

**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. Reductions of an appointment to .75 full time equivalent or greater shall not be considered a reduction in force. 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. Before abolishments are implemented, a statement of rationale and supporting documentation shall be reviewed, and approved, and on file with the office of human resources. (B/T 5/6/83, 6/22/97, 10/29/2009, 4/8/2011)

**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 to result 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 or unit 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. (B/T 5/6/83, 6/22/97, 1/2/98, 7/1/01, 4/8/2011)

**3335-81-03 Abolishment of positions.**

- (A) The office of human resources, in response to documentation from the appropriate college or unit, shall approve what positions will be abolished using the following criteria:
- (1) Positions will be selected based on the needs of the department; and
  - (2) Employees will be selected first based on certification status, and then by a review of the following elements: skills and abilities applicable to the department's needs, documented performance, and length of OSU employment. Employees who are in a probationary period for an original appointment and not certified in any classified civil service title shall be automatically laid off.
- (B) If a unit abolishes more than one position within the same classification, the employee shall have the opportunity to discuss the rationale for the reduction of the employee's position with the supervisor and the human resource representative.
- (C) In cases of reorganization the department shall develop a written plan as required by the office of human resources.

- (D) 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. (B/T 10/29/2009, 4/8/2011)

**3335-81-04 Order of layoff.**

The order of any layoff shall be determined first by certification status, then by a review of the following elements: skills and abilities applicable to the department's needs, documented performance, and length of OSU employment. (B/T 10/29/2009, 4/8/2011)

**3335-81-05 Displacement procedures.**

- (A) An employee whose position was abolished and elects to exercise displacement shall be placed in accordance with the process outlined in (B) of this rule provided in all instances that the employee meets the qualifications of the position, can perform the required duties, and has met expectations in the last two annual performance reviews. Employees who have not met performance expectations in the last two annual performance reviews and who have been given expectations for improvement or who cannot perform the required functions of the position into which they would be placed do not have displacement rights.
- (B) The process will occur as follows:
- (1) Placement into a vacancy within the employee's classification.
  - (2) Placement into a vacancy within the next lower classification and each successively lower classification in the employee's classification series.
  - (3) Placement into a vacancy within the classification the employee held immediately prior to holding the classification from which the employee was laid off, provided all of the following are true:
    - (a) That the previous classification is of a lower or equivalent classification;
    - (b) The employee had achieved certified status in the former classification; and
    - (c) The employee held the classification within the previous twelve months.
  - (4) If a vacancy exists as described above, but the employee does not meet the minimum qualifications, has not met performance expectations, or cannot perform the required functions of the vacancy, as determined by the office of human resources, the employee will be laid off.
  - (5) If no vacancy exists as described above, the employee will displace the individual with the fewest retention points in the classification from which they were laid off. The placement will be made only if the employee meets the qualifications of the position and can perform the required duties. If the employee does not meet both of these requirements, the employee will be laid off.
  - (6) If the employee is unable to displace due to having the fewest retention points in the classification from which they were laid off, then the employee will be laid off.

- (C) If, after exercising displacement, an employee is subject to further layoff action, displacement shall be in accordance with the current or most recent certified classification, at the discretion of the office of human resources.
- (D) Employees shall notify the office of human resources of their intention to exercise displacement within ten days after receipt of notice of layoff.
- (E) No employee shall displace another employee or fill a vacancy if the position requires special minimum qualifications, as established by a position description, classification specifications, or by bona fide occupation qualifications, unless the employee possesses the requisite minimum qualifications for the position and can perform the required duties.
- (F) If, as a result of layoff, placement or displacement, an employee is serving in a new position or classification, such employee shall be paid according to the target hiring range assigned to the new position or classification.
- (G) If an employee declines placement into a vacant position for any reason, their displacement and reinstatement rights cease immediately; this provision may be waived at the discretion of the office of human resources.
- (H) If for any reason an employee declines to exercise their displacement rights into a position to which they are entitled, their displacement and reinstatement rights cease immediately. (B/T 10/29/2009, 9/17/2010, 4/8/2011)

**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 office of human resources shall determine the order of layoff by using a reasonable basis for such determination to include skills and abilities applicable to the department's needs and documented performance.
- (D) "Continuous service" is that service unbroken by a resignation or termination from the university. 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 shall be given for the periods of actual employment;
  - (2) An authorized unpaid leave does not constitute a break in service, and continuous service retention points shall continue to accumulate during the term of an unpaid leave provided the employee returns to the university following the leave;

- (3) When a laid off employee is reinstated or reemployed within twelve months 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
- (4) 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, graduate associate or temporary employee shall not be credited as service for purposes of determining continuous service retention points. (B/T 5/6/83, 6/22/97, 7/1/01, 10/29/2009, 4/8/2011)

**3335-81-07 Jurisdiction.**

- (A) The order of layoff and displacement shall apply within layoff jurisdictions. Each of the layoff jurisdictions, as defined in this section, is autonomous, and layoff, displacement, reinstatement, and reemployment procedures shall apply only within the jurisdiction affected by the layoff.
- (B) Layoff jurisdictions at the Ohio state university are as follows:
  - (1) Columbus campus – each college and unit as defined by university human resources policy are separate jurisdictions;
  - (2) Columbus campus – medical center;
  - (3) Lima campus;
  - (4) Ohio agricultural research and development center and agricultural technical institute;
  - (5) Marion campus;
  - (6) Mansfield campus;
  - (7) Newark campus;
  - (8) Units located outside of Columbus in a county where a regional campus is located are part of that jurisdiction, otherwise, the jurisdiction is limited to that county only; and
  - (9) Units located outside of Ohio are each their own jurisdictions.
- (C) The layoff jurisdictions described in (B) of this rule do not apply to employees who are laid off for a temporary period of up to one hundred and ten consecutive days. (B/T 5/6/83, 6/22/97, 10/29/2009, 4/8/2011)

**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 issued by the office of human resources and hand delivered to the employee by the employee's supervisor and the unit's human resource representative or human resource designee at work or mailed by certified mail to the last address on file with the college or unit. 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 as applicable to the individual situation:
- (1) The reason for layoff or displacement;
  - (2) The effective date of layoff or displacement as follows:
    - (a) If the employee chooses displacement and a vacancy exists, the effective date is within a reasonable period of time to allow for a move to the position, not to exceed thirty days;
    - (b) If the employee chooses displacement and no vacancy exists, the effective date of the displacement or layoff shall not exceed thirty days;
  - (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 as specified by rule 3335-81-07 of the Administrative Code and university human resources policy;
  - (8) A copy of the displacement and/or reinstatement procedures and/or office of human resources web site address with this information;
  - (9) In cases of multiple reductions in the same unit and in the same classification, a specific date the employee has the opportunity to discuss the rationale for the reduction of the employee's position with their supervisor and human resource representative. B/T 5/6/83, 6/22/97, 10/29/2009, 4/8/2011)

**3335-81-09 Reinstatement.**

- (A) Certified employees who are laid off from the university can exercise their reinstatement rights within their jurisdiction by written notification to the office of human resources if a position is posted in the classification from which they were laid off. Employees applying for reinstatement must possess the requisite minimum qualifications and must be able to perform the required duties of the position. If one or more employees indicates reinstatement interest in a position, the employing unit shall consider skills and abilities applicable to the employing unit's needs and documented performance.

- (B) An employee may exercise reinstatement rights for twelve months beginning from the layoff effective date. During this twelve month period, jurisdictional units may not hire or promote into any classification for which a laid off employee has indicated an interest in reinstatement; this does not apply to reclassifications. Reinstatement is contingent upon successful preemployment screening.
- (C) A laid off employee must notify the office of human resources of their reinstatement interest before the posting end date.
- (D) An affected employee's reinstatement rights shall cease immediately upon the earliest of:
  - (1) Securing another OSU position;
  - (2) Retiring from the university;
  - (3) Refusing a reinstatement position;
  - (4) At the end of twelve months following the layoff effective date; or
  - (5) After the date the employee is eligible to retire based upon service
- (E) In the event that the university offers a severance benefit, and the employee accepts the benefit, reinstatement rights shall cease.
- (F) Unsuccessful completion of any preemployment screening for a specific reinstatement position will result in denial for the position. An additional reinstatement opportunity may be granted at the discretion of the office of human resources.
- (G) Employees who have completed their probationary periods at the time of layoff are not required to serve probationary periods when they are reinstated to the same classification.
- (H) Employees who are certified in a classification and are serving a probationary period in a new classification at the time of layoff must serve a new probationary period upon reinstatement. (B/T 10/29/2009, 4/8/2011)

**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. (B/T 5/6/83, 6/22/97)

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

Payment for earned but unused vacation, any holiday pay due, and any overtime and/or compensatory time will be issued in accordance with university human resources policies. 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 unless required by law. In instances of job abolishment when no return to work is anticipated, all vacation, holiday pay and overtime must be paid out at the time of the layoff. (B/T 5/6/83, 6/22/97, 10/29/2009, 4/8/2011)

**3335-81-12 Layoff during leave.**

- (A) Employees on any type of leave may be laid off or displaced as any other employee and retain their ability to be reinstated.
- (B) An employee who is laid off during a leave will have their reinstatement time limit postponed until the regular return date from the leave, not to exceed eighteen months from the original layoff effective date. (B/T 10/29/2009, 4/8/2011)

**3335-81-13 Alternatives to layoff during a disaster.**

If a disaster occurs as contemplated under university human resources policy, and there is a lack of work or lack of funds due to the disaster, the university may, at its discretion, find alternatives to layoff. Such alternatives may include but not be limited to, providing compensation at a different rate of base pay or reducing an employee's work schedule. (B/T 9/17/2010, 4/8/2011)