

## Reduction-in-Force (Layoff) FAQ

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### GENERAL INFORMATION:

1. Who determines where personnel reductions will be made? How is the decision made?

Answer: These decisions are made at several levels of management. Guidance may come from as high as the Governor and the legislature in terms of specific cuts in programs or funded operations. Within an Agency, typically the Director and Deputy Directors, with input from Appointing Authorities, decide more specifically where funding cuts will be made and which programs and units will be impacted. These decisions are based on operational needs and organization requirements.

2. What is an Appointing Authority?

Answer: Appointing Authorities are individuals with the ability to hire, and to terminate employees.

3. Who determines which employee(s) will lose their job(s)?

Answer: Once it's known which positions will be cut, the process includes calculating retention points; determining lateral transfer (displacement) and/or demotion (bumping) rights for impacted employees; and placing laid off employees on the state's layoff lists. Your Human Resources contact will be closely involved in this process. First, the employee(s) in the affected positions will be notified in writing of any transfer and/or demotion options available to them, and given a few days to think about those options and respond. In some cases, an employee who transfers or demotes may impact a position occupied by another employee. When this happens, that latter employee is then notified in writing of the transfer and/or demotion options available, and given a few days to think about those options and respond. The process continues in this fashion. Generally speaking, the employee(s) with the fewest retention points within an affected classification within the layoff unit will be the one(s) to lose their jobs.

4. What are minimum qualification specialties?

Answer: In some circumstances, it may be determined that the Agency needs to retain certain qualifications in order to complete Agency business. These are called

minimum qualification specialties, and apply only to some positions within a classification, but not necessarily all positions within a classification.

5. I was hired with a minimum qualification specialty. Does that automatically exclude me from being laid off?

Answer: No. Exclusion from the layoff is not automatic. If the Appointing Authority does not determine that specific skills must be retained in order to complete Agency business and obtain approval to exclude individuals with those skills from the layoff, then no employees in the affected classification are excluded from potential layoff.

6. How do I know if I was hired with a minimum qualification specialty?

Answer: The announcement under which you applied would have included the minimum qualification specialties, if any. Your Human Resources contact can advise you.

7. Will I be excluded from the layoff if I possess and use a minimum qualification specialty, such as being bilingual, but I was not hired from a hiring list noting the specialty? (i.e.: I was not hired from a bilingual hiring list?)

Answer: No. The minimum qualification specialty must have been identified at the time of hire or appointment. (There can be exceptions to this, although those are extremely rare.)

8. How much notice will I have?

Answer: If your position is being impacted by a layoff, you will receive official written notice at least 15 calendar days prior to the effective date of the layoff. Only this written notice is considered an official layoff notification which triggers an employee's reinstatement rights pursuant to layoff. Your Agency recognizes the significance layoff can have on an employee and the employee's family, and strives to keep employees informed about business decisions which could result in potential layoffs. However, general information provided to employees about business plans which may result in layoffs is not considered official notification, and does not translate into an employee being eligible for reinstatement rights pursuant to layoff.

9. What type of job search assistance or other resources will the Department provide?

Answer: Your Agency's HR contact and the Idaho Division of Human Resources both have some limited Outplacement Services available. We will be able to provide you with some tools and consultation on what other types of jobs might work for you, and assist with resume development, job search and interview skills, etc. Ask your Human Resources contact how these services may be accessed. In addition, the Department of Labor provides job seeking assistance to everyone; this can be particularly helpful after the layoff's effective date when access to your Agency's HR staff becomes less available.

10. Does my Agency offer a severance package?

Answer: No. Idaho Code prohibits state agencies from providing a severance package.

11. What will happen to my leave balances if I get laid off?

Answer: Accrued unpaid balances for vacation leave will be paid upon separation. For FLSA eligible employees (those eligible for time and a half for overtime), accrued compensatory time will also be paid upon separation. FLSA exempt employees (those who accrue overtime as straight time - 1 hour for 1 hour) will forfeit their compensatory time. Accrued sick leave will be forfeited in any case, but will be reinstated if you return to credited state service within three years after your layoff.

12. Who can I contact for more answers?

Answer: Your Agency's Human Resource contact will be able to assist you.

## **LAYOFF UNIT**

13. What is a layoff unit?

Answer: Within the Agency, layoff units consist of major organizational units which have been designated as such by the Agency and approved by the Idaho Division of Human Resources Administrator.

14. What is the significance of layoff units?

Answer: Layoff units are the organizational unit within which a layoff can occur. Layoffs within one organizational unit do not automatically impact employees in another organizational unit. If a layoff were to occur, it occurs within the layoff unit, so employees' opportunities to transfer and/or demote are limited to positions within the layoff unit.

## **RETENTION POINTS**

15. What are retention points?

Answer: Retention points are designed to provide a numerical value to the amount of credited state service and the level of performance of employees being impacted by a layoff. Generally speaking, the employee(s) with the fewest retention points within an affected job classification within the layoff unit will be the ones to lose their jobs.

16. How are retention points calculated?

Answer: Under the existing policy and rules, the first step in the calculation process is to review the official personnel file to find all of the performance evaluations and note the level of the ratings (i.e., Exemplary, Solid Sustained, Achieves Performance Standards, and Does Not Achieve Performance Standards) and the period of time

for which the evaluation was done. Each hour of credited state service is assigned a point value based on the level of performance during each evaluation period. For example, each hour of credited state service in a year (2080 hours) at an “Achieves Performance Standards” or equivalent level of performance would be assigned a point value of .050, for a total 104 retention points ( $2080 \times .050 = 104$ ). Conversely, a year at an “Exemplary” or equivalent level of performance would be assigned a point value of .100, for a total of 208 retention points ( $2080 \times .100 = 208$ ). “Solid Sustained” or equivalent ratings are assigned a point value of .075. No points are awarded for any period of credited state service during which the performance is rated below “Achieves Performance Standards” or its equivalent.

For example: an employee has worked for the state for 10 years. This person had five years of “Achieves Performance Standards” performance ( $5 \times 2080 \times .050 = 520$ ), and two years of “Solid Sustained” performance ( $2 \times 2080 \times .075 = 312$ ) and three years of “Exemplary” performance ( $3 \times 2080 \times .100 = 624$ ). The retention points would total 1,456.

17. Who calculates retention points?

Answer: Calculations are made by the Agency’s Human Resources staff. Assistance from staff at the Idaho Division of Human Resources may be necessary to gather information about performance ratings earned during employment at another agency, or to verify Agency records.

18. What is “credited state service?”

Answer: “Credited State Service” includes all time worked for the State of Idaho in a classified position. Time served in temporary or non-classified appointments is not included.

19. What happens to my retention points if my supervisor hasn’t done a performance evaluation for a long period?

Answer: If the gap between evaluations, or if the time from an employee’s most recent performance evaluation, is more than one year, that time period will be treated as if it were “Solid, Sustained” service and receive .075 points per hour of credited state service. If the gap between evaluations, or if the time from an employee’s most recent performance evaluation, is less than one year, that time period will be rated the same as the evaluation immediately preceding the gap.

20. There was a period of time when my Agency used only a two-level rating system, “Achieves” and “Does Not Achieve” performance standards. How are point values assigned to those evaluations?

Answer: The “Achieves Performance Expectations” rating receives a 0.50 value. The “Does not Achieve Performance Expectations” receives no value.

21. I’ve been in my position longer than Joe has been in his. Why am I being laid off instead of him?

Answer: There are many reasons this could happen. Retention points are based on credited state service hours, not time of service in a particular position or agency. Joe may have accumulated more credited state service than you are aware of, because he worked for another Agency before he came to work for your Agency. He may have higher levels of performance ratings than you do. Or he may have some military service, which entitles him to 312 additional retention points (equivalent to three years of credited state service at the “Achieves Performance Standards” level). Another reason may be that, while you and Joe are in the same classification title, he was hired with a minimum qualification specialty. Such a specialty may exclude him from being part of the layoff group.

22. What happens if there's a tie on retention points?

Answer: This very rarely happens, but when it does, the employee with the most retention points earned in the most recent thirty-six months will be considered to be higher on the retention list. If that still results in a tie, some method of random selection will be used, such as a coin toss, or names drawn out of a “hat” or a computerized random selection process.

23. How can I be sure that my retention points have been calculated correctly?

Answer: If you think they're incorrect, first speak with your HR contact, who can review the calculation. If you still believe the points have been incorrectly calculated, you have the right to request an audit of the retention points by an independent auditor designated by the Idaho Division of Human Resources Administrator. Your HR contact can help you through the process if you wish to request an audit.

## **DEMOTION/BUMPING and TRANSFER/DISPLACEMENT**

24. What is meant by a demotion / “bumping” option?

Answer: You may be able to demote, commonly referred to as “bump”, into any classification in which you have previously held permanent status in the Agency. The demotion can occur only within your own layoff unit, and first occurs into a vacant position. If no vacant position exists, the demotion option would be into the position held by the employee with the fewest retention points. You will be notified in writing of your options if you are to be laid off.

25. What is meant by a “transfer option” in a layoff situation?

Answer: The terms transfer and displacement are commonly used to mean the same thing. They typically refer to a situation where an employee who is in a position being deleted is transferred to a vacant position in the same class in the same layoff unit, or to a position in the same classification as the affected employee, but occupied by someone with fewer retention points than the affected employee.

26. Do I get salary protection if I accept a demotion?

Answer: The simple answer is “maybe.” Salary policies for demotions during a layoff process are the same as for demotions at any other time. For the most part,

salary is negotiable within the pay range and limits set by the salary policies of the Agency's Human Resource Policies and Procedures.

27. Can I collect unemployment insurance if I turn down a transfer or demotion?

Answer: The Department of Labor advises us that it depends on the reason you would turn it down. Our best advice for you is to contact your local job service office for answers to this question.

## **LAYOFF LIST AND REGISTER**

28. What is a layoff list? How is it used?

Answer: The layoff list is simply a list of state employees who have been laid off from a particular classification. The Idaho Division of Human Resources maintains the list. Any time a hiring list is requested for that classification, employees on the layoff list are included with the list of applicants on the register. Employees placed on a layoff list will be able to remain on the list for up to one year, or until three separate offers of employment have been declined.

29. I'm going to be placed on a layoff list. What happens now?

Answer: You will need to contact the Idaho Division of Human Resources, and they will help you through the process. They will need to know which cities you are willing to work in, and what other classifications you might qualify for. In addition to being placed on the layoff list for the classification from which you were laid off, you may be eligible to have your name added to registers as a possible "reinstatement" in other classes for which you meet minimum requirements. In that case, any State agency receiving that register must at least offer you an interview and consider you if you are interested in the position. However, they are not required to hire you. Also, if you held permanent status when you were laid off, you will be considered as a current employee of the State for purposes of competing under Department and statewide promotional announcements while you remain on the layoff register.

We highly recommend that you log onto your electronic applicant account and update your contact information as well as all sections under "General Information." You can find the login page at:

<http://labor.idaho.gov/DHR/ATS/StateJobs/Apply/Login.asp>.

30. If my name is included on a hiring list as having been laid off, does the agency with the vacancy have to hire me?

Answer: Depends. Following are three scenarios...keep in mind that each one presumes that the hiring list is requested by the agency within one year of the effective date of your layoff:

- If the agency filling the vacancy is the same agency from which you were laid off, and if you are the only employee on the hiring list with reemployment

rights arising from layoff by that agency, then the agency is required to offer you the job.

- If the agency filling the vacancy is the same agency from which you were laid-off, and if you are one of several employees on the hiring list with reemployment rights arising from layoff by that agency, then the agency may interview and offer the job to any of their previously laid-off employees.
- If the agency filling the vacancy is a different agency from which you were laid-off, and if there are no former employees on the hiring list with reemployment rights, then the hiring agency would be required to offer you an interview and consider you for the job.

31. What if I don't want a position that is offered to me while I'm on the layoff register?

Answer: You have two opportunities to turn down a position offered through a layoff register if you do not have good cause. If you turn down a third position without good cause, you will be removed from the layoff register. Good cause does not include dislike of the shift, the supervisor, or the work unit.