



## Ohio Administrative Code

### Rule 3349-8-45 Layoff.

Effective: October 28, 2010

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#### (A) Purpose

To establish a rule to govern situations in which a reduction in the classified civil service workforce is necessary.

#### (B) Scope

This rule applies to all classified civil service employees.

#### (C) Definitions

(1) Consult rule 3349-7-01 of the Administrative Code.

(2) "Abolishment of Position" is the elimination of a position for any of the following reasons: reorganization for the efficient operation of the university, economy, or lack of work which is expected to last more than one year.

(3) "Appointing Authority" refers to the director of human resources, or designee, based on the delegation of authority by the university's board of trustees pursuant to the powers granted to the board of trustees by division (F) of section 124.14 of the Revised Code.

(4) "Break in Service" is a separation from public service of thirty-one days or more. Any university approved leave of absence, or any separation from service which carries the right to reinstatement, or reemployment shall not constitute a break in service; so long as the employee is reinstated or reemployed within the allowable time. The time the employee was on leave of absence or was separated shall not be counted in the calculation of retention points for continuous service.

(5) "Continuous Service" means service with a state of Ohio agency, an Ohio county office, or a state



of Ohio supported college or university without a break in service.

(6) "Day(s)" mean calendar days unless otherwise specified.

(7) "Displacement" for purposes of this rule is the process by which an employee with more retention points exercises the right to take the position of another employee with fewer retention points. Displacement occurs on the date an employee is notified that another employee has exercised the right of displacement and that the employee with fewer retention points is to be displaced.

(8) "Economy" shall be determined at the time the appointing authority proposes to abolish the position. Reasons shall be based on the appointing authority's estimated amount of savings with respect to salary benefits and other matters associated with the abolishment of the position.

(9) "Employee(s)" for the purposes of this rule refers only to those employees in the classified civil service.

(10) "Equivalent or Lower Position" for purposes of displacement rights, is a position with an equivalent or same salary range or a position with a lower salary range within a job family.

(11) "Job Group" is a cluster of positions sufficiently similar with respect to duties, responsibilities, qualifications and salary ranges which appear within the same job family.

(12) "Job Family" is a cluster of positions with similar duties with varying levels of responsibility, authority, qualifications, and salary ranges.

(13) "Lack of Funds" is a current or projected deficiency of funding required to maintain a position that requires a reduction in current or projected staffing levels.

(14) "Lack of Work" is a current or projected decrease in the workload or work requirements of a position that requires a reduction in the current or projected work force.

(15) "Layoff" is a termination by the appointing authority from a position within the university's classified civil service ranks.



- (16) "Reduction in Force" is a reduction in the number of employees at the university.
- (17) "Salary Grade" is a level of the pay schedule assigned to each position.
- (18) "Salary Range" is a continuum of salaries from minimum to maximum within each salary grade.
- (19) "Senior Administration" are those individuals so designated by the president.

(D) Body of the rule

(1) Layoffs

(a) Employees may be laid off whenever a reduction in force is necessary due to a lack of funds, lack of work or the abolishment of positions.

(b) If a reduction in force is necessary, the appointing authority shall devise and carry out a plan that may include the layoff and displacement of employees or the abolishment of positions.

(2) Determination of lack of funds or lack of work

(a) The determination of a lack of funds or a lack of work shall be made by the senior administration. The appointing authority will be so informed by the president or designee.

(b) A statement of rationale and any supporting documentation shall be maintained by the appointing authority for a period of one year.

(3) Abolishment of positions in the classified service

(a) The determination to abolish positions shall be made by the senior administration. The appointing authority will be informed by the president or designee.

(b) A statement of rationale and any supporting documentation shall be maintained by the appointing



authority for a period of one year.

(4) Determination of job families affected by a reduction in force

(a) Whenever a reduction in force is necessary due to lack of work or lack of funds, the senior administration shall determine the job family or job families in which the layoff or layoffs will occur, and the number of employees to be laid off within each job family.

(b) Whenever a reduction in force is necessary due to the abolishment of positions the senior administration shall determine the job family or job families in which positions will be eliminated.

(c) When the determination has been made, the appointing authority will be advised by the president or designee.

(5) Order of layoff of employees

(a) For purposes of this rule, the order of layoff of employees is as follows: part-time probationary, part-time permanent, full-time probationary and full-time permanent.

(b) Within these categories, the employee having the fewest retention points will be laid off first and continue to the employee with the most retention points. Retention point lists shall be compiled in descending retention point order. In cases where two or more employees have identical retention points the tie shall be broken in accordance with this rule.

(6) Retention points, general

(a) The appointing authority shall compute the total retention points for each employee in the job family affected by a layoff due to lack of work, lack of funds or position abolishment.

(b) Retention points shall be calculated as of the ending date of the pay period in which the reduction in force will occur.

(c) Once the appointing authority has published the list of retention points, the appointing authority



may not hire into or move employees into or out of affected job families by means of promotions, intra-transfers, voluntary demotions, position control number change, lateral or job family changes or reassignments.

(7) Computation of employee retention points

(a) Employees shall be assigned a base of one hundred retention points at the time of hire.

Computation of retention points for continuous full-time service shall be made by crediting each employee with one retention point for each bi-weekly pay period of continuous service. For the purposes of calculating retention points, full-time service shall include service as a full-time permanent, or a full-time temporary employee. Service during the probationary period will be included for purposes of calculating retention points. For full-time temporary service, credit will be given only for those pay periods in which the employee was scheduled to work. If an employee is in a full-time position at any time during a pay period, they are considered full-time for the entire pay period.

(b) Retention points for continuous service for other than full-time service shall be calculated on the basis of one-half point for each bi-weekly pay period of continuous service. Service during the probationary period will be included for purposes of calculating retention points.

(c) Retention points computed for full-time continuous service and other than full-time continuous service, whenever applicable, shall be combined to determine an employee's total retention points. Overtime shall not be considered for purposes of computation of retention points for continuous service.

(d) In the event two or more employees have identical retention points as calculated by this rule, the tie shall be broken by the following method:

(i) Employees having most recent date of continuous service from which no break in service has occurred shall be laid off or displaced first;

(ii) If the tie remains unbroken, the appointing authority in consultation with the immediate supervisor, shall determine the employee to be laid off or displaced first after consideration of the



entire employment record of both employees and the needs of the university.

(e) In the event an employee transferred to the university, the employee's length of continuous service will be deemed unbroken so long as no break in service occurs from one Ohio civil service employer to another.

(8) Notification of layoff or displacement

(a) Each employee to be laid off shall be given advance written notice by the appointing authority after the employee's retention points have been calculated and posted. Such written notice shall be hand-delivered to the employee at least fourteen days before the effective date of layoff or displacement and the day of hand-delivery shall be the first day of the fourteen day period. If the notice is to be mailed, it shall be by certified mail. Such notice shall be mailed at least seventeen days before the effective date of the layoff or displacement. The day the letter is mailed shall be the first day of the seventeen-day period.

(b) Each notice of layoff or displacement shall contain the following information:

(i) The reason for layoff or displacement;

(ii) The effective date of the layoff or displacement;

(iii) The employee's accumulated retention points;

(iv) The right of the employee to appeal a layoff or displacement to the state personnel board of review and that the appeal must be filed or postmarked within ten days after the employee is notified of the layoff or displacement;

(v) A statement advising the employee of the right to displace another employee with fewer retention points; and a statement that the employee has five days from the date of notification to exercise displacement rights or be laid off;

(vi) A statement advising the employee of the right to reinstatement or reemployment in accordance



with this rule;

(vii) A statement that, upon request by the employee, the appointing authority will make available a copy of the layoff rule;

(viii) A statement that the employee is responsible for maintaining a current address with the appointing authority; and

(ix) A statement that the employee will receive compensation for accrued unused vacation leave and accrued but unused compensatory time, up to the maximum accrual amounts specified in those rules. This compensation will be paid at the time of the layoff.

(9) Displacement and appeal rights of employees

(a) Each employee laid off, or displaced as a result of a layoff, shall only have the right to displace another employee with the fewest retention points as specified in this rule.

(b) An employee who is to be laid off may exercise displacement rights under the provisions of this rule or be laid off. Displacement occurs on the date an employee is notified that another employee has exercised the right of displacement and that the employee with fewer retention points is to be displaced. A displaced employee may exercise the right to displace another employee if such right to displace exists. If the displaced employee does not have the right to displace another employee, then the displaced employee shall be laid off.

(c) Employees shall notify the appointing authority, in writing, of their intention to exercise their displacement rights within five days after receipt of notice of layoff or displacement.

(d) No employee shall displace an employee unless the employee possesses the requisite minimum qualifications or bona fide occupational qualifications for the position. These qualifications are established by the position description. The appointing authority shall be responsible for verifying the necessity of these qualifications.

(e) An employee exercising displacement rights, or an employee displaced as a result of a layoff or



abolishment, shall be paid according to the salary range assigned to the position into which the employee displaced or was displaced. The employee shall be assigned a salary in the salary range assigned to the new position not exceeding the salary the employee was paid in the prior position. If the salary the employee was assigned in the prior position exceeds the highest salary in the salary range assigned to the new position, the employee will be assigned the maximum salary for the salary range of the new position.

(f) An employee may appeal a layoff, or a displacement which is the result of a layoff, to the state personnel board of review. Such an appeal must be filed or postmarked no later than ten days after the employee receives notice of the layoff or the date the employee is displaced. An employee shall be considered displaced the date the employee is notified by the university that another employee has exercised the right to displace the employee from the employee's position. An appeal may be made in accordance with the rules promulgated by the state personnel board of review.

(10) Laid-off employees and employees displaced as a result of a layoff who have the right to displace shall exercise their displacement rights in the following order:

(a) An employee who is to be laid off or displaced may fill an available vacancy, or if no vacancy exists, displace within their job family as set forth in this rule.

(b) An employee who is to be laid off or displaced may fill an available vacancy, or if no vacancy exists, displace the employee with the fewest retention points in the same and then successively lower job group in the job family. This process shall continue, if necessary, until the employee with the fewest retention points in the lowest job group of the job family has been reached and, if necessary, laid off.

(c) An employee who is to be laid off or who is displaced may fill an available vacancy, or if no vacancy exists, displace the employee with the fewest retention points in the job family the laid-off or displaced employee held immediately prior to their current job family, provided the job group is lower than or equivalent to the employee's current job group.

(i) A laid off or displaced employee may displace into a job family previously held if:



- (a) The laid off or displaced employee held a position in the previous job family within the three years preceding the date an employee was laid off or displaced; and
- (b) The laid off or displaced employee still meets the minimum qualifications or bona fide occupational qualifications of the previous job family; and
- (c) The laid off or displaced employee has successfully completed the original probationary period.
- (ii) If a position does not exist in that job family held by the employee immediately prior to the current job family, or if a laid off or displaced employee is prevented from displacing in a previously held job family because the employee does not meet the minimum qualifications or bona fide occupational qualifications of the previously held position, the employee may displace in the job family next previously held, and in successive previously held job families, subject to the provisions of this rule.
- (iii) Notwithstanding the provisions of this rule, an employee shall not be required to accept a position with a lesser appointment type until the employee has had the opportunity to exercise displacement rights as provided in this rule.
- (iv) If, after an employee has exercised displacement rights, the employee is to be laid off or displaced due to a subsequent layoff, the employee's displacement rights shall be in accordance with the job family from which the employee was first displaced; provided however, the employee has rights to reinstatement or reemployment in the previous job family. The employee's displacement rights from a previously held job family shall exist for a one-year period beginning with the date of the original layoff or displacement or until such time as the employee is removed from a layoff list.

#### (11) Reinstatement rights

The appointing authority shall prepare recall lists of the names and appointment types of the employees laid off. The recall lists shall be compiled by the job families in which the employees were laid off. The names shall be listed in descending retention point order in each appointment category. These lists shall be in reverse order of the order of layoff as established in this rule.



(a) The recall lists shall contain the employee's name, type of appointment, number of retention points, and date of commencement of continuous service. In cases of identical retention point ratings, the order of recall shall be the reverse order of the layoff. Any ties of retention points shall be broken in accordance with the procedure established in this rule.

(b) An employee's name shall remain on the appropriate recall list for a period of one year from the date the employee was first laid off or displaced from the original job family.

(c) Vacancies that occur in a job family for which a recall list exists must be accepted or declined in writing within ten days by the first person on the recall list for that job family before the next person on the recall list may be offered the position.

(d) If a position has specific minimum qualifications or bona fide occupational qualifications, the first person on the recall list who meets these qualifications, must accept or decline the position in writing within ten days before the next person on the recall list may be considered for reinstatement.

(e) Employees on the recall list shall be offered a position in a job family or job group with the same or lower salary range assignment or appointment category than that of the job group or job family from which the employee was laid off or displaced.

(f) A laid off or displaced employee who chooses not to exercise the option to displace shall only be entitled to reinstatement to the job group from which the employee was laid off or displaced.

(g) If the appointing authority has any employee on a recall list, the appointing authority shall only hire, or promote into the job family or the job group subject to the recall list.

(h) Any employee reinstated under this rule shall not serve a new probationary period when reinstated; except, any employee laid off or displaced while serving an original or promotional probationary period shall begin a new probationary period upon reinstatement.

#### (12) Notification of reinstatement or reemployment

(a) Each employee recalled from layoff shall be notified of the offer of reinstatement by certified



letter.

(i) The notice of reinstatement shall contain a statement that refusal of reinstatement shall result in removal of such person's name from the appointing authority's recall list in accordance with this rule.

(ii) For vacancies with specific minimum qualifications or bona fide occupational qualifications, the notice of reinstatement shall contain a statement that these qualifications exist. The notice shall also state that failure to meet these qualifications will result in disqualification for that vacancy, and the person's name will remain on the recall list.

(b) Each recalled employee shall be allowed ten days from the date of receipt of the letter to return to work, and such time limit shall be included in the employee in the notification of recall letter.

(i) In the event of extenuating circumstances (including, but not limited to illness, injury, or absence from city or state) preventing the employee from returning within the above time limit, the employee shall be granted a reasonable extension, not to exceed sixty days to report for work.

(ii) In the absence of extenuating circumstances, an employee not accepting reinstatement within ten days shall be deemed to have declined reinstatement and the employee's name shall be removed from consideration for reinstatement in accordance with this rule.

(c) The employee is responsible for keeping a current address and phone number on file with the appointing authority.

#### (13) Removal from recall list

(a) Any employee accepting or declining reinstatement to the same job family and appointment type from which the layoff or displacement initially occurred shall be removed from the reinstatement and recall list. Any employee declining reinstatement to a different appointment category than that from which the employee was laid off or displaced or declining reinstatement for reasons of hardship, as approved by the appointing authority, shall not be removed from the recall list as set forth in this rule.



(b) Any employee declining reinstatement to a position with a salary range lower than the job group from which the layoff initially occurred shall not be removed from the appointing authority recall list, however such employee shall thereafter only be offered reinstatement to a job group with a salary range higher than the position declined, up to and including the job group from which the employee was laid off.

(c) If not otherwise removed, the name of any laid off employee shall be removed from the appointing authority's recall list one calendar year after the employee was first laid off or displaced from the original job family. In the event any displaced employee is subsequently laid off, such employee's name shall be removed from the recall list one calendar year after the subsequent layoff.

(14) Inspection of layoff lists

(a) On the date of any layoff, the appointing authority shall post for inspection in a conspicuous and public place accessible to affected employees a list containing the name, continuous service date, type of appointment, job family, and number of retention points of all employees in that job group and lower job groups in the job family. The list will be posted for a period of ten days.

(b) The appointing authority's layoff list and copies of the rule regarding layoff shall, upon request, be made available for inspection and copying by anyone during normal working hours. A reasonable charge for reproduction may be made.

(15) Layoff of employees on sick leave, leave without pay, or receiving disability leave benefits.

(a) Employees who are on sick leave at the time a layoff is effective shall be subject to layoff, under the provisions of this rule. The effective date of layoff or displacement of an employee may not be extended on the basis that an employee is on sick leave or fmla leave.

(b) An employee who is on a leave of absence without pay at the time a layoff is effective shall be subject to layoff under the provisions of this rule. The effective date of a layoff or of displacement for an employee may not be extended on the basis that an employee is on a leave of absence without pay.

(c) An employee who is receiving disability leave benefits under the provisions of the university's



disability leave rule at the time a layoff is effective shall be subject to layoff under the provisions of this rule. An employee who is to be laid off while receiving disability leave benefits shall continue to receive disability leave benefits until the period of disability is over and the employee would otherwise be able to return to work. The receipt of disability leave benefits shall be subject to the provisions of the university's rule on disability leave.

(16) Cash conversion of accrued leave at layoff, and restoration of leave credit

(a) Any employee who has accumulated but unused balances of vacation leave and compensatory time at the time of layoff shall have such balances converted to a cash benefit according to the following:

(i) Any accumulated but unused balances of compensatory time shall be converted to a cash payment at the time an employee is laid off; and

(ii) any accumulated unused balance of vacation leave up to the maximum amount specified in the university's rule shall be converted to a cash payment at the time an employee is laid off.

(b) Employee's leave balances may only be reinstated if the employee's layoff is disaffirmed by the state personnel board of review and the employee submits a reimbursement for the entire amount of the leave balance previously converted.