

## **LAYOFF QUESTIONS AND ANSWERS UNREPRESENTED EMPLOYEES**

**Department of Administrative Services (DAS)  
Human Resource Services Division (HRSD)  
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**IMPORTANT: The following questions and answers pertain only to classified unrepresented and management service employees. Contact the Human Resource Management and Consultation Unit if you have additional questions concerning layoff or restoration for unrepresented employees. Contact your DAS State Labor Relations Manager for questions regarding represented employees.**

### **1) May an agency have its own layoff policy for classified unrepresented and management service employees?**

Yes. The agency's policy must be consistent with the provisions of State Human Resource (HR) Policy 50.025.01 Layoff/Removal. The agency must submit its layoff policy to HRSD for approval prior to implementing it. Contact a Human Resource Management Consultant if you do not know whether HRSD has approved your agency policy.

### **2) How do I conduct a layoff if my agency does not have its own layoff policy or plan?**

Agencies without their own layoff policies and plans default to the use of the "Model Layoff Plan(s)" in Attachments "A" and "B" to State HR Policy 50.025.01.

### **3) How do I calculate service credit scores for classified unrepresented employees?**

Calculate service credit scores according to your agency's alternative layoff plan. If the agency follows State HR Policy 50.025.01, calculate service credit scores for classified unrepresented employees in the following manner:

- ✓ One point for each full month of State service (except as a temporary appointee) from date of hire, regardless of type of service.
- ✓ If there is a break in service of more than two years, do not count the time in state service prior to the break in the computation of the service credit score.
- ✓ Credit part-time service on a prorated basis.
- ✓ Consider job-share positions as one position. Compute service credits on an average of the time worked by the incumbents, or of the one incumbent if part of the job-share position is vacant.

- ✓ Then adjust service credit points based on the employee's performance evaluation according to the points listed in (2)(d)(B).

**4) How is length of service computed for management service employees?**

- ✓ One point for each full month of state service (except as a temporary appointee) from date of hire, regardless of type of service.
- ✓ If there is a break in service of more than two years, do not count the time in state service prior to the break.
- ✓ Credit part-time service on a prorated basis.
- ✓ Consider job-share positions as one position. Compute service credits on an average of the time worked by the incumbents, or of the one incumbent if part of the job-share position is vacant.

**5) Are service credit scores for classified unrepresented employees and length of service for management service employees adjusted for leave-without-pay under FMLA or OFLA?**

No. Regardless of the reason, you do not deduct for any approved leave-without-pay for management service or classified unrepresented employees.

**6) Should I adjust service credit scores for employees who have gone on military leaves of absence?**

No. An employee returns from military leave to state employment with no penalty to seniority or service credit rating.

**7) Can we use the Recognized Service Date (RSD) to compute length of service for management service employees?**

No. Using the RSD is not appropriate because it is adjusted under certain circumstances when leave-without-pay is 16 or more calendar days (see State HR Policy 60.000.11 Leaves without Pay).

**8) Does time worked under the Comprehensive Employment and Training Act (CETA) count as time in state service for purposes of computing service credit scores for classified unrepresented employees and length of service for management service employees?**

Yes, in certain circumstances. If an individual worked for a State agency under a CETA program and was hired by a State agency within two years from completion of the CETA program, the time worked for CETA is considered as time worked for a State agency. NOTE: Under state statute CETA time is considered unclassified service. ORS 240.205(13) provides that any individual employed and paid from federal funds received under the Emergency Job and Unemployment Assistance Act of 1974 or any other federal program intended primarily to

alleviate unemployment. While CETA no longer exists, prior state statutes included CETA time as unclassified service.

**9) Does time worked at Oregon Health Sciences University (OHSU) count towards service credit scores for classified unrepresented employees and length of service computation for management service employees?**

Yes, under certain circumstances. OHSU became a public corporation on July 1, 1995. Employees of OHSU were given reemployment rights to positions in State agencies until July 1, 1997. If an OHSU employee accepted a position in a state agency before July 1, 1997 and has not had a 2-year break in service since being employed by a state agency, then the time worked for OHSU are included calculating service credit scores or length of service for the period worked at OHSU prior to July 1, 1995.

**10) Does unclassified time need to be preceded by classified time in order for the unclassified time to count towards service credit scores?**

No. For classified unrepresented and management service employees all time worked for a state agency counts for service credit and length of service calculations.

**11) Does time worked for agencies such as the Oregon State System of Higher Education (OSSHE) and Lottery count as time worked for a State agency for purposes of seniority or length of service calculation?**

Yes. OSSHE and Lottery are semi-independent state agencies. Time worked at semi-independent agencies counts towards time in state service.

**12) If a management service employee changed agencies to accept a management service position and is subsequently laid off, does the employee have restoration rights back to the agency where he or she was a classified employee?**

Yes. State HR Policy 50.030.01 Restoration of Removed Management Service Employees provides for restoration to the classified service as long as the employee meets certain conditions. The prior employing agency returns the employee to a position in the same class, or an equal class for which he or she qualifies. If an equal classification is not available, the prior employing agency returns the employee to a lower-level classification in descending salary range order.

Some collective bargaining agreements provide restoration rights to management service employees (as well as unclassified and exempt employees) who previously held represented positions. Refer to an applicable collective bargaining agreement for more information. Contact DAS Labor Relations if you have questions about restoration provisions.

**13) Does the geographic location of an appropriate vacant position have an impact on whether or not a position is offered to a management service employee who is being restored to the classified unrepresented service?**

No. The agency should offer the employee an appropriate vacant position, regardless of location.

**14) What should the agency do if the management service employee refuses restoration to a vacant classified position?**

The employee's refusal is a resignation from state service. Document the resignation for unemployment purposes. The agency places the employee on the agency layoff list for the management service classification from which laid off. Do not place the employee on the Statewide Reemployment Layoff List.

**15) When can an employee be placed on the Statewide Reemployment Layoff List?**

Classified unrepresented and management service employees who, as a result of being laid off, are terminated from State employment may be placed on the Statewide Reemployment Layoff List. Placement on the statewide Reemployment Layoff List may be for classifications of the same, equal, or lower salary from which laid off. The employee must meet the minimum qualifications for the classifications. See Oregon Administrative Rule 105-040-0020 (1) (c) Types and Order of Applicant Lists, and State HR Policy 50.025.01, Layoff/Removal.

**16) In what situations is an employee not eligible for placement or retention on the Statewide Reemployment Layoff List?**

An employee may not be placed on the Statewide Reemployment Layoff List in the following situations:

- Employee has not completed initial trial service with the State of Oregon.
- Employee refused opportunity for retention (restoration or bumping).
- Employee accepted a job in lieu of layoff and is currently employed by the State.
- Employee reemployed with the state at the same, lower, or higher level than previously employed at time of layoff.

**17) What other layoff lists are employees eligible for?**

Employees, other than initial trial service, are eligible to be placed on agency layoff lists for the classification from which they are laid off or demoted from in lieu of layoff.

**18) What happens if an employee turns down a job offer during the workforce adjustment period (see model layoff policies)?**

Management and classified unrepresented employees who turn down a job in the workforce adjustment period remain in their current position.

**19) Will unemployment benefits be impacted if an employee doesn't accept a different job in the workforce adjustment period, during layoff or chooses not to be restored?**

The Employment Department determines unemployment insurance (UI) benefits on a case-by-case basis. The Employment Department answers questions regarding UI benefits.

**20) Can an employee on active military leave be laid off and what are their restoration rights?**

No. An employee on active military leave has a right to restoration upon his or her return from the armed forces (ORS 408.240(1)).

**IMPORTANT: The following question and answer pertains only to executive service employees.**

**21) Does an executive service employee have layoff rights?**

No. However, an executive service employee may have a contractual right to restoration based on prior represented service. Executive service employees are part of the unclassified service who are unrepresented and serve at the pleasure of the Governor or the agency appointing authority. Unclassified employees terminated due to a reduction in force or reorganization may request placement on the statewide reemployment layoff list for the same classification or the same, equal, or lower salary range number. See State HR Policy 40.035.01 Unclassified Service Employment and Termination for additional information.