



Administrative Policy No. 18.46

Subject: Layoff and Separation

Applies To: All Department of Social and Health Services Employees not covered by a Collective Bargaining Agreement (Excludes Washington Management Service Employees)

Information Contact: DSHS Human Resources

Authorizing Sources: RCW [41.06](#)
WAC [357-16](#)
WAC [357-46](#)
WAC [357-52](#)

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Purpose:

To identify the requirements and processes used when layoffs are implemented in the Department of Social and Health Services (DSHS) and when an employee separates from the agency.

Scope:

This policy applies to all DSHS employees in Washington General Service not covered by a Collective Bargaining Agreement and excludes employees in Washington Management Services.

Definitions:

Break in Service: An employee has a break in continuous state service if the employee is separated, dismissed, or resigns from state service. A furlough for the purpose of temporary layoff under WAC 357-46-063 is not considered a break in continuous state service.

Comparable position: Includes the following factors ([WAC 357-46-040](#)):

- Scope of work
- Required skills and abilities
- Geographic location

- Number of hours worked per week

Disability Separation: An action separating an employee from service when it is determined the employee is unable to perform the essential functions of the position, with or without reasonable accommodation. It is not a disciplinary action.

General Government Transition Pool (GGTP): A skills based pool of candidates available to general government employees that have been laid off or are at risk of layoff.

Internal Layoff List: The DSHS layoff list of employees that have elected to place their name on the layoff list through [WAC 357-46-070](#). The internal layoff list is available to DSHS employees only and is maintained and administered by Department of Enterprise Services.

Layoff: An action initiated by the Appointing Authority/Designee resulting in one or more of the following actions:

- Employment in a class with a lower salary range maximum
- Reduction in the work year
- Reduction in the number of work hours
- Employment in a different position in the employee's current class or a different class at the same salary range maximum.
- Separation from service with DSHS

Seniority Date: Determined by the length of time the employee has worked for a state agency or Higher Education without a break in service. Part time and On-call employees' seniority dates are based on the total hours actually worked. Both full time and part time employees' seniority dates will be adjusted for any periods of leave without pay in excess of 15 consecutive calendar days, per [WAC 357-46-055](#).

Statewide Layoff List: The layoff list consisting of employees electing to place their names on the statewide layoff list used by multiple agencies.

Temporary Layoff: An employer may temporarily layoff an employee by:

1. Reducing the number of hours an employee is scheduled to work; or
2. Furloughing the employee.

Transition Review Period: The review period allows the manager the opportunity to evaluate the employee's performance in the position.

Policy:

A. Layoff General Provisions ([WAC 357-46-010](#), [WAC 357-46-035](#))

1. Employees are subject to layoff without prejudice to meet DSHS business needs. The reasons for layoff include, but are not limited to, one or more of the following ([WAC 357-46-010](#)):

- a. Lack of funds
 - b. Lack of work, to include, but not limited to:
 - i. Termination of a project or special employment.
 - ii. Availability of fewer positions than there are employees entitled to such positions.
 - iii. Employee's ineligibility to continue in a position following its reallocation to a class with a higher salary range maximum.
 - iv. Employee's ineligibility to continue or choice not to continue, in a position following its reallocation to a class with a lower salary range maximum.
 - v. Elimination of a position due to the work of the position being competitively contracted.
 - vi. Employee's choice not to continue in a position following Management's determination to change the position from part time to full time or vice versa due to business needs.
 - c. Good faith organizational change
2. DSHS Human Resources (HR) administers the layoff process for the agency. Appointing Authorities/Designees will consult and collaborate with HR to implement layoff activities.
 3. The layoff procedure is available either electronically or in writing to employees subject to layoff. Employees may request a paper copy from their local HR Manager/Consultant.
 4. A layoff unit is defined as the geographical entity or administrative/organizational unit in each agency used for determining available options for employees subject to layoff.

Within DSHS the primary layoff unit is the **county** in which an employee's workstation is located. If no option is available within the county layoff unit, the layoff unit expands to the **region**. If no option is available within the region layoff unit, the layoff unit expands to the Department **statewide**.

5. If there is a need to reduce staff, DSHS will attempt to avoid or minimize layoffs through transfers, voluntary demotions, voluntary reduction in work schedules, or voluntary leave without pay.
6. When identifying positions for elimination, the following will be considered:
 - a. Position function or funding that is being eliminated.
 - b. If all individuals in the same program, geographic location, classification, and layoff unit perform common work assignments, the position held by the least senior incumbent must be identified for elimination. This may require reassigning duties among the remaining staff.
7. Employees with permanent status will not be separated from state service through a layoff action without first being offered positions in their current job classification within their layoff unit that they have the skills and abilities to perform and that are currently

held by non-permanent employees and/or probationary employees. Non-permanent employees will be separated from employment before probationary employees.

8. HR determines an employee's seniority date.
9. The employee's seniority date is the length of unbroken state service, adjusted for any period of leave without pay in excess of 15 consecutive calendar days except as provided below ([WAC 357-46-055](#)):
 - a. Part-time and on-call employees seniority date is based on the total number of hours actually worked.
 - b. Leave without pay of more than 15 consecutive days for one or more of the following reasons will not affect the seniority date:
 - i. Military leave or United States public health service
 - ii. Compensable work-related injury or illness leave
 - iii. Government service leave and leave to enter the peace corps, not to exceed two years and one month
 - iv. Educational leave, contingent upon successful completion of the coursework
 - v. Reducing the effects of layoff
 - c. An employee who is a veteran under RCW [41.06.133](#) (13), or the surviving spouse or domestic partner ([WAC 357-16-110](#)) of a veteran, will receive a maximum of five years service credit added to their seniority date.
 - d. A general government employee that has been laid off is not considered to have a break in service if the employee is appointed to a state position within two years of being laid off ([WAC 357-46-058](#)).
 - i. A full-time general government employee receives full-time credit towards seniority for the time spent off the payroll due to layoff when he or she is re-appointed to a state position.
 - ii. A part-time general government employee does not receive credit towards seniority for the time spent off the payroll due to layoff when he or she is re-appointed to a state position.
 - e. Work performance is not a factor when determining an employee's seniority date.
 - f. Ties in seniority dates are broken using the following methods in the following sequence:
 - i. The longest continuous time within their current job classification.
 - ii. The longest continuous time within DSHS.
 - iii. By lot.
10. Employees must receive advance notice of the impending layoff.
 - a. Probationary employees receive at least one calendar day's notice under WAC [357-46-185](#).
 - b. The layoff notice to permanent employees must be in writing and at a minimum include all the following items ([WAC 357-46-030](#)):
 - i. The reason or basis for layoff.
 - ii. The employee's layoff option as determined by WAC 357-46-035, including any requirement for the employee to serve a transition review period.

- iii. The specific layoff list(s) that the employee is entitled to request placement on according to WAC 357-46-070 and WAC 357-46-080 and information on how to request placement on the statewide layoff list.
- iv. The date by when the employee must select a layoff option.
- v. The employee's right to appeal the layoff.
- c. The permanent employee scheduled for layoff will receive a letter identifying their layoff option, if any, with 15 calendar days written notification before the effective date, unless HR and the Appointing Authority and employee agree to waive the 15 day notice period, in writing ([WAC 357-46-025](#)). The employee must accept or decline their layoff option within 5 calendar days of receiving the written notification

B. Project Employment Layoff

DSHS employment projects established under [WAC 357-19](#) are considered layoff units separate from any other defined layoff unit. Project employees have layoff rights within the project.

1. Bumping options will be limited to the project boundaries.
2. A project employee separated from state service through layoff and who has not held permanent status in classified service may submit an application to the General Government Transition Pool (GGTP).
3. Project employees who entered the project through the competitive process and remained in project status for a minimum of two years are eligible for placement on the internal layoff list.
4. Permanent status employees who left regular classified positions to accept project employment without a break in service have layoff rights within the agency in which they held permanent status to the job classification they held immediately prior to accepting project employment

C. Formal Layoff Option ([WAC 357-46-035](#), [WAC 357-46-045](#))

1. A permanent employee scheduled for layoff will receive an option as defined by WAC 357-46-035.
 - a. The position is comparable to the employee's current position. Comparable positions will be determined considering scope of work, required skills and abilities, and hours of work. Formal and informal options for full-time employees will be to full-time positions only. Formal and informal options for part-time employees will be to part-time positions only.
 - b. The employee meets the skills and abilities and other position requirements.
 - c. The position is funded and vacant, or if no vacant funded position is available, the position is occupied by the employee with the lowest employment retention rating (seniority date).

- d. The position search is conducted in the following descending order beginning with the county layoff unit.
 - i. A position in a class which the employee holds permanent status at the time of the layoff.
 - ii. A position in a class in which the employee has held permanent status that is at the same salary range as their current permanent class.
 - iii. A position in a class series in which the employee has held permanent status, in descending salary order. The employee does not have to have held permanent status in the lower class in order to be offered the option to take a position in the class.
 - iv. If no option is found in the county layoff unit the search is expanded to the region layoff unit, and if not option is found in the region the search moves to the statewide layoff unit.
2. General government employees have layoff option rights to all classifications the employee has held permanent status in regardless of any breaks in state service.
3. If an employee held permanent status in a class that has been revised or abolished, the Senior Director of DSHS Human Resources or designee will determine the closest matching class to offer as a layoff option. The closest matching class must be at the same or lower salary range as the class from which the employee is being laid off.
4. One or more of the following documented criteria is used to establish skills, abilities, and other position requirements ([WAC 357-46-045](#)):
 - a. Licensing or certification requirements
 - b. Position Description Form
 - c. Class specification
 - d. Skills and abilities listed on the position's most recent recruitment announcement or the last announcement used to fill the position.
 - e. Bona fide occupational requirement approved by the Washington Human Rights Commission.
5. Positions designated with a "legitimate business requirement" normally are not considered part of any layoff unit and not offered to employees as a layoff option. Prior to determining layoff options, the appointing authority notifies the Human Resources Senior Director or designee(s) that a specified position(s) has legitimate business requirements and requests that the position(s) be so designated. Language contained in the position description(s) must delineate and support the special characteristics of the position(s).
6. Pool layoff options will be used when more than one employee in the same classification and layoff unit is laid off at the same time, and there is one option available for each pool member. The employees will be offered the same options and asked to rank them in order of preference for acceptance; options will be awarded based on seniority.

D. Informal Layoff Option

1. An employee may request an informal option to job classifications through HR within five calendar days of receipt of the official layoff letter. An informal option is defined as any position that is vacant or held by a probationary or non-permanent employee and that the employee being laid off has never held permanent status in. Additionally, the following criteria apply:
 - a. The appointing authority or designee determines if the employee meets the skills and abilities required of the position; and,
 - b. The position is at the same or lower salary range as the position in which the employee currently holds permanent status and is being laid off from.
 - c. The position is vacant or held by a probationary or non-permanent employee.
 - d. The position is comparable or less than comparable to the current classification.
 - e. A full time employee may look at full time and part time positions as potential informal options. A part time employee may look at part time and full time options as potential informal options.
 - f. If there is more than one qualifying position available, the position with the highest salary range maximum is offered.
2. Award or denial of an informal option is not subject to the grievance/appeal procedure.
3. If a permanent employee has no formal option available they will be offered an informal option or a position held by an employee in a non-permanent appointment for which they meet the skills and abilities, **if available**, prior to being separated from employment.

E. Layoff List ([WAC 357-46-070](#), [WAC 357-46-075](#), [WAC 357-46-080](#), [WAC 357-46-130](#))

Permanent employees who satisfy the following criteria may have their name placed on the DSHS internal layoff list and statewide layoff list if the employee exercises this option within the two-year eligibility period:

1. Employees who are laid off or have been notified in writing that they are scheduled to be laid off are eligible to be on the internal layoff list and statewide layoff list for all classes in which they held permanent status and lower classes in the same class series. Permanent status is not required for the lower classes in the class series.
2. Employees accepting a voluntary demotion in lieu of layoff are eligible to be on the internal layoff list and statewide layoff list for the class from which they demoted and all classes in which the employee held permanent status and lower classes in the same class series. Permanent status is not required for the lower classes in the class series.
3. Employees who accepted less than comparable positions are eligible to be on the internal layoff list and statewide layoff list for all classes in which they held permanent status and lower classes in the same class series. Permanent status is not required for the lower classes in the class series.
4. Employees who have not successfully completed a trial service period and are placed in a non-permanent position following reversion are eligible to be on the internal layoff list for classes in which the employee previously held permanent status.

5. Employees who remain in a position reallocated to a lower salary range are eligible to be on the internal layoff list for the class the employee held permanent status in prior to the reallocation.
6. Employees demoted for cause from a class are not eligible for the internal or statewide layoff list for that class.
7. An employee will not be placed on the internal layoff list for classes with a higher salary range than the class from which he or she is being laid off.

F. Removing Names From Layoff Lists ([WAC 357-46-135](#), [WAC 357-46-140](#), [WAC 357-46-145](#), [WAC 357-46-147](#))

DSHS Human Resources, in collaboration with the hiring appointing authority, will start the process to remove an individual's name from the DSHS internal layoff list or statewide layoff list.

1. The local HR office will forward a request to remove a name from the appointing authority or designee to the HR Position Management Section for review.
2. HR Position Management Section will forward the request to Department of Enterprise Services for final action.

An individual's name will be removed from the internal layoff list or statewide layoff list:

- a. At the request of the individual; or
 - b. Upon an employee's retirement, resignation, expiration of eligibility, or dismissal from DSHS.
3. An individual's name may be removed from the internal and/or statewide layoff list for a class when:
 - a. The individual is appointed to a permanent position in the class. The individual may also be removed from the internal and/or statewide layoff list for any classes with a lower salary range maximum in that class series; or
 - b. The individual is appointed to a permanent position in a class with a higher salary range maximum in a different class series; or
 - c. The individual has been certified from the layoff list and waives consideration for a position in the class three times; or
 - d. HR determines good and sufficient reason exists.
 4. An individual whose name has been removed from an internal or statewide layoff list must be notified in writing at the time of removal. The notification must:
 - a. Provide the specific reason for the removal; and
 - b. Inform the individual of the right to request a review of the removal.
 - c. Written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or certified mail.

5. Requests for review of removal from a layoff list must be made to the Secretary when the removal is based on DSHS HR's determination that good and sufficient reason exists.
 - a. DSHS HR is responsible for maintaining the layoff list and the reason the individual was removed from the layoff list.
 - b. If the individual is not in agreement with the results of the Secretary's review, he or she may request the Director, Office of the State Human Resources Director review the removal.

6. Requests for review of removal from a layoff list must be made to the Director, Office of the State Human Resources Director when one or more of the following occurs:
 - a. The removal is based on the department's determination that good and sufficient reason exists.
 - b. The department is responsible for maintaining the layoff list and removed the individual.
 - c. The individual is not in agreement with the results of the Secretary's review of the removal.

G. General Government Transition Pool (GGTP) ([WAC 357-46-090](#))

1. The following individuals are eligible to participate in the GGTP program:
 - a. All permanent general government employees separated by layoff or notified by their employer they are at risk of layoff.
 - b. All permanent general government employees that are reverted and not returned to a permanent position in the class in which the employee last held permanent status.
 - c. Employees who are eligible to participate in the return-to-work initiative program.
 - d. Former permanent classified general government employees that have submitted a written request for reemployment within two years of disability separation and who have met the reemployment requirements.
 - e. General government employee business unit members whose contract expired or was terminated.

2. Appointing authorities or designees must consider GGTP candidates when a certification contains eligible candidates who are not from the DSHS internal or statewide layoff list or DSHS promotional candidates.

3. GGTP candidates must meet the skills, abilities, and other requirements to be considered for a position.

4. Employees participating in the transition pool program do not have the right of appeal within this program.

H. Transition Review Period ([WAC 357-46-110](#), [WAC 357-46-115](#), [WAC 357-46-120](#), [WAC 357-46-125](#))

1. DSHS employees are required to serve a minimum six-month transition review period when an employee is appointed to a position as a layoff option or is appointed from the internal or statewide layoff list or the GGTP.
 - a. The appointing authority may extend an employee's transition review period.
 - b. The total transition review period cannot exceed 12 months (not including any time spent on Leave Without Pay under [WAC 357-31-355](#)).
2. An employee appointed to a position with the same job classification and duties, as a position in which the employee held permanent status prior to the layoff will not serve a transition review period. The employer determines the comparability of the position.
3. When a transition review period is required:
 - a. The appointing authority or designee must provide the employee with written notice of the transition review period.
 - b. Written notice may be provided using alternate methods such as e-mail, campus mail, the state mail service, or certified mail.
 - c. The employer must provide the employee with instruction and/or training in the duties of the new position.
4. The employee must receive seven calendar days written notice prior to separation during a transition review period. If the employee commits an egregious act during the last seven days of the transition review period, the employee may be immediately separated without the seven-calendar day notice.
5. When an employee, serving a transition review period following appointment to a position as a layoff option, is separated from the position during the transition review period, the following applies:
 - a. If the employee is involuntarily separated; the employee will be provided with a layoff option, if any are available, or
 - b. If the employee voluntarily separates, his or her name may be placed on any layoff lists for which the he or she is eligible.
6. When an employee is separated from a position during a transition review period following appointment from a layoff list or the GGTP, the employee's name is reinstated on any layoff list from which it was removed at the time of placement in the position.
 - a. The employee remains on the list until the employee's initial eligibility expires or he or she is rehired.
 - b. The time served during the transition review period does not extend the period of eligibility for a layoff list or the GGTP.
7. Separation during the transition review period is not subject to appeal.

I. Temporary Layoff ([WAC 357-46-063](#), [WAC 357-46-064](#), [WAC 357-46-065](#), [WAC 357-46-066](#), [WAC 357-46-067](#), [WAC 357-46-068](#), [WAC 357-46-069](#))

DSHS may temporarily layoff an employee by:

1. Reducing the number of hours an employee is scheduled to work.

2. Furloughing the employee.

- a. An employee cannot be furloughed for more than 30 calendar days in a calendar year.
- b. An employee's regular work schedule cannot be temporarily reduced to less than 20 hours a week for longer than 60 calendar days in a calendar year.
 - i. If the organization has less than 20 hours of work per week for an employee to perform during a period of temporary layoff, the employee must be notified that he or she is being temporary laid off.
 - ii. The employee may be offered available work hours as a non-permanent appointment.
- c. Notification requirements of temporary layoff will be in accordance with Title 357 WAC. The temporary layoff notice includes information about:
 - i. The employee's status during the temporary layoff.
 - ii. The expected duration of the temporary layoff.
- d. During a temporary layoff, the employee's status will be as follows:
 - i. The employee's anniversary date, seniority date, or unbroken service date is not adjusted for the period of time spent on temporary layoff.
 - ii. The employee will continue to accrue vacation and sick leave, in accordance with WAC 357-46-067.
 - iii. The duration of an employee's probationary period or trial service period shall not be extended for periods of time spent on temporary layoff.
 - iv. A temporary reduction of work hours or layoff will not affect an employee's periodic increment date.
- e. An employee who is temporarily laid off is not entitled to:
 - i. Layoff rights, including the ability to bump into another position or be placed on the DSHS internal layoff list or statewide layoff list.
 - ii. Payment for his or her vacation leave balance.
 - iii. Use his or her accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff is due to lack of funds.
- f. If the temporary layoff isn't due to lack of funds, DSHS may allow an employee to use accrued vacation leave in lieu of temporary layoff.
- g. At the conclusion of the temporary layoff, the employee has the right to resume the position he or she held immediately prior to the temporary furlough. The employee returns with the same status and percentage of appointment he or she held prior to the furlough.

J. Resignation ([WAC 357-46-150](#))

1. An employee intending to resign from DSHS should provide his/her appointing authority or designee a letter of resignation at least 15 calendar days before the effective date of the resignation.

2. The appointing authority may allow the employee to withdraw his or her resignation within the first 72 hours after submitting the resignation.

K. Disability Separation ([WAC 357-46-160](#))

1. A disability separation may occur when the current appointing authority, in collaboration with HR, determines the employee is unable to perform the essential functions of the employee's position or class, with or without reasonable accommodation.
2. The cause of the inability to perform the essential function may be due to mental, sensory, or physical incapacity.
3. The reasons for disability separation include, but are not limited to:
 - a. The employee cannot be reasonably accommodated within DSHS.
 - b. The appointing authority has medical documentation of the employee's inability to work in any capacity.
 - c. The employee requests separation due to disability and the appointing authority has medical documentation the employee cannot perform the essential functions of the employee's position or class.
4. The employee must receive written notice of the separation with:
 - a. A minimum of seven calendar days prior to the effective date.
 - b. Re-employment information included for permanent employees.
5. Disability separation is not a disciplinary action.
6. A permanent employee separated by DSHS due to disability may appeal the separation under [WAC 357-52](#), unless the separation is at the employee's request.

L. Separation During Probationary Period ([WAC 357-46-180](#))

1. An appointing authority may separate a probationary employee who has not completed his/her probationary period.
2. The probationary employee must receive a minimum of one calendar day's written notice before separation.
3. An individual separated during a probationary period does not have the right to appeal the separation.

M. Non-Disciplinary Separation of Permanent Employees ([WAC 357-46-195](#))

1. This section does not apply to disability separations.
2. Permanent employees may be separated for non-disciplinary reasons such as:
 - a. Failure to comply with conditions of employment that may or may not have existed at the time of initial appointment.

- b. Failure to authorize or pass a required background check.
3. The appointing authority may consider other employment options such as transfer or voluntary demotion in lieu of separation.
4. The employee must receive written notice of the separation, a minimum of 15 calendar days prior to the separation. The notification must include the reason for the separation.
5. If the employee satisfactorily demonstrates why the separation should not occur, the appointing authority may rescind the separation notice within the 15-day period.
6. If retaining the employee in his or her current position during the 15 day period represents a liability, the appointing authority may reassign the employee to another work location until the separation is effective.
7. A permanent employee may appeal separation as provided in [WAC 357-52](#).

N. Separation of permanent employees for unauthorized absences ([WAC 357-46-210](#))

1. An appointing authority may separate a permanent employee who has been absent without authorized leave for a period of at least three consecutive working days.
2. The appointing authority or designees will make reasonable attempts to contact the employee to determine the cause for the absence and the appropriate action.
3. After an unauthorized absence lasting for a period of at least three consecutive work days, the appointing authority may, in collaboration with HR, separate the employee by:
 - a. Sending a separation notice to the employee by personal service or United States mail to the last known mailing address listed in the Human Resources Management System.
 - b. A permanent employee's separation notice under this section must include:
 - i. His or her ability to petition the appointing authority for reinstatement; and
 - ii. His or her right to appeal the separation to the Personnel Resources Board (PRB).
4. The appointing authority must respond, in writing, to an employee's petition for reinstatement within seven calendar days of receiving the petition. Petitioning the appointing authority does not lengthen the time in which the employee may appeal to the PRB.

¹ Updated to reflect changes to temporary layoff and reference to Title 357 WAC