on the overall services delivered to the community. If a RIF is deemed necessary by the Fire Chief, affected Division Chief or his/her designees will work in collaboration with the Human Resources Director and LFRA



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Attorney to determine which individual employees within a defined group will be affected by the RIF under this Regulation. Once a group is defined, the determination of who will be affected by the RIF will be made based on the following criteria in descending order of priority, provided that they apply to the specific situation:

- (1) A review of the defined group's goals in order to determine appropriate staffing levels.
- (2) Priority should be given to the business need of minimizing the impact upon service delivery to the public and the effective delivery of these services in the future.
- (3) Employee performance and productivity considerations which may include, without limitation:
 - (a) employees' work performance histories (performance evaluations over the last five years);
 - (b) employees' disciplinary records;
 - (c) employees' skills, knowledge, and abilities
 - (d) employees' safety records; and
 - (e) employees' attendance records.

In those situations where criteria outlined above are determined to be equal as they relate to LFRA's business needs, LFRA will review Veterans' preferences pursuant to Colorado Constitution if criteria remains equal, LFRA will retain those employees with the most seniority. Seniority is determined by the employee's total service date as shown by the Human Resources Department's records.

Basis For Mandate:

- Colorado Constitution Article 12

V. PROCEDURE:

Division Chief or his/her designees will consult with the Human Resources Director and LFRA Attorney to compile and present a list of RIF actions for the Fire Chief's consideration.

NOTICE AND PRE-REDUCTION-IN-FORCE MEETING

At least 5 business days prior to the effective date of the RIF LFRA shall notify affected employees of the recommendation for the RIF action. Affected employees will be given the opportunity to participate in a pre-reduction-in-force meeting with the employee's Division Chief or his/her designee and a representative from the Human Resources department. An affected employee must request the pre-reduction-in-force meeting within 3 business days following



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notification by contacting the Human Resources Department. The sole purpose of the meeting is for LFRA to receive information from the affected employee that may be relevant to the RIF decision. At the pre-reduction-in-force meeting the employee may have a representative present; however, he or she must speak on his or her own behalf. Testimony from the representative and witnesses will not be allowed at this meeting.

FINAL DECISION

Once the pre-reduction-in-force meeting is complete and additional relevant information is considered, the Division Chief or his/her designee in consultation with the Human Resources Director and LFRA Attorney shall decide if the affected employee who requested the pre-reduction-in-force meeting remains subject to the RIF action. If he or she remains subject to the RIF action, the Human Resources Department shall provide written notice of the decision within 5 business days and the employee shall have 5 business days from the date of the notice to appeal the decision by making a written request to the Human Resources Department for a post-RIF hearing. Upon expiration of the five-day appeal period, there shall be no right to appeal the decision.

POST-RIF HEARING PROCEDURE

An affected employee who did not request a pre-reduction-in-force meeting shall have 5 business days from the effective date of the RIF to appeal the decision by making a written request to the Human Resources Department for a post-RIF hearing. Upon expiration of such 5 days, there shall be no right to appeal the decision.

An affected employee who timely and properly appeals the Division Chief or his/her designee's final decision as implemented by the Fire Chief may appeal the action to the Fire Chief. The affected employee shall be subject to the hearing procedures below.

Procedures Prior to the Hearing

1. *Hearing Officer.* Fire Chief, or his/her designee, shall serve as the hearing officer for the proceedings and shall have full authority to render decisions regarding such.
2. *Pre-hearing issues.* The hearing officer shall resolve all disputes related to the hearing.
3. *Continuances.* For good cause shown, either party may request a postponement of the hearing date. As with any other pre-hearing issue, the hearing officer shall determine whether a continuance will be granted.
4. *Legal Counsel.* Both parties may be represented by legal counsel who may participate fully in the hearing. The employee must notify the Human Resources Director at least 72 hours before the hearing if he/she retains legal counsel. This may cause the hearing to be delayed while the other party obtains counsel.
5. *Witnesses.* Either party may call witnesses to testify at the hearing. Both parties must submit a witness list to the opposing party and the Human Resources Director at least 72 hours in advance of the hearing. LFRA shall be responsible for ensuring that LFRA



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employees who are called as witnesses are available to attend the hearing. LFRA has no responsibility to ensure that non-LFRA employee witnesses attend the hearing.

Procedures at the Hearing

1. *Hearing Officer.* A hearing normally shall be set for a maximum of 3 hours, but at the discretion of the hearing officer may be longer if either party makes a written request for additional time. The hearing shall be considered quasi-judicial but is not subject to the Colorado Rules of Civil Procedure or the Rules of Evidence, except that only relevant evidence shall be allowed. The hearing officer shall have full authority to hear and resolve any issues relating to the conduct of the hearing and to establish hearing procedures consistent with this policy.
2. *Legal Counsel.* Both parties may be represented by legal counsel who may participate fully in the hearing. The hearing officer is also entitled to legal counsel and may use the advice of such counsel in determining any issue related to the hearing.
3. *Hearing Participants.* The following individuals are entitled to be present during the entire hearing: the employee subject to the action and his/her attorney, agent or advisory representative; the employee's Division Chief or his/her designee; the employee's supervisor; any attorney or agent representing LFRA; the hearing officer and his/her attorney or agent; the Human Resources Director; and an advisory witness for each party who can be either an employee or a citizen. Employee advisory or supporting representatives employed by LFRA will not be paid for attendance but may use applicable leave accruals.
4. *Witnesses.* Witnesses shall not be sworn unless agreed to by both parties or ordered by the hearing officer. Except for the hearing participants listed above, no witnesses shall be sequestered and not allowed to hear the testimony of another witness.
5. *Order of Presentations.* Both parties shall be entitled to a brief opening statement; LFRA's opening statement shall precede the employee's opening statement. After opening statements, LFRA shall present its case for reduction-in-force. LFRA may call witnesses on LFRA's behalf. The employee shall have the right to cross-examine any witnesses called by LFRA. Following the close of LFRA's case, the employee may provide testimony to the hearing officer and may call witnesses on his or her behalf. LFRA shall have the right to cross-examine any witnesses called by the employee. In the discretion of the hearing officer, either party may call rebuttal witnesses. Both parties shall be entitled to a brief closing argument; LFRA's closing argument shall precede the employee's closing argument.
6. *Record.* It shall be standard practice for the hearing to be audio recorded. Either party, at its own expense, may request that a court reporter transcribe the proceedings.
7. *Continuance.* The hearing may be continued for good cause shown at the request of either party or upon the hearing officer's own action.



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Decision

A written decision, containing the hearing officer's findings and decision, shall be sent to the employee, the employee's Division Chief or his/her designee and the Human Resources Director within ten (10) business days from the date of the completion of the hearing. The decision may sustain, overrule or modify the RIF action.

The decision of the hearing officer shall be final and no further appeal within LFRA shall be permitted.

ADMINISTRATIVE LEAVE PENDING RIF ACTION

If the pre-reduction-in-force meeting procedure or post-RIF hearing extends beyond the proposed effective date stated in the initial notification letter for the RIF action, the employee will be placed on unpaid administrative leave until such time as a final decision is rendered by the Hearing Officer. If the employee is reinstated to his or her pre-RIF status, lost base pay and benefits will be reinstated.

FINAL PAY

Final payment of wages and benefits to employees affected by a RIF will comply with all administrative regulations, plan provisions and applicable laws. Employee Assistance Program (EAP) services will be extended for no less than one month after the employee's termination date.

SEPARATION PAY

Employees who have an adverse impact to base pay as a result of a RIF and who elect not to appeal the action through a post-RIF hearing may be offered the opportunity to enter into a separation agreement with LFRA. The separation agreement, complying with all applicable laws, will release LFRA from any and all legal claims, except for unemployment compensation, in consideration for LFRA paying the employee a specified amount for separation pay.

The specific amount(s) will be based upon LFRA's budget and finances. Separation pay will be subject to applicable taxes and withholdings.

Employees who elect to appeal through a post-RIF hearing or who do not enter into a separation agreement shall not receive the separation pay.

The language used in this Administrative Regulation does not create an employment contract between the employee and LFRA. This document does not create any contractual rights or entitlements. LFRA reserves the right to revise the content of this document, in whole or in part. No promises or assurances, whether written or oral, which are contrary to or inconsistent with the terms of this paragraph create any contractual agreement.

VI. OTHER RELATED REGULATIONS & PROCEDURES:



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Pay and Employment Decisions	Effective: 1/1/2016
Medical Leave	Effective: 1/1/2016
Vacation Leave	Effective: 1/1/2016
Holiday Leave	Effective: 1/1/2016
Tuition Reimbursement	Effective: 1/1/2016

VII. LFRA FIRE CHIEF SIGNATURE:

Mark Miller, Fire Chief