

University of Wisconsin System

General Guidelines for Layoff Procedures for Reasons of Budget

February 5, 2015

Section IV revised March 3, 2015

Part I	Faculty
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Part III	Academic Staff
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## PART I FACULTY

### Authority:

Wis. Adm. Code Chapter [UWS 5](#): Layoff and Termination for Reasons of Financial Emergency

**NOTE:** Each institution has specific Faculty Personnel Rules developed pursuant to Chapter [UWS 5](#). These policies should be reviewed if faculty layoff is being considered.

### Process:

Chapter [UWS 5](#) of the Wisconsin Administrative Code outlines the procedures for layoff and termination of tenured faculty and probationary faculty due to a financial emergency at a UW System institution. Chapter UWS 5 provides that before the Board may declare a state of financial emergency at a specific institution, the Board must first find that the following three conditions exist:

First, “The total general program operations (GPR/fee) budget of the institution, including adjustments for salary/wage increases and for inflationary impact on nonsalary budgets, has been reduced.” Wis. Adm. Code [UWS § 5.02\(1\)\(a\)](#). It appears that in order to satisfy this condition, the biennial budget must be enacted because it may not be sufficient for the Board of Regents to act upon the Governor’s proposed biennial budget or to act on alternative budget bills presented in either house of the legislature. The code appears not to allow a financial emergency to exist because the GPR/fee budget may be reduced.

Second, “institutional operation within this reduced budget requires a reduction in the number of faculty positions such that tenured faculty must be laid off, or probationary faculty must be laid off prior to the end of their respective appointments. Such a reduction in faculty positions shall be deemed required only if in the board’s judgment it will have an effect substantially less detrimental to the institution’s ability to fulfill its mission than would other forms of budgetary curtailment available to the institution.” Wis. Adm. Code [UWS § 5.02\(1\)\(b\)](#). Unless the biennial budget act specifies GPR/fee cuts for specific institutions, it would appear that the Board must act on institution budget allocations recommended by the UW System President. The code only refers to financial emergencies at the institution level. There is no provision for a “system” state of financial emergency.

Third, “The procedures described in sections [UWS 5.05](#) and [5.06](#) have been followed.” Wis. Adm. Code [UWS § 5.02\(1\)\(c\)](#). Section [5.05](#) requires that in the event that a declaration of financial emergency is contemplated, the chancellor of the affected institution must consult with and seek advice from a standing faculty committee to consider how the institution will address its specified budget reduction. Section [5.06](#) provides that if the chancellor decides to recommend that the board declare a state of financial emergency for the chancellor’s institution, the chancellor’s recommendation must be accompanied by a report showing, among other things, compliance with Section [5.05](#).

In the simplest of terms, the process flows as follows:

1. In the event a declaration of financial emergency is contemplated for a particular institution, “the chancellor of the affected institution shall consult with and seek advice” from a standing faculty committee “at least 3 months before the matter is taken to the board.”
2. The chancellor must recommend to the UW System President and the Board of Regents that the Board declare a state of financial emergency for the institution.
3. The Board must declare a state of financial emergency for the institution.
4. After the financial emergency is declared, the matter is returned to the departmental tenured faculty members who have the principal responsibility to recommend which faculty members are to be laid off.

5. The departmental recommendation of individual faculty members to be laid off is then forwarded to the chancellor. The chancellor notifies the individual faculty member that he or she is recommended for layoff.
6. The final list of faculty members recommended for layoff is then transmitted to the UW System President and to the Board.

**Notice Requirements:**

Notice of the effective date of layoff must be given at least 12 months in advance of the layoff effective date. However, the notice of recommendation of layoff can be used for this purpose to satisfy the notice requirement.

The layoff effective date must coincide with the end of the academic year for academic year appointments and the end of the fiscal year for annual appointments. The academic year is not the same as the faculty contract period.

**Hearing Rights:**

The faculty member recommended for layoff is entitled to a hearing before a faculty hearing committee to address “the appropriateness of the decision to layoff that particular individual.” The faculty member must request a hearing within 20 days of receipt of the notice of recommended layoff. The faculty member must be given at least 10 days notice of hearing date and the hearing must take place within 20 days after the request for a hearing unless the deadline is mutually extended or ordered by the hearing committee. The final decision of the hearing committee is then reported to the chancellor and the faculty member.

The Board of Regents reviews the recommended list of faculty scheduled for layoff through a Review Panel. The decision of the Review Panel is final and binding on the chancellor and the particular faculty member, unless one or more of the Regent members on the Review Panel asks that the case be determined by the entire Board.

**Reappointment Rights:**

In the institution where faculty layoffs occur, no person may be employed at that institution within three years “to perform reasonably comparable duties” to those of the faculty member laid off without first offering the laid off faculty member reappointment.

## **PART II LIMITED APPOINTEES**

### **Authority:**

Wis. Adm. Code Chapter [UWS 15](#): Limited Appointments

A limited appointment “is a special appointment to a designated administrative position. A person in this type of appointment serves at the pleasure of the authorized official who made the appointment.” Wis. Adm. Code [UWS § 15.01](#).

### **Process:**

There are no rules or policies addressing layoffs of limited appointments as personnel holding such appointments are “employees-at-will.” Limited appointees commonly hold concurrent appointments to the faculty, academic staff, or classified service.

### **Notice Requirements:**

Chapter [UWS 15](#) states, “Whenever possible 3 months’ notice of termination should be given if the appointee does not hold simultaneously another university appointment.”

However, should a limited appointee with a faculty or academic staff concurrent appointment be terminated from the limited position, the appointee has no minimum notice requirements.

### **Hearing Rights:**

None provided. Termination of a limited appointment is not a dismissal and is not otherwise appealable.

### **Alternative Employment:**

The concurrent appointment would begin immediately following the end of the limited appointment.

If the layoff process is invoked in the faculty, academic staff or classified employment category to which the limited appointee is placed, any further rights to continued employment are dependent on the layoff procedures for that employment category.

### **Reappointment Rights:**

Without layoff rules or policies for limited appointments, there are no mandatory restoration rights applicable to limited appointments. Further, there is no prohibition for any period of time, from employing any other person in that operational area to perform reasonably comparable functions.

## **PART III      ACADEMIC STAFF**

### **Authority:**

Wis. Adm. Code Chapter [UWS 12](#): Layoff of Academic Staff for Reasons of Budget or Program

**NOTE:** Each institution has specific Academic Staff Personnel Rules developed pursuant to Chapter [UWS 12](#). These policies should be reviewed in detail if academic staff layoff is being considered.

### **Process:**

Prior to laying off academic staff, chancellors shall discuss with an appropriate committee, committees or committee representatives any program decisions made in response to a change in the level of resources available for a particular program or project. Individuals affected by these types of decisions shall receive notice from the chancellor or his or her designee along with a description of the change in resources which required the layoff decision.

### **Notice Requirements:**

For fixed term appointments, the usual notice period is 3 months prior to the end of the appointment in the first two years of the appointment and 6 months thereafter. For probationary academic staff, the periods are 3 months prior to the end of the appointment in the first year, 6 months before the end of the appointment in the second year, and 12 months thereafter. Indefinite appointees are entitled to 12 months notice. These notice periods shall be applied, absent compelling reasons to the contrary, such as an immediate and unexpected elimination of funding. Institutional policies should be reviewed as some may have additional notice requirements in addition to those found under Chapter [UWS 12](#).

### **Seniority:**

Individual layoff decisions for all academic staff categories should normally follow seniority unless program needs dictate other considerations.

### **Layoff Status/Time Period:**

Once layoff becomes effective, the academic staff member shall remain on layoff status until:

- a) For fixed term and probationary appointees, one of the following occurs:
  - 1) The appointment expires under its own term; or
  - 2) The staff member fails to accept an alternative appointment;
  
- b) For indefinite appointees, one of the following occurs:
  - 1) The staff member is reappointed to the position from which he or she was laid off (Note that failure to accept such reappointment would terminate the academic staff member's association with the institution);
  - 2) The staff member accepts an alternative continuing position in the institution. (Note that failure to accept such appointment would not terminate the academic staff member's association with the institution);
  - 3) The staff member resigns;
  - 4) The staff member fails to notify the chancellor or his/her designee not later than December 1 of each year while on layoff status as to his/her location, employment status, and desire to remain on layoff status. (Note that failure to provide such notice shall terminate the academic staff member's association with the institution); or
  - 5) A period of three years lapses.

**Alternative Employment:**

Institutions should utilize their best efforts to secure alternative appointments for affected staff (based upon qualifications). Indefinite academic staff appointments should be offered financial assistance to readapt within the same or different operational area within one year's time, if feasible. UW System should also notify laid off academic staff members of openings within the system.

**Reappointment Rights:**

An academic staff member who is laid off has the right to reappointment to the same or similar position for a period of 3 years from date of layoff, with same rights and status. No other person may be employed to perform the same or reasonably comparable duties of the laid off academic staff member in the same operational area without offering such appointment to the laid off individual first.

For a fixed term appointment that has expired under its own terms, the institution shall offer the same reappointment rights stated in this section for a period of 3 years from the date of layoff, as long as the fixed term appointee has complied with the notification requirements set forth in [UWS 12.07\(1\)\(b\)4](#). [[UWS 12.09](#)]

**Retention of Salary:**

Under [UWS 12.10](#), any academic staff member reappointed within 3 years after layoff to reasonably comparable duties within the operational area shall be reappointed with a salary rate at least equivalent to the salary rate when laid off, together with such other rights and privileges which may have accrued at that time.

**Rights of Academic Staff Members on Layoff:**

An academic staff member on layoff status in accordance with the provisions of [Ch. UWS 12](#) has the rights guaranteed under [UWS 12.09](#) (reappointment) or [12.10](#) (retention of salary) in addition to the right to voluntarily participate in fringe benefit programs, continue to use institution facilities, and participate in institutional activities (as permitted and allowed by the institution). [[UWS 12.11](#)]

**Institution Review of Layoff Decision:**

Each institution must establish procedures for impartial review of the layoff decision affecting those academic staff members on fixed term or probationary appointments. An academic staff member with an indefinite appointment is covered by the layoff review process described in [UWS 12.05](#). (\*\*NOTE\*\* **Many institutions have extended the indefinite academic staff layoff review and hearing procedures found in [UWS 12.05](#) to all academic staff members, thereby providing the same review process for all categories of academic staff appointments**) Indefinite academic staff may request and receive written reasons for the layoff decision if such request is made within 20 days upon notification. The reasons must be provided within 15 days of the request. Within 20 days thereafter, the indefinite academic staff member may request a hearing before a hearing body, which must consider whether the layoff was based upon any of the following factors:

- (1) Conduct, expression or beliefs on the staff members part which are constitutionally protected;
- (2) Employment practices proscribed by applicable state or federal law; or
- (3) Improper considerations of the qualifications of the staff member (defined to include failure to follow procedures, failure to consider material data about the staff member's performance, or making unfounded or arbitrary assumptions about the individual's work or conduct).

If the hearing body finds that none of these improper factors were considered during the indefinite academic staff member's layoff decision, it must find the layoff proper. If it determines that one or more factors did enter into the decision, then the body must find the decision to be improper, unless it is also

convinced that there was a bona fide program or budgetary reasons for the decision and the decision was made in accordance with institutional standards.

The hearing body shall submit its determination to the chancellor, who shall make the final decision as to whether the indefinite academic staff member should be laid off. The chancellor's decision is final, unless the Board of Regents exercises its discretion to grant a review on the record.

## **PART IV CLASSIFIED/UNIVERSITY STAFF**

**IMPORTANT:** The procedures for all classified staff layoffs when the affected employee receives notice of the layoff before July 1, 2015 follow the Office of State Employment (OSER) policies and procedures as outlined below. With the July 1, 2015 implementation of University Personnel System (UPS) and HR Design for UW-Madison, current classified staff will become university staff. The layoff policies effective July 1, 2015 (as outlined on page 9) are UPS policies only and do not include UW-Madison's layoff policies and procedures.

To help in the transition, Appendix I provides a side-by-side comparison of current classified staff layoff policies (OSER) and UPS policies.

### **Policies in effect for layoffs when the affected employee receives notice of the layoff prior to July 1, 2015**

#### **Authority:**

Wis. Adm. Code [Chapter ER-MRS 22](#)  
(Guidance – Human Resources Handbook [Chapter 232](#))

The appointing authority must prepare a comprehensive written layoff plan and must submit the plan to the administrator of the division of merit recruitment for review and approval prior to implementation [[ER-MRS 22.05](#)]. Before any qualified permanent employees may be laid off, the appointing authority is required to terminate employees in the layoff group who are LTEs, serving on a project appointment, or serving an original appointment probationary period.

#### **Process:**

##### **Establish Layoff Group:**

Classified staff employees must be laid off by seniority within a “layoff group.” The layoff group is generally established by classification. The appointing authority may exempt from the layoff group up to two employees or 20%, whichever is greater, to retain special or superior skills or for other purposes.

##### **Notice Requirements:**

Written notice of at least 15 calendar days to the affected employee is required. Written notice should include detailed information about employee rights/eligibility as it relates to alternatives to layoff, restoration rights and reinstatement eligibility.

##### **Appeal Option:**

An employee may appeal to the Wisconsin Employment Relations Commission (WERC) within 30 calendar days of the effective date of the layoff. At issue in an appeal is whether the applicable layoff procedure was followed.

##### **Alternative Employment:**

Employees notified of a layoff shall have the option to transfer or demote in lieu of layoff to a vacancy for which the employee is eligible from the date of notice until the layoff effective date. If the employee exhausts all options to transfer or demote in lieu of layoff, the employee may displace a less senior employee in certain circumstances.

##### **Restoration/Reinstatement:**

For a three-year period following layoff, a laid off employee who is qualified to perform the work has restoration rights to the same or counterpart pay range from which the employee was laid off within the employing unit or within the agency. Employees shall be recalled in inverse order of layoff. For a five-year period following layoff, the employee may be reinstated to any vacancy in the same or counterpart pay range in the employing unit, agency or between agencies at the discretion of the appointing authority.

**UPS policies in effect for layoffs when the affected employee receives notice of the layoff on July 1, 2015 or later**

**Authority:**

Wis. Stat. [§ 36.115\(2\)](#) authorizes the Board of Regents to develop UPS operational policies. UPS Operational Policy [GEN 13: Layoff for Reasons of Budget or Program](#) provides UW System institutions with guidelines for the establishment of layoff procedures.

**NOTE:** Each institution is developing specific university staff layoff procedures. These policies should be reviewed if university staff layoffs are being considered. For the purpose of these layoff policies, UW System employer means all UW institutions other than UW-Madison.

**Process:**

**Establish Layoff Group:**

Prior to providing layoff notice to any employees, the UW System employer must develop a plan under which a layoff will occur. The plan will document the justification for the layoff, the effective date of the layoff, identification of eliminated functions, and the position(s) to be eliminated. The plan will identify the operational area(s), position title(s), and the number of employees that are expected to be laid off.

Employees subject to layoff will be evaluated by administrators who consider the following criteria:

- Needs of institution to deliver services;
- Relative skills, knowledge, and expertise of employees;
- Length of service of employees; and
- Other appropriate criteria.

**Notice Requirements:**

A full or part-time staff member who is designated for layoff must be given written notice as soon as practicable, but not less than 30 calendar days prior to the effective date of the layoff.

**Appeal Option:**

Upon an employer's layoff notification to an employee, the employee may appeal the layoff decision through the appropriate grievance procedure (see UPS Operational Policy [GEN 14: Grievance Procedures](#)). At issue in such a grievance is whether the applicable layoff procedure was followed.

**Alternative Employment:**

As an alternative to a layoff, an employee may be assigned to another position for which he or she is qualified to perform the work within the operational area or institution as determined by the UW System employer. The employee's rate of pay and benefits will not decrease with an involuntary lateral movement, but pay may be adjusted with a downward movement. This method of avoiding layoffs is not

meant to circumvent the recruitment process and should only to be used to avoid a reduction in force. The employee may choose not to accept the reassignment and as a result be laid off.

An employee who is or will be affected by a layoff may request, in accordance with the hiring authority's requirements, to be considered for other vacancies within the UW System. Such consideration does not guarantee an interview or mandatory job offer; however, every effort will be made to keep the employee employed as long as this effort does not adversely affect the operational area's budget or impede the area's ability to fulfill its mission. A laid off employee may apply for vacant positions in the same manner as a current employee for a period of three (3) years from the date of layoff.

**Restriction on the Employment of a Person Who Performs the Duties of a Laid Off Employee:**

For three years from the anniversary of the layoff, no person may be employed in a permanent position in that operational area to perform duties reasonably comparable to the duties of the laid off employee, without first making an offer of return to the laid off employee.

## COMPARISON OF LAYOFF PROCEDURES

<p align="center"><b>CURRENT CHAPTER 230 (OSER) CLASSIFIED STAFF LAYOFF PROCEDURES</b> For layoffs effective prior to July 1, 2015</p>	<p align="center"><b>UNIVERSITY STAFF LAYOFF PROCEDURES</b> For layoffs effective July 1, 2015 or later</p>
<p align="center"><b><u>When the Chapter 230 Layoff Procedures Must be Followed</u></b></p> <p>The current <a href="#">Chapter 230</a> and related administrative code layoff procedures will remain in effect for layoffs if receipt of notice of a layoff occurs prior to July 1, 2015. After Act 10 became law, collective bargaining has been limited to bargaining over base wages; therefore, layoff procedures for employees in unions (e.g., for crafts workers) are the same as the procedures for non-represented employees.</p>	<p align="center"><b><u>When the UPS University Staff Layoff Procedures Must be Followed</u></b></p> <p>UPS layoff procedures will be in effect for layoffs if receipt of notice of a layoff occurs after June 30, 2015.</p>
<p align="center"><b><u>Source of the Layoff Procedures</u></b></p> <p>The current procedures governing layoffs of classified staff are contained in Wis. Admin. Code Chapter <a href="#">ER-MRS 22</a> and Chapters <a href="#">232</a> and <a href="#">236</a> of the Wisconsin Human Resources Handbook.</p>	<p align="center"><b><u>Source of the Layoff Procedures</u></b></p> <p>Following the framework set forth in UPS Operational Policy <a href="#">GEN 13: Layoff for Reasons of Budget or Program</a>, each UW System institution establishes and administers layoff procedures for university staff.</p>
<p align="center"><b><u>Authority for the Establishment of the Layoff Procedures</u></b></p> <p>Under <a href="#">Wis. Stat. § 230.34(2)</a>, the administrator of the division of merit recruitment and selection in the Office of State Employment Relations (OSER) is authorized to promulgate rules governing layoffs; to establish alternative procedures in lieu of layoffs; and to cover restoration and reinstatement rights for laid off employees.</p>	<p align="center"><b><u>Authority for the Establishment of the Layoff Procedures</u></b></p> <p>Under <a href="#">Wis. Stat. § 227.01(13)(Lm)</a>, the Board of Regents may establish a framework for university staff layoff procedures for UW System institutions by developing operational policies such as UPS Operational Policy <a href="#">GEN 13: Layoff for Reasons of Budget or Program</a>, which provides UW System institutions with guidelines for the establishment of layoff procedures.</p>
<p align="center"><b><u>Releasing Temporary and Probationary Employees</u></b></p> <p>Under <a href="#">§ ER-MRS 22.04</a>, before a permanent employee may be laid off, limited term employees, project employees, and probationary employees must be laid off as long as the permanent employee is qualified to perform the duties.</p>	<p align="center"><b><u>Releasing Temporary and Probationary Employees</u></b></p> <p>Whenever practicable, the number of temporary positions shall be reduced before invoking the layoff procedures. Employees on probationary appointments must be dismissed prior to laying off non-probationary employees, providing that those remaining employees have the necessary skills, knowledge, and ability to perform the work.</p>

<p align="center"><b>CURRENT CHAPTER 230 (OSER) CLASSIFIED STAFF LAYOFF PROCEDURES</b> For layoffs effective prior to July 1, 2015</p>	<p align="center"><b>UNIVERSITY STAFF LAYOFF PROCEDURES</b> For layoffs effective July 1, 2015 or later</p>
<p align="center"><b><u>Employees At Risk of Layoff</u></b></p> <p>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 or she is at risk of layoff. This at-risk notice is not mandatory and is not a layoff notice; rather, it is a warning that a layoff notice may be issued at a future date.</p>	<p align="center"><b><u>Employees At Risk of Layoff</u></b></p> <p>UW System institutions will not be required to identify employees at risk of layoff and will therefore not have to send employees at-risk notices. UW System employers should, however, identify the employees in related positions from which a layoff will be made. This group of employees, known as the “layoff group,” will generally include all similarly situated employees in a particular operational area.</p>
<p align="center"><b><u>Layoff Selection and Plan</u></b></p> <p>The appointing authority must submit a layoff plan to the administrator of the division of merit recruitment and selection. The layoff plan should explain what alternatives to layoff have been implemented and why the layoff is necessary. It is important for employees who will be laid off or reassigned to know that all other solutions have been considered. The layoff plan must include the following information.</p> <ol style="list-style-type: none"> <li>1. The employing unit(s) affected.</li> <li>2. The layoff group (i.e., classification title or series), number of positions to be eliminated, names of employees, seniority date, gender, racial/ethnic code, disability status, and percentage of position.</li> <li>3. Exemptions to layoff and the reasons for the exemptions.</li> <li>4. Names of employees to be laid off and date of layoff.</li> <li>5. Order of release of employees.</li> <li>6. Date that written notice of layoff will be provided to affected employees.</li> <li>7. Alternatives in lieu of termination as a result of layoff.</li> <li>8. Signature of agency affirmative action officer.</li> </ol>	<p align="center"><b><u>Layoff Selection and Plan</u></b></p> <p>Prior to providing layoff notice to any employees, the UW System employer must develop a plan under which a layoff will occur. The plan will document the justification for the layoff, the effective date of the layoff, identification of eliminated functions, and the position(s) to be eliminated. The plan will identify the operational area(s), position title(s) and the number of employees that are expected to be laid off.</p> <p>Employees subject to layoff will be evaluated by administrators who consider the following criteria:</p> <ul style="list-style-type: none"> <li>• Needs of institution to deliver services;</li> <li>• Relative skills, knowledge, and expertise of employees;</li> <li>• Length of service of employees; and</li> <li>• Other appropriate criteria.</li> </ul> <p>Once the layoff group has been determined, any employee from within the affected layoff group may elect to retire or voluntarily be laid off to avoid involuntary layoffs.</p>

<p align="center"><b>CURRENT CHAPTER 230 (OSER) CLASSIFIED STAFF LAYOFF PROCEDURES</b> For layoffs effective prior to July 1, 2015</p>	<p align="center"><b>UNIVERSITY STAFF LAYOFF PROCEDURES</b> For layoffs effective July 1, 2015 or later</p>
<p align="center"><b><u>Notice Prior to Layoff</u></b></p> <p>Any employee affected by layoff shall be given written notice of the action, not less than 15 calendar days prior to its effective date.</p>	<p align="center"><b><u>Notice Prior to Layoff</u></b></p> <p>A full or part-time staff member who is designated for layoff must be given written notice as soon as practicable, but not less than 30 calendar days prior to the effective date of the layoff. A lateral movement to a different position or a demotion may be made any time during the notification of layoff period with mutual agreement of the employee and the UW System employer.</p>
<p align="center"><b><u>Appeal Rights</u></b></p> <p>An employee who will be laid off may appeal his or her layoff to the Wisconsin Employment Relations Commission within 30 calendar days of the effective date of the decision or within 30 calendar days after receipt of notice, whichever is later.</p>	<p align="center"><b><u>Appeal Rights</u></b></p> <p>Upon an employer's layoff notification to an employee, the employee may appeal the layoff decision through the appropriate grievance procedure (see UPS Operational Policy <a href="#">GEN 14: Grievance Procedures</a>).</p>

<p align="center"><b>CURRENT CHAPTER 230 (OSER) CLASSIFIED STAFF LAYOFF PROCEDURES For layoffs effective prior to July 1, 2015</b></p>	<p align="center"><b>UNIVERSITY STAFF LAYOFF PROCEDURES For layoffs effective July 1, 2015 or later</b></p>
<p align="center"><b><u>Alternatives to Layoff</u></b></p> <p>Alternatives to layoff include the following and are available until the effective date of the layoff <u>in the order listed</u>:</p> <ol style="list-style-type: none"> <li>1. 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. Between agencies, the employee has <u>permissive</u> 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 a 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.</li> <li>2. Demotion in lieu of layoff: If transfer is not available, the appointing authority must offer the employee the opportunity to demote to a <u>vacant position regardless of classification</u> 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."</li> <li>3. Displacement in lieu of layoff: If there is no vacant position to which an employee may either transfer in lieu of layoff or demote in lieu of layoff, the employee must be offered the opportunity to displace an employee within the employing unit if they meet the eligibility requirements.</li> </ol>	<p align="center"><b><u>Alternatives to Layoff</u></b></p> <p>As an alternative to a layoff, an employee may be assigned to another position for which he or she is qualified to perform the work within the operational area or institution as determined by the UW System employer. The employee's rate of pay and benefits will not decrease with an involuntary lateral movement, but pay may be adjusted with a downward movement. This method of avoiding layoffs is not meant to circumvent the recruitment process and should only be used to avoid a reduction in force. The employee may choose not to accept the reassignment and as a result be laid off.</p> <p>An employee who is or will be affected by a layoff may request, in accordance with the hiring authority's requirements, to be considered for other vacancies within the UW System. Such consideration does not guarantee an interview or mandatory job offer; however, every effort will be made to keep the employee employed as long as this effort does not adversely affect the operational area's budget or impede the area's ability to fulfill its mission. A laid off employee may apply for vacant positions in the same manner as a current employee for a period of three (3) years from the date of layoff.</p>
<p align="center"><b><u>Restriction on the Employment of a Person Who Performs the Duties of a Laid Off Employee</u></b></p> <p>For three years from the date of the layoff, no person may be employed in a permanent position in the agency due to OSER policies and procedures that provide employees with restoration rights if the employee is qualified to perform the work.</p>	<p align="center"><b><u>Restriction on the Employment of a Person Who Performs the Duties of a Laid Off Employee</u></b></p> <p>For three years from the anniversary of the layoff, no person may be employed in a permanent position in that operational area to perform duties reasonably comparable to the duties of the laid off employee, without first making an offer of return to the laid off employee.</p>