

RULE XIV

LAYOFF, REINSTATEMENT, RESIGNATION AND SEPARATION

PART 1 - LAYOFF AND REINSTATEMENT

SECTION 14.1.1 LAYOFF AND REINSTATEMENT

General

When the Board of Supervisors determines it is necessary through lack of work or funds, to reduce the number of employees in any class covered by this Rule, the appointing authority of the department concerned shall notify the Director in writing of the number of employees to be laid off, the class title, and the date the employees are to be laid off. Upon receipt of such notice, the Director shall give to the appointing authority, the names of the employees who should be first laid off in accordance with this Rule.

SECTION 14.1.2 EXCEPTIONS

(a) Suborganizational Layoff

- (i) This subsection shall apply to employees in classes designated AM, AS, DA, DI, DM, DS, PD, PM, SM and SW. When the appointing authority so requests, the Civil Service Commission, upon finding that it is in the public interest, may, at a public meeting, authorize an appointing authority to lay off employees within a division, office, section, institution or other subdivision of an office, department or institution instead of laying off employees from the office, department or institution as a whole. In such case, the foregoing provisions shall be applied to the division, office, section, institution or other subdivisions within which the Civil Service Commission has authorized the layoff. (Amended 8-20-96) (Amended 9-27-05)

- (ii) This subsection shall apply to employees in classes designated AE, CC, CE, CEM, CL, CS, FS, MA, MM, PR, PS, SS, CR, CM, HS, RN, PO and SO. When the appointing authority so requests, the Chief Administrative Officer may authorize an appointing authority to lay off employees within a division, office, section, institution or other subdivision of an office, department or institution as a whole. In such case, the foregoing provisions shall be applied to the division, office, section, institution or other subdivisions within which the Chief Administrative Officer has authorized the layoff. Except for employees designated CE, CEM, MA, and SO prior to such layoff, the appointing authority shall provide the Union/Association with notice and, upon request, shall meet on the impact of the layoff with the Union/Association to discuss the matter and alternatives to such layoff. (Added 5-14-96) (Amended 9-27-05)

b) Required Specialized Skills

When the appointing authority so requests, employees who perform required services and possess specialized knowledge, and/or skill not possessed by other employees in the Department and which are necessary to the operation of the Department, may be excepted from layoff, as authorized at a public meeting by the Civil Service Commission pursuant to a finding that such exception from layoff is in the public interest.

c) Performance Based Abilities

This subsection shall apply to employees in classes designated CE, CEM and MA. Upon request of the appointing authority and approval of the Director, when a reduction in force is required in a multiple-position classification, the appointing authority may except from layoff employees in such multi-position classification who, in the discretion of the appointing authority, have best demonstrated the ability to carry out department functions and responsibilities. (Added 5-14-96) (Amended 9-27-05)

SECTION 14.1.3 NOTICE OF LAYOFF

(a) DHR Notice to Department and to Union/Association

Prior to the occurrence of a layoff, the Director, shall provide written notice to the Union/Association for employees represented by a recognized employee organization when the Department is notified of any employees covered by this Rule, who are identified for layoff. This notice shall list all persons in the affected class including the number, class title, seniority rating, and date on which affected employees are to be laid off.

(b) Appointing Authority Notice to Employees

Upon receipt of the layoff list, the appointing authority shall prepare and serve a Notice of Layoff. The notice shall contain the following information:

- (1) The effective date of layoff;
- (2) The seniority rating of the employee computed by the Director;
- (3) The seniority ranking of the employee on the layoff list for the particular class involved in the layoff;
- (4) The total number of layoffs for the particular class;
- (5) A statement of the computation of seniority ratings and rankings;
- (6) A copy of the complete layoff list compiled by the Director showing the seniority rating for each employee on the layoff list;

- (7) A statement that the employee has the opportunity to contact the Director or designated representative no later than five (5) business days after receipt of the Notice of Layoff to inspect the records relating to the computation of the layoff list including the employee's seniority rating and ranking, and to meet with the Director or designated representative regarding any corrections related to such list, rating, or ranking.

The employee shall be informed that failure to contact or meet with the Director or designated representative within the prescribed period will be deemed a waiver of any objections that might have been raised regarding the list, rating or ranking;

- (8) A statement that the layoff will be effective on the date indicated unless the appointing authority advises the employee in writing otherwise prior to the effective date and time set forth on the notice;
- (9) A copy of provisions of Rule XIV of the Rules pertaining to layoff.

SECTION 14.1.4 APPROVAL AND SERVICE OF NOTICE

The Notice of Layoff shall be approved by County Counsel prior to its distribution to any employee. The Notice of Layoff shall be served, either personally or by mail, on an employee at least fifteen (15) calendar days prior to the effective date of layoff for employees in classes designated AM, AS, CE, CEM, DA, DI, DM, DS, MA, PD, PM and SM, and at least thirty (30) calendar days prior to the effective date of the layoff for all other employees. (Amended 8-20-96) (Amended 9-27-05)

SECTION 14.1.5 ORDER OF LAYOFF

Except for permanent employees who volunteer to be laid off, the order of layoff within the class and in the Department, shall be in the following order (the appointing authority may lay off a volunteer for layoff at any point in this order):

- (a) Provisional Employee Definition: An employee who has not completed a probationary period and who has not been appointed to his/her present class from an eligible list.
- (b) Certified Temporary Employee Definition: An employee who has not completed a probationary period and has been temporarily appointed from an eligible list for a specified period.
- (c) Probationary Employee Definition: An employee who has been appointed to a permanent position from an eligible list and is currently serving, but who has never completed, a probationary period.
- (d) Permanent Employee Definition: An employee who has completed a probationary period or a permanent employee who is serving a probationary period in the same or a different class.

Permanent employees shall be laid off according to the layoff rating, lowest ratings first. The order of layoff within categories (a), (b), and (c), and for permanent employees with equal layoff ratings, shall be at the appointing authority's discretion. Employees on leave shall be laid off or demoted in lieu of layoff as if they were active employees.

SECTION 14.1.6 SENIORITY

Seniority is the employee's total hours of continuous County service. All service of a blanketed-in employee (see Section 4.2.4(b)) shall, for the period prior to classification to the position, be credited for seniority purposes whether or not it was continuous. All seniority is lost upon resignation or dismissal. Any employee who has gained permanent status and is laid off, shall, if reinstated, regain his/her seniority credit possessed at the time he/she was laid off.
(Amended 9-27-05)

SECTION 14.1.7 CALCULATION OF LAYOFF RATING

(a) Continuous-service-date to May 23, 1986. ("historical" layoff rating)

The purpose of this "historical" layoff rating is to calculate employees' service credit for purposes of the past to the last day of the full pay period beginning May 9, 1986. These points will constitute employee's layoff rating for the past, to which the points calculated for prospective implementation (standard layoff rating) will be added as provided below:

Historical layoff rating: One (1) point for each hour of continuous (unbroken service) from last date employee was hired into the classified service (80 points for each full biweekly pay period).

b) Standard layoff rating: One (1) point for each hour of paid service (excludes all unpaid leaves or periods of suspension but includes short-term voluntary work furlough), after the day specified in (a) above.

(c) Formula for combining historical and standard layoff ratings: Employees in classes identified for layoff shall have their seniority calculated as follows to combine historical and standards ratings:

Total historical ratings: _____ Hrs.

Plus: standard rating: _____ Hrs.

Total: _____ Hrs./Points

The total of these two ratings shall constitute the employee's official layoff rating.

SECTION 14.1.8 DEMOTION IN LIEU OF LAYOFF

The appointing authority shall determine by class, subject to review by the Director, whether demotion shall be afforded employees as an option in lieu of layoff.

At the request of the appointing authority, a permanent employee shall, in lieu of layoff, be afforded the option of demotion within the same department to a position in a lower class, provided that no such demotion shall in turn require the layoff or demotion from such lower class of any employee whose layoff rating is at least as high as that of the demoting employee.

A probationary employee may be afforded the opportunity to accept a demotion within the same department to a position in a lower class provided no such demotion shall in turn require the layoff of any employee in the lower class. Such probationer shall not become permanent in the lower class by this action except by completing a new full probation period in such lower class.

SECTION 14.1.9 CASH IN LIEU OF COMPENSATORY TIME OFF

The Board of Supervisors may approve the payment of cash in lieu of compensatory time off for any employee who is laid off when such payment is in the best interests of the public service.

SECTION 14.1.10 ELIGIBILITY TO BE PLACED ON REINSTATEMENT LIST AFTER LAYOFF

The provisions of Section 14.1.12 shall apply to employees in classes designated CC, CE, CEM, CS and MA. (Added 5-14-96) (Amended 9-27-05)

A permanent employee who is laid off, demoted in lieu of layoff, or whose position is to be deleted as a result of the Board of Supervisors adoption of a Resolution to delete the position, shall have his/her name placed on the reinstatement list for the class from which the employee is, or is to be, laid off or demoted in lieu of layoff. (Amended 9-27-05)

Employees in classes designated AM, AS, DA, DI, DM, DS, PD, PM and SM, shall be on the reinstatement list for two (2) years and all other employees shall be on the reinstatement list for three (3) years except that an employee who three (3) times refuses an offer of reinstatement to the class from which he/she was laid off, or to a class of equal status, or fails to respond to an offer of reinstatement, shall have his/her name removed from the reinstatement list following said refusal. (Amended 8-20-96) (Amended 9-27-05)

In addition, if the employee on the reinstatement list is appointed to a class from which he/she was laid off, or to a different class of equal to or greater status than the reinstatement list class, then his/her name shall be removed from the reinstatement list. An employee who accepts an offer of reinstatement to the class from which he/she was laid off shall also be removed from the reinstatement list upon the date of reinstatement.

The placement on the reinstatement list shall be determined in the same manner as for the order of layoff except in the inverse order thereof. Employees on the reinstatement list shall have the first right of reinstatement to any vacancies in any department for the class for which he/she is eligible for such reinstatement, subject to the following:

- (a) A new probationary period shall not be required of any employee reinstated to the department from which he/she was laid off;
- (b) A new probationary period shall be required of an employee reinstated to a different department than that from which he/she was laid off, except that failure of probation shall return the employee to the reinstatement list. In no event shall such failure of probation extend the employees placement on the reinstatement list beyond two or three years (as specified above) from the date of placement on it.
- (c) A reinstated employee will regain his/her seniority credit possessed at the time he/she was laid off, which shall count for purposes of vacation accrual rate and step increase. In addition, the employee's sick leave balance (except for that portion for which the employee was paid cash at the time of layoff), and compensatory time off balance accrued as of layoff, shall be reinstated.

SECTION 14.1.11 ELIGIBILITY TO BE PLACED ON REINSTATEMENT LIST AFTER DEMOTION OR DISABILITY RETIREMENT

- (a) Any former employee who has been granted disability retirement and subsequently is determined by the Retirement Board to be physically able to perform again the duties of the class of position from which retired may upon application approved by the Director be placed upon the appropriate reinstatement list. The place on such list shall be determined in the same manner as prescribed by these rules for the order of layoff, but in the inverse order thereof.

Eligibility shall be for a period of three years after determination of the physical ability to return to work after disability retirement or until appointment from the reinstatement list to a permanent position in the same class unless the name is removed from the list in accordance with these rules.

- (b) Eligibility shall be for a period of three years after the date of demotion to a lower class in the same position following reclassification of the position or until appointment from the reinstatement list to a permanent position in the same class unless the name is removed from the list in accordance with these rules.

SECTION 14.1.12. ELIGIBILITY TO BE PLACED ON REEMPLOYMENT LIST AFTER LAYOFF

This Section shall apply to employees in classes designated CC, CE, CEM, CS and MA. A permanent employee who is laid off, demoted in lieu of layoff, or whose position is to be deleted as a result of the Board of Supervisors adoption of a Resolution to delete the position, shall have his/her name placed on the reemployment list for the class from which the employee is, or is to be, laid off or demoted in lieu of layoff. In addition, if the former employee who was placed on the reemployment list as a result of layoff is appointed to a position in the same class in the same department from which he/she was laid off, he/she shall not be required to serve a new probationary period. (Amended 9-27-05)

An employee who was laid off and subsequently is reemployed from the reemployment list shall:

1. serve a new probationary period if the appointment is to a different class or different department from which he/she was laid off; and
2. regain his/her seniority credit possessed at the time he/she was laid off which shall count for purposes of vacation accrual rate, step increase and seniority. In addition, the employee's sick leave balance (except for that portion for which the employee was paid cash at the time of layoff), and compensatory time off balance accrued as of layoff, shall be reinstated. (Added 5-14-96)

PART 2 - RESIGNATION

SECTION 14.2.1 RESIGNATION

- (a) An employee wishing to leave the classified County service in good standing shall file with the appointing authority a written resignation on the form prescribed by the Director, giving at least one week's notice of intention to leave the service unless the said appointing authority consents to the employee leaving sooner, resignation shall be forwarded to the Director forthwith.

An employee who leaves the classified service without so filing a written resignation, or giving a week's notice, shall have that fact entered on said employee's service record in the office of the Director and may be denied entrance to fitness tests.

- (b) An employee who has submitted a resignation may request the Director to rescind said resignation. The request must be in writing and submitted prior to the employee's last day of employment as set forth in the resignation. The Director, after investigation, shall notify the employee of said Director's decision prior to the employee's last day of employment. (Amended 11-24-81)

SECTION 14.2.2 RESIGNATION UPON ABSENCE WITHOUT LEAVE

- (a) Absence of any employee without authorized leave for three consecutive working days shall separate such employee from the service and be considered in effect a resignation as of the last day on which the employee worked; provided, however, an appointing authority may cancel such separation if it is determined circumstances warrant such cancellation.
- (b) Where the appointing authority does not cancel such separation, the employee may within 30 days of the effective date of such separation file with the Civil Service Commission a written request for reinstatement; provided that if the appointing authority has given written notice to the employee of the automatic separation, any request for reinstatement must be made in writing and filed with the Civil Service Commission within five days of the service of the notice of separation.

Service of said notice shall be by personal service or by mailing a copy to the employee's last known place of residence as shown by the records of the department in which last employed.

- (c) The Civil Service Commission shall, upon the filing of such written request, conduct a hearing thereon. The procedure for the conduct of said hearing shall be as set forth in Section 7.5 and 7.11, inclusive of the Civil Service Rules.
- (d) The Commission, after conducting such hearing, may reinstate the employee if it determines the employee's absence is excusable.
- (e) In the event an employee is reinstated pursuant to this section, the Commission may designate that such reinstatement shall be with or without a break in continuous service for the purposes or accrual of sick leave, computation of vacation credit or determining the salary step at which the employee shall be paid.
- (f) Nothing in this section shall preclude an appointing authority from taking disciplinary action against an employee pursuant to Rule VII for absence without leave.

SECTION 14.2.3 RESIGNATION UPON FAILURE TO RETURN AFTER LEAVE

- (a) Failure of any employee to report for duty within three calendar days after the expiration of an authorized leave of absence shall separate such employee from the service and be considered in effect a resignation as of the last day of said leave; provided, however, an appointing authority may cancel such separation if it is determined circumstances warrant such cancellation.

- (b) Where the appointing authority does not cancel such separation, and the leave was other than a leave without pay without right to return to former position, the employee may within 30 days of the effective date of such separation file with the Civil Service Commission a written request for reinstatement; provided that if the appointing authority has given written notice to the employee of the automatic separation, any request for reinstatement must be made in writing and filed with the Civil Service Commission within ten (10) days of the service of the notice of separation.

Service of said notice shall be by personal service or by mailing a copy to the employee's last known place of residence as shown by the records of the department in which employed. A copy of the notice and a receipt of proof of service shall be filed with the Commission. (Amended 1-15-88)

- (c) The Civil Service Commission shall, upon the filing of such written request conduct a hearing thereon. The procedure for the conduct of said hearing shall be as set forth in Sections 7.4 and 7.11, inclusive of the Civil Service Rules. (Amended 1-15-88)
- (d) The Commission, after conducting such hearing, may reinstate the employee if it determines the employees' failure to report is excusable.
- (e) In the event an employee is reinstated pursuant to this section, the Commission may designate that such reinstatement shall be with or without a break in continuous service for the purposes of accrual of sick leave, computation of vacation credit or determining the salary step at which the employee shall be paid.
- (f) Nothing in this section shall preclude an appointing authority from taking disciplinary action against an employee pursuant to Rule VII for absence without leave.

PART 3 - SEPARATION

SECTION 14.3.1 SEPARATION AFTER TRANSFER OR PROMOTION

In case any employee in the classified service has been promoted from a class in which permanent status was held to a class which carries a higher maximum salary or has been appointed from an employment list to a position in another class which carries the same maximum salary as the class in which permanent status was held at the time of such appointment, or transferred, subject to a probationary period and is separated from the position during the probation period, the Director shall restore such employee to the former classification and position in the former department, whether or not it will be necessary to lay off an employee in such former position, unless the appointing authority for the former position removed the employee from County service under the provisions of Rule VII.

If the employee's former class has been abolished, the employee shall be placed in a position in an equivalent class or laid off from the abolished class by applying Rule XIV as though the employee was an incumbent of the class when it was abolished. An employee restored to a position, placed in a position in an equivalent class, or demoted in lieu of layoff as a result of this rule shall not serve another probationary period. (Amended 9-27-05)

A permanent employee separated as a result of an employee being restored to former position shall be laid off as provided in Rule XIV. A probationary employee so separated shall be returned to the appropriate employment list with a grade determined by the Director based on education, experience, personal fitness and record of efficiency in the County service. Eligibility shall expire after one year. (Amended 8-20-96) (Amended 06-26-12)

SECTIONS 14.3.2, 14.3.3 REPEALED (7-5-83)

SECTION 14.3.4 REPEALED (1-15-88) (See 3.2.5d)

SECTION 14.3.5 REPEALED (1-15-88)

SECTION 14.3.6 REPEALED (7-5-83)

SECTION 14.3.7 REPEALED (1-15-88) (See 3.2.5)

SECTION 14.3.8 REPEALED (1-15-88)