

WFAP Canadian Museum of Nature

Fact Sheet #1 - Lay-offs and Reorganizations

There are four articles (6, 32, 21 and 48) in the Museum of Nature collective agreement that are directly relevant in cases involving lay-offs and reorganizations. The first relates to what work belongs to bargaining unit members and the other three provide rights and guarantees in a lay-off situation.

Work of the bargaining unit

Article 6 of the collective agreement provides some protection that work done by members of the bargaining unit will not normally be transferred outside the bargaining unit. Volunteer functions will not be expanded beyond the existing practices set out in the September 23, 2003 Volunteer Resources Policy.

Employees cannot be laid off or have their regular hours reduced because their duties are assigned to volunteers, part-time or temporary workers. Full-time employees can request part-time status for an agreed upon fixed period. Approval is subject to operational requirements and the PSAC will be notified of the period.

The employer will hold constructive consultation with the union prior to contracting out work performed by bargaining unit members. If contracting out results in lay-offs, affected employees may be reassigned with salary protection or they will benefit from the provisions of the Work Force Adjustment Policy.

Work Force Adjustment

A work force adjustment situation occurs when the President or a delegated officer decides the services of one or more permanent employee are no longer needed beyond a specified date because of lack of work or the discontinuance of a function.

Once a work force adjustment situation has been identified, several things must happen. The Work Force Adjustment Policy (WFAP), article 32, provides the broad rights and obligations of employees and the Museum and article 48 expands on these rights.

Fact sheet #2 provides general information on Museum and employee rights and obligations in a work force adjustment situation. Fact sheet #3 provides specifics about employee rights in a work force adjustment situation. Fact sheet #4 provides information about possible payments to employees who are laid off.

WFAP Canadian Museum of Nature Fact Sheet #2 – Work Force Adjustment Situations

Both articles 32 and 48 address work force adjustment. Under article 32, the Museum's Work Force Adjustment Policy (WFAP) becomes part of the collective agreement, providing specific rights and guarantees. Article 48 expands or reinforces these rights. The relevant source is identified below, with the numbers referring to the policy and article 48 referred to as such.

Under the WFAP, the Museum must try to redeploy or retrain employees as much as possible in work force adjustment situations. It is the responsibility of the Museum to ensure that employees involved in a work force adjustment situation are treated equitably and given every reasonable opportunity to continue their careers as Museum employees (Policy section of WFAP).

The purpose of the policy is to minimize the impact of work force adjustment on permanent employees. As such, the WFAP applies to permanent employees and not those appointed for a specified period, i.e., temporary employees (2).

The Museum agrees to:

- ✓ Carry out effective human resources planning to minimize the impact of work force adjustment situations on permanent employees (5.1.1) including exploring redeployment, retraining, retirement, early retirement, job sharing, part-time employment, seasonal employment and so on (6.2),
- ✓ Review their use of temporary employees or contracted services if this would facilitate the redeployment of affected, surplus or laid off employees (5.1.2),
- ✓ Establish systems to facilitate redeployment of affected, surplus or laid off employees (5.1.4),
- ✓ Advise and consult with the bargaining agent as early and completely as possible after the decision and throughout the process (5.1.5 and article 48),
- ✓ Set up work force adjustment committees, made up equally of employer and bargaining agent representatives, to manage the situation (5.1.3),
- ✓ Provide a copy of the WFAP to every affected and surplus employee (5.1.11).

The employees must:

- ✓ Actively seek alternative employment in cooperation with the Museum, unless they have advised the Museum in writing that they are not available for redeployment (5.2.1),
- ✓ Seek information about their entitlements and obligations (5.2.2),
- ✓ Ensure they can be easily contacted by the Museum and attend relevant appointments (5.2.3),
- ✓ Seriously consider job opportunities, including retraining and relocation, specified term appointments and lower-level appointments (5.2.4).

WFAP Canadian Museum of Nature Fact Sheet #3 – Notification, salary protection and retraining

In a work force adjustment situation, employees have specific rights and protections. Key among these are the right to be notified of their status, have their salary protected if they accept a lower-level position, and be retrained for other positions in the Museum. The numbers in brackets refer to the relevant section of the Work Force Adjustment Policy.

Notice

The Museum will advise and counsel employees as early and completely as possible after the decision and throughout the process, providing a counsellor to each affected, surplus and laid off employee (5.1.6). Reverse order of merit will be used to identify these employees (6.2). Employees will be notified when they become:

- ✓ Affected employees (permanent employees whose services may no longer be required),
- ✓ Surplus employees (permanent employees whose services will no longer be required as of a specified date, notice must be in writing), or
- ✓ Laid off employees (former permanent employees, notice must be in writing).

The Museum must give employees written notice of possible lay-off as far in advance as possible. This is done through a notice of surplus status, which must be given before the projected lay-off date. The minimum surplus notice period is:

Years of Continuous Employment	Notice Period
Less than 2 years	2 months
2 – 5 years	4 months
Over 5 years	6 months

The Museum must also give employees at least one month written notice of lay-off, which is included in the surplus period above.

These provisions do not apply to situations involving a temporary shut-down of Museum operations as a result of an emergency or other operational requirement (Article 48).

Salary Protection

Both surplus and laid off employees are entitled to salary protection for one year if they accept a position with a lower maximum hourly rate of pay. The protected salary will be adjusted by performance increases and economic revisions that apply to the position from which they were surplussed or laid off. Other than the protected rate of pay,

employees fall under the collective agreement provisions for the new position (7.1 and 7.2).

The rate for laid off employees will be determined by the date of lay-off, ignoring any increments during the period of lay-off (7.2).

If the above surplus and laid off employees are still in the new position after one year, they will be paid at the applicable rate for the new position that is nearest to, but not less than, their protected rate of pay. If no such rate exists, they will receive the maximum rate for the new position (7.3). If employees hold various positions during the one year period, this rate will be determined by the position they were in at the end of the one year (7.4).

Retraining

Surplus and laid off employees are eligible for up to two years of retraining (8.2).

Surplus employees are eligible if

- ✓ retraining will facilitate appointment to a specific vacant position or qualify an individual for anticipated vacancies, and
- ✓ there are no other available priority persons who qualify for the position (8.3.1).

If employees refuse a reasonable job offer, it may affect their eligibility for retraining (8.3.1). Continuation and completion of a retraining plan are subject to satisfactory performance by the employee (8.3.2). Once the plan is approved, the proposed lay-off date will be extended to the end of the retraining period, given satisfactory performance by the employee (8.3.3).

Laid off employees are eligible if:

- ✓ retraining will facilitate appointment to a specific vacant position,
- ✓ the individual meets the minimum requirements in the Selection Standard for the group,
- ✓ there are no other available priority persons who qualify for the position (8.4.1).

When a laid off employee is offered appointment conditional on the successful completion of retraining, the retraining plan will include a letter of offer. If the employee accepts the letter of offer, the appointment will be permanent at the full level of the position. If the new level is lower, the employee's salary will be protected.

WFAP Canadian Museum of Nature Fact Sheet #4 – Payments on lay-off

There are three payments employees may receive that are directly related to lay-off.

- ✓ Lump sum payment in lieu of notice,
- ✓ Separation benefit, and
- ✓ Severance pay.

Lump sum

The President or Vice-President may authorize a lump-sum payment in lieu of unfulfilled surplus notice which is equivalent to any part of the surplus notice period which is not worked up to a maximum of six months. Employees are considered to be laid off on the date they begin receiving this payment for the purposes of severance and retroactive remuneration. Employees can request this payment and the granting is at the Museum's discretion, but payment will not be unreasonably denied. The employee cannot be replaced if this payment is made. If employees who receive this amount are reappointed to the Museum, they will have to repay the amount related to the period following reappointment.

Separation benefit

Surplus employees who are laid off and did not get more than one month retraining will receive a separation benefit of one week pay for each year of continuous service up to a maximum of 15 weeks pay, if they are entitled to opt for or entitled to receive an immediate annuity or annual allowance under the *Public Service Superannuation Act*.

Severance pay

Employees are entitled to severance pay on lay-off. For the first lay-off, according to article 21, the employer will provide the employee with two weeks pay for the first complete year of continuous employment and one week pay for each additional complete year of continuous employment. Partial years will be pro-rated. If employees are laid off a second or subsequent time, the employee will get one week pay for each year of completed continuous employment over and above the period previously paid out in severance. Weekly pay is calculated at the rate on the day of termination.