

Chapter 81: Reduction in force

3335-81-01 Reduction in work force.

Should a reduction in the work force become necessary due to lack of funds, lack of work, reasons of economy, or reorganization for efficiency, the Office of Human Resources shall lay off employees and/or abolish positions. The Office of Human Resources shall determine in which classification or classifications layoffs shall occur and the number of employees to be laid off within each classification.

3335-81-02 Reasons of economy or lack of work.

(A) The university shall determine:

- (1) Whether a current or projected deficiency in necessary funds exists to maintain current or to sustain projected levels of staffing and operations; or
- (2) Whether a lack of work exists or is projected that results in excessive current or projected staffing levels.

In the event that the university determines such a lack of funds or lack of work exists, the Office of Human Resources shall be notified of such shortages, of the college/department in which such shortage exists or is projected, and of the amount of current or projected funds or work lacking.

(B) Upon the approval of the Office of Human Resources, employees may be laid off for reasons of economy or lack of work. Before such layoffs, a statement of rationale and supporting documentation shall be prepared and on file in the Office of Human Resources.

3335-81-03 Abolishment of positions.

- (A) The university shall prepare and retain a statement of rationale with supporting documentation that explains the lack of continued need for a position.
- (B) Employees may be laid off as a result of the abolishment of a position or positions, provided that the Office of Human Resources shall, in such layoff, follow the procedures applicable to the layoff of employees as set forth in this chapter.

3335-81-04 Order of layoff.

- (A) The order of any layoff shall be determined first by primary appointment category, then by certification status and finally by retention point totals.
- (B) All employees within a lower appointment category shall be laid off before any employee in the next or succeeding higher appointment category. For purpose of the application of this rule, the primary appointment categories, in the order of their priority from lowest to highest, shall be:
 - (1) Seasonal employees;
 - (2) Part-time regular employees;
 - (3) Full-time regular employees.
- (C) Within each of the foregoing primary appointment categories, the order of layoff shall be accomplished in the following order:
 - (1) Employees serving provisionally who have not achieved certified status;
 - (2) Employees appointed from eligible lists that have not achieved certified status;
 - (3) Employees that have achieved certified status.
- (D) Within each primary appointment category and within each category with respect to the status of certification, employees shall be laid off in the inverse order of their retention points as determined by the application of rule 3335-81-06 of the Administrative Code.

3335-81-05 Displacement procedures.

- (A) An employee who was laid-off or whose position was abolished shall fill a vacancy or displace the employee with the fewest retention points in the order of the following classifications, provided in all instances that the employee meets the qualifications of that position:
 - (1) Within the employee's classification;
 - (2) Within the next lower classification and each successively lower classification in the employee's classification series;
 - (3) Within a classification that has the same or similar duties as the classification from which the employee was laid off;

- (4) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off, provided:
 - (a) That the previous classification is of a lower or equivalent classification;
 - (b) The employee had achieved certified status in the former classification;
 - (c) The employee held the classification not more than five years prior to the date on which the employee was laid off; and
 - (d) That in the event the employee's former position no longer exists in the classification held by the employee immediately prior to the present classification, or in the event that the laid off employee is prevented from displacing into the previously held classification because of a failure to meet the minimum qualifications of the previously held classification, then such employee may displace the employee with the fewest retention points in the next previously held classification, and in successive previously held classifications, provided that the requirements set forth in paragraphs (A)(4)(a) to (A)(4)(d) of this rule are met.
- (5) If, after paragraphs (A)(1) to (A)(4) of this rule have occurred and no vacancies are available or the employee is unable to displace due to having the fewest retention points in the classification or lack of qualifications, then the employee will be laid off.
- (B) If, after exercising displacement, an employee is subject to further layoff action, displacement shall be in accordance with the original classification from which the employee was laid off.
- (C) Employees who elect to use displacement shall displace only those employees with fewer retention points and who are in the same or lower priority of layoff as set forth by rule 3335-81-04 of the Administrative Code.
- (D) Employees shall notify the Office of Human Resources of their intention to exercise displacement within five days after receipt of notice of layoff.
- (E) Any order of displacement as set forth by this rule notwithstanding, no employee shall displace another employee whose position or classification requires special minimum qualifications, as established by a position description, parenthetical sub-title, classification specifications, or by bona fide occupation qualifications, unless the employee desiring to displace another employee possesses the requisite minimum qualifications for the position.

- (F) If, as a result of layoff or displacement, an employee is serving in a new classification, such employee shall be paid according to the pay range assigned to the new classification that most nearly corresponds to the compensation received by that employee as of the date of layoff or displacement.

3335-81-06 Retention points.

- (A) The university shall compute retention points for each employee in a classification that is the subject of a layoff or displacement.
- (B) Each employee shall be assigned retention points for length of continuous service by awarding one retention point for each five hundred twenty hours (excluding overtime hours) of continuous service.
- (C) In the event two or more employees have identical retention points as computed by this rule, the employee having the shortest period of continuous service shall be laid off or displaced first. If two or more employees have identical retention points and identical dates of continuous service from which no break in service has occurred, the date on which application for employment was submitted will determine the priority of layoff, priority being awarded to the earliest date. In the event a tie is still unresolved, the Office of Human Resources shall determine the order of layoff by using a reasonable basis for such determination.
- (D) “Continuous service” is that service unbroken by a resignation or termination from the university or other state of Ohio civil service employment. Continuous service for the purposes of retention points includes:
 - (1) When an employee is reinstated after a resignation or termination to the same position within twelve months, full credit for continuous service will be given for the periods of actual employment;
 - (2) A transfer from one state department or agency to another or to or from the university does not constitute a break in continuous service for purposes of computing continuous service retention points;
 - (3) An authorized leave of absence does not constitute a break in service, and continuous service retention points shall continue to accumulate during the term of a leave of absence provided the employee returns to state or university service following the leave;
 - (4) When a laid off employee is reinstated or re-employed within one year from the date of layoff, the employee shall accrue continuous service retention points during the time spent on layoff and continuous service shall remain unbroken; and

- (5) A disability separation does not constitute a break in service. However, continuous service retention points shall not accumulate during the period of separation.
- (E) Service as a student-employee shall not be credited as service for purposes of determining continuous service retention points.

3335-81-07 Jurisdiction

- (A) For purposes of implementing layoff, displacement, reinstatement, and re-employment procedures, the Ohio state university-main campus, each extended campus and the Ohio agricultural research and development center are each separate jurisdictions.
- (B) Notwithstanding paragraph (A) of this rule, employees who are laid off for a temporary period of up to one hundred ten consecutive days and employees who have specialized skills, knowledge or training necessary for the performance of the duties of their position, shall, in the event of layoff, constitute subjurisdictions of the main campus jurisdiction consisting of all employees who are laid off for a period of up to one hundred ten consecutive days or who have the same specialized skills, knowledge or training necessary for the performance of the duties of their positions, whichever subjurisdiction is applicable. Such employees shall be limited in the exercise of the layoff, displacement and reinstatement procedures to their subjurisdiction.
- (C) Employees who are not within either of the subjurisdictions established by paragraph (B) of this rule cannot use the displacement or reinstatement procedures with respect to positions determined to be in either of such subjurisdictions.
- (D) In addition to the notification requirements of rule 3335-81-09 of the Administrative Code, the notice provided to employees who are in the subjurisdictions established in paragraph (B) of this rule shall also set forth the limits of the subjurisdiction within which the employee may exercise displacement or reinstatement procedures.

3335-81-08 Notice of layoff and displacement

- (A) The university shall give advance written notice of layoff or displacement to each employee subject to such layoff or displacement. Such written notification shall be hand delivered to the employee at work or mailed by certified mail to the last address on file with the college/department. If the notification is hand delivered, it shall be given at least fourteen calendar days before layoff and the day of hand delivery shall be the first day of the fourteen-day period. If the notification is mailed, it shall be mailed at least seventeen

calendar days before layoff and the day of mailing shall be the first day of the seventeen-day period.

- (B) Each notice of layoff or displacement shall contain the following information:
- (1) The reason for layoff or displacement;
 - (2) The date layoff or displacement becomes effective;
 - (3) The employee's retention points as computed pursuant to this chapter;
 - (4) The employee's option to appeal to the state personnel board of review and the time within which to file an appeal;
 - (5) A statement advising the employee of the displacement procedures and the length of time within which the employee may displace another employee;
 - (6) A statement advising the employee of the reinstatement procedures;
 - (7) Any additional information with respect to the limits of the applicable layoff jurisdiction of the employee if required by rule 3335-81-07 of the Administrative Code;
 - (8) A statement that, upon request by the employee, the Office of Human Resources will make available a copy of the displacement and/or reinstatement procedures.

3335-81-09 Recall lists; reinstatement.

- (A) The Office of Human Resources shall prepare a recall list for each classification in which employees are laid off. The names of all laid-off or displaced certified status employees shall appear on such lists in descending order of retention points, and the names of all provisional laid off or displaced employees shall appear on a second list in descending order of retention points. Except as provided in paragraph (C) of this rule, laid off employees shall be placed on recall lists for each classification within the employee's classification series that is equal to or lower than the classification in which the employee was employed at the time of layoff.
- (B) An employee's name shall remain on the appropriate recall list or lists for a period of one year beginning from the date the employee was first laid off or displaced from the original classification. During this period, colleges/departments may not hire, promote or transfer into any classification for which a recall list exists until all persons on the recall list applicable to that classification are reinstated or decline the offered position.

- (C) An employee who does not exercise the option to displace, as provided by rule 3335-81-05 of the Administrative Code, shall be listed on the recall list for the classification from which the employee was laid off or displaced but shall not be listed for reinstatement in other classifications in the employee's classification series that are equal to or lower than the classification from which the employee was laid off or displaced.
- (D) Each employee recalled from layoff shall be notified by certified mail of the offer of reinstatement. The notification of reinstatement shall include a statement that refusal of reinstatement shall result in removal of the employee's name from the recall list. Each recalled employee shall have ten calendar days from the date of the notification in which to respond to the notice or return to work. In the absence of extenuating circumstances (e.g., illness, injury, absence from city or state or other good cause as determined by the Office of Human Resources) that prevented the employee from responding or returning to work within the foregoing time limit, the university may grant a reasonable extension, not to exceed sixty days. In the absence of extenuating circumstances, an individual not accepting or declining reinstatement within ten days shall be deemed to have declined reinstatement for purposes of removal from the recall list.
- (E) Notification of recall may be delivered to an employee by other than certified mail if circumstances created by temporary layoffs and/or emergency situations dictate otherwise. Regardless of the method of delivery of the recall notification, the period in which to return to work shall begin with the date of receipt of such notification.
- (F) An employee who declines reinstatement to a classification lower in the classification series than the classification from which the employee was laid off or displaced shall be removed from the recall list applicable to the offered classification and any recall lists for classifications lower in the classification series. The employee shall thereafter be eligible only for reinstatement to a classification higher than the declined reinstatement classification, up to and including the classification from which the employee was laid off or displaced.
- (G) Employees who have completed their probationary periods at the time of layoff are not required to serve probationary periods when they are reinstated. Employees who are serving probationary periods at the time of layoff must serve a new probationary period upon reinstatement.
- (H) The names of employees not removed from recall lists pursuant to paragraphs (A) to (E) of this rule shall be removed from the recall lists one calendar year after the initial date of layoff.

3335-81-10 Appeal of layoff or displacement.

An employee may file a written appeal of layoff or displacement with the state personnel board of review. Such appeal must be filed or postmarked no later than ten days after the employee receives notice of the layoff or receives notice that another employee has exercised the displacement procedures for the aggrieved employee's position.

3335-81-11 Holiday, overtime and vacation payment.

Payment for earned but unused vacation, payment of any holiday pay due, and payment of any overtime and/or compensatory time will be made concurrent with the final pay settlement at the time of layoff. However, when a specific return to work date has been established and upon request from the employee, vacation and compensatory time due will not be paid. In instances of job abolishment where no return to work is anticipated, all vacation, holiday pay and overtime must be paid out at the time of the layoff.

3335-81-12 Layoff during leave.

- (A) Employees on vacation or any type of leave of absence may be laid off or displaced as any other employee and retain their ability to be reinstated or re-employed.
- (B) An employee who is laid off during a leave of absence may accept or refuse an offer of reinstatement while the leave is still active. If the employee accepts the offer of reinstatement, the employee's leave shall be terminated. If the employee refuses the offer, the remainder of the one-year reinstatement time limit is postponed until the regular termination of leave date.