

The following excerpt from the Collective Bargaining Agreement between the Congressional Research Employees Association, IFPTE Local 75 and the Library of Congress protects CRS employees in the event of a RIF.

Section 1: What is a "Reduction-in-Force" (RIF)? A RIF is a situation created by the abolition of one or more permanent or indefinite positions resulting in the involuntary reassignment, transfer, change to lower grade, or separation of employees from their positions.

Section 2.

The following are not covered by this Article:

Termination of a temporary appointment, an indefinite appointment in a position to which another employee has been granted a right to return, a temporary promotion, and an indefinite appointment made for a specific period of time;

Separation or demotion for cause, or change to lower grade as a result of classification action;

Permanent-conditional employees and indefinite-conditional employees are not covered under the terms and provisions of this Article.

Section 3.

Employees competitively appointed or permanently converted to part-time positions as described above which are covered by this Article may only be placed in other part-time positions in accordance with the procedures set forth below.

Full-time employees temporarily converted to part-time schedules shall have the same rights under this Article as full-time employees, provided their temporary conversions do not exceed 24 months. Full-time employees who are temporarily converted to part-time schedules and who return to full-time schedules will have that full-time status treated as part-time for RIF purposes, if within 90 calendar days after returning to full-time status they are again temporarily converted to a part-time schedule.

Section 4.

The following are definitions of the key terms used in this Article.

A. Competitive Area: Consists of all organizational entities in the Library where positions in the affected employee's competitive level are located (see B., below). An affected employee's reassignment or transfer to such organizations will be effected in the following sequence whenever possible:

1st competitive area: in the affected employee's own department; and

2nd competitive area: in other departments of the Library.

B. Competitive Level: Consists of all occupied positions, which are in the same series and grade or in the same series at lower grades as the affected employee's current position. These positions must be so similar in all important respects that the affected employee might be reassigned or transferred to that position with no special training.

Displacement: Means the supplanting of an employee from his or her position in the Library by an affected employee whose position is being abolished or claimed (see D., below) and who has greater retention preference.

Claimed Position: Is an occupied position which an affected employee may occupy by displacing another employee who has less retention preference. The claimed positions shall be:

in the affected employee's competitive level; the claimed position shall not be more than three grades or grade-intervals below his/her current position; a three-grade-interval covers professional positions in the GS-5/7/9/11 grade range (example: a GS-11 employee could not claim an occupied position in his/her competitive level below the GS-5 grade level); or
one that the affected employee held at the Library in the past, but which is not at a higher grade level than his or her current position.

Position for Which an Employee Qualifies: Refers to a vacant position (which management has decided it will fill) for which the affected employee meets the minimum qualifications. This position must be in compliance with Section 5 above, but may be a lower grade than that of the affected employee's current position.

Retention Preference: Means the right of an affected employee to be retained insofar as is possible in the employment of the Library in his or her current position. For affected employees covered by the Article, retention preference shall be based on length of Library service (intervening military service will not constitute a break in Library service). In the case of identical lengths of Library service, retention preference will be determined by the length of Library service in current grade. All Library service at grades higher than current grade (excluding temporary promotions) will be included.

Administrative Furlough: Is a voluntary furlough (with the employee's consent) the duration of which is not-to-exceed one year and is scheduled by the Library.

NOTE: This definition is limited to voluntary furlough procedures and does not apply to Library procedures regarding involuntary furloughs.

Analyst Position: Refers to bargaining unit policy analysts and Legislative Attorney positions.

Retreat Rights: Are rights an employee has to claim a permanent/indefinite position he/she held previously in the Library which is held by another staff member with less retention preference. A staff member's retreat rights will be processed using the steps in Section 14 below and shall comply with Section 5 above.

Affected Employees: Is an employee who receives a reduction-in-force notice.

Reemployment List: Is a list, established by the Library, of employees separated by reduction-in-force who were not offered continued employment during the RIF. Employees who resign prior to the effective date of the RIF and those who retire, will not have their names placed on the Reemployment List.

Retention Register: Refers to a list of employees in a competitive level arranged by competitive area.

Vacant Position: Is a position the Library has decided to fill.

Volunteer: Is a CRS employee who volunteers, with the approval of the Director, to be separated under any RIF conducted under this Article to permit the Service to retain another employee who might otherwise be separated.

Section 5.

Determinations as to the qualifications and eligibility of any affected staff member for any positions in the Congressional Research Service shall be made by the Director of Human Resources and the Director of the Congressional Research Service or their designees.

Determinations regarding competitive areas, competitive levels, and retention registers are made pursuant to 5 USC Sec. 7106 (a). To that extent, such decisions are final and non-grievable under Article XXXI.

Section 6.

No RIF will provide an advantage to an employee that he or she did not have when the RIF occurred.

Section 7.

The Library shall not institute a RIF as a disciplinary measure against an employee or a group of employees.

Section 8.

It is the general policy of the Library to retain and to assign to other positions, insofar as may be possible and consistent with the requirements of the Library, employees whose positions are abolished. To minimize the adverse impact in a RIF, the Library shall, where the Library determines it to be practicable or desirable, accomplish any RIF through attrition.

Section 9.

To assure equitable treatment of employees in a RIF, such retention and assignment shall be based upon retention preference as defined in this Article. In certain instances, the Library may restrict the displacement of employees (see definition, Section 4C) in a particular organizational unit when the projected number of displacements would be so great as to have an adverse effect, as determined by the Library, on the unit and the meeting of required goals and deadlines. In such instances, the Library, after consultation with the Association, may establish a percentage beyond which additional displacements will not be allowed.

Section 10.

A. The Library shall notify CREA of any planned RIF.

Prior to the official RIF notification to the affected employee, the Library shall inform CREA. This notice, in writing, shall include the reasons for the planned RIF, the approximate numbers and types of positions affected, the approximate date of the action, and an invitation to CREA to participate in meetings with employees conducted by the Library to explain the RIF procedures and answer any questions.

Section 11. Procedures

Call for Volunteers

Before identifying specific positions to be RIFed, the Director may call for volunteers who, if accepted, will be separated subject to the provisions below. Such a call for volunteers will be for a period not less than 15 work days.

An employee with critical knowledge and skills (as identified by the Director of CRS) may not participate in a voluntary release if the Director determines that such participation would impair the performance of the mission of the Congressional Research Service.

Volunteering for RIF separation under this section is strictly a voluntary action on the part of any employee to whom this option is offered. Such employee shall not be forced or coerced in any way to volunteer for RIF separation.

A voluntary release of an employee in a reduction in force under this Article shall be treated as an involuntary release in the reduction in force and entitled to all entitlements under involuntary RIF separations.

Volunteering for separation under the provisions of this section does not confer RIF assignment (bumping) rights.

When there are more volunteers than needed and the Director accepts more volunteers than the approximate number identified in the notification called for under Section 10, the Director shall notify CREA, in writing, the reasons for accepting more volunteers than anticipated.

Procedures:

Separation volunteers will be issued RIF separation notices effective on the RIF effective date. The notice shall advise them of their entitlements under RIF.

Volunteers must sign a statement that they realize that the action is irrevocable once they have been issued a RIF separation notice. However, the Director may cancel the action if necessary.

If no volunteer matches can be made, then the following procedure will apply: The Library, through Human Resources Services, shall take the following sequential steps using vacant or occupied positions in the Library to resolve the RIF:

Step 1. Using Vacant Same-Graded Positions

Prior to the effective date of the RIF, place the affected employee in a vacant position for which the affected employee qualifies and which is at the same grade as his/her current position.

Step 2. Using Occupied Same-Graded Positions

If Step 1, above, is not successful, prior to the effective date of the RIF, place the affected employee in a position occupied by another employee in the same competitive level who has less retention preference.

Step 3. Using Occupied Same-Graded Positions (Retreat Rights)

If Steps 1 and 2, above, are not successful, prior to the effective date of the RIF, place the affected employee in another position at the same but not at a higher grade level than his/her current positions which the employee held in the past and which is held by an employee with less retention preference.

Step 4. Using Vacant One-Lower-Graded Positions

If Steps 1 through 3, above, are not successful, prior to the effective date of the RIF, place the affected employee in a vacant position for which he/she qualifies and which is one grade lower than his/her current position.

Step 5. Using Occupied One-Lower-Graded Positions

If Steps 1 through 4, above, are not successful, prior to the effective date of the RIF, place the affected employee in a position that is one grade lower than his/her current position and which is occupied by another employee who has less retention preference. This position must:

- (a) be in the affected employee's competitive level; or
- (b) be a position which the affected employee has held in the past.

Step 6. Using Vacant Two-Lower-Graded Positions

If Steps 1 through 5, above, are not successful, prior to the effective date of the RIF, place the affected employee in a vacant position for which he/she qualifies and which is two grades lower than his/her current position.

Step 7. Using Occupied Two-Lower-Graded Positions

If Steps 1 through 6, above, are not successful, prior to the effective date of the RIF, place the affected employee in a position that is two grades lower than his/her current position and which is occupied by another employee who had less retention preference. The position shall:

- (a) be in the affected employee's competitive level; or
- (b) be a position which the affected employee has held in the past.

Step 8. Using Vacant Three-Lower-Graded Positions

If Steps 1 through 7, above, are not successful, prior to the effective date of the RIF, place the affected employee in a vacant position for which he/she qualifies and which is three grades lower than his/her current position.

Step 9. Using Occupied Three-Lower-Graded Positions

If Steps 1 through 8, above, are not successful, prior to the effective date of the RIF, place the affected employee in a position that is three grades lower than his/her current position and which is occupied by another employee who has less retention preference. This position shall:

- (a) be in the affected employee's competitive level; or
- (b) be a position which the affected employee has held in the past.

Step 10. Using Vacant Four or More Lower-Graded Positions

If Steps 1 through 9, above, are not successful, prior to the effective date of the RIF, repeat the procedures for Step 8, above for positions which are four or more grades lower than the affected employee's current position.

Step 11. Using Retreat Rights to a Four or More Lower-Graded Position

If Steps 1 through 10, above, are not successful, prior to the effective date of the RIF, place the affected employee in a position which he/she has held in the past.

Step 12. For Occupied Entry Level Positions

An affected employee may claim an occupied position at the entry level when that position is in the same series as the affected employee's position and the incumbent of that position has less retention preference. The affected employee must also meet the minimum qualifications for that position, and the entry level position (except for analyst positions) shall not be more than three grades or grade-intervals below his/her current position. For analyst positions, the entry level shall be determined by: (1) the method described above, or (2) averaging the grade levels of the last five permanent or indefinite competitive appointments, transfers, or reassignments to bargaining unit analyst positions, or all cases where there are fewer than five appropriate actions, which are in the same series and division/office of the affected employee. For analyst positions, the entry level shall be the lowest grade level of these two procedures. To minimize the impact of a RIF on employees who may occupy positions as specified in Steps 2 through 12, above, the Library reserves the right to bypass these steps and offer the affected employee a vacant position at a lower grade. The affected employee has the right to decline such an offer, and if declined the Library shall follow Steps 2,3, and successive steps until a placement is made, the affected employee declines further consideration, or the affected employee is separated. When a RIF is resolved by placing the affected employee in a position which is at a lower grade level than that of his/her current position, grade and salary retention rights will be extended in accordance with law, governing regulations, Library of Congress regulations, and Collective Bargaining Agreement.

Section 12.

The Library shall notify affected employees at least ninety (90) calendar days, except in fiscal emergencies, but no fewer than thirty (30) calendar days in advance of the reduction-in-force, unless precluded by law. This notice, in writing, shall include the following information:

- A. the action the Library intends to take;
- B. the reason for the RIF;
- C. the effective date of the RIF;
- D. the affected employee's LC service computation date;
- E. the affected employee's appointment status;
- F. the affected employee's competitive area and level;
- G. why any employees at the same competitive level in the division or office affected by the RIF with less retention preference is being retained. This includes information concerning why any employee occupying a position at a lower grade that is in the same promotion plan with the affected employee's competitive level is being retained.

- H. whom to contact concerning severance pay, if applicable;
- I. whom to contact concerning participation in the Civil Service Retirement Fund or the Federal Employees Retirement System and health plan conversion procedures;
- J. time limits on grievances and complaints of discrimination and where they are to be addressed;
- K. salary and grade retention rights, if any;
- L. reemployment rights, if applicable.

Section 13. Hiring Freeze

Upon notification to the affected employee(s) with respect to a RIF the Library will impose a freeze on positions in the series identified by the affected employee's competitive level for which he/she qualifies. A hiring freeze under the terms of this Section will be for not more than ninety (90) calendar days or until the RIF is resolved, whichever comes first. The only exception to this hiring freeze is that the Director of CRS may fill positions, if he/she determines that it is necessary to do so in order to meet the urgent and immediate needs of the Congress.

Section 14. Review of Pertinent Records

The affected employee and/or his/her representative shall have the right to review pertinent records concerning a notice of separation or a change to a lower grade level position in lieu of separation. The right to review includes examination of the retention register of positions which the employee has the right to claim. The retention register shall be made available immediately for review upon the employee's receipt of either an offer to a position at a lower grade level or a notice of proposed separation.

Section 15.

An affected employee will be given ten (10) calendar days in which to accept or refuse any placement made in accordance with Section 14, above. Acceptance of a position made in accordance with Steps 1 through 12 or Section 13, or in accordance with the 'bypass' provision of Section 14, will conclude the Library's obligation to the affected employee in so far as the reduction-in-force is concerned. Refusal of any placement offered in accordance with Steps 1 through 12 of Section 14 will result in separation of the affected employee.

Section 16.

When employees are separated in a RIF and no offer of continued employment was made, the Library will establish and maintain for three years a reemployment list for those employees. The Library shall consider hiring from the Employment List prior to seeking outside applicants for vacant positions. The affected employees will be notified of their placement on the reemployment list.

Section 17.

Employees affected by a RIF for whom no positions can be located shall be assisted by the Library as is practicable in seeking other employment opportunities.

Section 18.

The Library shall explain to eligible affected employees the program for early retirement.

Section 19. Placement on Administrative Furlough

The following provisions do not apply to involuntary furlough actions (See Section 9G).

As an alternative to abolishing an employee's position, the Library may furlough, with the employee's consent, an employee who might otherwise be placed in a RIF status. As an alternative to abolishing positions, the Library retains the right to offer a furlough when it determines that the shortage of funds or curtailment of work affecting the positions will not exceed one (1) year. Where the Library determines it to be practicable, the Library will consider the preference of each employee about whether his or her furlough will be continuous or discontinuous.

The Library shall not furlough any employee(s) unless it intends to recall the employee to the same position as that from which he or she had been furloughed. When the possibility of recall within one (1) year is doubtful, furlough should not be used.

Order of Furlough. The Library may not separate an affected employee in a RIF, while another employee having the same competitive level but less retention preference is on furlough. If the Library is unable to place the affected employee at his/her current grade level, the Library shall provide the affected employee the opportunity to be placed on administrative furlough. Should the affected employee decline administrative furlough, the Library will attempt to place the affected employee in a position which is (first), one grade lower than his/her competitive level; (second), two grades lower than his/her competitive level; (third), three grades lower. Should the affected employee reject an offer at this level, the employee would then be separated from the Library. Note: For professional positions in grades between GS-5 and GS-11 the following are positions one grade lower, GS-5/7/9/11. Should the affected employee accept placement on administrative furlough, the originally furloughed employee would be given a thirty (30) work day reduction-in-force notice.

Order of Recall. When the Library has more than one employee furloughed from the same competitive level, it shall recall those employees in order of retention preference.

No Recall From Furlough. If the budget or work situation responsible for the use of furlough changes so that a furloughed employee cannot be recalled to duty, an Individual RIF Notice shall be issued to the furloughed employee at least thirty (30) work days before the date of his/her separation. If it becomes apparent that a one (1) year furlough is to end in separation, the notice will be issued soon enough to keep the furlough from exceeding the maximum length of one year and still provide the full 30 work day notice of separation to the affected employee. Acceptance of a voluntary furlough does not affect other rights such as retention and retreat rights granted by this Article.

No Return From Furlough. If a furloughed employee refuses or does not respond to a call to return to duty, the employee shall be separated. The official record will reflect RIF as the reason for separation.

Section 20.

Violations of this Article shall be grievable under Article XXXI, Negotiated Grievance Procedures.