

LAYOFF MANUAL

<i>MAJOR AREA</i>	<i>SECTION NUMBER</i>
METHODS OF REDUCING STAFF SIZE	300

When the appointing power knows that a budget reduction is necessary, it may first determine if the reduction can be accomplished by eliminating items, such as new construction or major renovations, and research or training funds that would not require a reduction in staff size. If that is not feasible or does not accomplish the entire savings, it will be necessary to reduce staffing. Limited-term appointments should be used until the scope of the reduction is identified.

The appointing power determines how many positions must be reduced, and determines if there are sufficient vacancies that can be left vacant to accomplish the requisite savings.

The appointing power may consider the feasibility of terminating any emergency, temporary, training and development, retired annuitant, contract, or limited-term appointments in the department to accomplish the necessary savings.

The appointing power can also explore the entire spectrum of voluntary and involuntary methods of reducing staff that are below.

If the following methods do not accomplish the entire savings, the appointing power will have to initiate the layoff process.

VOLUNTARY METHODS

Transfer or Demotion within Appointing Power

- If there are sufficient vacancies within the appointing power, but outside the area of layoff, in the class in which positions are to be reduced, the appointing power **is not in a layoff situation**. Employees may be encouraged to voluntarily transfer to positions in the same class. These transfers may or may not entail a change of residence. Normally, voluntary transfers do not entitle transferees to receive relocation expenses; however, to encourage voluntary transfers, some departments provide partial reimbursement as a part of the meet and confer process.
- Employees may also voluntarily transfer to other classes or demote if vacancies exist. Note: In 1992, the Department of Corrections utilized voluntary transfers and demotions to avoid large numbers of layoffs in the Parole and Community Services Division.
- Employees who voluntarily transfer or demote, thereby assisting management in its goal of reducing staffing, may be placed on reemployment lists.

Transfer or Demotion within the Appointing Power's Agency

One option that is nearly always overlooked is the layoff department's agency (if any) taking an active role in correcting overstaffing. The agency secretary could implement an agencywide hiring freeze and restriction of appointments process, similar to those that are initiated by individual departments, in order to facilitate the placement of surplus employees within the agency.

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The appointing power's agency (if any) should also determine if appropriate vacancies exist in other appointing powers within the agency, and impacted employees should be offered the opportunity to voluntarily transfer or demote to them.

INVOLUNTARY METHODS

If the voluntary methods do not eliminate the entire staffing problem, the following involuntary methods are available:

Involuntary Transfer in Lieu of Layoff

- An employee in the area of layoff may be involuntarily transferred to a position in the same class in the same or different geographic location that has been vacated by the layoff of a less senior employee.
- If the involuntary transfer requires a change in residence, the employee must be given a 60 calendar day notice prior to the effective date of the transfer.
- If no change of residence is required, it is recommended that the employee be given a 30 calendar day notice.
- If there are vacancies, no layoff exists, and employees are offered involuntary transfers which are normally based on seniority. An employee, who does not wish to accept an involuntary transfer, has the following options, depending on their bargaining unit contract: personally locate a position for a permissive transfer; resign; or be laid off. (This will give the employee reemployment rights.) If the employee elects none of these options and does not transfer, the appointing power may separate the employee for failing to report to work in the new location, which results in an absence without leave (AWOL) in accordance with PML 94-55.

There are two ways that involuntary transfers are used when the number of positions in a class is to be reduced. First, if vacant positions exist in the class and area of layoff, no layoff exists, and incumbents should be offered transfers. Second, if there are no vacancies, senior employees may be offered transfers to positions held by the least senior employees in the class. In both situations, employees may be first offered the opportunity to transfer voluntarily.

Selection of Employees to be Transferred

An appointing power may first canvas employees in the class of layoff to see if any are willing to transfer voluntarily. Employees who voluntarily transfer at the request of the appointing power may be placed on reemployment lists, in order that they shall be considered for return to their original geographic locations. If employees will not transfer voluntarily or do not do so in sufficient numbers to avoid involuntary transfers, the most common method of selecting the employees to be transferred is through seniority; however, DPA may approve other methods. Another option would be to base the decisions on the need to relocate an employee with specific skills within the class concept to different geographic locations.

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Transfer to Other Classes

An employee can agree to voluntarily transfer to another class or an appointing power may involuntarily transfer an employee to another class in accordance with GC Section 19050.5. This was delegated to appointing powers by SPB in its policy memorandum of April 5, 1994. (Attachment 1)

Transfer Options if More Than One Employee Must be Transferred and/or More Than One Position is Available to Transfer to

Employees may be given the opportunity to select the positions, in rank order, that they would prefer to transfer to. If this approach is taken, no one should be moved until all employees have identified their choices, in order to avoid unnecessary confusion, and the possibility of moving one employee more than once. If more than one employee selects one of the available positions, preference should be given based on the criteria (normally seniority) used to determine which employees would be transferred.

EXAMPLES OF THE USE OF TRANSFERS WHEN VACANCIES EXIST

An appointing power has 20 positions in the class of Staff Counsel, a class that has been recruited for on a statewide basis. Ten of the positions are in Sacramento, six are in Los Angeles, and four are in San Francisco. The San Francisco Office is to be closed, and the four positions are to be abolished. There are three vacancies in Sacramento and one in Los Angeles.

- Canvas the four San Francisco employees to see where they would prefer to transfer.
- If three selected Sacramento and one selected Los Angeles, the problem would be solved and the transactions could be effected.
- If all four selected Sacramento, seniority or whatever other criteria was approved by DPA would be used to determine who would be offered the transfer to Los Angeles. If seniority were the criterion, the least senior employee would be offered the Los Angeles position.
- If all four selected Los Angeles and the criterion for selection were seniority, the most senior employee would be offered the Los Angeles position, and the others would be offered Sacramento.
- If two selected Los Angeles and two selected Sacramento, the most senior of the two employees to select Los Angeles would be offered that position.
- If there are vacancies, no layoff exists, and employees are offered involuntary transfers which are normally based on seniority. An employee, who does not wish to accept an involuntary transfer, has the following options, depending on their bargaining unit contract: personally locate a position for a permissive transfer; resign; or be laid off. (This will give the employee reemployment rights.) If the employee elects none of these options and does not transfer, the

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appointing power may separate the employee for failing to report to work in the new location, which results in an absence without leave (AWOL) in accordance with PML 94-55.

An appointing power has 20 positions in the class of Staff Counsel, a statewide recruiting class. Ten of the positions are in Sacramento, six are in Los Angeles, and four are in San Francisco. The Sacramento Office, which has no vacancies, is to lose four positions, and there are two vacancies in Los Angeles and two in San Francisco.

- Canvas the Sacramento employees to determine if any are willing to transfer to Los Angeles or San Francisco.
- If none are willing to transfer, and seniority is the criterion to be used to determine who will be transferred, give the four least senior employees in Sacramento the opportunity to select either Los Angeles or San Francisco.
- As in the preceding example, use seniority to make decisions.
- If there are vacancies, no layoff exists, and employees are offered involuntary transfers which are normally based on seniority. An employee, who does not wish to accept an involuntary transfer, has the following options, depending on their bargaining unit contract: personally locate a position for a permissive transfer; resign; or be laid off. (This will give the employee reemployment rights.) If the employee elects none of these options and does not transfer, the appointing power may separate the employee for failing to report to work in the new location, which results in an absence without leave (AWOL) in accordance with PML 94-55.

EXAMPLES OF THE USE OF TRANSFERS WHEN NO VACANCIES EXIST

An appointing power has 20 positions in the class of Staff Counsel, a class that has been recruited for on a statewide basis. Ten of the positions are in Sacramento, six are in Los Angeles, and four are in San Francisco. The San Francisco Office is to be closed and the four positions are to be abolished. The four least senior employees are located in San Francisco (2) and Los Angeles (2). These four employees would be laid off, and the two positions in Los Angeles, in which the layoffs occurred, would be filled by two employees from either Sacramento or San Francisco. The remaining San Francisco employees would have to be transferred to either Sacramento or Los Angeles.

- Canvas the two employees in San Francisco who have enough seniority to "stick" in the class to see if they would be interested in transferring to Los Angeles. This would be the least disruptive resolution of the layoff situation, but, since it is a statewide layoff, the San Francisco employees cannot be forced to transfer to Los Angeles, if they are senior to some of the employees in Sacramento.
- If the San Francisco employees do not wish to transfer to Los Angeles, canvas the 10 employees in Sacramento to see if any would be interested in transferring to Los Angeles.

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- If none of the Sacramento employees are interested in transferring voluntarily to Los Angeles, the two least senior employees of the 10 in Sacramento would be offered involuntary transfers to Los Angeles, and the two San Francisco employees would be transferred to Sacramento in-lieu-of layoff.
- If there are vacancies, no layoff exists, and employees are offered involuntary transfers which are normally based on seniority. An employee, who does not wish to accept an involuntary transfer, has the following options, depending on their bargaining unit contract: personally locate a position for a permissive transfer; resign; or be laid off. (This will give the employee reemployment rights.) If the employee elects none of these options and does not transfer, the appointing power may separate the employee for failing to report to work in the new location, which results in an absence without leave (AWOL) in accordance with PML 94-55.

An appointing power has 20 positions in the class of Staff Counsel, a class that has been recruited for on a statewide basis. Ten of the positions are in Sacramento, six are in Los Angeles, and four are in San Francisco. The Sacramento Office is to be reduced by four positions, but the four least senior employees are in San Francisco (2) and Los Angeles (2).

- Canvas the 10 employees in Sacramento to see if any are interested in transfers to Los Angeles or San Francisco.
- If none are interested, offer the four least senior employees in Sacramento (beginning with the most senior of the four) his/her choice of a position in Los Angeles or San Francisco, until the four excess Sacramento positions are vacated.
- If there are vacancies, no layoff exists, and employees are offered involuntary transfers which are normally based on seniority. An employee, who does not wish to accept an involuntary transfer, has the following options, depending on their bargaining unit contract: personally locate a position for a permissive transfer; resign; or be laid off. (This will give the employee reemployment rights.) If the employee elects none of these options and does not transfer, the appointing power may separate the employee for failing to report to work in the new location, which results in an absence without leave (AWOL) in accordance with PML 94-55.

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ADDITIONAL FACTORS

- An employee need be offered only one position to which to transfer.
- An employee who has been offered a transfer may not elect to demote to another class and cause the layoff of another employee.

RELOCATION EXPENSES

An employee being involuntarily transferred to a different geographic location is entitled to relocation expenses provided certain criteria are met. An employee who voluntarily transfers to avoid the necessity of involuntary transfers may receive relocation expenses based on certain criteria and at the discretion of the appointing powers.

LAYOFF

An appointing power is in a layoff mode when there are no vacant positions that surplus employees will voluntarily transfer or demote to, and all other voluntary methods of reducing staff have been exhausted, and it is still necessary to reduce staffing levels.

CALIFORNIA STATE PERSONNEL BOARD

DATE OF ISSUE: April 5, 1994

MEMO TO: ALL STATE AGENCIES AND EMPLOYEE ORGANIZATIONS

SUBJECT: Delegation of Function re: Involuntary Transfer - Change of Class

SPB File Reference: Personnel Management Policy and Procedures Manual (PMPP). Should be kept and filed in PMPP Manual section 35, Transfers.

The involuntary transfer of an employee from one class to another has required preapproval by the Board's Executive Officer. Effective the date of this memorandum, appointing authorities no longer need to seek the approval of the SPB Executive Officer prior to involuntarily transferring an employee from one class to another subject to the following guidelines and post-audit by Board staff:

1. The class title of both the "to" and "from" classes are exactly the same except for a parenthetical designation; and

The "to" class must have exactly the same or within two steps higher maximum salary as the "from" class;

OR

2. The titles of the "to" and "from" classes are different and all the following criteria are met:
 - a. The "to" class must have exactly the same or within two steps higher maximum salary as the "from" class; **and**
 - b. The "to" and "from" classes must be in the same or a reasonably comparable occupational group or the prior employment history suggests the employee can competently and successfully perform in the "to" class; **and**
 - c. The employee must possess any required experience, license and/or certificates for the "to" class.

The above delegation decision and guidelines are based on the following law and regulations:

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G.C. Section 19050.4 which states "A transfer, as defined in Section 18525.3, may be accomplished without examination. The board may require an employee to demonstrate in an examination that he or she possess any additional or different requirements that are included in the minimum qualifications of the class to which the employee is transferring."

G.C. Section 19050.5 which states "Notwithstanding Section 3517.6, an appointing power may transfer any employee under his or her jurisdiction to another position in a different class designated as appropriate by the board."

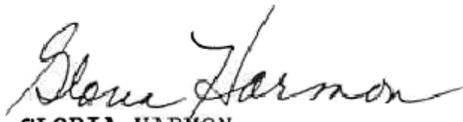
G.C. Section 18525.3 which states "transfer means both of the following: (a) The appointment of an employee to another position in the same class but under another appointing power. (b) The appointment of an employee to a position in a different class that has substantially the same level of duties, responsibility, and salary, as determined by board rule, under the same or another appointing authority."

G.C. Section 19997.8 which states "In lieu of being laid off an employee may elect demotion to: (a) any class with substantially the same or a lower maximum salary in which he or she had served under permanent or probationary status..."

2CCR434 which states "When the transfer between classes is not voluntary on the part of the employee, the class to which the employee is transferred must have prior executive officer approval."

2CCR431 which states "(a) The following definitions shall apply to salary and class level comparisons made under this chapter: (1) 'Substantially the same salary range or salary level' means the maximum rate of the salary range of one class is less than two steps higher than or is the same as the maximum rate of the salary range of another class..."

Attorney General Opinion No. 80-402 June 24, 1980 which concludes that a state employee, subject to layoff, may elect demotion to a previously held class with the same or higher, but not substantially higher, salary than the class of layoff.



GLORIA HARMON
Executive Officer

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