

LAYOFF MANUAL

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The following are situations that may arise during the course of a layoff.

TIME BASE

Normally, layoffs are in seniority order regardless of time base; that is, the least senior employees, regardless of whether they are part time, intermittent, or full time, are laid off first. An appointing power may request that DPA approve the layoff of employees in any one of these three time bases before the others (DPA Rule 599.847). APPLICATION OF THIS RULE IS THE EXCEPTION TO THE NORM and alternatives shall be explored prior to approval of its application. Application of Rule 599.847 may be appropriate in situations such as the following.

- An appointing power wishes to eliminate intermittent positions in which there has been little time worked, or there is no longer a need for intermittent employment. These situations could be resolved more easily by reducing the number of intermittent hours or by totally eliminating them; however, if this approach is followed, the employees will still hold intermittent appointments. The layoff process, on the other hand, will result in the total separation of the employees, and will give them reemployment list eligibility.
- An appointing power wishes to eliminate part-time positions that are held as additional appointments by employees with other full-time appointments.
- An appointing power no longer needs full-time positions in a class or needs to reduce the number of full-time positions and convert them to part-time or intermittent, and there are already some part-time and/or intermittent positions.

CONVERSION OF EMPLOYEES FROM FULL-TIME TO PART-TIME OR INTERMITTENT TIME BASES

Unless the employees are willing to make the changes voluntarily, it is necessary to use the layoff process to effect time base reductions.

OFFERING FULL-TIME POSITION TO ELIGIBLE PART-TIME OR INTERMITTENT EMPLOYEE

If a part-time or intermittent employee is offered a full-time position because no part-time or intermittent positions are available, he/she has the options of accepting the position, resigning, or finding another position. Employees must be eligible for full-time work. (Refer to the Personnel Management Policy and Procedures (PMPP) Manual Section 380.

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LIMITED-TERM, TEMPORARY, OR CONTRACT EMPLOYEES MUST BE LAID OFF BEFORE State civil service employees in the same class in the area of layoff (DPA Rule 599.843)

LEAVE OF ABSENCE

If an employee on a leave of absence is in a class of layoff, in the area of layoff, his/her seniority score is computed along with those of all other employees in the class/area of layoff. The seniority score of the employee on the leave of absence is computed through the effective date of the leave of absence, while the other employees' seniority scores are computed through the effective date of the layoff.

- If the employee's seniority score is HIGH ENOUGH for the employee to retain employment, the employee may remain on leave; however, his/her return at the end of the leave may cause the layoff of another employee (GC Section 19142).
- If the employee's seniority score is NOT HIGH ENOUGH for the employee to retain employment, the employee is legally entitled to a 15-day notice of the leave termination and a 30-day notice of layoff (or demotion in lieu of layoff). The employee is reinstated from the leave of absence and laid off on the same date; therefore, the leave termination notice should be included in the Notice of Layoff.

If the employee is to be involuntarily transferred to a different geographic location, she/he is legally entitled to a 60-day notice. The date of the transfer and leave termination should be the same. Once again, both dates may be included in the same notice.

(Note: If the employee is on a military leave of absence, he/she will receive credit for the time on military leave upon his/her mandatory reinstatement.)

EMPLOYEES IN CLASSES/AREA OF LAYOFF WHO ARE ON INDUSTRIAL DISABILITY LEAVE (IDL)

Employees on IDL are treated in a manner similar to the way employees on leaves of absence are treated. That is, their seniority scores are computed along with those of everyone else in the class/area of layoff. If their seniority scores are high enough to retain employment, they will retain the rights to return to their jobs. If, however, their seniority scores are not high enough to retain their jobs, they will be laid off, demoted in lieu of layoff, or transferred. The seniority score of an employee on IDL, unlike that of an employee on a leave of absence, is projected through the length of the IDL, since IDL is not a break in service and IDL benefits continue.

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EMPLOYEES ON A LIMITED-TERM (LT) OR TRAINING AND DEVELOPMENT (T&D) ASSIGNMENT TO AN AREA OUTSIDE THE AREA OF LAYOFF

T&D Assignment

An employee on a T&D assignment from the area of layoff to another part of the department or to another department must be included in the seniority computations for the layoff. If her/his seniority score is high enough to continue in the class of layoff, the T&D may continue. If she/he is to be demoted, the appropriateness of the T&D must be reevaluated following the demotion. If she/he is to be transferred but remains in the same class, the T&D may continue. If she/he is to be laid off the T&D must be terminated.

LT Appointment to Another Department

Such an employee is legally an employee of the “to” department; therefore, the layoff, or “from,” department cannot cancel the LT appointment.

REEMPLOYMENT LIST ELIGIBILITY

An employee's name is placed on the general, departmental, and subdivisional (if any) reemployment lists for each class of layoff in the primary pattern; and is placed on the departmental and subdivisional (if any) reemployment lists for each class of layoff in the secondary pattern. IN ADDITION, IF an employee is laid off from a department-specific class in which the chance of reemployment is virtually nonexistent, the appointing power may request that DPA place the employee's name on a general reemployment list for a similar class.

RED CIRCLE SALARY RATES

Red circle salary rates are not appropriate if they are necessitated by demotions that result from funding reductions. If, however, the demotion that caused the employee to move to a class with a lower salary rate was caused by a management initiated decision to correct a misallocated position or effect a reorganization, the appointing power may request that DPA approve a red circle salary rate, if the employee meets the criteria.

LAYOFFS IN A DEPARTMENT THAT IS BEING ABOLISHED

Layoffs in a department being abolished or “sunsetting” that is laying off all its employees are conducted the same as in other situations where staffing reductions are required; however, special attention should be given at the time of layoff to employees of the “sunsetting” department who are on limited-term assignments, probationary appointments, CEA appointments, or exempt appointments in other departments and have return rights to the “sunsetting” department. These employees should receive layoff notices along with the current employees of the “sunsetting” department and their names should be placed on reemployment lists as of the effective layoff date. These employees,

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therefore, will have been laid off from the “sunsetting” department but can continue working in positions in other departments. Should the appointments in the other departments be terminated at a later date, the employees would have no return rights.”

ADDITIONAL FACTORS

- Unemployment Insurance (UI) -- Employees who are laid off are entitled to UI benefits and may file on the date of their separations.
- Nonindustrial Disability Insurance benefits cease on the effective date of layoff.
- Employee Assistance Program (EAP) -- Employees should be advised of EAP benefits, including stress management.

Employees in Bargaining Units 1, 3, 4, 11, 15, 20, or 21, the employees’ contract allows the employee to continue to use EAP services for an extended six-month period following the employee’s separation from State service due to layoff, providing the employee has visits remaining. EAP services include counseling for employee and eligible family members.

- Retirement Funds – Public Employees’ Retirement System (PERS) contributions may be left on deposit or withdrawn at time of layoff.
- Health, Dental, and Vision Benefits -- These benefits may be continued by laid off employees for themselves and eligible dependents by assuming the cost of premiums under COBRA.
- Deferred Compensation -- Funds may be withdrawn or left on deposit until a later date.