Washington State
Military Department

Department Procedure No. HR-219a-01

Subject:	Layoff Non-Represented Employees Procedures
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Authorizing Source:	RCW Chapter 41.06 WAC Chapter 357-46
Information Contact:	Human Resource Director Building #33 (253) 512-7940
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Approved By:	Bret D. Daugherty, Major General The Adjutant General Washington Military Department Director

Purpose

Outline procedures used by the Washington Military Department (WMD) staff in carrying out the provisions of Department Policy HR-219-09 and Washington Administrative Codes (WAC) for layoff.

Scope

This policy applies to all non-represented state employees within the WMD. Layoff guidelines for represented employees are covered in their respective collective bargaining agreements. It 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 military status, or military technicians.

Procedures

1. **Authorizing a Layoff**

   A. The department will attempt to avoid or minimize layoffs through transfers, voluntary demotions, voluntary reduced worked schedules, or voluntary leave without pay.

B. Discussions to implement a layoff involve

1.) Human Resources Office (HRO), Executive Management Team (EMT) and Division Management shall discuss/review options, staffing authorizations, funding concerns/limitations and other organizational factors as outlined in Chapter 357-46 WAC.

2.) HRO and Division Management staff will identify and process viable alternatives to address layoff concerns through other staffing actions to include:

a. Transfers, voluntary demotions, deferring hiring actions, and reductions of hours, furloughs and staffing alternatives.

b. Voluntary actions by employees to demote, reduce hours or request a layoff.

C. When all actions to minimize or avoid a layoff have been exhausted, The WMD Director/The Adjutant General (TAG) will determine if a Layoff is necessary.

D. The Human Resource Director and staff will work with the appropriate Executive Management Staff (or designees) and finance to determine the personnel and positions impacted by the layoff action.

E. All layoff actions are processed in accordance with WAC and WMD Policy/ Procedure.

2. **Layoff Options**

Layoff options will be determined without prejudice and in accordance with the WACs and WMD policy.

A. Permanent Employees. The WMD will offer layoff options to permanent classified employees in the following sequence:

1.) A vacant, funded position that meets the following criteria.

a. A position in the job classification in which the employee holds permanent status at the time of the layoff.

b. If there is no position in the current job classification, a position in a class in which the employee has held permanent status that is at the same salary range.

c. If there is no position at the same salary range, a position in a lower class in an occupational category/class series in which the employee has held permanent status, in descending salary order. When assessing options within an occupational category/class series, the employee is not required to have held permanent status at the lower level to qualify and be offered an option to an available lower level position within the series.

d. The position is comparable to the employee's current position as determined by the skills, knowledge and abilities identified in the position description form or other position documents.

e. The employee satisfies the competencies and other position requirements of

the selected position.

2.) If there is no option available to a vacant, funded position, the option will be to the position, meeting criteria described in section 1 above that is occupied by the employee with the lowest employment retention rating.

3.) If there are no funded positions meeting these criteria, the layoff option will be to a position at the same or lower salary range maximum that:

a. Is less than comparable or held by a probationary employee or an employee in a non-permanent appointment for which the employee meets the competencies and other position requirements.

b. If more than one qualifying position is available, the position with the highest salary range maximum is the one that must be offered.

B. 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 respective project layoff unit. If a permanent employee is returning from a project position, the provisions of WAC 357-19-340 (What return rights must an employer provide to a permanent employee who accepts an appointment to a project position?) may impact the determination of layoff options.

C. Layoff Options—Full Time and Part Time Positions. The options for full-time employees shall include offers for qualifying full-time positions before part-time positions are offered. For the purpose of these offers, employees who accepted part-time positions due to layoff actions, or to lessen the impact of a layoff, shall be considered full-time.

3. **Voluntary Leave Without Pay (LWOP) or Reduction in Work Hours**

A. If employees voluntarily request to take LWOP or work reduced hours for a specified period of time to lessen the effects of a layoff:

1.) The request must be submitted in writing and the details and timeframes of the proposed action outlined.

2.) Employees can elect to utilize LWOP or reduce their regular work schedules within the following parameters.

a. Overtime eligible employees can request LWOP in increments of one work shift or more per month.

b. Overtime eligible employees LWOP requests must be made for full work weeks (partial work weeks will not be authorized due to the impact on overtime exemptions).

c. Employees can request to reduce their work schedules in 10 percent increments regardless of their overtime status.

3.) The request will be reviewed to determine its impact on the related layoff action, unit operations and business needs.

4.) The request will be processed through the employee's chain of command and

requires prior approval by the appropriate EMT member.

5.) Upon agreement and approval, the Human Resources office will notify the employee in writing of the agreed upon schedule and timeframes.

a. Employees utilizing LWOP will submit the required leave request forms to cover the approved time frames.

B. If an employee requests to return to their former employment status after exercising this option:

1.) The written notice is submitted to the WMD's Human Resource Director at least 15 calendar days prior to their requested return date.

2.) The Human Resource Office will process the request and determine the appropriate return options.

3.) The Human Resource Office will notify the employee of the position and effective date of their return.

C. If WMD requires employees on approved LWOP or reduced hours due to layoff to return to their former full or part time work:

1.) The employee is provided written notice at least 15 calendar days prior to their requested return date.

4. **Voluntary Demotion Due to Layoff - Salary**

A. If an employee accepts a voluntary demotion (lower position) due to layoff: The Human Resource Office will process the required notification within the notification period specified by the WACs and WMD policy.

B. The salary for an employee who accepts a voluntary demotion due to layoff will be determined in accordance with WMD's Salary Determination Policy (HR-228-05).

5. **Notification of Layoff Options**

A. Affected employees shall receive 15 calendar days' written notification that their position will be reallocated, abolished, transferred or vacated thereby necessitating a layoff. This notification will include the following information:

1.) The reason for the action.

a. Layoff (WAC 357-46-010). The reasons for layoff include, but are not limited to, the following: lack of funds; lack of work; or organizational change. Lack of work may include, but is not limited to: termination of a project or special employment; impact of a position reallocation; and elimination of a position due to competitive contracting.

b. Position offered/accepted as a layoff option by a more senior employee.

2.) Effective date of the action.

3.) Available layoff option(s).

4.) Notification requirements for accepting/declining layoff options.

5.) Specific layoff list(s) that the employee is entitled to request placement on according to WAC 357-46-070 and 357-46-080 and information on how to request placement on the statewide layoff list.

6.) Applicable WACs, and WMD policies/procedures.

7.) Appeal process.

B. Notification letters shall be prepared by the Human Resource Office and signed by the TAG/WMD Director. The date and method of delivery will be recorded and maintained by the Human Resource Office.

C. Affected employees shall notify the TAG/WMD Director or designee of their decision regarding the layoff option(s) offered.

1.) Employees must accept or decline their layoff option(s) in writing.

2.) Written responses should be directed to the Human Resource Office.

3.) Written responses must be received within five calendar days (unless otherwise documented) following the employee's receipt of the layoff option notification letter.

4.) Failure by employees to notify the Human Resource Office of their decision regarding their layoff option(s) will be automatically regarded as a rejection of the offer(s).

D. When there are no qualifying options or when an option is rejected, affected employees may be separated due to layoff after the required 15 calendar day notice period.

6. **Notification of Separation Due to Layoff**

A. Separations due to layoff will be without cause or prejudice.

B. Employees separated due to layoff will receive written notification that includes the following information.

1.) The reason for the action.

a. Layoff (WAC 357-46-010). The reasons for layoff include, but are not limited to, the following: lack of funds; lack of work; or organizational change. Lack of work may include, but is not limited to: termination of a project or special employment; impact of a position reallocation; and elimination of a position due to competitive contracting.

b. Position offered/accepted as a layoff option by a more senior employee.

2.) The effective date of the layoff.

3.) Explanation regarding layoff options.

a. Lack of available options, or

b. Employee declined layoff options offered.

4.) A summary of the applicable WACs and Department policies/procedures.

5.) General employment resources such as layoff, transition pool, and/or register information.

6.) The employee's appeal rights.

C. Notification letters shall be prepared by the Human Resource Office and signed by the TAG/WMD Director.

D. The date and method of delivery will be recorded and maintained by the Human Resource Office. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If a certified letter is mailed, the notice shall be considered received the same day as it is postmarked.

E. Notification of separations due to layoff may be combined with the layoff options notification letters when deemed appropriate by the TAG/WMD Director or designee.

7. **Internal Layoff List**

A. Employees will be placed on the WMD's internal layoff lists in accordance with WAC 357-46-075 and WAC 357-46-080.

B. Employees will not be placed on the internal layoff list for classes with a higher salary range than the class from which the employee is being laid off.

C. As provided in WAC 357-46-135, the Human Resource Office, 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. In accordance with WAC 357-46-147, the Human Resource Director or designee will review all requests for name removal from the internal or statewide layoff lists and will forward the request to the Department of Enterprise Services for final action.

8. **Department Rights**

A. Nothing in this procedure shall be construed to negate the rights of the WMD to transfer, promote, demote, or terminate any employee regardless of employment status, in any manner permissible under the WACs.

B. This procedure supersedes all prior layoff procedures for general service employees of the WMD.