

Subject: LAYOFF PROCESS

REFERENCES	SECTIONS
<p>Law & Regulation http://leginfo.legislature.ca.gov/faces/codes.xhtml;jsessionid=ec740fb92d7f258ccc38ebd5c0c9</p> <p>CalHR Layoff Manual http://www.calhr.ca.gov/state-hr-professionals/Pages/layoff-manual.aspx</p>	<p>GC 19997</p>
<p>Memo of Understanding (MOU) http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx</p>	<p>Refer to Employee's MOU</p>
<p>Personnel Management Policy and Procedures Manual (PMPPM)</p>	<p>441, 442</p>
<p>Responsible Control Agency and Program http://www.calhr.ca.gov/Pages/home.aspx http://spb.ca.gov/</p>	<p>CalHR State Personnel Board</p>
<p>SPB/DPA Policy Memo http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx</p>	<p>PML: 2003-018, 2001-050, 99-007, 91-78, 91-67, 91-63</p>
<p>Other:</p>	
<p>DOF-DPA Letters http://www.dof.ca.gov/budgeting/budget_letters/</p> <p>DOF Budget Letters (BL) http://www.dof.ca.gov/budgeting/budget_letters/</p> <p>CalHR Layoff Manual http://www.calhr.ca.gov/state-hr-professionals/Pages/layoff-manual.aspx</p>	<p>DOF-DPA Letters issued 4/1/03 & 4/24/03</p> <p>DOF-LTR 8/22/03 BL 01-45, 02-13, 02-33, 02-39, 02-40, 03-21, 03-23, 03-33, 03-42, 04-03, 04-06</p>

Layoff Process

Purpose The purpose of this section is intended to be used as an information guide by DGS staff in the event the department conducts staffing reductions.

Policy It is the policy of the DGS to conform with applicable Government Code (GC) sections and California Human Resources Department (CalHR), State Personnel Board (SPB), and Department of Finance (DOF) laws, rules, policies, procedures, and directives whenever staffing reductions may be necessary pursuant to GC 19997, which states, in part, “Whenever it is necessary because of lack of work or funds, or whenever it is advisable in the interests of economy, to reduce the staff of any agency, the appointing power may lay off employees pursuant to Title 2, Division 5, Part 2.6, Personnel Administration, Chapter 7, Separations From Service, Article 2, Layoff and Demotion and department rule....”

Process The following table depicts the typical steps to initiate a layoff when noticed by the DOF. Click the following link for CalHR’s Overview of the Layoff Process <http://www.calhr.ca.gov/state-hr-professionals/Pages/layoff-manual.aspx>

Stage	Action
1	Offices develop a position reduction plan, based on budget reductions or business-related need, and submit the written plan to the Deputy Director for review and approval. The plan should include the following information: <ul style="list-style-type: none">• Proposed and current organizational charts• Affected positions (with full position number), classifications, and geographic locations (work areas)
2	Submit approved, written plan to Director for review and approval
3	Submit approved, written plan to Agency Secretary for review and approval
4	Submit approved, written plan to DOF for review, and, if appropriate, approval
5	Office of Human Resources (OHR) Classification and Pay (C&P) Layoff Team develops layoff plan (developed from the approved reduction plan) and submits to the Director for review and approval
6	Approved, written layoff plan submitted to the DPA for review and approval

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Layoff Process, Continued

Process
(continued)

Stage	Action
7	<p>Approved layoff plan is implemented by the Layoff Team, which typically includes the following:</p> <ul style="list-style-type: none"> • Communications <ul style="list-style-type: none"> ➤ Establish method for management team communication with: <ul style="list-style-type: none"> ✓ Executive Office ✓ Office Chiefs ✓ Managers and Supervisors ✓ Layoff Team Members ➤ Establish communication method(s) for affected employee(s): <ul style="list-style-type: none"> ✓ Establish employee Office contacts ✓ Establish process for distributing vacancy information to employees ✓ Establish some type of “hotline” for employee information (i.e., questions and answers, vacancy information, seniority scores, etc.) and website with same information ✓ Establish schedule for group meetings of affected employees (extend invitation to employee’s spouse) ✓ Establish schedule for group meetings of employees of other DGS offices impacted ✓ Provide employee process information packet ➤ Analysis of staffing reductions and potential need for layoff, as well as all viable mitigation actions: <ul style="list-style-type: none"> ✓ Required staffing levels before and after downsize ✓ Seniority/layoff impacts ✓ Employee retirement potential ✓ Employee placement potential (DGS/other agencies) ✓ Re-training opportunities for employees

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Layoff Process, Continued

Process
(continued)

Stage	Action
7 (cont)	<ul style="list-style-type: none"> ➤ Layoff Team develops Departmental Restriction of Appointment (DROA) process, which includes: <ul style="list-style-type: none"> ✓ Hiring freeze policy ✓ Hold vacant DGS positions to establish placement opportunities ✓ Inform departmental management on process ➤ Office reviews budget/fiscal impact of organizational mitigation changes <ul style="list-style-type: none"> ✓ Staffing – PY impact ✓ Rate impact ✓ Cost of transfers/relocation assistance ✓ Cost of re-training efforts ✓ Cost of travel/placement efforts ✓ Cost of early retirement options ➤ Layoff Team works with other OHR Units to complete plan for placement activities <ul style="list-style-type: none"> ✓ Skills assessment/employee counseling ✓ Resume preparation training ✓ Employment Development Department (EDD) presentation – unemployment insurance and job seeking information ✓ Vacancy information distribution ✓ Employee information on layoff/seniority “rights” ➤ Labor Relations analyst handles labor relations issues <ul style="list-style-type: none"> ✓ Union notification in conjunction with DPA ✓ Meet and confer in conjunction with DPA ✓ Notice requirement (i.e., layoff, shift changes, geographic transfer, involuntary transfer, meet and confer)

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Layoff Process, Continued

Process
 (continued)

Stage	Action
7 cont.	<ul style="list-style-type: none"> <li data-bbox="781 422 1471 527">➤ Layoff Team establishes performance measures for evaluating success of downsize efforts <ul style="list-style-type: none"> <li data-bbox="878 527 1419 600">✓ Number of placements achieved to reduce impact of potential layoff <li data-bbox="878 600 1471 705">✓ Meeting plan of action, established timeframes and objectives for activities and final target dates for downsize <li data-bbox="878 705 1463 747">✓ Staying within allotted fiscal resources

Causes for staffing reductions

The following are a variety of situations that might create the need for staff reductions.

- Budget reductions
- Mandatory reinstatements of employees such as from Career Executive Assignments (CEA)
- Corrections of misallocated positions
- Changes in time bases of positions
- Reorganizations
- Functions, projects, or programs are curtailed or discontinued due to mechanization, processing changes, or decrease or termination of funds

Measures to mitigate staff reductions

The following are examples of measures the DGS may use to mitigate staffing reductions.

- Hiring freeze
- Reduction of intermittent and non-permanent work force
- Reduced work time
- Job sharing
- Retirement
- Early retirement
- Partial service retirement
- Placement with other State, government, or private employers

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Layoff Process, Continued

Measures to mitigate staff reductions (continued)

- Supplemental time off
 - Voluntary personal leave
 - Leave of absence
 - Departmental Restriction of Appointments (DROA)
 - State Restriction of Appointments (SROA)
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Methods of reducing staff size

When the DGS knows that a budget reduction is necessary, it may first determine if the reduction can be accomplished by eliminating items, such as new construction or major renovations, and research or training funds that would not require a reduction in staff size. **If** that is not feasible or does not accomplish the entire savings, it will be necessary to reduce staffing.

The Program/Office determine how many positions must be reduced, and determines if there are sufficient vacancies that can be left vacant to accomplish the requisite savings with approval by the appropriate entities, based on the type of reduction.

The DGS **may** consider the feasibility of terminating any emergency, temporary, training and development (T&D), retired annuitant, contract, or limited-term (LT) appointments in the DGS to accomplish the necessary savings.

The DGS can **also explore** the entire spectrum of voluntary and involuntary methods of reducing staff that are discussed below.

If the following methods do not accomplish the entire savings, the DGS will have to initiate the layoff process.

Voluntary Methods

- Transfer or demotion within DGS
 - Transfer or demotion with the DGS' Agency (State and Consumer Services)
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Layoff Process, Continued

Methods of reducing staff size (continued)

Involuntary Methods

- Involuntary transfer in lieu of layoff
 - An employee in the area of layoff MAY be involuntarily transferred to a position in the same classification in the same or different geographic location that has been vacated by the layoff or a less senior employee
 - IF the involuntary transfer requires a change in residence, the employee SHALL be given a 60 calendar day notice prior to the effective date of the transfer and SHALL receive relocation expenses provided certain criteria are met
 - If no change of residence is required, the employee SHALL be given a 30 calendar day notice
 - If there are vacancies, no layoff exists, and employees are offered involuntary transfers which are normally based on seniority. An employee, who does not wish to accept an involuntary transfer, has the following options, depending on his/her bargain unit contract:
 - ✓ Personally locate a position for a permissive transfer
 - ✓ Resign
 - ✓ Be laid off

If the employee elects none of the above options and does not transfer, the DGS may separate the employee for failing to report to work in the new location, which results in an absence without leave (AWOL) in accordance with Personnel Management Letter (PML) 94-55.
- Transfer to other classifications
An employee can agree to voluntarily transfer to another classification or the DGS may involuntarily transfer an employee to another classification in accordance with Government Code (GC) Section 19050.5.

Additional Factors

- An employee need be offered only ONE position to which to transfer
- An employee who has been offered a transfer MAY NOT elect to demote to another classification and cause the layoff of another employee

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Layoff Process, Continued

Prior to staffing reductions

The completion of the following actions is necessary prior to staffing reductions to avoid delay of preliminary seniority score computation by the Department of Personnel Administration (DPA).

- Post dates and hours of intermittent employment, as required, to employees' histories
 - Gather prior exempt service data when employees are appointed and submit the data to DPA for seniority service computation, and flag the work histories
 - Gather qualifying prior military service data when employees are appointed and retain in files
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Demotional patterns

Primary Demotional Patterns

These include classifications at lower salary levels in the same series as the classification of layoff, and classifications in which specific employees formerly served in probationary or permanent appointments.

- An employee has primary demotional rights to lower classifications in his/her classification of layoff, whether or not s/he served in the classifications. S/he must, of course, have sufficient seniority to "stick" in one of the classifications
- An employee has primary **personal** demotional rights to classifications in other series in which s/he served (in any department) in probationary or permanent appointments, IF the DGS uses the classifications in the area of layoff, AND the employee has sufficient seniority to "stick."
- An employee is eligible to be placed on general, departmental, and subdivisional reemployment lists for each classification in a primary pattern through which s/he demotes

Secondary Demotional Patterns

The DGS may identify classifications that are related to the layoff classification and request the DPA approve them as secondary demotional classifications. These may be any classifications in which the similarity in duties and minimum qualifications to the layoff classification indicates that employees in the layoff classification will be able to perform the duties of the secondary demotional classifications.

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Layoff Process, Continued

Demotional patterns (continued)

- The identification of a secondary demotional pattern is based on the requirements of the classification of layoff NOT on any special qualifications of individual employees in the classification of layoff
- An employee is eligible to be placed on departmental and subdivisional reemployment lists for each classification in a secondary demotional pattern through which s/he demotes

Determining Whether an Employee is Demoted Through the Primary and Secondary Pattern

An employee has the option to select demotion in either the primary (including personal) or secondary pattern in accordance with GC Section 19997.8, even if one pattern has vacancies and the other does not.

Bumping Rights

The “bumping” rights of employees are limited to the DGS. In other words, an employee who is laid off by DGS cannot “bump” a less senior employee in another department, even if the employee once worked there.

Service and seniority computations

Preliminary Seniority Scores

An employee receives one point of seniority credit for each complete month of full-time State service, regardless of when, and in what classifications, such service occurred. For less than full-time employment is calculated by the Service and Seniority Unit at DPA. See each Bargaining Unit for specific seniority provisions.

- Time served in all types of State appointments other than emergency appointments not immediately followed by a qualifying appointment is counted toward seniority
- Prior exempt service is computed by the Service and Seniority Unit from data obtained and provided by the DGS
- Credit for intermittent time is computed by the Service and Seniority Unit from data posted to employment histories by the DGS

Final Seniority Scores

DPA forwards the preliminary seniority scores to the DGS, which finalizes the scores by adding any qualifying military service (maximum of 12 points).

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Layoff Process, Continued

Service and seniority computations (continued)

Process to Break Seniority Score Ties

The following tie breakers are used:

- 1) Veteran
- 2) Greatest amount of service in classification of layoff, or in a classification at substantially the same or higher salary level as the classification of layoff
- 3) Employee in (2) who has served in the classification that has the highest maximum salary rate
- 4) Earliest appointment date for service credit under the provisions of GC Section 19997.3
- 5) Highest total State service (DPA Rule 599.739)
- 6) Earliest appointment date under provisions of DPA Rule 599.739
- 7) lottery

Layoff factors

Situations	Description
Time base	Normally, layoffs are in seniority order regardless of time base. However, the DGS may request that the DPA approve the layoff of employees in any time base before another time base (DPA Rule 599.847). Application of this rule is the exception to the norm and alternatives shall be explored prior to approval of its application
Conversion of employees from full-time to part-time or intermittent	Unless employees are willing to make the changes voluntarily, it is necessary to sue the layoff process to effect time base reductions
Offering full-time position to eligible part-time or intermittent employee	If no part-time or intermittent vacancies exist, an eligible part-time or intermittent employee may be offered a full-time position

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Layoff Process, Continued

Layoff factors
(continued)

Situations	Description
Limited-term, temporary, or contract employees MUST be laid off	
Leave of absence	If an employee on a leave of absence is in a classification of layoff, in the area of layoff, his/her seniority score is computed along with those of all other employees in the classification/area of layoff
Employees in classifications/area of layoff who are on industrial disability leave (IDL)	Employees on IDL are treated in a manner similar to the way employees on leaves of absence are treated
Employees on a limited-term (LT) or training and development (T&D) assignment to an area outside the area of layoff	An employee on a T&D assignment from the area of layoff to another part of the DGS or to another department MUST be included in the seniority computations for the layoff. An employee on an LT appointment to another department is legally an employee of that department; therefore, the DGS CANNOT cancel the LT appointment
Reemployment list eligibility	Placement of reemployment list(s) depends on the method from which the employee was demoted and/or laid off. Reemployment list types which may be applicable include: general, departmental, and subdivisional
Red circle salary rates	Red circle rates are not appropriate if necessitated by demotions that result from funding reductions. If however, the demotion that caused the employee to move to a classification with a lower salary rate was caused by DGS initiated decision to correct a misallocated position or effect a reorganization, the DGS may approve a red circle salary rate, if the employee meets the criteria

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Layoff Process, Continued

Layoff factors (continued)

Additional Factors

- Unemployment Insurance (UI) – Employees who are laid off are entitled to UI benefits and may file on the date of their separations.
 - Nonindustrial Disability Insurance (NDI) benefits cease on the effective date of layoff.
 - Employee Assistance Program (EAP) – Employees will be advised of EAP benefits, including stress management.
 - Retirement Funds – Public Employees' Retirement System (CalPERS) contributions may be left on deposit or withdrawn at time of layoff.
 - Health, Dental, and Vision Benefits – These benefits may be continued by laid off employees for themselves and eligible dependents by assuming the cost of premiums under COBRA.
 - Deferred Compensation – Funds may be withdrawn or left on deposit until a later date.
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Reemployment

Reemployment is a method to help terminated or demoted employees return to this/her former classification. Reemployment takes priority over all other appointment lists.

Establishment of Reemployment Lists

An employee who is laid off or elects to demote in lieu of layoff from a classification and has held either permanent or probationary status in the classification, will be placed on the appropriate reemployment lists for that classification. In addition, appropriate reemployment list eligibility will generally be provided for all classifications through which the employee was given demotional rights during layoff. Employees appear in seniority order on all reemployment lists.

There are three types of reemployment lists:

- General – used throughout State service
- Departmental – used only in the DGS
- Subdivisional – used for small units within the DGS, such as a division if examination was given on a subdivisional basis

Reemployment list eligibility for employees is five years unless an extension is granted by the State Personnel Board (SPB).

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Layoff Process, Continued

Reemployment

(continued)

If incumbent's classification is in the primary (including personal) demotional pattern, the incumbent would receive General, Departmental, and Subdivisional eligibility, if examinations were conducted on a subdivisional basis.

If incumbent's classification is in the secondary demotional pattern, the incumbent would receive Departmental and Subdivisional eligibility.

Other Appointment Eligibility

Under GC Section 18950 and SPB Rule 235.2, employees whose names appear on reemployment lists retain the same eligibility to take promotional civil service examinations that they had prior to layoff. Employees who are laid off retain their current eligibility on any employment list until the list expires.

In addition, under GC Section 19140, employees who are laid off retain indefinite statewide permissive reinstatement eligibility to their former position or to any other classification at substantially the same or lower salary to which they could have transferred or demoted prior to layoff.

Sick leave

Employees separated by layoff and subsequently reemployed shall have their sick leave earned prior to layoff credited to them. In addition, upon reemployment, their prior service shall be counted for purposes of calculating State service, sick leave, and vacation.

Vacation and annual leave

Employees who are laid off are entitled to lump sum payment of any unused or accumulated vacation or annual leave. The sum is computed by projecting the accumulated time on a calendar basis so the lump sum will equal the amount of leave which the employee would have been paid had s/he taken the time off as opposed to being laid off from State service.
