

**681—3.21(8A) Terminations.****3.21(1) *Reduction in force.***

*a.* Reduction in force will be accomplished in a systematic manner in accordance with these rules; however, the layoff provisions established in this subrule shall not apply to:

(1) Temporary layoffs of less than 25 workdays or 200 hours of work per calendar year;

(2) Interruptions in the employment of school term employees during breaks in the academic year, during the summer, or during other seasonal interruptions that are a condition of employment, with the prior approval of the resident director;

(3) The promotion or reclassification of an employee to a classification in the same or a higher pay grade;

(4) The reclassification of an employee's position to a classification in a lower pay grade that results from the correction of a classification error, the implementation of a classification or series revision, changes in the duties of the position, or a reorganization that does not result in fewer total positions in the unit that is reorganized;

(5) A change in the classification of an employee's position or the appointment of an employee to a classification in a lower pay grade resulting from a demotion; and

(6) The transfer or reassignment of an employee to another position in the same classification or to a classification in the same pay grade.

*b.* An individual whose position is eliminated or reduced in hours may be reassigned to a vacant position in the same classification and institution provided the individual possesses any required special qualifications for the position. If there is no vacant position to which the individual can be reassigned, the individual may accept layoff with recall priority as provided in paragraph 3.21(1)“*n.*” If the individual directly affected does not accept layoff, the reduction in force procedures in this subrule shall be implemented.

*c.* Reduction in force will be made by classification.

*d.* Reduction in force may be made by organizational unit within an institution or institutionwide, as designated by the institution, provided such designation is reported to the merit system director before the effective date of the reduction.

*e.* The order of reduction in force will be by type of appointment as follows: temporary, trainee, initial probationary, permanent.

*f.* Each permanent employee affected by a reduction in force will be notified in writing of the layoff and the reasons for it at least 28 days prior to the effective date of the layoff unless budgetary limitations require a lesser period of notice.

*g.* There will be competition among all employees in the classification affected by the layoff based on a retention points system of all employees in the classification within the organizational unit or units affected. Retention points will be calculated as follows:

(1) Length of service credit will be allowed at the rate of one point for each month of service in a permanent position, whether full- or part-time. Any period of 15 calendar days of service (including any legally protected leave, paid or unpaid) in a month will be considered a full month. For the purpose of computing length of service credits, the institution will include all periods of regular merit employment during periods of continuous regular appointments with the institution between the date of the original appointment and the date of the layoff or as provided otherwise by law. Periods of leave without pay exceeding 30 days will not be counted unless protected by federal or state law.

(2) Performance evaluation deduction will be allowed at the rate of one point for each month of unsatisfactory service. No length of service credit will be allowed for service rated less than satisfactory. If there is no record of performance evaluation for a specific time period, it shall be presumed that the employee's performance is satisfactory.

(3) Reduction in force retention points will be the total of length of service, less any deduction for unsatisfactory performance.

*h.* Employees will be placed on the layoff list beginning with the employee with the greatest number of retention points at the top. Layoffs will be made from the list in reverse order unless the employee with the least retention points has special skills and abilities required to perform in the position

currently occupied. An employee with greater retention points who must vacate the employee's position must possess the special skills and abilities required for that position and meet any job-related selective certification required for that position. Copies of the computation of retention points will be made available to affected employees. One copy will be retained by the resident director and one copy will be forwarded to the merit system director at least ten days prior to the effective date of the layoff.

*i.* When two or more employees have the same total of retention points, the order of termination will be determined by giving preference for retention to the employee with the longest time in the classification.

*j.* The reduction in force plan approved by the merit system director will be made available by the resident director so that employees directly impacted will have access to it.

*k.* An affected employee may appeal a reduction in force by filing, within seven days after notification as provided in paragraph 3.21(1) "f," a written grievance with the resident director (at Step 3 of the grievance procedure provided in rule 681—3.25(8A) or at a comparable step of a procedure approved under subrule 3.25(1)). If not satisfied with the decision rendered at that step, the employee may pursue an appeal in accordance with the grievance procedure.

*l.* A supervisory employee, defined as a public employee who is not a member of a collective bargaining unit and who has authority, in the interest of a public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees, to direct such public employees, or to adjust the grievances of such public employees, or to effectively recommend such action, may not replace or bump a junior employee not being laid off. For purposes of this subrule, "junior employee" means an employee with fewer retention points than a supervisory employee.

*m.* A permanent employee in a nonsupervisory classification in which layoffs are to be effected may, in lieu of layoff, elect voluntary demotion to a position in the next lower nonsupervisory classification in the same series utilized at the institution or, in the absence of a lower nonsupervisory classification in the same series, to a nonsupervisory classification that the employee has formerly occupied while in the continuous employment of the institution. The employee must possess any special qualifications required and have the ability to perform the essential functions of the position. Such demotion or the occupying of a formerly held nonsupervisory classification will not be permitted if the result thereof would be to cause the layoff of a permanent employee with a greater total of retention points. To exercise the right of voluntary demotion or to occupy a formerly held nonsupervisory classification in lieu of layoff, the employee must notify the resident director in writing of such election not later than five calendar days after receiving notice of layoff. Any permanent employee displaced under these provisions will have the right of election as provided herein.

*n.* An employee who is laid off or who accepts a voluntary demotion in a series or assignment to a previously held classification in lieu of layoff may, at the employee's request, initiate recall priority for the classification from which the employee was laid off, a lower classification(s) in the same series from which the employee was laid off, and a classification formerly occupied in accordance with rule 681—3.22(8A) for a period of up to one year from the date of layoff. If recall occurs within one year of separation due to reduction in force, prior service credit shall be restored. Acceptance of recall in a lower classification in the same series from which the employee was laid off or in a previously held classification will not affect the employee's recall priority for the classification from which the employee was laid off.

*o.* Recall priority will utilize the retention points calculated in accordance with subrule 3.21(1), beginning with the person with the highest number of points as applied in the following order:

(1) If the vacancy occurs in a layoff unit in which the employees eligible for recall in a classification were last employed, the resident director will refer the employee with the greatest number of retention points who was laid off, was demoted or took a medically related disability leave from that layoff unit; or

(2) If the vacancy occurs in the layoff unit other than the one in which employees eligible for recall priority in a classification were last employed, the resident director will refer the employee with the greatest number of retention points on the list from a different layoff unit. Employees referred with recall priority must meet the qualifications for the position, including any special qualification requirements. Employing departments must evaluate any eligible employees with recall priority before considering other applicants.

**3.21(2)** Reserved.