

POLICY

Layoff and Recall

LAST REVISED ON 04/2020

This policy applies to: All staff. (Those represented by a collective bargaining unit should refer to their agreements.)

I. Policy

A layoff is defined as an action involving the reduction of staff necessitated by lack of work or other reasons. As described more fully below, employees will be selected for layoff on the basis of a criteria-based evaluation of ability, performance and seniority, with the greatest emphasis being placed ability, then performance, and then seniority. Recalls to work will generally be in the reverse order of layoffs.

Note: Department administrators **must** contact Human Resources (HR) for assistance with planning the restructuring of their organizations and planning and implementing layoffs.

NOTE: FOR PROTOCOLS RELATED TO CORONAVIRUS PLEASE SEE ADDENDUM

II. Guidelines

A. A department is defined as each unit that has a specific departmental number assigned in the University Division/Department System.

B. Temporary Layoff: A temporary layoff is a period of employer-initiated unpaid leave with the expectation of recall to work within 4 months from the time the layoff begins.

1. Staff members on temporary layoff are not eligible for severance pay
2. Staff members on temporary layoff as a result of the academic calendar need not be considered for temporary assignment to vacancies for regular positions.
3. If the status of a layoff is changed to “indefinite” layoff, the provisions for indefinite layoff, outlined in II C. will be implemented. The effective date of the indefinite layoff will be the same as the effective date of the temporary layoff.

C. Indefinite Layoff: An indefinite layoff is an employer-initiated unpaid leave of more than four months or of unspecified duration.

1. Staff members who do not obtain alternate employment, either within or outside the University, will be terminated one calendar year after the last day of work.

D. Severance Pay: Staff members with one year or more of University service who are indefinitely laid off may be eligible to receive severance pay. Severance pay will be paid to eligible staff not obtaining other University employment or comparable employment outside the University by the end of the pay period following the effective date of layoff. In order to be eligible for severance pay under this Policy, eligible staff also may be required to sign (and not revoke) a Confidential Separation Agreement and General Release, that may include (among other things) a release of any and all claims that you may have or that may arise against the University (to the extent allowed by applicable law).

Severance Pay Entitlement

Less than one year = no severance

1-5 years of employment = 4 week's base pay

6 or more years of service = one week of base pay for each year of service, prorated, with a maximum of 26 week's base pay

E. Criteria for Determining Staff to be Laid Off

1. All decisions will be made on the basis of University needs, the requirements of work involved, and without regard to age, color, disability, ethnicity, gender identity or expression, genetic information, marital status, military/veteran status, national origin, race, religion/creed, sex, sexual orientation or any other status protected by law.
2. In no instance should a layoff process be utilized simply as a means of resolving unsatisfactory performance. (Note: This does not mean that performance cannot be considered in the layoff process. See #4 below.)
3. Management must work in collaboration with HR to determine those functions or

job classifications to be affected by the reduction in force within a particular administrative unit, department or work group.

4. When a reduction in staff is necessary within a job classification or function within an administrative unit, department, or work group, new hires with less than six months of University service, temporary and TAR staff within that job classification shall be removed first and their employment terminated. All temporary (Strong Staffing or agency) assignments will end.
5. Staff members in the administrative unit, department, or work group affected will be laid off after an evaluation of ability, performance and a review of related documentation, and seniority. Departments must collaborate with HR throughout this process.

Skills and competencies of the employees will be evaluated in accordance with criteria developed for each available position. Criteria shall include, but not necessarily be limited to, the employees' skills and competencies in the areas of analysis, effectiveness, execution, innovativeness, technical proficiency and business knowledge.

Performance will be determined through examination of performance evaluations and any performance-related documentation of record since the last performance evaluation.

Seniority will be determined with reference to University service among employees in the classification in the department affected by the layoff.

Points will be assigned to each of the three areas, and weighted so that ability is

multiplied by a factor of 5, performance by a factor of 3 and seniority by a factor of 2. The University may modify any part of these procedures where necessary to meet business needs.

6. **Alternative to Layoff:** As an alternative to reduction of staff within a job classification within a department by layoff, a dean or director may reduce the number of hours or days to be worked in a workweek by some or all of the staff members within the affected job classification. Such a reduction may not exceed 20% of an individual's schedule for the job classification in that department.
- a. An employee who declines a reduction in hours of no more than 20% is not eligible for layoff status but may seek a transfer or voluntarily resign.
 - b. When a full-time position is eliminated and replaced with a part-time position and would result in a salary reduction of 20% or more, the incumbent is eligible for layoff status.
 - c. When a regular part-time position is eliminated and replaced with a full-time position, the incumbent is eligible for layoff status if he or she is unavailable to work the required fulltime schedule.

F. Work Status: A staff member on layoff (temporary or indefinite) may work TAR (time-as-reported) in the department affected by the layoff or through Strong Staffing if work is available and the staff member meets the qualifications of the work available. The staff member will not jeopardize his or her layoff status.

G. Referral of Staff Affected by Layoffs to Existing Vacancies:

1. Referrals will be made to classifications for which laid-off staff members are

qualified. Job candidates will compete for internal positions in accordance with the selection criteria applicable to that job.

2. It is the responsibility of the staff member notified of a pending layoff or who is on layoff to cooperate in efforts to achieve suitable alternative placement at the University. Staff will be expected to keep abreast of available jobs, be available to accept appointments for interviews and, in general, work with Human Resources to find alternative positions.
3. Supervisors who have vacancies will be expected to cooperate with Human Resources and agree to transfers of qualified employees referred by Human Resources, provided the candidate is the most qualified for the position
4. Failure to accept placement in a position for which the employee is qualified and which provides at least 80% of the former annual salary will be considered a voluntary resignation on the part of the employee and will end layoff status.

H. Recall

1. **Position Vacancies:** If a department re-opens a position within one calendar year from the date a staff member was laid off from that position, the staff member can automatically be recalled to that position vacancy unless he or she is employed elsewhere in a position in the same classification.
2. **When a recall occurs,** an on-line staff requisition change form (610) should be submitted to the HR Service Center indicating return-to-work date.

I. If a staff member becomes employed in a comparable position outside the University during the 12 months following the effective date of the layoff, the University will process termination and the layoff rights/benefits will be discontinued.

J. Benefits during Layoff

1. **Temporary Layoff:** Staff on **Temporary** Layoff will be eligible for the benefits outlined below regardless of the length of their University service if eligibility requirements are met and service time is not affected.
2. **Indefinite Layoff:** Staff members **with less than two years of service** are not eligible for continued coverage in any benefit plans during layoff, except the protection available to terminating staff. However, any staff member on indefinite layoff will not lose service time if recalled to work or an alternative placement is obtained within one year of the effective date of layoff.

For those with two or more years of service:

Health Care Plans: Health Care plan coverage will be continued unless the staff member signs a form canceling this coverage. Staff members who choose to continue this coverage during the layoff period will be billed and will need to pay their share of the premium. Staff must continue to pay their share of the premium to continue coverage through the University. If the University does not receive payment for the coverage, the coverage will be terminated on the last day of the month for which the premium has been paid in full and notification of the coverage cancellation will be sent to the staff member's home address from the University.

Dental Plans: Dental plan coverage will be continued unless the staff member signs a form canceling this coverage. Staff members who choose to continue this coverage during the layoff will be billed and will need to pay their share of the premium. Staff must continue to pay their share of the premium to continue coverage through the University. If the University does not receive payment for the coverage, the coverage will be terminated

on the last day of the month for which the premium has been paid in full and notification of the coverage cancellation will be sent to the staff member's home address from the University.

Health Care Flexible Spending Accounts (FSAs): FSA participation stops as of the effective date of the layoff. Staff who return to work in a benefits- eligible position and wish to elect an FSA must enroll within 30 days of their return. Staff with FSA accounts must elect COBRA continuation coverage, and remit after-tax contributions, to submit eligible expenses incurred during layoff. Otherwise, staff will have 90 days from the layoff date to submit eligible expenses incurred prior to the FSA cancellation date.

Dependent Care Flexible Spending Accounts (FSAs): FSA participation stops as of the effective date of the layoff. Staff who return to work in a benefit eligible position and wish to elect an FSA, must enroll within 30 days of their return. Staff will have until the end of the plan year to submit eligible expenses incurred during the plan year. The amount available for reimbursement is limited to the amount credited to their Dependent Care FSA, less any prior reimbursements.

Health Savings Accounts (HSAs) **: HSA contributions via payroll deduction stop as of the effective date of layoff. If you return to work in a benefit eligible position and you wish to elect HSA contributions, you must enroll at that time. Staff may contact their third-party administrator (TPA) for details: Aetna/PayFlex (888) 678-8242 (tel:8886788242) or Excellus/HSA Bank (800) 357-6246 (tel:8003576246).

***Staff who are enrolled in an HSA-eligible plan and satisfy certain other requirements can make contributions to an HSA. Staff enrolled in an HSA-eligible plan and eligible to contribute to an HSA, may contribute directly to their HSA, outside of payroll deductions, at any time, as long as they do not exceed the annual maximum.*

Group Life Insurance: University-Paid Basic Term Life insurance and University- Paid Basic Accidental Death & Dismemberment (AD&D) coverage through Securian Financial will be continued. Any Group Universal Life (GUL), Optional Accidental Death & Dismemberment (AD&D), and/or Dependent Group Term Life insurance coverage that a staff member has elected also may be continued unless the staff member signs a form canceling this coverage. Staff members who do not cancel their optional coverage during layoff will be billed by Securian Financial and will need to pay Securian Financial for the coverage to continue during layoff.

YOUR Benefits Extras: Coverage for the VSP Vision Care Plan and Hyatt Legal Plan will be suspended during a layoff. Any Auto & Home insurance will be continued. Staff members who do not cancel their Auto & Home insurance coverage will be billed directly by the carrier.

University Home Ownership Incentive Program: Staff remain eligible for the University Home Ownership Incentive Program during layoff.

Vacation: Vacation time does **not** accrue during layoff. When a staff member is placed on an **indefinite** layoff, payment of accumulated vacation consistent with UR policy is made. Upon return to work in a benefit eligible position, vacation accrual will begin again.

Paid Time Off (PTO), if applicable: PTO is not earned during layoff. When a staff member is placed on indefinite layoff, payment of the PTO bank is made. Upon return to work in a benefit eligible position, the staff member will become eligible for PTO consistent with the guidelines in Policy #340, Paid Time Off (PTO).

Sick Leave: Sick leave does **not** accrue during layoff. A staff member who becomes disabled within four weeks of the effective date of the layoff may qualify for statutory sick pay benefits during the period of disability.

Upon return to work in a benefit eligible position, sick “days” (if applicable) will be pro-rated for staff in nonexempt job classifications based on the length of the layoff. This does not apply to Professional, Administrative and Supervisor (PAS) staff paid hourly.

Long-Term Disability: During a **temporary layoff**, Long-Term Disability insurance in effect prior to layoff is continued, unless the staff member signs a form canceling the coverage. Full-time employees who choose to continue Full Long-Term Disability insurance and part-time employees, who choose to continue either Limited or Full Long-Term Disability insurance, will be billed and will need to pay their share of the premium. (Staff must continue to pay their share of the premium to continue coverage through the University. If the University does not receive payment for the coverage, the coverage will be terminated on the last day of the month for which the premium has been paid in full and notification of the coverage cancellation will be sent to the staff member’s home address from the University.)

During an **Indefinite layoff**, Long-Term Disability insurance is suspended. Upon return to work in a benefit eligible position, Long-Term Disability will be reinstated.

Retirement Program: The University’s Direct Contribution to the Retirement Program is suspended during Layoff. Any Voluntary Contributions made by a staff member would be suspended during layoff since contributions to these portions of the University Retirement Program are made through salary deductions.

Tuition: Tuition benefits for a staff member who has met service requirements prior to layoff can be claimed during layoff as though the individual were actively at work. For completion of service requirements for tuition benefits, time on **Indefinite Layoff** does not count. Time on **Temporary Layoff** not later changed to **Indefinite Layoff** does count toward service requirements for those on regular full-time or part- time status immediately prior to layoff.

Travel-Accident Insurance: During a layoff, Travel-Accident Insurance is suspended. Upon return to work, Travel-Accident Insurance will be reinstated.

Eligible staff on **Temporary** or **Indefinite** Layoff will not lose service time if they return to work in a benefit eligible status within one year of layoff and without having terminated the employment relationship.

Detailed information on the benefit plans is available on the Benefits website (<http://www.rochester.edu/benefits>). A paper copy of this information also is available for free from the Benefits Office.

III. Procedure

A. Notification: Departments must send written notification to Human Resources immediately upon contemplation of a layoff. Departments must work with Human Resources to determine all status changes that occur during a layoff (e.g. changes from temporary to indefinite layoff status or recall to work).

Staff members must be given as much advance notice as possible when being notified of a layoff. In no case should any employee be given less than a four-week notice or asked to leave in less than a four-week timeframe. In very limited circumstances, the CHRO of the University may approve less than a four-week notice period after consultation with the University President. Any request for a reduced notice period must be submitted in writing and approved by the CHRO in advance of any communication to impacted employees. It is an expectation that each staff member impacted by a layoff be treated with the utmost respect, dignity and compassion.

B. Layoff of New Hires with Less Than Six Months of Service, TAR, and Temporary Staff: Departments shall submit an on-line staff requisition change form (610) terminating employment effective on the last day worked by the staff member. The reason for termination should be shown as “Termination” and noted as “Elimination of Position.” The form should be approved by the HR Business Partner along with other divisional approvers and then submitted to the HR Service Center.

C. Temporary Layoff: Departments should submit an on-line staff requisition change form (610) placing the staff member on temporary layoff. Upon **recall**, an on-line staff requisition change form (610) should be submitted to the HR Service Center indicating return-to-work date. Duration of the temporary layoff is to be noted by specific dates.

D. Indefinite Layoff

1. Departments should submit an on-line staff requisition change form (610) to HR Service Center placing the staff member on “indefinite layoff” using the reason of “Leave/Layoff” and the reason of “Indefinite Layoff with Benefits”. Accrued vacation due to staff member should be indicated in the “**Remarks**” section on the PAF. [The effective date of layoff should be the last day worked].
2. One calendar year after the last day of work, the staff member’s status will be changed to terminate if the individual has not been recalled or returned to work.

E. Unemployment Insurance: Staff on layoff are generally eligible for unemployment insurance upon discontinuation of University pay as provided by State Law. Such pay covers pre-designated pay periods under unemployment insurance regulations.

See also:

[#133 Recruitment and Selection \(https://www.rochester.edu/policies/policy/](https://www.rochester.edu/policies/policy/#133)

- [recruitment-selection/](#))

[Staff Layoff Guide for Leaders \(http://www.rochester.edu/working/hr/policies/](http://www.rochester.edu/working/hr/policies/)

- [pdfpolicies/354_Layoff_Guide.pdf](#))

IV. Coronavirus Addendum

Subject: Furlough and Recall Due to Financial Impacts of Coronavirus (COVID-19)

Applies to: All staff. (Those represented by a collective bargaining unit should refer to their agreements.)

Guidelines: Effective 4/22/2020, the following guidelines will be followed where there is a need to reduce costs through staff reductions in order to mitigate the financial impact to the University of Rochester as a result of the Coronavirus (COVID-19) pandemic.

A. Senior Leadership (those who report to the President) will determine the need to take actions related to staff reductions based on an assessment of fiscal necessity and operational needs, which includes an evaluation of the potential for continuation or elimination of programs and services in the future.

B. An evaluation will occur by Senior Leadership (or their designee) to determine if a broad enterprise approach will need to occur or if determinations will occur at a particular operational division level.

C. Where there is a determination that a staff reduction is necessary and can or should be managed within a division, the Senior Leader supervising the division in consultation with Operational Leaders he or she designates and Human Resources will first evaluate whether cost savings can be reached through attrition (i.e. open positions, planned retirements and termination of employment in the normal course of business). If this does not appear likely to result in the necessary financial outcome then Senior Leadership, Operational Leaders and Human Resources will develop a strategy for how to best meet operational needs and financial requirements, while considering the impact on employees. This strategy will include consideration of which method(s) of staff reduction is appropriate (Section D below) and which job classifications can be reduced with the least operational impact on the University's ability to meet strategic goals.

D. As designated by Senior Leadership, Operational Leaders along with Human Resources will determine what staff reduction methodology will be implemented and may include the following:

1. **Furlough:** offers an alternative to layoff and provides flexibility in considering alternate scheduling, tends to cover defined periods of time and may, at the University's discretion, allow for employee input regarding when a furlough would be scheduled. A furlough is a University initiated defined period of unpaid time with no work or a reduction of work hours (and associated pay), where a recall is expected. Vacation or PTO pay may not be used during a furlough. Employees on furlough for one full pay period or longer follow the guidelines for temporary layoff, found in section II.J.1. above. Employees on a furlough schedule are considered active for the purpose of University benefits during any pay period in which they work. Employees will be required to pay their share of premiums for any benefits, such as health insurance, for which they are eligible and that they wish to continue.
2. **Temporary Layoff:** as outlined in the policy above would be unpaid for a period

less than 4 months with the expectation of a recall to work and continuation of benefits. Employee(s) will have the ability to use accrued vacation, should they choose.

3. **Indefinite Layoff:** as outlined in the policy above, would be unpaid for a period of more than 4 months where there is no expectation of a recall to work and where the employee with 2 or more years of service would be eligible for benefits through the layoff period, provided that the employee pays his/her portion of any premiums due for such benefits. An employee with one or more years of service would be eligible for severance.

E. Senior and Operational Leaders, along with Human Resources, will determine the job classifications, and the number of people in each, that will be impacted. This will be based on how to best meet financial needs of the University while continuing business operations needed to meet the University's strategic goals.

F. Once the impacted job classifications have been determined, Operational Leaders in consultation with Human Resources will conduct an evaluation of all employees in the classification in the impacted department or group. They will evaluate employees' skills and competencies, performance and seniority as noted above in section II, and follow the process outlined therein.

G. Where operationally feasible, and at the University's discretion, employees may be offered the opportunity to self-identify for the applicable staff reduction. Notification of an opportunity to self-identify would be provided to all employees in the impacted department/group and in the impacted classification(s). A request by an employee to be included in the staff reduction is subject to approval based on the operational and strategic needs of the University.

H. Criteria for Determining Staff to be Furloughed:

1. All decisions will be made on the basis of University needs, the requirements of work involved, and without regard to age, color, disability, ethnicity, gender identity or expression, genetic information, marital status, military/veteran status, national origin, race, religion/creed, sex, sexual orientation or any other status protected by law.
2. In no instance should a furlough process be utilized simply as a means of resolving unsatisfactory performance. (Note: This does not mean that performance cannot be considered. See #5 below.)
3. Operational Leaders must work in collaboration with Human Resources to determine those functions or job classifications to be affected within a particular administrative unit, department or work group.
4. When a furlough is deemed necessary within a job classification or function within an administrative unit, department, or work group, temporary and TAR staff within that job classification shall be removed first and their employment terminated. All temporary (Strong Staffing or agency) assignments will end.
5. Staff members in the administrative unit, department, or work group affected who are not working full time in either their regular position or a reassigned position, or who have not already been reassigned to full-time work in another position, will be reviewed for furlough after an evaluation of skills and competencies, performance and a review of related documentation, and seniority. Operational Leaders must collaborate with Human Resources throughout this process.

Skills and competencies of the employees will be evaluated in accordance with criteria developed for each available position, which criteria shall include, but not

necessarily be limited to, the employees' skills and competencies in the areas of analysis, effectiveness, execution, innovativeness, technical proficiency and business knowledge.

Overall performance will be reviewed as a factor in determining candidates for furlough.

Seniority will be determined with reference to University service among employees in the classification in the department affected by the furlough.

I. Staff on furlough or layoff would not be permitted to perform work of any kind for the University.

J. Consideration should be given to strictly reducing or eliminating access to University emails and systems to prevent the continuation of work by furloughed employees, as employees are not permitted to work for the University while on furlough.

K. Notification must be provided to staff members in advance of the staff reduction action and should follow the procedures outlined in section III above.

L. As noted above in III.E, staff on layoff or furlough may be eligible for unemployment. Determination of eligibility is made by NY State Department of Labor.

The University reserves the right to interpret, amend, modify, or terminate this policy at any time.

ABOUT THIS POLICY

Policy Number

354

Policy Group

Human Resources

Issuing Authority

Human Resources

Responsible Officer

John Spuhler

Contact Information

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ADDITIONAL RESOURCES

[Determination and Implementation of Staff Layoffs \(http://www.rochester.edu/working/hr/policies/pdfpolicies/354_Layoff_Guide.pdf\)](http://www.rochester.edu/working/hr/policies/pdfpolicies/354_Layoff_Guide.pdf)

RELATED POLICIES

[Termination \(https://www.rochester.edu/policies/policy/termination/\)](https://www.rochester.edu/policies/policy/termination/)

[Flexible Scheduling \(https://www.rochester.edu/policies/policy/flexible-scheduling/\)](https://www.rochester.edu/policies/policy/flexible-scheduling/)

[Recruitment and Selection \(https://www.rochester.edu/policies/policy/recruitment-selection/\)](https://www.rochester.edu/policies/policy/recruitment-selection/)

POLICY KEYWORDS

[Benefits \(https://www.rochester.edu/policies/all/?filter%5Btopics%5D=306\)](https://www.rochester.edu/policies/all/?filter%5Btopics%5D=306)

[Compensation \(https://www.rochester.edu/policies/all/?filter%5Btopics%5D=326\)](https://www.rochester.edu/policies/all/?filter%5Btopics%5D=326)

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