

TO: Andrew Leavitt, Chancellor

FROM: John Koker, Provost and Vice Chancellor 

DATE: December 9, 2019

RE: University Staff Layoff Policy

On the recommendations of the Faculty Senate, Senate of Academic Staff, University Staff Senate, and Oshkosh Student Association Senate, I am recommending your approval of the University Staff Layoff Policy.


I have attached the policy for your review. Please contact me if you have questions regarding the proposal.

JK/eh

Attachment

Approve

Do not approve

  
\_\_\_\_\_  
Signature

12/19/2019  
Date

**OFFICE OF THE PROVOST AND VICE CHANCELLOR**

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## University Staff Layoff Policy

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### 1. PURPOSE

The purpose of this policy is to provide a framework to be used by all campuses of the University of Wisconsin Oshkosh (UWO) in cases of layoff of university staff.

### 2. RESPONSIBLE OFFICER

The Office of Human Resources will maintain this policy. Please contact Human Resources at [hroffice@uwosh.edu](mailto:hroffice@uwosh.edu), (920) 424-1166, or at <https://hr.uwosh.edu/>.

The Office of the Provost and Vice Chancellor documents approved policies in the Faculty and Staff Handbook at <https://www.uwosh.edu/provost/Main%20Highlight/handbooks>.

### 3. SCOPE

UPS Operational Policy: GEN 13 details the procedure to follow in the event layoff becomes necessary at UW System institutions. It is presented here along with UW Oshkosh's campus-specific procedures.

### 4. 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22 of the Wisconsin Administrative Code and the procedures established by the Office of State Employment Relations are no longer applicable to current UW System University Staff employees.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 Oshkosh.

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).

### 5. DEFINITIONS

1. "Layoff" means separation from employment for reasons of budget or due to the discontinuance, curtailment, modification, or redirection of a program.
2. "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.

3. "Operational area" means an area of focus or function in an institution, campus, school, college, division, department, or office. An operational area will generally be a subset of an institution, campus, school, college, division, department, or office, and need not encompass the whole unit.
4. "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.
5. "Reasonable offer of employment" means an offer of appointment that meets the following conditions: it is to the highest level position that the employee is qualified to perform after the customary orientation and training, the FTE and working hours of the position are comparable to those previously worked, and the work site is in reasonable proximity to the original work site.
6. "Temporary employment" means employment in a university staff temporary or project appointment.

## 6. POLICY STATEMENT

### A. Consideration and Consultation Prior to Layoff Decisions

1. Prior to proceeding with a decision to identify a layoff group because of budget or program decisions requiring program discontinuance, curtailment, modification, or direction, the Chancellor or designee shall prepare an analysis of the conditions which necessitate such action. In preparing the analysis, the Chancellor or designee will consult with groups or committees on campus as necessary.
2. Whenever practicable, employees in temporary or project appointments in the operational area shall be reduced or discontinued before invoking the layoff procedures.
3. Employees in a probationary period shall be dismissed prior to laying off non-probationary employees performing similar work, providing that those remaining employees have the necessary skills, knowledge, and ability to learn and perform the work.

### B. Layoff Selection and Plan

1. Prior to providing layoff notice to any employees, the employer shall develop a plan under which a layoff will occur. 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.
  - Temporary layoffs, a period not to exceed 20 working days, are not subject to layoff procedures.
  - 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.
2. The Chancellor or designee, after such consultation, shall meet with the University Staff Senate for discussion and advice. The Senate shall be provided with and consider information including:
- budget detail on proposed decisions showing the need to layoff a specific number of University Staff;
  - the criteria and/or rationale used in determining the operational unit(s) selected for reduction in positions; and
  - the criteria to be applied within the operational area in determining the individuals who will be affected by the reduction.

**C. Notice and Conditions of Layoff**

1. 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.
2. 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.**

1. 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. If an employee accepts involuntary reassignment, the employee shall serve a permissive probationary period in the new position.
2. 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.
3. 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.

**E. University Staff Benefits Upon Layoff**

1. Please see UPS Operational Policy: GEN 13

#### F. Consideration of Vacant Position for University Staff on Layoff

1. 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.
2. 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. In addition, administration shall make every possible effort to inform university staff on layoff status of all relevant openings in the University of Wisconsin System.
3. 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.
  - 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.
  - An employee who accepts an offer of return to a position with comparable duties and FTE shall serve a permissive probationary period.
  - Any university staff member reappointed within three years after layoff to reasonably comparable duties within the operational area shall be reappointed with a salary rate at least equivalent to his/her salary rate when laid off plus any intervening across the board adjustments, together with such other rights and privileges that may have accrued during that time.

#### G. Appeal Rights of University Staff on Layoff

1. Upon layoff notification to an employee, the employee may appeal the layoff decision through the appropriate grievance procedure (see Operational Policy GEN 14: Grievance Procedures and applicable local policy)

H. Any changes to the related procedures for this policy will be coordinated through HR and the University Staff Senate President outside of the policy approval process.

### 7. REFERENCES

- A. UPS Operational Policy GEN 14: Grievance Procedures
- B. UPS Operational Policy BN 1: Vacation, Paid Leave Banks and Vacation Cash Payouts
- C. UPS Operational Policy BN 3: Sick Leave
- D. Wis. Admin. Code Chapter UWS 5, Layoff and Termination for Reasons of Financial Emergency

- E. Wis. Admin. Code Chapter UWS 12, Layoff of Academic Staff for Reasons of Budget or Program
- F. Academic Staff Personnel Policy #802 Layoff for Reasons of Budget or Program

**8. PROCEDURES**

[Links to procedural information on how to comply with the policy.]

**9. REVISION HISTORY**

03/08/2019	Revisions from Restructuring with Access Campuses; New Policy Format
05/14/2019	Faculty Senate
05/15/2019	University Staff Senate
05/16/2019	Senate of Academic Staff
10/30/2019	Oshkosh Student Association Senate
	Chancellor

**10. CHANCELLOR'S APPROVAL**

Chancellor's Signature

12/17/2019

Date