

Wisconsin Human Resources Handbook

Chapter 232

Layoff of Permanent Classified Employees

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Sec. 232.010 Introduction

When the workforce must be reduced, appointing authorities may be required to permanently lay off employees. The Office of State Employment Relations (OSER) administers the layoff plans developed by state agencies. Layoff plans for represented employees who have a current labor contract that addresses layoffs fall under the jurisdiction of the Director of OSER as part of the Director's responsibility to negotiate and administer labor contracts for represented employees. Layoff plans for all other classified employees fall under the jurisdiction of the Administrator of the Division of Merit Recruitment and Selection (DMRS).

This chapter provides assistance to agency human resources staff in developing permanent layoff plans for classified employees. The chapter includes, among other things, reference to applicable statutes and administrative codes, procedures for submitting a layoff plan, alternatives to permanent layoff, a sample layoff plan, and a sample letter to an employee affected by layoff.

This handbook chapter also provides information and guidance related to temporary options prior to or in lieu of permanent layoff for classified employees, including Temporary Layoff. It is our intent that these options will address a temporary reduction in the workforce due to a stoppage or lack of work or funds or owing to material changes in duties or organization. These actions may be appropriate where the need is temporary or where the scope and severity of need is unknown but where some immediate action is required until a permanent plan is implemented.

This chapter describes the permanent layoff procedures for classified employees only. It does *not* apply to: (1) represented employees (see applicable collective bargaining agreements); or (2) seasonal layoff of seasonal employees or school year employees at institutions or schools during recesses in the academic year or the summer, except as provided in s. ER-MRS 22.12, Wis. Adm. Code (permanent layoff of seasonal employees) and s. ER-MRS 22.13, Wis. Adm. Code (permanent layoff of school year employees); or (3) layoff (dismissal) of project appointment (05) employees.

Sec. 232.020 Statutory and Rule Authority

Section 111.90 (1), Wis. Stats., recognizes that the employer has a right to carry out the statutory mandate and goals assigned to a state agency by the most appropriate and efficient methods and means and to utilize personnel in the most appropriate and efficient manner possible.

Section 230.34(2), Wis. Stats., recognizes that the employer may need to take action to address a reduction in the workforce due to a stoppage or lack of work or funds or owing to material changes in duties or organization. Additionally, that provision provides that employees with permanent status in class in permanent or seasonal positions in the classified service and employees serving a probationary period in such positions after promotion or transfer may be laid off because of a reduction in force due to a stoppage or lack of work or funds or owing to material changes in duties or organization. However, this is only after all original appointment probationary and limited term employees in the classes used for layoff are terminated.

Section 230.34(2m), Wis. Stats., provides that employees in positions funded by non-state funds made available contingent on special employee eligibility requirements such as length of prior unemployment, specific occupational disadvantages or need for remedial work experience, are exempt from inclusion with the employees whose positions are in classes considered for layoff. In the case of reduction in force in such non-state funded positions, layoffs and layoff procedures established in the Rules of the Administrator, DMRS, may be limited to employees whose positions are dependent upon specific funding contingencies.

Section 230.34(2)(b), Wis. Stats., provides that the DMRS Administrator promulgates rules governing layoffs and appeals resulting from layoffs and alternative procedures in lieu of layoff to include voluntary and involuntary demotion and the displacement to a comparable or lower class, as well as the subsequent employee right of restoration or eligibility for reinstatement. This function related to layoffs includes temporary layoffs.

Chapter ER-MRS 22, Wis. Adm. Code, was promulgated to provide the layoff procedures that must be followed by state agencies in developing and implementing layoff plans for classified employees. It authorizes the DMRS Administrator to administer agencies' layoff plans and to authorize exceptions to the procedures outlined in the administrative code for temporary layoffs not to exceed 20 working days.

Section 230.34(3), Wis. Stats., requires that appointing authorities confer with the DMRS Administrator relative to a proposed layoff a reasonable time before the effective date in order to ensure compliance with the administrative rules.

Sec. 232.030 Definitions

The following are definitions of terms used in this chapter:

1. **Classification series:** A grouping of related class titles, usually designated by a multiple number of levels, such as denoted by 1, 2, 3, 4, etc., or entry, developmental, journey, senior, etc. A classification series can be non-progression or progression or a combination of both. For example, Financial Specialist 1-5 is a non-progression classification series. Also see **Progression series** below.
2. **Comparable position:** A position which is at the same or counterpart level or pay range.
3. **Continuous service:** All the time in continuous employment status in the unclassified service or as a permanent employee in the classified service. Continuous service does not include time served in limited term employment and in those positions under s. 230.08(2)(k), Wis. Stats., regarding youth camps and students, respectively. See Attachment #3 on computing continuous service.
4. **Counterpart pay range:** A pay range or groupings of pay ranges in different pay schedules which are designated by the Director to be at the same level for the purposes of determining personnel transactions.

5. **Customary Orientation and Training:** Work unit policies and procedures. An individual is considered qualified to perform the work with “customary orientation and training” if the individual currently possesses the basic knowledge, training or experience to successfully perform the work immediately upon appointment after a short introduction to work unit policies and procedures. This orientation and training period is usually completed in less than six weeks.
6. **Demotion:** The permanent appointment of an employee with permanent status in one class to a position in a class lower than the highest position currently held in which the employee has permanent status in class, unless excluded under s. ER-MRS 17.02, Wis. Adm. Code (Exclusions).
7. **Displacement:** A process whereby an employee who is faced with no other alternatives to layoff (i.e., transfer or demotion to a vacant position) is allowed to replace an employee in a filled position. Displacement is commonly referred to as “bumping.” See Section 232.100 of this handbook chapter (Alternatives to Layoff) for a discussion on displacement options.
8. **Employing Unit:** An agency or a portion of an agency defined by functional organizational or geographic attributes which has been approved by the DMRS Administrator for the agency to use for any one or combination of the following: promotion, demotion, transfer, reinstatement, restoration, layoff, and other related personnel transactions.
9. **Layoff (Permanent):** The termination of the services or permanent reduction of hours of an employee with permanent status in class from a position in a layoff group approved by the DMRS Administrator, or agency head if delegated, in which a reduction in force is to be accomplished.
10. **Layoff group:** An aggregation of related positions which is the group of employees from which the layoff will be made. See Section 232.070 of this handbook chapter (Establishing a Layoff Group) for a discussion of layoff groups.
11. **Lower classification:** A class assigned to a lower pay range.
12. **Permanent status in class:** The rights and privileges attained upon successful completion of a probationary period required upon an appointment to permanent, seasonal, or sessional employment.
13. **Progression series:** A multiple-level classification series where employees are expected to progress via reclassification to the objective level as long as they can satisfactorily perform the full range of duties assigned to the objective level classification. The class specifications or position standards specifically identify the entry and “full-performance objective level.” The full performance objective level within a progression series means the classification level which any employee could reasonably be expected to achieve with satisfactory performance of increasingly complex duties or the attainment of specified training, education, or experience.

Progression classification series often have some combination of entry, developmental and objective level classifications. Refer to definitions of entry level, developmental level, and objective level. Consumer Protection Investigator classification series is an example of a progression series.
14. **Recruitment option:** A grouping of job duties and responsibilities common to one or more positions assigned to a classification or classifications, used by the Administrator to establish layoff groups, selectively certify eligible applicants or establish registers. See Section 232.070 of this handbook chapter (Establishing a Layoff Group) for a discussion on recruitment option.
15. **Subtitle:** A secondary explanatory title which is used to identify positions whose duties distinguish them from other positions in the same class in terms of the qualifications required for successful performance in the position. Designation of a subtitle is subject to the approval of the Director of OSER, and personnel

processes such as layoff may be based on both the class title and subtitle. See Section 232.070 of this handbook chapter (Establishing a Layoff Group) for a discussion on subtitle.

16. **Transfer:** The permanent appointment of an employee to a different position assigned to a class having the same or counterpart pay rate or pay range as the class to which any of the employee's current positions is assigned.
17. **Vacancy:** A classified position to which a permanent appointment may be made after the appointing authority has initiated an action to fill that position.

Sec. 232.040 Temporary Options Prior to or in Lieu of Permanent Layoff

After considering the needs of the agency to maintain service levels, appointing authorities should consider the option of temporary layoffs, which may include a temporary reduction of hours.

The Wisconsin Administrative Code permits temporary layoffs for some or all of the classified employees (including career executives) in an employing unit for 20 working days or less (160 hours for full time employees). The "working days" need not be consecutive and need not be taken in full day increments.

Example: A temporary layoff could include 40 half-days; one day a week for no more than 20 weeks; two days a week for 10 weeks; one day every other week; or similar variations not to exceed 20 days.

Management has the right to use "the most appropriate and efficient methods and means and utilize personnel in the most appropriate and efficient manner possible . . ." and to "manage the employees . . ." (s. 111.90,(1) and (2), Wis. Stats.). This right includes the ability to establish and adjust work hours which may involve scheduling overtime (time worked in excess of 40 hours per week) or reduction in hours (time worked that is less than 40 hours per week). Substantial reduction in work hours changes the nature of a position such that it would be considered a "different" position. This conclusion is supported by the language contained in s. ER-MRS 22.09(2)(c), Wis. Adm. Code, related to determining what is a reasonable offer of employment relating to alternatives to layoff. This rule establishes a standard which states that the "offered position" is reasonable if the ". . . number of work hours required does not vary substantially from the number of work hours previously worked . . ." This concept is important because a substantial reduction in work hours is sufficient to invoke the layoff process. The DMRS Administrator has determined that any permanent reduction in work hours is substantial. If the reduction of hours is temporary, the temporary layoff procedures would be invoked.

Consecutive temporary layoffs in the same employing unit will not be authorized if they are for the same reason that caused the initial temporary layoff, unless a plan for subsequent permanent layoff in that employing unit has been submitted. If it is determined that the temporary layoff will last beyond the 20-working day maximum, the agency should submit a permanent layoff plan for approval and may then request an additional 20 days of temporary layoff. After the second 20 days, the agency must then proceed with the permanent layoff.

Temporary layoff plans require approval by the DMRS Administrator, regardless of staffing delegation. Agencies may request delegation from the Administrator for the responsibility and authority to approve and implement classified employee temporary layoffs.

Regardless of whether the process is delegated or non-delegated, all agencies are required to prepare a written temporary layoff plan which includes the following:

1. Reason(s) for the temporary layoff (e.g., loss of funding).
2. Name and classification of employee(s) to be temporarily laid off (including gender and race/ethnic status).
3. Specific number of days that the affected employee(s) will be laid off.
4. Effective date(s) of the temporary layoff.

Agencies with specific delegation will submit an informational copy of the temporary layoff plan to the DMRS Administrator prior to the effective date of the implementation of the plan. Agencies without delegation will submit their plan(s) to the Administrator for review and approval (as appropriate) prior to taking any action to implement the plan.

FLSA implications must be considered when an exempt employee, whether represented or nonrepresented, is subject to temporary layoff. Title 29 C.F.R. 541, Part 541.5d allows for “budget required furloughs.” Under that code, when an exempt employee has deductions taken from his/her pay because of a budget required furlough, the employee will be considered to be non-exempt during the work week in which the furlough occurs. As a practical matter, this is of no real consequence because, with the reduced hours in the work week, overtime hours are unlikely to be worked. Once the furlough is completed and the employee’s pay is no longer reduced, the employee resumes his/her exempt status.

Benefit Implications:

Temporary layoffs may have implications on employee benefits, excluding seniority, for both represented and nonrepresented employees.

As a general rule, benefits will not be affected. Sick leave credits continue to be earned (s. ER 18.03(2)(b), Wis. Adm. Code), annual leave credits are not lost (s. 18.02(4)(a), Wis. Adm. Code), and continuous service is not adjusted. The employer will continue to pay its share of the health insurance premium during a temporary layoff. WRS retirement earnings would be lower and any other benefits that are tied to annual income could be affected as a result of a temporary layoff including Life Insurance, Income Continuation, etc.

Sec. 232.050 Procedures for Making Layoffs

When an agency must lay off classified permanent employees after all other means to reduce costs or re-deploy staff have been implemented, the appointing authority will prepare a comprehensive, written layoff plan and submit it to the DMRS Administrator for review and approval before the layoff plan is implemented, regardless of staffing delegation. Agencies may request delegation for the responsibility and authority to develop and implement classified employee layoffs. Regardless of whether the process is delegated or nondelegated, all agencies must prepare a comprehensive, written layoff plan following the guidance provided in this handbook chapter. Agencies with specific delegation for layoff will submit an informational copy of the layoff plan to the DMRS Administrator prior to the effective date of the implementation of the plan.

Note: Pursuant to changes introduced by 2011 Wisconsin Acts 10 and 32, layoff procedures are a prohibited subject of bargaining. Therefore, even for those employees who continue to be represented for the purposes of collective bargaining, contractual provisions that previously prohibited the movement across bargaining unit lines are no longer in existence (although an exception exists for public safety employees as defined under s. 111.81(15r), Wis. Stats.). This handbook chapter, which allows movement across bargaining unit lines, now governs the layoff procedures of many more employees. The complexity of layoff planning has increased substantially and as a result, all classified employee layoff plans must be reviewed and approved by the DMRS Administrator unless specifically delegated to the agency.

The appointing authority will recommend the layoff group in which the layoff is to occur. (See Section 232.070 of this handbook chapter, Establishing a Layoff Group.) The appointing authority may exempt a limited number of employees from the layoff group who have special or superior skills or for other purposes as determined by the appointing authority. (See Section 232.080 of this handbook chapter, Exemptions to Established Layoff Group.) The remaining employees, including those on an approved leave of absence, in the layoff group will be ranked by seniority computed on the basis of continuous service. Any resulting tied cases will be ranked, relative to each other, according to their total continuous service in the approved layoff group. If, after completing this ranking, a tie still exists between two or more employees, continuous service of the tied employees are determined by age, with the oldest employee deemed to have the greatest continuous service. Employees will be laid off according to their

continuous service ranking, with the employee with the least continuous service laid off first. See Attachment #3 or s. ER 18.02(2), Wis. Adm. Code, for questions on calculating continuous service.

The layoff plan must explain what alternatives to layoff have been implemented and why the layoff is necessary.

The layoff plan must include the following information.

1. A detailed explanation of why the layoff is necessary.
2. The employing unit(s) affected. See Section 234.060 of this handbook chapter (Employing Units) for a discussion on employing units.
3. The layoff group (i.e., classification title or series), number of positions to be eliminated, names of employees and their seniority date, gender, racial/ethnic code, disability status, and FTE of position. See Section 234.070 of this handbook chapter (Establishing a Layoff Group) for a discussion on layoff groups.

Note: Data related to gender, racial/ethnic code and disability status are not required to be put in the layoff plan itself, but must be furnished to the agency Affirmative Action Officer in order to make an assessment of the layoff plan's impact on diversity. Such demographic data also may be required by the Division of Affirmative Action in the Office of State Employment Relations.

4. Exemptions to layoff and reasons for exemptions. See Section 232.080 of this handbook chapter (Exemptions to Layoff) for a discussion of exemptions.
5. Name and release date of any project employees and those employees who are currently serving an original probation. Also include an acknowledgment that any LTE employees will be released prior to layoff of permanent employees.
6. Names of employees to be laid off, listed in seniority order, and anticipated date of layoff. See Attachment #3 ("Continuous Service") for assistance in determining who is least senior for purposes of release of least senior employees.
7. Date that written notice of layoff will be provided to affected employees.
8. Draft of layoff letter(s) which includes alternatives in lieu of termination as a result of layoff. See Section 232.100 of this handbook chapter (Alternatives to Layoff) for a discussion on these layoff alternatives.
9. Signature of agency Affirmative Action Officer.

Note: The Affirmative Action Officer for each agency is charged with providing advice and assistance to agency hiring managers on issues of equal employment opportunity and affirmative action. Such advice and assistance includes providing input related to obtaining and maintaining a diverse workforce in times of growth (recruitment) or in times of downsizing (layoff). The Affirmative Action Officer's signature on the layoff plan indicates that he or she has reviewed the plan and has advised the appointing authority of the impact of the plan on the diversity of workforce within the agency.

10. The name, phone number, and e-mail address of the person to contact regarding questions about the layoff plan.

See Attachment #1 to this chapter, "Sample Layoff Plan."

Unless delegated the authority to implement layoffs for classified employees, DMRS will review the layoff plan(s) and respond to the appointing authority, in writing, in advance of the agency's layoff actions.

Sec. 232.060 **Employing Units**

An employing unit is an agency or a functional organizational or geographic unit within an agency which has been approved by the DMRS Administrator for the agency to use for any one or combination of the following: promotion, demotion, transfer, reinstatement, restoration, layoff and other related personnel transactions.

Changes in existing employing units are not delegated to any agency, and proposed changes will not be approved immediately preceding or as part of an agency's layoff plan unless a very strong rationale is presented. This means that agency reorganizations that occur as a result of or part of a restructuring and layoff process normally will continue to use existing employing unit structures to implement the layoff. After all layoffs relating to the restructuring have been implemented, the DMRS Administrator will consider changes in employing unit structure to reflect the new organizational structure of the agency or sub-unit of the agency. Employing unit changes that do not adversely affect the creation and implementation of layoff groups will be reviewed and implemented as appropriate.

Sec. 232.070 **Establishing a Layoff Group**

Layoff groups are established by employing unit. Full-time and part-time positions may constitute different layoff groups. (See s. ER-MRS 22.06(1), Wis. Adm. Code.) Layoff groups are identified by, but not limited to, the following:

1. A classification.
2. A classification subtitle. See Section 232.030 of this handbook chapter (Definitions) and the discussion below.
3. A progression series which has been approved by OSER for use by the agency. See Section 232.030 of this handbook chapter (Definitions).
4. A recruitment option. See Section 232.030 of this handbook chapter (Definitions) and the discussion below.
5. A clearly definable set of qualifications within a classification established through job analysis.

Note: While distinguishing layoff groups on the basis of FTE (full-time or part-time) within one of the options noted above is acceptable, individual employees ultimately have rights to the classification in which they hold permanent status, regardless of their FTE status. Therefore, distinguishing the layoff group on the basis of FTE is generally unadvised because the outcome of the layoff plan would likely not be affected.

The terms "subtitle" and "recruitment option" are similar in definition but there are important differences. A subtitle is an official designation of a position that identifies the distinct specialty of the position. The subtitle must be approved by the OSER Director through a formal review process similar to the creation of a new classification. A subtitle reflects a substantial and distinct set of duties, responsibilities and authorities of a position that distinguishes it from other positions in the same classification title.

Creation of and changes to classification titles and subtitles are not delegated to agencies. Proposed changes to classification titles or subtitles that affect a layoff group will generally not be approved immediately preceding or during a layoff process. After all layoffs have occurred, if changes are appropriate, they will be reviewed and approved according to the standard review process.

A recruitment option (referred to as a class title option on the Position Description) also may be assigned to a classification title or subtitle in an effort to more adequately describe specialized knowledge, skills and abilities for the position. A recruitment option is not a "working title." It is a term that is used to more specifically identify a position for recruitment, examination, certification or layoff when job analysis has shown that the special character

and qualifications of the position so necessitate. Because a recruitment option relates to the required qualifications of the person for a position, it falls under the jurisdiction of the DMRS Administrator.

When a recruitment option has been used in the certification process or in establishing selective certifications, it may be appropriate to also use the recruitment option when establishing layoff groups. An example of a recruitment option might be an announcement/register for a Bilingual (Spanish) position. If the register established for the appointment to this position was limited to only those applicants who met the minimum requirements for the classification and met the recruitment option of bilingual (Spanish), then it may be appropriate (not required) to develop a layoff group limited to those positions filled by using that specialized register. Use of a recruitment option in establishing a layoff group requires extensive supporting documentation that the recruitment option was declared and used in filling the position(s).

Sec. 232.080 Exemptions to Layoff

Note: This exemption policy applies to classified employees. While the language of collective bargaining agreements (if applicable) must be followed for represented employees, section 232.080 of this handbook chapter can serve as a guide to handle similar exemptions that may be found in those agreements.

Guidelines. The appointing authority may exempt from the layoff group up to 2 employees or 20 percent (rounded to the next whole number), whichever is greater, of the number of employees in the layoff group to retain employees who either have special or superior skills or for other purposes as determined by the appointing authority.” The agency must remember that the “2 employees or 20 percent” limitation for exemptions applies to all exempted employees, regardless of the basis for the exemption. Affirmative action considerations should not be used as the basis for exemptions. (*Wygant v. Jackson Board of Education*, 476 U.S. 267, 106 S.Ct. 1842, 90 L.Ed.2d 260 (1986)).

Documentation. Agencies must maintain documentation if they choose to apply exemptions from layoff such that it may be inspected upon request by the DMRS Administrator. The following is not an exclusive list; there may be additional reasons and notations that are unique to the particular circumstances of an exemption:

1. The name and position of the person who requested the exemption.
2. Supporting documentation from the employee’s supervisor relating to the special or superior skills that are the basis for the exemption.
3. The type of exemption found in s. ER-MRS 22.06(2), Wis. Adm. Code that will be used should be identified.
4. The specific reasons that justify the exemption should be enumerated:
 - a. The particular skills, knowledge and abilities of the exempted employee should be identified.
 - b. The reasons the particular skills, knowledge and abilities of the exempted employee are superior or special and needed after the layoff.
 - c. The reasons the particular skills, knowledge and abilities of the exempted employee are superior or special in relation to the employee(s) that will be laid off instead.
5. Any documents that support the exemption should be retained.

Sec. 232.090 Notice to Employees

1. **At Risk:** Employees potentially affected by layoff may have alternatives for other employment prior to the implementation of layoff. In order to be eligible for these alternatives, an employee needs to be formally

notified that he/she is at risk of layoff. This at-risk notice is not a layoff notice but rather a warning that a layoff notice may be issued at a future date. To the extent administratively feasible, employees at risk of layoff should be given written notice of such possibility as soon as practicable. Employees may be considered “at risk of layoff” if they meet any of the following conditions:

- a. An employee whose position has been identified for deletion (e.g., in the agency’s budget).
- b. An employee who has received written notice that he or she may be laid off at some future date.
- c. An employee who is in an anticipated layoff group.
- d. An employee who may be displaced by a more senior employee as a result of an anticipated layoff.
- e. An employee serving an original probation in the layoff group who may be terminated.

Appointing authorities should exercise judgment when determining which employees should be issued an at-risk letter. Ideally, only those employees who are likely to actually be affected by the layoff should receive the at-risk letter. For example, if you have to eliminate two positions and there are ten employees in the layoff group, the minimum number of at-risk letters would be two (i.e., letters to the two least senior employees). However, there may be more actual at-risk employees in the layoff group if you add the possibility of exemptions for the two least senior employees. In addition, that layoff group of ten employees may include some additional at-risk employees who may be displaced by more senior employees from another layoff group.

An appointing authority could issue at-risk letters to all employees in the layoff group, but that list likely would include too many employees. While it is desirable to provide reasonable notice to potentially affected employees, it is also desirable not to cause anxiety for those employees not likely to be affected by any layoff action. Therefore, reasonable judgment is required in selecting which employees should actually receive at-risk letters.

2. **Layoff:** Any employee affected by layoff will be given written notice of the action not fewer than 15 calendar days prior to its effective date. It is important for employees who will be laid off or reassigned to know that all other solutions have been considered and such an explanation should be provided. To the extent possible, the written notice should include specific alternatives to layoff within the agency. (See Attachment #2 to this chapter, “Sample Layoff Letter.”).

Note: DMRS has an employee referral service (WISCERS) to assist employees. This is a self-service job referral system that provides additional job-seeking help over and above any rights an employee may have as part of a formal layoff and restoration process. It is available to employees affected by layoff and is also available to employees included in the State Injured Worker Re-Employment Program (SIWRP). See Chapter 236—Designation of Employees as At-Risk and Use of the Employee Referral Service of the *Wisconsin Human Resources Handbook* for more information on this program and related services.

Sec. 232.100 Alternatives In Lieu of Layoff

Wisconsin statutes and administrative codes provide alternatives to layoff prior to the established effective date of the layoff of an employee. Alternatives to layoff are offered to affected employees only after all original appointment probationary, project (05), and limited term employees in the classifications used for layoff are terminated. Eligibility for these alternatives in lieu of layoff requires that an employee receive a formal layoff notice. An at-risk notice is insufficient to grant these rights under alternatives in lieu of layoff. Employees in the same layoff group have the right to exercise these alternatives to termination from the service as a result of layoff in direct order of their seniority, most senior first. Unless otherwise stated in this section, transfer in lieu of layoff, demotion in lieu of layoff, and displacement in lieu of layoff are treated as involuntary actions as it relates to employee restoration rights. Options and rights related to pay may vary depending on the type of transaction, even if the transaction is treated as involuntary for purposes of restoration rights.

Alternatives to layoff include the following and are available until the effective date of the layoff. The purpose of alternatives in lieu of layoff is to allow the employee to retain a position at or closest to the level of the position from which he/she is being laid off. Therefore, if no transfer is available, an employee must be offered displacement in lieu of layoff at his/her current level before being offered demotion in lieu of layoff. The alternatives in lieu of layoff are broken down into two separate categories below: (1) movement to a position at the level of layoff and (2) movement to a position at a lower level.

1. Movement to a position at the level of layoff.

a. **Transfer in lieu of layoff:** Any employee who has received a notice of layoff has the right to transfer to a position for which he or she is qualified in the employing unit or agency. The appointing authority will offer the employee the opportunity to transfer to a vacant position regardless of classification but limited to those positions where the employee is qualified to perform the work after customary orientation and training and where the offer meets the test of “reasonable offer.” (See section 232.110 of this handbook chapter—Reasonable Offer of Employment.)

- 1) **Employing Unit:** Within the same employing unit, an employee may exercise his/her right to transfer in lieu of layoff to any vacancy in the same or counterpart pay range regardless of classification but is limited to those positions where the employee is qualified to perform the work after customary orientation and training. See definition of customary orientation and training in section 232.030 of this handbook chapter (Definitions). If there is more than one position to which the employee can exercise their right of transfer, the appointing authority may designate the position to which the employee shall first exercise his/her right of transfer.
- 2) **Agency:** Within the agency, the employee may exercise his/her right to transfer in lieu of layoff to any vacancy in the approved layoff group where the employee is qualified to perform the work after customary orientation and training. See definition of customary orientation and training in section 232.030 of this handbook chapter (Definitions). If there is more than one position to which the employee can exercise his/her right of transfer, the appointing authority may designate the position to which the employee will first exercise his/her right of transfer.
- 3) **Between Agencies:** Between agencies, the employee has permissive eligibility (not right) to transfer in lieu of layoff to any vacancy assigned to a classification in the same or counterpart pay rate or pay range as the classification to which the employee’s current position is assigned and where the employee is qualified to perform the work after customary orientation and training. See definition of customary orientation and training in section 232.030 of this handbook chapter (Definitions). See Chapter 236—Designation of Employees as At-Risk and Use of the Employee Referral Service of the *Wisconsin Human Resources Handbook* for information on permissive transfers of at-risk employees.

b. **Displacement in lieu of layoff:** If there is no vacant position in the agency to which an employee may transfer in lieu of layoff, the employee must be offered the opportunity to displace an employee within

the employing unit if he/she meets the eligibility requirements. Displacement eligibility to a filled position at this point is as follows:

A position in a classification in which the employee had previously attained permanent status in class **and** is assigned to the same or counterpart pay range as his/her current level.

2. **Movement to a position at a lower level.**

Options within this category must be offered in a manner that allows the employee to remain at a level closest to that of layoff. Therefore, at each level below the layoff level, each option should be evaluated and if no option is available, then repeat the process at the next lower level.

- a. **Demotion in lieu of layoff:** If transfer or displacement to the level of layoff is not available, the appointing authority must offer the employee the opportunity to demote to a vacant position regardless of classification but limited to those positions where the employee is qualified to perform the work after customary orientation and training and where the demotion meets the test of “reasonable offer.” Such right of demotion may occur within an employing unit or agency. The appointing authority is not required to make an “unreasonable offer” of a demotion in lieu of layoff, and, if offered, the employee is not required to accept the unreasonable offer. See definition of customary orientation and training in section 232.030 of this handbook chapter (Definitions) and section 232.110 of this handbook chapter (Reasonable Offer of Employment).

An employee notified of layoff may choose to demote on a permissive basis to positions categorized as an “unreasonable offer” within the employing unit or agency, or between agencies. For restoration purposes, if an employee chooses to demote into a position that would be considered as an “unreasonable offer,” this transaction will continue to be considered a “demotion in lieu of layoff.”

Note: Demotions in lieu of layoff between agencies may be treated as permissive demotions for the purposes of establishing pay. The employee will, however, retain his/her restoration rights. See Chapter 236—Designation of Employees as At-Risk and Use of the Employee Referral Service of the *Wisconsin Human Resources Handbook* for information on employment services for demotions of at-risk employees.

Note: Employees who transfer or demote in lieu of layoff may be required to serve a probationary period. (See ss. ER-MRS 22.08(1) and (2), and Chs. ER-MRS 15 and 17, Wis. Adm. Code, for requirements for the fulfillment of probationary periods.)

- b. **Displacement in lieu of layoff:** If there is no vacant position to which an employee may demote in lieu of layoff, the employee must be offered the opportunity to displace an employee within the employing unit if he/she meets the eligibility requirements. Displacement eligibility to a filled position is as follows:
- 1) A position in a classification within the employee’s present classification series (either progression or non-progression) **and** is assigned to a lower pay range than his/her current level.
 - 2) A position in a different classification (from his/her current classification) in which the employee had previously attained permanent status in class **and** is assigned to a lower pay range than his/her current level.
 - 3) A position in a different classification series within an approved progression series in which the employee had previously attained permanent status in class at a higher level **and** is assigned to a lower pay range than his/her current level.

Displacement Limitations

The following limitations apply to the all of the above-listed displacement options, regardless of level.

1. An employee can exercise displacement rights only after he or she has exhausted all other alternatives in lieu of layoff at each level (i.e., transfer in lieu of layoff or demotion in lieu of layoff).
2. The displacement rights do not extend outside the affected employee's employing unit.
3. Displacement rights do not extend to a position covered by a collective bargaining agreement which covers layoff even if the employee had previously obtained permanent status in class in that classification, unless there are specific contractual provisions which allow such displacement. These displacement provisions are generally limited to formerly represented employees now serving a promotional probation in a non-represented position. Please refer to the appropriate current contractual language that covers the classification in question to determine if the employee has displacement rights to the position.

Exercise of such displacement rights does not guarantee the employee a position in the class or subtitle selected. It requires only that the employee be included with other employees in the class or subtitle when the layoff process is applied to determine which employee is terminated as a result of layoff, after all other options and exemptions are applied.

Any displacement in lieu of layoff is considered an involuntary action for purposes of determining restoration rights. However, an employee who declines to accept the highest level position available under displacement may be subject to different pay provisions. See the current State of Wisconsin Compensation Plan for pay provisions related to displacement in lieu of layoff.

Voluntary Actions by Employees Within the Layoff Group

With the agreement of the appointing authority, an employee with more continuous service in the layoff group may volunteer to be terminated from employment in lieu of the layoff of an employee with less continuous service, with the guarantee that the appointing authority will not challenge the volunteering employee's eligibility for unemployment compensation (unless that employee later refuses a reasonable offer of reappointment). An employee who is separated from service under this type of voluntary termination agreement is granted all rights and privileges of a laid-off employee including restoration rights, reinstatement privileges and other such benefits as may be granted to laid-off employees. An employee granted voluntary termination in lieu of layoff of another employee forfeits privileges associated with alternatives in lieu of layoff as discussed in section 232.100 of this handbook chapter (i.e., transfer in lieu of layoff, demotion in lieu of layoff or displacement in lieu of layoff). With the approval of the appointing authority, an employee with more continuous service in the layoff group, who is otherwise eligible for displacement in lieu of layoff, may volunteer to displace in lieu of an employee with less continuous service, if that would not result in the layoff of a different employee.

An employee notified of layoff may choose to demote on a permissive basis to positions within the employing unit or agency, regardless of reasonableness, or between agencies. For restoration purposes, if an employee chooses to demote into a position that would be considered as an "unreasonable offer," this transaction will continue to be considered a "demotion in lieu of layoff."

Related Employee Voluntary Actions

There are other voluntary actions that may be taken by employees that would reduce or even eliminate the need for permanent layoff. Such actions include an employee taking a voluntary leave of absence without pay. The Wisconsin Administrative Code permits classified employees (including career executives) to take an unpaid leave of absence for up to three years. Such leaves need not be taken in consecutive days. Thus, this provision can be used to grant a series of one-day leave without pay or other combinations as requested and appropriate. Another voluntary action that may be taken by an employee is permanent reduction of FTE.

Sec. 232.110 Reasonable Offer of Employment

As determined by the appointing authority, an offer of appointment is considered reasonable if it meets all of the following five conditions as of the date of the offer.

1. The position is one that the employee would be qualified to perform after customary orientation provided to new workers in the position.
2. The position is the highest-level position available within the agency to which the employee could either transfer or demote.
3. The work hours required are the same as those previously worked, both in number and shift.
4. The position is located at a work site that is within reasonable proximity of the original work site.
5. The pay range of the position offered is no more than three pay ranges/counterpart pay ranges or one broadband pay range lower than the pay range of the position from which the employee was laid off.

Note: Some positions that meet each of the above five conditions above may become unreasonable due to exceptional circumstances.

Declining a Reasonable Offer

1. An employee who has been **formally notified of layoff** (i.e., more than an at-risk letter) and fails to accept a reasonable offer of permanent appointment within the agency within five work days of receiving the offer or who, upon acceptance, fails to be available for work within five work days after acceptance, forfeits any further rights to an appointment under alternatives to layoff (transfer in lieu of layoff, demotion in lieu of layoff and displacement in lieu of layoff) and restoration from layoff.
2. An employee who has been **terminated from employment due to layoff** and does not accept a reasonable offer of permanent reappointment within five working days, or who, after accepting employment, fails to be available for work within ten working days, forfeits any further rights to an appointment. See section 232.140 (2) of this handbook chapter (Restoration and Reinstatement) for a discussion on failure to accept a reasonable offer of reappointment after termination.

Note: An employee who declines a reasonable offer forfeits rights to an appointment only at the level that the offer was made and below. The employee will retain rights to an appointment at a level between and up to that of which the employee was laid off.

Offers of Employment Other Than Reasonable

An employer is not required to offer an employee a position that does not meet the definition of reasonable offer. An employer also is not precluded from offering the employee a position that does not meet the test of reasonable offer. In some circumstances, an employee may wish to accept (or even request) a position notwithstanding its “unreasonableness.” It should be noted that acceptance of an unreasonable offer may affect the pay options available to an employee. An employee who declines an “unreasonable offer” does not forfeit any future rights to an appointment.

Sec. 232.120 Pay on Transfer, Demotion, or Displacement

Pay options on transfer, demotion, or displacement in lieu of layoff for classified employees may be affected by applicable compensation provisions. To determine the appropriate pay, see the current State of Wisconsin Compensation Plan.

Sec. 232.130 Appeal Rights

An employee may appeal a personnel decision made by the DMRS Administrator or by an appointing authority (delegated to make a personnel decision), including a layoff decision. The employee must follow the grievance procedures as set out in Chapter 430—Employee Grievance Procedure of the *Wisconsin Human Resources Handbook*. These appeal rights must be included in the notice of layoff that is given to the employee.

Sec. 232.140 Restoration and Reinstatement

1. **Restoration.** An employee who demotes in lieu of layoff (regardless of reasonableness); exercises displacement in lieu of layoff; is terminated as a result of layoff; or who transfers, demotes or promotes to another agency in lieu of layoff and is terminated while on probation must be granted the following mandatory appointment considerations for a three-year period from the date of such action:
 - a. Return to the same employing unit. When a vacancy occurs in the employing unit at or closest to the same or counterpart pay range level from which an employee left, the employee shall be recalled in inverse order of layoff providing the employee is qualified to perform the work after being given the customary orientation provided newly hired workers in such position, unless the employee previously declined a similar offer.
 - b. Return to the agency. When a vacancy occurs in the agency in the approved layoff group from which the employee left, the employee shall be recalled in inverse order of layoff, providing the employee is qualified to perform the work after being given the customary orientation provided newly hired workers in such a position, unless the employee previously declined a similar offer.

The order for recall of an employee who transferred or promoted between agencies as a result of layoff and was terminated while on probation is determined on the basis of the effective date of the layoff. An employee recalled to a different employing unit in the agency may be required to serve a probationary period.

Note: A Career Executive at the 81-02 level who demotes in lieu of layoff, exercises displacement in lieu of layoff to a non-career executive position, or is terminated as a result of layoff will retain the same eligibilities for career executive upward movements as if the layoff had not occurred. As a result, for an 81-01 vacancy, the employee will not be required or allowed to participate in the competitive examination. The employee will apply in the same manner as if he/she were currently at the 81-02 level.

2. **Restoration and Reasonable Offer of Reappointment.** An employee or former employee having restoration rights who fails to accept a reasonable offer of reappointment within the agency within five work days of the offer or who, upon acceptance, fails to be available for work within ten work days after acceptance forfeits any further restoration rights to that level. If the reasonable offer of reappointment was at a level lower than the original level of layoff, the employee retains restoration rights for positions between and up to the original level. If extenuating circumstances prevent an employee or former employee from reporting for work within ten work days after acceptance or making other arrangements with the employer, the employee does not forfeit the right to further restoration when other vacancies occur, providing the nature of the extenuating circumstances was acceptable to the appointing authority.

3. **Reinstatement.** An employee who demotes in lieu of layoff, exercises displacement in lieu of layoff, is terminated as a result of layoff, or who transfers, demotes or promotes to another agency in lieu of layoff and is terminated while on probation must be granted the following permissive appointment considerations for a five-year period from the date of such action:
 - a. When a vacancy for which the employee is qualified occurs in another employing unit of the agency, during the period in which the employee has restoration rights, in any class other than the approved layoff group from which the employee left, the employee may be reinstated at the discretion of the appointing authority.
 - b. When a vacancy for which the employee is qualified occurs in the agency after the expiration of restoration rights and within a five-year period from the date of any of the actions described in this section as a result of being subject to layoff, the employee may be reinstated at the discretion of the appointing authority.
 - c. When a vacancy for which the employee is qualified occurs anywhere in state service other than the agency from which the employee left, the employee may be reinstated at the discretion of the appointing authority within a five-year period from the date of action resulting from layoff. A person who is reinstated to an agency other than the one from which the person earned reinstatement eligibility may be required to serve a probationary period.

Note: The election by an employee to receive retirement benefits after being terminated as a result of layoff does not impact that employee's restoration rights or reinstatement eligibility.

Sec. 232.150 Administrative Information

This chapter was originally published by the Department of Administration, State Bureau of Personnel as Chapter 752, *Wisconsin Personnel Manual—Administration, Classification and Compensation*. With the creation of the Department of Employment Relations, the responsibility for the administration of layoff plans was assumed by the Division of Personnel. A subsequent reorganization split the Division of Personnel into the Division of Classification and Compensation and Division of Merit Recruitment and Selection. This reorganization transferred statutory responsibility for layoffs from the (then) DER secretary to the DMRS Administrator. On March 1, 1983, Ch. ER-MRS 22, Wis. Adm. Code (Layoff Procedure) was promulgated. In December 1983, the *Wisconsin Personnel Manual* Chapter on Layoffs was updated to reflect policy changes contained in Ch. ER-MRS 22, Wis. Adm. Code, and was reissued as Chapter 252, *Wisconsin Personnel Manual—Staffing*. In January 2002, the *Manual* Chapter was updated and reissued as Chapter 232 of the *Wisconsin Human Resources Handbook* (new format).

In February 2003, the chapter was updated and expanded to include information and clarification regarding definitions and procedures.

This handbook chapter was updated in July 2003 to: (1) clarify information on the role of the Affirmative Action Officer in layoffs; (2) recommend documentation on use of exemptions; (3) provide clarification of the at-risk process; (4) clarify “reasonable offer” options; and (5) note the availability of the optional Layoff Referral Information form OSER-DAS-81, located on our web site at <http://oser.state.wi.us/docview.asp?docid=1205>.

In March 2009, the example classification series name used in the definition for “Classification series” was changed to Payroll and Benefits because the previous example classification is no longer used, and other, minor, editions and formatting changes were made.

The chapter was updated in August 2009 with the removal of the form “Layoff Referral Information” and references within the chapter to the form.

The chapter was updated in March 2014 to address changes in the procedural guidance and provide policy clarification in the conduct of layoffs and to integrate the key content from *Wisconsin Human Resources Handbook* Chapter 234—Alternatives to Permanent Layoffs as section 232.040.

Subsequent sections of this handbook chapter have been renumbered. Clarification was made that reduction in a position's FTE due to budgetary reductions or workforce reductions constitutes a layoff situation. Clarification was made to explain the consequences of declining a reasonable offer. With the publication of this update, all layoff plans for classified employees must be submitted to the DMRS Administrator for approval, until the agency has been delegated authority specifically for implementing layoffs for classified employees.

With the publication of this update, *Wisconsin Human Resources Handbook* Chapter 234 is obsolete.

Attachment #1

SAMPLE LAYOFF PLAN

Date: *[Date of Request]*

To: Administrator
Division of Merit Recruitment and Selection

From: *[Agency Head or Designee Initiating Request]*

Subject: Layoff Plan for *[Agency Name or Employing Unit]*

[State specific reason for layoff; include agency or employing unit number, as appropriate.]

To meet the reduction in spending imposed on state agencies for the next fiscal year, we find it necessary to vacate three classified positions in the *[Name of Agency or Employing Unit and Employing Unit Number, if any]*. *[Name of Agency]* has *[Explain any other measures taken to reduce costs]*. Therefore, we must initiate a layoff of three positions in the *[Classification Title]*.

The following employees occupy positions in this layoff group:

[Identify the layoff group, names of employees, seniority date, gender, racial/ethnic code, disability status, and percent of position. Inclusion of Gender, Racial/Ethnic and Disability Status information is optional on the layoff plan. However this information is required to be furnished to the Agency's Affirmative Action Officer in order to make an assessment of the layoff plan's impact on diversity within the agency. This information may also be required by the Division of Affirmative Action in the Office of State Employment Relations.]

<i>[Classification Title (for example, Financial Specialist-Confidential)] – [Employing Unit #]</i>						
Name	Seniority Date	Sex	Racial/ Ethnic	Disability Status	% FTE	Anticipated Layoff Date
Jones, Ruthie B.	04-06-1979	F	5	n/a	100	None
Smith, Samuel J.	07-02-1982	M	5	n/a	100	None
Doe, Josephine J.	07-08-1983	F	1	n/a	100	MM/DD/YY
Franklin, Ethel T.	09-06-1985	F	5	n/a	100	MM/DD/YY
Wilbur, Fred M.	01-04-1990	M	5	n/a	100	MM/DD/YY
Smythe, Scott	02-04-1990	M	5	n/a	100	Exempted

[State the reasons for any exemptions.]

The following employee will be exempted from layoff: Scott Smythe.

Scott Smythe is the only employee trained and proficient in the use of our new Grants Management financial system. This system uses highly specialized customized software which was co-developed by Scott and an outside computer consultant. The system is critical to our organization and customers; no other staff have the minimum knowledge

and skills to operate this new system; and no training exists to develop these skills in the remaining staff in a timeframe which ensures meeting date-sensitive, mandated federal reporting requirements. Therefore, we are exempting this employee according to the special skills provisions under s. ER-MRS 22.06, Wis. Adm. Code.

[Identify who will be released first.]

Our agency has no limited term, original appointment probationary, or project appointment employees occupying positions in the layoff group.

-- OR --

Any limited term, original appointment probationary, or project appointment employees occupying positions in the layoff group will be terminated prior to implementing the proposed layoff. ***[Names of any project appointment or original appointment probationary employees and the dates of their release.]***

[Identify employees to be laid off and effective date of the layoff.]

Employees in the layoff group with the least seniority who will be laid off effective ***[Date]*** are Fred Wilbur, Ethel Franklin, and Josephine Doe. Scott Smythe has been exempted.

[Identify when written notice will be provided to affected employee.]

Written notification of impending layoff will be given to each affected employee not less than 15 calendar days prior to the effective date of the layoff, upon receipt of approval from OSER to implement our agency's layoff plan.

[Discuss alternatives to layoff.]

All options and alternatives to avoid layoff will be pursued and explained to affected employees; that is, transfer in lieu of layoff, demotion in lieu of layoff, and displacement. Our agency agrees to maintain a restoration register of affected employees for a period of three years from the effective date of the layoff, in accordance with ss. ER-MRS 22.10(1) and (2), Wis. Adm. Code.

Attached is a copy of the proposed letter notifying each employee of the intended layoff. Please contact ***[Name, Title, Phone Number, and E-mail Address]*** regarding information contained in the layoff plan.

[Signature of agency affirmative action officer who reviewed layoff plan]

Layoff plan reviewed by:

Name of affirmative action officer: _____

Date: _____

SAMPLE LAYOFF LETTER TO EMPLOYEE

[Date]

[Name of Employee]
1234 Main Street
Smalltown, WI 53000

Dear [Name of Employee]:

State agency budget reductions have made it necessary for us to closely evaluate our agency's staffing level. As a result of this evaluation, we have determined that three [Classification Title (for example, Financial Specialist-Confidential)] positions in the [Name of Agency or Employing Unit and Employing Unit Number, if any] must be vacated effective [Date].

As a result of this layoff in the Financial Specialist-Confidential classification, it has been determined that you will be laid off. This letter is your official notification of layoff from the Department of [State Agency]. Your last working day will be [Date].

Your current position is classified as Financial Specialist-Confidential, in pay range 81-05. This classification is not included in a bargaining unit; therefore, layoff procedures must be in accordance with the Wis. Adm. Code, Rules of the Office of State Employment Relations, Division of Merit Recruitment and Selection, Chapter ER-MRS 22. According to the administrative rules, layoff must be accomplished by classification within the employing unit, by seniority, with the least senior employee laid off first. The [Name of Agency or Employing Unit] is one employing unit.

Section ER-MRS 22.08, Wis. Adm. Code, identifies alternatives to layoff that you may be offered, in the order listed below, until the effective date of your layoff. Section ER-MRS 22.09, Wis. Adm. Code, identifies the time period—five days—during which you must decide to accept a reasonable offer of permanent appointment. The alternatives are transfer, demotion and displacement.

A. Transfer

You have the right to transfer: (1) within the employing unit, to any vacancy in the same or counterpart pay range for which you are qualified to perform the work after being given customary orientation provided to newly hired workers in the position; or (2) within the agency, to any vacancy in the Financial Specialist-Confidential classification. At this time, there are no vacancies available for transfer; therefore, this alternative is not available to you.

B. Demotion as a result of layoff

You have the right to demote in lieu of layoff if no transfer is available and if there is a vacancy available for which you are qualified to perform the work (after the customary orientation provided to newly hired workers) which is in a same or higher level position than could be obtained through displacement. At this time, there are no vacancies into which you could demote which would constitute a reasonable offer of employment according to s. ER-MRS 22.08(2), Wis. Adm. Code. Therefore, this alternative is not available to you.

C. Displacement

You have the right to displace another employee in the employing unit only if there is no vacancy to which you could transfer or demote which is at the same or higher level than can be obtained through displacement. This right entitles you to induce the layoff process only to: (1) a position in a classification in which you had previously attained permanent status in class in that classification and which is assigned to the same or counterpart pay range as your current classification; (2) a position in a classification assigned to a lower pay range level within your present classification series; (3) a position in a different classification from your current classification series and which is assigned to a lower pay range in which you had previously attained permanent status in class in that classification; or (4) a position in a different classification series at a lower pay range level within an approved progression series in which you had previously attained permanent status in class.

You cannot displace into a classification that is represented by a collective bargaining unit.

Exercise of such displacement rights does not guarantee you a position in the class or subtitle selected. It means only that you would be included with other employees in that class or subtitle when the layoff process is applied in order to determine which employee is terminated as a result of layoff (after all other options and exemptions are applied).

There are no positions within the [*Name of Agency or Employing Unit*] at the same or counterpart pay range for which you previously obtained permanent status in class and could displace. There are no positions at lower levels of the layoff group to which you could displace. There are no positions in lower classifications in which you attained permanent status in class to which you could displace. Your present classification is not in an approved progression series. Therefore, displacement as an alternative to layoff is not available to you.

According to s. ER-MRS 22.10, Wis. Adm. Code, an employee or former employee who exercises displacement rights in lieu of layoff, demotes in lieu of layoff, or is laid off has restoration rights for three years from the date of such action to vacancies in the agency at, or closest to, the same or counterpart pay range from which the employee was laid off.

An employee is restored in inverse order of layoff, provided he or she is qualified to perform the work after the customary orientation provided to newly hired employees. When two or more employees are laid off from the same classification on the same date, employees must be restored in the inverse order of layoff; that is, the most senior employee is recalled first.

An employee or former employee having restoration rights who fails to accept a reasonable offer of permanent appointment within the agency within five working days of the offer or who, upon acceptance, fails to be available for work within ten work days after acceptance, forfeits any further restoration rights to an appointment under s. ER-MRS 22.10, Wis. Adm. Code.

In addition to restoration rights, you have reinstatement eligibility for five years from the date of layoff. This reinstatement eligibility is to vacancies anywhere in state service for which you are qualified to perform the work at or below the same or counterpart pay range from which you are laid off. You may be reinstated at the discretion of the appointing authority having the vacancy.

You are entitled to appeal this layoff action by following the grievance procedures set out in Chapter 430—Employee Grievance Procedure of the *Wisconsin Human Resources Handbook*.

We will give you as much assistance and information as possible. While we can make no reasonable offers of employment to you at this time, we will continue to keep you informed of other alternatives available up to the effective date of your layoff. If you have any questions regarding this layoff notice, the layoff process in general, or current vacancies in the agency, please contact [*Name, Title, Phone Number, and E-mail Address*] in the [*Work Unit (for example, Bureau of Human Resource Services)*]. Please direct any questions regarding the impact of this layoff action on your benefits to [*Name, Title, Phone Number, and E-mail Address*] in the [*Work Unit (for example, Agency Payroll Office)*].

I regret the need to give you this notification. Please contact [*Name*] or me if you need further information.

Sincerely,
[*Appointing Authority*]

Attachment #3

COMPUTING CONTINUOUS SERVICE
[Reference s. ER 18.02(2), Wis. Adm. Code]

1. Only the most recent period in continuous employment status in either the unclassified service or as a permanent employee in the classified service or both will be counted in determining an employee's length of continuous service. This excludes time served as a limited term employee or in those positions in youth camps and students respectively. Refer to s. ER 18.05 (3) and (4), Wis. Adm. Code for time served in a project appointment.
2. The continuous employment status of an employee eligible for annual leave will not be considered interrupted if the employee:
 - a. Was on an approved leave of absence.
 - b. Left the service prior to July 5, 1998, and is reemployed within three years, subject to the following:
 - (1) Employment prior to leaving the service and upon returning to the service within three years must be as a permanent, classified employee or as an unclassified employee other than a limited term employee.
 - (2) Any return to service following termination for misconduct or delinquency is deemed to not be a qualifying reemployment under this subdivision, even though the return is within the three- year period.
 - c. Left the service on or after July 5, 1998, and is reemployed within five years, subject to the following:
 - (1) Employment prior to leaving the service and upon returning to the service within five years must be as a permanent, classified employee or as an unclassified employee other than a limited term employee.
 - (2) Any return to service following termination for misconduct or delinquency is deemed to not be a qualifying reemployment under this provision, even though the return is within the five-year period.
 - d. Was serving a project appointment and was eligible to transfer continuous service credits regarding transfer of credits by project employees who were permanent employees.
 - e. Was absent on military leave.
 - f. Was absent due to injury or illness arising from state employment and covered by the worker's compensation act or hazardous employment injuries and pay continuation.
 - g. Was a career executive employee or employed under s. 20.923 (4), (8) or (9), Wis. Stats., (on or after July 1, 1973) who left the service and returned to state employment as a career executive or in any such enumerated position regardless of the duration of absence as provided under s. 230.35 (1m) (f), Wis. Stats.
 - h. Was on temporary layoff.
3. The length of time between an employee's resignation and reemployment under 2 above, shall not be counted in computing years of continuous service.
4. Persons in seasonal, school year and part-time employment shall be deemed to have completed one full year of service for each such seasonal or other part-time annual period of service in computing years of continuous service.
5. Credit for leaves of absence other than military leave, leave to serve in the unclassified service or leave of absence due to injury or illness arising out of state employment and covered by worker's compensation or hazardous employment injuries, shall apply only to persons who return from an approved leave of absence on or after April 9, 1976.