

State of California

MEMORANDUM

Date: March 4, 1991
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To: PERSONNEL MANAGEMENT LIAISONS

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

EMPLOYEE RELATIONS OFFICERS
PERSONNEL OFFICERS

From: Department of Personnel Administration
Policy Development Office

Subject: Employee Handbook on Layoff.

The Department of Personnel Administration has prepared a handbook designed to inform employees about the layoff process. We recommend that appointing powers facing layoffs make copies available to employees who may be affected.

We have attempted to write the handbook in nontechnical terms to the extent possible. We hope this handbook will help you keep employees informed about what is happening or may happen to them in a layoff process.

If you have any questions regarding this subject, please call your Department of Personnel Administration classification analyst at (916) 324-9381, ATSS 454-9381.



Wendell M. Coon, Chief
Policy Development Office

Attachment

ccd/A27710

FACING LAYOFF?

A GUIDE FOR STATE EMPLOYEES

Prepared by the
STATE OF CALIFORNIA
Department of Personnel Administration

FACING LAYOFF? A GUIDE FOR STATE EMPLOYEES

Department of Personnel Administration

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FACING LAYOFF? A GUIDE FOR STATE EMPLOYEES

INTRODUCTION

The State of California offers career service to those who elect to compete for examination and appointment in the State civil service system. However, layoffs may occur whenever it is necessary to reduce the staff of any State agency because of lack of work or funds, or in the interest of economy, and voluntary programs cannot prevent a layoff.

Subject to Department of Personnel Administration approval, each appointing power is responsible for deciding the size of the staff reduction, which classes will be affected, where layoff will occur and when the layoff will be effective.

Where do you stand if your agency faces the possibility of layoff? How will you be affected? What are your rights? What resources are available to help you find employment?

This publication is designed to answer these and other questions an employee may have regarding layoff and make employees aware of the benefits and services available to them. If you have any questions regarding the layoff process please contact your agency's Personnel Officer or Employee Relations Officer.

PART I - OVERVIEW

The California Government Code provides a structure to ensure that employees are dealt with fairly and equitably in all of the terms and conditions of their employment. Within this structure the responsibility for conducting layoffs in State service is shared by the Department of Personnel Administration (DPA), the State Personnel Board (SPB) and those State agencies that may be facing layoffs. In general, this responsibility is divided as follows:

- The affected appointing power (agency) initiates the process by determining the need for layoff and develops a proposed layoff plan including classes and areas of layoff, demotion patterns (i.e., bumping rights), order of layoff, and use of performance evaluation.
- DPA reviews and approves appointing power layoff proposals and conducts/ oversees meet-and-confer sessions with employee representatives regarding the impact of layoff. DPA also computes seniority scores, establishes demotional patterns, approves the establishment of reemployment lists, administers the reduced work time program and oversees the restriction of appointments program (SROA).

- SPB reviews layoff plans for consistency with merit employment principles and applies the provisions of Section 19798 of the Government Code concerning the effect of any past discriminatory hiring practices.
- When DPA and SPB have completed their review and processing of the layoff request, the affected appointing power may prepare and issue notices of layoff. Employees shall be notified of their layoff at least 30 calendar days prior to the effective date of layoff.

PART II - ALTERNATIVES TO LAYOFF

To the extent possible, State agencies will attempt to deal with staff surplus through various means other than layoff. These alternatives are discussed below.

THE STATE RESTRICTION OF APPOINTMENTS (SROA)

When an appointing power anticipates a layoff, they will request that the DPA approve the use of the SROA Program to assist in placing surplus employees in other positions in State service. If the use of SROA is approved, the appointing power will distribute job placement questionnaires to affected employees for the purpose of establishing SROA lists. SROA list certification, which supercedes all other employment lists except reemployment lists, provides employees with preferential interviews for the classes that are restricted by the SROA Program. Employee eligibility on SROA lists does not require other agencies to mandatorily appoint the SROA candidates. However, it does require them to interview and preferentially consider the SROA candidates. If they do not select an SROA eligible, they must request and be granted an exemption by DPA from SROA hiring before appointing a non-SROA candidate.

EARLY RETIREMENT PROGRAM

The early retirement law, Government Code Section 20816, provides for the granting of two (2) additional years of service credit whenever the Governor determines by Executive Order, that:

- Because of an impending curtailment of, or change in the manner of performing services, the best interests of the State would be served by encouraging the retirement of State employees; and
- Sufficient economies could be realized to offset any cost to State agencies resulting from the award of such credit.

If the Governor authorizes the early retirement provisions, you may be eligible for the additional two (2) years of service credit if:

- you are of retirement age, have been credited with the minimum years of PERS service and retire within the time specified by the Governor's Executive Order; and

- the agency subject to layoff is eligible, and has impending reductions which will cause layoffs; and
- the appointing power shows that sufficient savings can be realized to offset the cost of the additional service credit; and
- your civil service classification is one identified as a class of layoff and your position is in the area of layoff.

PARTIAL SERVICE RETIREMENT ACT

The Partial Service Retirement Act (Government Code Section 19996.30 et seq.) provides that an employee may request and if approved, accept a working arrangement whereby he or she may reduce his/her full-time employment by a minimum of 20% and a maximum of 60% and replace that time with proportionally reduced retirement benefits. For example; employee works half-time in his/her State position and also receives one-half of their regular service retirement allotment.

Employees who are interested in reduced work time for partial service retirement should inquire through their agency personnel office.

VOLUNTARY TRANSFER AND/OR DEMOTION

If the appointing power having the layoff has vacancies that are outside the area of layoff, these may provide opportunities for employees who would otherwise be separated by layoff. However, this will depend on the qualifications of the surplus employees and the requirements of the vacant positions. Employees may not voluntarily transfer or demote within the area of layoff when this would result in their filling a position that, under the seniority process, would have gone to a more senior employee.

As discussed previously, the SROA Program provides opportunities for employees to voluntarily transfer to other agencies.

REDUCED WORKTIME PROGRAM

Whenever an appointing power anticipates a personnel reduction equivalent to one percent or more of the agency's full-time equivalent positions, DPA may require a survey to determine the level of interest that employees have in reduced worktime. It is the policy of the State to allow employees to reduce their worktime whenever it is feasible to do so. While an employee cannot avoid a layoff simply by reducing his/her time base, the appointing power may be able to reduce the number of employees facing layoff, if enough employees elect less than full-time employment.

PART III - THE LAYOFF PROCESS

When the alternatives to layoff cannot reduce the surplus staff as quickly as required, the layoff process will then be needed. This process is described in the following sections.

LAYOFF SENIORITY COMPUTATIONS

Layoffs in State service are seniority based, except for the provisions of Section 19798 of the Government Code (see section on Discriminatory Hiring Practices). Employees are laid off in seniority order, beginning with the least senior. Demotion-in-lieu of layoff is also based on seniority, with more senior employees being able to "bump" (displace) less senior employees in demotional classes.

The DPA computes the preliminary seniority points and adds any credits for qualifying exempt service for employees facing layoff. The appointing power having the layoff computes the final seniority score by adding military service credits, if applicable. If the layoff is to be made in certain classes designated as professional, scientific, administrative, management, or executive classes, the appointing power shall rate the employees performance as: entirely satisfactory, improvement needed, or unsatisfactory. In computing layoff scores, an employee shall have deducted from his/her score twelve (12) points for a rating of "improvement needed", and thirty-six (36) points for a rating of "unsatisfactory". Seniority lists are by classification and list employees in order of seniority score.

For the purpose of layoff scores, a full-time employee is given one seniority credit (point) for each qualifying pay period (eleven or more days of service in a monthly pay period) regardless of when or for which State agency the service occurred. In the case of less than full-time service, an employee receives a fraction of the full-time rate, equivalent to the employee's time base (e.g., a half-time employee who qualifies the pay period will earn 1/2 of a seniority credit). Bargaining Unit 06 employees, in specified Youth Authority and Corrections classes, are given one point for each qualifying monthly pay period of full-time service in a classification represented by Unit 06, regardless of when the service occurred.

INVOLUNTARY TRANSFER AND/OR DEMOTION

Some employees who have enough seniority to be retained in the class of layoff may be in positions that are being eliminated. When this occurs, these employees will be transferred to other positions in the class (same agency) that have become vacant or that will be vacated by less senior employees. These involuntary transfers will be based on seniority, with more senior employees selecting their options first. If the employee does not feel that he or she can accept the involuntary transfer, then the employee's only alternative is to seek a permissive transfer to another State agency, retire, or resign in lieu of the involuntary transfer.

If an employee is transferred to a location which reasonably requires a change in residence, the State must provide at least 60 calendar days notice before the effective date of the transfer. Relocation expenses are paid by the appointing power according to DPA rules and/or the applicable Memorandum of Understanding. Employees who may be required to transfer where no change in residence is required should be given at least 30 calendar days notice before the effective date of the transfer.

DEMOTION-IN-LIEU OF LAYOFF

If an employee cannot be retained in the class of layoff, he/she may elect demotion-in-lieu of layoff (if it is available) to a lower classification, and may bump an employee in that class who has less seniority. The demotional class is either; (1) any class with substantially the same salary or lower in which he or she served under permanent or probationary appointment, or; (2) one with a lower maximum salary than the class of layoff that is designated by the DPA as being in the same line of work but of less responsibility. In some cases, the class of layoff may not have subordinate or lower-level demotional classes for the employee to demote to. All bumping is within the agency having the layoff. Employees may not bump into other agencies.

If an employee elects to demote-in-lieu of layoff, the employee may, under certain conditions, be allowed to retain the higher salary in his/her former class. These fixed rates are known as "red circle rates". Employees must have at least 10 years of State service to be eligible for a red circle rate. Red circle rates are subject to the recommendation of the appointing power and approval by the DPA.

If the employee does not elect to demote-in-lieu of layoff or has no demotional options, the employee will be laid off and his/her name will be placed on the appropriate reemployment lists.

NOTIFICATION TO EMPLOYEE OF LAYOFF

Appointing powers are required by law to provide employees with a layoff notice at least 30 calendar days prior to the effective date of layoff. Employees will receive a lump-sum payment of all vacation/holiday/compensating time off accrued by them as a part of their final compensation if they are laid off. If an employee has a sick leave balance upon separation, it will be available to the employee upon reinstatement for the term of the employee's reemployment list eligibility.

EMPLOYEE APPEAL FROM LAYOFF

An employee may appeal to the DPA within 30 calendar days after receiving a notice of layoff on the grounds that the proper procedure was not followed, or that the layoff was not made in good faith, or was otherwise improper.

ESTABLISHMENT OF REEMPLOYMENT LISTS

An employee who is laid off or elects to demote-in-lieu of layoff from a class and has held either permanent or probationary status in the class, will be placed on the appropriate reemployment list for that class. On a reemployment list, employees are listed by seniority (from high to low). There are three types of reemployment list: General - used throughout State service; Departmental - used only in that agency; and Subdivisional - used for small units within an agency, such as a district or division.

Reemployment list eligibility for employees is five years unless an extension is granted by the SPB. Reemployment lists take preference over all civil service employment lists including SROA lists.

DISCRIMINATORY HIRING PRACTICES REVIEW

The purpose of Section 19798 of the Government Code is to prevent the seniority-based layoff and demotion process from excessively impacting individuals who have been recently hired through affirmative action efforts aimed at correcting the underrepresentation of various ethnic, sex and disability groups in the State's work force. These provisions apply to all layoffs regardless of their size or circumstances.

Prior to layoff, the agency involved conducts a survey of the affected work force. Data obtained from the survey is used to determine if a seniority-based layoff would have adverse impact on historically underrepresented groups.

If adverse impact is found, the SPB will hold a public hearing to determine if past hiring discrimination is a reason for underrepresentation. If the SPB determines that past discrimination in hiring practices has occurred, the SPB may order the appointing power to make adjustments in the order of layoff and reemployment so that the relative composition of the affected work force will be, as nearly as possible, the same immediately after the completion of the layoff as it was before layoff.

PART IV - ASSISTANCE AFTER LAYOFF

If you are laid off, there are a number of programs that will help cushion the impact and assist you in finding new employment. These programs are described in this section.

CAREER PLANNING

Besides administering the unemployment insurance program, the EDD offers other programs designed to assist you in finding suitable employment. These services include:

- Job Placement - When a job opening for which you are qualified is available an EDD interviewer will refer you to the employer.
- Job Information Centers - Local job market information and State and Federal employment opportunities are posted in most EDD offices.
- Employment Counseling - This may be provided if you have employment problems relating to job choice, change or adjustment, and may include aptitude and interest testing.
- Job Search Workshops - Provides sessions on job finding skills, how to prepare a resume, and preparation of employment applications. These workshops are available in most EDD offices.
- Professional, Technical, Managerial and other Highly Skilled Individuals Self-help - Experience unlimited job clubs are available in selected offices to assist you in finding work in these occupations.

UNEMPLOYMENT INSURANCE

State employees who are laid off may be eligible for unemployment benefits. Eligibility for unemployment benefits is determined by the Employment Development Department. Claims for unemployment insurance should be filed on the effective date of your separation.

HEALTH BENEFITS

On April 7, 1986, Public Law 99-272, Title X, was enacted. This act is called the Consolidated Omnibus Reconciliation Act (COBRA). COBRA requires most employers, including the State of California, to extend continuing health benefits (including dental and vision care) to employees who may be involuntarily separated (laid off). This continuing coverage applies to the employee's eligible dependent(s) as well. Coverage must begin on the date of the "qualifying event" (layoff) and may continue for up to 18 months. Under COBRA, the employee or eligible dependent must pay the full premium for the group coverage to be continued, plus a 2% administrative charge. Premiums are paid on a monthly basis.

If you have any questions regarding health/vision/dental benefit continuation under COBRA, please contact your agency's Health Benefits Officer or Personnel Officer.

PLANNING FOR RETIREMENT

State Training Center Course #828 provides information regarding financial planning, health and safety, legal affairs in retirement, role adjustment, Social Security/PERS benefits, investments, housing/real estate and taxes.

Contact: Department of Personnel Administration
State Training Center
1515 "S" Street, North Building
Sacramento, CA 95814-7243
(916) 445-5121

Effective July 1, 1991, the Public Employees' Retirement System, Field Services Division, will assume the responsibility for presenting the two-day Planning for Retirement Seminar in addition to the other retirement briefings currently conducted by PERS. Agency representatives and/or interested State employees should contact their nearest PERS area office for additional information.

Los Angeles Area Office
(213) 620-4430
ATSS 640-4430

Sacramento Area Office
(916) 326-3630
ATSS 475-3630

San Francisco Area Office
(415) 557-0582
ATSS 597-0582

EMPLOYEES' RETIREMENT RIGHTS

First Tier retirement members in the PERS may elect at the time of separation to withdraw or leave on deposit their PERS contributions. An election to withdraw the PERS funds would terminate an employee's right to any PERS benefits that might otherwise be payable. Those rights could be restored by repaying the funds to PERS, upon subsequent employment with the State or any other public employer subject to PERS.

Employees who are Second Tier members may elect to withdraw or leave on deposit any PERS contributions they might have. If no contributions are on deposit, an employee would have certain rights to PERS benefits if he/she had five years of PERS service credited as of January 1, 1985, and if not, then 10 years of PERS service as of the date of separation. Employees who do not meet those service conditions would be entitled to restore their rights to benefits by requesting PERS to restore the service upon subsequent reemployment.

Employees who have additional questions regarding their retirement benefits or who may wish to retire from State service may contact their local PERS Area Office. The Area Offices are listed in the State telephone directory under Public Employees' Retirement System.

SOCIAL SECURITY BENEFITS

Information on Social Security Benefits may be obtained by calling the Social Security Administration which is listed in the telephone directory under U.S. Government offices, Department of Health and Human Services.

SUMMARY

The information contained in this handbook is not intended to be all inclusive regarding the terms and conditions of the layoff process. It is intended to provide you with some basic information regarding layoffs in the State civil service system.