

RESOURCES FOR EMPLOYEES WHO HAVE BEEN LAID OFF

- For information about health, dental and life insurance, contact your department's HR office.
- For information about deferred compensation programs, contact the DPA Employee Benefits Unit at 303-866-3434 or 1 800-719-3434.
- For information about your PERA retirement account, contact PERA directly at 303-832-9550 or 1 800-759-7372.
- For information about unemployment insurance go to www.coworkforce.com or call 303-318-8000.
- For additional layoff assistance, check the Department of Labor & Employment Employee Services website at www.coworkforce.com/EMP/.

Department of Personnel & Administration
Division of Human Resources
1313 Sherman Street, Room 122
Denver, Colorado 80203

Phone: 303-866-5383

Fax: 303-866-2021

Email: cristina.valencia@state.co.us

www.state.co.us/dhr

GUIDE TO UNDERSTANDING THE LAYOFF PROCESS



DPA

A publication of the Department of Personnel & Administration

The State Personnel System Layoff Process is a complex process. This guide answers basic questions about the process, including the state's responsibilities as an employer and the employee's rights in the layoff process. However, this is only a guide; Chapter 7 of the State Personnel Board Rules governs the state personnel system layoff process and are available at www.state.co.us/dhr (under Rules and Technical Guidance).

For what reasons can a layoff occur in the state personnel system?

Layoffs can occur for only three reasons: 1) lack of funds, 2) lack of work, or 3) reorganization.

Lack of funds is pretty obvious, but what exactly do lack of work and reorganization mean?

Lack of work could occur when work that was previously performed manually becomes automated, when work on a grant project or phase of a grant project is completed, or when a position gets reduced to part-time. Reorganization means a change in the fundamental structure, positions, and/or functions accountable to one or more appointing authorities. An example could be combining two work units that perform similar functions, such as combining payroll and human resources into one work unit.

How does a department determine what positions will be abolished?

An appointing authority has the discretion to abolish positions based on business reasons.

What are retention rights?

Certified employees may have rights to fill a vacant position or to "bump" into other filled positions in their class. If no such positions exist in a certified employee's class, the employee may have rights to a vacancy or occupied position in a class in which the employee was previously certified. If no such positions exist in a previously certified class, the employee may have rights to a vacant or occupied position in a class that results in a demotion. The employee must be qualified for the position, and the position must be in a defined retention area. A retention area is generally the principal department or institution of higher education, but the area may be limited by rule or order of the State Personnel Board.

What must a department consider in determining who has retention rights?

Departments consider the employees' status (that is, whether employees are certified, probationary, or in some other status), seniority, and performance ratings (if necessary) in deciding who will be laid off.

How does a department determine seniority?

For each affected class, departments use "time bands" that

are based on continuous state service. Time bands are established for three-year periods and begin with the calendar year in which a layoff is to take effect. For example, if a layoff takes effect on October 1, 2003, the most junior time band would include all employees hired in 2001, 2002, or 2003.

How are performance ratings and other factors considered in layoffs?

Departments must develop a matrix to rank employees within the same time band. Performance ratings for the last three years must constitute at least 51% of the calculation. If an employee has less than three years' of service with a department, the department will consider the evaluations the employee has received during his service. Any missing rating is considered to be satisfactory for purposes of the matrix calculation. The matrix may also consider other factors, such as job fit, business necessity, diversity, and funding source.

If I am laid off, how will I be notified?

Certified employees who are to be laid off must be given written notice of at least 45 calendar days. A certified employee who is "bumped" by another certified employee must be given written notice at least 10 business days before the "bump" is effective, and is entitled to be paid for at least 22 working days after receiving the notice. A non-certified (probationary) employee who is laid off must be given written notice of at least 10 business days. Certified employees who are laid off or demoted will be placed on a departmental reemployment list.

How do I know if I have retention rights?

If the layoff notice does not include an offer of retention rights, certified employees have three working days to state whether they want to pursue retention rights and the department will determine whether retention rights are available. If the department offers retention rights, employees must accept the offer within three working days of the offer.

How does employment status – certified, trial service, probationary – affect an employee's rights?

Certified employees may have the right to a retention offer. If no offer is available or an employee exercises retention rights that result in a demotion, the employee will be placed on a reemployment list for one year from the date of the layoff or acceptance of the demotion.

Trial Service employees whose performance is satisfactory are treated as if certified in the trial service class for purposes of layoff.

Probationary employees do NOT have retention rights or the right to have their name placed on a reemployment list.

What rights do I have as a full-time or part-time employee?

Full-time employees whose positions are reduced to part-time

shall be offered full-time positions before part-time.

Part-time employees whose positions are increased to full-time shall be offered part-time positions before full-time.

What additional rights do I have as a veteran?

Employees eligible for veteran's preference will be credited for up to 10 additional years (rounded to a whole year and does not apply if the employee has 20 plus years of military service) towards continuous state service if their military duty qualifies them for veterans points. No veteran can be displaced before a non-veteran, regardless of rank.

What happens to a certified employee placed on a reemployment list?

A certified employee who is the only certified employee on a department reemployment list must be considered for the first job in the certified class that comes open, given the employee meets the qualifications for that position. An appointing authority may consider transfers and voluntary demotions. If there is more than one employee on a department reemployment list, all qualified employees will be referred for the position.

How is my salary affected if I am offered and accept a position in a lower class?

The appointing authority may establish a salary anywhere within the salary range for the new class. That salary cannot exceed the employee's current pay. Employees cannot receive saved pay above the maximum for the new range.

What happens to my PERA, insurance, and leave balances?

Laid off employees are permitted to retain state group health and dental insurance coverage under COBRA provisions, and shall be paid vacation accruals, up to the maximum accrual rate. Laid off employees should contact PERA for information regarding benefits and refunds. Information concerning Unemployment Insurance should be directed to the Department of Labor and Employment. Your Human Resource Office can provide you with additional information.

Can I appeal a layoff decision?

Any certified or probationary employee has the right to appeal a layoff action to the State Personnel Board if that action adversely affects the employee's current base pay, status, or tenure. If the employee's pay, status, or tenure are not adversely affected, the employee may petition the Board for a discretionary hearing. Departments must give employees written notice of their appeal rights. Appeal forms and instructions are available at:

www.state.co.us/dhr/pubs/dispute_forms.