

What Managers Need to Know About the Layoff Process

The layoff process is governed by two policies: layoff and severance benefits. The state layoff policy permits agencies to implement reductions in the work force and the severance policy provides compensation and some benefits to eligible employees.

Below is general information about the severance and layoff processes and the terms used in implementing these processes.

Definitions

Layoff is involuntary separation due to budget reductions, agency reorganizations, workforce downsizings, or other causes not related to employee job performance or misconduct. It includes preferential hiring and recall rights.

NOTE: Layoff is not used to address performance issues or to terminate poor performers. Poor performance is handled under the Standards of Conduct or Performance Planning and Evaluation policy. Layoff can be more expensive as the employee's department will pay leave and severance benefits for the individual, if eligible. In addition, this action may provide preferential hiring rights to a poor performer. Hiring managers with appropriate vacancies must consider the layoff for hire by evaluating if he/she is *minimally* qualified based on *advertised* criteria; performance is not a basis for disqualification under current state policy.

Severance benefits apply to certain eligible classified employees and include health and group life benefits and severance payments.

Layoff Notification

The department should contact its VCU Human Resource Consultant for assistance with the layoff policy prior to notifying the employee.

After consulting with its HRG, the department is responsible for notifying the employee within 14 days (minimum) of the effective date of layoff and for referring the employee to HR for assistance with placement options and related benefits. Providing 30-60 days notice is helpful if possible for better placement options. The HRG will determine eligibility for severance and layoff benefits. *Generally, employees in grant-funded (restricted) positions are not eligible for severance and layoff benefits (including placement).*

Layoff

- Layoff Sequence - Hourly and classified employees within a particular organizational unit (see attached) are affected in a specific order. The least senior employee performing substantially the same work as more senior employees within an identified Role in the organizational unit is subject to layoff. Hourly employees performing the same work are subject first to layoff (without severance or placement rights).

Example:

An organizational unit includes three Administrative and Program Specialist III positions as follows –

Employee 1 (hired December 1, 2001, working title of Fiscal Tech. Sr.) performs fiscal duties.

Employee 2 (hired July 1, 2001, working title of Office Services Assistant) performs secretarial support duties.

Employee 3 (hired July 1, 1995, working title of Office Services Assistant) performs secretarial support duties.

Management has decided to abolish one position that performs general secretarial duties. Even though Employee 1 has the least seniority in the same Role, he/she does not perform secretarial support duties as do Employee 2 and Employee 3. Therefore, Employee 2 is the layoff candidate because he/she has less seniority than Employee 3.

- **Preferential Hiring Rights** - Prior to being placed on leave without pay-layoff, the classified employee will have preferential hiring rights to VCU and state vacancies for which he/she is *minimally qualified*¹ and that are classified within the *same or lower Pay Band* as his or her current position. If placement is not found, the employee will be placed on leave without pay-layoff for up to 12 months and then separated from employment.
- **Recall Rights** - While on leave without pay-layoff, classified employees have recall rights to VCU positions for which they are *minimally qualified* and that are in the *same Roles* as their current positions.

Pre-layoff Leave

Prior to the effective date of layoff (during the layoff notice period), VCU may provide classified employees with pre-layoff leave for a maximum of two weeks (up to 80 hours) to continue their compensation. This pre-layoff period, which can be granted in a block of time or intermittently at the manager's discretion, is intended to provide an opportunity for the employees who will be placed on leave without pay-layoff to seek alternate employment options.

Severance Benefits

Eligible classified employees have access to the following benefits. Certain restrictions apply to grant-funded positions.

- **Health and Group Life Benefits** - University contributions for health and group life insurance continue for 12 months, after which the employee may enroll in health benefits coverage under COBRA.
- **Severance Payments** - The chart below shows the computed benefit:

Years of Service	Benefit (Weeks of Salary)
2 and under	4
3	5
4	6
5	7
6	8
7	9
8	10
9	11
10	14

Years of Service	Benefit (Weeks of Salary)
11	16
12	18
13	20
14	22
15	30
16	32
17	34
18 and over	36

Partial years are rounded up to the next year. Benefits are paid out semi-monthly. The benefit ceases if the person is re-employed by the Commonwealth or hired as an independent contractor or consultant while receiving benefits

- **Retirement Benefit** - In lieu of the severance benefit shown above, if the separating employee is age 50 and vested in the Virginia Retirement System (VRS), he/she may choose to have the institution purchase service credit for him or her based on the following formula:

¹ Minimally qualified is defined as possessing the necessary knowledge, skills, abilities (KSAs) and other job requirements and being able to perform successfully within six months in the new position.

- Add together the cash value of the severance and health and group life insurance plan contributions.
- Divide the total by 15% of the terminating employee's annual salary to determine the number of years to be credited. Partial years are rounded up to the next highest year.

The years purchased may be applied to age or service, or a combination, for employees still subject to the age reduction factor. For employees not subject to an age reduction factor, the years are credited to service. They are not eligible for unemployment as they are retiring, not terminating employment.

- Unemployment – Unemployment compensation will not be denied due to the severance payments, but the amount of unemployment compensation will be reduced by the amount of severance payments received.

Leave Balances While On Leave Without Pay-Layoff

- Annual and Traditional Sick Leave
 - Employees do not accrue annual or traditional sick leave while on leave without pay-layoff status. They may request payment of accrued leave (if eligible) or retain balances when placed on leave without pay-layoff.
 - If they choose to retain the balances, they will be paid for the maximum amount allowable of annual and traditional sick leave (if eligible) at the end of the leave without pay-layoff or at resignation, whichever occurs first.

Costs

The department or school is responsible for all costs.

Layoff Responsibilities

Manager's responsibilities during the layoff process:

- Contact your HRG for assistance with the Layoff Policy prior to notifying the employee.
- Identify the affected position(s) after discussion with your HRG.
- Inform the affected employee within 30 to 60 days of the layoff effective date.
- Provide support and relief time to employee for job search/interviews.
- Complete an interim performance evaluation prior to the employee's departure.
- Prepare a letter of recommendation, if appropriate, for the employee.

Employee's responsibilities during the layoff process:

- Meet with your HRG to learn more about your rights and benefits.
- Inform your department and your HRG about paying or holding your leave balances (if applicable).
- Complete a state application for use with the various placement options. Ensure that the information on the application remains up-to-date.
- Make every effort to attend interviews on time and present yourself professionally during the interview process.
- Make health care payments promptly.

Human Resource responsibilities during the layoff process:

- Provide layoff information to employees, explaining rights and benefits for which they are eligible.
- Provide formal notification at least two weeks before the leave without pay-layoff effective date.
- Complete paperwork to ensure benefits continuation and accurate severance payments.
- Forward the employee's application for all appropriate vacancies.
- Review documentation if the employee is determined to not be minimally qualified for a particular vacancy.
- Facilitate the employee's participation in the RE-OP pool if he/she chooses to participate.