

The University of Wisconsin System
UPS OPERATIONAL POLICY: GEN 13



SUBJECT: Layoff for Reasons of Budget or Program

Original Issuance Date: July 1, 2015

Last Revision Date:

1. POLICY PURPOSE:

The purpose of this policy is to provide an operational framework to be used by UW System institutions in the development of layoff procedures for university staff.

2. POLICY BACKGROUND:

[Wis. Stat. § 36.115\(2\)](#) requires the Board of Regents and the UW-Madison chancellor to develop personnel systems that are separate and distinct from the personnel system under [Wis. Stat. Chapter 230](#). Effective July 1, 2015, the layoff procedures contained in [Chapter ER-MRS 22](#) of the Wisconsin Administrative Code and the procedures established by the Office of State Employment Relations (now the Division of Personnel Management) are no longer applicable to current UW System university staff employees. Therefore, this operational policy provides the framework for layoff procedures for university staff with an expectation of continued employment at UW System institutions.

The authority to lay off faculty and academic staff due to budget or program changes is found at Wis. Stats. §§ [36.21](#) and [36.22](#). The procedures may be found at Wisconsin Administrative Code chapters [UWS 5](#) (faculty) and [UWS 12](#) (academic staff).

For group health insurance purposes, an employee terminated due to permanent layoff will be treated as if on a leave of absence per [Wis. Stat. §§ 40.02\(40\)](#) and [40.05\(4\)\(bm\)](#).

3. POLICY DEFINITIONS:

Please see UPS Operational Policy [GEN 0: General Terms and Definitions](#) for a list of general terms and definitions.

Definitions specific to this policy:

“Layoff” means separation from employment for reasons of budget or due to the discontinuance, curtailment, modification, or redirection of a program.

“Layoff group” means a combined group of employees in related positions from which the layoff will be made. The layoff group will generally include all employees employed in a particular operational area that are similarly, although not necessarily identically, situated by title, pay range, and/or function.

“Operational area” means an area of focus or function in a school, college, division, department, or office. An operational area will generally be a subset of a school, college, division, department, or office, and need not encompass the whole unit.

“Probationary period” means the initial period of employment in an appointment during which the employee has no right to appeal discharge as identified in the employee’s appointment letter.

“Temporary employment” means employment in a university staff temporary or project appointment.

4. POLICY:

Institutional layoff procedures shall include the following elements:

A. Temporary and Probationary Employment

Whenever practicable, employees in temporary or project appointments in the operational area shall be reduced or discontinued before invoking the layoff procedures.

Employees in a probationary period may be dismissed prior to laying off non-probationary employees, providing that those remaining employees have the necessary skills, knowledge, and ability to perform the work.

B. Notice

A full or part-time staff member who is designated for layoff must be given written notice as soon as practicable, but not less than 30 calendar days prior to the effective date of the layoff. At any time during the notification of layoff period and with mutual agreement of the employee and appointing authority, a lateral movement or demotion to a different position within the UW institution may be made outside of a recruitment process.

C. Layoff Selection and Plan

Prior to providing layoff notice to any employees, the employer shall develop a plan under which a layoff will occur. Layoff plans shall be discussed by the chancellor or designee with such committee, committees, or committee representatives as may be specified by institutional policies and procedures as appropriate for such purposes. The plan will document the justification for the layoff, the effective date of the layoff, identification of eliminated functions, and the position(s) to be eliminated. The plan will identify the operational area(s), position title(s), and the number of employees that are expected to be laid off.

Employees subject to layoff will be determined and evaluated by using the following criteria:

- Needs of institution to deliver services;
- Relative skills, knowledge, or expertise of employees;
- Length of service of employees; and
- Other appropriate criteria.

Upon an employer's layoff notification to an employee, the employee may appeal the layoff decision through the appropriate grievance procedure (see [Operational Policy GEN 14: Grievance Procedures](#)).

Once the layoff group has been determined, any employee from within the affected layoff group may elect to retire or voluntarily be laid off to avoid involuntary layoffs.

The employer reserves the right to rescind a layoff notice and/or postpone the layoff date. However, once the employee has been officially notified of the intended layoff date, the employer may not make the layoff date any earlier.

D. Alternatives to Layoff

An employee may be moved to another position regardless of being designated in layoff status. The employee shall receive written notice as to why s/he is being moved. Involuntary employee movements are not meant to circumvent the recruitment process and should only be used to avoid a reduction in force.

The employee may choose not to accept the involuntary reassignment and as a result be laid off. If the employee accepts the involuntary reassignment, the employee's rate of pay and applicable benefits will not decrease if the movement is lateral; however, the rate of pay may be adjusted with a downward movement.

E. Employee Benefits Upon Layoff

Employees enrolled in State Group Health Insurance at the time of layoff are eligible to continue coverage under the group plan following the layoff date. The employee's coverage will continue through the month in which premiums are paid and the employer contribution towards the health insurance premium is paid for an additional three (3) months. The employee must pay his/her share of the health insurance premium during these months to maintain coverage. The employee may pay the premium through payroll deduction, personal check, or converted sick leave credits.

UW System employees who terminate due to layoff are eligible for the conversion of their sick leave credits to pay for State Group Health Insurance provided eligibility requirements are met under the Accumulated Sick Leave Conversion Credit (ASLCC) and Supplemental Health Insurance Conversion Credit (SHICC) programs as outlined in [Wis. Stat. §§ 40.05\(4\)\(b\)](#) and [40.95](#).

Health insurance premiums are paid from sick leave credits until the earliest of the following events:

- (1) The credits are exhausted;
- (2) The first of the month following the begin date of other employment offering comparable health insurance coverage;
- (3) Five (5) years have elapsed from the date of layoff (no time restriction if the employee has over 20 years of WRS creditable service at time of layoff); or
- (4) The employee dies. If the employee dies, the employee's surviving spouse/domestic partner and dependents can continue to use remaining sick leave credits to pay for health insurance.

Coverage under all other benefit plans ends according to the normal termination rules of the plan.

F. Consideration for Vacant Positions within UW System

An employee who is or will be affected by a layoff may request, in accordance with the hiring authority's requirements, to be considered for other vacancies within the UW System. Such consideration does not guarantee an interview or mandatory job offer.

Every effort will be made to maintain active positions for employees so long as this effort does not adversely affect the operational area's budget or impede the area's ability to fulfill its mission.

A laid off employee may apply for vacant positions in the same manner as a current employee for a period of three (3) years from the date of layoff.

G. Three Year Restriction on Rehiring for Duties of Laid Off Employee

For three years from the anniversary of the layoff, no person may be employed in a position with an expectation of continued employment in that operational area to perform duties reasonably comparable to the duties of the laid off employee, without first making an offer of return to the laid off employee. An employee's failure to accept such an offer of return shall terminate the employee's rights under this section.

5. RELATED DOCUMENTS:

[UPS Operational Policy GEN 14: Grievance Procedures](#)

[UPS Operational Policy BN 3: Sick Leave](#)

Wis. Stat. § [36.21, Termination due to certain budget or program changes](#)

Wis. Stat. § [36.22, Layoff or termination of faculty member due to certain budget or program changes](#)

Wis. Admin. Code Chapter [UWS 5, Layoff and Termination for Reasons of Financial Emergency](#)

Wis. Admin. Code Chapter [UWS 12, Layoff of Academic Staff for Reasons of Budget or Program](#)

6. POLICY HISTORY:

Wis. Stat. § [230.34, Demotion, suspension, discharge and layoff](#)

Wis. Stat. § [230.44\(1\)\(c\), Demotion, layoff, suspension or discharge](#)

Wis. Admin. Code Chapter [ER-MRS 22, Layoff procedure](#)

Reviewed by Board of Regents, December 7, 2012