

Background information on out-of-order layoffs:

The Chief obtaining permission to conduct out-of-order layoffs is unprecedented, could lead to bargaining and legal action, and could take months – if not years. Layoffs could not occur instantly – they could be subject to bargaining and may need to go through interest arbitration or the courts as they did in Kitsap County in a [2016 Washington State Court of Appeals ruling](#).

[Section 4.08.040 of the Seattle Municipal Code](#) creates the Public Safety Civil Service Commission (PSCSC), which makes the rules regarding layoffs (and many other things) as it relates to Seattle Police Department and Seattle Fire Department personnel. It's the [Public Safety Civil Service Commission's Rules of Practice and Procedure](#) (Rule 15, specifically) which dictate that layoffs to Seattle Police Department and Seattle Fire Department personnel should proceed in the following order:

1. Provisional appointees;
2. Temporary or intermittent employees not earning service credit;
3. Probationers (except as their layoff may be affected by military service during probation);
4. Regular employees in the order of their length of service, the one with the least service being laid off first.

Washington State law ([Chapter 41.12 of the RCW for police](#), and [Chapter 41.08 of the RCW for fire](#)) mandates that each municipality have a civil service commission to make rules regarding how “appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made,” among other responsibilities. The PSCSC is composed of three members: The Mayor and Council each appoint one, and then SPD and SFD employees appoint the third. The SMC indicates that the PSCSC can change its rules “from time to time” by a vote of its members.

The City Attorney's Office has advised that a change in Rule 15 would necessitate bargaining. This is informed in part by a 1990 decision by the Washington State Public Employment Relations Commission (PERC): [City of Bellevue, Decision 3156-A](#). In this case, the Civil Service Commission for the City of Bellevue attempted to amend many of the civil service rules, including rules regarding layoffs. The City of Bellevue argued that the CSC was independent, and therefore bargaining was not required. The PERC disagreed, and determined that if a Civil Service Commission seeks to change rules that impact working conditions (e.g., layoffs orders), the employer must bargain with the union.

There is a provision in Rule 15 that allows for out-of-order layoffs, which would require the Chief to prove the out-of-order layoffs are necessary for the efficient operation of the department. And she would need to do that for each individual layoff in question. There is no definition of what the “efficient” operation of the department looks like: Is it 911 call response times? Is it basic staffing needs? Is it cases closed for violent crime and domestic violence? Citations issued?

SPD recruited and hired an incredibly diverse class in 2019 - 39 percent people of color - and it was on par for the same level of officer hiring diversity in 2020. If the City does conduct layoffs, and if the PSCSC does not grant SPD permission to conduct out-of-order layoffs, then the reality is that the City will be firing its most diverse officers. These new hires are the officers who chose to come to the Seattle Police Department knowing its commitment in recent years to collaborative policing and its ongoing scrutiny under a consent decree. These are the precise officers the City wants to keep as it reimagines SPD.