

## ARTICLE 16

### LAYOFF, RECALL AND RESIGNATION

- 16.1 Management Rights. NAPE/AFSCME recognizes the right of the Agency to layoff or to reduce hours of employment at the Agency's sole discretion so long as such layoff takes place in accordance with procedures set forth in this Article and observes all rights of the employees protected by this Agreement. Such procedures shall not apply to temporary layoff of less than thirty (30) calendar days within a twelve (12) month period.
- 16.1A The Agency agrees to provide to NAPE/AFSCME a copy of any Request for contract proposals (RFP) which would result in the loss of one (1) or more permanent position(s) in the Agency. This RFP copy is to be provided to NAPE/AFSCME at the same time it is distributed to the media and/or vendor(s).
- 16.2 Layoff General Rules. When a layoff of employees holding positions in Appendix A occurs the following general rules shall apply:
- 16.2A Layoffs shall be identified by the budget and program areas within a specific locality. The Agency shall identify the classification(s) and affected positions within classification(s) for layoff to provide the most efficient and productive operation of the Agency. Within the identified classifications, the order of layoff will be based on seniority (based on the employee's adjusted service date with the Agency). For the purposes of bumping rights, only the employee's agency service date or agency adjusted service date is considered as opposed to any adjusted service date that is calculated due to prior state service at another state agency.
- 16.3 Layoff Plan. Prior to a layoff notice being issued per Section 16.4, NAPE/AFSCME and the Agency shall meet to discuss and assure compliance with procedures outlined herein, protection of the rights of employees affected by such layoffs, and possible alternative means of dealing with the problem which gave rise to the layoff. The layoff plan shall be provided to NAPE/AFSCME at least ten (10) work days prior to the meeting between the Agency and NAPE/AFSCME, unless such time period is waived in writing by NAPE/AFSCME.
- 16.3A The layoff plan shall at a minimum include the following:
- 16.3A1 The employees to be laid off and positions eliminated, including names, job classifications and work sites of the affected employees;
- 16.3A2 The reason for the layoff (i.e., reduction in work load, reduction in funding);
- 16.3A3 Whether the layoff is geographical, organizational (a particular team), functional (a particular classification or program), financial, or other;
- 16.3A4 The effective date of the layoff; and,
- 16.3A5 Specific relocation alternatives available to laid off employees within the Agency.
- 16.4 Layoff Notice to Employees. The Agency will notify the affected employee(s) holding positions in Appendix A in writing as soon as they are formally identified for layoff, but not less than thirty (30) work days in advance of the layoff date. Upon being identified for layoff, affected employees shall have the right to schedule and take up to ten (10) work days of leave without pay during the notice period for interviews, traveling, resume preparation, and other activities associated with securing new employment.

16.4A The Agency agrees that it will:

16.4A1 Request job vacancy and placement information from DAS State Personnel and Nebraska state college and university offices and have it available in a convenient location for all employees laid off under this Section. Access to such information shall continue to be available upon request to all employees laid off under this Section throughout the period of recall and re-employment identified in Section 16.11.

16.4A2 Provide information on sources of employment seeking skills.

16.5 Transfer Rights – Vacant Positions. Subsequent to providing layoff notice per Section 16.4, the Agency shall provide all laid off employees occupying positions identified in Appendix A with all necessary information for the employee to determine what positions are available in order for the employee to exercise the transfer rights under this Section. If there is a vacant bargaining unit position in the Agency, for which the employee satisfies the qualification requirements as determined by the Agency, the employee may elect to transfer to such vacant position.

16.5A Within eight (8) calendar days of a laid off employee being provided such information, the employee must notify the Agency in writing of any intentions to transfer in accordance with this Section.

16.5B If more than one laid off employee elects to transfer into a vacant position, the selection will be made based on seniority.

16.5C In determining the priority of transfers identified in this Section, transfers to vacant positions in the same geographical area (i.e., within sixty [60] miles) shall be given priority over transfers to positions in a different geographical area.

16.5D An employee who transfers to another position in the same classification or pay grade shall be transferred so as to effectuate no loss in pay.

16.6 Bumping Rights. Subsequent to providing the layoff notice per Section 16.4, the Agency shall provide all laid off employees occupying positions identified in Appendix A with all necessary information for the employee to determine what bargaining unit positions are available in order for the employee to exercise the rights under this Section. Based on seniority, those employees may bump into the non-vacant position held by the least senior employee in the same classification, for which that employee satisfies the qualification requirements, as determined by the Agency, if no transfer positions were available per Section 16.5. However, if the least senior employee's permanent duty station is not in the same geographical area (i.e., within sixty [60] miles) of the laid off employee's permanent duty station, the laid off employee may elect to bump into the non-vacant position held by the least senior employee in the classification within the laid off employee's geographical area.

16.6A Within eight (8) calendar days of a laid off employee being provided such information, the employee must notify the Agency in writing of any intentions to bump in accordance with this Section.

16.6B If more than one laid off employee elects to bump into a position, the employee with the most seniority will be allowed to take the position.

16.6C An employee who is laid off because another laid off employee has bumped into their position under Section 16.6 shall have all the rights of a laid off employee including transfer in lieu of layoff.

16.7 Emergency Layoff Provisions. Only in the event (i.e., Special Session of the State Legislature, permanent impoundment or reduction of funds by the federal government or similar circumstances) the Agency receives official notice of a pending funding reduction from a particular funding authority, which imposes the funding reduction in less time than is required to meet the notice requirements in Sections 16.3 and 16.4, the following emergency layoff provisions shall govern the layoff.

- 16.7A In lieu of the provisions in Section 16.3, the Agency and NAPE/AFSCME shall meet within five (5) work days after the date the Agency mails the reduction in force notices to discuss the layoff plan and to discuss and assure compliance with the procedures outlined herein, protection of the rights of employees affected by such layoffs, and possible alternative means of dealing with the emergency that gave rise to the layoff. In addition to the requirements specified in Section 16.3A, the layoff plan will establish the date the Agency received notice of a funding reduction.
- 16.7B Upon being given notice for layoff under this Section, affected employees shall be allowed to schedule and take up to ten (10) work days of leave without pay during the notice period for interviews, traveling, resume preparation, and other activities associated with securing new employment.
- 16.7C The Agency agrees that it will:
  - 16.7C1 Request job vacancy and placement information from DAS State Personnel and Nebraska state college and university offices and have it available in a convenient location for all employees laid off under this Section. Access to such information shall continue to be available to all employees laid off under this Section throughout the period of recall and re-employment identified in Section 16.11.
  - 16.7C2 Provide information on sources of employment seeking skills.
- 16.7D Official notice for all funding sources means the final official action which determines that the provisions of a bill will become effective. Official notice for Cash and Revolving Funds may also be notice from the external funding source that funds are or will be terminated. Official notice for federal fund sources may also be written notice by the Federal funding agency of intent not to fund a discretionary grant program.
- 16.8 Recall and Re-employment. This Section specifies how laid off employees shall be either recalled or given re-employment opportunities for vacancies created following a layoff.
  - 16.8A Recall to Previously Eliminated Position. Following a layoff, when a position previously eliminated is restored, the employee occupying the position at the time of reduction in force shall have first recall priority subject to Sections 16.8B1 through 16.8B2.
  - 16.8B Recall to Vacancy in the Same Classification Series. Following a layoff, when a vacancy is created in the same classification series, employees who satisfy the required qualifications as determined by the Agency shall be recalled in reverse order of a layoff or transfer in lieu of layoff as follows:
    - 16.8B1 At the time the vacancy occurs, the Agency shall notify the first five (5) qualified employees in line for recall of the vacancy.
    - 16.8B2 Such employee(s) shall then have ten (10) work days following date of notification to accept or refuse the recall by providing written notice to the Agency. The recall vacancy will be offered to the employee with the most seniority who provides written acceptance within ten (10) work days.
  - 16.8C Failure to Respond. Employees who fail to respond by either accepting or refusing the recall vacancy on two (2) successive notifications shall forfeit further recall rights per Sections 16.8A and 16.8B.

- 16.8D Re-employment Opportunities. In the event that a vacancy occurs as provided in Section 16.8B and there are no persons laid off or transferred in lieu of layoff who held a position in the classification series at the time layoff began, the Agency shall notify all laid off employees of the vacancy and the qualifications required to hold the position. Such employees shall then have ten (10) calendar days following receipt of such notice to apply for said position. The Agency has the right to hire the most qualified applicant. The pay rate of an employee who occupies a position of a lower classification as a result of recall from layoff or re-employment shall be set in accordance with Section 11.3B.
- 16.9 Financial Assistance for Relocating. In cases in which employees have received state financial assistance in geographically relocating to avoid layoff, there shall be no requirement for such assistance if recalled to their previous position.
- 16.10 Waive Rights. Employees may waive their rights to receive recall and re-employment notices by providing a written statement to the Human Resources Office.
- 16.11 Time Period for Recall and Re-employment. During the twelve (12) month period following layoff or transfer in lieu of layoff of the employee, no new employees will be hired to fill vacant positions until all employees on layoff or transfer in lieu of layoff who desire to return to work and who are qualified for the vacant position(s) have had the opportunity to be recalled per Sections 16.8A and 16.8B or re-employed per Section 16.8D. It shall be the responsibility of the employee who was laid off or transferred in lieu of layoff to be available for recall or re-employment during such time, and such employee shall be responsible for providing the Agency with a current address. It shall be the responsibility of the employee who was laid off or transferred in lieu of layoff to update and/or supplement the written documentation in their personnel file regarding their employment qualifications so as to allow the Agency to evaluate their eligibility for recall or re-employment under Sections 16.8A, 16.8B and 16.8D.
- 16.12 Accumulated Leave Payoff. Employees who are laid off shall be paid at the time of layoff for all accumulated and unused vacation leave, sick leave if eligible under Section 15.2I, compensatory time, and overtime.
- 16.13 Agreement Coverage. In cases in which reductions in force procedures extend from one Agreement period to another, the terms of the Agreement in effect when notification of layoff is given shall govern.
- 16.14 Notification. "Notification," as used in Article 16 shall mean Certified Mail to the employee's last known address, or personal delivery or deposit at the last known residence. In the event of personal delivery, a receipt acknowledging delivery will be signed by the laid off employee.
- 16.15 Resignation. A resignation is effective when accepted in writing or orally by a supervisor or any member of the Agency's Human Resources Office or the Agency's General Counsel's Office.
- 16.15A Absent extenuating circumstances, an employee will be considered as abandoning his/her job if absent from their designated work site more than two (2) consecutive work days without giving notice. Abandonment is considered a voluntary resignation.