

PERSONNEL MANUAL
TAB 22
REDUCTION-IN-FORCE

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STANISLAUS COUNTY PERSONNEL MANUAL REDUCTION-IN-FORCE

REDUCTION-IN-FORCE—Policy/MOU Provision

While the following policy applies to certain management and confidential employees, as well as represented employees, specific sections may vary depending upon the Memorandum of Understanding, please refer to the appropriate MOU.

Whenever in the judgement of the Board of Supervisors, it becomes necessary in the interest of economy or because the necessity for a position no longer exists, the Board of Supervisors may abolish a position or classification, and if necessary, reduce personnel by laying off employees without the filing of disciplinary charges and without granting the employee the right of appeal except as accorded in these provisions. In reducing the number of employees every effort will be made to avoid displacing existing employees by allowing voluntary demotion or transfer to vacant positions. In laying off employees in the Classified Service the order of separation shall be based upon seniority as herein specified.

ORDER OF SEPARATION

Employees in the same class shall be separated considering seniority and type of appointment with the least senior employee in any category of appointment being the first separated and with tied seniority scores broken as provided herein. The sequence of appointment types shall be:

1. Provisional
2. Extra-Help
3. Trainee
4. Regular Full-time and Regular Part-Time

Within regular part-time and regular full-time appointments, employees with probationary status shall be laid off before employees with permanent status in the same class regardless of relative seniority.

SENIORITY

Employees' seniority will be based on amount of total continuous service with the County. In an affected classification that employee with the least total continuous service shall be the first separated from the affected department except as otherwise provided herein. In cases of equal seniority among employees, the order of separation shall be determined by the Chief Executive Officer based on a review of relative performance evaluations and such relevant material as may be submitted by the department and the affected employee in an informal hearing.

PERFORMANCE

Notwithstanding the above, service time credit for the purpose of determining seniority shall not include employment during any periods between completion of a performance evaluation evidencing an overall rating below satisfactory and completion of a subsequent evaluation with a satisfactory or better overall rating.

WRITTEN NOTICE

Written notice of layoff shall be served on affected employees in person or by certified letter mailed to the last address on file with the Chief Executive Officer. Notice will be served or mailed at least 21 calendar days prior to the effective date of the separation. Notice shall be deemed served upon return of a delivery receipt or receipt showing attempted delivery.

DEMOTION IN LIEU OF LAYOFF

In lieu of being laid off, an employee may elect to voluntarily demote within the same department to a lower paid classification in the same series or to a classification previously held. Less senior employees who may be displaced as a result of demotion actions shall in turn be subject to the provisions of this section. In order to exercise these options, the employee affected must so advise the Chief Executive Officer in writing no later than seven working days after receiving notice of layoff. (Language in this section differs slightly depending on bargaining unit.)

TRANSFER IN LIEU OF LAYOFF

In lieu of being laid off, an employee may request to voluntarily transfer or demote to a vacant position in another department in the same or comparable classification or to a classification previously held. Such requests require approval by the gaining Department Head. (Department probation, if applicable, may be applied.)

RE-EMPLOYMENT

For a period of one year from the effective date of layoff no regular position in the affected classification in the department involved shall be filled without first providing employees possessing rights to re-employment with an opportunity to be rehired.

Re-employment lists shall be in inverse order of lay-off with the most senior employee from amongst those laid-off rehired first. Such re-employment would be at the same salary step or the salary range assigned such classification and with the same seniority as the employee had earned at the time of layoff. Benefits paid out at the time of separation such as vacation or sick leave may be bought back at employee expense. Written notice of the re-employment opportunity shall be sent by certified mail to the last known-address of the former employee by the Chief Executive Officer. The former employee shall have 14 calendar days to respond to the notice. (Language in this section differs slightly depending on the bargaining unit.)

ADMINISTRATIVE DECISIONS

The Chief Executive Officer is authorized to render decisions resolving questions of seniority, performance, and continuous service incident to the administration of this section.

SPECIAL CIRCUMSTANCES

Employees assigned to a position on the basis of bona fide occupational qualifications may be exempted from the reduction-in-force list for their classification where those skills are necessary to continue the level of service rendered by the program.

APPEALS

Persons subject to layoff or demotion under these provisions may appeal to the Chief Executive Officer any allegation of error, fraud, irregularity or bias in the application of the reduction-in-force procedures. The affected person may, within seven days after receipt of the decision of the Chief Executive Officer, appeal that decision. An appeal shall be filed with the Chief Executive Officer. The Chief Executive Officer shall forthwith transmit the appeal request to the Hearing Board established pursuant to Chapter 3.28.060 of the Ordinance Code of Stanislaus County. The Hearing Board shall within a reasonable time from the filing of the appeal, commence the hearing thereof and shall notify the interested parties of the time and place of the hearing at least five days in advance thereof.

At the hearing, both the appellant and the County shall have the right to be heard publicly, to be represented by Counsel and to present evidentiary facts. The parties may agree to a hearing closed to the public and the Hearing Board may at any time exclude any person who may be a witness in the appeal under consideration. The hearing shall be informal and the Hearing Board shall not be bound by any of the rules of evidence governing trial procedure and State courts. The Hearing Board shall render a written decision, copy of which shall be transmitted to the Chief Executive Officer. The Chief Executive Officer shall serve a copy of the decision upon the appellant. The decision of the Hearing Board shall be final.

Relevant provisions in Chapter 3.28.060 and 3.28.070 of the Ordinance Code of Stanislaus County shall govern the hearing process.

REDUCTION-IN-FORCE SENIORITY CALCULATION—Guideline

In calculating total continuous service for the County, those records which are maintained by the Chief Executive Office shall be utilized. However, should there be a challenge to the validity of the calculations or cases of equal or near equal seniority, the Chief Executive Office may utilize such payroll or other records which may be on file with the Auditor-Controller's Office or other department.

"Total" in the Reduction-in-Force Policy phrase "total continuous service" refers to any and all paid service rendered to Stanislaus County by the affected individual in an employment relationship. This means that all continuous service, regardless of classification, should be counted, notwithstanding the fact that the person may have been an employee in the Classified versus the Unclassified Service, may have been a probationary versus a permanent employee, or may have had some continuous service as an extra-help or PSC employee. An extra-help employee who remains on the department's payroll does not break continuous service if he or she does not work for periods longer than 90 days as long as the absence is approved by the Department Head, and the employee status is not terminated. Even if the employee did not work because work was not available, this does not constitute a layoff. An extra-help employee who remains on the payroll is not laid off and does not break continuous service. As a result the total hours worked should be considered continuous service and applied towards extra-help employee step increase and in calculating seniority. Service to the County which is not in an employer-employee relationship such as service while an individual contractor, including personal services contract employees or service in our volunteer program does not count.

"Continuous" in the Reduction-in-Force Policy phrase "total continuous service" will be determined following the definition found in Section 3.04.160 of that section as "...service without break or interruption during which the employee has been employed by the County. In computing continuous service, approved leaves of absence and suspensions, whether with or without pay, shall not be construed as a break in employment or service. The actual period(s) of unpaid leave of absences or unpaid suspensions do not count toward seniority or benefit accruals. Other absences aggregating in excess of ninety days in any period of twelve months including lay-offs on account of lack of work, lack of funds, or abolishment of position, shall be construed as breaking continuous service.

The most expeditious method of continuous service calculations is first to determine if there was any period or periods where the employee was not on the job which totaled more than 90 days in any twelve month period not including any approved leaves of absence and suspensions, whether with or without pay or unpaid suspension. If there has been no such absences, then "continuous service" has not been broken and all periods of employment count in calculating seniority.