

DAS Statewide Policy

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| SUBJECT: Layoff/Removal | NUMBER: 50.025.01 |
| DIVISION: Human Resource Services Division | EFFECTIVE DATE: 10/21/04 |

APPROVED: Signature on file with the Human Resource Services Division

POLICY STATEMENT: Because the State of Oregon values stability in the workforce and the talents and contributions of its employees, layoff of classified employees and removal of management service employees shall be used when other workforce adjustment measures are not feasible.

AUTHORITY: ORS 240.015; 240.145(3); 240.250; 240.309; 240.316(1)(2)(3); 240.425; 240.430; 240.570(2); 240.580; OAR 105-040-0020

APPLICABILITY: Classified unrepresented and management service employees

ATTACHMENTS: Attachment A: Model Classified Unrepresented Layoff Plan
Attachment B: Model Management Service Removal (Layoff) Plan

DEFINITIONS: See HRSD State Policy 10.000.01, Definitions; and OAR 105-010-0000

POLICY:

- (1) Because the State of Oregon values stability in the workforce and the talents and contributions of its employees, layoff of classified employees and removal of management service employees shall be used when other workforce adjustment measures are not feasible.
 - (a) An agency head shall develop and administer a written agency layoff/removal plan which is consistent with the provisions of this policy.
 - (b) An agency layoff/removal plan shall:
 - (A) Consider the needs of the organization in terms of the types of positions and the special knowledge and skills necessary to accomplish the work of the agency.
 - (B) Consider the qualifications of the employees in terms of special skills and expertise.
 - (C) Consider the quality of performance, relative merit, and length of state service in determining the order of individual layoff/removal.
 - (D) Provide written notice of layoff/removal to employees as early as possible, but in no case less than 15 calendar days prior to the effective date.

- (E) Establish an agency layoff list for the purpose of returning employees to the classification from which laid off/removed consistent with the provisions of OAR 105-040-0020, Types and Order of Applicant Lists. If the classification the employee was laid off from is removed from the classification plan due to classification maintenance, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position.
- (F) Provide an option to employees to be placed on the statewide reemployment layoff (RL) list consistent with the provisions of OAR 105-040-0020. Classified unrepresented and management service employees may be placed on the RL list when their layoff or removal results in separation of employment with the State.
- (G) Provide for eligible employees to be restored consistent with HRSD State Policy 50.030.01, Restoration of Terminated Employees.
- (H) Provide for eligible employees to be re-appointed consistent with OAR 105-040-0020, Types and Order of Applicant Lists.
- (I) Be consistent with all referenced statutes.
- (c) Agencies shall submit for approval to the Division alternative layoff/removal plan(s) prior to implementation.
- (d) Any agency which has not adopted alternative layoff/removal plan(s) shall default to the use of the attached models in the event a layoff/removal occurs.

(2) Policy Clarification:

- (a) A classified unrepresented employee may be laid off through a reduction in force because of lack of work, curtailment of funds or reorganization, or other reasons which are not for cause.
- (b) A management service employee may be removed from the management service due to reorganization or lack of work, or other reasons which are not for cause.

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- (1) **Performance Measure:** Percent of layoffs/removals conducted in compliance with the agency layoff/removal plan.
Performance Standard: 100%
 - (2) **Performance Measure:** Percent of employees laid off or removed with documentation maintained as to the application of the written agency layoff/removal plan, including rationale for identifying those laid off/removed, for 3 years following each layoff/removal.
Performance Standard: 100%

ATTACHMENT A

MODEL CLASSIFIED UNREPRESENTED LAYOFF PLAN(1) Policy

- (a) This Classified Unrepresented Layoff Plan is established as required by and is consistent with HRSD State Policy 50.025.01, Layoff/Removal.
- (b) A classified unrepresented employee may be laid off through a reduction in force because of lack of work, funds curtailment, reorganization, or other reasons which are not for cause in accordance with this policy and procedure.
- (c) All workforce adjustment measures, e.g., reassignment of employees to existing vacancies where qualified, voluntary terminations, or demotions within the classified unrepresented service shall occur prior to implementing the layoff procedure.
- (d) A layoff shall be implemented when the number of employees in a given classification exceeds the number of available positions within the classification.
- (e) Should workforce adjustment needs result in the need to remove employees, the appointing authority shall make every reasonable effort to:
 - (A) inform employees of their options and the process to be considered for other opportunities within the state service; and
 - (B) minimize the negative impact on employees to the extent possible in accordance with sound judgment and applicable rules and policies.
- (f) A classified unrepresented employee laid off in accordance with this policy shall be placed on the classified unrepresented agency layoff list for their classification. If the classification the employee was laid off from is removed from the classification plan due to classification maintenance, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position. Those classified unrepresented employees whose layoff results in separation of employment with the State may request to be added to the statewide reemployment layoff (RL) list for consideration in other agencies for the same, equal, or lower, classifications pursuant to HRSD State Policy 50.025.01, Layoff/Removal, and OAR 105-040-0020, Types and Order of Applicant Lists.
- (g) A classified unrepresented employee laid off in accordance with this policy may appeal such action pursuant to the provisions of HRSD State Policy 70.005.05, Classified Unrepresented Grievance Review.

(2) Procedure

- (a) The appointing authority shall determine the specific number of positions, classification(s), organizational unit(s), and/or geographic area(s) affected for a pending layoff. The layoff shall be confined to the positions, classifications, units, and/or areas so designated.
- (b) The appointing authority shall consider the needs of the organization in terms of the types of positions; special knowledge and skills necessary to accomplish the work of the agency.
- (c) The appointing authority shall identify all employees by classification for each organizational unit and/or geographic area designated. The personnel manager shall identify the length of state service and most recent performance evaluation score and date for each employee listed. If no performance evaluation exists, a special evaluation shall be completed and used.

- (d) The agency personnel manager shall develop a numerical computation (service credit score) for each employee identified for layoff by classification using the following formula:
- (A) One (1) point for each full month of State service (except as a temporary appointee) from date of hire, regardless of class. If there is a break in service of more than two (2) years the time in State service prior to the break in service will not be counted as time in State service for computation of service credit score. Part-time computation shall be credited on a prorated basis. Job-share shall be considered one position, and the service credit computed as an average of the incumbents, or of the one incumbent if part of the job-share position is vacant.
 - (B) Adjust the designated number of service credit points in (A) as listed below for performance:
 - (i) add 50 points for a performance rating of 1;
 - (ii) add 25 points for a performance rating of 2;
 - (iii) add 10 points for a performance rating of 3;
 - (iv) subtract 25 points for a performance rating of 4;
 - (v) subtract 50 points for a performance rating of 5.

(If an agency does not use a 1 to 5 performance rating scale, the agency shall prepare a special performance evaluation for layoff purposes using a 1 to 5 performance rating scale.)

- (e) Service credit scores shall be frozen from the date of notice for a period not to exceed three (3) months.
- (f) The employee(s) with the lowest service credit score shall receive the first layoff notice(s) by classification, within the areas identified in Section (2)(a) of this policy, in the following separate categories:
- (A) Permanent full-time positions;
 - (B) Permanent part-time positions;
 - (C) Seasonal full or part-time positions.
- (g) The appointing authority shall, at least 15 days prior to the effective date of layoff, provide written notification to the identified employees of pending layoff, date of layoff, the employee's service credit score, layoff rights and options, and assist them in making their transition.
- (h) Upon receipt of the written notice, the employee shall select one of the following options and communicate such choice in writing to the agency personnel manager within five (5) working days from receipt of the layoff notice:
- (A) Within the area identified in Section (2)(a) of this policy, an employee may displace another employee with a lower service credit score in the same classification for which he/she meets any special qualifications for the position. Displacement shall begin with the lowest service credit score in the same classification. Vacant positions that the agency intends to fill are considered to have "0" seniority and must be used prior to displacement consistent with the provisions of Section (i) below.
 - (B) Within the area identified in Section (2)(a) of this policy, an employee may displace another employee with a lower service credit score in any lower classification for which he/she meets any special qualifications. Displacement shall begin with the lowest service credit score in the lower classification. Vacant positions that the agency intends to fill are considered to have "0" seniority and must be used prior to displacement consistent with the provisions of Section (i) below.

- (C) The employee may elect to be laid off.
- (i) To qualify for the options under (h) (A) and (B) above, the employee must be capable of performing the specific requirements of the position within a reasonable period of time. A reasonable period of time is defined as approximately 30 days.
- (j) Failure on the part of the employee to respond within 5 working days shall be considered as acceptance of option (h) (C) - layoff.
- (k) The agency shall restore the name of an initial trial service employee who is laid off to the eligible list from which the employee was appointed if such a list exists.
- (l) Employees, other than initial trial service, who have been laid off shall be placed on the agency layoff list by classification. If the classification the employee was laid off from is removed from the classification plan due to classification maintenance, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position. The order of the agency list shall be in descending order of service credit score.
 - (A) Individuals with the greatest service credit score on the agency list shall be appointed when an available vacant position occurs if the employee meets any special qualifications for the position.
 - (B) If an employee on the agency layoff list is offered a position, the employee shall have one right of refusal. Upon a second refusal, however, the employee's name shall be removed from the agency's layoff list.
- (m) An employee whose layoff results in separation of employment with the State may request to be added to the statewide reemployment (RL) layoff list for consideration in other agencies for the same, equal, or lower classifications pursuant to HRSD State Policy 50.025.01, Layoff/Removal, and OAR 105-040-0020, Types and Order of Applicant Lists.
 - (A) The term of eligibility on the list shall not be longer than two years from the date of layoff. An individual shall be removed from the list upon the second refusal of a job offer or when a person accepts a position and is returned to work (other than temporary work).
- (n) An appointing authority shall process applications for placement on the statewide reemployment layoff (RL) list pursuant to HRSD State Policy 50.025.01, Layoff/Removal and OAR 105-040-0020, Types and Order of Applicant Lists.
- (o) Regular seasonal employees laid off prior to the end of the season shall be placed on the layoff list for seasonal reappointment in the same classification, and within the area designated where the reduction occurred. The seasonal layoff lists shall be cancelled at the end of the designated season.
- (p) The appointing authority shall document the application of the layoff process, including the calculation of service credits and results on each classification affected, and maintain the record for three (3) years from date of layoff.
- (q) The agency's personnel manager shall implement the necessary personnel actions per required notification timeframes.

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ATTACHMENT B

MODEL MANAGEMENT SERVICE REMOVAL (LAYOFF) PLAN(1) Policy

- (a) This Management Service Removal Plan is established as required by and is consistent with HRSD State Policy 50.025.01, Layoff/Removal.
- (b) A management service employee may be removed from the management service due to reorganization or lack of work, or other reasons which are not for cause.
- (c) All workforce adjustment measures, e.g., reassignment of employees to existing vacancies where qualified, voluntary terminations, or demotions within the management service, shall occur prior to implementing the removal procedure.
- (d) A removal shall be implemented when the number of employees in a given classification exceeds the number of available positions within the classification.
- (e) Should workforce adjustment needs result in the need to remove employees, the appointing authority shall make every reasonable effort to:
 - (A) inform employees of their options and the process to be considered for other opportunities within the state service; and
 - (B) minimize the negative impact on employees to the extent possible in accordance with sound judgment and applicable rules and policies.
- (f) This policy does not authorize the displacement (bumping) within the management service by a management service employee.
- (g) A management service employee removed in accordance with this policy shall be placed on the management service agency layoff list for their classification. If the classification the employee was laid off from is removed from the classification plan due to classification maintenance, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position. Those management service employees whose removal/layoff results in separation of employment with the State may request to be added to the statewide reemployment layoff (RL) list for consideration in other agencies for the same, equal, or lower classifications pursuant to HRSD State Policy 50.025.01, Layoff/Removal, and OAR 105-040-0020, Types and Order of Applicant Lists.
- (h) A management service employee removed in accordance with this policy may appeal such action pursuant to the provisions of HRSD State Policy 70.000.10, Management Service Grievance Review.
- (i) A management service employee removed in accordance with this policy who has prior classified service shall be restored pursuant to the provisions of HRSD State Policy 50.030.01, Restoration of Terminated Employees.

(2) Procedure

- (a) The appointing authority shall determine the number of positions, classification(s), organizational unit(s), and/or geographical area(s) affected for a pending removal. The removal shall be confined to the positions, classifications, units, and/or areas so designated.

- (b) The appointing authority shall consider the needs of the organization in terms of the types of positions; special knowledge and skills necessary to accomplish the work of the agency.
- (c) The appointing authority shall identify all employees by classification for each organizational unit and/or geographic area designated.
- (d) The appointing authority shall appoint a review committee to evaluate all regular status and promotional trial service employees (who held regular status prior to promotion) and identify the employee(s) to be removed; taking into consideration the following provisions in descending order of importance:
- (A) the qualifications of the employees in each classification affected in terms of special skills or expertise and the diversity of workers as it relates to the agency's ability to provide service, and minimal transition time for an individual to be capable of performing the specific requirements of the positions.
 - (B) the quality of performance and relative merit of each employee in the classification(s) affected as determined by their most recent performance evaluation or by a special performance evaluation score determined by the appointing authority and managers for all employees being evaluated in the area(s) designated prior to the implementation of the removal procedure.
 - (C) length of state service.
- (e) Initial trial service employees shall receive the first removal notices by classification followed by the employees identified by the review committee to be removed within separate categories of:
- (A) Permanent full-time positions;
 - (B) Permanent part-time positions;
 - (C) Seasonal full or part-time positions.
- (f) The agency shall restore the name of an initial trial service employee who is removed to the eligible list from which the employee was appointed if such list still exists.
- (g) The appointing authority shall, at least 15 calendar days prior to the effective date of removal, provide written notification to the identified employees of the pending action, date, rights and options, and assist them in making their transition.
- (h) Employees, other than initial trial service employees, who have been removed, shall be placed on the agency layoff list by classification. If the classification the employee was laid off from is removed from the classification plan due to classification maintenance, the agency will place the employee on the layoff list for the classification that most closely represents the work of their former position.
- (i) Recall from the agency layoff list shall be in accordance with HRSD State Policy 50.025.01, Layoff/Removal, and OAR 105-040-0020, Types and Order of Applicant Lists.
- (A) Selection from the list shall be mandatory when major duties of the vacant position are the same as those performed prior to removal by an employee on the list.
 - (B) When major duties of the vacant position are changed or different and no employee on the list performed the major duties prior to removal, the agency may develop a single competitive pool by supplementing the layoff list with agency promotion, transfer, or demotion candidates. A selection from this pool must be made if there are at least three (3) qualified candidates.

- (j) If an employee on the agency layoff list is offered a position, the employee shall have one right of refusal. Upon a second refusal, however, the employee's name shall be removed from the agency's layoff list.
- (k) A management service employee whose removal/layoff results in separation of employment with the State, in addition to their right to be placed on the agency layoff list, shall be given the option to be added to the statewide reemployment (RL) list for consideration in other agencies for the same, equal to or lower classifications pursuant to OAR 105-040-0020 Types and Order of Applicant Lists.
 - (A) The term of eligibility on the list shall not be longer than two years from the date of layoff. An individual shall be removed from the list upon the second refusal of a job offer or when a person accepts a position and is returned to work (other than temporary work).
- (l) The appointing authority shall, for each requesting management service employee whose removal/layoff results in separation of employment with the State, process applications for placement on the statewide reemployment layoff (RL) list pursuant to HRSD State Policy 50.025.01 and OAR 105-040-0020, Types and Order of Applicant Lists.
- (m) The appointing authority shall document the evaluation and application of the removal process and results for each classification affected and maintain the record for three (3) years from date of removal. The documentation shall include the rationale for identifying those removed.
- (n) The appointing authority shall implement the necessary personnel actions per required notification timeframes.

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