

24. REDUCTION IN FORCE

Whenever, in the judgment of the Executive Officer/designee, it becomes necessary in the interest of the economy or because the necessity for a position no longer exists, the Executive Officer/designee may abolish a position or classification, and if necessary reduce personnel by laying off employees without the filing of disciplinary charges and without granting the employee the right of appeal except as accorded in these provisions. In reducing the number of employees every effort will be made to avoid displacing existing employees by allowing voluntary demotion or transfer to vacant positions. In laying off Court employees, the order of separation shall be based upon seniority as herein specified.

A. Alternatives to Layoff

Upon the request of the Union, the Court agrees to meet and consult with the Union prior to implementing any reduction-in-force action, to discuss alternatives to lay-off.

B. Order of Separation

Employees in the same classification shall be separated considering seniority and type of appointment with the least senior employee in any category of appointment being the first separated and with tied seniority scores broken as provided herein. The sequence of appointment types shall be:

1. Temporary
2. Limited-term
3. Probationary
4. Regular Full-time and Part-time

C. Seniority

Employees' seniority will be based on their amount of total continuous paid service with the Court and as a reciprocal transfer with Stanislaus County. In an affected classification, the employee with the least total continuous paid service shall be the first separated except as otherwise provided herein. In cases of equal seniority among employees, the order of separation shall be determined based on performance as follows:

The Court will determine the total score for an annual performance evaluation by using numerical values assigned to each performance rating. For any year in which the employee does not receive an actual evaluation with a rating, the employee will receive a successful rating for that year.

D. Performance

Notwithstanding the above, service time credit for the purpose of determining seniority shall not include employment during any period between the completion of a performance evaluation evidencing an overall rating below satisfactory and completion of a subsequent evaluation with a satisfactory better overall rating.

E. Written Notice

Written notice of layoff shall be served on affected employees in person or by certified letter mailed to the last address on file with the Court's Human Resources Division. Notice will be served or mailed at least thirty (30) calendar days prior to the effective date of the separation. Notice shall be deemed served upon return of a delivery receipt or receipt showing attempted delivery.

F. Demotion in Lieu of Layoff

In lieu of being laid off, a regular employee who had been identified as the employee to be laid off may elect to voluntarily demote within the Court to a lower paid represented classification in the same series, to a classification previously held, or to a lower paid represented classification for which the employee meets the minimum qualifications. The employee electing to "bump" to a lower paid represented classification will be required to serve Court probation not to exceed a period of six (6) months. Less senior employees who may be displaced as a result of demotion actions shall in turn be subject to the provisions of this section. In order to exercise these options, the employee affected must so advise the Director of Human Resources in writing no later than seven (7) working days after receiving notice of layoff.

G. Transfer in Lieu of Layoff

In lieu of being laid off, an employee may request to voluntarily transfer or demote to a vacant position in another division/unit in the same or comparable classification, to a classification previously held or classification for which the employee meets the minimum qualifications. Such requests require approval by the Executive Officer/designee.

H. Re-employment Rights If Probation Failed

During a reduction-in-force, employees in classifications represented by the Union who select the option to voluntarily demote in lieu of bumping and fail probation in the new position may elect to retain their previously held classification and re-employment rights per Section 24, subsection I below.

I. Re-employment

For a period of one (1) year from the effective date of layoff or voluntary demotion in lieu of layoff, no regular position in the affected classification in the Court shall be

filled without first providing employees possessing rights to re-employment with an opportunity to be rehired.

Re-employment lists shall be in inverse order of layoff or voluntary demotion in lieu of layoff with the most senior employee from amongst those laid off, re-hired first. Such re-employment would be at the same salary step or the salary range assigned such classification and with the same seniority as the employee had earned at the time of layoff or voluntary demotion in lieu of layoff. Benefits paid out at the time of separation such as vacation or sick leave may be bought back at employee expense. Written notice of the re-employment opportunity shall be sent by certified mail to the last known address of the former employee by the Human Resources Division. The former employee shall have seven (7) calendar days to respond to the notice.

J. Administrative Decisions

The Director of Human Resources is authorized to render decisions resolving questions of seniority, performance, minimum qualifications, and continuous service incident to the administration of this section.

K. Appeals

Persons subject to layoff or demotion under these provisions may appeal to the Director of Human Resources any allegation of error, fraud or irregularity in the application of the reduction-in-force procedures. The affected person may, within seven (7) days after receipt of the decision of the Director of Human Resources, appeal the decision. An appeal shall be filed in writing with the Director of Human Resources. The Director of Human Resources shall forthwith transmit the appeal request to the Executive Officer who will render a decision within seven (7) working days.

L. Special Circumstances

Employees assigned to a position on the basis of bona fide occupational qualification may be exempted from the reduction-in-force list for their classification where those skills are necessary to continue the level of service rendered by the program.

M. Seniority Lists

The Court agrees to provide the Union's officially designated representative, with the seniority list for each classification in the Court bargaining units affected by reduction-in-force actions, prior to the time the notice of layoff is submitted to the affected bargaining unit employee.

The Union agrees to take all due precautions to insure that the information on the list will be used for no purpose other than Union representation of employees affected by a reduction-in-force action and will not be used in any manner so as to harm the confidentiality or right to privacy of members of the bargaining unit. The Union

agrees to indemnify, defend, and hold harmless the Court, its employees and agents against damages, or claim of whatever nature arising out of the Union's control and use of such lists.