

Emergency Revisions to R04.07.110
Layoff, Recall and Release
And
R04.08.060.G.

The revisions apply to notices of layoff issued after the date of promulgation, except that the notice period in R04.07.110.D.2 for exempt staff employed as of the date of promulgation will be six months after the date of promulgation, or three months after notice of layoff, whichever is later.

R04.07.110. Layoff, Recall, and Release

The University may elect to discontinue an existing employment relationship through layoff. Layoff does not reflect discredit on the employee's performance. The provisions of this section do not apply to terminations of employment pursuant to other provisions of Regents' Policy or University Regulation.

A. Definitions

1. "Administrative unit" means any identifiable component of the university at any level of organization that has an annual budget for the operation of such component.
2. "Authorized administrator" means a senior administrator or officer as defined in university policy with responsibility for the affected administrative unit.
3. "Potential layoff employee" means an employee who has been selected for layoff from employment by the authorized administrator and the regional human resources director in accordance with subsection C.2.
4. "Notified layoff employee" means an employee who has been given notice of layoff from university employment in accordance with subsection H. and has not accepted an alternative to layoff.
5. "Employee in layoff status" means an individual who has received notice of layoff from employment, has not accepted an alternative to layoff, and is within one year of the effective date of layoff. The effective date of the layoff is the last day the employee is actually at work.

B. Reasons for Layoff

Layoff may be used when there exists within the employing administrative unit either:

1. a lack of or reduction in available work;
2. a lack of sufficient available funds, either current or anticipated;
3. a good faith reorganization; or

4. another reason, not reflecting discredit upon the affected employee(s), which has been approved in the particular circumstances by the chancellor or president of the university, as appropriate; or
5. Any combination of the preceding reasons.

Administrators and their designees will coordinate all layoff actions through the regional human resources office prior to selection or notification of any employees.

C. Selection for Layoffs

1. The selection of the individual employees to be laid off will take into consideration the following factors in comparison to other affected employees in the administrative unit:
 - a. employee length of service;
 - b. employee ability to do the work remaining in the administrative unit affected by the layoff;
 - c. employee status as temporary, probationary or regular, with preference being given to the regular over the others, and preference being given to probationary over temporary;
 - d. previously documented employee performance;
 - e. source and specific nature of funding;
 - f. affirmative action goals and objectives.
2. After consideration of input from leadership of the affected administrative unit, the determination of the order for layoff will be made jointly by the authorized administrator and the regional human resources director, subject to final review by the chancellor or president of the university, as appropriate.

D. Notice Period

1. Nonexempt Employees
 - a. Notice of the layoff of an employee will be given four calendar weeks prior to the effective date of the layoff.
 - b. Four weeks' pay may be given to the employee in lieu of four weeks' notice, but only with the prior approval of the appropriate chancellor or president of the university.

2. Exempt Nonfaculty Employees
 - a. Notice of the layoff of an employee will be given three calendar months prior to the effective date of the layoff.
 - b. Three months' pay may be given to the employee in lieu of three months' notice, but only with the prior approval of the appropriate chancellor or president of the university.
3. In the event pay in lieu of notice is approved, the effective date of the layoff is the last day the employee is actually at work.

E. Alternatives to Layoff

1. Potential layoff employees shall be considered for vacant positions within their administrative unit for which they are qualified. The appropriate human resources officer will notify potential layoff employees of any such vacant positions.
2. A potential or notified layoff employee may be offered a reduced or modified appointment, including a change to "term" status, as an alternative to layoff.
3. In accordance with R04.03.035.A, a potential or notified layoff employee may be transferred, contingent upon qualifications and the ability to perform the work available, to other positions in the same or another administrative unit within the same university, to be determined in the following order of priority:
 - a. To a vacancy in the same classification in the same pay grade.
 - b. To a vacancy in another classification in the same pay grade.
 - c. To a vacancy in a classification assigned to a lower pay grade.
4. The regional human resources office will endeavor to assist notified layoff employees and employees in layoff status to find suitable employment within the university system.
5. The salary of any employee accepting an alternative to layoff as provided by this subsection will be governed by existing policy and regulation concerning position movement. However, the salary of an employee shall not be reduced during the layoff notice period unless the employee accepts a reduced appointment.

F. Conditions Governing Benefits and Privileges While in Layoff Status

Layoff status expires one year after the effective date of layoff. An employee in layoff status:

1. remains covered by the University health plan through the remainder of the

calendar month in which the layoff becomes effective. The employee will be provided notice of his/her opportunity to continue health coverage as required by law. Other benefits, including life insurance, long-term disability, and optional survivor benefits, will cease on the effective date of the layoff;

2. may apply for conversion of life insurance and/or long-term disability insurance during the first 31 days following the effective date of the layoff;
3. if participating in the tuition waiver program, may complete those courses in which he/she is enrolled at the time of layoff, and is eligible for additional tuition waiver of up to 15 credits in any semester, to be used on any university campus, for a period not to exceed one year from the effective date of layoff. The total credits available will not exceed 30;
4. will not contribute to the retirement system or ORP and will not accrue retirement service credit;
5. will not accrue annual or sick leave;
6. will receive compensation for any accrued annual leave as of the effective date of layoff, up to a maximum of 240 hours;
7. will not receive holiday pay;
8. may not claim sick leave;
9. is eligible to be considered as an internal applicant for any other university position, if qualified, but will receive no other special consideration;
10. will receive only those benefits provided in this sub-section.

G. Recall

In the event that the reason for the layoff of a regular employee abates within one year of the date of layoff, and the university decides to recall an affected employee to fill the same position within an administrative unit, the following procedures will control:

1. Recall will apply only to a job within the administrative unit from which the employee was laid off.
2. The order of recall within an administrative unit for affected employees having the same job class and pay will be the reverse order of the layoff within the administrative unit.
3. If all employees within the administrative unit and with the same job class and pay decline to return, all applicable recruitment procedures will be observed in filling the vacancy.

4. A recalled employee will return to the same pay, placement, and leave accrual rate as applied to the employee prior to layoff. Sick leave will be reinstated to the same balance the employee had accrued prior to layoff.

H. Notification of Layoff and Recall

Employees selected for layoff or recall will be notified in writing. The notice will state the basis for the action, specify the procedures followed and refer the employee to the regional human resources office for assistance. Notification of layoff will be accompanied by a written explanation of the reasons for layoff and consideration of the selection factors.

Notice of layoff or recall will be considered given when sent by certified mail to the last known mailing address of the employee or when actually received by the employee, whichever is earlier.

Recall rights expire and the recalled employee will have no further benefits under this section if the employee's written acceptance of the position is not received by the regional human resources office within 15 calendar days of the date notice was given.

I. Review of Layoff or Recall Decision

Any employee who disputes a layoff or recall decision may request review as set forth below.

1. To be valid, a written request for review must be filed with the chief human resources officer within 10 working days of the date notice of layoff or recall was given in accordance with sub-section H. above. The employee will submit a statement of all reasons for questioning the validity of or motivation for the layoff or recall decision, and such supporting evidence as the employee deems appropriate.
2. The scope of the review will be limited to whether the employee can establish that:
 - a. the procedures provided by the layoff, recall and release policy and this regulation have not been followed in deciding to layoff or not recall the employee;
 - b. the decision to layoff or not to recall the employee was based on a reason prohibited by law; or
 - c. the layoff of the employee or a decision not to recall the employee was not authorized under this regulation. Budget reallocations within or between any administrative units of the university are not within the scope of review.
3. The chief human resources officer or designee, or in appropriate cases a substitute, (hereafter referred to as reviewer) may decide the issues raised on the basis of the materials submitted by the employee and the administrator. The reviewer is never obligated to provide for a different procedure, but may elect to do so with respect

to some or all of the issues raised, by creating a new procedure, or by adopting or by modifying an existing procedure.

4. In the event that the matter is not decided on the basis of the materials submitted, the reviewer will inform the employee and administrator in writing of the procedure to be followed.
5. The reviewer will make his/her recommendation on the matter within five working days of the conclusion of the review. The reviewer will make his/her recommendation to the chancellor, or, in the case of Statewide Administration employees, to the chief human resources officer. The chancellor, chief human resources officer, or designee, will render a decision within five working days.
6. Except in the case of a written agreement between the parties, the time limits provided hereunder will be extended only for compelling reasons as determined by the chancellor, the chief human resources officer, or designee, as appropriate.

An employee's failure to receive a final decision in a review proceeding will not delay the effective date of any planned layoff or recall.

R04.08.060 Definitions

G. Grievance

A "grievance" is an allegation or complaint related to employment by an employee or a group of employees of the university that there has been a specific violation of a Regents' Policy or a University Regulation, or a clear abuse of discretion arising from the application or administration of such policy or regulation, which directly and adversely affects the employee or group of employees.

1. The following are excluded from the definition of a grievance and can not be processed under this Chapter:

- a. complaints or disputes other than those defined above as grievances;
 - b. complaints or disputes which do not arise out of the employment relationship between the grievant or grievants and the university;
 - c. actions of the Board of Regents;
 - d. complaints or disputes relating to a failure to appoint an employee to a position within the university;
 - e. complaints or disputes related to the application or administration of a process that is subject to superior court appellate review. Such complaints or disputes will be resolved as part of such process.
2. The following are governed by alternate processes and can not be processed under this chapter:
- a. allegations or findings that an employee of the university has engaged in unlawful discrimination or sexual harassment (see Regents' Policy and University Regulation 04.02.020);
 - b. complaints and disputes related to faculty promotion, renewal and/or tenure (see Regents' Policy and University Regulation 04.04.050);
 - c. complaints or disputes which may be grieved under a collective bargaining agreement;
 - d. complaints and disputes related to job classification (see Regents' Policy and University Regulation 04.05.030);
 - e. Student allegations and complaints (see Regents' Policy and University Regulation 09.03.02);
 - f. Complaints and disputes related to dismissal of at-will employees (see Regents' Policy and University Regulation 04.01.050 and 04.07.020);
 - g. complaints or disputes related to layoff (see Regents' Policy and University Regulation 04.07.110).

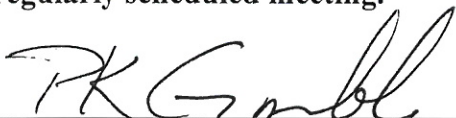
The following are covered by this chapter with modification to one or more of the provisions herein:

- a. complaints or disputes related to financial exigency (see Regents' Policy 04.09.060 and 04.09.070);
- b. complaints or disputes related to reasonable accommodation for people with disabilities (see Regents' Policy and University Regulation 04.02.030);


- c. complaints or disputes related to "for cause" actions (see Regents' Policy and University Regulation 04.07.060 and 04.08.080).

Subject to a contrary agreement of the parties, grievances of an employee which are being processed when a notice is issued to an employee of intent to terminate will be consolidated with and considered and decided as part of the pretermination proceeding. The record of such proceeding will be part of the pretermination hearing.

In accordance with Regents Policy 01.03.020.A, I approve and cause to be promulgated the foregoing as emergency regulations. These revisions are effective immediately. I further direct that the Board be notified of this action at its next regularly scheduled meeting.



Patrick K. Gamble, President



Date

cc: Brandi Berg, Board of regents Executive Officer
Chancellors
Chief Human Resources Officer Erik Seastedt
General Counsel