

SUBJECT: Layoff/Removal **NUMBER:** 50.025.01

DIVISION: Chief Human Resources Office **EFFECTIVE DATE:** 2/01/2019

APPROVED: Signature on file with the Chief Human Resources Office

POLICY STATEMENT: Oregon state government values stability in the workforce and the talents and contributions of its employees, state agencies shall layoff classified employees and remove management service employees 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) & (5); 240.580

APPLICABILITY: Classified unrepresented and management service employees.

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

DEFINITIONS: Also refer to State HR Policy 10.000.01, Definitions

POLICY:

- (1) An agency head shall develop and administer a written agency layoff/removal plan which is consistent with the provisions of this policy.
 - (a) 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 job profile from which they were laid off/removed consistent with the provisions of State HR Policy 40.010.02 Recruitment and Selection. If the job profile the employee was laid off from is removed from the agency's job profile plan, the agency will place the employee on the layoff list for the job profile that most closely represents the work of their former position.

- (F) Provide an option to employees to be placed on the statewide layoff list consistent with the provisions of State HR Policy 40.010.02 Recruitment and Selection. Classified unrepresented and management service employees may be placed on the statewide list when their layoff or removal results in separation of employment with the state.
 - (G) Provide for eligible employees to be restored consistent with State HR Policy 50.030.01 Restoration of Terminated Employees. NOTE: In the 2014 Legislative Session, SB 1567 amended ORS 240.570 and limited restoration rights. Under SB 1567, an employee appointed to management service prior to January 1, 2015 has restoration rights for three years from the date of appointment to management service if (a) the employee has immediate prior former regular status in classified service, and (b) the employee was not dismissed from management service for a reason(s) specified in ORS 240.555. Under SB 1567, employees appointed to management service on or after January 1, 2015 have no restoration rights.
 - (H) Provide for eligible employees to be re-appointed consistent with State HR Policy 40.010.02 Recruitment and Selection.
 - (I) Be consistent with all referenced statutes.
- (b) Agencies shall submit alternative layoff/removal plan(s) for approval to the Chief Human Resources Office (CHRO) prior to implementation.
 - (c) An agency that has not adopted alternative layoff/removal plan(s) shall use the attached models if 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.

ATTACHMENT A
MODEL CLASSIFIED UNREPRESENTED LAYOFF PLAN

(1) Policy

- (a) This Classified Unrepresented Layoff Plan conforms to State HR 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 according to 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 is implemented when the number of employees in a given job profile exceeds the number of available positions within the job profile.
- (e) Should workforce adjustments result in the layoff of classified unrepresented 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 state service; and
 - (B) minimize the negative impact on employees to the extent possible according to sound judgment and applicable rules and policies.
- (f) A classified unrepresented employee laid off according to this policy shall be placed on the agency layoff list for their job profile job profile. If the job profile the employee was laid off from is removed from the agency's job profile plan, the agency will place the employee on the layoff list for the job profile 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 on the statewide layoff list for consideration in other agencies for the same, equal, or lower, job profiles pursuant to State HR Policy 50.025.01 Layoff/Removal and State HR Policy 40.010.02 Recruitment and Selection.
- (g) A classified unrepresented employee laid off according to this policy may appeal such action pursuant to the provisions of State HR Policy 70.005.05 Classified Unrepresented Grievance Review.

(2) Procedure

- (a) The appointing authority shall determine the specific number of positions, job profile(s), organizational unit(s), and/or geographic area(s) affected for a pending layoff and confines the layoff to those designations.
- (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 job profile for each designated organizational unit and/or geographic area. The agency's Human Resources office identifies the length of state service. An agency's layoff/removal policy may include a requirement to use an employee's most recent performance evaluation score as part of an employee's service credit points.

(d) The agency's Human Resources office computes a service credit score for each employee identified for layoff by (A) One point for each full month of state service (except as a temporary employee) from date of hire, regardless of class. If there is a break in service of more than two years the time in state service prior to the break in service will not be counted as time in state service for the service credit score. Part-time service is credited on a prorated basis. Job-share is 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.

(e) Service credit scores shall remain fixed for up to three months beginning with the date of notice (see (g) below).

(f) The employee(s) with the lowest service credit score shall receive the first layoff notice(s) by job profile, 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 notice 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 their choice in writing to the agency's Human Resources office within five 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 job profile for which they meet any special qualifications for the position. Displacement shall begin with the lowest service credit score in the same job profile. Vacant positions the agency intends to fill are considered to have "0" seniority and must be used prior to displacement consistent with the provisions of Section 1(c) above and 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 job profile for which they meet any special qualifications. Displacement shall begin with the lowest service credit score in the lower job profile. Vacant positions the agency intends to fill are considered to have "0" seniority and must be used prior to displacement consistent with the provisions of Section 1(c) above and Section (i) below.

(C) The employee may elect to be laid off.

(i) To qualify for the options under 2(h)(A) and (B) above, the agency's Human Resources office will determine if the employee has demonstrated the ability to perform the specific requirements of the position within 30 days. If the employee accepts the position and is unable to perform the duties, they will be laid off.

(j) Failure on the part of the employee to respond within five working days shall be considered acceptance of option 2(h)(C) - layoff.

(k) Employees, other than initial trial service, who have been laid off shall be placed on the agency layoff list by job profile. If the job profile the employee was laid off from is removed from the agency's job profile plan, the agency will place the employee on the layoff list for the job profile that most closely represents the work of their former position. 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.

(i) If a person on the agency layoff list is offered a position, they have one right of refusal. Upon a second refusal, the agency shall remove the employee's name from its layoff list. Failure to respond to an offer of employment within 14 calendar days of the offer constitutes a refusal.

(l) An employee whose layoff results in separation of employment with the state may request to be added to the statewide layoff list for consideration in other agencies for the same, equal, or lower job profiles pursuant to State HR Policy 50.025.01 Layoff/Removal and State HR Policy 40.010.02 Recruitment and Selection.

(A) Employees are eligible to be on the list for up to two years from the date of layoff.

(B) The agency removes an individual from the list upon the following:

(i) A second refusal of a job offer; or

(ii) An individual accepts a position within the state and has returned to work (other than temporary or limited duration work).

(m) An employee may be on the statewide layoff list pursuant to State HR Policy 50.025.01 Layoff/Removal and State HR Policy 40.010.02 Recruitment and Selection.

(n) 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 job profile, and within the area in which the reduction occurred. The state cancels seasonal layoff lists at the end of the designated season.

(o) The appointing authority shall document the application of the layoff process, including the calculation of service credits and the results on each affected job profile, and maintains the records for three years from date of layoff.

(p) The agency's Human Resources office shall implement the necessary personnel actions per required notification timeframes.

**ATTACHMENT B
MODEL MANAGEMENT SERVICE REMOVAL (LAYOFF) PLAN**

(1) Policy

- (a) This Management Service Removal Plan conforms to State HR Policy 50.025.01 Layoff/Removal.
- (b) A management service employee may be removed from management service due to reorganization, 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 management service, shall occur prior to implementing the removal procedure.
- (d) A removal is implemented when the number of employees in a given job profile exceeds the number of available positions within the job profile.
- (e) Should the workforce adjustment result in removal of 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 state service; and
 - (B) minimize the negative impact on employees to the extent possible according to sound judgment and applicable rules and policies.
- (f) This policy does not authorize displacement (bumping) within management service by a management service employee.
- (g) A management service employee removed according to this policy shall be placed on the management service agency layoff list for their job profile. If the job profile the employee was laid off from is removed from the agency's job profile plan, the agency will place the employee on the layoff list for the job profile 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 be added to the statewide layoff list for consideration in other agencies for the same, equal, or lower job profiles pursuant to State HR Policy 50.025.01 Layoff/Removal, and State HR Policy 40.010.02 Recruitment and Selection.
- (h) A management service employee removed according to this policy may appeal such action pursuant to the provisions of State HR Policy 70.000.10 Management Service Grievance Review.
- (i) An eligible management service employee removed according to this policy with immediate prior former regular status in the classified service shall be restored pursuant to the provisions of State HR Policy 50.030.01, Restoration of Terminated Employees.

(2) Procedure

(a) The appointing authority shall determine the specific number of positions, job profile(s), organizational unit(s), and/or geographic area(s) affected for a pending removal and confines the removal to those designations.

(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 and agency's Human Resources office shall identify all employees by job profile for each organizational unit and/or geographic area designated.

(d) The agency's Human Resources office will evaluate all regular status and promotional trial service employees (who held regular status prior to promotion) and the appointing authority shall 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 job profile 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 job profile(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 job profile followed by the employees identified by the review committee to be removed within the following separate categories:

(A) Permanent full-time positions;

(B) Permanent part-time positions;

(C) Seasonal full or part-time positions.

(f) The appointing authority shall, at least 15 calendar days prior to the effective date of removal, provide written notice to the identified employees of the pending action, date, rights and options, and assist them in making their transition.

(g) Employees, other than initial trial service employees, who have been removed, shall be placed on the agency layoff list by job profile. If the job profile the employee was laid off from is removed from the agency's job profile plan, the agency will place the employee on the layoff list for the job profile that most closely represents the work of their former position.

(h) Recall from the agency layoff list shall be according to State HR Policy 50.025.01 Layoff/Removal and State HR Policy 40.010.02 Recruitment and Selection.

(A) An agency shall select from the list when the majority of duties of a vacant position are the same as those performed by an employee on the list prior to their removal.

(B) When the majority of duties of a vacant position are changed or significantly 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. The agency must select from this pool if there are at least three qualified candidates.

(i) If a person on the agency layoff list is offered a position, they have one right of refusal. Upon a second refusal, the agency shall remove the employee's name from the agency's layoff list. Failure to respond to an offer of employment within 14 calendar days of the offer constitutes a refusal.

(j) A management service employee whose removal/layoff results in a separation of employment with the state shall also be given the option to be on the statewide layoff list for consideration in other agencies for the same, equal to or lower job profiles pursuant to State HR Policy 40.010.02 Recruitment and Selection.

(A) Employees are eligible to be on the list for up to two years from the date of layoff.

(B) The agency removes an individual from the list upon the following:

(i) A second refusal of a job offer; or

(ii) An individual accepts a position within the state and has returned to work (other than temporary or limited duration work).

(k) Each management service employee whose removal/layoff results in a separation of employment with the state is entitled to be on the statewide layoff list pursuant to State HR Policy 50.025.01 and State HR Policy 40.010.02 Recruitment and Selection.

(l) The appointing authority shall document the evaluation process and the steps of the removal process and results for each affected job profile and maintains the records for three years from date of removal. The documentation shall include the rationale for identifying those removed.

(m) The appointing authority shall implement the necessary personnel actions per required notification timeframes.