

## **Proposed Miami University Rule Reductions in Force**

### **Reduction in Force—General Authority** (OAC 123:1-41-06)

Whenever a reduction in the work force is necessary, the University shall determine the classifications in which the layoffs will occur and the number of employees to be laid off within each classification.

### **Reduction in Force—Rationale.** (ORC 124.321)

For the purpose of reductions in force, 'continuous Miami University service' shall begin at the original appointment date and continue until an employee quits, is discharged for cause, is laid off beyond the recall period, fails to return to work from an approved leave of absence or retires. Student employment service is excluded.

- (A) Whenever it becomes necessary for the University to reduce its work force, it shall lay off employees or abolish their positions in accordance with these rules. The reasons for position abolishment and/or layoff include lack of funds, lack of work, as a result of a reorganization for the efficient operation of the University or for reasons of economy as described herein.
- (B) (1) Employees may be laid off as a result of a lack of funds. The University itself shall determine whether a lack of funds exists and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.
- (2) As used in this division, a "lack of funds" means the University has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.
- (C) (1) Employees may be laid off as a result of lack of work. The University shall determine whether a lack of work exists and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.
- (2) As used in this division, a "lack of work" means the University has a current or projected decrease in workload that requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of work shall indicate the current or projected decrease in workload and whether the current or projected staffing levels of the University will be excessive.
- (D) (1) Employees may be laid off as a result of abolishment of positions. As used in this division, "abolishment" means the deletion of a position or positions from the organization or structure of the University.

For purposes of this division, the University may abolish positions for any one or any combination of the following reasons: as a result of lack of funds, a reorganization for the efficient operation of the University, for reasons of economy, or for lack of work.

(2)(a) Reasons of economy permitting the University to abolish a position and to lay off the holder of that position under this division shall be determined at the time the University proposes to abolish the position. The reasons of economy shall be based on the University's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the University's estimated amount of savings with respect to salary and benefits only, if:

(i) Either the University's operating appropriation has been reduced by an executive or legislative action, or the University has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations

(ii) the University files a notice of the position's abolishment with the director of administrative services within one year of the occurrence of the applicable circumstance described in division (D)(2)(a)(i) of this section.

(2)(b) The following principles apply when a circumstance described in division (D)(2)(a)(i) of this section would serve to authorize the University to abolish a position and to lay off the holder of the position under this division based on the University's estimated amount of savings with respect to salary and benefits only:

(i) The position's abolishment shall be done in good faith and not as a subterfuge for discipline.

(ii) If a circumstance affects a specific program only, the University only may abolish a position within that program.

(iii) If a circumstance does not affect a specific program only, the University may identify a position that it considers appropriate for abolishment based on the reasons of economy.

(3) The University shall determine itself whether any position should be abolished. The University shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the notice of abolishment.

(E) Notwithstanding any contrary provision of the displacement procedure described in this rule for employees to displace other employees during a layoff, the University may establish a paper lay-off process under which employees who are to be laid off or displaced may be required, before the date of their paper layoff, to preselect their options for displacing other employees.

### **Layoff procedures. (ORC 124.322)**

Whenever a reduction in the work force is necessary, the University shall decide in which classification or classifications the layoff or layoffs will occur and the number of employees to be laid off within each affected classification.

The order of layoff in those rules shall be based in part on length of continuous Miami University service and may include efficiency in service, appointment type, or similar other factors the University considers appropriate. If the University establishes relative efficiency as a criterion to be used in determining order of layoff for employees, credit for efficiency may be for no more than ten per cent of total continuous Miami University service.

**Layoff order. (ORC 124.323 & OAC 123:1-41-07)**

For the purpose of this division a full time employee is one who has an appointment of at least nine (9) months duration for at least 32 hours per week.

(A) At Miami University, employees shall be laid off in the order in this section within the primary appointment categories of part-time temporary, then full-time temporary, then part-time probationary, then part-time permanent, then full-time probationary, and then full-time permanent.

(B) Layoffs shall be based upon continuous Miami University service order beginning with the employee having the least continuous Miami University service and continuing to the employee with the most continuous Miami University service. A list will be compiled in descending order. In cases where two or more employees have identical continuous Miami University service the tie breaker shall be the lowest last four digits of the employee's social security number. Student employment is excluded.

(C) In the classification(s) selected for layoff the appointing authority shall layoff employees and employees shall displace employees using the following "order of layoff" :

- (1) Part-time temporary employees in the same classification.
- (2) Full-time temporary employees in the same classification.
- (3) Part-time probationary employees in the same classification who have not completed their probationary period or six months of continuous service in the position, whichever is longer.
- (4) Part-time permanent employees in the same classification who have completed their probationary period or six months of continuous service in the position, whichever is longer.
- (5) Full-time probationary employees in the same classification who have not completed their probationary period or six months of continuous service in the position, whichever is longer.
- (6) Full-time permanent employees in the same classification who have completed their probationary period or six months of continuous service in the position, whichever is longer.

**Order of Displacement—General (ORC 124.324 & OAC 123:1-41-11)**

(A) A laid-off employee has the right to displace the employee with the least continuous Miami University service in the layoff jurisdiction in the following order:

- (1) Within the classification from which the employee was laid off;
- (2) Within the classification series from which the employee was laid off;

If, after exercising displacement rights, an employee is subject to further layoff action, the employee's displacement rights shall be in accordance with the classification from which the employee was first laid off.

(B) Employees shall notify the University of their intention to exercise their displacement rights, within five days after receiving notice of layoff. Employees who are either offered a vacant position or can displace the employee with the least continuous Miami University service in the same classification must accept the position or shall forfeit all recall rights.

(C) No employee shall displace an employee for whose position or classification there are certain position-specific minimum qualifications, as established by the University or as established by bona fide occupational qualification, unless the employee desiring to displace another employee possesses the requisite position-specific minimum qualifications for the position or classification.

(D) Displacement related to the abolishment of a position. Any displacement of an employee within the same layoff jurisdiction due to the abolishment of positions and the operation of this chapter shall not be construed to be a transfer.

(E) Rate of pay for an employee following displacement. An employee exercising displacement rights to a lower position, or an employee displaced as a result of a layoff or abolishment, shall be paid according to the University compensation plan.

### **Order of Displacement. (OAC 123:1-41-12)**

Laid-off employees and employees displaced as a result of a layoff who have the right to displace shall exercise their displacement rights in the following order:

(A) Displacement within the classification. An employee is to be laid off or displaced must fill an available vacancy within the layoff jurisdiction. If no vacancy exists, the employee must displace within his or her classification in the layoff jurisdiction.

(B) Displacement within the classification series. Any employee displaced by an employee possessing more continuous Miami University service shall first fill a vacancy in the next lower classification. If no vacancy exists, the displaced employee shall displace the employee with the least continuous Miami University service in the next lower classification in the same classification series. This process shall continue through successively lower classifications in the classification series, if necessary, until the employee with the least continuous Miami University service in the lowest classification of the classification series has been reached and, if necessary, laid off.

(C) Displacement rights of an employee previously displaced. If, after an employee has exercised his or her displacement rights, the employee is to be laid off or displaced due to a subsequent layoff, the employee's displacement rights shall be in accordance with the classification from which he or she was first displaced, provided however, the employee has rights to reinstatement or reemployment in his previous classification. The employee's displacement rights from a previously held classification shall exist for a one-year period beginning with the date of the original layoff or displacement or until such time as the employee is removed from a layoff list.

## **Continuous service and efficiency—General. (ORC 124.325)**

(A) Miami University will use continuous service with the University.

(B) An employee's length of continuous Miami University service will be carried from one layoff jurisdiction to another so long as no break in service occurs between transfers or appointments.

(C) If two or more employees have an identical continuous Miami University service, the tiebreaker will be the employee with the lowest last four digits of the social security number.

## **Verification of Continuous Service. (OAC 123:1-41-08)**

(A) General. Employees shall be laid off using the following process for systematic consideration of continuous service. For the purpose of reductions in force, 'continuous Miami University service' shall begin at the original appointment date and continue until an employee quits, is discharged for cause, is laid off beyond the recall period, fails to return to work from an approved leave of absence or retires. Student employment service is excluded.

(B) Computation of continuous Miami University service. The University shall compute the total continuous Miami University service for each employee in the classifications affected by a layoff or position abolishment, including the classifications in which displacement may occur. A break in service as defined above will re-start the employee's continuous Miami University service.

(C) Movement into and out of affected classifications. Once the University has created the list of length of continuous Miami University service and employees, the University may not hire into or move employees into or out of affected classifications by means of promotions, intra-transfers, voluntary demotions, position control number change, lateral or classification changes, or reassignments.

(D) Notice of layoff, displacement, and sick leave conversion forms. A copy of the notice of layoff or displacement to employees shall be forwarded to the director resulting from a layoff.

## **Layoff jurisdictions. (ORC 124.326)**

(A) The order of layoff and displacement shall apply within layoff jurisdictions. Each of the layoff jurisdictions, as defined in this section, is autonomous, and layoff, displacement, and reinstatement procedures shall apply only within the jurisdiction affected by the layoff.

(B) The layoff jurisdictions are as follows:

- (1) Oxford Campus, Academic Affairs
- (2) Oxford Campus, Student Affairs
- (3) Oxford Campus, Finance & Business Services
- (4) Oxford Campus, IT Services
- (5) Oxford Campus, University Advancement
- (6) Oxford Campus, President's Office
- (7) Middletown Regional Campus
- (8) Hamilton Regional Campus & Voice of America Center

The layoff jurisdiction described in division (B)(3) of this section shall not apply to employees who:

- (1) Are laid off for a temporary period of up to one hundred ten consecutive days; or
- (2) Have specialized skills, knowledge, or training necessary for the performance of their job.

### **Notification of layoff or displacement. (OAC 123:1-41-10)**

(A) Notification of layoff or displacement. Each employee to be laid off shall be given advance written notice by the appointing authority after the employee's length of continuous Miami University service has been calculated. Such written notice shall be hand-delivered to the employee or mailed by certified mail to the employee's last known address on file with the appointing authority. If hand-delivered, such notice shall be given at least ten calendar days before the effective date of layoff or displacement and the day of hand-delivery shall be the first day of the ten-day period. If mailed, such notice shall be mailed at least fourteen calendar days before the effective date of the layoff or displacement. The day the letter is mailed shall be the first day of the fourteen-day period.

(B) Content of layoff or displacement notice. Each notice of layoff or displacement shall contain the following information:

- (1) The reason for layoff or displacement;
- (2) The effective date of the layoff or displacement;
- (3) The employee's length of continuous Miami University service;
- (4) The right of the employee to appeal a layoff or displacement to the state personnel board of review and that the appeal must be filed or postmarked within ten calendar days after the employee is notified that he or she is to be laid off or displaced;
- (5) A statement advising the employee of the right to displace another employee in the classification series and that the employee must exercise displacement rights within five calendar days of the date the employee is notified of the displacement or layoff;
- (6) A statement advising the employee of the right to reinstatement;
- (7) A statement that, upon request by the employee, the University will make available a copy of these rules;
- (8) A statement that the employee is responsible for maintaining a current address with the University;
- (9) A statement that the employee may have the option to convert accrued unused leave.

### **Layoff lists—reinstatement. (ORC 124.327)**

(A) Employees who have been laid off or have, by virtue of exercising their displacement rights, been displaced to a lower classification in their classification series, shall be placed on appropriate layoff lists. Those employees with the most continuous Miami University service within each category of order of layoff, as established in this rule, shall be placed at the top of the layoff list to be followed by employees ranked in descending order of continuous Miami University service. Laid-off employees shall be placed on layoff lists for each classification in the classification series equal to or lower than the classification in which the employee was employed at the time of layoff. At the time of lay off, employees must select a recall option based on a campus location(s).

(B) An employee who is laid off retains reinstatement rights at the University. Reinstatement rights continue for one year from the date of layoff. During this one-year period, if a layoff list exists, the University shall not hire or promote anyone into a position within that classification until all laid-off persons on a layoff list for that classification who are qualified to perform the duties of the position are reinstated or decline the position when it is offered.

During this time, the University shall send to the hiring department the names of the five persons having the longest continuous Miami University service for the appropriate layoff list for the classification. Such process for the filling of vacancies shall continue until no persons remain on the appropriate lay off list for the one-year period.

(C) Any employee accepting or declining reinstatement to the same classification and same appointment type from which the employee was laid off or displaced shall be removed from the appointing authority's layoff list.

(D) An employee who does not exercise the option to displace under these rules shall only be entitled to reinstatement in the classification from which the employee was displaced or laid off.

(E) Except as otherwise provided in this division, an employee who declines reinstatement to a classification lower in the classification series than the classification from which the employee was laid off or displaced, thereafter is only entitled to reinstatement to a classification higher, up to and including the classification from which the employee was laid off or displaced, in the classification series than the classification that was declined. This division does not apply when an employee, who was a full-time employee at the time of layoff or displacement, declines reinstatement in a part-time position.

(F) Any employee reinstated under this section shall not serve a probationary period upon reinstatement or reemployment, except that an employee laid off during an original or promotional probationary period shall begin a new probationary period.

### **Appeal Rights—General (ORC 124.328 & OAC 123:1-41-11)**

A classified employee may appeal a layoff, or a displacement that is the result of a layoff, to the state personnel board of review. The appeal shall be filed or postmarked no later than ten days after receipt of the layoff notice or after the date the employee is displaced. An employee shall be considered displaced the date the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position. In cases involving the laying off of classified employees, the affected employee or the University may appeal the decision of the state personnel board of review to the court of common pleas in accordance with section 119.12 of the Revised Code.

Promulgated Under:

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Rule Amplifies: 124.321 through 124.328

Effective Dates: