Washington State
Military Department

# Department Policy No. HR-219-01

| | |
|---|---|
| **Subject:** | Layoff Non-Represented Employees |
| **Former Number:** | 03-205 (Reduction in Force) |
| **Authorizing Source:** | RCW Chapter 41.06<br>WAC Chapter 357-46 |
| **Information Contact:** | Human Resource Director<br>Building #33 (253) 512-7940 |
| **Effective Date:** | August 3, 2001 |
| **Revised:** | August 12, 2016 |
| **Mandatory Review Date:** | August 12, 2020 |
| **Approved By:** | Bret D. Daugherty, Major General<br>The Adjutant General<br>Washington Military Department Director |

## Purpose

Provide direction for use in conjunction with chapter 357-46 Washington Administrative Code (WAC), Layoff and Separation.

## Scope

This policy is applicable to all non-represented state employees within the Washington Military Department (WMD). Layoff guidelines for represented employees are covered in their respective collective bargaining agreements. This policy does not apply to guardsmen on state active duty or to federal personnel, to include Active Guard Reserve (AGR), members, traditional guardsmen in a federal status, or military technicians.

### Department Rights

Nothing in this policy or the corresponding procedure shall negate the rights of the WMD to transfer, promote, demote or terminate any employee (regardless of employment status) in any manner permissible by the WAC.

## Policy

### 1. Alternatives to Layoffs

The WMD shall attempt to avoid or minimize layoffs through transfers, voluntary demotions, voluntary reduced work schedules, or voluntary leave without pay.

A permanent employee scheduled for layoff has the right to transfer or take a voluntary demotion to a vacancy that is to be filled within the employee's layoff unit, provided the employee has the skills and abilities required for the position as determined by the appointing authority. If more than one qualified employee seeks the same vacancy, retention ratings shall determine the final appointment to the vacancy.

### 2. Authorizing a Layoff

The WMD Director/The Adjutant General (TAG) will determine the positions to be abolished or vacated due to lack of funds, curtailment of work, good faith reorganization for efficiency purposes, ineligibility of an employee to continue in a position which has been reallocated and/or when there are fewer positions than there are employees entitled to such positions, either by statute or within other provisions of the WACs, resulting in a Layoff.

### 3. Layoff Unit

To keep from unduly restricting its employees during a layoff, the WMD has been designated as a single layoff unit for non-project positions and employees. The layoff units for project employment are designated as the positions within the respective project's boundaries.

### 4. Retention Rating

A. Computing Retention Ratings. Under the direction of the Human Resource Director, the Human Resource Office staff shall compute the retention rating for affected employees.

For the purposes of a layoff, an employee's retention rating will be calculated in accordance with WAC 357-46-050 (How does an employer determine an employee's employment retention rating?), WAC 357-46-055 (How is a general government employee's seniority date determined?) and WAC 357-46-060 (Does a veteran receive any preference in layoff?).

Employees that work less than 32 hours a week on a regular basis will have their retention rating prorated in proportion to the hours actually worked.

B. Ties in Retention Ratings. If ties occur, the following criteria shall be applied in the order presented to the affected employees until the ties are broken.

1.) Current (or last period of) continuous employment with the WMD.

2.) Current (or last period of) continuous employment within the affected job classification.

3.) Random drawing (lot).

**5. Employee Layoff Options**

A. Layoff options for Washington General Service (WGS) employees are determined as follows.

1.) Permanent Employees. A permanent employee's layoff options are determined in accordance with WAC 357-46-035 (Layoff Option) and the Department's layoff procedures.

a. Permanent full-time employees shall be offered available full-time options. If there are no full-time options, part-time options may be offered. Employees who accept part-time positions due to layoff actions or to lessen the impact of a layoff shall be considered full-time.

b. No permanent employee shall be laid off without first being offered a position ("layoff option") in the layoff unit for which they qualify if that position is currently held by a probationary or non-permanent employee.

c. No permanent employee shall be separated from state service through layoff without being offered a layoff option within the 15-day notice period. The Department shall offer layoff options to permanent classified employees in the manner described in the WMD's layoff procedures.

2.) Project Employees. The layoff options of project employees are determined in the same manner as non-project employees but are limited to positions within the project layoff unit. Additionally, if a permanent employee is returning from a project position, WAC 357-19-340 provides that they have return rights within the agency in which they held permanent status immediately prior to accepting project employment.

3.) Permanent Full-Time Employees. Shall be offered available full-time options. If there are no full-time options, part-time options may be offered.

4.) Probationary Employees. Do not have permanent status and are not eligible for layoff options.

5.) Trial Service Employees. Will not normally be displaced as part of a layoff option if an employee in the same classification has a lower retention rating.

B. Selection of Layoff Options.

1.) Unless otherwise specified in the written notification letter, employees shall accept or decline the layoff option offer(s) within five (5) calendar days from the receipt of the layoff notification and submit the response in writing to the Human Resource Office.

2.) If the employee's response is not received, the Human Resource Office shall automatically regard the employee's decision as a rejection of the offer(s).

C. As long as there are options available, the retention rating will be the determining factor in offering options, in lieu of separation, for eligible employees whose positions are abolished or otherwise effected by a layoff.

**6. Comparability of Positions**

A. For the purpose of identifying comparable positions for layoff options, the Human Resource Director, or designee(s) with input from the appropriate Executive Management Team members will determine which positions are comparable.

The following factors will be considered when determining comparability of positions.

1.) Comparable positions in the layoff unit for full time positions are 40 hours per week.

2.) Comparability for part time positions is less than 40 hours per week.

3.) Same or similar work shifts/schedules.

4.) Similar job duties and responsibilities with matching competencies and other job requirements.

B. If employees held permanent status in job classifications that were revised or abolished, the Human Resource Office shall determine the closest matching classification.

**7. Temporary Layoff**

Within the provisions of WAC 357-46-063 through 069, temporary reductions in hours and/or furloughing will be based on the employee retention ratings and the required skills, knowledge and abilities in the job classifications where the temporary reductions will occur.

**8. Notification**

A. Permanent employees being laid off must receive at least fifteen calendar days' notice (WAC 357-46-025) unless the employer and employee agree to waive the fifteen-day notice period.

B. Probationary employees being separated due to layoff must receive at least one calendar days' notice (WAC 357-46-185). Temporary layoffs require at least seven calendar days' notice (WAC 357-46-066).

**9. Internal Layoff List**

A. Placement on Internal Layoff Lists. Employees shall be placed on the Department's internal layoff lists in accordance with WAC 357-46-070 and WAC 357-46-075.

B. Removal from Internal Layoff Lists. The Human Resource Director or, with input from the appointing authority, is responsible for determining if good and sufficient cause exists to remove a name from the statewide layoff list. Removal of names shall be done in accordance with WAC 357-46-135, WAC 357-46-147.

**10. Transition Review Periods**

A. As permitted by WAC 357-46-110 employees who are appointed through the layoff process, from the internal or statewide layoff list, and from the general government transition pool are required to serve a six-month transition review period.

B. The appointing authority may extend the transition review period of the employee. This extension must not cause the total transition review period to exceed 12 months.

**11. Procedures**

The Human Resource Office shall maintain layoff procedures that ensure the process is without prejudice, implemented equitably, minimizes employee hardship and does not unduly disrupt the Department's operations or mission.