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Policy - Section K – Separations

I. Policy

All employees separating from the Laboratory are responsible for completing the Termination Process prior to their last day of work (see http://www-r.llnl.gov/human_resources/exIT/index.htm). Directorates are responsible for ensuring that all individuals under their purview complete this process.

II. Resignation

Employees who voluntarily resign from Laboratory employment are expected to give at least two weeks' prior notice. The notice is to be written and should include the specific reason for the resignation as well as the proposed separation date.

III. Layoff

III.1. Layoff for 200-Series Employees

III.1.1. Policy

This section pertains to 200-Series indefinite career employees only. It applies when a layoff is necessitated due to a lack of work or a lack of funds. It does not apply to postdoctoral, term or temporary employees, who are subject to other employment and termination policies, nor does this policy apply to flexible term, upper management personnel, or senior management group employees.

III.1.2. Responsibilities

III.1.2.1. Laboratory Director

The Laboratory Director, for purposes of implementing a reduction in force, will:

- Give guidance as to the numbers of employees and programs to be affected.
- Designate layoff units.
- Establish committees, as necessary, to ensure the proper administration of policies and procedures.

III.1.2.2. Department Head/Division Leader or Other Designated Unit Head

The department head/division leader is responsible for selecting and informing the individual career employees who will be affected, in accordance with established criteria and procedures. The department head/division leader is also responsible for reviewing the proposed actions with the Human Resources Manager and the Equal Opportunity Administrator to ensure conformance to policy.

III.1.2.3. Human Resources Manager

The Human Resources Manager is responsible for providing policy guidance and for ensuring that procedures are followed.

III.1.2.4. Human Resources

Human Resources is responsible for preparing formal notices of action to affected employees; reviewing with affected employees the terms and conditions of their separation, including grievance rights and effects on group insurances and other benefits, unemployment insurance, and severance pay if applicable; providing assistance to affected employees in their efforts to seek other employment at the Laboratory; and otherwise assisting and providing for the administration of this policy.

III.1.3. Order of Layoff

The order of layoff shall be determined by management based on the skills, knowledge and abilities that are necessary to perform the ongoing or future work of the unit.

When management determines that two or more employees possess substantially equal skills, knowledge and abilities, the order of layoff shall be in inverse order of seniority.

For purposes of this policy, seniority will be based on a person's fulltime-equivalent months of UC service. Employment prior to a break in service is not counted. When employees have the same number of fulltime-equivalent months, the employee with the most recent date of hire shall be subject first to the layoff.

III.1.4. Notice of Layoff to Employees

In the event of a layoff, Human Resources shall prepare written notification to be given to the employee.

The minimum notice period will be based on the employee's seniority as follows:

- An employee with fewer than ten years of seniority shall receive thirty (30) calendar days' notice.

- An employee with at least ten but fewer than fifteen years of seniority shall receive sixty (60) calendar days' notice.

- An employee with at least fifteen but fewer than twenty years of seniority shall receive ninety (90) calendar days' notice.

- An employee with twenty years or more of seniority shall receive one hundred and twenty (120) calendar days' notice.

The employee will receive pay in lieu of notice for each additional day he/she would have been on pay status if the required notice has been given.

III.1.5. Internal Applicant Status

An employee who is laid off under this policy may apply for any vacant Laboratory position posted in the *Internal Employment Bulletin* for one year from the date of layoff.

III.2. Layoff for All Other Employees

III.2.1. Policy

A reduction in force may be necessitated by a lack of funds or lack of work. To minimize the effects of a layoff, the Laboratory gives career employees (see Section A.III.6.), excluding postdoctoral and term appointees, placed on indefinite layoff, preferential opportunities for reassignment or transfer prior to layoff, the right to be recalled to the department from which laid off, and preference for reemployment in all departments of the Laboratory. This policy does not apply to flexible term, upper management personnel, or senior management group employees.

III.2.2. Responsibilities

III.2.2.1. Laboratory Director

The Laboratory Director, for purposes of implementing a reduction in force

- Gives guidance as to the numbers of employees and programs to be affected.
- Defines and designates layoff units.
- Establishes committees, as necessary, to ensure the proper administration of policies and procedures.

III.2.2.2. Department Head/Division Leader or Other Designated Layoff Unit Head

The department head/division leader is responsible for selecting and informing individual career employees to be laid off from a unit in accordance with the guidance given by the Director and the criteria set forth in these procedures. The department head/division leader is responsible for the review of the proposed indefinite layoff actions with the Human Resources Manager and the Equal Opportunity Administrator for conformance to policy.

III.2.2.3. Human Resources Manager

The Human Resources Manager is responsible for providing policy guidance and for ensuring that procedures are followed.

III.2.2.4. Human Resources

Human Resources is responsible for ensuring that every reasonable effort is made to transfer employees who would otherwise be placed on layoff; issuing formal notice of separation by layoff to affected employees; providing assistance to employees seeking other employment; reviewing with affected employees the terms and conditions of their separation including its effect on group insurances and other benefits, unemployment insurance, severance pay [if applicable (see Section L.II.10.)], and rehire rights; and otherwise assisting and providing for the administration of this policy.

III.2.3. Order of Layoff

The order of layoff for career employees in the same classification (defined as the four digits of the title code) within a unit is in inverse order of University seniority except that the department head may retain employees irrespective of seniority who possess special skills, knowledge, or abilities that are not possessed by other employees in the same classification with greater seniority, and that are necessary to perform the ongoing function of the department. All such exceptions are documented and reviewed by the Human Resources Manager.

For the purposes of this policy, seniority is calculated by fulltime-equivalent months (or hours) of UC service. Employment prior to a break in service (see Section A.III.5.) is not counted. When employees

have the same number of fulltime-equivalent months (or hours), the employee with the most recent date of hire shall be laid off first.

III.2.4. Notice of Layoff to Employees

Employees selected for layoff are given verbal notice by their unit. Normally, the verbal notice is given by the department head/division leader and the employee's immediate supervisor. They have responsibility for helping the employee to make arrangements with an assigned representative of Human Resources who will provide assistance and counseling, as appropriate.

Human Resources gives the employee written notice of layoff which, whenever feasible, will be at least thirty (30) calendar days in advance of the effective date of layoff. If written notice is given less than fifteen calendar days in advance, the employee will receive pay in lieu of notice for each additional day he/she would have been on pay status if fifteen calendar days' notice had been given. The written notice of layoff will include statements concerning claims for unemployment insurance, the effect of the layoff upon the employee's benefits, the procedures for recall and preferential rehire, grievance rights and, if applicable, severance pay. (See Section L.II.10.)

III.2.5. Assistance to Employees

Human Resources is responsible for ensuring that every reasonable effort is made to assist employees on notice of layoff in seeking other employment. Assistance in seeking other employment will consist of contact with other employers and with State or University agencies, help in the preparation of resumes, and any other appropriate efforts. Human Resources representatives will review with the employees the terms of the planned layoff and will provide or arrange for counseling, as appropriate.

III.2.6. Preference and Rights

III.2.6.1. Preference for Transfer Prior to Layoff

A career employee, excluding a postdoctoral or term appointee, who is scheduled for layoff shall be granted preference for transfer in order of seniority to any vacant Laboratory position for which the employee is qualified when the position is at the same salary level or lower and when at the same or lesser percentage of time as the position currently held. The person with preference for transfer must be considered above all other applicants for the position and may be rejected only if he/she lacks qualifications required for the position. If the person with preference for transfer is not selected, the department head/division leader must provide the reasons in writing to the Human Resources Manager.

III.2.6.2. Recall to Department

A career employee, excluding a postdoctoral or term appointee, who is laid off shall be recalled in order of seniority into any vacant position for which the employee is qualified when the position is in the same classification and department and at the same or lesser percentage of time as the position held by the employee at the time of layoff.

III.2.6.3. Preference for Rehire at the Laboratory

A career employee, excluding a postdoctoral or term appointee, who is laid off shall be granted preference for rehire in order of seniority to any vacant Laboratory position for which the employee is qualified. A department head/division leader must consider the person with preference for rehire above all other applicants for the position and may reject that person only if he/she lacks qualifications required for the position. If the person with preference for rehire is not selected, the department head/division leader must provide the reasons in writing to the Human Resources Manager.

III.2.6.4. Employment at Another University Location

If an employee on indefinite layoff or scheduled for layoff wishes to be considered for employment at another laboratory or campus, Human Resources shall provide the Human Resources Manager at that location with a written request for consideration and copies of the individual's employment record.

III.2.7. Time Period for Recall and Rehire

A career employee with less than five years of seniority shall have right to recall and preference for rehire for one year from the date of layoff.

A career employee with at least five but less than ten years of seniority shall have the right to recall and preference for rehire for two years from the date of layoff.

A career employee with ten years or more of seniority shall have right to recall and preference for rehire for three years from the date of layoff.

III.2.8. Continuation of Right to Recall and Preference for Rehire

Both right to recall and preference for rehire terminate when a career employee

- Refuses one recall as a career employee to the department and classification from which laid off.

- Refuses two offers of career employment at the Laboratory at the same or higher salary level and at the same or greater percentage of time as the position held at the time of layoff.

- Accepts career employment at the Laboratory or at another University location at the same or higher salary level and at the same or greater percentage of time as the position held at the time of layoff.

Preference for rehire terminates but the right to recall continues when an employee accepts career employment at the Laboratory or another University location at a lesser salary or percentage or time than the position held before layoff.

Right to recall and preference for rehire are neither lost nor extended by periods of temporary or indeterminate-time employment.

Right to recall and preference for rehire are suspended when a career employee does not reply to a written notice of an employment opportunity.

These rights may be reinstated when the career employee makes a written request for reinstatement and the request is approved by the Human Resources Manager.

III.2.9. Employee Responsibilities

Career employees on layoff are responsible for keeping Human Resources informed of their current mailing address.

Career employees whose right to recall and preference for rehire are for a time period of more than one year are required to state at the end of each year, upon request, that they wish their rights continued.

III.2.10. Effect on Benefits

A career employee on layoff status may continue in certain group insurance programs, if previously enrolled, for the length of time specified in the University's contract with the insurance carrier, subject to the payment of full premiums by the employee. Retirement system regulations determine the effect on retirement benefits. When a person is rehired within the period of right to recall or preference for rehire, the periods before and after the layoff are considered as continuous service. Each employee on layoff status will be provided the opportunity for benefits counseling by Human Resources.

III.2.11. Right to Recall and Preference for Rehire Records

Human Resources maintains a current record of all persons with the right to recall and preference for rehire. A record of all referrals, offers of employment, and refusals and acceptance of employment offers is also maintained.

When a career employee with preference for transfer prior to layoff or with preference for rehire is not selected, Human Resources maintains a record of the reason for nonselection.

IV. Dismissal of Career Employees

IV.1. Application

The following provisions apply to career employees, except flexible term, upper management personnel, or senior management group employees, and those employees who have not completed a probationary period of employment as established in their offer of employment letter.

IV.2. Reasons for Dismissing a Career Employee

Reasons for dismissal include misconduct or unsatisfactory performance. A dismissal action must be preceded by at least one written warning (see Section E.II., "Corrective Action") except when

a. An employee is absent from work without approval for five consecutive, scheduled working days.

b. An employee knows or reasonably should have known that performance or conduct was unsatisfactory.

IV.3. Who May Dismiss a Career Employee

The Responsible Manager, with the concurrence of the Human Resources Manager, has the authority to dismiss an employee

IV.4. Written Notice of Intention to Dismiss

An employee shall be informed in writing by the Human Resources Manager of the intention to dismiss. The written notice shall include the following:

a. The reason for the intended dismissal.

b. A copy of the appropriate charges and materials upon which the intention to dismiss is based.

c. A statement that the employee has a right to respond either orally or in writing within five calendar days from the date the employee is given the notice.

Following the employee's response or five calendar days, whichever comes first, the employee shall be informed in writing by the Human Resources Manager as to the final decision, that is,

• Dismissal is inappropriate.

• Corrective action will be taken in lieu of dismissal. (Prior written notice of corrective action is not necessary.) [See Section E.II.5.2(c).]

• Dismissal is appropriate. (See Section K.III.5.)

IV.5. Written Notice of Dismissal

The Human Resources Manager shall give an advance written notice of dismissal which shall include the following:

a. The effective date of termination.

b. The reason for dismissal.

c. The employee's right to appeal the dismissal. (See Section H, "Grievances and Administrative Review.")

IV.6. Effective Date of Dismissal

The effective date of termination shall be at least ten calendar days from the date the notice of dismissal was issued or fifteen calendar days from the date the notice of intention to dismiss was issued, whichever is later.

However, when the employee is absent from work without approval for five scheduled working days or knows or reasonably should know that performance or conduct is unsatisfactory, the effective date of termination may be immediate.

IV.7. Pay Status of Employee During Notice Periods

Normally, an employee shall continue at work and on pay status during the employee response time period provided in the notice of intention to dismiss and during the time period between the advance notice of dismissal and the effective date of dismissal.

The Director may approve granting the employee up to fifteen calendar days' pay in lieu of the advance notice of dismissal in unusual circumstances, and when recommended by the department head/division leader.

V. Release of Employees

V.1. Application

Employees who are separated from employment for the following reasons are considered to be released from employment:

> a. Temporary, less than 50% time part-time, indeterminate-time employees who have not attained career status and Scholar Employment Program Appointees may be released because of unsatisfactory performance or misconduct (see Section D.II., "Personal Conduct-Policy").
>
> b. Indeterminate-time employees who have not attained career status, temporary employees, less than 50% part-time employees and Scholar Employment Program Appointees may be released due to lack of work or funds.
>
> c. Career employees who are required to obtain and maintain a clearance (Q or L) but have been denied a clearance, or whose clearance has been withdrawn, or who have not been granted the clearance by the DOE within a reasonable amount of time shall be released unless a suitable alternate position can be identified by the employee's management.

This policy does not apply to flexible term, upper management personnel, or senior management group employees.

V.2. Action Preliminary to a Release

Employees shall be informed that they are to be released in accordance with the following procedures:

a. Release of temporary, probationary, less than 50% time part-time, and indeterminate-time employees who have not attained career status and Scholar Employment Program Appointees because of unsatisfactory performance or misconduct must be preceded by an oral or written warning or a performance evaluation, except when

i. An employee is absent without approval for five consecutive, scheduled working days.

ii. An employee knows or reasonably should have known that performance or conduct was unsatisfactory.

b. Indeterminate-time employees who have not attained career status, temporary employees, less than 50% time part-time employees, and Scholar Employment Program Appointees who are released because of lack of work or funds will be given, if feasible, fifteen calendar days' written advance notice. Up to fifteen days' pay will not be paid in lieu of the fifteen days' advance notice of release.

c. Career employees who are released because a clearance was denied, or withdrawn, or not granted in a reasonable time period will be given fifteen calendar days' written advance notice. Up to fifteen days' pay may be paid in lieu of the fifteen day advance notice of release.

V.3. Who May Release

The Responsible Manager, with the concurrence of the Human Resources Manager, has the authority to release an employee.

V.4. Written Notice of Release

The employee shall be informed in writing by the Human Resources Manager of the reason for the release. The written notice shall include a statement informing the employee that the employee may answer, explain, or deny the reason for the release, and that the employee may file a written complaint in accordance with the Administrative Review Policy (see Section H, Part II).

VI. End of Appointment

VI.1. Application

Employees hired as Scholar Employment Program Appointees, Post Doctorates, Term appointees, or Temporary employees for less than one year shall be separated from the Laboratory automatically on the last day of work specified in the offer of employment letter, unless that date is changed in writing by the Responsible Manager, with the concurrence of the Human Resources Manager. Indeterminate-time employees who have not attained career status may be terminated at any time as a result of lack of work or funds.

A flexible term employee's employment may not exceed a total of six (6) years without a six-month break in service, unless a one-time extension for a period of up to one year is granted by the Laboratory Director. If the Laboratory does not elect to end the flexible term employee's employment before its established end date, then employment will end automatically on the specified ending date.

VI.2. Written Notice of End of Appointment

Indeterminate-time employees who are to be terminated because of lack of work or funds will be given written notice by the Human Resources Manager in advance of the ending date of the indeterminate-time appointment.

A flexible term employee's employment is at will and may be terminated with or without cause at any time during the term of employment. The Responsible Manager, with the concurrence of the Human Resources Manager, has the authority to terminate employment prior to the specified ending date . The flexible term employee will receive either 30 days' notice or pay in lieu of notice as determined by the Laboratory.

VI.3. End of Appointment Inactive Indeterminate-Time Career Employees

The appointment of an indefinite career employee who changes from a fixed-percentage time position to a variable percentage of a fulltime position (indeterminate-time) ends automatically following the end of a 24 consecutive month period during which the employee performs no work for the Laboratory. The effective date of termination is the first of the 25th month. Written notice of the end of the appointment shall be provided. See Section A.III.10. Indeterminate-Time Employee-Procedure.

VII. Medical Separation

VII.1. Policy

Employees who become unable to perform essential, assigned functions fully, due to disabilities or other medical conditions, may be separated from employment. Career employees separated under this policy are eligible for special reemployment procedures, provided such employees have successfully completed six months of continuous service at one-half time or more without a break in service. This policy does not apply to flexible term employees.

VII.2. Basis for Separation

A medical separation shall be based on

a. A statement by the department head/division leader describing the essential functions the employee is not performing.

b. A review under the vocational rehabilitation policy. (See Section M, "Rehabilitation Services.")

A medical separation may also be based on the receipt of disability payments from a retirement system to which the University contributes. The Laboratory shall pay the reasonable costs of any medical examinations requested by the Laboratory. The medical separation shall be processed to be effective the date such disability payments commence.

VII.2.1. Review

A medical separation shall be effected by the Human Resources Manager following review and approval of a written recommendation made by the employee's department head/division leader.

VII.2.2. Limitations

An employee shall not be separated under this policy while the employee is drawing accrued sick leave or while the employee is receiving extended sick leave. However, the employee may be separated for medical or other reasons if the date of separation was set prior to the commencement of sick leave or extended sick leave and if the employee is afforded all rights provided by the employee's retirement system.

VII.3. Notices

VII.3.1. Notice of Intent

An employee shall be given advance written notice of the intention to separate the employee. The notice shall

a. State the reason for the medical separation.

b. Include copies of the department head's/division leader's statement and any other pertinent material considered.

c. State that the employee has the right to respond within five calendar days, either orally or in writing, regarding the separation.

VII.3.2. Notice of Separation

After the employee's response or five calendar days from the date of notice of intention to separate medically, whichever is sooner, the employee shall be notified in writing of the decision. If it has been determined that separation is appropriate, the employee shall be given advance written notice of medical separation. The notice shall

a. Specify the effective date of separation.

b. State the employee's right to appeal. (See Section H, "Grievances and Administrative Review.")

VII.3.3. Effective Date

The effective date of separation shall be at least ten calendar days from date of issuance of notice of separation or fifteen calendar days from date of issuance of notice of intention to separate, whichever is later.

VII.4. Special Reemployment Procedure

For a period of one year following the date of medical separation, a former career employee who has completed six months of continuous service at one-half time or more without a break in service may be selected for a position without the requirement that the position be posted. (See Section B.I.3., "Posting Vacancies.") However, if the former employee is receiving disability benefits from a retirement system to which the University contributes, the period shall be three years from the date benefits commenced. During such periods an employee shall be given assistance in accordance with the Rehabilitation Policy, Section M.

VII.4.1. Service Upon Reemployment

If a career employee who separated under this policy after completing six months of continuous service at one-half time or more is reemployed within the allowed period, a break in service does not occur. (See Section A.III.5., "Break in Service.")

VIII. Death

VIII.1. Policy

Employees are considered to have been on pay status on the day of death unless a leave without pay had previously been approved for that day. The effective date of the separation is the date of death.

VIII.2. Notice

When advised of an employee's death, the Human Resources Manager shall notify the President of the University.

VIII.3. Benefits

The Human Resources Manager shall ensure that arrangements are made to provide the employee's beneficiary or estate with payment of any vacation, salary, overtime, or death benefit payments due. Arrangements shall also be made for the payment of any amounts due under the applicable retirement system or employee group insurance plans. (See Section G.IX.4., "Death Benefit.")

IX. Retirement

IX.1. Policy

Employees who separate from Laboratory service for the purpose of retirement under the provisions of a retirement system to which the University contributes are considered to have retired.

Note that employees are recorded as having retired only if they separate from Laboratory employment for the purpose of voluntary or compulsory retirement. If the separation is the result of an indefinite layoff, dismissal, or other action, such action and not "retirement" shall be recorded.

IX.2. Counseling

The Laboratory provides pre-retirement counseling for employees. The pre-retirement program is administered by the Employee Benefits and Services Division.

IX.3. Notice of Intent to Retire

An employee who continues in employment beyond the normal retirement date is expected to notify the department head/division leader in writing at least three months in advance of the intended retirement date.

IX.4. Reappointment Following Retirement

Reappointment following retirement shall be in conformance with the Standing Orders of The Regents, the regulations of the employee's retirement system, and established Laboratory procedures.

IX.5. Reduced Fee Enrollments

An employee who retires within four months of the date of separation from University service, who is an annuitant of a retirement system to which the University contributes, and who meets the admission requirements of the University is eligible for reduced fees.

Reduced-fee enrollments provide for a two-thirds reduction of both the University Registration Fee and the University Educational Fee. These reductions apply only when the student is enrolled in not more than nine units or three regular-session University courses per quarter, or not more than six units or two regular-session University courses per semester. An individual so registered is ineligible for the services and facilities of the Counseling Center, gymnasiums, or the Student Health Services, other than those to which the retired employee may be otherwise entitled.

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For policy-related questions, contacts are:
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