



LAYOFF GUIDE FOR EMPLOYEES

Frequently Asked Questions

1. *Who can be affected by layoff?*

All employees may be affected by layoff. Policy 1.30, Layoff describes the layoff process and layoff benefits that are available to full-time classified employees. In some cases, restricted and part-time classified employees also have access to those benefits. Refer to Policy 1.30, Layoff for specific information.

2. *How are positions identified for layoff?*

Before implementing a layoff, agencies normally conduct certain workforce planning processes. As managers consider their agency's mission and objectives, they assess the units and staff that are performing various aspects of the agency's work. They identify functions that can be eliminated or reassigned. Guided by their agency priorities, managers evaluate their resources and staffing, and determine where reductions should be made. Positions must be selected on the basis of duties performed and business need, and without regard to the employees' race; traits historically associated with race including hair texture, hair type, and protective hairstyles such as braids, locks, and twists; sex; color; national origin; religion; sexual orientation; gender identity or expression; age; veteran status; political affiliation; disability; genetic information; and pregnancy, childbirth, or related medical conditions.

3. *Who determines whether a layoff will affect employees throughout the agency, or only employees within certain units?*

Agency management develops plans including the extent of a layoff after deciding the functions to be eliminated or reassigned. For example, after reviewing the agency's mission, objectives, and proposed changes in work functions, agency management could determine that reorganization of the entire agency is needed.

4. *Within a unit, how are employees identified for layoff?*

After determining the work and jobs to be eliminated or reassigned, managers identify employees for layoff according to their Role, employment status, and

seniority. Employees within the same work unit, geographic area, and Role, and performing substantially the same work are affected by layoff according to the sequence detailed in Policy 1.30, Layoff.

5. *In an agency or work unit to be affected by layoffs, does the agency have any options concerning which employees will be laid off?*

Employees to be affected by layoff are identified according to steps in the policy. If no placement options are available for those originally identified, agencies may offer employees within the same work unit, geographic area, and Role, and performing substantially the same work the option of accepting layoff in place of employees originally identified using the substitution options. If the agency has decided to allow these options, it must notify the employees described above. Agencies must ensure that their decision to place an employee on leave Without Pay-Layoff is consistent with their agency operational needs.

6. *How is state service calculated when determining seniority for layoff?*

For layoff purposes, service means continuous salaried state service calculated from the last date you were employed or re-employed into a classified position.

7. *How are part-time employees covered? Restricted employees?*

If you are in a part-time classified or a full-time or part-time restricted position, you have access to the layoff policy only if the position immediately prior to the current position was a full-time non-restricted classified position, and you moved into your current status without a break in service.

8. *What are layoff benefits?*

Layoff benefits as outlined in Policy 1.30, Layoff, and Policy 1.57, Severance include:

- the opportunity for placement within the agency,
- the opportunity for preferential placement into other executive branch agencies prior to and during layoff using the blue card,”
- recall, and
- severance payments.

9. *What happens if an employee identified for layoff declines placement options?*

Typically if you decline a placement option, you are laid off with no layoff benefits, preferential hiring, or recall. However, agencies may allow employees to waive

their placement and recall rights. These employees retain severance benefit eligibility and the agency does not need to attempt to identify placement or recall positions for the employee. Your Human Resource Office will inform if you may waive placement or recall.

Employees who choose to waive their placement and recall rights are given a reasonable period of time during which they may revoke this decision. If an employee chooses to revoke their decision to waive their placement rights the agency will attempt to place them into another position during the pre-layoff period, and/or recall them during the LWOP-Layoff period using the guidance set forth in policy.

Policy 1.30, Layoff further explains the choices you can may make without losing these rights.

10. *When agencies have to impose layoffs, they are often facing severe budget constraints. Can these agencies make placement offers at salaries lower than the employees' original pre-layoff salaries?*

Placement in lieu of layoff is intended to allow you to continue at the same salary. However, if an agency can document that budget constraints do not permit them to offer the same salary, the agency may offer placement at a lower salary.

If you accept such a placement, you will retain recall rights for up to one year following the effective date of layoff.

If you decline the lower-salary placement, you retain recall rights for up to one year following the effective date of layoff and, if otherwise eligible, could receive severance benefits.

11. *Is loss of differential considered loss of salary for purposes of retaining layoff and severance benefits?*

Yes. If you decline placement or recall to a position that results in a lower salary because of loss of differential, you retain any layoff and severance benefits for which you are otherwise eligible.

12. *What benefits do employees receive if they are not placed in other positions and are put on Leave Without Pay-Layoff?*

Different groups of employees are eligible for different layoff benefits based on their employment status as indicated in the chart below:

STATE-PROVIDED BENEFIT	ELIGIBLE EMPLOYEES	DURATION OF BENEFIT
Preferential Employment (“blue card”) to positions of former Role.	Full-time classified employees and part-time and restricted employees who have access to layoff benefits. Must be minimally qualified.	Date of issuance of the “Blue Card” through the end date of the layoff.
Recall Opportunities – to job in the same Role in their agency.	Employees who are on LWOP - Layoff, who accepted a position that resulted in a salary reduction, or who were demoted in lieu of layoff.	One year from: <ul style="list-style-type: none"> • effective date of layoff, • placement in a position that resulted in salary reduction, or • demotion in lieu of layoff.
Severance Payments	Full-time classified employees and part-time and restricted employees who have access to layoff benefits.	Severance payments range from 4 week to a maximum of 36 weeks based on the employee’s length of service.

13. How is the “yellow card” used?

When you are notified that you will be impacted by layoff, agencies will issue the Interagency Placement Form (“Yellow Card”). You may use the “Yellow Card” to gain preferential consideration for valid vacancies in the same or lower pay band as your former position in any Executive Branch agency from the date of issuance of the “Yellow Card” until you are actually placed on Leave Without Pay – Layoff.

The “Yellow Card” may be used to exercise preferential employment rights to an advertised classified position in another agency that is in the same or lower pay band as the your former position. If minimally qualified, you must be hired unless the agency selects an internal applicant or agency wage employee (preference over external applicants). See Policy 1.30, Layoff for details.

14. How is the “blue card” used?

When you are entering Leave Without Pay – Layoff status, agencies will issue the Preferential Hiring Form (“Blue Card”). You may use the “Blue Card” to gain preferential consideration for valid vacancies in the same role as your former position in any Executive Branch agency from the date of issuance of the “Blue Card” through the end of the leave without pay-layoff period.

The “Blue Card” may be used to exercise preferential employment rights to an advertised classified position in another agency that is in the same Role as the employee’s former position. If minimally qualified, you must be hired unless the agency selects an internal applicant (preference over external candidates and agency wage employees). See Policy 1.30, Layoff for details.

15. What are the effects of layoff on the employee’s leave balances?

You will be paid for leave balances, as indicated below:

LEAVE BENEFIT	PAYMENT
Annual Leave	To maximum per Policy 4.10, Annual Leave. Employee’s option: balances paid at the beginning of LWOP-layoff status or retained and paid at end of LWOP-Layoff status.
“Traditional” Sick Leave	Paid per Policy 4.55, Sick Leave. Employee’s option: paid at beginning of LWOP-layoff status or retained and paid at end of LWOP-Layoff status. NOTE: This only applies to employees who have 5 years of continuous state service. These employees will be paid for 25% of sick leave balances.
VSDP Disability Credits	Paid per Policy 4.57, VSDP at end of LWOP-Layoff unless employee moves to LTD.
Compensatory Leave	Entire balance at LWOP-Layoff.
Overtime Leave	Entire balance at LWOP-Layoff.
Recruitment and Retention Leave	Entire balance at LWOP-Layoff.
Recognition Leave	Entire balance at LWOP-Layoff.

NOTE: VSDP Sick Leave and VSDP Family and Personal Leave may not be paid when you are placed on layoff status.

16. What are the effects on an employee’s healthcare, life insurance, and retirement?

INSURANCE BENEFIT	DURATION
Group Life Insurance	<ul style="list-style-type: none"> • Employer continues insurance premium for 12 months for employees receiving severance payments. • Employees on LTD-Working or on LTD that transitioned from STD while on LWOP-Layoff continue to be covered by group life insurance if they receive severance payments.

Healthcare	<ul style="list-style-type: none"> • Employer paid premium continues for 12 months for full-time employees receiving severance payments. • Full-time employees on LTD-Working or on LTD that transitioned from STD
	while on LWOP-Layoff and receive severance continue to be covered by the active group health insurance with employer paid premiums.
Optional Life Insurance	<ul style="list-style-type: none"> • Employees may convert to an individual policy upon separation. • Employees choosing enhanced retirement may continue a portion of optional life insurance coverage.
Retirement	<ul style="list-style-type: none"> • No retirement service credit is received while on LWOP-Layoff. <p>EXCEPTION: Employees receiving VSDP benefits and severance payments will receive retirement service credit for the period of time on LWOP-Layoff.</p> <p>Retirement contributions continue for employees on STD receiving severance payments.</p> <ul style="list-style-type: none"> • Pre-tax purchase of prior service ends when severance benefits begin. • Eligible employees may apply the severance benefit to obtain an enhanced retirement benefit.

17. What severance benefits might I receive?

You may be eligible to receive certain severance benefits if you are laid off. Your Human Resource Office will inform of the benefits you are eligible to receive. Severance benefits include the following:

Severance Payments

The maximum severance payment to which an employee may be entitled is 36 weeks of salary.

Years of Service

2 years or less

3 years through 9 years

10 years through 14 years

Amount of Benefit

4 weeks salary

4 weeks salary plus an additional week for every year over 2

12 weeks salary plus 2 additional weeks for every year over 9

15 years or more

2 weeks salary per year not to exceed 36 weeks of salary

18. *Can an employee receiving benefits through the Virginia Sickness and Disability Program be laid off? What about an employee on leave covered by the Family and Medical Leave Act? By Workers' Comp?*

As described above, agencies should identify positions for layoff based on careful planning and business need. Agencies may not target employees for layoff for reasons that are not related to business need or for reasons that are protected by law, such as an employee's race; traits historically associated with race including hair texture, hair type, and protective hairstyles such as braids, locks, and twists; sex; color; national origin; religion; sexual orientation; gender identity or expression; age; veteran status; political affiliation; disability; genetic information; and pregnancy, childbirth, or related medical conditions. Additionally, agencies must not target employees who are on any kind of leave with or without pay permitted by policy.

However, the fact that an employee is on leave through VSDP, FMLA, traditional sick leave, or another program does not provide that employee immunity against the effects of the agency's business decisions. Thus, an employee on leave may be placed in layoff status.

NOTE: Employees on leave as a result of an illness or injury covered by Workers' Compensation receive Workers' Comp benefits even if the layoff procedure is applied to their positions.

19. *How are layoff benefits affected for employees receiving VSDP and/or Workers' Compensation benefits?*

Employees receiving Short-Term Disability (STD) or Long-Term Disability (LTD) Working benefits through the Virginia Sickness and Disability Program (VSDP) or receiving Workers' Compensation benefits continue receiving those benefits during layoff status. However, see Policy 1.57, Severance Benefits, for the effects of severance benefits for employees receiving VSDP and Workers' Compensation benefits.

20. *How does layoff affect an employee's contract for pre-tax purchase of prior service for retirement credit?*

- If you wish to complete the purchase, you may claim a hardship. This allows for purchase of the service left on the contract in a lump sum with after-tax

money. To do this, you should submit a letter to the VRS claiming hardship and a copy of the VRS11 form.

- You may choose not to purchase the remaining service. If you later return to covered employment, the purchase contract will resume where it left off.
- If you are under contract for a pre-tax purchase of prior service contact VRS or the agency Benefits Administrator for specific information.

21. *What options are available if budget constraints make an agency unable to offer pre-layoff salary to the employee on recall?*

Agencies should try to maintain the employee's former salary when recalling an employee. However, if such a salary offer is not feasible due to budget constraints, the agency may offer the employee a position in the same Role at a salary lower than his or her pre-layoff salary. The agency must be able to document the budget-driven need to make a lower offer.

If the employee accepts recall to a position at a lower salary, he or she retains recall rights for up to one year following the layoff effective date.

If the employee declines recall to a position at a lower salary, he or she retains layoff for up to one year following the effective date of the layoff and (if eligible) could receive severance benefits.

22. *Can I receive unemployment benefits?*

You may be eligible to receive unemployment benefits, however, those decisions regarding eligibility for unemployment compensation are made by the Virginia Employment Commission.

If you do receive unemployment compensation your severance payments may be reduced by the amount of the unemployment compensation. However, any unemployment compensation deducted from an involuntarily separated employee's severance payments shall be paid in a lump sum to the employee at the time the last severance payment is made.

Please use this [link](#) to learn more about applying for unemployment benefits.

You can register for job services with the VEC by using this [link](#).

23. *Can I use Employee Assistance Program (EAP)?*

Yes, please follow the link to the DHRM's [Employee Assistance Program](#).

24. Other resources that may be of assistance.

You can register for job services with the VEC by using this [link](#). You may also want to visit the [Virginia Community College System Fast Forward Program](#).