

RULE XXIII. Layoff, Displacement and Re-Employment

A. Jurisdiction and Order of Layoff

This rule only applies to layoffs and displacements from the Classified Service.

Whenever it becomes necessary to separate employees from the Classified Service, because of lack of funds or work, or abolition of a position, or material change in duties or organization, the Appointing Authority shall determine the organizational unit(s) and classification(s) within those units under his or her jurisdiction from which the reduction can best be accomplished and based on such determination shall implement the layoff.

The Appointing Authority shall, at a minimum, give due consideration to the following factors in determining layoffs from the selected organization unit: organizational need, seniority, veterans' preference, and the proficiency of the employee measured by performance reviews and discipline.

An Appointing Authority implementing a layoff shall provide notice of his or her layoff plan to the Unified Personnel Board prior to implementation. The layoff plan shall address the factors to be used, and the weights thereof.

Before any non-probationary permanent status employee in a classification being reduced is laid off, all temporary employees, new provisional employees, and new probationary employees working in that class in the organizational unit from which the reduction is to be made shall be laid off.

Prior to implementation of the layoff plan, a temporarily promoted employee, a provisional status employee or a probationary employee promoted from a lower class serving in a position to be reduced shall be returned to the lower class in which the employee was serving before appointment to the employee's current position provided the employee was a permanent status employee in that class just prior to the temporary promotion, provisional appointment or a permanent promoted employee in a probationary status.

B. Displacement

1. Subject to the approval of the Appointing Authority, any permanent status employee who would otherwise be laid off may displace an employee in a lower pay classification in the same selected organizational unit which the permanent status employee has successfully encumbered provided:
 - a. The Appointing Authority certifies that the permanent status employee who would otherwise be laid off meets the minimum qualifications of the classification and the position and is capable of performing in that classification and position; and
 - b. The permanent status employee who would otherwise be laid off has a retention score for the position out of which he or she would displace the other employee at least equal to the retention score of the employee he or she would displace.
2. Notwithstanding any other Rule, an employee displaced under this Rule who is promoted within one year of the effective date of displacement is eligible for a pay rate adjustment as follows:
 - a. An employee promoted to the position or pay grade from which the employee was displaced shall be restored to the pay rate they were earning on the date of displacement.
 - b. An employee promoted to a position at a lower pay grade than that from which the employee was displaced shall be placed at the pay rate the employee would have received if they had been displaced directly into that position.

- c. An employee promoted to a higher pay grade than that from which the employee was displaced shall be entitled to a salary adjustment in accordance with Rule VI, except that the salary adjustment will be applied as though the employee was still in the position from which they were displaced.
3. An employee displaced under this Rule who is promoted within one year of the effective date of displacement shall not be required to satisfy a probationary period in the promoted position if the promoted position is the position from which the employee was displaced, or if the promoted position is in the same job series and a lower pay grade as any classification the employee previously successfully encumbered.
4. Determinations relating to displacement under this Rule are not grievable and may not be appealed except to the Appointing Authority as described in C.2.

C. Rights of laid off employees:

1. An employee separated by layoff shall be given at least fifteen (15) working days notice of the layoff.
2. An employee to be laid off who objects to the layoff decision shall have recourse by requesting to meet with the Department Director to discuss the determination of the retention score within five (5) working days of notification. After such meeting(s), if the employee continues to object to the layoff decision, he or she shall have the right to meet with his or her Appointing Authority or designee, to discuss his or her objection to the layoff decision and request a change in the layoff decision. The request must be made within five (5) working days of the conclusion of the prior meeting(s). The decision of the Appointing Authority following that meeting shall be made within five (5) working days and shall be final.
3. Upon separation, in accordance with applicable Unified Personnel System rules, the laid off employee shall be paid for his or her accumulated Extended Illness Leave (EI) and Annual Leave (AL), and shall be paid all accrued compensatory time. There is no entitlement to pay for unused Floating Holidays or Personal Days.
4. Re-employment:
 - a. A permanent status employee who is laid off shall have his or her name placed on the Layoff Register for the classification from which the employee was laid off. The employee's name shall remain on the Layoff Register for one year from the effective date of layoff or until he or she is reemployed in the Unified Personnel System, whichever is earlier. If not reemployed within that year, the employee's name will be placed on the regular competitive register for the classification from which the employee was laid off.
 - b. To the extent possible, recruitments for positions vacated by layoff will be filled from the Layoff Register. Individuals on the Layoff Register will be considered before any other applicants.
 - c. A laid off employee who is re-employed within one year from the effective date of layoff:
 - i. Shall be credited with his or her remaining leave (AL and EI leave) balances accrued but not paid at the time of layoff;
 - ii. Shall accrue AL at the same accrual rate the employee was accruing at the time of layoff; and
 - iii. Shall, if re-employed within one year from the effective date of layoff in the same classification from which he or she was laid off, be placed in the same pay grade and pay rate he or she was in at the time of layoff, or the minimum of the classification, whichever is greater, and shall not be required to serve a probationary period in that position.
 - d. A laid off employee who is rehired into a classification other than the one from which he or she was laid off, or who is rehired after the expiration of one year from the effective date of layoff, shall be hired at a salary commensurate with the hiring practices of the County at the time of hire and serve a probationary period as defined in applicable Rules.

D. Grievance Procedure for layoff or displacement under UPS Rule XXIII:

A permanent classified service employee displaced or laid off under this rule who believes that the Appointing Authority has wrongfully applied this rule may file a grievance on that sole issue as follows:

The aggrieved employee shall place the grievance in written form and submit it to the Director of Human Resources with a request for an informal hearing before an Informal Grievance Committee within ten (10) working days of notification of the action grieved. The employee shall use the Layoff grievance form available in the Human Resources Department or on its web site for this purpose and shall state with particularity the reason for his or her claim that the Appointing Authority has wrongfully applied Personnel Rule XXIII. The Director of Human Resources shall determine if the grievance meets the requirements of this rule; and if not, reject the grievance without further action. This determination shall be final.

The Informal Grievance Committee shall be a three member Committee composed of the Appointing Authority or designee, the Director of Human Resources or designee and a classified service employee selected by the Director of Human Resources and the Appointing Authority.

The informal hearing shall be arranged by the Director of Human Resources, and shall be held within ten (10) working days from the date the written request was received from the aggrieved employee. At the hearing, each party will be allowed 15 minutes to present argument in support of his or her position. Each party is responsible for obtaining his or her own exhibits, if any, and bringing 4 copies of each exhibit to the hearing. Each of the three Committee members and the aggrieved employee shall receive a copy of each exhibit presented or referred to in the argument.

The burden shall be on the employee to establish violation of this rule by a preponderance of the evidence.

The hearing shall be held in the sunshine as required by Fla. Stat. §286.011 and a decision shall be rendered at the conclusion of the hearing. That decision shall be final.

Failure of an employee to timely initiate a grievance will result in rejection of the grievance without further action.

