



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 1 of 11

I. SCOPE

This policy applies to layoff of covered employees (as defined below) of the College of William & Mary, including the Virginia Institute of Marine Science (the university). This policy does not apply to involuntary termination for reasons related to conduct or performance, including termination for cause, which is addressed in the university Policy on Performance Planning and Evaluation for Operational Employees and State (DHRM) Policies 1.60 and 1.70.

II. PURPOSE

This policy establishes criteria to be used in the event the university needs to reduce the number of operational employees or to reorganize the workforce.

III. POLICY STATEMENT

The university may reduce the number or types of positions or reorganize the workforce in response to budget restrictions, programmatic needs, internal reorganization, work force downsizing, or for other reasons unrelated to employee performance or conduct. The decision to reduce or reconfigure university positions, and the implementation of any resulting layoffs, shall be made in accordance with this policy. All employment actions made in connection with such a decision will be made in compliance with applicable law and university discrimination policies.

IV. DEFINITIONS

Agencies: For purposes of this policy, state institutions of higher education and executive branch agencies of the Commonwealth of Virginia.

Blue Card: A preferential hiring card, as described under Section V(D)(1) below.

Covered Employees: Employees covered by this policy. Covered employees are salaried operational employees. An employee in a restricted position or part-time salaried position is covered by this policy only if:

- the employee held a full-time non-restricted position immediately prior to the position being discontinued, and
- there was no break in service between the full-time non-restricted position and the restricted or part-time position.

See also Section V(C)(1)(a), below. See university Classification Policy for a definition of "operational employees."

Demotion in Lieu of Layoff: A position offered to an employee that has a lower pay range than the position currently held by the employee.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 2 of 11

Discharge: Involuntary termination from university employment for reasons related to conduct or performance, including termination for cause.

Layoff Effective Date: The effective date as specified in the layoff notice (Form L-1).

Leave Without Pay-Layoff (LWOP-Layoff): Status of an employee who was involuntarily separated due to the abolishment of his or her position or for reasons other than conduct or performance. An employee who is Discharged is not eligible for LWOP-Layoff.

Length of Service or Seniority Date: The period of continuous service with the Commonwealth of Virginia or the university, beginning with the date of last employment or re-employment. Seniority dates – the beginning date of continuous service – are factors used to determine in which order employees will be affected by layoff, offered Placement Options and offered recall opportunities. The calculation of an employee's seniority date includes approved leaves without pay and periods of Short-Term Disability and Long-term Disability-Working under the Virginia Sickness and Disability Program (VSDP).

Minimally Qualified: With respect to a Placement Option, employees who are determined by management to (1) possess the necessary knowledge, skills, abilities and other bona fide job requirements as outlined in the position description and (2) be able to satisfactorily perform the duties of the position after a six-month period of orientation in the new position. See Section V(C)(2)(a).

Placement Option: A valid vacancy for which an employee has been determined Minimally Qualified. Placement Options may be in the affected employee's current pay range and may include Demotion in Lieu of Layoff.

Pre-Layoff Leave: Paid leave that provides for an employee's compensation for time off for interviews or other job-seeking activities for a maximum of two weeks (up to 80 hours) after the employee has been notified that he or she will be affected by layoff, but prior to the Layoff Effective Date.

Recall Rights: Recall rights provide eligible employees with preferred status for re-hiring by the University See Section V(D)(3), below.

Reemployment Opportunity (Re-Op) Pool: A voluntary program whereby employees on leave without pay-layoff may have their work credentials entered into a centralized data base which can be used by Executive Branch agencies of the Commonwealth in recruiting for vacancies before they advertise or list positions in RECRUIT. See Section V(D).

Relocation: Requiring an employee to move his or her place of residence because of the location of a Placement Option.

Restricted: With respect to a position, either (1) funded 10% or more through a sponsored grant or contract, or (2) a term appointment, with a specified ending date.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 3 of 11

Separated-Layoff: Status of an employee who was involuntarily separated from the university and who refuses a Placement Option or Recall to a position that

- does not require Relocation or a reduction in salary from the employee's salary prior to separation, and
- has a pay range no lower than the pay range of the employee's position prior to separation.

Separated-Layoff does not include termination through Discharge.

Valid Vacancies: Vacant positions that will continue to be funded and, therefore, can be used as Placement Options. See Section V(C)(1)(a), below, for whether employees in non-work status (e.g., on some type of leave) are considered to have vacated their positions for purposes of this policy.

Work Unit: An organizational or business unit or geographic area within the university that can be used to define the scope of a layoff.

V. LAYOFF PROCESS

A. **Steps Prior to Implementing a Layoff.** Before implementing a layoff, the university will:

1. determine if a layoff will impact the entire university or only one or more designated Work Unit(s);
2. designate any business functions to be eliminated, reassigned or reduced;
3. designate Work Unit(s) to be affected, if applicable;
4. identify Valid Vacancies that can be used as Placement Options during layoff;
5. make preliminary identifications of positions to be affected by the layoff, based on the Work Unit(s) and business functions designated, and the specific work performed by employees in the Work Unit involved in the designated work function; and
6. determine whether and to what extent university needs may be met by reducing full-time salaried positions to part-time status rather than eliminated (see also B(1), below).

B. **Implementing a Layoff.** If it becomes necessary to implement a layoff, the following will occur:

1. If the university has determined, as described under A(6), above, that there are salaried full-time positions which can be reduced to part-time status rather than eliminated, the positions to be so reduced will be identified based on their duties and functions, as determined by the university.
However:
 - positions reduced to part-time must provide for a minimum of 20 hours per week;
 - eligible employees who choose to remain in the part-time positions will be eligible for recall rights to full-time positions (see D(3), below) and continuation of health benefits for one year, and



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 4 of 11

- employees who choose not to remain in the part-time positions will be evaluated to determine if they are eligible for layoff benefits under this policy and severance benefits (see university Policy on Severance Benefits for Operational Employees).
2. Determine specific employees affected by layoff, based on the Work Unit(s) and business functions designated, and the specific work performed by employees in the Work Unit. If there are multiple employees in the Work Unit performing substantially the same work who are in positions with the same pay range and Contribution Level, they shall be identified for layoff in the following order:
 - Hourly or wage employees
 - Least senior through most senior part-time restricted employees
 - Least senior through most senior regular part-time employees
 - Least senior through most senior full-time restricted employees
 - Least senior through most senior full-time regular employees.
 3. Determine availability of Placement Options prior to layoff, as described under C(2) below.
 4. If no Placement Options are available for the employees initially identified for layoff, the university may, at its discretion, notify other operational employees in the same Work Unit who are performing substantially similar job duties that an employee or employees are scheduled to be placed on LWOP-Layoff. These unaffected employees may then notify management of their interest in being considered for LWOP-Layoff instead of those originally identified. Management will determine which, if any, interested employees will be allowed to substitute for identified employees. The selection of substitute employees, which is at the discretion of the university, is based on organizational needs, and is not based on seniority.
 6. Offer eligible employees Placement Options, preferential employment, and Pre-Layoff Leave, if applicable and available, as described under C(2) and (3), below.
 7. Determine benefits eligibility of employees to be placed on LWOP-Layoff under university Policy on Severance Benefits for Operational Employees and C(1), below.
 8. If no Placement Options are available, and if the employee has not obtained placement in another Agency, the university will provide the employee with:
 - a layoff notice using the L-1 Form (Attachment), at least two weeks before the Layoff Effective Date.
 - several copies of a Preferential Hiring Card ("Blue Card"), on the business day prior to the Layoff Effective Date
 - an application for the Re-Employment Opportunity (Re-Op) Pool
 - information about any layoff or severance benefits to which the employee is entitled or information about continuing life insurance and health insurance benefits (COBRA), if appropriate, and
 - a final L-1 form, on the Layoff Effective Date.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 5 of 11

C. **Layoff Benefits.** Employees who are eligible for LWOP-Layoff are entitled to receive layoff benefits, unless they are offered and refuse certain Placement Options as described under C(2)(a)(4), below, or are in certain types of non-work status as of the Layoff Effective Date.

1. Eligibility for layoff benefits of employees in non-work status as of Layoff Effective Date. If an identified covered employee is not working as of the Layoff Effective Date, his or her eligibility will depend on the type of non-work status.
 - a. Eligible employees in any of the following non-work statuses generally are covered by the rights and benefits of this policy:
 - Any paid leave
 - Unpaid Family and Medical Leave
 - Unconditional Leave Without Pay (position held)
 - Military Leave Without Pay
 - Short-Term Disability or Long-Term Disability-Working Receiving Workers' Compensation Benefits
 - 1) *Paid Leave, Unpaid Family and Medical Leave, or Unconditional Leave Without Pay.* Employees who are on any paid leave, Family and Medical Leave or Unconditional Leave Without Pay (position held) are considered active employees for the purpose of this policy. Their positions are not considered vacant, and may not be used as Placement Options for other employees impacted by layoff.
 - 2) *Military Leave Without Pay.* Employees on Military Leave Without Pay generally are eligible for placement or recall rights under this policy and for severance benefits. Employees on military leave without pay retain employment rights for five years as stated in the Uniformed Services Employment and Reemployment Rights Act (USERRA). Layoff benefits will be made available to eligible employees on Military Leave Without Pay upon their return if their position was abolished during their absence and no other Placement Option is available upon their return.
 - 3) *Short-Term Disability and Long-Term Disability-Working.* Employees on Short-Term Disability (STD) or Long-Term Disability-Working (LTD-W) under the Virginia Sickness and Disability Program are considered active employees for the purpose of this policy; their positions are not considered vacant. If no Placement Options are available, eligible employees in STD or LTD-W status can concurrently be in a LWOP-Layoff status. The Layoff Effective Date for these employees will be the date designated by the university regardless of their VSDP status.

Eligible employees who move from STD to LTD during LWOP-Layoff retain eligibility for layoff benefits for the duration of their LWOP-Layoff status.



WILLIAM
& MARY

Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 6 of 11

- 4) *Receiving Workers' Compensation Benefits.* Employees receiving Workers' Compensation benefits are considered active employees for the purpose of this policy. Their positions are not considered vacant. At least two weeks prior to the layoff of such an employee, the university must contact the Office of Workers' Compensation to insure that benefits and layoff are coordinated appropriately.
 - b. Employees in the following non-work statuses generally are not covered by the rights and benefits of this policy; therefore, positions formerly held by these employees generally are considered Valid Vacancies and can be used as Placement Options:
 - Long-Term Disability (not working)
 - Conditional Leave Without Pay (position not held).
2. Placement options and other employment opportunities prior to layoff. This policy offers eligible employees affected by layoff various opportunities to acquire other positions before their Layoff Effective Date.
- a. *Placement within the university.* The university will offer Placement Options to eligible employees who are affected by layoff Placement Options and are Minimally Qualified. Employees who decline Demotion in Lieu of Layoff or Placement Options that require Relocation will retain the benefits described in this policy and will be evaluated for severance eligibility.
 - 1) The university will determine whether or not employees are considered Minimally Qualified for specific Placement Options. This determination will be made in consultation with the Office of Human Resources based on position descriptions, a review of an employee's work experience and performance, and any other relevant information.
 - 2) The university will attempt to offer Placement Options at the same contribution level and pay range, such that placement that will not result in a salary reduction. (See university Classification Policy for information on contribution levels and pay ranges.) If no such positions are available, eligible affected employees may be offered Demotion in Lieu of Layoff. Employees accepting Demotion in Lieu of Layoff normally retain their salaries if the salaries are within the pay range of the new position. If an employee's salary is above the pay range maximum, the university may freeze the employee's current salary for a maximum of six months from the placement date, before reducing it to the maximum of the pay range. However, if funding constraints exist, the agency may reduce the salary to the maximum immediately or may offer a lower salary upon placement. Employees that accept Demotion in Lieu of Layoff to a position with a lower pay range in lieu of layoff will retain recall rights for 12 months from demotion.(Section V(D)(3) below)
 - 3) If there is a Placement Option for which more than one employee is Minimally Qualified, and the employees are in the same pay range and contribution level, placement will be offered in order of seniority, as described in B(3), above.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 7 of 11

- 4) An employee who declines a Placement Option that does not require a reduction in salary or Relocation and has a pay range no lower than the employee's current position will be placed in Separated-Layoff status and will not be eligible for the further benefits provided by this policy or for severance benefits. Information about continuing life insurance and health insurance benefits (COBRA) shall be provided to such employees.
 - 5) Valid Vacancies may not be filled by re-assigning employees not affected by the layoff or through new hiring, until after it is determined that no employees affected by layoff are eligible for or interested in those Vacancies.
- b. *Preferential employment in other Agencies prior to layoff.* When notified that they will be affected by layoff, eligible employees will be issued several copies of the Interagency Placement Screening Form ("Yellow Form"). This form is used when applying for a position in another Agency and to secure preferential consideration over applicants who are also from outside that Agency. Employees must be Minimally Qualified in the same or lower role and pay range. (For information on roles and pay ranges, see university Classification Policy.) Employees may decline positions with other Agencies and retain Placement Options with the university, if any are available, and other layoff benefits.
- 1) The Yellow Form cannot be used to apply for promotions.
 - 2) The Yellow Form is valid from the date of issue until the employee's Layoff Effective Date.
 - 3) The Yellow Form should be submitted, along with a completed application form, to Agencies in response to appropriate advertised positions, including positions announced for Agency employees only. To be considered, the advertising Agency must receive the Yellow Form by the announced application deadline.
 - 4) When an employee accepts a position using the Yellow Form, the employee's preferential employment rights cease and any remaining Yellow Forms are no longer be valid.
3. Pre-Layoff Leave. Pre-Layoff Leave is designed to provide employees affected by layoff time off for interviews or other job-seeking activities. Employees may be granted up to 80 work hours of paid leave. Pre-layoff leave is discretionary on the part of the university; availability will be subject to budgetary and other concerns.
- a. Pre-Layoff Leave must be used in the period beginning when the employee receives the initial layoff notice (Form L-1) and ending on the Layoff Effective Date.
 - b. Pre-Layoff Leave can be granted consecutively or intermittently, at the university's discretion, but as with all leave, it must be requested and approved by the supervisor before it is taken.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 8 of 11

D. **Placement Benefits for Employees on Leave Without Pay-Layoff.** While on LWOP-Layoff, employees are eligible for placement benefits including:

- Positions in other Agencies through
 - Preferential Hiring Cards ("Blue Cards") or
 - The Reemployment Opportunity Pool ("Re-Op Pool"), and
 - Recall to positions in the university.
1. Placement using the Preferential Hiring Card ("Blue Card"). Agencies must consider applicants providing Blue Cards before any others except salaried applicants from inside the hiring Agency. (Agency responsibilities for considering employees presenting Blue Cards are described in the State (DHRM) Policy 1.30, Layoff.) Former employees may decline offers of employment obtained through this process and retain Re-Op Pool eligibility, if enrolled, and recall rights within the university.
 - a. Blue Cards are issued on the day before the Layoff Effective Date and are valid from the date of issue through the 12 month duration of an employee's LWOP-Layoff status unless the employee achieves placement using the Card or his or her layoff status ends, as described below.
 - b. Blue Cards must be presented along with a completed state application form to Agencies in response to advertisements for positions that are at the same level as the position held at layoff and for which the employee is Minimally Qualified before the position's closing date. Employees on LWOP-Layoff may apply to the university or other Agencies through normal recruitment processes for positions for which their Blue Cards are not valid.
 - c. Blue Cards may be used while an employee is participating in the Re-Op Pool.
 2. Placement using the Reemployment Opportunity Pool ("Re-Op Pool"). The Re-Op Pool is another means for former university employees to seek employment at other Agencies. Access to the Re-Op Pool begins when an employee is placed on LWOP-Layoff and continues through the duration of the LWOP-Layoff. Employees choosing to participate in the Re-Op Pool must submit applications to the Virginia Department of Human Resource Management (DHRM).
 - a. Employees may participate in the Re-Op Pool while using Blue Cards.
 - b. Employees may decline offers of employment as a result of their participation in the Re-Op Pool and retain preferential hiring rights through their Blue Cards and recall rights within the university.
 3. Recall to positions within the university. Recall rights grant eligible employees preferred status for re-hiring by the university. Recall is available to employees who have been placed on LWOP-Layoff or accepted Demotion in Lieu of Layoff. When recalled, an employee is offered a position that has the same pay range, role, and contribution level as the position the employee held at the time of layoff or demotion. The employee is offered the same salary as that held by the employee in his or her previous position.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 9 of 11

- a. Recall Rights continue for 12 months from the effective date of layoff or demotion; however, Recall rights cease as of the effective date that an employee:
 - is employed in a position that is in the same or a higher contribution level and with a salary that meets or exceeds the former position;
 - declines certain recall offers as described under (e) below;
 - is terminated as a result of performance or conduct issues; or
 - resigns or retires.
- b. An employee's recall rights become active if and when the university has a Placement Option meeting the description in V(D)(3) above. If more than one employee is eligible for recall to and qualified for a specific Placement Option, the employees will be offered recall in order of seniority, as described under B(2) above.
- c. The university must hold positions identified as recall options for an employee for the period of time an employee is eligible for Family Medical Leave Act (FMLA) benefits if the employee was placed on LWOP-Layoff and, as of the Layoff Effective Date, was on:
 - leave of absence with pay or unconditional leave of absence without pay for illness or disability, or
 - STD or LTD-working.
- d. If an employee who accepted Demotion in Lieu of Layoff declines recall to a position that has a salary and pay range at least equal to the former position, and that does not require Relocation, the employee's recall rights will cease. Employees on LWOP-Layoff who decline such a recall offer will be placed in Separated-Layoff status and their recall rights and other layoff and severance benefits will cease.

E. Effect of Layoff on Leave

1. Annual Leave. An employee may request payment of his annual leave accrued prior to the Layoff Effective Date up to the limits allowed by policy, or be allowed to retain his or her leave balance when placed on LWOP-Layoff. See G(2), below. Employees on LWOP-Layoff do not accrue annual leave. See F(1), below.
 - a. Employees on STD or LTD-working who are placed on LWOP-Layoff may not use annual leave to supplement the VSDP benefit to receive 100% replacement income while on layoff.
2. "Traditional" Sick Leave. Employees participating in the Commonwealth's Traditional Sick Leave Program (see the university's Sick Leave, Disability Leave, and Family Leave Policy) on LWOP-Layoff do not accrue traditional sick leave; however, employees who have five or more years of continuous state service may choose to be paid for their traditional sick leave balance in accordance with policy or to retain this balance when placed on LWOP-Layoff. See G(3), below.



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 10 of 11

3. Sickness and Disability Leave under the Virginia Sickness and Disability Program (VSDP).
 - a. *Leave.* Leave balances under VSDP lapse when an employee is placed on LWOP-Layoff.
 - 1) If an employee is recalled or secures placement in another Agency prior to 12 months following the Layoff Effective Date and
 - prior to January 10 of a year, the leave balances held at the Layoff Effective Date will be reinstated.
 - after January 10 of a year, the employee will receive the appropriate sick and family/personal leave credits in accordance with VSDP.
 - 2) Employees on STD or LTD-working who are placed on LWOP-Layoff may not supplement their VSDP payments with pay for unused family and personal leave while on layoff.
 - b. *Disability Credits.* An eligible employee's Disability Credit balance shall be held while the employee is on LWOP-Layoff. See G(4), below. Employees on STD or LTD-working who are placed on LWOP-Layoff may use their Disability Credits to receive 100% income replacement while on LWOP-Layoff.
4. Compensatory and Overtime Leave. Employees are entitled to payment for compensatory and overtime leave accrued prior to the Layoff Effective Date when placed on LWOP-Layoff.

F. Effect of Layoff on Service

1. Employees on LWOP-Layoff do not accrue leave, but the time on LWOP-Layoff counts as active service in determining:
 - subsequent annual leave accrual rate,
 - months of service for sickness and disability leave purposes, and
 - five years of continuous service for partial payment of traditional sick leave, up to the maximum allowed by policy.
2. Time spent on LWOP-Layoff does not count toward completion of a probationary period.

G. End of Leave Without Pay-Layoff Status

1. Leave without pay-layoff ends 12 months after the Layoff Effective Date; however, layoff will end before the 12-month period ends, if and as of the effective date that the employee:
 - is recalled by the university and accepts the offered position;
 - is recalled and declines a Placement Option that has a salary and salary range at least equal to the former position and does not require Relocation;
 - achieves placement to a full-time salaried position at the university or another Agency that is at a contribution level (if applicable) and with a salary equal to or higher than that of the employee's former position, as determined by the university;



Title: Layoff Policy for Operational Employees	
Effective Date: January 9, 2009	Responsible Office: Human Resources
Revision Date: January 16, 2012	Page: 11 of 11

- is Discharged; or
 - resigns or retires.
2. Employees who chose to retain their annual leave balances when placed on LWOP-Layoff will be paid for the balances up to the limit allowed by policy, if the 12-month period elapses or if the employee is Discharged, resigns or retires before that time.
 3. Employees with five or more years of continuous state service who chose to retain their "traditional" sick leave balances while on LWOP-Layoff will be paid, according to State policy, for 25% of the balance up to the maximum of \$5,000 if the 12-month period elapses or if the employee is Discharged, resigns or retires before that time.
 4. At the end of LWOP-Layoff or when an employee resigns or retires before the end of the 12-month period, any remaining Disability Credits will be paid in accordance with VSDP guidelines or, at the employee's election, convert to VRS service.

VI. AUTHORITY, IMPLEMENTATION AND AMENDMENT

This policy is approved by the President in accordance with the Restructured Higher Education Financial and Administrative Operations Act, Chapter 4.10, Title 23 of the *Code of Virginia* and the Management Agreement effective July 1, 2006.

The Office of Human Resources is responsible for the administration and implementation of this policy. The university reserves the right to revise or eliminate this policy at any time. The President delegated the Vice President for Administration the authority to amend or revise this policy.

VII. RELATED POLICIES AND OTHER DOCUMENTS

Form L-1 <http://www.wm.edu/offices/hr/documents/forms/noticeoflayoff.pdf>
[University Policy on Severance Benefits for Operational Employees](#)
[University Policy on Performance Planning and Evaluation for Operational Employees](#)
[University Policy on Sick Leave, Disability Leave, and Family Leave](#)
[State Policy 1.60 \(Standards of Conduct\)](#)
[State Policy 1.70 \(Termination/Separation from State Service\)](#)
[State Policy 4.45 \(Leave Without Pay-Conditional/Unconditional\)](#)

