

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
Bureau of Human Resources

November 20, 1996

HUMAN RESOURCES MEMORANDUM 14-96

TO: Department and Agency Heads, Directors of Administrative Services, Personnel Officers and Equal Employment Opportunity Officers

SUBJECT: Layoff and Recall From Layoff

This Memorandum is in response to several processing questions that have been directed to the Bureau of Human Resources over the past several weeks concerning the continued employment of employees on layoff and the recall of employees from layoff.

Following are the most frequently asked questions and the answers to these questions:

Q1. What happens to the accrued vacation time of an employee who is laid off but who is immediately appointed to another position without any interruption of State service?

There is **not any interruption to service** when an employee is laid off and demoted, transferred or promoted on the next work day by an acting or permanent appointment to any position except a project or intermittent position. For all of these types of continued employment:

If the new position is with the **same appointing authority**, the employee's accrued vacation and the employee's earning rate "transfers" with the employee to the new position.

If the new position is with a **different appointing authority**, the employee may choose to cash in all of the employee's accrued vacation or cash in some and transfer some to the new appointing authority.

Q2. Do I need to adjust the Performance Review Date if a probationary employee transfers to another class at the same pay grade as the layoff class?

If an employee is on probation when laid off and transfers in lieu of layoff or transfers while on layoff, the appointing authority may choose to have the employee serve a full probationary period or just the balance of probation that remained at time of layoff. For either choice, if the employee is recalled from layoff, the employee must complete the balance of probation that remained in the layoff class when layoff occurred.

Q3. Can a permanent status employee who is transferred to another class at the same pay grade as the layoff class be placed on probation?

A transfer that is based on layoff is treated the same as a transfer for any other reason. Thus, if an employee transfers to another class in lieu of layoff or while on layoff, the appointing authority may choose to transfer the employee with permanent status or to require the employee to serve a full probationary period.

Q4. How do I establish the salary of an employee who has been laid off and who becomes employed in another classification while layoff status is still in effect?

During the two or three year period that the employee has layoff status, all permanent and acting/temporary compensation appointments to other than project and intermittent positions are subject to the compensation rules for demotions, transfers or promotions.

For the first class held after layoff, the 5% promotion/demotion rule or the step-to-step transfer compensation rule is applied to the range and step held at time of layoff, depending on whether this first class after layoff is at a higher pay grade, lower pay grade or the same pay grade as the layoff class.

If the employee should later demote, transfer or promote from the first class held after layoff while layoff status is still in effect, the salary for the next class is the salary computed by applying the appropriate compensation rule to the layoff range and step or the salary computed by applying the appropriate compensation rule to the range and step of the class currently held, whichever provides the greater salary.

Employees on layoff who are employed in a project position may be compensated at the higher step rates in accordance with the compensation rule for project employment. Those employed in an intermittent position must be hired at Step 01 of the pay grade unless an exception is requested and approved.

Q5. How do I establish the salary of an employee who is recalled from layoff?

Employees who are not employed by the State at the time of recall, employees who hold an acting/temporary compensation assignment at time of recall, and employees who are employed in a project or intermittent position at time of recall **must** be placed at the range and step held when laid off.

Employees who are permanently employed as a demotion, transfer or promotion in other than a project or intermittent position at the time of recall must be placed at the step held at time of layoff or to the step that results by application of the 5% promotion/demotion or step-to-step transfer compensation rule to the range and step of the class held at time of recall, whichever provides the greater salary.

Q6. What adjustments do I need to make to the performance review date and the salary review date when an employee is recalled from layoff?

For the past several years, employees who were recalled from lay off were placed at the step they would have attained if layoff had not occurred. Under this practice, the anniversary date in effect at time of layoff was not changed. This practice, while beneficial to the employee, was recently determined to be inconsistent with the Civil Service Rule, and the Rule was enforced. With the enforcement of this rule, the requirement of Personnel Bulletin 10.4 to compute a new anniversary date is also being enforced.

The new procedure for establishing the Performance Review and Salary Review dates upon recall:

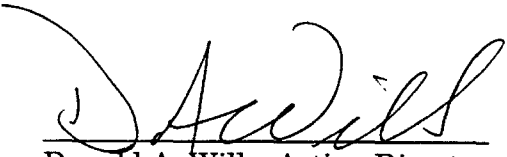
- *Gives credit for all time worked toward completion of probation or completion of the 12-month annual review period at the time of layoff. Thus, recalled employees will need to work just the balance of the probation or annual review period that was left at the time of layoff to be eligible for permanent status or merit review.

- *Counts all time worked in a higher, same-occupational-field classification while on layoff toward the completion of probation or the 12-month annual review period in the layoff class. Thus, if employees work in a higher, same-occupational field class while on layoff, the time in the higher class will reduce both the probationary balance and/or the annual review balance that was left at time of layoff and for long-term service in a related higher classification, the employee will be credited with step increases missed in the layoff classification while on layoff.

The new procedure for establishing Salary and Performance Review dates is explained in detail by the Attachment to this Memorandum. Please note that the procedure differs with each employee's circumstance (Was the employee laid off with permanent status or was the employee on probation when laid off? Did the employee work in a higher, same-occupational-field classification while on layoff?). Because of these variations, the Attachment provides a useful reference for establishing the appropriate Adjustment Procedure for Performance and/or Salary Review dates when an employee is recalled.

Q7: What happens to layoff status if the employee retires while on layoff?

The employee's layoff status must be continued for the balance of the employee's two or three-year layoff term. Resignations to retire while on layoff are often involuntary resignations that are forced by the economical impact of unemployment.


Donald A. Wills, Acting Director
BUREAU OF HUMAN RESOURCES

BASIC RECALL POLICY: Upon recall, employees need to work only the balance of the probationary period and/or annual review period that remained at time of layoff to be eligible for permanent status and/or merit review.

The **balance of probation** is the difference between the End of Probation Date and the Layoff Date. Upon recall, establish the end of probation date by adding the balance of probation that remained at time of layoff to the recall date.

The **balance of annual review** is the difference between the Anniversary Date and the Layoff Date. Upon recall, establish the anniversary date by adding the balance of annual review that remained at time of layoff to the recall date.

EXAMPLE: An employee is laid off on October 11, 1996, before the employee's end of probation on January 11, 1997. The employee's anniversary date at time of layoff was July 11, 1997. The employee is recalled on March 11, 1997.

Upon recall, the employee needs to work the three-month balance of probation that remained at time of layoff to earn permanent status and the nine-month balance of annual review for merit increase consideration.

13		96		
4	-	11	-	97
10	-	11	-	96
3 - 0 - 0				

19		96		
7	-	11	-	97
10	-	11	-	96
9 - 0 - 0				

The recalled employee's end of probation and anniversary date for recall are June 11, 1997 and December 11, 1997.

3	-	11	-	97
3				
6 - 11 - 97				

3	-	11	-	97
9				
12 - 11 - 97				

EXCEPTION TO BASIC RECALL POLICY: The status time that employees work in a higher pay grade class that is in the same occupational field as the layoff class while on layoff counts toward completion of probation and

annual review in the layoff class and the balances of probation and annual review must be reduced by this status time in the higher class. Project, intermittent and acting/temporary compensation employment is not status time.

In some cases, probation in the layoff class will be completed by status time in the higher class, and in some cases, the employee will be entitled to additional merit steps upon recall because of status time in the higher class. *Note: Reductions to probation and annual review balances and credit for step increases that were missed while on layoff are infrequent. Generally, employees who are laid off do not work in a higher class while on layoff. In addition, the few employees who do work in a higher class while on layoff generally refuse recall to the lower class.*

EXAMPLE 1: Employee is laid off from Technician II three months before the end of promotional probation and nine months before annual review. In lieu of layoff, the employee promotes without an interruption of service to Technician III. The employee works as a Technician III for two months and accepts recall to Technician II. Upon recall, the employee's probation and annual review balances must be reduced to one month and seven months respectively. It's just as if the employee had not left the layoff class because the employee's service is not interrupted and all time in the higher class is credited as service in the lower, layoff class.

EXAMPLE 2: Employee is laid off from Technician II three months before the end of promotional probation and nine months before annual review. In lieu of layoff, the employee promotes without an interruption of service to Technician III. The employee works as a Technician III for five months and accepts recall to Technician II. The employee is recalled with permanent status as a Technician II and is eligible for salary review in four months (the anniversary date at time of layoff is unchanged).

EXAMPLE 3: Employee is laid off from Technician II at Step 02 on 10/12/95, nine months before annual review on 7/12/96. In lieu of layoff, the employee promotes without an interruption of service to Technician III. The employee works as a Technician III for eleven months and accepts recall to Technician II on 9/12/96. The employee is recalled at Step 03 (the Step that would have been attained on 7/12/96 if not for layoff), with the performance review date adjusted to 7/12/97.

EXAMPLE 4: Employee is laid off from Technician II at Step 02 on 5/12/95, three months before annual review on 8/12/95. The employee is unemployed for five months and returns as a Technician I for nine months, from 10/12/95 to 7/12/96. The employee is unemployed from 7/12/96 until 9/12/96 before becoming employed with status as a Technician III, from

9/12/96 to 2/12/97. The employee accepts recall to Technician II on 4/12/97.

The time unemployed and the time in the lower Technician I class do not provide any credit toward the 12-month annual review period in the Technician II layoff class, so this time can be ignored. The time in the Technician III class does count however. This time is computed as follows:

14	-	12	-	96	End Date Of Technician III Employment
2	-	12	-	97	
9	-	12	-	96	Date employed as Technician III
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5	-	0	-	0	Time To Be Credited To Technician II Annual Review

This five months completes the employee's three-month annual review for merit increase to Step 03, and provides two months credit for the annual review following recall. Therefore the employee is recalled at Step 03 with an Anniversary Date of February 12, 1998:

4	-	12	-	97	Date of Recall
10	-	0	-	0	Annual Review Balance After 2 Months Credit
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2	-	14	-	98	Next Salary Review Date After Recall