

Layoff Manual

Layoff Procedure Manual

*Step by Step instructions
for processing a layoff*

Ohio **DAS**

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GENERAL OVERVIEW OF THE LAYOFF MANUAL

Layoffs can be a time-consuming and difficult process to implement. This manual has been developed to provide a detailed and structured approach to guide you through this complicated procedure. As a general matter, the manual is divided into six (6) main sections:

- | | |
|------------|----------|
| (1) Exempt | (4) OEA |
| (2) OCSEA | (5) FOP |
| (3) 1199 | (6) OSTA |

Within each of the 6 main sections, there is a quick reference checklist, a detailed overview, exhibits (sample letters and forms), relevant arbitration awards, and the most recently bargained annotated collective bargaining agreement language.

At the beginning of each section, you will first see the *Checklist*. This will provide you with a quick step-by-step approach to the layoff process. The checklist will also direct you to other sections of the manual to obtain more detailed information and refer you to the corresponding collective bargaining agreement language.

Following the *Checklist*, you will find the *Detailed Overview* portion. This section provides you with a comprehensive summary of the entire layoff procedure from start to finish. Pay close attention to the “★*NOTE*” boxes inserted throughout the material for important information or areas of caution. You will also notice cites referring you to the Ohio Revised Code and Administrative Code, the appropriate collective bargaining agreement language, and relevant arbitration awards.

After the *Detailed Overview* portion, you will find the cited *Exhibits* (sample letters and forms) in numerical order. Where appropriate, the exhibits will include blank forms, as well as samples that have been used in the past by other agencies. Finally, you will find a summary of arbitration awards pertaining to layoffs, a flow chart outlining the layoff procedure for each collective bargaining agreement, and the appropriate annotated collective bargaining agreement language.

Although this manual is comprehensive, layoffs are complicated and your agency may encounter a unique set of circumstances. Please contact the Office of Collective Bargaining or the Human Resources Division if you have any questions or need further assistance.

LAYOFF PROCEDURE MANUAL
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EXEMPT CHECKLIST:

The following is a chronological checklist setting forth the steps required to implement a layoff of exempt employees. Please note that this checklist is to be utilized as a quick reference guide and is not intended to be an exclusive representation of the information needed to successfully carry out a reduction in force. Please refer to the “Detailed Overview” section of this manual, immediately following this checklist, and associated exhibits and appendices for further guidance. If you have any questions, please contact your Human Resources Analyst at the Department of Administrative Services.

_____ Send notice of a **Proposed Intent to Layoff** to DAS and OBM

- ✓ **See section II of Detailed Overview**
- ✓ **See sample Exempt - 1**

_____ **Early Retirement Incentive Plan**

- ✓ Is an ERI Plan mandatory?
- ✓ **See section III of Detailed Overview**
- ✓ **See Appendices B & C**
- ✓ *See Ohio Revised Code § 145.297*

_____ Prepare **Supporting Documentation**

- 1) Objectives of Agency
 - 2) Number of Employees Affected
 - 3) Affected Positions
 - 4) Cost Savings
 - 5) Reason for Layoff (Rationale)
 - a) Lack of Funds
 - b) Lack of Work
 - Verification of retention points shall not be completed prior to determination that a lack of work or lack of funds exist. *See OAC 123:1-41-02*
 - c) Abolishment of Position(s) Due to Reorganization
 - Lack of Work
 - Efficiency
 - Economy
- ✓ **See section IV of Detailed Overview**
 - ✓ **See Exempt - 2 for sample supporting documentation**

_____ Prepare proposed **Layoff List**

- 1) Determine classifications to be affected
- 2) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
 - ✓ **See Exempt - 1a for a sample request for a layoff roster**
- 3) Agency must account for all employees currently on disability in affected classifications. *See OAC 123:1-41-21—The effective date of the layoff or*

displacement for employees on sick leave, disability, or leave without pay, may not be extended.

- 4) Determine retention points of each employee
 - ✓ **See OAC 123:1-41-08 and 09**
 - ✓ Contact State Services for a disk with retention point calculator
- 5) Prepare layoff list by following order set forth in **revised OAC 123:1-41-07(C)**
 - ✓ **See section VI of Detailed Overview**

Develop **Individual Position Rationales**

- ✓ **See section VII of Detailed Overview**
- ✓ **See sample Exempt - 3 and Exempt - 3a**

If layoffs and abolishments will also target bargaining unit positions, submit draft rationale to OCB for review and revisions with the following documents:

- ✓ General rationale
- ✓ Individual position rationales
- ✓ Intended date of layoff
- ✓ Table of organization both before and after reduction
- ✓ **See section VIII of Detailed Overview**

Send **Request for Approval of Layoff** to DAS, State Services

- 1) Date employees will be notified of layoff
- 2) Effective date of layoff
- 3) Rationale Statement with all supporting documentation as stated above
- 4) List of employee's computed retention points
 - ✓ If different from the DAS printout, the employee must provide supporting documentation
- 5) Notice of available vacancies
 - ✓ The agency must wait for DAS to verify any retention points for exempt employees
 - ✓ **See section IX of the Detailed Overview**
 - ✓ **See Exempt - 4 for sample notice of available vacancies**

Provide **Notice and Opportunity to Exercise Displacement Rights**

- 1) Abolishment Letter to affected Employees pursuant to **OAC 123:1-41-10**
- 2) ADM-4138 must be included in notice
 - ✓ The Employer must list all counties in the layoff jurisdiction. **See OAC 123:1-41-13**
 - ✓ The Employees have five (5) days to complete and return this form
 - ✓ Notify 14 calendar days prior to layoff if hand-delivered
 - ✓ Notify 17 calendar days prior to layoff if sent by certified mail
 - ✓ List of all potentially-affected employees, including retention points, should also be posted in a conspicuous place. **See OAC 123:1-41-20**
 - ✓ **See section X of Detailed Overview**
 - ✓ **See Exempt - 5 for sample abolishment letter**
 - ✓ **See Exempt - 6 for sample receipt of hand-delivery**
 - ✓ **See Exempt - 11 for sample ADM-4138**

Conduct **Layoff/Displacement of Employees**

- ✓ Follow displacement Procedures in *OAC 123:1-41-11 and 12*
- ✓ **See section XI of the Detailed Overview**
- ✓ **See Exempt - 16 for a sample bumping form**
 - **NOTE:** If layoffs will impact both exempt and bargaining unit positions, it is most efficient to conduct all exempt bumping before bargaining unit bumping to ensure that all exempt persons with fallback rights are included in the union bumping process.

Send applicable letters to employees. **See section XII of the Detailed Overview**

- 1) **Layoff Letter** with notice of conversion of leave and COBRA to employees who chose NOT to bump, and will be laid off. (**See Exempt - 7, 12 and 15**)
- 2) **Layoff Letter** with notice of conversion of leave and COBRA to employees who chose to bump, but have **no bumping options** and will be laid off. (**See Exempt - 8, 12 and 15**)
- 3) **Reassignment Letter** to employees displaced from and moved to a new Position Number (PN) (**See Exempt - 9**)

Repeat process starting with “providing notice and opportunity to exercise displacement rights” to next set of employees who were displaced

- ✓ Send Displacement Letter (**See Exempt - 10**)
- ✓ Send ADM-4138 (**See Exempt - 11**)
- ✓ **See section XIII of the Detailed Overview**
- ✓ **See bottom of page 2**

Prepare and Send **Personnel Action** form, together with the recall list, (ADM-4100) to DAS 7 calendar days prior to layoff effective date

- ✓ Include ADM-4138, submitted by employees, indicating acceptable counties for recall as well as any same or similar classifications for recall
- ✓ Attachments showing changes which will result from layoff
- ✓ Copies of letters notifying employees of layoff
- ✓ Explanation of whether employees had displacement rights and whether or not they were exercised (*See OAC 123:1-41-08(G) and (H)*)
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification
- ✓ **See section XIV of the Detailed Overview**

In addition to submitting the employee ADM-4138 to DAS, the agency must compile reinstatement list and submit to DAS Certification seven (7) days prior to layoff

- ✓ **See section XV of Detailed Overview**
- ✓ **See Exempt - 13 for a sample reinstatement list**
- ✓ *See OAC 123:1-24-06 for a list of similar classes*

***NOTE:** Please see section XVII of the Detailed Overview for an employee’s appeal rights.

EXEMPT DETAILED OVERVIEW

I. SUMMARY

Ohio Revised Code (ORC) sections 124.321 through 124.328 and Ohio Administrative Code (OAC) sections 123:1-41-01 through 1-41-22 governs layoffs of exempt employees. *[See Appendices E and F]*. These sections should be thoroughly reviewed prior to initiating a layoff.

Layoffs are time-consuming and can be difficult to implement. Please contact your Department of Administrative Services, Division of Human Resources, Human Resources Analyst if you need any assistance.

II. NOTICE OF PROPOSED INTENT TO LAYOFF

Notice of Proposed Intent to Layoff is not referenced in the code as a required step in the layoff process. *However*, it is established practice that the agency shall put the Department of Administrative Services (DAS) and the Office of Budget and Management (OBM) on notice of their intent to layoff.

[See Exempt - 1 for a sample notice form]

Helpful Tips:

- The Notice of Intent should be submitted at least seven (7) days prior to the submission of the final rationale.
- The Notice of Intent should be a one-page summary of the expected number of positions to be abolished and the approximate number of people who may be ultimately displaced.
- This document can be submitted while the agency is drafting and/or revising the detailed rationale for the layoff.
- Please contact DAS, Division of Human Resources, State Services, and the Human Resources Supervisor will contact the appropriate Human Resources Analyst.

III. EARLY RETIREMENT INCENTIVE PLAN

An Early Retirement Incentive Plan (“ERIP”) allows the employer to purchase additional service credit for employees, which enables employees to retire early or retire with a larger retirement benefit than they may have otherwise been entitled. *[See ORC § 145.297]*

★ **NOTE:** Early Retirement Incentive Plan is *mandatory* if the agency proposes to close a state institution or to layoff, within a six-month period, a number of persons employed that equals or exceeds the lesser of 350 employees or 40 percent of the employees of the employing unit. *[See ORC § 145.298]*. This provision excludes any State employing unit with 50 or fewer employees

- Form F-111b, and the ERIP must be submitted to PERS
- Form F-111b, the ERIP, and a cost analysis of the ERIP must be submitted to OBM
- OBM will not approve the affordability of a ERIP unless the agency’s cost analysis clearly demonstrates that the agency has budgeted for the ERIP from available funds
- This process will take a minimum of sixty-seven (67) days to process. In the meantime, the agency should work on drafting the layoff/abolishment rationale and calculating retention points and seniority credits.

[See Appendices B and C for specific details, procedures, and materials to assist you in preparing such a Plan]

★ **NOTE:** If the proposed layoff is for a lack of funds, and therefore a certification of lack of funds from OBM is necessary per ORC 124.321(B)(3), the ERIP must be adopted prior to the certification.

IV. SUPPORTING DOCUMENTATION FOR LAOYFF OR ABOLISHMENT

Appointing authorities are *required* to file documentation justifying a reduction in force with the Director of DAS. This documentation is often referred to as the “Rationale” for the layoff or abolishment. This rationale consists of both a general rationale and individual rationales for each position identified for layoff.

A. GENERAL RATIONALE:

The documentation should include:

- Objectives of the agency
- The number of employees to be affected
- The affected positions
- The cost savings, if any
- The reason(s) for the layoff

[See Exempt - 2 for a sample rationale letter]

★ **NOTE:** It is important to develop sound, supporting documentation for a layoff because those documents will be used in defense of any challenge. **REMEMBER:** all documents are subject to public records law and should be carefully considered.

B. Reasons for layoffs or abolishment

The reasons for a reduction in force are limited to those specifically allowed by law. Employees may be laid off, or positions may be abolished, whenever a reduction in force is necessary for any of the following **three** reasons:

- 1) Lack of funds (a decrease in funding to the agency or specific program)
- 2) Lack of work (a decrease in workload across the agency)
- 3) Abolishment of specific positions due to reorganization
 - a) Lack of work (a particular person's duties are no longer needed as a full or part-time position)
 - b) Efficiency (savings of salary and benefits)
 - c) Economy (savings of salary, benefits and other savings related to eliminating the position)

★ **NOTE:** If an agency chooses more than one reason to conduct a layoff, the state must support by a **preponderance** of the evidence each reason given for the layoff or abolishment.

[See OAC 123:1-41-01 and ORC 124.321]

The documentation required by the OAC to support the layoff depends upon which of these three reasons is being used.

1. LACK OF FUNDS

A lack of funds means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of federal funding for a program. *[See ORC § 124.321(B) and OAC § 123:1-41-02].*

The director of OBM is responsible for determining whether a lack of funds exists. Therefore, **certification by OBM is required.** Agencies should contact OBM for assistance in completing the appropriate financial analysis. *See Appendix D for additional information and OBM memo.*

- ▲ **Remember,** if your agency is required to adopt an Early Retirement Incentive Plan, it must be adopted prior to obtaining the certification for lack of funds.

★ **NOTE:** If your agency has determined that the underlying reason for the reduction in workforce is for a lack of funds, it is important to realize that this is a time-consuming process requiring certification from OBM. This type of reduction will dictate a layoff by classification and by appointment category. As a result, the agency's discretion in determining specific positions to be eliminated is much more limited under a certification of lack of funds. [See § OAC 123:1-41-06]

If your agency is contemplating a layoff for lack of funds, please contact your Human Resources Analyst at the Department of Administrative Services immediately.

2. LACK OF WORK

A lack of work, for purposes of layoff, means an appointing authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels. The determination of a lack of work shall indicate the current or projected decrease in the workload of an appointing authority and whether the current or projected staffing levels of the appointing authority will be excessive. [See ORC § 124.321(C) and § OAC 123:1-41-02]

The director of DAS shall determine if a lack of work exists. The agency is required to submit the following:

- Request for determination of lack of work
- Adequate information to establish that a lack of work exists, which may include:
 - ✓ Comparison between current work levels and work levels when a lack of work did not exist
 - ✓ Statistical data and additional supporting materials
 - ✓ Reasons for the elimination or diminution of duties
 - ✓ Allocation of any duties remaining after the layoff

★ **NOTE:** Be careful when reassigning duties across classifications. The new classification specification must provide for the ability to perform the duties, or the duties must not be performed more than 20% of the employees' time.

3. ABOLISHMENT OF POSITIONS

The abolishment of positions due to reorganization is the most commonly utilized reason for layoffs.

Abolishment means the permanent deletion of a position or positions from the organization or structure of the appointing authority due to a lack of continued need for the position, as opposed to a general layoff by classification(s) due to a lack of funds or lack of work.

[See ORC § 124.321(D) and § OAC 123:1-41-04]

Abolishment of specific positions, as opposed to a general layoff by classification(s) due to lack of funds or lack of work, may be done for any of the following **three** reasons:

- a. As a result of a reorganization for the efficient operation of the agency; or
- b. Reasons of economy; or
- c. Lack of work.

a. Efficiency of Operation

A statement of rationale to support an abolishment on the basis of reorganization for efficiency of operation should include well-documented information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a discussion of changes in organizational emphasis and goals.

Efficiency of operation should be utilized when the agency has no other cost savings than salary and benefits, and can point to unnecessary services, duplicate services, outdated services, better ways of accomplishing tasks, or change in philosophy or programming that requires the reallocation of resources. All of this should result in a much more efficient operation outside of simply transferring the duties amongst fewer employees.

b. Reasons of Economy

A statement of rationale to support an abolishment for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reason of economy should be used if:

- a. The agency's operating budget is reduced by executive or legislative action (if this option is chosen, the abolishment must happen within one year of the announcement of the decreased funding)

OR

- b. A current or projected deficiency in funding is expected to make it difficult to maintain current service levels.

HOWEVER:

- The abolishment must be done in good faith
- If the funding is reduced for one specific program, then the abolishment must be from that program's staff
- If the funding reduction is not for a specific program, then the most appropriate position to abolish must be determined.

When computing savings, ensure that all expenditures after layoff are included (*i.e.*, ERIP costs, unemployment costs, and moving and changing office equipment costs).

Examples: Consolidation of offices requiring fewer positions, reduction of a process thereby requiring fewer positions (technological upgrades, simplification of procedures), and matching equipment/material needs to the workforce under a reduced budget.

c. Lack of Work

A lack of work may be due to legislative change or the elimination of services not required by an agency's enabling statute or mission or other changes in operation.

Examples: Elimination of a governmental function by legislation (liquor control), elimination of a regulatory function, and elimination of non-essential functions.

V. IMPORTANCE OF SUPPORTING DOCUMENTATION

- ❖ It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff.
- ❖ In an appeal, representatives of the agency will be challenged on the contents and validity of the statements of rationale and supporting documentation.
- ❖ Generally, decisions to lay off employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational structure, mission and future goals, as projected. Layoffs for a valid business purpose may be successfully defended.
- ❖ It is important to focus on which duties are no longer necessary or justified, not upon an individual employee's attributes or faults. When these factors enter into the decision making process, the reduction in force becomes suspect.
- ❖ Again, it is important to remember that a rationale must be provided for EACH reason cited for the layoff of abolishment. Upon challenge, each reason for the layoff or abolishment will be judged independently.

VI. PREPARE PROPOSED LAYOFF LIST **(CALCULATION OF RETENTION POINTS)**

To prepare for the layoff, the agency needs to prepare a retention point list for the entire geographic jurisdiction. The procedure is as follows:

- 1) Determine number of positions by classification to be affected and pay range.
- 2) Request from DAS a computer printout of **all employees within the affected classifications**.
- 3) The printout will contain the following information: position control number (PCN), appointment type, service and continuous service date, status, and service time/points.
- 4) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
✓ **See Exempt - 1a for a sample request for a layoff roster**
- 5) Agency must account for all employees currently on disability in affected classifications. *See OAC 123:1-41-21—The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended*
- 6) Calculate retention points. Pursuant to recent changes in the law, efficiency points are no longer used. *[See OAC 123:1-41-08 and 09]*
- 7) Prepare the layoff list by following the order set forth in **OAC 123:1-41-07(C)**. Include computed retention points on the list. Also, where there are employees with a combination of full-time and other than full-time service, indicate the breakdown of the dates and number of pay periods of continuous service in each category. Identify those persons being considered for layoff and/or the positions being considered for abolishment.
- 8) Prepare the layoff list in **descending** retention point order.

★ **NOTE:** Upon written request, the Human Resources Division, State Services, can provide the retention point calculator program on disk. Contact the Human Resource Analyst for your agency.

★ **NOTE:** The agency may post the employee's continuous service dates. As to retention points, the agency should only post those already calculated by DAS.

VII. INDIVIDUAL POSITION RATIONALES

Once the agency has developed the general reason for the reduction, you must also determine the specific positions that will be impacted. The agency will need to develop an **individual rationale** for each position to be reduced. Each individual rationale should relate to the general rationale. Make sure the individual position rationale:

1. Specifies the PCN and then addresses the duties of that position. It is important to address all the duties performed by the position. (Refer to position description).
2. Specifically states which duties were never performed or are no longer performed.
3. Specifies, **to the extent possible**, which PN(s) will be assuming the remaining duties (of the duties that will remain) and ensure that this will not have a significant impact on the person(s) assuming the duties.

[See sample Exempt - 3 for a blank form and 3a for a sample]

NOTE: It is important to determine whether the classification specifications of the PN(s) assuming the abolished duties allow for the performance of the transferred duties. For example, a Fiscal Officer 2 classification may allow for the transfer of certain duties of an Administrative Assistant 4.

CAUTION:

Pitfalls to watch out for when developing your rationale are two-fold:

1. The **bad faith layoff**
 2. The **transference of a substantial portion of the duties** of the eliminated position to another position
1. **Bad faith layoff:** means the Employer cannot use the job abolishment as a pretext or strategy to get rid of an employee. Job abolishments will be disaffirmed if the preponderance of the evidence does not support the position to be abolished.
 2. You may not **transfer the duties** of the abolished position to one individual, *unless it will not become a substantial portion of that position*. There are two reasons for this:
 - a) If you are transferring duties from one classification to another, any duties from the laid off classification which result in the remaining employee performing those duties more than 20% of the time could result in the employee being misclassified. For example, an AA3 is laid off and you wish to transfer some of the administrative functions to your Fiscal Officer 2 that are not part of the Fiscal Officer 2 classification. If the Fiscal Officer 2

performs administrative functions more than 20% of his or her time, they may be able to file a job audit to be reclassified as an AA3.

- b) If there is a need to transfer a substantial portion of duties of a laid off employee to another employee, perhaps the abolishment of that position is not needed. Similarly, if the position, which you are transferring the duties to, is able to accommodate an addition of a substantial amount of new work, perhaps that position is the one to be abolished.

Exception: If the Employer has two full-time positions, which are together performing the work of one full-time position, the Employer should abolish the PCN of the position with the less senior employee.

If the layoff includes both bargaining unit and exempt employees, the Employer should only eliminate bargaining unit positions and transfer the remaining duties to an exempt employee when the Employer can show that the exempt classification specification has an overlap in the duties with the bargaining unit classification. If there is an overlap of duties, the Agency can argue that the duties do not purely belong to the unit. Please note that the Union is likely to challenge an elimination of a bargaining unit position that transfers duties to an exempt position, so if you are contemplating this action, contact your assigned Labor Relations Specialist at OCB.

Thus, if you eliminate a bargaining unit position that transfers duties to an exempt position, you should be able to show:

- (1) The work was not purely bargaining unit work.
- (2) The assumption of those duties by the exempt employee does not make up a substantial portion of the exempt position (i.e. more than 20%).

★ **NOTE:** The actual percentages of time spent performing each duty is helpful in defending your case either at arbitration or at the State Personnel Board of Review.

VIII. OCB REVIEW OF DRAFT COPY

In the event the exempt layoff/abolishment affects bargaining unit staff, a copy of all documents prepared to support the proposed layoff should be submitted to OCB for review and revisions prior to the intended date for notification and request for approval from DAS. For example, you are laying off an Administrative Assistant 2 who has rights to an Administrative Assistant 1 position because she held it within the past 3 years. The exempt (AA2) employee will force a layoff within the bargaining unit (AA1) position, thus triggering bargaining unit employee's rights.

IX. DAS APPROVAL

A request for approval of the proposed layoff must be submitted to DAS. The request should include:

- ✓ The proposed layoff list
- ✓ The date employees will be notified of the layoff
- ✓ The effective date of the layoff
- ✓ The rationale statement and supporting documentation for each employee impacted
- ✓ Position Descriptions for all positions to be impacted
- ✓ A table of organization from both before and after the layoff/abolishment
- ✓ The date employees will be notified of the layoff/abolishment
- ✓ The effective date of the layoff/abolishment
- ✓ An EHOc on each employee to affected

★ **NOTE:** If an appointing authority indicated a different continuous service date for which retention points are calculated than the date indicated on the DAS printout, then the difference must be supported by documentation to be submitted with the list.

In addition, a list of all available vacancies within the layoff jurisdiction must be submitted to DAS. *[See Exempt - 4 for a sample form]*

★ **NOTE:** Approval by DAS of retention points must occur prior to notification of affected employees (*i.e.*, upon verification of retention points by DAS, a letter from HRD, State Services, will be sent to the agency notifying the agency to proceed with the layoff.

X. EMPLOYEE NOTIFICATION AND EXERCISE OF DISPLACEMENT RIGHTS

★ **NOTE:** Exempt layoffs are conducted in “waves” with only the positions targeted for abolishment or layoff being notified in the first wave. Only after receipt of the employee’s decision to exercise bumping rights and determining where the employee’s retention points will allow him or her to bump can the employee displaced by the first employee be notified **[See Exempt - 10]**. Each wave takes a minimum of five days in order to allow the employees time to complete the ADM-4138 and return it to the agency personnel office.

Per **OAC 123:1-41-10**. [*See Exempt - 5*], notification letters need to be sent prior to conducting the bumping process. Fourteen (14) calendar days if hand-delivered [*See Exempt - 6 for sample receipt of hand-delivery*] and seventeen (17) calendar days if sent by certified mail. The agency may not send out notification letters until DAS has verified retention points and approved the layoff.

Displacement and Reinstatement Rights: As each affected employees is notified of the abolishment of his or her position/displacement, the employee will be given a form **ADM-4138**. [*See Exempt - 11*]. This form asks the employee to indicate whether or not the employee wishes to exercise displacement options, as well as which counties in the layoff jurisdiction the employee would be willing to work.

Agencies should list on the ADM-4138 the counties in the jurisdiction. List only the counties designated within the Layoff Jurisdiction District according to **OAC 123:1-41-13** for Recall Options. The location of the employee's position at the time the layoff is first implemented dictates the applicable Layoff Jurisdiction District. ***Please contact DAS certification to verify proper jurisdiction.***

★ ***NOTE:*** Employees will have five (5) calendar days to complete and return the forms to their agency HR office. Employees must be notified that if they fail to resubmit the form selecting which counties they prefer, the employee will be placed on the list for ALL counties. This will become important if an employee fails to accept an offer in one of the counties within their layoff jurisdiction. Failing to accept the offer, even if it is because the employee does not wish to relocate to that county, will result in the employee being taken off the layoff list for the offered position.

★ ***NOTE:*** A list of potentially affected employees, including retention points, should also be posted in a conspicuous place at least 14 days before a proposed layoff.

The agency may work on developing bumping paperwork while waiting for the employees to return the completed ADM-4138. [*See Exempt - 16 for a sample bumping form*]

XI. CONDUCT LAYOFF/DISPLACEMENT OF EMPLOYEES

Displacement is the process by which an employee exercises his or her right to take the position of another employee with lower retention points.

GENERAL RIGHTS: The following are general rules applicable to displacement rights of employees. [See OAC 123:-1-41-07 and 123:1-41-11]

- (1) Displacement rights are only available within the employee's appointing authority and within the layoff jurisdiction.
- (2) Displacement to another county in the same layoff jurisdiction is not a transfer.
- (3) Displacement occurs the date an employee is notified that another employee has exercised his or her right of displacement and that the employee with fewer retention points is to be displaced. These employees will then have five (5) calendar days from receipt of the notice of displacement to notify their appointing authorities, in writing, of their intention to exercise displacement rights.
- (4) Employees shall only have the right to displace employees with fewer retention points in the order established in **OAC 123:1-41-07**.
- (5) The order in which an employee will displace is within their classification, within their classification series and to any position held within the 3 years prior to the layoff/abolishment.
- (6) Parenthetical subtitles of a classification are deemed separate but equivalent classifications. Employees in positions with a parenthetical subtitle may displace into the classification(s) in the series with the equivalent or lower pay range(s). Regular displacement rights apply.
- (7) An employee shall not displace an employee whose position or classification requires special minimum qualifications unless the employee desiring to displace has the minimum qualifications.
- (8) The pay range following displacement shall be the pay range assigned to the classification into which the employee displaced or was displaced. The rate of pay shall be in the pay range assigned to the new classification which is equivalent or nearest to, but not exceeding, the rate the employee was paid in the employee's prior classification.

ORDER OF DISPLACEMENT: Laid off employees and employees displaced as a result of a layoff, who have the right to displace, shall exercise their displacement rights in the following order:

[See Exempt - 16 for sample bumping form]

(1) Displacement within the classification

- a) An employee who is to be laid off or displaced **may** fill an available vacancy.
- b) If no vacancy, the employee **may** displace the person in his or her classification with the fewest retention points.

(2) Displacement within the classification series

- a) An employee who is to be laid off or displaced **may** fill an available vacancy.
- b) If no vacancy exists, the employee **may** displace the employee with the fewest retention points in the next lower and then successively lower classifications within the series until the employee with the fewest retention points in the lowest classification of the series has been reached and, if necessary, laid off.

(3) Displacement to a classification previously held

- a) An employee who is to be laid off or displaced **may** fill an available vacancy.
- b) If no vacancy, the employee **may** displace the employee with the fewest retention points in the classification the laid-off or displaced employee held immediately prior to his or her current classification, provided the classification is lower or equivalent and all of the following:
 - Employee held prior position in past three years
 - Employee still meets minimum qualifications, and
 - Employee completed original probationary period.

NOTE: If layoffs will impact both exempt and bargaining unit positions, it is most efficient to conduct all exempt bumping before bargaining unit bumping to ensure that all exempt persons with fallback rights are included in the union bumping process.

- Please contact your Labor Relations Specialist at OCB if your agency believes abolishments may lead to this situation.

(4) Displacement to another appointment type

- a) An employee shall not be required to accept a position with a lesser appointment type until the employee has had the chance to exercise displacement rights pursuant to **OAC 123:1-41-11**.

(5) Displacement rights of an employee previously displaced

- * If, after an employee has exercised displacement rights, the employee is to be laid off or displaced due to a subsequent layoff, the employee's displacement rights shall be in accordance with the classification from which he or she was first displaced, for a period of one year and as long as the employee has rights to reinstatement or reemployment in the previously held classification.

XII. NOTIFICATION LETTERS TO EMPLOYEES

There will be several different letters that need to be sent after the layoff.

★ **NOTE:** The letters at the end of this section are for example purposes only. The agency should modify the letter to suit the particular needs of the agency.

All impacted employees should receive **ONE** of the following letters:

1. **See Exempt - 7** for employees who chose not to exercise rights to bump and will be laid off. Attachments should include (1) COBRA notification [**See Exempt - 12**]; and (2) Leave Conversion information [**See Exempt - 15**]
2. **See Exempt - 8** for employees who chose to bump but have no bumping options and will be laid off. Attachments should include (1) COBRA notification [**See Exempt - 12**]; and (2) Leave Conversion information [**See Exempt - 15**]
3. **See Exempt - 9** for employees who were displaced into a new PN but remain in the same classification.

★ **NOTE:** Exempt employees who do not exercise bumping rights may or may not be eligible for unemployment benefits.

SICK LEAVE CONVERSION

When sending out notification letters of displacement, the agency must also include a form that lists the employee's option to either cash out or save all accumulated sick leave. The Sick Leave Conversion Form must be submitted with the employee's Personnel Action whenever an employee is laid off. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out. [**See Exempt - 15 for sample Sick Leave Conversion Form**]

NOTIFICATION OF COBRA

It is the agency's responsibility to notify the employee of his or her rights under COBRA. Each employee should receive a form stating his or her right to this benefit.

[See Exempt - 12 for sample COBRA Notification Attachment and OAC 123:1-41-22]

XIII. SECOND WAVE NOTIFICATION (TO DISPLACED EMPLOYEES)

Repeat process starting with "providing notice and opportunity to exercise displacement rights" to next set of employees who were displaced (See section IX of this portion of the manual).

- ✓ Send Displacement Letter (See Exempt - 10)
- ✓ Send ADM-4138 (See Exempt - 11)

XIV. PERSONNEL ACTION

Personnel action form ADM-4100 should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. You should also include:

- ✓ The forms submitted by the employee indicating the counties he or she designated as acceptable for reinstatement purposes
- ✓ Attachments showing changes which will result from the layoff
- ✓ Copies of the letters notifying employees of the layoff
- ✓ An explanation of whether employees had displacement rights and whether or not they were exercised. *[See OAC 123:1-41-08(G) and (H)]*
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification

Personnel Action Form 4100 will then be forwarded to DAS certification to add employees to reinstatement/recall and existing layoff certification lists.

XV. REINSTATEMENT AND REEMPLOYMENT LISTS

Agencies must prepare reinstatement and/or reemployment lists after the completion of the bumping process. These lists should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. *[See OAC 123:1-41-16 and 123:1-41-17]*

[See Exempt - 13 for a sample reinstatement list]

An employee has both reinstatement and reemployment rights. Although the terms are often used interchangeably, their meanings are quite different and must be understood.

- Reinstatement means that an employee is requested to return to the same agency from which the employee was laid off, in any class that is in the same classification series in the same or lower pay range as the employee's current classification. ***Employees will have reinstatement rights for one (1) year pursuant to OAC 123:1-41-16 (B) and OAC 123:1-24-06.***
- Reemployment means that an employee is requested to return to employment at an agency different from the one from which the employee was laid off, in the same classification from which the employee was laid off. ***Employees will have reemployment rights for one (1) year pursuant to OAC 123:1-41-17 (B).***

XVI. FILLING VACANCIES FROM REINSTATEMENT AND REEMPLOYMENT LISTS

DAS administers both the reinstatement and reemployment lists after the layoff is complete. Therefore, this following is meant to provide the agency with an overview of the rights, but is not meant to be an exhaustive discussion of how employees are rehired. ***[See OAC 123:1-41-18]***

A. FILLING A VACANCY THROUGH REINSTATEMENT

The Employer must fill vacancies in the classification series from the reinstatement list prior to hiring, promoting, or transferring.

- The employee that is reinstated shall not serve a probationary period.
- If you are delivering a reinstatement notice by hand, a witness must be present and the employee must sign a receipt for the notice.
- If an employee is not able to return to work within ten (10) days (in extenuating circumstances, the Employer shall grant an extension not to exceed sixty (60) days) of the reinstatement notice, the reinstatement rights are forfeited.
- Employees who are laid off and reinstated continue to earn service credit while on layoff.

[See also Exempt - 14 for sample letter]

B. FILLING A VACANCY THROUGH REEMPLOYMENT

The Employer must fill vacancies in the classification series from the reemployment list prior to hiring, promoting, or transferring.

- The employee that is reemployed from another agency shall not serve a probationary period.
- If you are delivering a reemployment notice by hand, a witness must be present and the employee must sign a receipt for the notice.
- If an employee is not able to return to work within ten (10) days (in extenuating circumstances, the Employer shall grant an extension not to exceed sixty (60) days) of the reinstatement notice, the reinstatement rights are forfeited.
- Employees who are laid off and reemployed continue to earn service credit while on layoff.

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated **ORC 124.30(A) and 124.327(B)** by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that “. . . the law is not required to give way to administrative convenience,” meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. *See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.*

XVII. APPEAL PROCEDURE

Ohio Revised Code section 124.328 provides the following appeal rights:

- An employee may appeal a layoff, or a displacement which is the result of a layoff, to the State Personnel Board of Review.
- The appeal shall be filed or postmarked no later than ten (10) calendar days after receiving the notice of layoff or after the date the employee is displaced.
- An employee shall be considered displaced the date the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position.
- In cases involving layoffs, employees may appeal the decision of the State Personnel Board of Review to the common pleas court. The appeal from the State Personnel Board of Review shall be made in accordance with **Section 119.12 of the Revised Code.**

[See OAC 123:1-41-11(I)]

EXEMPT EXHIBITS

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

PRELIMINARY NOTICE OF PROPOSED INTENT TO LAYOFF

TO: _____, Human Resources Analyst, DAS
_____, Labor Relations Specialist, OCB
_____, Agency Analyst, OBM

FROM: Director of Agency

SUBJECT: Staff Reduction in _____
(Department/Agency)

DATE: _____

This memo will serve as preliminary notice that we are considering a staff reduction resulting in the layoff of personnel. The initial estimates are as follows:

The total number of layoffs estimated is: _____

An estimation of the number of personnel to be laid off is: _____

The proposed layoff date is: _____

Our Personnel and Labor Relations staff has has not had experience in the procedures of layoff in the state system.

The representative who will be the primary contact from our department will be:

Name	Title	Phone#
------	-------	--------

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**DIRECTOR
DEPARTMENT OF ADMINISTRATIVE SERVICES
30 E. BROAD STREET, 40TH FLOOR
COLUMBUS, OH 43215**

ATTN: STATE SERVICES MANAGER

Dear Director:

Please find attached justification to abolish Exempt and Bargaining Unit positions, in the Central Office of the Department of **AGENCY, PAYROLL NUMBER 000-000**.

Please prepare a layoff roster for the following Exempt positions:

<u>PN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OCSEA/AFSCME** Bargaining Unit positions:

<u>PN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OTHER UNION** Bargaining Unit positions:

<u>PN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

The **AGENCY** is filing the accompanying Executive Summary which explains our reorganization plan, and the justification for positions identified for abolishment, in order to comply with various sections of the Ohio Revised Code and Administrative Rules. As indicated, we are abolishing these positions as a result of a reorganization for the efficient operation and/or reasons of economy in this Department's Central Office.

EXEMPT – 1a

If you have any questions regarding this matter, please contact **HUMAN RESOURCE ADMINISTRATOR** at **PHONE NUMBER**.

Sincerely,

DIRECTOR

Attachment

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

Current Date

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

Re: Job Abolishment

Dear (*Director of DAS Human Resources*):

The following is the statement of rationale and description of the job abolishment layoffs, effective **DATE**, to be conducted by the **AGENCY**. This job abolishment layoff is being conducted for reasons of economy and/or efficiency, as further described below.

[FINANCIAL BACKGROUND AND RATIONALE]: The **PROGRAM** is funded from Fund #000, ALI 000-000, in accordance with House Bill 000. The agency designates this **PROGRAM** as an Employing Unit, as defined in **PROGRAM** 145.297(A)(2) of the Ohio Revised Code, and as a fund source, pursuant to Section 126-2-01(A)(3) of the Ohio Administrative Code.

In our SFY **YR-YR** biennium budget submission, the **AGENCY** requested \$00 million per year from the State General Revenue Fund (GRF), which would earn and match \$00 million of federal money for a total **PROGRAM** funding level of \$00 million for each year of the biennium. This proposal was given a zero funding level in the Governor's Budget, which was recently submitted to the General Assembly. Consequently, the federal funds would not be available to the **AGENCY** for this **PROGRAM**.

[DECISION FOR LAYOFF]: This funding decision requires total elimination of the **PROGRAM** before July 1, **YEAR**. Therefore, we must, for reasons of economy and/or efficiency, abolish the positions within the **PROGRAM** and conduct a layoff pursuant to these job abolishments. These layoffs are being conducted pursuant to Section 124:321 of the Ohio Revised Code, et. seq., and Article 18 of the collective bargaining agreement between the state of Ohio and OCSEA/AFSCME.

[DETERMINATION OF POSITIONS TO BE ABOLISHED; RATIONALE]: The **AGENCY** researched positions employed by the **PROGRAM** to determine the number of affected employees. The **AGENCY** defined affected positions as all positions that fall under the **PROGRAM**. The **AGENCY** definition was developed to limit as much as possible the

number of employees who would be affected by this layoff; some of the functions of the **PROGRAM** can be absorbed by the Employment Services unit of the **AGENCY**, thereby making this job abolishment an efficient means of coping the funding deficit.

The number of positions eliminated in the **PROGRAM** by this abolishment action is **00**. The projected cost/deficiency for these positions, including non-personal services expenses, would be \$0,000,000 in SFY **YEAR** and \$0,000,000 in SFY **YEAR**. As the **PROGRAM** has been totally eliminated in the Governor's Budget, no savings can be realized through a voluntary Early Retirement Incentive (ERI) program, or through attrition.

It is clear, therefore, that positions in the **PROGRAM** must be abolished, because the elimination of funding for this **PROGRAM** has caused a projected agency deficit. In fact, the state Office of Budget and Management has determined that, based on projected budget levels and staffing, the elimination of funding for the **PROGRAM** would cause a lack of funds to the **AGENCY** in the amount of more than \$0.0 million in the **YR-YR** biennium. It is therefore economical for the **AGENCY** to abolish the positions in the **PROGRAM** in order to eliminate this projected deficit.

The affected positions as determined at this time, are as follows:

[INSERT POSITIONS HERE]

[LOGISTICAL MATTERS; UNEMPLOYMENT COMPENSATION AND MANDATORY EARLY RETIREMENT INCENTIVE PLAN]: The **AGENCY** is a reimbursable employer, for the purpose of determining unemployment compensation liability. Unemployment cost will be projected by taking the maximum benefit, since we have, as yet, no information regarding the number of dependents, or length of eligibility for unemployment compensation. The total cost for unemployment compensation, assuming five of the affected employees will take advantage of the mandatory ERI, is projected to be \$000,000.

As the unit has 00 employees, a mandatory ERI program will be offered to all eligible employees. The agency will purchase one-year for any individual who is interested and eligible. Budget and Finance Division staff analyzed state payroll records for the employees in the affected positions with 29 years service; 24 years service and age 55; and 9 years service and age 60. From this group, 00 people were identified as being potentially eligible for ERI. We input their service/salary information onto disc (provided by PERS) to get the total cost of the ERI. The total ERI cost for this plan is projected to be \$00,000.00.

The total cost to close out the **PROGRAM**, therefore, is projected to be \$000,000.00. This will be paid, if possible, from current **PROGRAM** funds. Failing that approach, closeout costs will be taken from surcharge funds.

[JOB ABOLISHMENTS VS. LACK OF FUNDS LAYOFF]: As previously noted, the Office of Budget and Management has certified a projected lack of funds for the entire agency, because of the elimination of the **PROGRAM'S** funding. The **AGENCY** believes, however, that a job abolishment layoff, for reasons of economy and/or efficiency is the prudent form of layoff. In a lack of funds layoff, the **AGENCY** administrator would be required, pursuant to Section 124.322 of the Ohio Revised Code, to determine the classifications to be laid off. This would result in an agency-wide layoff, as opposed to a layoff of positions only in the **PROGRAM**. Such an agency-wide layoff could result in great administrative difficulty, including mandatory transfers and greater costs. Clearly, the

elimination of positions in the **PROGRAM** for which funds have been eliminated is the prudent course of action, and job abolishment will accomplish this plan. The elimination of funding for this **PROGRAM** provides a sound rationale for the economy of such an action.

[CONCLUSION]: For reasons of economy and/or efficiency, job abolishment layoffs of positions in the **PROGRAM** are strongly indicated.

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p> <p>The Agency's employee population has been downsized over the past 10+ years, reducing the number of hospitals from 17 to 9, and employees from over 6,000 to approximately 3,000. The result is that the functions of the Personnel Section have decreased in correspondence to this statewide downsizing. The creation of two Management Analyst Supervisor 2s have proved to be more effective in handling the personnel workload.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p> <p>PN 2000.0 will directly supervise the two Management Analyst Supv 2s; oversee personal service contracts and attend Controlling Board Hearings regarding same; oversee layoff/abolishment processing procedures with the two MAS 2s. PN 2041.0 will assume Class Plan; WOOC grievances, PBR appeals; Advance Step Hiring. PN 2042.0 will handle oversight of authorization for vacancy fills; ceiling numbers and hiring freeze; schedules and leave coordination for personnel staff; assist w/personal service contracts.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

SAMPLE

(AVAILABLE VACANCY LETTER)

MEMORANUM

TO:

FROM:

DATE:

SUBJECT:

In accordance with the Department of Administrative Services' Rule 123:1-41, the following positions are available vacancies at **(insert name)**:

PN

CLASSIFICATION

TYPE OF APPOINTMENT

(List)

If you have any questions, please call **(Personnel Officer)**.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
STREET ADDRESS
CITY, STATE & ZIP**

Dear (**EMPLOYEE NAME**):

We regret to inform you that due to abolishment of positions and (lack of work/funds /reorganization for efficiency/economy) in this agency, a layoff of personnel is necessary. As a result, you are being laid off from your position as a **CLASS** effective **DATE**. This action is based upon your retention point rating of ____ points.

You have the right to displace another employee and you must notify **PERSONNEL OFFICER** whether or not you wish to exercise that right in writing within five (5) calendar days from the receipt of this letter. If you do not give notice of your decision concerning bumping rights, you will forfeit your right to bump another employee. These options must be indicated on form ADM 4138.

You also have the option to select the counties within the layoff jurisdiction for which you will be available for reinstatement and/or re-employment. This option must be indicated on form ADM 4138.

Whether or not you wish to exercise your bumping rights, you will retain reinstatement rights to your original class in this agency for one (1) calendar year from the effective date above. Likewise, you will retain re-employment rights to other agencies within this jurisdiction within the same time period. Both reinstatement and re-employment will be based upon retention points.

It is your responsibility to maintain a current address with the Personnel Office of this department during your year of reinstatement eligibility.

As a laid off or displaced employee, you also have the right to appeal this action in writing to the State Personnel Board of Review, 65 E. State Street, 12th Floor, Columbus, Ohio 43215, within ten (10) calendar days after receipt of this letter. Should you wish it, a copy of the Administrative Rules governing this layoff will be provided by our Personnel Office.

You may have the option to convert any unused sick, personal or vacation leave credited to you. You may also have the option to convert your health, dental, vision and life insurance. Please see **PERSONNEL OFFICER** for further information regarding these rights.

Sincerely,

SIGNATURE OF APPOINTING AUTHORITY

Attachments: ADM 4138

RECEIPT FOR HAND DELIVERY

Displacement letter dated _____, was hand delivered to me on the following date: _____

NAME OF EMPLOYEE: _____

CLASSIFICATION: _____

DATE & TIME DELIVERED: _____

EMPLOYEE'S SIGNATURE: _____

WITNESSES:

Witness Signature

Date

Witness Signature

Date

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**NAME
ADDRESS**

DEAR MR./MS.:

With regard to your decision to not exercise displacement rights, I regret to inform you that after an analysis of the replies received and application of the rules on displacement under Administrative Services' Administrative Rule 123:1-41, you shall be laid off.

Therefore, you will be laid off effective **MONTH/DAY/YEAR**, as indicated in the notice of layoff dated **MONTH/DAY/YEAR**.

Sincerely,

APPOINTING AUTHORITY

**Cc: Department of Administrative Services, State Services
Department, Division of Human Resources
Employee File**

**Attachments: Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**NAME
ADDRESS**

Dear **NAME**:

With regard to your decision to exercise displacement rights, I regret to inform you that after an analysis of the replies received and application of the rules on displacement under Ohio Administrative Code 123:1-41, there are no positions in which you will be able to displace.

Therefore, you are being laid off effective **(Date)**, as indicated in the notice of layoff, dated **(Date)**.

We are attaching information about the conversion of your sick, vacation, and personal leave, and in addition, an information sheet regarding COBRA Health Care Information. Please meet with your Personnel Officer to complete these forms.

Sincerely,

(Name, Title)
(Agency)

**cc: Department of Administrative Services, Employment Processing
(Agency) - Division of Human Resources
Employee file**

**Attachments: Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**NAME
ADDRESS**

Dear **NAME**:

With regard to your decision to exercise displacement rights and an analysis of the replies received, you are able to displace into another position. In accordance with Ohio Administrative Code 123:1-41-12, and Ohio Revised Code 124.324, you are being displaced as follows:

From: **(Site)**

**Position Number:
Classification:
Status:
Step:
Total Hourly Rate:**

To: **(Site)**

**Position Number:
Classification:
Status:
Step:
Total Hourly Rate:**

You are to report to **(Site)** on **(Date and Time)**. Any questions you have regarding your new work assignment should be addressed to your Personnel Office.

Sincerely,

(Name, Title)
(Agency)

cc: Department of Administrative Services, Employment Processing
(Agency) - Division of Human Resources
Employee file

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
STREET ADDRESS
CITY, STATE & ZIP**

Dear (**EMPLOYEE NAME**):

We regret to inform you that due to abolishment of positions and (lack of work/funds /reorganization for efficiency/economy) in this agency, a layoff of personnel is necessary. As a result, you are being (displaced by the bumping process and may be laid off) from your position as a (provisional/certified) **CLASS** effective **DATE**. This action is based upon your retention point rating of ____ points.

You have the right to displace another employee and you must notify **PERSONNEL OFFICER** whether or not you wish to exercise that right in writing within five (5) calendar days from the receipt of this letter. If you do not give notice of your decision concerning bumping rights, you will forfeit your right to bump another employee. These options must be indicated on form ADM 4138.

You may also have the option to select the counties within the layoff jurisdiction for which you will be available for reinstatement and/or re-employment. This option must be indicated on form ADM 4138.

Whether or not you wish to exercise your bumping rights, you will retain reinstatement rights to your original class in this agency for one (1) calendar year from the effective date above. Likewise, you will retain re-employment rights to other agencies within this jurisdiction within the same time period. Both reinstatement and re-employment will be based upon retention points.

It is your responsibility to maintain a current address with the Personnel Office of this department during your year of reinstatement eligibility.

As a laid off or displaced employee, you also have the right to appeal this action in writing to the State Personnel Board of Review, 65 E. State Street, 12th Floor, Columbus, Ohio 43215, within ten (10) calendar days after receipt of this letter. Should you wish it, a copy of the Administrative Rules governing this layoff will be provided by our Personnel Office.

You may have the option to convert any unused sick, personal or vacation leave credited to you. You may also have the option to convert your health, dental, vision and life insurance. Please see **PERSONNEL OFFICER** for further information regarding these rights.

Sincerely,

SIGNATURE OF APPOINTING AUTHORITY

Attachments: ADM 4138

FOR LAID-OFF EMPLOYEES WHO HAVE DISPLACEMENT RIGHTS

I do / do not wish to exercise my displacement rights. I understand that if I do not exercise this right, my name will be on the reinstatement list only in the classification from which I was laid off.

Employee's Signature

Date

**FOR LAID-OFF EMPLOYEES OF STATE AGENCIES, BOARDS,
COMMISSIONS AND INDEPENDENT INSTITUTIONS**

I am / am not interested in all of the counties in the jurisdiction in which I am being laid off. If I am not, the following are the counties in which I am available for reinstatement and reemployment. I understand I will NOT be permitted to add or delete counties at a later date.

Counties in
Jurisdiction #

(Agency should list counties in the applicable District according to OAC 123:1-41-13 to which the employee has reemployment rights. If an employee does not return this form, all counties will be listed as available)

(Agency should list all classifications in the class series with the same or lesser pay range per OAC 123:1-41-16)

Employee's Signature

Date

**Return to the Department of Administrative
Services with the Personnel Action (ADM-4100)
affecting the employee's layoff**

**IMPORTANT COBRA NOTIFICATION
FOR STATE OF OHIO EMPLOYEES AND DEPENDENTS**

It is important that all covered individuals (employee, spouse and dependent children) take the time to read this notice and be familiar with its contents.

Under federal law, the State of Ohio is required to offer covered employees and family members the opportunity for a temporary extension of health coverage when insurance coverage ends due to certain qualifying events.

Covered Employee: If you are the employee covered by a group health plan you may have the right to continue your coverage due to termination of employment (for reasons other than gross misconduct) or a reduction in hours.

Covered Spouse: If you are the covered spouse of a state employee covered by a group health plan, you may have the right to continue coverage for yourself if you lose coverage for the following reasons: termination of your spouse's employment or a reduction in your spouse's hours; the death of your spouse; divorce or legal separation from your spouse; or your spouse becomes entitled to Medicare.

Covered Dependent Children: If you are the covered dependent child of an employee covered by a group health plan, you may have the right to continuation coverage for yourself if you lose coverage for the following reasons: termination of the employee's employment or a reduction in hours; death of the employee; parents divorce or legal separation, the employee becomes entitled to Medicare; or you cease to be a dependent child under the terms of the plan.

Coverage Periods: Generally, if the event causing the loss of coverage is a termination of employment or a reduction in hours, coverage is available for an additional 18 months. If the event causing the loss of coverage was the death of the employee, divorce, legal separation, Medicare entitlement, or a dependent child ceasing to be a dependent, continuation coverage is available for 36 months.

Important Employee, Spouse and Dependent Notifications Required

Under the law, the employee, spouse or other family member has the responsibility to notify the State of Ohio of a divorce, legal separation, or a child losing dependent status under the group health plan. This notice must be made within 60 days of the event or the date coverage will end, whichever is later. If this notification is not made, your right to continuation coverage will be forfeited.

Notification procedure

Employees or a covered family member should inform the employing state agency or Benefits Administration Services (614-466-8857) of any qualifying event that results in a loss of coverage. Information will then be sent to the requesting party about the length of available coverage periods, premium rates, conversion rights when COBRA coverage ends, and other information related to your rights under COBRA.

Cost: Premiums for continued coverage are the group rate that the State of *Ohio* pays for coverage, plus a 2% administrative fee.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
Certification Unit
Human Resources Division**

**FROM: Chief
Office
Agency Name**

SUBJECT: Agency Recall and Reemployment List

CERTIFIED RECALL LIST (EXEMPT)

NAME	APPT. TYPE	POINTS
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000

[The Employer should indicate the selected counties by the employee for recall, as well as the counties selected for reemployment]

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
STREET ADDRESS
CITY, STATE, & ZIP**

Dear **(EMPLOYEE NAME)**:

You are hereby recalled to a position as **POSITION TITLE** to fill a position at **OFFICE/FACILITY**. You must report to work within ten (10) days of receipt of this notice.

If you wish to decline this position, please do so in writing within ten (10) days of receipt of this notice.

Since you were laid off as a **STATUS – FT/PT, CLASSIFICATION**, refusal of this position will result in your name being removed from the **STATUS** permanent **CLASS** recall list.

If you fail to notify us of your intent to report to work within ten (10) days of receipt of the notice of recall, you shall forfeit recall rights to a **STATUS** position. Likewise, if you do not actually return to work within ten (10) days, recall rights to a **STATUS** position shall be forfeited.

If there are extenuating circumstances, which absolutely prevent you from reporting to duty within ten (10) days, we must be contacted and informed as to the nature within ten (10) days of receipt of this notice. In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

Please direct your communication and questions to **PERSONNEL OFFICER**.

Sincerely,

APPOINTING AUTHORITY

Cc: File
Relative Persons

STATE OF OHIO
SICK LEAVE CONVERSION FORM

NAME: _____

DEPARTMENT: _____

EFFECTIVE DATE OF SEPARATION: _____

Section 124.384 of the Revised Code and the collective bargaining agreements provide that within three years of separation of state service an eligible employee may be paid for a percentage of accumulated sick leave at the rate of one hour of pay for each two hours of accumulated balance.

- _____ I would like to be paid for all of my accumulated sick leave balance.
- _____ I would like to be paid for hours of my accumulated sick leave balance with the remainder being held for future payment (*within three years from the date of separation*) or reinstatement when I am re-employed in the future (*within 10 years from the date of separation*).

124.382 (E)(1) The previously accumulated sick leave balance of an employee who has been separated from the public service, for which separation payments pursuant to the provisions of section [124.384](#) [124.38.4] of the Revised Code have not been made, shall be placed to the employee's credit upon the employee's reemployment in the public service, if the reemployment takes place within ten years of the date on which the employee was last terminated from public service.

- _____ I would like to retain all of my accumulated sick leave balance for reinstatement when re-employed within ten years or for conversion at any time within three years.
- _____ I do not have the state service required for sick leave conversion. (One year of state service for employees who are exempt, covered by the District 1199 contract, or covered by bargaining agreements with the Secretary of State and Attorney General. Five years of service for employees covered by OCSEA, FOP, OSTA 1, OSTA 15, OEA, Auditor of State and Treasurer of State contracts).

SIGNATURE OF EMPLOYEE

DATE

SIGNATURE OF AGENCY DESIGNEE

DATE

Distribution: Agency File
 Employee

ADM 4259 - Revised 2-2001

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OCSEA CHECKLIST:

The following is a chronological checklist setting forth the steps required to implement a layoff of OCSEA bargaining unit employees. Please note that this checklist is to be utilized as a quick reference guide and is not intended to be an exclusive representation of the information needed to successfully carry out a reduction in force. Please refer to the “Detailed Overview” section of this manual, immediately following this checklist, and associated exhibits and appendices for further guidance. If you have any questions, please contact your Labor Relations Specialist at the Office of Collective Bargaining.

- _____ Send notice of a **Proposed Intent to Layoff** to DAS, OCB, and OBM
 - ✓ **See section II of Detailed Overview**
 - ✓ **See sample OCSEA - 1**

- _____ Determine if positions will be adversely impacted by the following:
 - ✓ Section 39.01: Contracting out - 120 days notice to central union and chapter prior to the effective date of the layoff
 - ✓ Section 44.06: Facility being closed - 90 calendar days notice to central union and chapter prior
 - ✓ Section 44.06: Facility being sold, leased, transferred or assigned - 30 calendar days advance notice to central union and chapter prior
 - ✓ Article 38: will apply if the layoff is for technological change - 60 calendar day to central union and chapter prior
 - ✓ All other underlying reasons for layoff/abolishment require only a fourteen (14) day notification to the employee in addition to the time needed to perform the mechanics of the layoff
 - ✓ **See section VII of Detailed Overview**

- _____ **Early Retirement Incentive Plan**
 - ✓ Is an ERI Plan mandatory?
 - ✓ **See section III of Detailed Overview**
 - ✓ **See Appendices B & C**
 - ✓ *See Ohio Revised Code § 145.297*

- _____ Develop draft rationale
 - 1) Objectives of Agency
 - 2) Number of Employees Affected
 - 3) Affected Positions
 - 4) Cost Savings
 - 5) Reason for Layoff (Rationale)
 - a) Lack of Funds
 - b) Lack of Work

c) Abolishment of Position(s) Due to Reorganization

- Lack of Work
 - Efficiency
 - Economy
- ✓ **See section IV of the Detailed Overview**
✓ **See sample OCSEA - 2 and OCSEA - 2a**
✓ **See section 18.01 of annotated contract**

Prepare proposed **Layoff List**

- 1) Determine all classifications to be affected
✓ **See Appendix I**
- 2) Determine appropriate jurisdictions
✓ **See Appendix J**
- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
✓ **See OCSEA - 1a for a sample request for a layoff roster**
- 4) Agency must account for all employees currently on disability in affected classifications.
✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. *See OAC 123:1-41-21*
- 5) Seniority date of each employee
✓ **See Article 16**
- 6) Effective date of layoff
- 7) Prepare list by following order set forth in *OAC 123:1-41-07(A)* except as modified by Article 18
✓ **See section V of Detailed Overview**

Develop **Individual Position Rationales**

- ✓ **See section VI of Detailed Overview**
- ✓ **See sample OCSEA - 3 and OCSEA - 3a**

Submit draft rationale to OCB for review and revisions with the following documents:

- ✓ General rationale
- ✓ Individual position rationales
- ✓ Intended date of layoff and date employees will be notified
- ✓ Table of organization both before and after reduction
- ✓ **See section VII of the Detailed Overview**

Upon approval of the rationale from OCB, submit to DAS/HRD

- ✓ Rationale Statement with all supporting documentation as stated above
- ✓ List of employee's computed seniority credits
- ✓ If the layoff involves abolishment of exempt positions, the agency must wait for DAS to verify any retention points for exempt employees, but

may proceed with the union layoff process (e.g., meeting with the union if requested, posting and/or verification of seniority of affected OCSEA employees and/or preparing Order of Displacement letters to the impacted OCSEA employees).

- ✓ The agency may not want to conduct any bumping of OCSEA personnel until all exempt bumping has been completed. It is considered most efficient to allow the exempt employees who may ultimately have rights to previously held OCSEA classifications to be included in the bumping process.
- ✓ **See section VIII of the Detailed Overview**
- ✓ **See section 18.03 of Annotated Contract**

Union Notification

- ✓ **See section IX of the Detailed Overview**

If the agency allows challenges to seniority credits, post seniority list with a period of time to challenge. *Note that this is not a contractual requirement or a right of the employee.*

- ✓ **See section X of Detailed Overview**
- ✓ **See section 18.10 of Annotated Contract**

If requested, schedule a meeting with OCSEA to discuss rationale prior to distributing Order of Displacement paperwork.

- ✓ Agency should try to have any revisions to seniority prepared to discuss at meeting if the agency allowed challenges
- ✓ Ensure that all exempts that have rights to positions are placed on the bumping list
- ✓ **See section 18.03 of Annotated Contract**
- ✓ **See section XI of Detailed Overview**

Send out “Order of Displacement Form” to all affected OCSEA employees.

- ✓ Employees have 5 days to return to the completed Order of Displacement form
- ✓ Agency may work on developing bumping forms. **See OCSEA - 15 for a sample bumping form**
- ✓ List of all potentially affected employees, including seniority credits, should be posted in a conspicuous place. *See OAC 123:1-41-20*
- ✓ If layoffs will impact both OCSEA and Exempt, it is most efficient to conduct all exempt bumping before bargaining unit bumping. This will ensure all exempt persons with fallback rights are included in the Union bumping process.
- ✓ **See section XII of Detailed Overview**
- ✓ **See section 18.03 of Annotated Contract**
- ✓ **See OCSEA - 4**

Conduct Paper Layoff

- ✓ See section XIII of Detailed Overview
- ✓ See section 18.03 – 18.12 of Annotated Contract
- ✓ See OCSEA - 15 for a sample bumping forms

Send all affected employees appropriate notification letters at least fourteen (14) days prior to the effective date of the layoff (seventeen (17) days if sent by certified mail), including:

- 1) Recall and Reemployment Options, COBRA notice, and leave conversion attachments for employees who chose to voluntarily be laid off. (See **OCSEA - 5, 12, 13, and 14**)
- 2) Recall and Reemployment Options, COBRA notice, and leave conversion attachments for employees who chose to bump, but have no bumping options and will be laid off. (See **OCSEA - 6, 12, 13, and 14**)
- 3) Recall and Reemployment Options, COBRA notice, and leave conversion attachments for employees who chose not to exercise rights to bump and will be laid off. (See **OCSEA - 7, 12, 13, and 14**)
- 4) Recall and Reemployment Options for employees who were displaced into a lower classification. (See **OCSEA - 8, 12**)
- 5) Letter only for employees who were displaced into a new PCN but same classification. (See **OCSEA - 9**)
 - ✓ See section XIV of Detailed Overview for information about notification letters and instructions on developing detailed recall and reemployment forms
 - ✓ See OCSEA - 12 for sample Recall and Reemployment Form
 - ✓ See OCSEA - 13 for sample Sick Leave conversion form
 - ✓ See OCSEA - 14 for sample COBRA notification and *OAC 123:1-41-22*
 - ✓ See Appendix J of collective bargaining agreement for a list of all counties, offices and institutions in the agency layoff jurisdiction
 - ✓ See Appendix I of collective bargaining agreement
 - ✓ See *OAC 123:1-41-13*
- 6) Employees have five (5) days from receipt to return Recall and Reemployment Form

Agency should submit **Personnel Action** (ADM-4100) at least seven (7) days prior to the effective date of the layoff. Include the following:

- 1) Recall and Reemployment Options - This form will be forwarded to DAS Certification to add the employees to the existing layoff certification lists.
- 2) Sick Leave Conversion Form. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.
- 3) Copy of letter notifying the employee of layoff

4) Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification

✓ **See section XV of Detailed Overview**

_____ In addition to submitting the employee Recall/Reemployment Forms to DAS, the agency must compile recall list and submit to DAS Certification seven (7) days prior to layoff

✓ Recall rights and reemployment rights are for twenty-four (24) months

✓ **See section XVI of the Detailed Overview**

✓ **See OCSEA - 16 for a sample recall list**

OCSEA DETAILED OVERVIEW

I. SUMMARY

Article 18 of the collective bargaining agreement governs layoffs of AFSCME/OCSEA employees. Article 18 states that layoffs are made pursuant to Ohio Revised Code (ORC) and Ohio Administrative Code (OAC), except as modified by the agreement. The ORC and OAC are provided in the latter portion of this manual for reference.

★ **NOTE:** Where the contract is silent, the agency must refer to the Code. Contact your Labor Relations Specialist (LRS) to answer any questions. *[See Appendix A for a list of the Office of Collective Bargaining contacts]*

[See ORC 124.321 – 124.327 and OAC 123:1-41-01 through 123:1-41-22 and Arbitration Award #689]

The following Sections of the collective bargaining agreement require the agency to follow **extended** timelines regarding notice to the union:

Section 39.01 establishes that if an agency will have to layoff employees due to the work being contracted out, then not only do displaced employees have the opportunity to fill existing equal rated permanent vacancies at his/her work location or other work locations of the agency, but the agency should send a written notice to the central union and chapter president no less than 120 days prior to the effective date of the layoff.

Section 44.04 establishes that if a facility is being sold, the Agency should send written notice to the central union and chapter president no less than 90 calendar days prior to the effective date of the layoff and no less than 30 calendar days advance notice if a facility is to be leased, transferred or assigned

Article 38 requires notice to the central union no later than 60 calendar days in advance of any technological changes that could potentially displace employees so that employees can be retrained.

Submission of the final rationale to DAS and OCSEA central office starts the clock. The agency must be very aware of notification requirements, not only to the employees, but also to the Union, especially when layoffs may occur across multiple unions and/or include exempt positions.

The average timeline is between 60 to 120 days from beginning to end, but keep in mind that the process may take longer than the contractual requirements. Just because a certain

number of days may be required, that amount of time may not be enough to adequately perform the *mechanics* of a layoff.

II. NOTICE OF PROPOSED INTENT TO LAYOFF

Notice of Proposed Intent to Layoff is not referenced in the contract or code as a required step in the layoff process. *However*, it is established practice that the agency shall put the Department of Administrative Services (DAS), the Office of Collective Bargaining (OCB), and the Office of Budget and Management (OBM) on notice of their intent to layoff.

[See OCSEA - 1 for a sample notice form]

Helpful Tips:

- The Notice of Intent should be submitted at least seven (7) days prior to the submission of the final rationale.
- The Notice of Intent should be a one-page summary of the expected number of positions to be abolished and the approximate number of people who may be ultimately displaced.
- This document can be submitted while the agency is drafting and/or revising the detailed rationale for the layoff.

III. EARLY RETIREMENT INCENTIVE PLAN

An Early Retirement Incentive Plan (“ERIP”) allows the employer to purchase additional service credit for employees, which enables employees to retire early or retire with a larger retirement benefit than they may have otherwise been entitled. *[See ORC § 145.297]*

★ **NOTE:** Early Retirement Incentive Plan is *mandatory* if the agency proposes to close a state institution or to layoff, within a six-month period, a number of persons employed that equals or exceeds the lesser of 350 employees or 40 percent of the employees of the employing unit. (see O.R.C. 145.298)

Basics:

- Form F-111b, and the ERIP must be submitted to PERS.
- Form F-111b, the ERIP, and a cost analysis of the Plan must be submitted to OBM.

- OBM will not approve the affordability of a ERIP unless the agency’s cost analysis clearly demonstrates that the agency has budgeted for the Plan from available funds.
- This process will take a minimum of sixty-seven (67) days to process. The agency should work on drafting the rationale and calculating seniority credits during this time.

[See Appendices B and C for specific details, procedures, and materials to assist you in preparing such a Plan]

★ **NOTE:** If the proposed layoff is for a lack of funds, and therefore a certification of lack of funds from OBM is necessary, the Early Retirement Incentive Plan must be adopted prior to the certification.

Please contact the appropriate LRS at OCB if you are planning to offer an ERIP so that you may be assisted with notifying the Union. Note the decision in *State Employment Relations Board v. Youngstown City School District Board of Education*, 93-ULP-01-0095, which indicated that impact bargaining may be necessary prior to establishment of an early retirement incentive plan.

IV. SUPPORTING DOCUMENTATION

Appointing authorities are *required* to file with the director of DAS documentation that justifies a reduction in force. This documentation is often referred to as the “rationale” for the layoff. This “rationale” consists of both a general rationale and individual rationales for each position identified for layoff.

GENERAL RATIONALE:

The documentation should include:

- Objectives of the agency
- The number of employees affected
- The affected positions
- The cost savings, if any
- The reason for the layoff

[See OCSEA - 2 and 2a for sample rationale letters]

The reasons for a reduction in force are limited to those specifically allowed by law. Employees may be laid off whenever a reduction in force is necessary for any of the following **three** reasons:

- 1) Lack of funds
- 2) Lack of work – temporary
- 3) Abolishment of positions due to reorganization
 - a) Lack of work – permanent
 - b) Efficiency
 - c) Economy

★ **NOTE:** The state must demonstrate by a **preponderance** of the evidence that a job abolishment was undertaken for one of the above reasons.

[See OAC 123:1-41-01 and ORC 124.321 and Arbitration Awards #834 and #873]

The documentation required by the OAC to support the layoff depends upon which of these three reasons is being used.

[See Arbitration Award #791]

A. LACK OF FUNDS

A lack of funds means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn. *[See ORC § 124.321(B) and OAC § 123: 1-41-02]*

The director of OBM is responsible for determining whether a lack of funds exists. **Certification by OBM is required.** Agencies should contact OBM for assistance in completing the appropriate financial analysis. **See Appendix D for additional information and OBM worksheets.** These forms may be used, but are not required by OBM.

- ▲ **Remember**, as stated above, if your agency is required to adopt an Early Retirement Incentive Plan, it must be adopted prior to obtaining the certification for lack of funds.

★ **NOTE:** If your agency has determined that the underlying reason for the reduction in workforce is for a lack of funds, it is important to realize that this is a time-consuming process requiring certification from OBM. This type of reduction will dictate a layoff by classification and by appointment category. As a result, the agency's discretion in determining specific positions to be eliminated is much more limited under a certification of lack of funds. *[See OAC § 123: 1-41-06]*

B. LACK OF WORK

A lack of work, for purposes of layoff, means an appointing authority has a current or projected decrease in the workload which requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of works shall indicate the current or projected decrease in workload and whether the current or projected staffing levels of the appointing authority will be excessive. *[See ORC § 124.321(C) and OAC § 123: 1-41-02]*

The director of DAS shall determine if a lack of work exists. The agency is required to submit the following:

- Request for determination of lack of work
- Adequate information to establish that a lack of work exists, which may include:
 - ✓ Comparison between current work levels and work levels when a lack of work did not exist
 - ✓ Statistical data and additional supporting materials
 - ✓ Reasons for the elimination or diminution of duties
 - ✓ Allocation of any duties remaining after the layoff

★ **NOTE:** Remaining duties should not be reassigned across bargaining units, across classifications, or across exempt/bargaining unit lines.

★ **NOTE:** As with a reduction for lack of funds, a reduction for lack of work will dictate a layoff by classification and by appointment category. Again, the agency's discretion in determining specific positions to be eliminated is limited. If your agency is contemplating a layoff for a lack of work, please contact your LRS at OCB immediately. *[See OAC § 123: 1-41-06]*

Please see the rules below that are applicable to abolishment of positions.

C. ABOLISHMENT OF POSITIONS

The abolishment of positions due to reorganization is the most commonly utilized reason for layoffs.

Abolishment means the permanent deletion of a position or positions from the organization or structure of the appointing authority due to a lack of continued need for the position, as opposed to a general layoff by classification(s) due to a lack of funds or temporary lack of work.

[See ORC § 124.321(D) and OAC § 123: 1-41-04]

Abolishment of specific positions, as opposed to a general layoff by classification(s) due to lack of funds or temporary lack of work, may be done for any of the following **three** reasons:

- 1) As a result of a reorganization for the efficient operation of the agency; or
- 2) Reasons of economy; or
- 3) Permanent lack of work (expected to be over one year)

[See Arbitration Award #818 and #1029]

1) Efficiency of Operation

A statement of rationale to support an abolishment on the basis of reorganization for efficiency of operation should include well-documented information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a historical discussion and/or explanation of the changes in organizational emphasis and goals.

Efficiency of operation should be utilized when the agency has no other savings than salary and benefits and can point to unnecessary services, duplicate services, outdated services, better ways of accomplishing tasks, or change in philosophy or programming that requires the reallocation of resources.

Examples: the rationale should include information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a historical discussion and/or explanation of the changes in organizational emphasis and goals.

2) Reasons of Economy

A statement of rationale to support an abolishment for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reasons of economy should be utilized when the agency cannot point to efficiency gains, but can show that the elimination of positions results in other economic savings. The savings of only salary and benefits are not sufficient to prove economy. For this reason, there must be additional savings to justify this reason, such as closing an office; where savings could include the elimination or reduction of rental costs, utilities, courier costs, etc. This should include detailed information of prior, current and projected budgets and financial factors. *[See Arbitration Award #914]*

When computing savings, ensure that all expenditures after layoff are included (*i.e.*, ERIP costs, unemployment costs, and moving and changing office equipment costs).

Examples: consolidation of offices requiring fewer positions, reduction of process requiring fewer positions (technological upgrades, simplification of procedures), and matching equipment/material needs to the workforce under a reduced budget.

3) Permanent Lack of Work

As noted above, a lack of work is considered permanent, and therefore, is the basis for abolishment of positions were it is expected to last for more than one year. A statement of rationale and supporting information are required.

A permanent lack of work may be due to legislative change or the elimination of services not required by an agency's enabling statute or mission or other changes in operation.

Examples: elimination of a governmental function by legislation (liquor control), elimination of a regulatory function, and elimination of non-essential functions.

[See Arbitration Awards #469, #589, #798, #834, and #842]



NOTE: If the abolishment of positions results from a technological advance, closure, lease or transfer of a facility or contracting out, then refer to Section VII of this Overview and Article 38 of the collective bargaining agreement for additional notice requirements.

Importance of supporting documentation:

- ❖ It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff.
- ❖ In an appeal, representatives of the agency will be challenged on the contents and validity of the statements of rationale and supporting documentation.
- ❖ Generally, decisions to lay off employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational structure, mission and future goals, as projected. Layoffs for a valid business purpose may be successfully defended.
- ❖ It is important to focus on which duties are no longer necessary or justified, not upon an individual employee's attributes or faults. When these factors enter into the decision making process, the reduction in force becomes suspect.

★ **NOTE:** Do not assert unnecessary, multiple reasons for an abolishment unless the agency is able to persuasively defend all reasons. *For example*, strong documentation supporting a permanent lack of work will usually be sufficient to support an abolishment. Adding greater economy as a reason for the abolishment without credible documentation may not withstand an appeal. Various court and arbitration decisions have held that the assertion of salary saved, alone, is insufficient support for an abolishment based on reasons of greater economy.

V. PREPARE PROPOSED LAYOFF LIST

To prepare for the paper layoff, the agency needs to prepare a seniority list for the affected classifications for the entire geographic jurisdiction. Start with the seniority lists provided by DAS quarterly. If you need a special list, contact OCB for assistance.

The list should be shared with the Union well before the paper layoff. In order to prepare the proposed layoff list:

- 1) Determine all classifications to be affected
✓ **See Appendix I**
- 2) Determine appropriate jurisdictions
✓ **See Appendix J**
- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
✓ **See OCSEA – 1a for a sample request for a layoff roster**
- 4) Agency must account for all employees currently on disability in affected classifications.

- ✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. [*See OAC 123:1-41-21*]
- 5) Seniority date of each employee
 - ✓ **See Article 16**
- 6) Effective date of layoff
- 7) Prepare list by following order set forth in **OAC 123:1-41-07(A)** except as modified by Article 18
 - ✓ **See section V of Detailed Overview**

VI. INDIVIDUAL POSITION RATIONALES

Once the agency has developed the general reason for the reduction, you must also determine the specific positions that will be abolished. The agency will need to develop an **individual rationale** for each position to be reduced. Each individual rationale should relate to the general rationale. Make sure the individual position rationale:

1. Specifies the PCN and then addresses the duties of that position. It is important to address all the duties performed by the position. (Refer to position description).
2. Specifically states which duties were never performed or are no longer performed.
3. Specifies, **to the extent possible**, which PCN(s) will be assuming the remaining duties (of the duties that will remain) and ensure that this will not have a significant impact on the person(s) assuming the duties

[See sample OCSEA - 3 for a blank form and 3a for a sample]

★ **NOTE:** The agency should always verify that the classifications of the PCN(s) assuming the duties allow for the performance of the transferred duties.

APPEALS:

In an appeal, representatives of the agency will be challenged on the contents and validity of the statements in the rationale and supporting documentation. Generally, decisions to layoff employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational, structure, mission and future goals, as projected.

- ▲ **Remember**, as stated above, decisions to layoff must be demonstrated by a preponderance of the evidence.

CAUTION:

Pitfalls to watch out for when developing your rationale are two-fold:

1. The **bad faith layoff**
2. The **transference of a substantial portion of the duties** of the eliminated position to another position

★ **NOTE:** These two concepts prevent you from looking at individuals and require you to focus on duties.

1. ***Bad faith layoff:*** means the Employer cannot use the job abolishment as a pretext or strategy to get rid of an employee. Job abolishments will be disaffirmed if the preponderance of the evidence does not support the position to be abolished.
2. You may not ***transfer the duties*** of the abolished position to one individual, *unless it will not become a substantial portion of that position*. The theory behind this case law is that you may not take someone's duties and simply give them to another. If the duties must be performed and will become a substantial portion of another's job, then the job abolishment of that position may not be proper. The position, which you are transferring the duties to, may be the position that warrants elimination. As with any kind of consolidation of duties, the abolished position's duties may not become the substantial portion of another person's position.

Exception: may be found if the Employer has two full-time positions, which are only really performing the work of one full-time position. In that case, the Employer should abolish the PCN of the position with the less senior employee.

The Employer should only eliminate bargaining unit positions and transfer the remaining duties to an exempt employee when the Employer can show that the exempt classification specification overlaps and therefore the duties do not purely belong to the unit. The Union is likely to challenge an elimination of a bargaining unit position that transfers duties to an exempt position.

Thus, if you eliminate a bargaining unit position that transfers duties to an exempt position, you should be able to show:

- (1) The work was not purely bargaining unit work
- (2) The assumption of those duties by the exempt employee does not make up a substantial portion of the exempt position

★ **NOTE:** Time spent percentages are helpful in defending your case.

[See Arbitration Awards #990, #994, and #1696]

VII. OCB REVIEW OF DRAFT COPY

A copy of all documents prepared to support the proposed layoff should be submitted to OCB for review and revisions prior to the intended date for notification of the Union and request for approval from DAS.

The information should include:

- ✓ The rationale statement and supporting documentation
- ✓ The rationale for each individual position
- ✓ Position Descriptions of all positions identified to be abolished
- ✓ The Table of Organization both before and after the layoff
- ✓ The date employees will be notified of the layoff
- ✓ The effective date of the layoff

VIII. DAS NOTIFICATION

Upon approval of the rationale from OCB, the agency should submit the information listed above to DAS/HRD.

If the layoff involves both exempt and bargaining unit employees, the agency must wait for DAS to verify any retention points for the exempt employees before proceeding with the layoff. However, the agency may proceed with the next steps in preparing for the layoff of affected OCSEA members (e.g., posting and/or verifying seniority credits, meeting with the Union to discuss layoff, preparing Order of Displacement forms, etc.).

If applicable, the agency may send out any exempt bumping paperwork to begin the first wave of bumps upon receiving verification of retention points from DAS. The bumping should continue until all bumps have occurred.

It is considered most efficient to allow the exempt who may ultimately have rights to previously held OCSEA classifications to be included in the bumping process. After all bumping rights of exempts have been exhausted, if any exempts do have a right to an OCSEA position, their seniority at the time they left the union should be calculated as specified by Article 16 of the Agreement. That employee's name should be included in the paper layoff process.

[See Arbitration Award #797 and section 18.03 of the Annotated Contract]

IX. UNION NOTIFICATION

The Union must be notified of the proposed layoff no later than when the agency submits its official rationale to DAS. Formal notice of layoff to the Union is fulfilled upon submission of the rationale to the Central OCSEA headquarters.

The following Sections of the collective bargaining agreement require the agency to follow specific timelines regarding notice:

Section 39.01 of the OCSEA collective bargaining agreement may be applicable if an agency is contracting out. Displaced employees will have the opportunity to fill existing equal rated permanent vacancies at his/her work location or other work locations of the agency. The agency should send the rationale to the central union and chapter president no less than 120 days prior to the effective date of the layoff.

Section 44.04 will also be applicable if a facility is being sold, transferred, leased, assigned, or closed. Please pay close attention to the various time requirements for providing notice to the Union and employees. The agency should send the rationale to the central union and chapter president no less than 90 calendar days advance notice to the Union prior to closing a facility and 30 calendar days advance notice if a facility is to be sold, leased, transferred or assigned.

Article 38 will apply if the layoff is for technological change. The contract requires that notice be given as soon as practicable, but no later than 60 calendar days in advance of any technological changes that could potentially displace employees so that employees can be retrained.

- If an employee is unable to satisfactorily complete the required training, the agency must make a good faith effort to place the employee into a similar position within the same geographic jurisdiction.

X. SENIORITY

The agency **may** allow employees to challenge their seniority. **THIS IS NOT A CONTRACTUAL REQUIREMENT NOR A RIGHT OF THE EMPLOYEE.** If the agency should allow challenges to seniority to be reviewed, the agency should establish a specified period of time and share all revisions with the union. Any changes in seniority should be reflected in the bumping paperwork and shared with the union.

★ **NOTE:** If you allow challenges to seniority credits and retention points, post the seniority list for BU and/or retention points for exempts with a period of time to challenge. *Note that this is not a contractual requirement nor a right of the employee.*

XI. MEET WITH UNION IF REQUESTED

The Union must then be provided with an opportunity to discuss the layoff prior to the date of the paper bump. The agency should offer the Union an opportunity to meet within a certain period of time. This meeting should occur after formal submission of the rationale, but prior to distributing bumping paperwork. Agency should try to have any revisions to seniority prepared to discuss at meeting if the agency allowed challenges

XII. NOTICE OF PAPER LAYOFF AND EXERCISE OF BUMPING/DISPLACEMENT RIGHTS

ORDER OF DISPLACEMENT FORM

- All potentially impacted employees must be sent an Order of Displacement Form including information regarding the date and time of the paper layoff. *[See OCSEA - 4, Appendix I and Appendix J]*. The form must include the following fields for the employee's reference: name and seniority date, PCN, pay range, appointment type, class title, and work location.
- Since displacement is based on the "least senior" versus "less-senior," the agency is not required to provide each employee with a seniority roster. The agency must only make a seniority roster available for review.
- Management may raise the question of an employee's qualification to perform the duties of a position, as early as the paper layoff, but must raise such questions prior to the date of layoff.
 - In situations where bumping may be impacted by an employee's meeting of minimum qualifications, agencies may include a current civil service application with the Order of Displacement form. The agency should require employees to list his/her qualifications in order to reduce questions at the time of the paper layoff.
 - Agencies should only raise a challenge to an employee's bumping rights when there is evidence that:
 - The employee lacks the necessary skills, knowledge, and/or experience required by the position to be bumped
 - That this lack of skills, knowledge, and/or experience is tied to a recognized position specific minimum qualification (PSMQ)
 - Management determines if an applicant is qualified.
- All Order of Displacement Forms should be completed and returned to the agency within 5 working days of the employee's receipt of the form.
- The Union must be supplied a copy of all completed Order of Displacement Forms.

★ **NOTE:** If no bumping options are available, notice must be given 14 calendar days (if hand-delivered) or 17 calendar days (if sent by certified mail) prior to the effective date of the layoff.

★ **NOTE:** In smaller agencies, there may be no displacement or bumping rights for an employee to exercise. In that case, the paper layoff process does not apply and the employee may be notified at this point that he/she will be laid off. *[See “Notification Letters” Header on next page and Sample Notification Letters OCSEA - 5-9]*

The agency should develop bumping forms at the same time they are sending out the employee Order of Displacement Forms and waiting on resubmission of the these forms.

- The agency should sort all impacted positions by classification. The list of all available PCNs to bump into is to be shared with the union at the time of the paper layoff.
- Determine the appropriate geographical jurisdictions. Pursuant to *Section 18.09*, the statutory jurisdictional layoff areas shall not be utilized. Instead, the geographic divisions of each agency shall be used. *[See Appendix J of the OCSEA CBA]*
- A list of all potentially affected employees, including seniority credits, should be posted in a conspicuous place. *[See OAC 123:1-41-20]*

XIII. CONDUCT THE PAPER LAYOFF

Upon receipt of all returned Order of Displacement forms, the agency and Union shall meet on the designated date of the paper layoff.

- The paper layoff process is very paper intensive; however, the process allows bargaining unit members to displace in conjunction with any exempts who may have rights into the Union.
- Agencies are encouraged to involve the Union in the entire process. On the date of the paper layoff, there should be copies of the Order of Displacement Forms and bumping paperwork for the appropriate Union personnel, including the staff representative, chapter president, and stewards.
- In seniority order, employees may bump the least senior employee in priority order within an equal or lower position within the same classification series.
- If layoffs will impact both OCSEA and Exempt, it is most efficient to conduct all exempt bumping before bargaining unit bumping. This will ensure all exempt persons with fall-back rights are included in the Union bumping process.

★ **NOTE:** If an employee volunteers for a layoff, resulting in an additional vacancy, the agency must still follow through with the bumps as they are designated from the paper layoff. Upon completion of the layoff and lifting of the hiring freeze, the additional vacancies may be filled through recall/reemployment unless mutually

[See Arbitration Award #937]

State seniority is the only determining factor in bumping rights, regardless of whether or not the bargaining unit employee is certified or provisional.

PAPER LAYOFF

Bumping Process:

1. The agency should begin with the most senior employee affected within a classification.
2. Review the employee's displacement forms, along with the Union.
3. Record the employee's designated position on a record keeping form.
4. At the time the paper layoff is being conducted, pursuant to 18.03(E), if an employee has not completed the selection forms and cannot be reached within 15 minutes, the Union designee shall make a decision for the employee.
5. The agency should have a complete employment history printed for each employee to refer to during the paper layoff process.
6. Review the Order of Displacement form of the next most senior employee affected, either by a layoff or displacement.
7. This process shall be continued until all impacted employees' Displacement Forms have been reviewed.

★ **NOTE:** The employee doing the bumping must be more senior than the employee who is being displaced. The employee bumping must also be in the same or higher pay range than the employee being displaced.

Bumping Options:

1. If an employee has an option to displace within the office, institution, or county, such option must be exercised prior to exiting to the geographic jurisdiction.

★ **NOTE:** No employee shall be forced to take a lesser appointment type (*i.e.* full-time to part-time) under Section 18.04 before choosing to exercise his or her rights under 18.05.

2. Once an employee has exhausted all rights under 18.04 and begins to utilize rights under 18.05 in the geographic jurisdiction, he or she is required to bump into a vacancy in the same classification within the geographic jurisdiction before the order of bumping in Section 18.04 is utilized within the jurisdiction.

3. Employees must exhaust their options under sections 18.04 and 18.05 prior to exercising their option under 18.06 to bump a less senior employee in the classification which the employee most recently held within the last three (3) years within the geographic jurisdiction.
 - ✓ The previously held position must be a lower classification with a lower pay range.
 - ✓ The *Employer* has typically interpreted this language to mean that the employee must have completed the probationary period in the classification most recently held within the last three (3) years.

 - ▲ ***For example:*** If an employee only designates three out of six counties he/she is willing to displace to under 18.05, and there are choices in the other three counties, they will not be allowed to utilize their rights under 18.06.

4. If no bumping options are available under previous sections, ***Section 18.07*** states employees may bump outside the unit into **exempt classifications with lesser appointment category** (type) according to statutory order. ***[See ORC § 124.323 and OAC § 123: 1-41-12]***. The agency will have to include any positions that may be same/similar that might be impacted and list these on the bumping paperwork.
 - ✓ Exempts may have rights to a previously held position if the position was held in the last five (5) years. ***[See the Exempt portion of this manual, to specifically include section XII of the Detailed Overview]***.
 - ✓ Bargaining unit members may bump into an exempt classification; however, ***once the employee has bumped into the exempt position he/she has no further rights except as set forth in Sections 18.11, 18.12, and 18.13.*** As a result, bumping into an exempt position is not mandatory.
 - ✓ The above applies only to exempt positions in the same/similar grouping of the affected employee and must be in a lower pay range.
 - ✓ This situation rarely occurs. Should questions arise, please contact your LRS at OCB.

[See Arbitration Awards #785 and #1426]

★ **NOTE:** Section 18.14 provides a mechanism for “placing” employees who are to be laid off into an existing vacancy that might not otherwise be available to the employee, provided that no promotion results from the action. This provision takes precedence over Article 17, Promotions. An agreement must be executed and signed by the affected agencies, the Union and OCB.

[See Arbitration Award #583]

After the paper layoff is complete, the record sheet should be reviewed and signed off by the Union Representative for accuracy and with agreement as to all procedural matters. A record should be kept of who attends the paper layoff and any concerns that arise. The management sheet should be labeled “Official Record.”

★ **NOTE:** Although keeping a record sheet is not a requirement, it is strongly encouraged.

★ **NOTE:** Other than as a placement under this Section, use the following order of filling a vacancy as specified below:

- (See §17.05 – Selection also.)
- §17.01 Permanent Transfer
- §18.11 Recall
- §18.13 Reemployment
- §18.05 Cross-geographic jurisdictional bidding
- Article 17 - Promotion, Lateral Transfer and Demotion

XIV. NOTIFICATION LETTERS TO EMPLOYEES

A. NOTIFICATION LETTERS

All impacted employees should receive **one** of the following letters:

1. *See OCSEA - 5* for employees who chose to be voluntarily laid off. Attachments should include (1) Recall and Reemployment Options; (2) COBRA notification; and (3) Leave Conversion information. *[See OCSEA - 5, 12, 13 and 14]*
2. *See OCSEA - 6* for employees who chose to bump but have no bumping options and will be laid off. Attachments should include

(1) Recall and Reemployment Options; (2) COBRA notification; and (3) Leave Conversion information. *[See OCSEA - 6, 12, 13 and 14]*

3. *See OCSEA - 7* for employees who chose not to exercise rights to bump and will be laid off. Attachments should include (1) Recall and Reemployment Options, (2) COBRA notification, and (3) Leave Conversion information. *[See OCSEA - 7, 12, 13 and 14]*
4. *See OCSEA - 8* for employees who were displaced into a lower classification. Attachment should include 1) Recall and Reemployment Options. *[See OCSEA - 8 and 12]*
5. *See OCSEA - 9* for employees who were displaced into a new PCN but remain in the same classification.

▲ **Remember:** Notification letters need to be sent prior to the effective date of the layoff—14 calendar days if hand-delivered and 17 calendar days if sent by certified mail.

★ **NOTE:** The letters cited in this section are for example purposes only. The agency should modify the letter to suit the particular needs of the agency.

B. RECALL AND REEMPLOYMENT OPTIONS

When sending out notification letters of displacement, the agency must send a form that lists all recall and reemployment opportunities for each employee. The Recall and Reemployment Options must be returned by the employee then submitted with the employee's Personnel Action whenever an employee is displaced into a lower or different classification or laid off.

In determining the recall and reemployment rights that each employee may have, the distinction between the two terms should be understood. The terms are often used interchangeably, but their meanings are quite different.

Recall means that an employee is requested to return to employment with the same agency from which the employee was laid off. The Recall list must show all counties, offices or institutions within the geographic jurisdiction of the employee. *[See Appendix J of Agreement]*

★ **NOTE:** If the agency does not have a geographic jurisdiction listed in the contract, the agency must default back to the Districts as they are set up in the code and list only the counties within the district that the employee is being laid off from. *[See OAC 123: 1-41-13]*

★ **NOTE:** An employee who is able to displace within their classification, regardless of location, does **not** have rights to be placed on a recall list.

Reemployment means that an employee is requested to return to employment at a different agency than the one from which the employee was laid off and can only be to the same classification and appointment type from which the employee was laid off. The Recall and Reemployment Options Letter to the employee must list all counties that the employee may have reemployment rights to according to OAC 123: 1-41-13.

★ **NOTE:** Reemployment rights may not exist for holding classifications. Please refer to section 18.13 of CBA.

[See OCSEA - 12 for a sample Recall/Reemployment Options form]

★ **NOTE:** Because the AFSCME/OCSEA contract references the Ohio Revised and Administrative Codes, recall and re-employment rights of AFSCME/OCSEA employees closely mirror the rights of non-bargaining unit employees. However, sections 18.11, 18.13 and Appendix I and Appendix J of the CBA modify portions of the codes. See these sections and contact DAS Certification prior to preparing recall/reemployment lists.

General considerations that the agency and employee should know about recall/reemployment:

- ✓ Employees have **five (5) days from receipt to return the Recall and Reemployment Form.**
- ✓ The employee should be instructed that failure to resubmit the form will result in all classifications and counties, offices and institutions in the geographic district and layoff district in code to be listed on the recall and reemployment lists for the employee
- ✓ Also instruct the employee that failure to accept any offer in the classification; appointment type and/or county may result in removal from the list for that classification, appointment type or county
- ✓ All employees are placed on the list by effective date of layoff and are recalled by State seniority.
- ✓ Employees who are receiving Disability shall also be laid off on the same date without interruption to currently approved benefits.
- ✓ Adoption/Childbirth leave shall not be used to extend the layoff date of employees.

C. SICK LEAVE CONVERSION

When sending out notification letters of displacement, the agency must also include a form that lists the employee's option to either cash out or save all accumulated sick leave. The Sick Leave Conversion Form must be submitted with the employee's Personnel Action whenever an employee is laid off. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.

[See OAC 123:1-41-22 and OCSEA - 13 for sample Sick Leave Conversion Form]

D. NOTIFICATION OF COBRA

It is the agency's responsibility to notify the employee of his or her rights under COBRA. Each employee should receive a form stating his or her right to this benefit.

[See OCSEA - 14 for sample COBRA Notification Attachment]

XV. PERSONNEL ACTION

Personnel action form ADM-4100 should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. You should also include:

- ✓ The forms submitted by the employee indicating the counties he or she designated as acceptable for reinstatement purposes.
- ✓ Attachments showing changes which will result from the layoff.
- ✓ Copies of the letters notifying employees of the layoff.
- ✓ An explanation of whether employees had displacement rights and whether or not they were exercised. *[See OAC 123:1-41-08(G) and (H)]*
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification.

Personnel Action Form 4100 will then be forwarded to DAS certification to add employees to recall and existing layoff certification lists.

[See OAC 123:1-41-08(G) and (H)]

XVI. DRAFTING RECALL/REEMPLOYMENT LISTS

In addition to the agencies forwarding the recall and reemployment options that the employee completed to DAS, the agency must also prepare a recall list. This list should be sent to DAS seven (7) calendar days prior to the effective date of the layoff.

- ✓ Recall list must include name of each employee displaced from original classification, the employee’s seniority credits, a list of all classifications that the employee is entitled to (those classifications listed in Appendix I of the collective bargaining agreement with same or lower pay range), and all counties, office or institutions the employee indicated on the ADM-4138 that he/she was willing to be recalled to.
- ✓ Reemployment list must include names of employees laid off, classification displaced from, and seniority credits and a list of the counties the employee on the ADM-4138 indicated he/she was willing to be reemployed to.
 - Although the Employer does not have to create a separate list for reemployment rights, the Employer must somehow communicate the counties the employee is eligible and selected on the form for reemployment. These will not be the same counties as on the recall list.

[See OCSEA - 16 for a sample recall list]

XVII. TIMELINES

Submission of the final rationale to DAS and OCSEA central office starts the clock. The agency must be very aware of notification requirements, not only to the employees, but also to the Union, especially when layoffs may occur across multiple unions and/or include exempt positions.

The average timeline is between 60 to 120 days from beginning to end, but keep in mind that the process may take longer than the contractual requirements. Just because a certain number of days may be required, that amount of time may not be enough to adequately perform the *mechanics* of a layoff.

★ **NOTE:** Timelines for “Lack of Funds” are different than other layoff reasons—please refer to the OAC.

FILLING VACANCIES FROM RECALL AND REEMPLOYMENT LISTS

[See OAC § 123: 1-41-18]

The purpose of this manual is to aid an agency in implementing a layoff. Part of the layoff process guarantees employees specific rights under recall and reemployment. This manual will not address all aspects of the recall and reemployment process, but will provide some tips on frequently discussed issues as well as sample recall and reemployment letters.

FILLING A VACANCY THROUGH RECALL [See Section 18.11 of the Agreement]

The Employer must fill vacancies in the classification series from the recall list prior to hiring, promoting, or transferring.

- The employee that is recalled shall not serve a probationary period.
- If you are delivering a recall notice by hand, a witness must be present and the employee must sign a receipt for the notice. If the Agency plans to mail the notice, send it by certified mail with a signature requirement.
- If an employee fails to notify the Agency of intent to report to work within ten (10) days (sixty (60) days if extenuating circumstances exists) of recall notice, the recall rights are forfeited.
- Employees who are laid off and recalled continue to earn service credit while on layoff.
- Recall rights exists for twenty-four (24) months.

[See OCSEA - 10 for sample recall letter and Arbitration Award #1617]

FILLING A VACANCY THROUGH REEMPLOYMENT [See Section 18.13 of the Agreement]

The Employer must fill vacancies in the classification series from the reemployment list prior to hiring, promoting, or transferring.

- The employee that is reemployed from another agency shall not serve a probationary period.
- If you are delivering a reemployment notice by hand, a witness must be present and the employee must sign a receipt for the notice. If the agency plans to mail the notice, send it by certified mail with a signature requirement.
- If an employee fails to notify the Agency of intent to report to work within ten (10) days (thirty (60) days if extenuating circumstances exists) of recall notice, the recall rights are forfeited.
- Employees who are laid off and reemployed continue to earn service credit while on layoff.
- Reemployment rights exist for twenty-four (24) months.
- Employees who are laid off and reemployed continue to earn service credit while on layoff.

The Employer has traditionally interpreted sections 18.11 and 18.13 to mean that employees should not just meet minimum qualifications to be recalled to a position, but should be qualified to perform the duties of the position. The Employer may administer a test to determine whether the employee meets minimum qualifications and position specific minimum qualifications.

★ **NOTE:** The Union has interpreted these sections to only require that employees meet minimum qualifications to be reemployed to a position. Since the employee previously held the position to which he/she is being reemployed, the employee already meets the minimum qualifications of the position. Make sure to check whether the position now requires a certification/licensure that was not required when the employee previously held the position.

[See also OCSEA - 11 for sample reemployment letter]

Coordinate all recall/reemployment through DAS Certification.

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated ORC 124.30(A) and 124.327(B) by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that “. . . the law is not required to give way to administrative convenience,” meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. ***See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.***

[See Arbitration Award #885]

OCSEA EXHIBITS

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

PRELIMINARY NOTICE OF PROPOSED INTENT TO LAYOFF

TO: _____, Human Resources Analyst, DAS
_____, Labor Relations Specialist, OCB
_____, Agency Analyst, OBM

FROM: Director of Agency

SUBJECT: Staff Reduction in _____
(Department/Agency)

DATE: _____

This memo will serve as preliminary notice that we are considering a staff reduction resulting in the layoff of personnel. The initial estimates are as follows:

The total number of layoffs (positions to be abolished) estimated is: _____

An estimation of the number of personnel to be laid off (people who will not have any bumping options) is: _____

The proposed layoff date is: _____

Our Personnel and Labor Relations staff have have not had experience in the procedures of layoff in the state system.

The representative who will be the primary contact from our department will be:

Name	Title	Phone#
------	-------	--------

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**DIRECTOR
DEPARTMENT OF ADMINISTRATIVE SERVICES
30 E. BROAD STREET, 40TH FLOOR
COLUMBUS, OH 43215**

ATTN: STATE SERVICES MANAGER

Dear Director:

Please find attached justification to abolish Exempt and Bargaining Unit positions, in the Central Office of the Department of **AGENCY, PAYROLL NUMBER 000-000**.

Please prepare a layoff roster for the following Exempt positions, and all same, similar or related classifications:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OCSEA/AFSCME** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OTHER UNION** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

The **AGENCY** is filing the accompanying Executive Summary which explains our reorganization plan, and the justification for positions identified for abolishment, in order to comply with various sections of the Ohio Revised Code and Administrative Rules. As indicated, we are abolishing these positions as a result of a reorganization for the efficient operation and/or reasons of economy in this Department's Central Office.

Please prepare a layoff roster for the exempt positions listed in above, and all same, similar or related classifications.

If you have any questions regarding this matter, please contact **HUMAN RESOURCE ADMINISTRATOR** at **PHONE NUMBER**.

Sincerely,

DIRECTOR

Attachment

*[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]***Current Date**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

Re: Job Abolishment

Dear (*Director of DAS Human Resources*):

Provide Brief Statement of Reason for Reduction (Economy, Efficiency, Lack of Work) and Listing of the specific PCN's to be impacted:

Example: The Board of State Development respectfully requests to abolish four full-time positions effective July 26, 2003, as the result of reorganization for efficiency. The four positions are Test Examiners, specifically Position Control Numbers 0005.0, 0006.0, 0007.0 and 0008.0. A review of the existing scheduling pattern, in addition to advancing technology resulting in fewer in-house tests, only requires examiners be present approximately twenty to thirty hours a week. Consequently, the Board of State Development intends to abolish four positions and distribute the remaining duties of these positions to the remaining four Test Examiners, specifically Position Control Numbers 0001.0, 0002.0, 0003.0 and 0004.0. The abolishments will allow for the same testing schedule while eliminating duplication of work.

Brief History/Mission of Agency (one to two paragraphs):

Example: The Board of State Development was created by an act of the legislature in 1932 to establish and maintain sanitary and professional industrial standards. Today, the Board licenses over 125,000 individuals and businesses in the various branches of the industry. The Board's mission is to develop, monitor and enforce the standards used in the business for the safety and protection of the patrons. To accomplish this mission, the Board must provide for the examination of students to demonstrate minimum competency levels consistent with established national minimum standards before allowing students to offer services to the public.

The Board also provides both written and practical examinations supplied by the National Council (NC). These examinations give the Board valid, legally defensible examinations and require specific standards that must be adhered to during the administration of the tests. Specifically, the Board offers three licensing categories: Surveyors, Managers, and Professional.

Summary as to why the abolishment is necessary (decrease in population being served, reduction in revenues, changes in services, greater technology resulting in less work/elimination of duties, merging of offices, elimination of duplication of work, etc). All reasons stated for the need for abolishment should be supported by numbers and/or objective criteria such as percentages, budget reduction, or numbers of population served prior compared to the current numbers.

The Board administers the majority of these tests in-house at the central office location, but with the passage of House Bill 000, the reciprocity rules have changed. Where all applicants for a license used to be required to take the written and practical examinations, now those individuals with five years of experience will only be required to take the written exam and can do so through Testing, Inc., a national testing company that provides the same National Council-related exams to many state licensing boards. Testing, Inc. is a computer based testing company that has eleven sites in Ohio and over 700 in the United States. With the new testing requirements, advancing technology and increasingly constituent computer awareness, Testing, Inc. is being used more often than in the past and has reduced the number of in-house written exams. From April 1, 2002 through March 3, 2002, Testing, Inc. administered 1,234 NC written, greatly reducing the number of in-office examinations given.

Of the remaining practical and written examinations that are offered through the Board, the NC requires at least one examiner for each eight examinees for practical exams with a maximum number of examinees at any one time of twenty-four (24) on most exams. These guidelines also limit the maximum number of examinees for written examinations at any one time to sixteen (16) and require one examiner, but recommends two examiners always be present to ensure test integrity and ease in administration. As a result, the Board policy is to always have at least two examiners for all written examinations.

Below is a breakdown of the current scheduling requirements for each test:

The written and practical examination for Surveyors is completed within four hours, allowing the Board to schedule two groups in one day. Based on NC standards, the Surveyors' practical examinations are restricted to a maximum of eight examinees at one time and require two examiners to administer. With the current work schedule, there are four examiners present, resulting in an excess of two examiners. The reorganization will allow for only two examiners to be scheduled on these days, eliminating the duplication of work.

The NC standards limit the maximum number of examinees for the practical Managers' examination to twenty-four (24) at any one time and takes four hours to complete. The written portion of this exam only allows for up to sixteen (16) examinees at one time and can be completed in under two and a half hours. The Board normally schedules as many as twenty-four (24) examinees for the practical portion, then divides and staggers the group into two afternoon sessions to remain below the sixteen (16) person cap for written exams. Accordingly, the NC standards would only require three examiners during the practical exam and two during the written. By reducing the total number of Examiners to four, there will be sufficient coverage while deleting any duplication of effort.

The Professional examinations can be completed within four hours and are usually scheduled on the same day as Managers' exams. This is one of the least used tests and can easily be administered by the same staff upon completion of the Managers' exam. The limit on examiners remains the same as the Managers' exam and therefore requires the same number of examiners.

In addition to the current duplication of effort listed above, there are several days a year where no examinations are scheduled. From April of 2002 to March of 2003, there were eleven (11) days that no examinations were offered. As a result, eight Examiners reported to work, but there was only enough grading activity for four Examiners. This resulted in three-hundred and fifty-two non-productive "Examination" hours. The reorganization to only four Examiners would allow the schedule to reflect this lower need for these days and prevent wasted hours. Attached is a spreadsheet reflecting the examinations offered from April 2002 to March 2003 to support the information provided above. Based on the examinations offered and the current full-time staff of eight examiners; there was approximately 2,312 hours examiners were scheduled, but were not needed. This equates to approximately 289 days of non-productive "Examination" time.

All duties of the position description should be addressed as either 1) never performed, 2) no longer performed and why, 3) remaining duties and who shall be assuming the duties (classification(s) and PCN(s)). It is important to note that no one person should have a significant increase in duties and more than one person should normally be assuming the duties. Ensure that if an exempt employee is assuming the duties this is a red flag to the union for erosion. It is normally best if the duties to be redistributed are spread among the remaining bargaining unit population as long as the classification of the employees allows for performance of these duties.

The position description of an Examiner reflects that eighty percent (80%) of the duties of these positions revolve around administration of the exams. The remaining twenty percent (20%) consists of performing other duties as assigned such as responding to phone inquiries regarding examination procedures and results, conducting school tours at the Board test-site, administering off-site examinations at the Ohio Council or assisting in Board-offered continuing education classes. These duties are not regularly assigned, do not represent a significant portion of time, and can easily be accomplished during the compressed work schedule.

Attached is a sample schedule for April 2003, based on actually scheduled days, as well as a sample schedule for June 2003.

For the reasons stated above and a resulting reorganization for efficiency, the Board of State Development respectfully requests to abolish the four full-time Examiner positions.

Please feel to call my office with any questions at _____.

**Sincerely,
Director**

Copy: OCSEA Central Office

**ATTACHMENTS: Individual Rationale Sheets for each PCN abolished
Position Descriptions of each PCN abolished
Position Descriptions of each PCN assuming transferred duties**

*[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]***DATE**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

SUBJECT: Layoff

The Department of XXX requests to layoff the attached list of positions from its Operations, the Central Pharmacy Inpatient section (4) and the Central Pharmacy Outpatient (1). The following is both a historical perspective and the reason for the request for a job abolishment.

The Department of XXX was established by State statute (ORC Section 000.00) to provide certain goods and services, which are in the public interest and considers it advisable to provide these goods and services. Designated departments and other non-profit organizations shall receive such goods and services when it is determined that providing such goods and services will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible.

The Central Pharmacy Inpatient section provides pharmaceutical services to residents of facilities operated by the Ohio Department of XXX. This operation once provided pharmaceutical services to XXX facilities and XXX. XXX is currently the only agency that continues to utilize this service, and only within some of the facilities. As a result, this section lost \$171,000 for fiscal year 1994 and projections for the upcoming year show an even larger loss. Therefore, we are closing Central Pharmacy Inpatient for sound business reasons.

Primary reasons for the loss can be attributed to the following: 1) Facilities no longer need pharmacists to dispense drugs. The State Board of Pharmacy no longer mandates this procedure. Nurses can now dispense in an inpatient setting, thus reducing the need for facilities to contract with Central Pharmacy Inpatient. 2) XXX facilities have and continue to contract private pharmacists who in turn bill directly to the Department of XXX for all Medicaid/Medicare eligible clients. This results in a reduction in cost to XXX that Central Pharmacy cannot compete with due to a lack of authority to bill third party.

The positions to be abolished as a result of this action are:

PCN 6101.0 Pharmacy Operations Manager
PCN 6137.1 Pharmacist

PCN 6139.0 Pharmacy Attendant

PCN 6139.2 Pharmacy Attendant

Also to be laid off is one position within the Central Pharmacy Outpatient section. Currently there are six Computer Operator 2 positions in the Central Pharmacy Outpatient section of the Department of XXX. These positions previously performed data entry of prescriptions on displaywriter. In March 1993, Central Pharmacy Outpatient completed a phased-in conversion from data entry on displaywriter to data entry on the IBM 36 for all 134 community centers. This conversion resulted in significant time savings for Computer Operators. In addition, the Computer Operators no longer have to pull hard copy prescriptions for refilling.

With the speed of the IBM 36 and the change in the procedure for pulling prescriptions, we find that the workload for our Computer Operator 2 positions has diminished. It would be more efficient to abolish one Computer Operator position. The responsibilities would be transferred to the five remaining Computer Operator 2 positions.

The position to be laid off as a result of this action is:

PCN 6132.0 Computer Operator 2

For the five employees that will ultimately be affected through layoff, OSS will work with the Regional Worker Adjustment Committee to ensure that the following service be provided.

- OBES “Rapid Response” Service
- Job Seeking/Interviewing Skills Training
- Resume Writing Assistance
- Information Provided on all Available Benefits
- Stress Management Workshops

In total, the Office of Support Services requests the layoff of five (5) FTE’s. The layoff is for the purpose of Reorganization for Efficiency.

Any questions regarding this reorganization and abolishment plan should be directed to **NAME** at **PHONE NUMBER**.

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

1. State the specific reason(s) why this position is no longer needed.
2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No
If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p> <p>The Agency's employee population has been downsized over the past 10+ years, reducing the number of hospitals from 17 to 9, and employees from over 6,000 to approximately 3,000. The result is that the functions of the Personnel Section have decreased in correspondence to this statewide downsizing. The creation of two Management Analyst Supervisor 2's have proved to be more effective in handling the personnel workload.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p> <p>PCN 2000.0 will directly supervise the two Management Analyst Supv 2's; oversee personal service contracts and attend Controlling Board Hearings regarding same; oversee layoff/abolishment processing procedures with the two MAS 2's. PCN 2041.0 will assume Class Plan; WOOC grievances, PBR appeals; Advance Step Hiring. PCN 2042.0 will handle oversight of authorization for vacancy fills; ceiling numbers and hiring freeze; schedules and leave coordination for personnel staff; assist w/personal service contracts.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

ORDER OF DISPLACEMENT FORM

DRAFT 2006 REVISION

Name	Classification
Division/Office	Classification Grouping (Appendix I)
Facility/Institution	Appointment Type
Collective Bargaining Unit	Seniority Credits

Please read and thoroughly complete the following information. You should return the form to _____ no later than _____. The answers that you provide to the following questions will be used during the paper layoff to determine where you may be displaced. While filling out this form, please review the applicable seniority listing (available from _____).

Please provide any telephone number where you can be reached on the day of the paper layoff which will occur on _____. You may be contacted at the numbers indicated _____.

ELECTION OF DISPLACEMENT RIGHTS

1. I want to exercise my displacement rights if my position is abolished? ____Yes ____No
2. If I am displaced by a more senior employee, I want to exercise my displacement rights to avoid a layoff. ____Yes ____No

If you answered "NO" to either of the first two questions, there is no need for you to fill out the remaining questions. By answering "NO" to these questions you are forfeiting all displacement rights and will be coded as "laid off" with the effective date of the layoff.

Office, Institution or County

3. Pursuant to Article 18.04 of the OCSEA agreement, I want to exercise my displacement rights to displace the least senior employee in an equal or lower positions in the same, similar or related class series (see Appendix I) within my office, institution, or headquarter county (OCSEA Contract 18.04).
____Yes ____No

Note: A Full-Time employee does not have to accept a part-time position in the office, institution or headquarters county before moving into the geographic jurisdiction.

Displacement Options (Apply your classification grouping identified in Appendix I)	Displace into vacancy first?		Appointment Type Categories (check all that apply for each displacement option)		
	Yes	No	Full-time	Part-time	Established-Term
A. Same Classification					
B. Classifications in same or equal pay range					
C. Next lower classification in my classification series*					
D. Classification in same or equal pay range to classification used in C.					

*For the purposes of the layoff process, classification series is defined as those classifications with the same first four digits of the classification series number.

Employees must exhaust all available bumping options in their appointment type including vacancies before they are eligible to displace in the agency geographic jurisdiction as defined in Appendix J.

Geographic Jurisdiction

4. I have exhausted all available options including vacancies pursuant to Article 18.04. Therefore, I want to exercise my rights to displace into a vacancy or least senior employee in an equal or lower position in the same, similar or related classification series (see Appendix I) and within the appropriate geographic jurisdiction of my Agency (see Appendix J). _____ **Yes** _____ **No**

Note: Employee must displace into a vacancy in his/her same classification if one exists prior to utilizing the order of displacement.

Please prioritize the locations listed below (or attached) as to where you would like to work, with “1” being the highest priority, “2” the next and so on. If available, you will first be placed into a vacancy in your current classification and appointment type, and then if no vacancies exist the Order of Displacement from 18.04 shall be applied in your current appointment type in the first two locations you select. If no option to maintain your current appointment type exists in the first two locations you select, you may displace the least senior employee regardless of appointment type in the Order of Displacement from 18.04 in order of your location priorities. The options available in your first location choice shall be exhausted before you will be considered for available options in the remaining locations in the order you have selected. If you do not want to be considered for any of the locations listed (or attached), please leave the location blank or draw a line through it.

(Appropriate Appendix J Jurisdiction to be listed or attached)

Displacement Options (Apply your classification grouping identified in Appendix I)	Appointment Type Categories (check all that apply for each displacement option)		
	Full-time	Part-time	Established-Term
A. Same Classification			
B. Classifications in same or equal pay range			
C. Next lower classification in my classification series*			
D. Classification in same or equal pay range to classification used in C.			

*For the purposes of the layoff process, classification series is defined as those classifications with the same first four digits of the classification series number.

5. I have exhausted all available options pursuant to Articles 18.04 and 18.05 of the contract. I have held a different position in a different classification series in the last five years, and I am exercising my right pursuant to Article 18.06 to displace the least senior employee in this classification within my geographic jurisdiction as defined by appendix J. . _____ **Yes** _____ **No**

If yes, please list the classification _____.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

This letter is to confirm your wish to exercise your right to take a voluntary layoff in accordance with Article 18.02 of the OCSEA/AFSCME Contract. The effective day of the layoff is **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix J of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **DIRECTOR OF PERSONNEL/LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 25 of the OCSEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION/OFFICE** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

This letter is to inform you that after an analysis of the replies received, and in accordance with Article 18 of the OCSEA contract, you were not able to displace into another position. The effective date of the layoff shall be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix J of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for reemployment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 25 of the OCSEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS LETTER SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE**

Dear **EMPLOYEE:**

In accordance with Article 18 of the OCSEA/AFSCME contract, you chose not to exercise your bumping/displacement rights with the “paper layoff” which was conducted on **DATE**. Your last day of work will be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix J of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 25 of the OCSEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE**NAME****ADDRESS****CITY, STATE ZIP**Dear **EMPLOYEE:**

This letter is to inform you that after an analysis of the replies received, and in accordance with Article 18 of the OCSEA contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR** at **DATE AND START TIME**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the **FACILITY/INSTITUTION** and within the recall jurisdiction (**APPLICABLE FACILITIES**) for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction for the same time period. Both reinstatement and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You have the option to select the counties for re-employment that you would desire to be on the recall list for future employment. The counties are: **LIST OF APPLICABLE COUNTIES.**

Please complete the attachment ADM-4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department.**

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 25 of the OCSEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

Director

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

Attachments: ADM 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME
ADDRESS

Dear **EMPLOYEE:**

This letter is to inform you that after an analysis of the replies received, and in accordance with Article 18 of the OCSEA contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number: 00000.0
Classification: TITLE
Status: Example—Full-time Certified
Step: 00
Hourly Rate: \$ (base + ?)

to the following position:

Position Control Number: 00000.0
Classification: SAME TITLE AS ABOVE
Status: Example—Full-time Certified
Step: 00
Hourly Rate: \$ (base + ?)

You are to report to **NEW SUPERVISOR** at **DATE AND START TIME**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 25 of the OCSEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: OCSEA Recall

Dear **EMPLOYEE**:

This letter is to serve as official notification that, per Article 18 of the Bargaining Unit Agreement you are being recalled to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

Article 18 allows recall to a position “provided the affected employee is qualified to perform the duties”. A copy of the position description is attached.

You must notify us, in writing, of your intent to report to work within seven (7) days of **receipt** of this notice otherwise you shall forfeit your recall rights to this position and may forfeit your recall rights to other positions. Likewise, failure to report to work within thirty (30) days will also forfeit your recall rights to this position and may forfeit your recall rights to other positions. In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: **Position Description**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: OCSEA Reemployment

Dear **EMPLOYEE**:

This letter is to serve as official notification that, per Article 18.13 of the Bargaining Unit Agreement you are being offered reemployment rights to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

Article 18.13 allows reemployment to a position “provided the employee is qualified to perform the duties”. A copy of the position description is attached.

You are to report to work within ten (10) days of **receipt** of this notice otherwise you shall forfeit your reemployment rights to this position and may forfeit your reemployment rights to other positions. In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: Position Description

FOR DISPLACED EMPLOYEES OF STATE AGENCIES, BOARDS, COMMISSIONS AND INSTITUTIONS

INSTRUCTIONS FOR EMPLOYEE: Return this form to your Personnel Office within five (5) calendar days from the receipt of this form. If you have any questions regarding your options for recall or reemployment, please contact your personnel officer or union steward.

Recall Rights

Section 18.11 of the collective bargaining agreement establishes that an employee who is displaced from his or her classification shall be placed on a recall list for twenty-four (24) months. If your current Employer should fill a vacancy within the same geographic jurisdiction in a same, similar, or related classification series while a recall list is in place, the employee with the most state seniority shall be recalled to that position, provided the individual is qualified to perform the duties.

INSTRUCTIONS FOR AGENCY: List only the counties designated within your agency geographic jurisdiction (Counties or Institutions) for Recall Options. The location of the employee’s position at the time the layoff is first implemented dictates the applicable geographic jurisdiction.

- Refer to Appendix J for the listing of your agency’s geographic jurisdiction (this may differ from county listings and may refer to a specific institution or office location).
- If agency designation is “Statewide” the agency is required to list all 88 counties
- If the agency does not have a geographic jurisdiction listed in Appendix J of the collective bargaining agreement, the agency must designate the jurisdictions as listed in OAC 123: 1-41-13.

Adams	Darke	Hocking	Miami	Scioto
Allen	Defiance	Holmes	Monroe	Seneca
Ashland	Delaware	Huron	Montgomery	Shelby
Ashtabula	Erie	Jackson	Morgan	Stark
Athens	Fairfield	Jefferson	Morrow	Summit
Auglaize	Fayette	Knox	Muskingum	Trumbull
Belmont	Franklin	Lake	Noble	Tuscarawas
Brown	Fulton	Lawrence	Ottawa	Union
Butler	Gallia	Licking	Paulding	Van Wert
Carroll	Geauga	Logan	Perry	Vinton
Champaign	Greene	Lorain	Pickaway	Warren
Clark	Guernsey	Lucas	Pike	Washington
Clermont	Hamilton	Madison	Portage	Wayne
Clinton	Hancock	Mahoning	Preble	Williams
Columbiana	Hardin	Marion	Putnam	Wood
Coshocton	Harrison	Medina	Richland	Wyandot
Crawford	Henry	Meigs	Ross	
Cuyahoga	Highland	Mercer	Sandusky	

List all same, similar, or related classifications that are in the same or lower pay range (refer to App. I of the CBA).

Reemployment Rights

In addition to recall rights to his or her agency pursuant to Section 18.11, a displaced employee also retains rights to vacancies of other state agencies in the classification from which he or she was displaced within the applicable layoff jurisdiction districts. Section 18.13 of the collective bargaining agreement establishes that an employee who is displaced from his or her classification shall be placed on a reemployment list. If a vacancy is not filled pursuant to Sections 18.11 or 18.14, the Employer must offer the position to the employee with the most state seniority who was laid-off or displaced provided the employee is qualified to perform the duties. Such rights shall be for twenty-four (24) months.

INSTRUCTIONS FOR AGENCY: List only the counties designated within the Layoff Jurisdiction District according to OAC 123: 1-41-13 for Reemployment Options. The location of the employee’s position at the time the layoff is first implemented dictates the applicable Layoff Jurisdiction District.

[Agency may only list counties within applicable District, and employees may only select from counties listed]

- District 1 – Defiance, Fulton, Henry, Paulding, Williams
- District 2 – Erie, Lucas, Ottawa, Sandusky, Wood
- District 3 – Crawford, Huron, Marion, Seneca, Wyandot
- District 4 – Allen, Auglaize, Hancock, Hardin, Mercer, Putnam, Van Wert
- District 5 – Champaign, Clark, Logan, Shelby
- District 6 – Darke, Greene, Miami Montgomery, Preble
- District 7 – Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, Union
- District 8 – Butler, Clermont, Clinton, Hamilton, Warren
- District 9 – Adams, Brown, Gallia, Highland, Jackson, Lawrence, Pike, Ross, Scioto, Vinton
- District 10 – Athens, Hocking, Meigs, Monroe, Morgan, Noble, Perry, Washington
- District 11 – Belmont, Carroll, Coshocton, Guernsey, Harrison, Holmes, Jefferson, Muskingum, Tuscarawas
- District 12 – Ashland, Knox, Morrow, Richland
- District 13 – Medina, Portage, Stark, Summit, Wayne
- District 14 – Ashtabula, Columbiana, Mahoning, Trumbull
- District 15 – Cuyahoga, Geauga, Lake, Lorain

INSTRUCTIONS FOR AGENCY: List the classification from which the employee is being displaced (this is the only classification to which the employee has reemployment rights).

(List classification here:) _____

Employee's Designation

I have indicated all counties, offices or institutions (whichever is applicable) for which I am interested in being **recalled** within the geographic jurisdiction from which I am being displaced/laid off. I understand that I shall indicate only the counties, offices or institutions in which I am willing to accept employment. Failure to indicate any counties or return this form will result in you being placed on all counties within the jurisdiction. I further understand that accepting or declining a position may result in removal from the recall list and discontinue my recall rights.

I have indicated all counties to which I am interested in being **reemployed** within the Layoff Jurisdiction District from which I am being laid off. Failure to indicate any counties or return this form will result in you being placed on all counties within the jurisdiction. I understand that I shall only indicate the counties in which I am willing to accept employment. I further understand that accepting or declining a position may result in removal from the reemployment list and discontinue my reemployment rights.

Employee's Signature

Employee's Name (Printed)

Date

**IMPORTANT COBRA NOTIFICATION
FOR STATE OF OHIO EMPLOYEES AND DEPENDENTS**

It is important that all covered individuals (employee, spouse and dependent children) take the time to read this notice and be familiar with its contents.

Under federal law, the State of Ohio is required to offer covered employees and family members the opportunity for a temporary extension of health coverage when insurance coverage ends due to certain qualifying events.

Covered Employee: If you are the employee covered by a group health plan you may have the right to continue your coverage due to termination of employment (for reasons other than gross misconduct) or a reduction in hours.

Covered Spouse: If you are the covered spouse of a state employee covered by a group health plan, you may have the right to continue coverage for yourself if you lose coverage for the following reasons: termination of your spouse's employment or a reduction in your spouse's hours; the death of your spouse; divorce or legal separation from your spouse; or your spouse becomes entitled to Medicare.

Covered Dependent Children: If you are the covered dependent child of an employee covered by a group health plan, you may have the right to continuation coverage for yourself if you lose coverage for the following reasons: termination of the employee's employment or a reduction in hours; death of the employee; parents divorce or legal separation, the employee becomes entitled to Medicare; or you cease to be a dependent child under the terms of the plan

Coverage Periods: Generally, if the event causing the loss of coverage is a termination of employment or a reduction in hours, coverage is available for an additional 18 months. If the event causing the loss of coverage was the death of the employee, divorce, legal separation, Medicare entitlement, or a dependent child ceasing to be a dependent, continuation coverage is available for 36 months.

Important Employee, Spouse and Dependent Notifications Required

Under the law, the employee, spouse or other family member has the responsibility to notify the State of Ohio of a divorce, legal separation, or a child losing dependent status under the group health plan. This notice must be made within 60 days of the event or the date coverage will end, whichever is later. If this notification is not made, your right to continuation coverage will be forfeited.

Notification procedure

Employees or a covered family member should inform the employing state agency or Benefits Administration Services (614-466-8857) of any qualifying event that results in a loss of coverage. Information will then be sent to the requesting party about the length of available coverage periods, premium rates, conversion rights when COBRA coverage ends, and other information related to your rights under COBRA.

Cost: Premiums for continued coverage are the group rate that the State of *Ohio* pays for coverage, plus a 2% administrative fee.

OCSEA Sample Bumping Form

Row#	DISTRICT	FACILITY	CLASS	CB UNIT	CLASSIFICATION	PCN	NAME	SENIORITY	Tie Breaker	APP TYPE	ABOLISHMENT	SELECTION	Report Type
1	1	A	66531	14	FISCAL SPEC 1	031356.0		558	8347	1			
2	1	A	66531	14	FISCAL SPEC 1	031418.0		524	6626	1			
3	1	A	66531	14	FISCAL SPEC 1	031355.0		276	4310	1			
4	1	A	66531	14	FISCAL SPEC 1	031357.0		0		1			
5	1	A	64521	14	PURCHASING SPC	031361.0		632	8221	1			
6	1	A	64521	14	PURCHASING SPC	031359.0		351	141	1			
7	1	A	64521	14	PURCHASING SPC	031360.0		347	3459	1			
8	1	A	63162	14	GRANTS COOR 2	031676.0		242	191	1			
9	1	A	85834	13	CONST PROJ SP3	031347.0		136	5270	1			
10	1	A	64620	9	PERSONNEL AIDE	031410.0		100	8259	1			
11	1	A	16513	9	ACT CLERK 3	031363.0		455	9066	1			
12	1	A	16513	9	ACT CLERK 3	031367.0		416	1510	1			
13	1	A	16513	9	ACT CLERK 3	031364.0		363	5332	1			
14	1	A	16513	9	ACT CLERK 3	031362.0		350	1886	1			
15	1	A	16512	9	ACT CLERK 2	031368.0		298	4861	1			
16	1	A	16512	9	ACT CLERK 2	031369.0		270	6103	1			
17	1	A	16512	9	ACT CLERK 2	031366.0		161	9654	1			
18	1	A	16512	9	ACT CLERK 2	031365.0		160.97	1535	1			
19	1	A	16512	9	ACT CLERK 2	031371.0		0		1			
20	1	A	12551	9	SECRETARY	031648.0		646	9201	1			
21	1	A	12551	9	SECRETARY	031597.0		521	6320	1			
22	1	A	12551	9	SECRETARY	031373.0		376	7365	1			
23	1	A	12551	9	SECRETARY	031649.0		374	1879	1			
24	1	A	12551	9	SECRETARY	031650.0		358	9437	1			
25	1	A	12551	9	SECRETARY	031709.0		324	6918	1			
26	1	A	12551	9	SECRETARY	031705.0		310	1734	1			
27	1	A	12551	9	SECRETARY	031707.0		279	1993	1			
28	1	A	12551	9	SECRETARY	031595.0		224	2246	1			

OCSEA Sample Bumping Form

Row#	DISTRICT	FACILITY	CLASS	CB UNIT	CLASSIFICATION	PCN	NAME	SENIORITY	Tie Breaker	APP TYPE	ABOLISHMENT	SELECTION	Report Type
29	1	A	12551	9	SECRETARY	031708.0		189.6009	6833	1			
30	1	A	12551	9	SECRETARY	031706.0		170	8693	1			
31	1	A	12551	9	SECRETARY	031647.0		39	737	1			
32	1	A	12551	9	SECRETARY	031710.0		0		1			
33	1	A	12513	9	OFFICE ASST 3	031374.0		819	8478	1			
34	1	B	12513	9	OFFICE ASST 3	066495.0		720	8109	1			
35	1	C	12513	9	OFFICE ASST 3	061979.0		705	2314	1			
36	1	D	12513	9	OFFICE ASST 3	067495.0		628	1233	1			
37	1	D	12513	9	OFFICE ASST 3	067010.0		626	1875	1			
38	1	B	12513	9	OFFICE ASST 3	066010.0		623	9083	1			
39	1	D	12513	9	OFFICE ASST 3	067450.0		614	9409	1			
40	1	A	12513	9	OFFICE ASST 3	065495.0		589	7125	1			
41	1	B	12513	9	OFFICE ASST 3	061980.0		484	945	1			
42	1	E	12513	9	OFFICE ASST 3	063498.0		447	3842	1			
43	1	F	12513	9	OFFICE ASST 3	064497.0		410	7903	1			
44	1	D	12513	9	OFFICE ASST 3	067980.0		408	6247	1			
45	1	G	12513	9	OFFICE ASST 3	062011.0		386	9729	1			
46	1	B	12513	9	OFFICE ASST 3	066496.0		350	5957	1			
47	1	F	12513	9	OFFICE ASST 3	064498.0		348	5510	1			
48	1	B	12513	9	OFFICE ASST 3	061497.0		264	1289	1			
49	1	F	12513	9	OFFICE ASST 3	064010.0		261	2618	1			
50	1	F	12513	9	OFFICE ASST 3	064496.0		230	2077	1			
51	1	E	12513	9	OFFICE ASST 3	063497.0		115	7828	1			
52	1	E	12513	9	OFFICE ASST 3	063496.0		91	2507	1			
53	1	E	12513	9	OFFICE ASST 3	063010.0		65	6815	1			
54	1	G	12513	9	OFFICE ASST 3	062010.0		57.2771	9284	1			
55	1	B	12513	9	OFFICE ASST 3	061981.0		0		1			
56	1	A	12513	9	OFFICE ASST 3	065497.0		0		1			
57	1	A	12513	9	OFFICE ASST 3	065496.0		0		1			

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

TO: **Deputy Director
Human Resources Division
Department of Administrative Services**

THROUGH: **Human Resources Analyst
Certification Unit
Human Resources Division**

FROM: **Chief
Office
Agency Name**

SUBJECT: **Agency Recall and Reemployment List**

CERTIFIED RECALL LIST

NAME	APPT. TYPE	SENIORITY CREDITS
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000

[The Employer should indicate the selected counties by the employee for recall, as well as the counties selected for reemployment]

OCSEA ARBITRATION AWARDS

Arbitration Award: # 469
Agency: Mental Health
Arbitrator: Harry Graham
Arbitration date: June 27, 1990
Decision date: July 27, 1990

In this case, the Employer abolished three positions at the Oakwood Forensic Center. Arbitrator Graham held that the Employer did not demonstrate that the services of these employees were no longer needed. He stated that the Employer must also show the tasks performed by those laid-off were not improperly performed by other bargaining unit members or supervisory personnel. Furthermore, the Arbitrator referenced *Esselburne v. Ohio Department of Agriculture*, 49 Ohio App. 3d, 37 (1988), which held that in order to properly support abolishment of a position and the associated layoff, it is necessary to compare the current work level in the position with the work level when lack of work did not exist. In the end, the Arbitrator restored Grievants to their employment with back pay, including vacation and holiday pay they would have received, as well as reinstatement of seniority.

Arbitration Award: # 532
Agency: Bureau of Employment Services
Arbitrator: Harry Graham
Arbitration date: October 31, 1990
Decision date: December 16, 1990

The State did not demonstrate either a lack of funds or a lack of work in this situation. Rules of the State Personnel Board of Review (SPBR) placed the burden of proof on the employer for a layoff or job abolishment. There was nothing in the record to indicate that the State proposed or that the parties agreed in negotiations that this standard should not continue. The parties did agree to alter the forum of review from SPBR to a neutral arbitrator.

Arbitration Award: # 583
Agency: Mental Health
Arbitrator: Jonathan Dworkin
Arbitration date: December 7 and 14, 1990
Decision date: April 21, 1991

Arbitrator Dworkin held that Article 18.03 expands bumping rights to “similar or related class series.” Supervisors can bump into the bargaining unit, but it is a two-step process. Once they cross the line between exempt and represented employment, they stand as unit employees on layoff without positions. Their rights are the same as, and no greater than, any other laid off unit employee. However, it does provide them access to jobs held by lower-rated individuals with less seniority in a similar or related class series. Ohio Revised Code § 4117.10 (A) incorporates civil service law into the contract and permits laid-off supervisors to cross into the unit. Once they cross that line, their rights are defined by the agreement.

Arbitration Award: # 589
Agency: Mental Retardation/Developmental Disabilities
Arbitrator: David Pincus
Arbitration date: January 7 and 8, 1991
Decision date: May 6, 1991

Upon determining that the Employer is required to demonstrate by a preponderance of the evidence that the job abolishments were properly implemented, Arbitrator Pincus held that the abolishment of certain positions were improper. As to Generally, he stated that if the Appointing Authority needed to subcontract the work previously performed, there was work to be done, and needed to be done. Under these circumstances, it became virtually impossible for the Appointing Authority to establish a permanent elimination of a particular position. Arbitrator Pincus opined that the Employer’s decision merely served as an external job transfer and that any job transfer involving the performance of substantially the same work by others in a similar capacity does not result in a permanent legal deletion. However, Arbitrator Pincus also held that some positions were properly abolished. Particularly, he stated that after the “ouster” of these individuals, other employees did not perform substantially the same work in a like capacity. Basically, the Employer did not merely transfer their job duties to a new employee to perform. Furthermore, the abolishment of these particular positions, allowed the Employer to shift its organizational resources toward the desired outcome.

Arbitration Award: # 689
Agency: Bureau of Employment Services
Arbitrator: David Pincus
Arbitration date: August 15, 1991
Decision date: November 14, 1991

Arbitrator Pincus provided guidance with regard to federal law preemption and veterans' preference where required by federal statute. This award provides language concerning conflicts between the contract and federal law.

Arbitration Award: # 747
Agency: Bureau of Employment Services
Arbitrator: Anna DuVal Smith
Arbitration date: February 11, 1992
Decision date: March 30, 1992

The Ohio Bureau of Employment Services (OBES) hired the three (3) Grievants in the 1970s. In 1982 they were laid off. Within a year, each took intermittent positions with the OBES. After working these intermittent positions for several months, each was appointed to a full-time permanent position with the Bureau. In all three (3) cases, the period of time between layoff and full-time permanent employment exceeded one year. Believing a break in service to have occurred, the State credited each Grievant with the seniority date of the day on which he was employed in the intermittent position. The Grievants subsequently filed this Grievance, claiming that no service break had taken place, requiring their seniority date to correspond with their original hiring in the 1970s.

The Union argued that an agency's rehiring of a laid off employee to an intermittent position within one year of the layoff constitutes reemployment. To this effect, the Grievants were reemployed by the OBES within a year of being laid off and were entitled to earlier seniority dates since there had been no break in service.

The Employer argued that the parties mutually understood "reemployment" to mean an extension of an employee's recall rights to agencies beyond the agency from which he was laid off. The Employer claimed that this definition arose out of the Ohio Revised Code, which formed the basis for many articles in the first negotiated agreement between the parties. If the Grievants had been reemployed, there would have been no need to convert them to permanent employees as the OBES had done.

The Arbitrator GRANTED the Grievance. The Arbitrator found that even though workers who were laid off and subsequently hired into non-permanent positions after July 1, 1989 were not considered reemployed, previous agreements allowed such employees hired before July 1, 1989 to be considered reemployed. The parties were not limited to

the remedy of reinstatement of the Grievants to their former positions, but must be made whole by a remedy agreed upon by the parties.

Arbitration Award: # 785
Agency: Administrative Services
Arbitrator: Rhonda Rivera
Arbitration date: May 21, 1992
Decision date: June 24, 1992

Arbitrator Rivera's decision provides an interpretation of the applicability of the "five year" rule specified in the ORC/OAC.

Arbitration Award: # 791
Agency: Natural Resources
Arbitrator: Harry Graham
Arbitration date: May 5, 1992
Decision date: July 16, 1992

Arbitrator Graham's decision supports the State's right to reorganize for efficiency and economy.

Arbitration Award: # 797
Agency: Mental Retardation/Developmental Disabilities
Arbitrator: John Drotning
Arbitration date: June 10, 1992
Decision date: July 16, 1992

This case, arbitrated by Drotning, provides good language supporting management's layoff rights under Articles 18 and 38 (Technological Change).

Arbitration Award: # 798
Agency: Mental Retardation/Developmental Disabilities
Arbitrator: Anna DuVal Smith
Arbitration date: May 5, 1992
Decision date: July 18, 1992

This case, arbitrated by Anna Duval Smith, supports the State's right to implement an abolishment for the purpose of a reorganization for efficiency and economy.

Arbitration Award: # 818
Agency: Bureau of Employment Services
Arbitrator: Rhonda Rivera
Arbitration date: August 4, 1992
Decision date: October 19, 1992

Grievant, a full-time permanent Claims Examiner 2, was laid off as a result of a job abolishment in which a more senior employee bumped into her position. The Employer concluded that the Grievant has no bumping rights and could not displace. When the Grievant was laid off, intermittent employees, in the same classification were not affected. Arbitrator Rivera stated that job abolishment and displacements were not specifically mentioned in Article 18, or anywhere else in the contract. According to Section 124.321, lay offs can occur for 3 reasons: lack of funds, lack of work, and due to abolishment of positions. Since the Grievant was laid off, Section 124.323 applies, and the lay off order in the statute must be followed. Before the Grievant, a permanent full-time employee, could be laid off, intermittent, seasonal, temporary and part-time employees in that same classification must be laid off first. The Grievant was awarded a full-time intermittent position of Unemployment Claims Examiner 2, was paid, and given whatever benefits would have accrued to her.

Arbitration Award: # 830
Agency: High-Speed Rail Authority
Arbitrator: Rhonda Rivera
Arbitration date: August 28, 1992
Decision date: November 20, 1992

The Union claimed that OHSRA abolished the Grievant's position of Administrative Assistant I in violation of Contract Article 18 (Layoffs), ORC 124, and OAC 123. The Union argued that the abolishment was flawed procedurally and substantively. The Arbitrator found that the abolishment was substantively justified in that it met the standards of ORC 124:321. This statute imposes a burden on the Employer of demonstrating "by a preponderance of the evidence" that it met those standards. The Employer met those standards in this case as the tasks formerly done by the grievant as delineated in her job description have either been eliminated or consolidated with the tasks of a remaining Research Staff position. The Arbitrator also made a sharp distinction between "handling" and "supervising" of routine daily duties, setting forth a detailed analysis in rejecting the Employer's claim that she lacked jurisdiction to rule on the procedural integrity of the abolishment. Finally, the Arbitrator rejected the Union's argument that the tasks consolidated in the Research Staff position are "bargaining unit" work, and, hence, cannot be so consolidated. The Arbitrator found that the tasks which were consolidated into the Research Staff position fell within the rather broad task of

“handling the day to day operations”, and comprised no more than 10% of the acting Executive Director’s yearly tasks.

Arbitration Award: # 834
Agency: Mental Health
Arbitrator: Marvin Feldman
Arbitration date: October 8, 1992
Decision date: November 30, 1992

In this case, 27 positions were abolished for reasons of economy, reorganization for efficiency, and as a result of permanent lack of work. Management argued that the abolishments were for reasons of economy and for the optimum utilization of available financial and human resources. Arbitrator Feldman found that administrative rules, the Collective Bargaining Agreement, statute, and arbitral decision should all be used in analyzing job abolishments and layoffs. The employer must meet all of the criteria established before a job may be abolished. An abolishment is not proper if it creates an erosion of the bargaining unit. Twenty-seven (27) positions were abolished. Three (3) were not contested by the Union. PCN 18020, entitled “Secretary”, was abolished for reasons of economy. The remaining duties of this position were delegated to non-union personnel. This is a clear erosion of the bargaining unit. The Administrative Assistant position, PCN 2020, was also abolished for reasons of economy. The work remained, but it was assigned to non-union personnel. This, also, was an obvious erosion of the bargaining unit. Money was saved but the work remained and was something clearly protected in the agreement. Five positions of “Psychiatric Attendant Coordinator” were also abolished. The four remaining positions were to absorb the duties of the other five. None of the remaining four were scheduled to work third shift. Someone absorbed the duties of that shift, but it was not a Psychiatric Attendant Coordinator. The Psychiatric Attendant Coordinator with the most retention points should be retained so as to place someone on third shift to avoid exempt personnel from performing these duties. There is sufficient payroll to support these three positions.

There are twenty-one (21) positions left; some of which were placed on half-time, leaving a balance of sixteen (16). These remaining 16 had their jobs abolished in a proper manner by the employer under and by virtue of the appropriate contract clause, rules, and statutes. The patient count went down; the employer is hard pressed for funds; the layoffs caused a substantial savings. As long as the criteria are met, and arbitrator cannot enforce negotiations unless the negotiation activity is a condition precedent to an abolishment of a position. The three people who may go back to work for the reasons stated, may do so because the reasons stated are in the four corners of the contract and those three people meet the criteria of reinstatement. The others do not and those abolishments stand.

Arbitration Award: # 842
Agency: Natural Resources
Arbitrator: Rhonda Rivera
Arbitration date: October 23, 1992
Decision date: January 5, 1993

This case, arbitrated by Rivera, case involved the abolishment of a lead worker position where the lead worker did not have the requisite licensure to provide functional supervision.

Arbitration Award: # 873
Agency: Transportation
Arbitrator: Rhonda Rivera
Arbitration date: March 11, 1993
Decision date: May 13, 1993

Arbitrator Rivera held that once the Employer has shown prima facie a substantively and procedurally correct job abolishment, the Union has the burden to show by a preponderance that the abolishment was not in good faith. Arbitrator Rivera found that the Union had met its burden and the abolishment was not in good faith and constituted a breach of the settlement. She held that the failure to consult the Union, coupled with inappropriate evaluations, and with the questions raised about the truthfulness of the claim that all the work was being fully and efficiently performed, led her to find the abolishment was not in good faith.

Arbitration Award: # 885
Agency: Natural Resources/Transportation
Arbitrator: Lawrence Loeb
Arbitration date: March 26, 1993
Decision date: June 23, 1993

The Grievant's position of Radio Operator at the Department of Natural Resources was abolished and shortly thereafter, the position of Radio Operator was posted at the Department of Transportation. The Grievant was on a reemployment list, but was not chosen to fill the vacancy. A temporary employee filled the vacancy. Arbitrator Loeb held that the State was using a temporary employee to avoid filling a permanent vacancy. This coupled with the fact that the position had been posted, led the Arbitrator to grant the Grievant back pay for time between the position change from a Radio Operator to a Radio Technician.

Arbitration Award: # 914
Agency: Mental Health
Arbitrator: Lawrence Loeb
Arbitration date: May 21, 1993
Decision date: October 18, 1993

Arbitrator Loeb held that the Union was not able to challenge the State's decision to alter the method of operation. The savings realized by eliminating an employee's salary and benefits was not, in and of itself, sufficient economic reason to justify abolishment. The State failed to show documentation to support its claims that there were economic benefits resulting from the decision to alter the method of operation. Without this evidence, the only benefit the Employer could show from the abolishment was the savings of wages and benefits. With this in mind, the Arbitrator found that the Employer then must show a lack of work in order to uphold the abolishment. The Union was able to show through testimony that the Food Consultant and the Food Service Manager had been performing the Grievant's duties in his absence. Management failed to show through a preponderance of evidence that there was such a lack of work to justify the abolishment.

Arbitration Award: # 937
Agency: Natural Resources
Arbitrator: Harry Graham
Arbitration date: October 4, 1993
Decision date: December 28, 1993

Arbitrator Graham found that the Grievant was qualified based upon his education and previous experience. The Arbitrator pointed out that the Grievant possesses a Master's degree while the incumbent has only a Bachelor's Degree. The Grievant also has a longer work history than the incumbent. The Arbitrator added that the requirement to have had four courses in hydrogeology was not met by the incumbent let alone the Grievant. Finally, the Arbitrator added that the Grievant cannot be expected to know all of the intricacies of the position immediately after bumping into the position. There must be some sort of informal learning period.

Arbitration Award: # 990
Agency: Transportation
Arbitrator: Nels Nelson
Arbitration date: May 13, 1994
Decision date: July 23, 1994

Arbitrator Nelson found that the Grievant had 30 days from when he or she "became or reasonably should have become aware of the occurrence giving rise to the grievance." The grievance was filed timely because the event that started the time clock was the date that the first employee was restored to her position by the previous arbitration decision. The Arbitrator then ruled that the Grievant should be restored to her position as an Administrative Assistant 1.

Arbitration Award: # 994
Agency: Mental Health
Arbitrator: Lawrence Loeb
Arbitration date: April 26, 1994
Decision date: August 9, 1994

Arbitrator Loeb agreed with the State's argument that only individuals who could challenge the rationale are those employees first effected by the abolishment; however the Arbitrator also agreed with the Union's claim that the grievance is their responsibility and thus the rationale of the abolishment could be challenged by the Union

Arbitration Award: # 1029
Agency: Mental Health
Arbitrator: Mollie Bowers
Arbitration date: November 16, 1994
Decision date: January 31, 1995

A Vocational Instructor II from Western Reserve Psychiatric Hospital was laid off. The Employer justified its decision with numerous reasons: 1) Western Reserve had reduced its patient population from 500 to 310 clients; 2) there was only one client in the "printshop training program" where the Grievant worked; 3) the traditional printshop training duties that the Grievant previously performed were no longer relevant due to technological changes; 4) the print shop was in the process of closing; 5) there were community based vocational opportunities; 6) the number of clients scheduled for internal vocational training had decreased from 80 to 40; and 7) it was more economical for Vocational Instructor I's to perform the Grievant's duties. The Arbitrator ruled in favor of the Employer by stating that the Employer's evidence that supported the

rationale for the abolishment was not refuted by the Union. The fact that the Employer provided the Grievant with “make work” during her employment prior to the layoff does not make the layoff per se improper. The duties in question were for the most part defunct. The duties assigned to the Vocational Instructor I’s were properly within their classification. The Union could not substantiate their claims of bad faith.

Arbitration Award: # 1385
Agency: Veteran’s Home
Arbitrator: Anna DuVal Smith
Arbitration date: July 21, 1999
Decision date: July 21, 1999

Grievance was sustained in part and denied in part. The parties stipulated that the Grievant was improperly laid off from his position as an Activity Therapist 1 in November of 1998. The Grievant should have been allowed to bump into a part-time Activity Aide’s position. The individual who was awarded the part-time Activity Aide position, was placed into a temporary working level soon after taking the position. The employee worked full-time in the TWL position. The Grievant was recalled to work in June of 1999. The issues for this case were whether the Grievant was entitled a vacant Custodial Worker’s position, whether he was entitled to back-pay for full-time hours for the time he was improperly laid off, and whether he was entitled to TWL pay for the time he was improperly laid off. The Arbitrator held that the Grievant could not and did not bid on the Custodial Worker’s position and, thus, was not entitled to the position. The Arbitrator also held that whether to place an employee into a temporary working level is a Management Right. The Arbitrator would have had to speculate whether the Grievant, or another employee, would have been afforded the temporary working level. The Arbitrator refused to make such a speculative award. The Grievant was awarded part-time pay for the Activity Aide position to which he was entitled.

Arbitration Award: # 1426
Agency: Mental Health
Arbitrator: Anna DuVal Smith
Arbitration date: December 7, 1999
Decision date: March 9, 2000

Grievant did not receive her first choice position during a paper layoff. The Grievant sought a Therapeutic Program Worker (“TPW”) position, which was held by another individual with less seniority. At the time, the Grievant did not know the position carried the designation “Reasonable Accommodation Position.” The other individual in the position at that time was eligible for reasonable accommodation. During the paper layoff the Grievant was told she could displace the other individual, but could not displace the other individual’s reasonable accommodation duties. The Grievant decided to take her second choice position, which was also a TPW first shift position. The Grievant claimed

at arbitration that she was forced to take her second choice position. The other individual in the position was eventually reclassified as a Personal Services Worker. The Arbitrator held that when an employee moves into a new position, she assumes the duties of the position, not necessarily the duties being performed by the person she bumped. The Arbitrator stated the accommodation follows the person, not the job. However, the Arbitrator stated the fact that the Employer established the position's duties as a whole, not just the individual's in regard to this position, was the cause of the problem. In response, the Arbitrator stated the Employer's mistake, if any, was not in its application of the layoff provision, but in its failure to reclassify the position and either reclassify the other individual or post the vacancy. In conclusion, the Arbitrator held that whether the Employer can set aside a position for accommodating qualified disabled employees without opening it up for bid by otherwise qualified, but non-disabled employees, without violating Articles 17 and 19, was a question beyond her reach. Therefore, the Arbitrator limited her decision to the stipulated issue and held the Employer had not violated Article 18 and denied the grievance.

Arbitration Award: # 1617
Agency: Rehabilitation & Correction
Arbitrator: Harry Graham
Arbitration date: October 23, 2002
Decision date: November 7, 2002

Arbitrator Graham held that recall rights are within the recall jurisdiction and not specific to the institution. In Appendix J of the Collective Bargaining Agreement, geographical jurisdictions are listed. Arbitrator Graham specifically stated that “[p]ains were taken to divide the Department of Rehabilitation and Correction into geographic zones. . . . Division of the State into the various zones reflects the bargain made in Section 18.11 of the Agreement. Recall rights go to the recall jurisdiction outlined in Appendix J. They do not go to the institution.”

Arbitration Award: # 1696
Agency: Rehabilitation & Correction
Arbitrator: Nels Nelson
Arbitration date: June 5, 6, and 12, 2003
Decision date: July 18, 2003

On January 28, 2003, the Department of Rehabilitation and Correction (DR&C) notified the Union that the Lima Correctional Institution (LCI) would be closed. Arbitrator Nelson denied the grievance and found that Section 44.02 of the contract did not apply to the instant case. He held that the decision to close LCI was not a mandatory subject of bargaining and applied the *Youngstown* balancing test to determine that, since members

of the same union would do the work at the same rate of pay, the decision was unrelated to wages, hours, terms and conditions of employment. Bargaining the decision to close LCI would not be a feasible means to resolve the dispute. The arbitrator found that even if the decision to close LCI were a mandatory subject of bargaining, the Employer had already met its burden.

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1199 CHECKLIST:

The following is a chronological checklist setting forth the steps required to implement a layoff of SEIU/District 1199 bargaining unit employees. Please note that this checklist is to be utilized as a quick reference guide and is not intended to be an inclusive representation of the information needed to successfully carry out a reduction in force. Please refer to the “Detailed Overview” section of this manual and associated exhibits and appendices for further guidance. If you have any questions, please contact your Labor Relations Specialist at the Office of Collective Bargaining.

_____ Notify the Union

- ✓ Once the agency determines that a layoff is necessary, the agency shall notify the Union, informing it of the classification(s), the number of employee(s) and the work site(s) affected
- ✓ The agency must schedule a meeting with the Union to explain the reason for such action, taking into serious consideration the Union’s comments and ideas to avoid a layoff
- ✓ If after the meeting, the agency still deems the layoff necessary, proceed with the next step
- ✓ **NOTE:** Agencies often delay notifying and meeting with the union until the agency has had time to determine the specific classifications and employees impacted, develop the rationale and OCB has approved the supporting documentation (See the ninth step of this checklist “Upon approval from OCB, notify the union”). If the agency chooses to wait to a later time to notify, skip this step, but know that the rationale may later be impacted by the Union’s feedback.
- ✓ **See section II of the Detailed Overview**
- ✓ **See section 29.01 of the Collective Bargaining Agreement (CBA)**

_____ Determine underlying reason for layoffs and specific notice requirements:

- ✓ Section 29.01: The agency shall notify all affected employees of the impending layoff at least forty-five (45) days prior to the effective date of any layoff if the reason is for lack of funds.
- ✓ Section 29.01: The agency shall notify all affected employees of the impending layoff at least ninety (90) days prior to the effective date of any layoff if the reason for the layoff is anything other than a for lack of funds.
- ✓ The agency must realize that the notice requirement is not fulfilled until the rationale statement has been submitted to the union and DAS and they therefore must budget time accordingly.
- ✓ The process may take longer than the contractual requirements. Please note that the 45/90 days is the minimum time between union notification

and effective date of layoff. The average timeline is between 60 to 120 days from beginning to end.

_____ Send notice of a **Proposed Intent to Layoff** to DAS, OCB, and OBM

- ✓ **See section III of the Detailed Overview**
- ✓ **See Sample 1199 - 1**
- ✓ **See section 29.01 of the Collective Bargaining Agreement (CBA)**

_____ **Early Retirement Incentive Plan**

- ✓ Is an ERI Plan mandatory?
- ✓ **See section IV of Detailed Overview**
- ✓ **See Appendices B & C**
- ✓ *See Ohio Revised Code § 145.297*

_____ Develop draft rationale

- 1) Objectives of Agency
 - 2) Number of Employees Affected
 - 3) Affected Positions
 - 4) Cost Savings
 - 5) Reason for Layoff (Rationale)
 - a) Lack of Funds
 - b) Lack of Work
 - c) Reorganization
 - Lack of Work
 - Efficiency
 - Economy
- ✓ **See section V of the Detailed Overview**
 - ✓ **See sample 1199 - 2 and 1199 - 2a**
 - ✓ **See section V of annotated contract**

_____ Prepare proposed **Layoff List**

- 1) Determine all classifications to be affected
 - ✓ **See Appendix A of CBA**
- 2) Determine appropriate jurisdictions
 - ✓ **See Appendix B of CBA**
- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
 - ✓ **See 1199 - 1a for a sample request for a layoff roster**
- 4) Agency must account for all employees currently on disability in affected classifications.
 - ✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. (*See OAC 123:1-41-21*)
- 6) Seniority date of each employee
 - ✓ **See Article 28**

- 7) Effective date of layoff
- 8) Prepare list by following order set forth in Article 29
 - ✓ **See section VI of Detailed Overview**

_____ Develop **Individual Position Rationales**

- ✓ **See section VII of Detailed Overview**
- ✓ **See sample 1199 - 3 and 1199 - 3a**

_____ Submit draft rationale to OCB for review and revisions with the following documents:

- ✓ General rationale
- ✓ Individual position rationales
- ✓ Intended date of layoff and date employees will be notified
- ✓ Table of organization both before and after reduction
- ✓ **See section VIII of the Detailed Overview**

_____ Upon approval of the rationale from OCB, the agency shall officially notify the Union, informing it of the classification(s), the number of employee(s) and the work site(s) affected.

- ✓ For efficiency purposes, most agencies submit the rationale to the central union to fulfill this requirement.
- ✓ Upon submission of the rationale to the central union, the 45/90 day written notice to each affected employee is fulfilled (each employee does not have to receive a written copy of the rationale, notice to the employee union central office representative serves as notice to each employee).
- ✓ **See section IX of the Detailed Overview**

_____ Agency must schedule a meeting with 1199 to discuss reason for the layoff prior to distributing Bumping Selection paperwork.

- ✓ The Union's comments and ideas given to avoid the layoff must be seriously considered before making a final decision to lay off employees.
- ✓ If revisions are necessary, submit an amended version of the layoff rationale and supporting documentation to the union (this would begin the 45/90 day notice again since the pool of impacted employees may have changed).
- ✓ **See section 29.01 of Annotated Contract**
- ✓ **See section X of Detailed Overview**

_____ Submit Rationale Statement and all supporting documentation as stated above (including any revisions after meeting with the union) to DAS HRD on the same day(s) that the rationale and/or revised rationale is submitted to the union.

- ✓ List of employee's computed seniority credits
- ✓ If the layoff involves abolishment of exempt positions, the agency must wait for DAS to verify any retention points for exempt employees, but may work on drafting paperwork for the union layoff process (e.g., posting

and/or verification of seniority of affected 1199 employees and/or *preparing* Bumping Selection Forms and cover letters to the impacted 1199 employees).

- ✓ The agency may *not* want to send out any bumping paperwork for 1199 personnel until all exempt bumping has been completed. It is considered most efficient to allow the exempt who may ultimately have rights to previously held 1199 classifications to be included in the bumping process.
- ✓ Any exempts that previously held positions within 1199 should be listed on bumping paperwork with his/her previous classification and seniority at the time of leaving the union.
- ✓ **See section XI of the Detailed Overview**

If the agency allows challenges to seniority credits, post seniority list with a period of time to challenge. *Note that this is not a contractual requirement nor a right of the employee.*

- ✓ Agency should share revisions to seniority credits with the Union
- ✓ **See section XII of Detailed Overview**

Once all exempts that have rights to positions are placed on bumping list, send out Bumping Selection forms to all affected 1199 employees.

- ✓ Employees have 5 days to return to the completed Bumping Selection form
- ✓ Agency may work on developing bumping forms that will be utilized during the paper bump.
- ✓ **See section XIII of Detailed Overview**
- ✓ **See 1199 - 4**

Conduct **Paper Layoff**

- ✓ **See section XIV of Detailed Overview**
- ✓ **See section 29.02 of the CBA**
- ✓ **See 1199 - 4a for a sample bumping form**

Send all affected employees appropriate notification letters at least fourteen (14) days prior to the effective date of the layoff (seventeen (17) days if sent by certified mail), including:

- 1) Recall Options, COBRA notice, and leave conversion attachments for employees who chose to voluntarily be laid off. (**See 1199 - 5, 12, 13, and 14**)
- 2) Recall Options, COBRA notice, and leave conversion attachments for employees who chose to bump, but have no bumping options and will be laid off. (**See 1199 - 6, 12, 13, and 14**)
- 3) Recall Options, COBRA notice, and leave conversion attachments for employees who chose not to exercise rights to bump and will be laid off. (**See 1199 - 7, 12, 13, and 14**)

- 4) Recall Options for employees who were displaced into a lower classification. (See 1199 - 8, 12)
- 5) Letter only for employees who were displaced into a new PCN but same classification. (See 1199 - 9)
 - ✓ See section XV of Detailed Overview for information about notification letters and instructions on developing detailed recall forms
 - ✓ See 1199 - 12 for sample Recall Options form
 - ✓ See 1199 - 13 for sample Sick Leave Conversion form
 - ✓ See 1199 - 14 for sample COBRA notification
 - ✓ See Appendix B of collective bargaining agreement for a list of all counties, offices and institutions in the agency layoff jurisdiction
- 6) Employees have five (5) days from receipt to return Recall Form.

_____ Agency should submit **Personnel Action** (ADM-4100) at least seven (7) days prior to the effective date of the layoff. Include the following:

- 1) Recall Options - This form will be forwarded to DAS Certification to add the employees to the existing layoff certification lists.
- 2) Sick Leave Conversion Form. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.
- 3) Copy of letter notifying the employee of layoff
- 4) Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and recall list to certification
 - ✓ See section XVI of Detailed Overview

_____ In addition to submitting the employee Recall Forms to DAS, the agency must compile recall lists and submit to DAS Certification seven (7) days prior to layoff

- ✓ Recall rights are for twenty-four (24) months
- ✓ See section XVII of the Detailed Overview
- ✓ See 1199 – 15 for a sample recall list.
- ✓ See Appendix A for same/similar classifications

SEIU/DISTRICT 1199 DETAILED OVERVIEW

I. SUMMARY

Article 29 of the 1199 collective bargaining agreement (CBA) governs layoffs of 1199/SEIU employees. When conducting a layoff, pay close attention to the various time requirements for providing notice to the Union and employees. Layoffs are time consuming and can be difficult to implement. Please contact your Labor Relations Specialist at the Office of Collective Bargaining throughout the process for assistance. *[See Appendix A for a list of the Office of Collective Bargaining contacts]*

★ **NOTE:** The contract does not reference the Ohio Revised Code or the Ohio Administrative Code, and is therefore the *sole authority* where layoffs are concerned.

II. UNION NOTIFICATION

The contract requires that when the agency determines that a layoff is necessary, the agency shall notify the Union, informing it of the classification(s), the number of employee(s) and the work site(s) affected. The agency will also schedule a meeting with the Union to explain the reason for such action. *[See also section IV of this portion of the manual]*

★ **NOTE:** Agencies often delay notifying and meeting with the union until the agency has had time to determine the specific classifications and employees impacted, develop the rationale and OCB has approved the supporting documentation *[See section V of this manual]*. If the agency chooses to wait to a later time to notify, skip this step but know that the rationale may later be impacted by the Union's feedback.

There are specific notice requirements based on the reason for the layoff:

Section 29.01: The agency shall notify all affected employees of the impending layoff at least forty-five (45) days prior to the effective date of any layoff if the reason is for lack of funds.

Section 29.01: The agency shall notify all affected employees of the impending layoff at least ninety (90) days prior to the effective date of any layoff if the reason for the layoff is anything other than a for lack of funds.

The agency must realize that the notice requirement is not fulfilled until the rationale statement has been submitted to the union and DAS and therefore must budget time accordingly.

The process may take longer than the contractual requirements. Please note that the 45/90 days is the minimum time between union notification and effective date of layoff. The average timeline is between 60 to 120 days from beginning to end.

III. NOTICE OF PROPOSED INTENT TO LAYOFF

Notice of Proposed Intent to Layoff is not referenced in the contract or code as a required step in the layoff process. *However*, it is established practice that the agency shall put the Department of Administrative Services (DAS), the Office of Collective Bargaining (OCB), and the Office of Budget and Management (OBM) on notice of their intent to layoff.

[See 1199 - 1 for a sample notice form]

Helpful Tips:

- The Notice of Intent should be submitted at least seven (7) days prior to the submission of the final rationale
- The Notice of Intent should be a one-page summary of the expected number of positions to be abolished and the approximate number of people who may be ultimately displaced
- This document can be submitted while the agency is drafting and/or revising the detailed rationale for the layoff

IV. EARLY RETIREMENT INCENTIVE PLAN

An Early Retirement Incentive Plan (“ERIP”) allows the employer to purchase additional service credit for employees, which enables employees to retire early or retire with a larger retirement benefit than they may have otherwise been entitled. *[See ORC § 145.297]*

★ **NOTE:** Early Retirement Incentive Plan is *mandatory* if the agency proposes to close a state institution or to layoff, within a six-month period, a number of persons employed that equals or exceeds the lesser of 350 employees or 40 percent of the employees of the employing unit. (See ORC § 145.298)

Basics:

- Form F-111b, and the ERIP must be submitted to PERS.
- Form F-111b, the ERIP, and a cost analysis of the Plan must be submitted to OBM.
- OBM will not approve the affordability of an ERIP unless the agency’s cost analysis clearly demonstrates that the agency has budgeted for the Plan from available funds.
- This process will take a minimum of sixty-seven (67) days to process. The agency should work on drafting the rationale and calculating seniority credits during this time.

[See Appendices B and C for specific details, procedures, and materials to assist you in preparing such a Plan]

★ **NOTE:** If the proposed layoff is for a lack of funds, and therefore a certification of lack of funds from OBM is necessary, the Early Retirement Incentive Plan must be adopted prior to the certification.

Please contact the appropriate LRS at OCB if you are planning to offer an ERIP so that you may be assisted with notifying the Union. Note the decision in *State Employment Relations Board v. Youngstown City School District Board of Education*, 93-ULP-01-0095, which indicated that impact bargaining may be necessary prior to establishment of an early retirement incentive plan.

V. SUPPORTING DOCUMENTATION

The 1199 contract states that the agency may determine when a layoff is necessary, but does not further illuminate valid reasons for a layoff. Although the 1199 contract does not incorporate the Ohio Revised Code, arbitrators are familiar with standards employed in arbitration cases involving layoffs of AFSCME/OCSEA employees under the Ohio Revised Code. It is therefore reasonable to expect that the evidence necessary to support a layoff under the 1199 CBA will be similar to that expected in an AFSCME/OCSEA layoff.

The following is a guideline of the reasons for a reduction in force allowed under the Revised Code and the documentation required to be submitted. Also note that the 1199 contract sets forth a process for layoffs only. The term job abolishment is not used. Therefore, when planning for a reduction in force, use the term “layoff”.

Finally, keep in mind that the contract does not allow a reduction in hours to reduce the workforce. Layoffs must be used. Only by agreement of the parties can the regular hours of employees be reduced. *[See Arbitration Award #1083]*

★ **NOTE:** While 1199 is precluded from challenging the rationale for the layoff, it is advisable to follow the standard established in the Ohio Revised Code.

Pursuant to the code, Appointing authorities are *required* to file with the director of DAS documentation that justifies a reduction in force. This documentation is often referred to as the “rationale” for the layoff. This “rationale” consists of both a general rationale and individual rationales for each position identified for layoff.

GENERAL RATIONALE:

The documentation should include:

- Objectives of the agency
- The number of employees affected

- The affected positions
- The cost savings, if any
- The reason for the layoff

[See 1199 - 2 and 2a for sample rationale letters]

The reasons for a reduction in force are limited to those specifically allowed by law. Employees may be laid off whenever a reduction in force is necessary for any of the following **three** reasons:

- 1) Lack of funds
- 2) Lack of work
- 3) Reorganization
 - a) Lack of work
 - b) Efficiency
 - c) Economy

★ **NOTE:** The state must demonstrate by a **preponderance** of the evidence that a layoff was undertaken for one of the above reasons.

The documentation required by the OAC to support the layoff depends upon which of these three reasons is being used.

A. LACK OF FUNDS

A lack of funds means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn. *[See ORC § 124.321(B) and OAC § 123: 1-41-02]*

The director of OBM is responsible for determining whether a lack of funds exists. **Certification by OBM is required.** Agencies should contact OBM for assistance in completing the appropriate financial analysis. Contact your OBM Analyst for OBM worksheets. **See Appendix D.**

- ▲ **Remember,** as stated above, if your agency is required to adopt an Early Retirement Incentive Plan, it must be adopted prior to obtaining the certification for lack of funds.

★ **NOTE:** If your agency has determined that the underlying reason for the reduction in workforce is for a lack of funds, it is important to realize that this is a time-consuming process requiring certification from OBM. [See OAC § 123:1-41-06]

If your agency is contemplating a layoff for lack of funds, please contact your LRS at OCB and OBM analyst immediately.

B. LACK OF WORK

A lack of work, for purposes of layoff, means an appointing authority has a current or projected decrease in the workload which requires a reduction of current or projected staffing levels. The determination of a lack of work shall indicate the current or projected decrease in the workload of an appointing authority and whether the current or projected staffing levels of the appointing authority will be excessive. [See ORC § 124.321(C) and OAC § 123:1-41-02]

The director of DAS shall determine if a lack of work exists. The agency is required to submit the following:

- Request for determination of lack of work
- Adequate information to establish that a lack of work exists, which may include:
 - ✓ Comparison between current work levels and work levels when a lack of work did not exist
 - ✓ Statistical data and additional supporting materials
 - ✓ Reasons for the elimination or diminution of duties
 - ✓ Allocation of any duties remaining after the layoff

★ **NOTE:** Remaining duties should not be reassigned across bargaining units, across classifications, or across exempt/bargaining unit lines.

C. REORGANIZATION

The reorganization of an agency is the most commonly utilized reason for layoffs.

Reorganization will lead to the permanent deletion of a position or positions from the organization or structure of the appointing authority due to a lack of continued need for the position(s).

Reorganization may be done for any of the following **three** reasons:

- 1) For the efficient operation of the agency; or
- 2) Reasons of economy; or
- 3) Lack of work.

1) Efficiency of Operation

A statement of rationale to support a layoff for greater efficiency of operation should include well-documented information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a historical discussion and/or explanation of the changes in organizational emphasis and goals.

Efficiency of operation should be utilized when the agency has no other savings than salary and benefits and can point to unnecessary services, duplicate services, outdated services, better ways of accomplishing tasks, or change in philosophy or programming that requires the reallocation of resources.

Examples: the rationale should include information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a historical discussion and/or explanation of the changes in organizational emphasis and goals.

2) Reasons of Economy

A statement of rationale to support a layoff for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reasons of economy should be utilized when the agency cannot point to efficiency gains, but can show that the elimination of positions results in other economic savings. Agencies must consider savings regarding salary, benefits, and other matters associated with the abolishment of the position. Reason of economy should be used if:

- a. The agency's operating budget is reduced by executive or legislative action (if this option is chosen, the abolishment must happen within one year of the announcement of the decreased funding). In this instance, the agency may consider only salary and benefits savings regarding affected positions.

OR

- b. A current or projected deficiency in funding is expected to make it difficult to maintain current service levels.

HOWEVER:

- The abolishment must be done in good faith
- If the funding is reduced for one specific program, then the abolishment must be from that program's staff
- If the funding reduction is not for a specific program, then the most appropriate position to abolish must be determined.

When computing savings, ensure that all expenditures after layoff are included (*i.e.*, ERIP costs, unemployment costs, and moving and changing office equipment costs).

Examples: consolidation of offices requiring fewer positions, reduction of process requiring fewer positions (technological upgrades, simplification of procedures), and matching equipment/material needs to the workforce under a reduced budget.

3) **Lack of Work**

A lack of work may be due to legislative change or the elimination of services not required by an agency's enabling statute or mission or other changes in operation. A statement of rationale and supporting information are required.

Examples: Elimination of a governmental function by legislation (liquor control), elimination of a regulatory function, and elimination of non-essential functions.

VI. PREPARE PROPOSED LAYOFF LIST

To prepare for the paper layoff, the agency needs to prepare a seniority list for the affected classifications for the entire geographic jurisdiction. Start with the seniority lists provided by DAS quarterly. If you need a special list, contact OCB for assistance.

The list should be shared with the Union well before the paper layoff. In order to prepare the proposed layoff list:

- 1) Determine all classifications to be affected
✓ **See Appendix A of CBA**
- 2) Determine appropriate jurisdictions
✓ **See Appendix B of CBA**
- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
✓ **See 1199 - 1a for a sample request for a layoff roster**
- 4) Agency must account for all employees currently on disability in affected classifications.
✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. [*See OAC 123:1-41-21*]
- 5) Seniority date of each employee
✓ **See Article 28**
- 6) Effective date of layoff
- 7) Prepare list by following order set forth Article 29

If your abolishments include any exempt positions, the agency should immediately identify the employees filling the exempt positions and pull the employment history of those individuals to determine if they have a right to bump into the bargaining unit, either into the same class series or into a position in which they worked in the last three years. *See Arbitration Award #583.*

VII. INDIVIDUAL POSITION RATIONALES

Once the agency has developed the general reason for the reduction, you must also determine the specific positions that will be abolished. The agency will need to develop an **individual rationale** for each position to be reduced. Each individual rationale should relate to the general rationale.

Make sure the individual position rationale:

1. Specifies the PCN and then addresses the duties of that position. It is important to address all the duties performed by the position. (Refer to position description).
2. Specifically states which duties were never performed or are no longer performed.
3. Specifies, **to the extent possible**, which PCN(s) will be assuming the remaining duties (of the duties that will remain) and ensure that this will not have a significant impact on the person(s) assuming the duties.

[See sample 1199 - 3 for a blank form and 3a for a sample]

★ **NOTE:** The agency should always verify that the classifications of the PCN(s) assuming the duties allow for the performance of the transferred duties.

VIII. OCB REVIEW OF DRAFT COPY

A copy of all documents prepared to support the proposed layoff should be submitted to OCB for review and revisions prior to the intended date for notification of the Union and request for approval from DAS.

The information should include:

- ✓ The rationale statement and supporting documentation
- ✓ The rationale for each individual position
- ✓ Position Descriptions of all positions identified to be abolished
- ✓ The Table of Organization both before and after the layoff
- ✓ The date employees will be notified of the layoff
- ✓ The effective date of the layoff

IX. UNION NOTIFICATION

The contract requires that when the agency determines that a layoff is necessary, the agency shall notify the Union, informing it of the classification(s), the number of employee(s) and the work site(s) affected. The agency may have already put the union on notice at the beginning of the layoff process [*See also section II of this portion of the manual*] but it is often necessary to give the finalized rationale to the union to start the official notification window.

Pursuant to *section 29.01*, affected employees must be provided notice of the impending layoff, in writing, at least 45 calendar days prior to a lack of funds layoff, and 90 calendar days prior to a layoff for any other reason. This written notice is fulfilled by sharing the finalized rationale with the employee representative, central office 1199.

The process may take longer than the contractual requirements. Please note that the 45/90 days is the minimum time between union notification and effective date of layoff. The average timeline is between 60 to 120 days from beginning to end.

The agency does not have to send letters to all affected individuals to fulfill this notice requirement.

★ **NOTE:** For efficiency purposes, most agencies submit the rationale to fulfill the notice requirement.

X. MEETING WITH UNION

The agency must meet with the Union to discuss the proposed layoff. The Union's comments and ideas given to avoid the layoff must be seriously considered before making a final decision to lay off employees. [*See arbitration awards #753 and # 1181*]

If revisions are necessary, submit an amended version of the layoff rationale and supporting documentation to the union (this would begin the 45/90 day notice again since the pool of impacted employees may have changed).

XI. DAS NOTIFICATION

Upon approval of the rationale from OCB, you should submit the final rationale with individual position rationales to DAS/HRD.

If the layoff involves both exempt and bargaining unit employees, the agency must wait for DAS to verify any retention points for the exempt employees before proceeding with the layoff. However, the agency may proceed with next steps in preparing for the layoff of affected 1199 members (e.g., posting and/or verifying seniority credits, *preparing* Bumping Selection forms, etc.).

If applicable, the agency may send out any exempt bumping paperwork to begin the first wave of bumps upon receiving verification of retention point. The bumping should continue until all bumps have occurred.

After all bumping rights of exempts have been exhausted, if any exempts do have a right to an 1199 position, their seniority at the time they left the union should be calculated as specified by Article 28 of the Agreement. That employee's name should be included in the paper layoff process.

XII. SENIORITY

The agency **may** allow employees to challenge their seniority. **THIS IS NOT A CONTRACTUAL REQUIREMENT NOR A RIGHT OF THE EMPLOYEE.** If the agency should allow challenges to seniority to be reviewed, the agency should establish a specified period of time and share all revisions with the union. Any changes in seniority should be reflected in the bumping paperwork and shared with the union.

★ **NOTE:** If you allow challenges to seniority credits and retention points, post the seniority list for BU and/or retention points for exempts with a period of time to challenge. *Note that this is not a contractual requirement nor a right of the employee.*

XIII. BUMPING SELECTION FORMS

Section 29.02 of the CBA sets forth displacement rights.

Specifically, *Section A* applies when there is a layoff within a higher classification(s), within a series, as a result of an elimination of duties. *For example*, if an agency determines that it no longer has a need to have the duties of a Psych MR Nurse Coordinator (pay range 14), the least senior Psych MR Nurse Coordinator is laid off. This employee may displace a less senior Psych MR Nurse Coordinator at another facility within the bumping jurisdiction or displace a less senior employee in the classification series, *i.e.* Psych MR Nurse (pay range 13) at the same facility. In the event of a layoff under Section A, the following apply:

- Employees with the least state seniority within the classification(s) at the work site(s) affected shall be laid off first.
- A laid-off employee shall have the right to displace a less senior employee in the same classification at another work site (within the agency bumping jurisdiction) or in their own classification series at their own work site. No promotion may result.

On the other hand, *Section B* applies whenever Section A does not. Where Section B is applicable, the following apply:

- Employees with the least state seniority within the classification series at the work site(s) affected shall be laid off first. For example, if an agency determines that it is

necessary to reduce its nursing staff from ten RNs to six RNs, the four least senior employees in the classification series (regardless of classification) shall be laid off.

- A laid-off employee shall have the right to displace an employee of another work site within the classification series (within the agency bumping jurisdiction) who has less seniority. The employee who exercises his/her bumping privilege shall enter the pay range of the classification at the rate closest to his/her current rate of pay.

Regardless of whether the layoff is occurring under Section A or Section B, the agency must send bumping paperwork to all employees within the same or similar classification series within the Agency bumping jurisdiction. The paperwork must include the following:

- ✓ A list of all available positions in the geographic jurisdiction with the seniority of the employee currently holding the position. Agencies often utilize a seniority roster sorted for the specific classifications and geographic jurisdiction with instructions that the employee should find his or her name on the list and indicate in priority order all positions with lower seniority that he or she would like to bump into. Agencies should also instruct that employee may take a voluntary layoff.
- ✓ Layoff Jurisdictions are outlined in **Appendix B** of the 1199 contract.
- ✓ Same and similar classifications are outlined in **Appendix A** of the 1199 contract.

[See 1199 - 4 for sample cover letter]

Within five (5) calendar days of receiving the above list, a laid-off employee must return the bumping paperwork. If a form is not returned by the employee, the employee forgoes any additional bumping rights. You should then select the top option from each employee's form in order of declining seniority. Make sure to send copies of all the forms to the Union.

★ **NOTE:** Any employee in the affected classification series may volunteer for a layoff at any time from the date of submission of the official rationale to the Union up to the effective date of the layoff. At this time, the resulting vacancy shall be offered through recall and after the bumping.

Exception: if affected employees in the classification have special qualifications or duties, they may be exempt from such layoff and will not be displaced by individuals without such qualifications or abilities

Be cautioned that positions with special qualifications or duties requiring additional qualifications over the classification minimum qualifications will **only** be recognized as having additional qualifications if DAS Classification and Compensation has an approved position specific minimum qualification(s) (PSMQ) on file for that position. The agency cannot prevent bumping of individuals who do not possess the PSMQ's without documentation of DAS approval.

The agency should begin drafting paperwork necessary to conduct the paper layoff while waiting on resubmission of the employee bumping selection forms. *[See 1199 - 4a for a sample bumping form]*

- The agency should draft the bumping paperwork by sorting impacted positions by classification and pay range, and then by the appropriate classification groupings.
- Determine the appropriate geographical jurisdictions. The geographic divisions of each agency shall be use.

XIV. LAYOFF PROCEDURES

Upon receipt of all Bumping Selection forms, the agency shall conduct the paper layoff.

- The paper layoff process is very paper intensive; however, the process allows bargaining unit members to displace in conjunction with any exempts who may have rights into the Union.
- Agencies are encouraged to involve the Union in the entire process. On the date of the paper layoff, there should be copies of the Bumping Selection Forms and bumping paperwork for the appropriate Union personnel, including the staff organizers and delegates.
- Employees may bump any employee within an equal or lower position within the same, similar or related classification series who has less seniority within the agency's geographic jurisdiction. The employee's bumping form should list the choices the employee has made and the agency should follow these requests in seniority and priority order.
- If layoffs will impact both OCSEA and Exempt, it is most efficient to conduct all exempt bumping before bargaining unit bumping. This will ensure all exempt persons with fall-back rights are included in the Union bumping process.
- A laid off employee has the right to displace an employee at another worksite within the classification series (within bumping jurisdiction) who is less senior.
- No promotions shall result from bumping.

★ **NOTE:** See Agency Specific Agreement for modifications to the layoff procedure for the Department of Mental Health and the Department of Rehabilitation and Correction.

★ **NOTE:** If an employee volunteers for a layoff, resulting in an additional vacancy, the agency must still follow through with the bumps as they are designated from the paper layoff. Upon completion of the layoff and lifting of the hiring freeze, the additional vacancies may be filled through recall/reemployment unless mutually agreed otherwise. This provision takes precedence over Article 17, Promotions.

[See Arbitration Award #937]

State seniority is the only determining factor in bumping rights, regardless of whether or not the bargaining unit employee is certified or provisional.

PAPER LAYOFF

Bumping Process:

1. The agency should begin with the most senior employee affected, within a classification grouping.
2. Review the employee's displacement forms, along with the Union.
3. Record the employee's designated position on a record keeping form.
4. The agency should have a complete employment history printed for each employee to refer to during the paper layoff process.
5. Review the Bumping Selection form of the next most senior employee affected, either by a layoff or displacement.
6. This process shall be continued until all impacted employees' forms have been reviewed.

★ **NOTE:** The employee doing the bumping must be more senior than the employee who is being displaced. The employee bumping must also be in the same or higher pay range than the employee being displaced.

★ **NOTE:** Section 29.06 provides a mechanism for "placing" employees who are to be laid off into an existing vacancy that might not otherwise be available to the employee, provided that no promotion results from the action. This provision takes precedence over any other Section/Article of the Agreement. This placement can not result in a promotion and the employee shall maintain recall rights to his or her original classification. An agreement must be executed and signed by the affected agencies, the Union and OCB.

After the paper layoff is complete, the record sheet should be reviewed and signed off by the Union Representative for accuracy and with agreement as to all procedural matters. A record should be kept of who attends the paper layoff and any concerns that arise. The management sheet should be labeled "Official Record." Although keeping a record sheet is not a requirement, it is strongly encouraged.

XV. NOTIFICATION LETTERS TO EMPLOYEES

A. NOTIFICATION LETTERS

All impacted employees should receive **one** of the following letters:

1. *See 1199 - 5* for employees who chose to be voluntarily laid off. Attachments should include (1) Recall Options; (2) COBRA notification; and (3) Leave Conversion information.
2. *See 1199 - 6* for employees who chose to bump but have no bumping options and will be laid off. Attachments should include (1) Recall Options; (2) COBRA notification; and (3) Leave Conversion information.
3. *See 1199 - 7* for employees who chose not to exercise rights to bump and will be laid off. Attachments should include (1) Recall Options; (2) COBRA notification and (3) Leave Conversion information.
4. *See 1199 - 8* for employees who were displaced into a lower classification. Attachment should include (1) Recall Options.
5. *See 1199 - 9* for employees who were displaced into a new PCN but remain in the same classification.

▲ **Remember:** Notification letters need to be sent prior to the paper layoff—14 calendar days if hand-delivered and 17 calendar days if sent by certified mail.

★ **NOTE:** The letters are for example purposes only. The agency should modify the letter to suit their particular needs.

B. RECALL OPTIONS

When sending out notification letters of displacement, the agency must also send a form that lists all recall opportunities for each employee. The Recall Options must be returned by the employee and submitted with the employee's Personnel Action whenever an employee is laid off.

Recall means that an employee is requested to return to employment with the same agency from which the employee was laid off. The Recall Options form must list all counties, offices or institutions within the geographic jurisdiction [*See Appendix B of Agreement*] of the employee.

★ **NOTE:** An employee who is able to displace **within their classification**, regardless of location, does **not** have rights to be placed on a recall list or at their previous location. Only employees who have been laid off or displaced from their original **classification** may be placed on recall list.

Because the 1199 contract does not reference the Ohio Revised Code or the Ohio Administrative Code, employees' rights are strictly governed by the contract. The contract provides for recall rights, but does not provide for re-employment rights. **Therefore, 1199 employees have only recall rights as defined in the contract.** A list of employees to be recalled should be sent to DAS at least seven (7) calendar days prior to the effective date of the layoff. This ensures that the employee will be placed on the DAS Certification list for recall.

[See Recall Options (1199 - 12)]

General considerations that the agency and employee should know about recall:

- ✓ The most senior laid-off employee from within the classification series where the layoff occurred is recalled first.
- ✓ A recalled employee must be presently qualified to perform the work without further training or certification.
- ✓ No promotions may result from the recall.
- ✓ Notice of recall must be by certified mail to the employee's last known address.
- ✓ Employees who are recalled have seven (7) calendar days to notify the agency of their intent to return to work, and thirty (30) calendar days to return to work.
- ✓ If the employee does not resubmit the Recall Options form, the employee loses all recall rights. For this reason, it is important that the agency not only verify that the options listed for each employee are correct according to Appendix B, but that the employee also understands that failure to carefully select only those options that he or she is able to work in will result in a loss of recall rights.
- ✓ Failure on the employee's part to carefully select only those options that he or she can reliably return to will result in the employee having to turn down an employment option that is not feasible and result in being taken off the recall and/or reemployment lists. All Agencies should train those persons responsible for the development and maintenance of recall lists regarding the incorporation of appointment category.
- ✓ All Employees are placed on the list by effective date of layoff and are recalled by State seniority. Employees who are receiving Workers' Compensation or Disability shall also be laid off on the same date without interruption to currently approved benefits.

C. SICK LEAVE CONVERSION

When sending out notification letters of displacement, the agency must also include a form that lists the employee's option to either cash out or save all accumulated sick leave. The Sick Leave Conversion Form must be submitted with the employee's Personnel Action whenever an employee is laid off. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.

[See OAC 123: 1-41-22 and 1199 - 13 for sample Sick Leave Conversion Form]

D. NOTIFICATION OF COBRA

It is the agency's responsibility to notify the employee of his or her rights under COBRA. Each employee should receive a form stating his or her right to this benefit.

[See 1199 - 14 for sample COBRA Notification Attachment]

XVI. PERSONNEL ACTION

Personnel action form ADM-4100 should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. You should also include:

- ✓ The forms submitted by the employee indicating the counties he or she designated as acceptable for reinstatement purposes.
- ✓ Attachments showing changes which will result from the layoff
- ✓ Copies of the letters notifying employees of the layoff.
- ✓ An explanation of whether employees had displacement rights and whether or not they were exercised.
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification.

Personnel Action Form 4100 will then be forwarded to DAS certification to add employees to recall and existing layoff certification lists.

XVII. DRAFTING RECALL LISTS

In addition to the agencies forwarding the recall options that the employee completed to DAS, the agency must also prepare a recall list. This list should be sent to DAS seven (7) calendar days prior to the effective date of the layoff.

- ✓ Recall list must include name of each employee displaced from original classification, the employee's seniority credits, a list of all classifications that the employee is entitled recall rights to (those classifications listed in Appendix A of collective bargaining agreement with same or lower pay range), and all counties, office or institutions the employee indicated on the ADM-4138 that he/she was willing to be recalled to.

[See 1199 - 16 for a sample recall list]

FILLING VACANCIES FROM RECALL LISTS

The purpose of this manual is to aid an agency in implementing a layoff. Part of the layoff process guarantees employees' specific rights under recall. This manual will not address all aspects of the recall process, but will provide some tips on frequently discussed issues as well as a sample recall letter.

- The Employer must fill vacancies in the classification series from the recall list prior to hiring, promoting, or transferring.
- The employee that is recalled shall not serve a probationary period.
- If you are delivering a recall notice by hand, a witness must be present and the employee must sign a receipt for the notice.
- If an employee is not able to return to work within thirty (30) days of recall notice, the recall rights are forfeited.

- Employees who are laid off and reemployed (not recalled) continue to earn service credit while on layoff.

[See 1199 - 10 for a sample recall letter]

The Employer has traditionally interpreted this section to mean that employees should not just meet minimum qualifications to be recalled to a position, but should be qualified to perform the duties of the position. The Employer may administer a test to determine whether the employee meets minimum qualifications and position specific minimum qualifications.

★ **NOTE:** The Union has interpreted this section to only require that employees meet minimum qualifications to be recalled to a position. If the employee previously held the position to which he/she is being recalled, the employee already meets the minimum qualifications of the position. Make sure to check whether the position now requires a certification/licensure that was not required when the employee previously held the position.

Coordinate all recall through DAS Certification.

- **See Section 29.03 of the Agreement**

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated ORC 124.30(A) and 124.327(B) by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that “. . . the law is not required to give way to administrative convenience,” meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. *See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.*

SEIU/1199 EXHIBITS

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

PRELIMINARY NOTICE OF PROPOSED INTENT TO LAYOFF

TO: _____, Human Resources Analyst, DAS
_____, Labor Relations Specialist, OCB
_____, Agency Analyst, OBM

FROM: Director of Agency

SUBJECT: Staff Reduction in _____
(Department/Agency)

DATE: _____

This memo will serve as preliminary notice that we are considering a staff reduction resulting in the layoff of personnel. The initial estimates are as follows:

The total number of layoffs estimated is: _____

An estimation of the number of personnel to be laid off (approximate number of people who will not have any bumping options) is: _____

The proposed layoff date is: _____

Our Personnel and Labor Relations staff has has not had experience in the procedures of layoff in the state system.

The representative who will be the primary contact from our department will be:

Name	Title	Phone#
------	-------	--------

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**DIRECTOR
DEPARTMENT OF ADMINISTRATIVE SERVICES
30 E. BROAD STREET, 40TH FLOOR
COLUMBUS, OH 43215**

ATTN: STATE SERVICES MANAGER

Dear Director:

Please find attached justification to abolish Exempt and Bargaining Unit positions, in the Central Office of the Department of **AGENCY, PAYROLL NUMBER 000-000**.

Please prepare a layoff roster for the following Exempt positions, and all same, similar or related classifications:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OCSEA/AFSCME** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OTHER UNION** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

The **AGENCY** is filing the accompanying Executive Summary which explains our reorganization plan, and the justification for positions identified for abolishment, in order to comply with various sections of the Ohio Revised Code and Administrative Rules. As indicated, we are abolishing these positions as a result of a reorganization for the efficient operation and/or reasons of economy in this Department's Central Office.

Please prepare a layoff roster for the exempt positions listed in above, and all same, similar or related classifications.

If you have any questions regarding this matter, please contact **HUMAN RESOURCE ADMINISTRATOR** at **PHONE NUMBER**.

Sincerely,

DIRECTOR

Attachment

*[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]***DATE**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

SUBJECT: Layoff

The Department of XXX requests to layoff the attached list of positions from its Operations, the Central Pharmacy Inpatient section (4) and the Central Pharmacy Outpatient (1). The following is both a historical perspective and the reason for the request for a job abolishment.

The Department of XXX was established by State statute (ORC Section 000.00) to provide certain goods and services, which are in the public interest and considers it advisable to provide these goods and services. Designated departments and other non-profit organizations shall receive such goods and services when it is determined that providing such goods and services will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible.

The Central Pharmacy Inpatient section provides pharmaceutical services to residents of facilities operated by the Ohio Department of XXX. This operation once provided pharmaceutical services to XXX facilities and XXX. XXX is currently the only agency that continues to utilize this service, and only within some of the facilities. As a result, this section lost \$171,000 for fiscal year 2007 and projections for the upcoming year show an even larger loss. Therefore, we are closing Central Pharmacy Inpatient for sound business reasons.

Primary reasons for the loss can be attributed to the following: 1) Facilities no longer need pharmacists to dispense drugs. The State Board of Pharmacy no longer mandates this procedure. Nurses can now dispense in an inpatient setting, thus reducing the need for facilities to contract with Central Pharmacy Inpatient. 2) XXX facilities have and continue to contract private pharmacists who in turn bill directly to the Department of XXX for all Medicaid/Medicare eligible clients. This results in a reduction in cost to XXX that Central Pharmacy cannot compete with due to a lack of authority to bill third party.

The positions to be abolished as a result of this action are:

PCN 6101.0 Pharmacy Operations Manager
PCN 6137.1 Pharmacist

PCN 6139.0 Pharmacy Attendant

PCN 6139.2 Pharmacy Attendant

Also to be laid off is one position within the Central Pharmacy Outpatient section. Currently there are six Computer Operator 2 positions in the Central Pharmacy Outpatient section of the Department of XXX. These positions previously performed data entry of prescriptions on displaywriter. In March 2005, Central Pharmacy Outpatient completed a phased-in conversion from data entry on displaywriter to data entry on the IBM 36 for all 134 community centers. This conversion resulted in significant time savings for Computer Operators. In addition, the Computer Operators no longer have to pull hard copy prescriptions for refilling.

With the speed of the IBM 36 and the change in the procedure for pulling prescriptions, we find that the workload for our Computer Operator 2 positions has diminished. It would be more efficient to abolish one Computer Operator position. The responsibilities would be transferred to the five remaining Computer Operator 2 positions.

The position to be laid off as a result of this action is:

PCN 6132.0 Computer Operator 2

For the five employees that will ultimately be affected through layoff, OSS will work with the Regional Worker Adjustment Committee to ensure that the following service be provided.

- OBES "Rapid Response" Service
- Job Seeking/Interviewing Skills Training
- Resume Writing Assistance
- Information Provided on all Available Benefits
- Stress Management Workshops

In total, the Office of Support Services requests the layoff of five (5) FTE's. The layoff is for the purpose of Reorganization for Efficiency.

Any questions regarding this reorganization and abolishment plan should be directed to **NAME** at **PHONE NUMBER**.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]**Current Date**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

Re: Job Abolishment

Dear (*Director of DAS Human Resources*):

Provide Brief Statement of Reason for Reduction (Economy, Efficiency, Lack of Work) and Listing of the specific PCNs to be impacted:

Example: The Board of State Development respectfully requests to layoff four full-time positions effective July 26, 2003, as the result of reorganization for efficiency. The four positions are Test Examiners, specifically Position Control Numbers 0005.0, 0006.0, 0007.0 and 0008.0. A review of the existing scheduling pattern, in addition to advancing technology resulting in fewer in-house tests, only requires examiners be present approximately twenty to thirty hours a week. Consequently, the Board of State Development intends to layoff four positions and distribute the remaining duties of these positions to the remaining four Test Examiners, specifically Position Control Numbers 0001.0, 0002.0, 0003.0 and 0004.0. The abolishments will allow for the same testing schedule while eliminating duplication of work.

Brief History/Mission of Agency (one to two paragraphs):

Example: The Board of State Development was created by an act of the legislature in 1932 to establish and maintain sanitary and professional industrial standards. Today, the Board licenses over 125,000 individuals and businesses in the various branches of the industry. The Board's mission is to develop, monitor and enforce the standards used in the business for the safety and protection of the patrons. To accomplish this mission, the Board must provide for the examination of students to demonstrate minimum competency levels consistent with established national minimum standards before allowing students to offer services to the public.

The Board also provides both written and practical examinations supplied by the National Council (NC). These examinations give the Board valid, legally defensible examinations and require specific standards that must be adhered to during the administration of the tests. Specifically, the Board offers three licensing categories: Surveyors, Managers, and Professional.

Summary as to why the abolishment is necessary (decrease in population being served, reduction in revenues, changes in services, greater technology resulting in less work/elimination of duties, merging of offices, elimination of duplication of work, etc). All reasons stated for the need for abolishment should be supported by numbers and/or objective criteria such as percentages, budget reduction, or numbers of population served prior compared to the current numbers.

The Board administers the majority of these tests in-house at the central office location, but with the passage of House Bill 000, the reciprocity rules have changed. Where all applicants for a license used to be required to take the written and practical examinations, now those individuals with five years of experience will only be required to take the written exam and can do so through Testing, Inc., a national testing company that provides the same National Council-related exams to many state licensing boards. Testing, Inc. is a computer based testing company that has eleven sites in Ohio and over 700 in the United States. With the new testing requirements, advancing technology and increasingly constituent computer awareness, Testing, Inc. is being used more often than in the past and has reduced the number of in-house written exams. From April 1, 2002 through March 3, 2002, Testing, Inc. administered 1,234 NC written, greatly reducing the number of in-office examinations given.

Of the remaining practical and written examinations that are offered through the Board, the NC requires at least one examiner for each eight examinees for practical exams with a maximum number of examinees at any one time of twenty-four (24) on most exams. These guidelines also limit the maximum number of examinees for written examinations at any one time to sixteen (16) and require one examiner, but recommends two examiners always be present to ensure test integrity and ease in administration. As a result, the Board policy is to always have at least two examiners for all written examinations.

Below is a breakdown of the current scheduling requirements for each test:

The written and practical examination for Surveyors is completed within four hours, allowing the Board to schedule two groups in one day. Based on NC standards, the Surveyors' practical examinations are restricted to a maximum of eight examinees at one time and require two examiners to administer. With the current work schedule, there are four examiners present, resulting in an excess of two examiners. The reorganization will allow for only two examiners to be scheduled on these days, eliminating the duplication of work.

The NC standards limit the maximum number of examinees for the practical Managers' examination to twenty-four (24) at any one time and takes four hours to complete. The written portion of this exam only allows for up to sixteen (16) examinees at one time and can be completed in under two and a half hours. The Board normally schedules as many as twenty-four (24) examinees for the practical portion, then divides and staggers the group into two afternoon sessions to remain below the sixteen (16) person cap for written exams. Accordingly, the NC standards would only require three examiners during the practical exam and two during the written. By reducing the total number of Examiners to four, there will be sufficient coverage while deleting any duplication of effort.

The Professional examinations can be completed within four hours and are usually scheduled on the same day as Managers' exams. This is one of the least used tests and can easily be

administered by the same staff upon completion of the Managers' exam. The limit on examiners remains the same as the Managers' exam and therefore requires the same number of examiners.

In addition to the current duplication of effort listed above, there are several days a year where no examinations are scheduled. From April of 2002 to March of 2003, there were eleven (11) days that no examinations were offered. As a result, eight Examiners reported to work, but there was only enough grading activity for four Examiners. This resulted in three-hundred and fifty-two non-productive "Examination" hours. The reorganization to only four Examiners would allow the schedule to reflect this lower need for these days and prevent wasted hours. Attached is a spreadsheet reflecting the examinations offered from April 2002 to March 2003 to support the information provided above. Based on the examinations offered and the current full-time staff of eight examiners; there was approximately 2,312 hours examiners were scheduled, but were not needed. This equates to approximately 289 days of non-productive "Examination" time.

All duties of the position description should be addressed as either 1) never performed, 2) no longer performed and why, 3) remaining duties and who shall be assuming the duties (classification(s) and PCN(s)). It is important to note that no one person should have a significant increase in duties and more than one person should normally be assuming the duties. Ensure that if an exempt employee is assuming the duties this is a red flag to the union for erosion. It is normally best if the duties to be redistributed are spread among the remaining bargaining unit population as long as the classification of the employees allows for performance of these duties.

The position description of an Examiner reflects that eighty percent (80%) of the duties of these positions revolve around administration of the exams. The remaining twenty percent (20%) consists of performing other duties as assigned such as responding to phone inquiries regarding examination procedures and results, conducting school tours at the Board test-site, administering off-site examinations at the Ohio Council or assisting in Board-offered continuing education classes. These duties are not regularly assigned, do not represent a significant portion of time, and can easily be accomplished during the compressed work schedule.

Attached is a sample schedule for April 2003, based on actually scheduled days, as well as a sample schedule for June 2003.

For the reasons stated above and a resulting reorganization for efficiency, the Board of State Development respectfully requests to layoff the four full-time Examiner positions and to post four part-time positions.

Please feel to call my office with any questions at _____.

**Sincerely,
Director**

Copy: 1199 Central Office

ATTACHMENTS: **Individual Rationale Sheets for each PCN abolished**
Position Descriptions of each PCN abolished
Position Descriptions of each PCN assuming transferred duties

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

1. State the specific reason(s) why this position is no longer needed.
2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No
If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

1. State the specific reason(s) why this position is no longer needed.

The Agency's employee population has been downsized over the past 10+ years, reducing the number of hospitals from 17 to 9, and employees from over 6,000 to approximately 3,000. The result is that the functions of the Personnel Section have decreased in correspondence to this statewide downsizing. The creation of two Management Analyst Supervisor 2s have proved to be more effective in handling the personnel workload.

2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No

If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.

PCN 2000.0 will directly supervise the two Management Analyst Supv 2s; oversee personal service contracts and attend Controlling Board Hearings regarding same; oversee layoff/abolishment processing procedures with the two MAS 2s.

PCN 2041.0 will assume Class Plan; WOOC grievances, PBR appeals; Advance Step Hiring.
PCN 2042.0 will handle oversight of authorization for vacancy fills; ceiling numbers and hiring freeze; schedules and leave coordination for personnel staff; assist w/personal service contracts.

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

1199 Bumping Selection Form

Name:	
Class:	Seniority Date:
Facility:	Bargaining Unit:

1. Please prioritize the attached seniority list by writing the number one (1) next to the employee with less seniority that you wish to displace at your facility or another facility in your jurisdiction. You may displace in an equal or lower position in the same or similar classification series as found in your Contract. Write a number two (2) next to your second choice. Continue your selections until you are unable to bump. You must be qualified to perform the duties.
2. After you have made your selections, please make a copy of your seniority roster, bumping selection forms and displacement selection form and return them to your personnel office within five (5) days.

BUMPING SELECTION FORM

1199

1199 - 4a

SITE	PCN	NAME	CLASS	CBU	SENIORITY	DISTRICT	TIE BKR	Selection
A	42141		CHAPLAIN	10	619.5	South		
B	52141		CHAPLAIN	10	324	South		
C	33141		CHAPLAIN	10	239	South		
D	55141		CHAPLAIN	10	120	South		
				10				
E	31681		FAC STAND REP2	10	932	South		
E	31680		FAC STAND REP3	10	273	South		
				10				
A	33236		PSYCH/MR NURSE	10	190	South		
B	55224		NURSE	10	686	South		
B	55220		NURSE	10	682	South		
D	33222		NURSE	10	262	South		
E	55222		NURSE	10	258	South		
E	55221		NURSE	10	240	South		
B	52219		NURSE	10	228	South		
D	33920		NURSE	10	222	South		
D	52217		NURSE	10	221	South		
F	33219		NURSE	10	196	South		
F	52222		NURSE	10	189	South		
F	52218		NURSE	10	184	South		
E	55223		NURSE	10	179	South		
A	33915		NURSE	10	179	South		
B	52216		NURSE	10	176	South		
B	52224		NURSE	10	172	South		
D	33225		NURSE	10	164	South		
D	33220		NURSE	10	162	South		
B	33918		NURSE	10	147	South		
B	33919		NURSE	10	137	South		
B	33223		NURSE	10	136	South		
B	33228		NURSE	10	130	South		
B	33917		NURSE	10	128	South		
A	55218		NURSE	10	117	South		
A	33916		NURSE	10	117	South		
D	52221		NURSE	10	93	South		

BUMPING SELECTION FORM

1199

1199 - 4a

D	55219		NURSE	10	89	South		
E	52223		NURSE	10	64	South		
E	33227		NURSE	10	61.5000	South		
E	52220		NURSE	10	41.4617	South		
F	42212		NURSE	10	23	South		
F	33221		NURSE	10	16	South		
F	42207		NURSE	10	15	South		
B	33226		NURSE	10	0	South		
F	33217		NURSE	10	189.5241	South		
F	55217		NURSE	10	54.2695	South		
A	55216		NURSE	10	1	South		
				10				
A	65456		PSYCHOLOGIST	10	328	South		
A	42987		PSYCHOLOGIST	10	241	South		
B	63456		PSYCHOLOGIST	10	203	South		
B	66456		PSYCHOLOGIST	10	159	South		
B	33985		PSYCHOLOGIST	10	153	South		
B	33986		PSYCHOLOGIST	10	0	South		
				10				
D	33992		PSYCH ASST 2	10	387	South		
D	33993		PSYCH ASST 3	10	373	South		
E	52990		PSYCH ASST 4	10	211	South	000-00-0093	
E	52991		PSYCH ASST 5	10	211	South	000-00-3386	
E	52993		PSYCH ASST 6	10	199	South		
F	33990		PSYCH ASST 7	10	181	South		
F	55991		PSYCH ASST 8	10	164	South		
F	42992		PSYCH ASST 9	10	141	South		
B	33994		PSYCH ASST 10	10	138	South		
B	52992		PSYCH ASST 11	10	116	South		
A	55990		PSYCH ASST 12	10	92	South		
A	55992		PSYCH ASST 13	10	78	South		
A	33995		PSYCH ASST 14	10	0	South		
				10				
				10				
G	31665		HUM SR PGM CNS	10	610	South		
G	63437		HUM SR PGM CNS	10	402	South		

BUMPING SELECTION FORM

1199

1199 - 4a

G	66465		HUM SR PGM CNS	10	0	South	
G	65465		HUM SR PGM CNS	10	0	South	
				10			
				10			
E	66470		SOCIAL WKR	10	725	South	
E	65470		SOCIAL WKR	10	680	South	
F	42170		SOCIAL WKR	10	459	South	
F	55170		SOCIAL WKR	10	118	South	
A	63470		SOCIAL WKR	10	0	South	
A	33170		SOCIAL WKR	10	0	South	
B	52171		SOCIAL WKR	10	0	South	
				10			
D	33193		SOCIAL WKR	10	792	South	
				10			
E	63473		SOCIAL WKR	10	721	South	
E	33182		SOCIAL WKR	10	671	South	
E	66479		SOCIAL WKR	10	653	South	
E	33178		SOCIAL WKR	10	628	South	
				10			
B	52189		SOCIAL WKR	10	604	South	
G	65473		SOCIAL WKR	10	591	South	
G	65480		SOCIAL WKR	10	569	South	
G	65476		SOCIAL WKR	10	541	South	
B	52183		SOCIAL WKR	10	520	South	
H	52177		SOCIAL WKR	10	506	South	
H	66439		SOCIAL WKR	10	505	South	
G	63474		SOCIAL WKR	10	494	South	
G	33176		SOCIAL WKR	10	475	South	
G	65472		SOCIAL WKR	10	449	South	
G	66480		SOCIAL WKR	10	437	South	
G	62473		SOCIAL WKR	10	430	South	
A	42179		SOCIAL WKR	10	418	South	
C	66476		SOCIAL WKR	10	414	South	
C	52173		SOCIAL WKR	10	409	South	
C	66474		SOCIAL WKR	10	402	South	
C	65475		SOCIAL WKR	10	396	South	

BUMPING SELECTION FORM

1199

1199 - 4a

C	33187		SOCIAL WKR	10	387	South		
C	33189		SOCIAL WKR	10	386	South		
C	63472		SOCIAL WKR	10	378	South		
D	63475		SOCIAL WKR	10	371	South		
D	66473		SOCIAL WKR	10	370	South		
D	65481		SOCIAL WKR	10	361	South		
G	42175		SOCIAL WKR	10	358	South	000-00-6749	
A	33175		SOCIAL WKR	10	358	South	000-00-8220	
A	62439		SOCIAL WKR	10	350	South		
A	65438		SOCIAL WKR	10	349	South		
F	42174		SOCIAL WKR	10	346	South	000-00-2267	
F	63481		SOCIAL WKR	10	346	South	000-00-9942	
F	63480		SOCIAL WKR	10	343	South	000-00-2556	
F	63477		SOCIAL WKR	10	343	South	000-00-4209	
F	66481		SOCIAL WKR	10	332	South		
F	65477		SOCIAL WKR	10	328	South		
G	65439		SOCIAL WKR	10	325	South		
G	66438		SOCIAL WKR	10	316	South		
G	65968		SOCIAL WKR	10	314	South		
G	65474		SOCIAL WKR	10	311	South		
A	63483		SOCIAL WKR	10	310	South		
A	33183		SOCIAL WKR	10	301	South		
A	63439		SOCIAL WKR	10	296	South		
A	66475		SOCIAL WKR	10	286	South		
B	63438		SOCIAL WKR	10	280	South		
B	66472		SOCIAL WKR	10	276	South		
B	66478		SOCIAL WKR	10	275	South		
D	63476		SOCIAL WKR	10	271	South		
D	33174		SOCIAL WKR	10	263	South		
D	66968		SOCIAL WKR	10	260	South		
A	65478		SOCIAL WKR	10	257	South		
A	52179		SOCIAL WKR	10	248	South		
A	42181		SOCIAL WKR	10	242	South		
B	52182		SOCIAL WKR	10	241	South		
B	52185		SOCIAL WKR	10	240	South		
B	52180		SOCIAL WKR	10	239	South		

BUMPING SELECTION FORM

1199

1199 - 4a

C	63478		SOCIAL WKR	10	236	South		
C	63482		SOCIAL WKR	10	230	South		
E	33190		SOCIAL WKR	10	228	South		
A	52176		SOCIAL WKR	10	223	South		
F	50445		SOCIAL WKR	10	220	South		
B	62474		SOCIAL WKR	10	216	South		
B	66482		SOCIAL WKR	10	213	South		
A	52184		SOCIAL WKR	10	205	South		
A	33173		SOCIAL WKR	10	199	South		
E	42176		SOCIAL WKR	10	193	South	000-00-6070	
F	62475		SOCIAL WKR	10	193	South	000-00-6750	
F	62969		SOCIAL WKR	10	191	South		
F	52190		SOCIAL WKR	10	190	South		
G	66477		SOCIAL WKR	10	187	South		
G	52188		SOCIAL WKR	10	183	South	000-00-2858	
G	52186		SOCIAL WKR	10	183	South	000-00-3223	
E	62438		SOCIAL WKR	10	175	South	000-00-3147	
E	55175		SOCIAL WKR	10	175	South	000-00-5321	
E	55174		SOCIAL WKR	10	175	South	000-00-5936	
E	55179		SOCIAL WKR	10	175	South	000-00-6307	
D	52187		SOCIAL WKR	10	167	South		
D	33192		SOCIAL WKR	10	163	South		
B	55182		SOCIAL WKR	10	162	South		
B	50444		SOCIAL WKR	10	120	South		
B	63968		SOCIAL WKR	10	89	South		
A	52178		SOCIAL WKR	10	75	South		
A	33186		SOCIAL WKR	10	74	South		
A	33191		SOCIAL WKR	10	70	South		
A	33180		SOCIAL WKR	10	60	South	000-00-2436	
E	33181		SOCIAL WKR	10	60	South	000-00-5735	
E	52181		SOCIAL WKR	10	60	South	000-00-9718	
E	33188		SOCIAL WKR	10	58	South		
E	62968		SOCIAL WKR	10	55	South		
F	42177		SOCIAL WKR	10	53	South		
F	55180		SOCIAL WKR	10	44	South		
G	42183		SOCIAL WKR	10	42	South		

BUMPING SELECTION FORM

1199

1199 - 4a

G	55177		SOCIAL WKR	10	41	South	6/29/92 *	
G	55176		SOCIAL WKR	10	41	South	8/13/00 *	
G	55178		SOCIAL WKR	10	41	South	8/13/01 *	
G	55173		SOCIAL WKR	10	22	South		
H	52174		SOCIAL WKR	10	20	South		
H	52175		SOCIAL WKR	10	0	South		
H	65482		SOCIAL WKR	10	0	South		
A	65483		SOCIAL WKR	10	0	South		
A	65484		SOCIAL WKR	10	0	South		
A	50443		SOCIAL WKR	10	0	South		
A	33179		SOCIAL WKR	10	0	South		
B	33184		SOCIAL WKR	10	0	South		
B	33185		SOCIAL WKR	10	0	South		
C	65479		SOCIAL WKR	10	0	South		
H	63484		SOCIAL WKR	10	0	South		
* indicates a seniority date prior to promotion into 1199								
** indicates a vacancy that was not offered on the Bumping Option Sheet								

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

This letter is to confirm your wish to exercise your right to take a voluntary layoff in accordance with Article 29 of the SEIU/District 1199 Contract. The effective day of the layoff is **DATE**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix A and Appendix B of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You must select the offices, institutions and counties for recall that you would desire to be on the recall lists for future employment.

Please complete the attached Recall Options form within five (5) calendar days of receipt of this letter and return it to **DIRECTOR OF PERSONNEL/LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 7 of the 1199 contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION/OFFICE** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources**

**Union
Employee File**

**Attachments: Recall Options
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

We can inform you that after an analysis of the replies received, and in accordance with Article 29 of the SEIU/District 1199 contract, you were not able to displace into another position. The effective date of the layoff shall be **DATE**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix A and Appendix B of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You must select the offices, institutions and counties for recall that you would desire to be on the recall lists for future employment.

Please complete the attached Recall Options form within five (5) calendar days of receipt of this letter and return it to **DIRECTOR OF PERSONNEL/LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 7 of the SEIU/District 1199 contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: Recall Options Form
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE**

Dear **EMPLOYEE:**

In accordance with Article 29 of the SEIU/District 1199 contract, you chose not to exercise your bumping/displacement rights with the “paper layoff” which was conducted on **DATE**. Your last day of work will be **DATE**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix A and Appendix B of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You must select the offices, institutions and counties for recall that you would desire to be on the recall lists for future employment.

Please complete the attached Recall Options form within five (5) calendar days of receipt of this letter and return it to **DIRECTOR OF PERSONNEL/LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 7 of the SEIU/District 1199 contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: Recall Options Form
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME

ADDRESS

CITY, STATE ZIP

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 29 of the SEIU/District 1199 contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR ON DATE AT START TIME**.

You shall have recall rights in your same, similar, or related classification series in the **FACILITY/INSTITUTION** and within the recall jurisdiction (**APPLICABLE FACILITIES**) for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification.

You have the option to select the counties for re-employment that you would desire to be on the recall list for future employment. The counties are: **LIST OF APPLICABLE COUNTIES**.

Please complete Attachment 1 within five (5) calendar days of receipt of this letter and return it to Director of Personnel/Labor Relations Department.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 7 of the SEIU/District 1199 contract within ten (10) calendar days of receipt of this letter. The

grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

Director

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

Attachments: Recall Options Form

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME

ADDRESS

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 29 of the SEIU/District 1199 contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number: 00000.0
Classification: TITLE
Status: Example—Full-time Certified
Step: 00
Hourly Rate: \$ (base + ?)

to the following position:

Position Control Number: 00000.0
Classification: SAME TITLE AS ABOVE
Status: Example—Full-time Certified
Step: 00
Hourly Rate: \$ (base + ?)

You are to report to **NEW SUPERVISOR ON DATE AT START TIME**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 7 of the SEIU contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

[Click **here** and type today's date]

[Click **here** and type the recipient 's address]

Dear [Click **here** and type recipient's name] ,

Re: 1199 Recall

Dear (Name):

This letter is to serve as official notification that, per Article 29.03 of the Bargaining Unit Agreement you are being recalled to work in the classification of **Appointment Type, Classification (Class #)** at the Ohio Department of Youth Services, **Site, Address**.

Article 29.03 allows recall to a position provided the employee is “presently qualified to perform the work in the job classification to which they are recalled without further training or certification”. A copy of the position description is attached.

You must notify us, in writing, of your intent to report to work within seven (7) days of **receipt** of this notice otherwise you shall forfeit your recall rights to this position and may forfeit your recall rights to other positions. Likewise, failure to report to work within thirty (30) days will also forfeit your recall rights to this position and may forfeit your recall rights to other positions.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Days, Times**.

Sincerely,

(Name)

(Title)

Attachment

**1199 EXEMPT – 11
WAS INTENTIONALLY
LEFT VACANT**

FOR DISPLACED EMPLOYEES OF STATE AGENCIES, BOARDS, COMMISSIONS AND INSTITUTIONS

INSTRUCTIONS FOR EMPLOYEE: Return this form to your Personnel Office within five (5) calendar days from the receipt of this form. If you have any questions regarding your options for recall, please contact your personnel officer or union steward.

Recall Rights

Section 29.03 of the collective bargaining agreement establishes that an employee who is laid-off from his or her classification shall be placed on a recall list for twenty-four months. If your current Employer should fill a vacancy within the same geographic jurisdiction in a same and similar series while a recall list is in place, the employee with the most state seniority shall be recalled to that position, provided the individual is qualified to perform the duties.

INSTRUCTIONS FOR AGENCY: List only the counties designated within your agency geographic jurisdiction (Counties or Institutions) for Recall Options. The location of the employee's position at the time the layoff is first implemented dictates the applicable geographic jurisdiction.

- Refer to Appendix B for the listing of your agency's geographic jurisdiction (this may differ from county listings and may refer to a specific institution or office location).
- If agency designation is "Statewide" the agency is required to list all 88 counties

Adams	Darke	Hocking	Miami	Scioto
Allen	Defiance	Holmes	Monroe	Seneca
Ashland	Delaware	Huron	Montgomery	Shelby
Ashtabula	Erie	Jackson	Morgan	Stark
Athens	Fairfield	Jefferson	Morrow	Summit
Auglaize	Fayette	Knox	Muskingum	Trumbull
Belmont	Franklin	Lake	Noble	Tuscarawas
Brown	Fulton	Lawrence	Ottawa	Union
Butler	Gallia	Licking	Paulding	Van Wert
Carroll	Geauga	Logan	Perry	Vinton
Champaign	Greene	Lorain	Pickaway	Warren
Clark	Guernsey	Lucas	Pike	Washington
Clermont	Hamilton	Madison	Portage	Wayne
Clinton	Hancock	Mahoning	Preble	Williams
Columbiana	Hardin	Marion	Putnam	Wood
Coshocton	Harrison	Medina	Richland	Wyandot
Crawford	Henry	Meigs	Ross	
Cuyahoga	Highland	Mercer	Sandusky	

List all same or similar classes within same or lower pay range pursuant to Appendix A.

Employee's Designation

I have indicated all counties, offices or institutions (whichever is applicable) for which I am interested in being **recalled** within the geographic jurisdiction from which I am being laid off. I understand that I shall indicate only the counties, offices or institutions in which I am willing to accept employment. Failure to designate and/or return this form will result in placement on all counties. I further understand that accepting or declining a position may result in removal from the recall list and discontinue my recall rights.

Employee's Signature

Employee's Name (Printed)

Date

**IMPORTANT COBRA NOTIFICATION
FOR STATE OF OHIO EMPLOYEES AND DEPENDENTS**

It is important that all covered individuals (employee, spouse and dependent children) take the time to read this notice and be familiar with its contents.

Under federal law, the State of Ohio is required to offer covered employees and family members the opportunity for a temporary extension of health coverage when insurance coverage ends due to certain qualifying events.

Covered Employee: If you are the employee covered by a group health plan you may have the right to continue your coverage due to termination of employment (for reasons other than gross misconduct) or a reduction in hours.

Covered Spouse: If you are the covered spouse of a state employee covered by a group health plan, you may have the right to continue coverage for yourself if you lose coverage for the following reasons: termination of your spouse's employment or a reduction in your spouse's hours; the death of your spouse; divorce or legal separation from your spouse; or your spouse becomes entitled to Medicare.

Covered Dependent Children: If you are the covered dependent child of an employee covered by a group health plan, you may have the right to continuation coverage for yourself if you lose coverage for the following reasons: termination of the employee's employment or a reduction in hours; death of the employee; parents divorce or legal separation, the employee becomes entitled to Medicare; or you cease to be a dependent child under the terms of the plan

Coverage Periods: Generally, if the event causing the loss of coverage is a termination of employment or a reduction in hours, coverage is available for an additional 18 months. If the event causing the loss of coverage was the death of the employee, divorce, legal separation, Medicare entitlement, or a dependent child ceasing to be a dependent, continuation coverage is available for 36 months.

Important Employee, Spouse and Dependent Notifications Required

Under the law, the employee, spouse or other family member has the responsibility to notify the State of Ohio of a divorce, legal separation, or a child losing dependent status under the group health plan. This notice must be made within 60 days of the event or the date coverage will end, whichever is later. If this notification is not made, your right to continuation coverage will be forfeited.

Notification procedure

Employees or a covered family member should inform the employing state agency or Benefits Administration Services (614-466-8857) of any qualifying event that results in a loss of coverage. Information will then be sent to the requesting party about the length of available coverage periods, premium rates, conversion rights when COBRA coverage ends, and other information related to your rights under COBRA.

Cost: Premiums for continued coverage are the group rate that the State of *Ohio* pays for coverage, plus a 2% administrative fee.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

TO: **Deputy Director
Human Resources Division
Department of Administrative Services**

THROUGH: **Human Resources Analyst
Certification Unit
Human Resources Division**

FROM: **Chief
Office
Agency Name**

SUBJECT: **Agency Recall List**

CERTIFIED RECALL LIST

NAME	APPT. TYPE	SENIORITY CREDITS
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000

[The Employer should indicate the selected counties by the employee for recall]

SEIU/DISTRICT 1199 ARBITRATION AWARDS

Arbitration Award: # 753
Agency: Mental Health
Arbitrator: Margaret Johnson
Arbitration date: March 10, 1992
Decision date: April 16, 1992

Management abolished the positions of two (2) Rehabilitation Program Specialists in the Department of Mental Health. Management sent notification to the Union advising them of the layoffs and of a meeting to discuss the Agency's decision. The meeting was never held because the Union refused to meet without the presence of the affected employees. Management proceeded with the layoffs. Management advised that the Union's "refusal to participate in the meetings scheduled for purposes of discussing the proposed central office layoffs is considered a waiver of its right to such a meeting."

The Union's position is that the refusal of the Agency to meet with the two (2) affected employees constituted a violation of Article 29 of the Agreement. The affected employees are part of the Union, therefore the term "Union" does not only refer to staff or elected officials. Management agreed to meet with the Union, therefore, the affected employees should have been allowed to meet with Management to discuss the layoffs. The affected employees were the best qualified to address the subject of the layoff. Past practice has been to include targeted employees in such Union/Management meetings.

Management maintains that this was not in error when it refused to meet with the affected employees. Management's commitment is to meet with the "Union". When the parties intended to extend a right to the individual employee, the term "employee", rather than "Union" is used. In addition, Management asserts that there is no evidence that affected employees were permitted to attend layoff meetings in the past.

Arbitrator Johnson found that the term "Union" refers to the business entity established to represent employees in the bargaining unit. The word "Union" is not synonymous with affected employees and the same cannot be used interchangeably. The Agency is not obliged to meet and confer with individual employees acting on their own behalf, even in the presence of a Union delegate. Testimony failed to indicate a consistent, uniform and well established practice by which "Union" in Article 29 was defined to include affected employees.

Arbitration Award: # 859
Agency: Mental Health
Arbitrator: Richard Gombert
Arbitration date: February 1, 1993
Decision date: March 19, 1993

Related case: 23-12-911218-0292 Files Merged. The grievance was denied. Recker and Fraker are entitled to the difference in pay that they would have received as a Psychiatric/MR Nurse Coordinator and which they received as a Psychiatric/MR Nurse from the date of the layoff until the date they declined recall to their former position.

The contractual dispute concerns whether Management violated Article 29, when it laid off employees in a classification series who had more seniority than other employees in the same classification series, who were retained.

The Union's position was that Article 29 is clear and unambiguous. The Employer must layoff the most junior employees in a classification series, not in a classification. Laid off employees then have a right to bump employees at a work site within their bumping jurisdiction; jurisdiction is not limited to the same work site.

The State contended that Article 29 is ambiguous, therefore, parol evidence concerning the bargaining history of the parties is needed to determine the intent of the parties. The bargaining history shows that the parties agreed there would only be one bump within the institution or work site. Then there would be an additional bump within the jurisdiction. In addition, grievants had a duty to mitigate damages and their refusal to be recalled should be considered in mitigation of damages.

Arbitrator Gombert found the language to be clear. The basic and well-established rule of statutory construction in Ohio is that if the language is plain and free from ambiguity, and expresses a single, definite and sensible meaning. That meaning is conclusively presumed to be the meaning which the legislature intended to convey; that statute must be interpreted literally. Article 20 clearly states that the Agency must notify the Union of the classification, the number of employees and the work site involved in a layoff. The layoff must be within an entire classification series. The most junior employee in a classification series will be the first employee to be laid off. In some circumstances, the laid off employee may bump certain employees at another work site within their bumping jurisdiction. Article 38 states that an employee will not suffer a reduction in pay when that employee performs duties in a lower pay range than the employee's current classification. If the Agency wanted the grievants to perform some, or all of the duties within a lower classification, it could make these assignments. However, their pay could not be reduced. Article 29 only allows bumping rights at another work site within the laid off employee's bumping jurisdiction. It does not allow bumping rights at the same work site.

Article 5 contains words of limitation. The Management Rights are reserved unless “modified by this agreement”. The employer did agree otherwise and modified its Management Rights when it agreed to the language in Article 29.

There is a duty to mitigate damages. Two (2) of the grievants did not comply with this duty. These grievants are entitled to the difference in pay that they would have received from the date of their layoff until the date that they declined recall to their former position.

Note: Subsequent to the issuance of this decision the Contract language was changed.

Arbitration Award:	# 886
Agency:	Mental Retardation/Developmental Disabilities
Arbitrator:	Harry Graham
Arbitration date:	June 14, 1993
Decision date:	June 28, 1993

Grievance denied. The issue in this case was whether Article 29.02 of the Agreement allowed four (4) laid off bargaining unit members to bump up. Four (4) Vocational Habilitation Specialists 1s (VHS 1) had more seniority than Vocational Habilitation Specialists 2s (VHS 2). The Union pointed at the language of 29.02:

“A laid off employee shall have the right to displace an employee of another work site within the classification series within the Agency bumping jurisdiction who has less State seniority. No promotions shall result from this action”.

The Union explicitly disclaimed any interest in the increased pay associated with the move from a VHS 1 to a VHS 2. Since the VHS 1’s would be receiving no increase in pay, the Union argued that it was not a “promotion”.

The State pointed out that although an employee may bump either laterally or downward, they may not bump up. A bump upwards would constitute a “promotion” which is specifically prohibited by the Agreement. Since the Agreement does not define “promotion”, the Ohio Administrative Code (OAC) sets forth the proper employee in a classification which carries a higher salary range than the previously held position.

The Arbitrator found that the right to displace less senior employees is not unlimited. The sentence “No promotion shall result from this action” is not ambiguous. Employees may not bump upward.

Arbitration Award: # 1083
Agency: Mental Retardation/Developmental Disabilities
Arbitrator: Harry Graham
Arbitration date: September 2, 1995
Decision date: October 8, 1995

The pertinent language of the Article 29.05 states “If the workforce is to be reduced, it shall be accomplished by layoff and not by any hours reduction. Only by agreement between the appropriate parties can the regular hours of employees be reduced.”

Both Ms. Wesner and Ms. Betts-Hollins had been full-time employees during their tenure at Cambridge and had both voluntarily moved to part-time status. When that was done they reached a mutual agreement with the Center’s Administration as to the number of hours each would work. When their work hours were reduced, sometime unilaterally by the Employer, the instant grievances were filed.

The Union argued that the Employer reduced the work hours of the part-time employees in order to avoid a layoff. The total number of work hours at Cambridge declined in 1993 as a consequence of its reduced client population. In the Union’s view, if there is less work available, the appropriate Managerial response under the Agreement should be layoff, not reduction in hours for the grievants. Article 29.05 makes no differentiation between full-time and part-time employees. It expresses the agreement of the parties to accommodate a reduction of work by layoff, not hour’s reduction. As the Employer reduced the hours of senior part-time employees, rather than layoff junior full-time employees, the Union asserts that the Agreement was therefore violated.

The Employer asserted that the changing of the hours of work is a Managerial Right that is recognized by Article 5 of the Agreement. The authority to adjust work hours has been widely accepted by the arbitration community. The State urges that Article 29 be read as a whole. Article 29 deals with layoffs and recalls, not hours reduction. The only language in the Agreement dealing with hours is found in Article 24, which applies to full-time, not part-time employees. The protection afforded to employees in Article 24 does not apply to part-time employees.

Arbitration Award: # 1181
Agency: Mental Health
Arbitrator: Mollie Bowers
Arbitration date: December 10, 1996
Decision date: December 23, 1996

Arbitrator Bowers ruled that the O.R.C. excludes the Employer’s right to determine the adequacy of the workforce from the realm of collective bargaining. The Union does not

have express permission to grieve/arbitrate a layoff decision simply because they claim it is flawed. The Employer had met its obligation to meet and confer with the Union and consider their input. Such merits are not grievable or arbitrable.

Arbitration Award: # 1187
Agency: Mental Health
Arbitrator: David Pincus
Arbitration date: October 29, 1996
Decision date: April 7, 1997

Arbitrator Pincus held that if an Agreement does not contain a specific bar preventing exempt employees from displacing into bargaining unit positions, O.R.C. 4117.10(A) controls, serving as a preservation of benefits clause under state law for all public employees. Only a specification clearly and unambiguously negotiated by the parties can avoid the specifications of that law. In this case, an exempt supervising pharmacist was allowed to displace a bargaining unit member since the Agreement created no bar for such actions.

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OEA CHECKLIST:

The following is a chronological checklist setting forth the steps required to implement a layoff of OEA bargaining unit employees. Please note that this checklist is to be utilized as a quick reference guide and is not intended to be an exclusive representation of the information needed to successfully carry out a reduction in force. Please refer to the “Detailed Overview” section of this manual, immediately following this checklist, and associated exhibits and appendices for further guidance. If you have any questions, please contact your Labor Relations Specialist at the Office of Collective Bargaining (OCB).

_____ Send **Notice of Proposed Intent to have reduction in force** to DAS, OCB, and OBM

- ✓ See **section II of Detailed Overview**
- ✓ See **sample OEA - 1**

_____ **Early Retirement Incentive Plan**

- ✓ Is an ERI Plan mandatory?
- ✓ See **section III of Detailed Overview**
- ✓ See **Appendices B & C**
- ✓ See *Ohio Revised Code § 145.297*

_____ Prepare **Proposed Rationale Statement**

- ✓ Include Objectives of Agency
- ✓ Number of Employees Affected
- ✓ Affected Positions
- ✓ Cost/Benefit Analysis
- ✓ Reason for Layoff
 - a) Lack of Funds
 - b) Lack of Work
 - c) Reorganization for any of the following reasons
 - 1) Efficiency
 - 2) Economy
 - 3) Lack of Work
- ✓ See **section IV of Detailed Overview**
- ✓ See **sample OEA - 2 and OEA - 2a for sample rationale letters**
- ✓ See **Section 18.01 of Annotated Contract**

_____ Prepare proposed **Layoff List**

- 1) Determine all classifications to be affected
 - ✓ See **Appendix G**

- 2) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
 - ✓ **See OEA - 1a for a sample request for a layoff roster**
- 3) Agency must account for all employees currently on disability in affected classifications.
 - ✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. *See OAC 123:1-41-21*
- 5) Seniority date of each employee
 - ✓ **See Article 20**
- 6) Effective date of layoff
- 7) Prepare list by following order set forth in Article 18
 - ✓ **See section V of Detailed Overview**

Prepare **Individual Position Rationale Statements**

- 1) Agency must determine the specific positions and PCNs that are held by the least senior in the classification, parenthetical and/or appointment type.
- 2) If both part-time and full-time positions are being reduced, must reduce all part-time first
 - ✓ **See section VI of Detailed Overview**
 - ✓ **See sample OEA - 3 and OEA - 3a**
 - ✓ **See Section 18.03 of the Annotated Contract**

Send copy of **Documents to OCB**

(Prior to meeting with Association)

- ✓ Include projected date employees will be notified of layoff
- ✓ Effective date of layoff
- ✓ Proposed rationale statement and all attachments (anticipated classifications, names and seniority of affected employees)
- ✓ Tables of Organization (before and after layoff)
- ✓ Position descriptions (of employees being laid off and employees assuming the remaining duties)
- ✓ **See section VII of the Detailed Overview**

If the agency allows challenges to seniority, post seniority list with a period of time to challenge. Should only allow challenges after official notice has been given to DAS and Association, but before bumping paperwork has been sent to affected employees. *This is not a contractual requirement nor a right of the employee.*

- ✓ **See section VIII of Detailed Overview**

If applicable, upon approval of retention points from DAS, send out any exempt bumping paperwork to begin the first wave of bumps, continue until all bumps have occurred.

- ✓ The agency can simultaneously work on verifying seniority, meeting with the Association, and/or generating the notification letters and ADM-4138 for the bargaining unit employees while waiting for all exempt bumps to occur
- ✓ Any exempt employees that previously held positions within OEA should be listed on bumping paperwork with his/her previous classification and seniority calculated according to Article 20 of the collective bargaining agreement

Association notification and meetings

- ✓ 45 calendar days prior to layoff, provide opportunity to Association to discuss
 - a) Provide written rationale for reduction in force and supporting documents
 - b) Provide information as required in section 18.01
- ✓ Within 10 calendar days of meeting, provide Association an opportunity to challenge and/or discuss
- ✓ **See Section 18.01 of Annotated**
- ✓ **See section IX of the Detailed Overview**

Prepare Final Rationale Statement

- ✓ Include changes, if any, resulting from meeting with Association
- ✓ **See section X of the Detailed Overview**
- ✓ Submit to OCB for final review

Notify Association and DAS of final decision

- ✓ Forward a packet of layoff information to both DAS and OEA central simultaneously
- ✓ Agency must notify the Association of final decision within five (5) calendar days of Association input, but at least 30 calendar days prior to layoff
 - a) Provide a written rationale and supporting documents supporting final decision
 - b) Association may grieve substantive validity or any procedural errors directly to Step 3 and Step 4. Such grievance must be filed at OCB within fifteen (15) working days of final decision.
- ✓ **See Section XI of Detailed Overview**

Notify other agencies with Unit 10 Employees

- ✓ Include number of Unit 10 employees laid off
- ✓ Job titles
- ✓ When the laid-off employee is available for employment
- ✓ Response due from other agencies within **5 working days**
- ✓ **See Section 18.01(B) of the Agreement**
- ✓ **See section XII of Detailed Overview**

Prepare and Post Reduction in Force list

- ✓ Determine names of employees in affected classification series
- ✓ Dates of appointment
- ✓ Types of appointment
- ✓ Classification
- ✓ Seniority
- ✓ Positions to be reduced
- ✓ Effective date of layoff
- ✓ Notice of right to voluntarily displace pursuant to Section 18.11
- ✓ 14 calendar days prior to reduction in force
- ✓ **See Article 18.03(C)**
- ✓ **See section XIII of Detailed Overview**

Provide Notification of Reduction in Force or Displacement

- 1) Abolishment letter only to affected employees that have been identified as laid off because of his or her seniority (letters must be sent only the employees directly impacted by the lay off. All other employee who may be displaced by bumping shall only be notified upon receipt of bumping forms from the first group. This is not a paper layoff and must be conducted in waves where employees are only notified if his or her position has been directly impacted). Notify affected employees pursuant to section 18.04 (note the required contents of the notice set forth in section 18.04)
 - a) 14 calendar days prior to layoff if hand-delivered
 - b) 17 calendar days prior to layoff if certified mailed
- ✓ Employees may volunteer for layoff, in which case notice is not necessary
 - ✓ **See section XIV of the Detailed Overview**
 - ✓ **See OEA - 4 for sample notification letter**
 - ✓ **See Section 18.04(B) of the Annotated language**
- 2) ADM-4138 forms to employees must be sent with the notification letter and must list all counties that are available for recall or reemployment.
 - ✓ The counties listed for recall must reflect the employee's current county of employment as well as all other counties that the agency has facilities within
 - ✓ The counties for reemployment must reflect the employee's current county of employment as well as all other counties that are designated in **OAC 123: 1-41-13** within the same district.
 - ✓ **See OEA - 4a for sample ADM-4138 and 4b for instructions to help agency complete this form**
 - ✓ Employees have five (5) days from receipt to return the ADM-4138
 - ✓ **See section XIV of the Detailed Overview**

Determine Reduction in Force

- ✓ Follow displacement procedures in section 18.05
- ✓ Note special requirements in sections 18.06-18.11
- ✓ **See section XV of Detailed Overview**
- ✓ **See Sample Bumping Form OEA - 15**

_____ Provide final list of displaced employees to Association within ten (10) days after the displacements

- ✓ **See section XV of the Detailed Overview**

_____ Send all affected employees appropriate **Notification Letters** including:

- 1) COBRA notice and leave conversion attachments for employees who chose to voluntarily be laid off. **(See OEA - 5, 13, and 14)**
 - 2) COBRA notice, and leave conversion attachments for employees who chose to bump, but have no bumping options and will be laid off. **(See OEA - 6, 13, and 14)**
 - 3) COBRA notice, and leave conversion attachments for employees who chose not to exercise rights to bump and will be laid off. **(See OEA - 7, 13, and 14)**
 - 4) Displacement Letter for employees who were displaced into a lower classification. **(See OEA - 8)**
 - 5) Displacement Letter only for employees who were displaced into a new PCN, but same classification. **(See OEA - 9)**
- ✓ Letters must be sent to the employee fourteen (14) calendar days prior to layoff if hand-delivered or seventeen (17) calendar days prior to layoff if certified mailed
 - ✓ Provide notice of vacancies to laid-off employees who have bidding rights in accordance with section 18.16
 - ✓ Provide assistance in career counseling, resume and retraining services
 - ✓ **See section XVI of the Detailed Overview**
 - ✓ **See OEA - 13 for sample sick leave conversion form**
 - ✓ **See OEA - 14 for sample COBRA form**

_____ Send out **Second Wave Notification Letter and ADM-4138** to all employees who were displaced by the first group.

- 1) This process must be repeated until all affected employees have had a chance to displace. Unlike the paper layoff process, each employee can only be notified after it has been determined that he or she will be displaced.
 - 2) This process may occur while the agency is preparing and sending out notification letters to the first group of employees and preparing personnel action forms.
- ✓ **See section XVII of Detailed Overview**
 - ✓ **See OEA - 10 for sample second wave displacement letter**
 - ✓ **Send OEA - 4a for sample ADM-4138 and 4b for instructions to help the agency complete this form**

_____ Send **Personnel Action** form (ADM-4100) to DAS 7 calendar days prior to layoff. Include the following:

- ✓ ADM-4138 - This form will be forwarded to DAS Certification to add the employees to the existing layoff certification lists.

- ✓ Sick Leave Conversion Form. If the employee fails to complete and resubmit the form, all eligible sick leaves will automatically be converted and cashed out.
- ✓ Copy of letter notifying the employee of layoff
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification
- ✓ **See section XVIII of Detailed Overview**

In addition to submitting the employee ADM-4138 to DAS, the agency must **compile a recall list** and submit to DAS Certification seven (7) days prior to layoff

- 1) Recall list must include the employee's name, original classification, seniority, a list of each classification in the classification series that is in an equal or lower pay range to the employee's original classification as well as any additional parenthetical subtitles that the employee indicated on the ADM-4138. The list must include all counties that the employee indicated he or she is willing to be recalled to.
 - 2) Although the employer is not responsible for developing a separate reemployment list, the employer must indicate the counties the employee is willing to be reemployed. These are not the same counties as available under recall and must be designated as counties for reemployment.
- ✓ **See section XIX of Detailed Overview**
 - ✓ **See OEA - 16 for sample recall list**

OEA DETAILED OVERVIEW

I. SUMMARY

Article 18 governs a layoff of SCOPE/OEA employees. Unlike the AFSCME/OCSEA contract, which specifically incorporates the Ohio Revised Code and Administrative Code, neither is referenced in Article 18 of the SCOPE/OEA contract. Therefore, the contract is the sole source of authority for any SCOPE/OEA reduction in force.

Nevertheless, the language in Article 18 is very similar to that in the Revised Code. The same standards that apply in exempt and AFSCME/OCSEA layoffs will likely apply to SCOPE/OEA reductions in force.

When implementing a layoff, please pay close attention to the various time requirements in Article 18 for providing notice to the Association and employees of the reduction in force. Section 5.02(C) of the contract defines “day”. The contract states that “day” refers to calendar day except where otherwise specified. Times shall be computed by excluding the first and including the last day, except that when the last day falls on a Saturday, a Sunday or legal holiday, the act may be done on the next succeeding day which is not a Saturday, Sunday or legal holiday. “Work Days” refers to Monday through Friday, excluding legal holidays.

This manual is structured to provide a step-by-step approach to guide you through the detailed and complicated layoff process. A checklist of the necessary steps for implementing a reduction in force is also provided. Subsequent sections of the manual follow and expand upon the checklist. Forms are provided where applicable and should be adapted to meet the particular needs of your Agency. Summaries of relevant arbitration decisions and a flow chart of the layoff process are also included.

★ **NOTE:** A reduction in force is time consuming and can be difficult to implement. You are encouraged to contact your appropriate Labor Relations Specialist at the Office of Collective Bargaining (OCB) throughout the process for assistance.

II. NOTICE OF PROPOSED INTENT TO LAYOFF

Notice of Proposed Intent to Layoff is not referenced in the contract or code as a required step in the layoff process. *However*, it is established practice that the agency shall put the Department of Administrative Services (DAS), the Office of Collective Bargaining (OCB), and the Office of Budget and Management (OBM) on notice of their intent to layoff.

Helpful Tips:

- The Notice of Intent should be submitted at least seven (7) days prior to the submission of the final rationale
- The Notice of Intent should be a one-page summary of the expected number of positions to be abolished and the approximate number of people who may be ultimately displaced
- This document can be submitted while the agency is drafting and/or revising the detailed rationale for the layoff

[See OEA - 1 for a sample notice form]

III. EARLY RETIREMENT INCENTIVE PLAN

An Early Retirement Incentive Plan (“ERIP”) allows the employer to purchase additional service credit for employees, which enables employees to retire early or retire with a larger retirement benefit than they may have otherwise been entitled. *[See ORC § 145.297]*

★ **NOTE:** Early Retirement Incentive Plan is *mandatory* if the agency proposes to close a state institution or to lay off, within a six-month period, a number of persons employed that equals or exceeds the lesser of 350 employees or 40 percent of the employees of the employing unit. *[See ORC § 145.298]*

Basics:

- Form F-111b, and the ERIP must be submitted to PERS
- Form F-111b, the ERIP, and a cost analysis of the ERIP must be submitted to OBM
- OBM will not approve the affordability of a ERIP unless the agency’s cost analysis clearly demonstrates that the agency has budgeted for the ERIP from available funds
- This process will take a minimum of sixty-seven (67) days to process. The agency should work on drafting the rationale and calculating retention and seniority credits.

[See Appendices B and C for specific details, procedures, and materials to assist you in preparing such a Plan]

★ **NOTE:** If the proposed layoff is for a lack of funds, and therefore a certification of lack of funds from OBM is necessary, the ERIP must be adopted prior to the certification.

Please contact the appropriate LRS at OCB if you are planning to offer an ERIP so that you may be assisted with notifying the Association. Note the decision in *State Employment Relations Board v. Youngstown City School District Board of Education*, 93-ULP-01-0095, which indicated that impact bargaining may be necessary prior to establishment of an early retirement incentive plan.

IV. SUPPORTING DOCUMENTATION

Appointing authorities are *required* to file with the director of DAS documentation that justifies a reduction in force. This documentation is often referred to as the “rationale” for the layoff. This “rationale” consists of both a general rationale and individual rationales for each position identified for layoff.

GENERAL RATIONALE:

The documentation should include:

- Objectives of the agency
- The number of employees affected
- The affected positions
- The cost savings, if any
- The reason for the layoff

[See OEA - 2 and 2a for sample rationale letters]

The reasons for a reduction in force are limited to those specifically allowed by law. Employees may be laid off whenever a reduction in force is necessary for any of the following **three** reasons:

- 1) Lack of funds
- 2) Lack of work
- 3) Abolishment of positions due to reorganization
 - a) Lack of work
 - b) Reorganization for the efficient operation of the employing agency
 - c) Economy

★ **NOTE:** The state must demonstrate by a **preponderance** of the evidence that a job abolishment was undertaken for one of the above reasons.

A. LACK OF FUNDS

A lack of funds means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn. *[See ORC § 124.321(B) and OAC § 123:1-41-02]*

The director of OBM is responsible for determining whether a lack of funds exists. Therefore, **certification by OBM is required**. Agencies should contact OBM for assistance in completing the appropriate financial analysis. *See Appendix D for additional information and OBM memo.*

- ▲ **Remember**, as stated above, if your agency is required to adopt an Early Retirement Incentive Plan, it must be adopted prior to obtaining the certification for lack of funds.

★ **NOTE:** If your agency has determined that the underlying reason for the reduction in workforce is for a lack of funds, it is important to realize that this is a time-consuming process requiring certification from OBM. *[See § OAC 123:1-41-06]*

If your agency is contemplating a layoff for lack of funds, please contact your LRS at OCB and OBM analyst immediately.

B. LACK OF WORK

A lack of work, for purposes of layoff, means an appointing authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels. The determination of a lack of work shall indicate the current or projected decrease in the workload of an appointing authority and whether the current or projected staffing levels of the appointing authority will be excessive. *[See ORC § 124.321(C) and § OAC 123:1-41-02]*

The director of DAS shall determine if a lack of work exists. The agency is required to submit the following:

- Request for determination of lack of work
- Adequate information to establish that a lack of work exists, which may include:

- ✓ Comparison between current work levels and work levels when a lack of work did not exist
- ✓ Statistical data and additional supporting materials
- ✓ Reasons for the elimination or diminution of duties
- ✓ Allocation of any duties remaining after the layoff

★ **NOTE:** Be careful when reassigning duties across classifications. The new classification specification must provide for the ability to perform the duties, or the duties must not be performed more than 20% of the employees' time.

C. ABOLISHMENT OF POSITIONS

The abolishment of positions due to reorganization is the most commonly utilized reason for layoffs.

Abolishment means the permanent deletion of a position or positions from the organization or structure of the appointing authority due to a lack of continued need for the position.

Abolishment of specific positions, may be done for any of the following **three** reasons:

- 1) As a result of a reorganization for the efficient operation of the agency; or
- 2) Reasons of economy; or
- 3) Lack of work

1) Efficiency of Operation

A statement of rationale to support an abolishment on the basis of reorganization for efficiency of operation should include well-documented information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a historical discussion and/or explanation of the changes in organizational emphasis and goals.

Efficiency of operation should be utilized when the agency has no other savings than salary and benefits and can point to unnecessary services, duplicate services, outdated services, better ways of accomplishing tasks, or change in philosophy or programming that requires the reallocation of resources.

Examples: the rationale should include information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a historical discussion and/or explanation of the changes in organizational emphasis and goals.

2) Reasons of Economy

A statement of rationale to support a layoff for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reasons of economy should be utilized when the agency cannot point to efficiency gains, but can show that the elimination of positions results in other economic savings. Agencies must consider savings regarding salary, benefits, and other matters associated with the abolishment of the position. Reason of economy should be used if:

- a. The agency's operating budget is reduced by executive or legislative action (if this option is chosen, the abolishment must happen within one year of the announcement of the decreased funding). In this instance, the agency may consider only salary and benefits savings regarding affected positions.

OR

- b. A current or projected deficiency in funding is expected to make it difficult to maintain current service levels.

HOWEVER:

- The abolishment must be done in good faith
- If the funding is reduced for one specific program, then the abolishment must be from that program's staff
- If the funding reduction is not for a specific program, then the most appropriate position to abolish must be determined.

When computing savings, ensure that all expenditures after layoff are included (*i.e.*, ERIP costs, unemployment costs, and moving and changing office equipment costs).

Examples: consolidation of offices requiring fewer positions, reduction of process requiring fewer positions (technological upgrades, simplification of procedures), and matching equipment/material needs to the workforce under a reduced budget.

3) Lack of Work

A lack of work may be due to legislative change or the elimination of services not required by an agency's enabling statute or mission or other changes in operation. A statement of rationale and supporting information are required.

Examples: elimination of a governmental function by legislation (liquor control), elimination of a regulatory function, and elimination of non-essential functions.

Importance of supporting documentation:

- ❖ It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff.
- ❖ In an appeal, representatives of the agency will be challenged on the contents and validity of the statements of rationale and supporting documentation.
- ❖ Generally, decisions to lay off employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational structure, mission and future goals, as projected. Layoffs for a valid business purpose may be successfully defended.
- ❖ It is important to focus on which duties are no longer necessary or justified, not upon an individual employee's attributes or faults. When these factors enter into the decision making process, the reduction in force becomes suspect.

★ **NOTE:** Do not assert unnecessary, multiple reasons for an abolishment unless the agency is able to persuasively defend all reasons. *For example*, strong documentation supporting a lack of work will usually be sufficient to support an abolishment. Adding greater economy as a reason for the abolishment without credible documentation may not withstand an appeal. Various court and arbitration decisions have held that the assertion of salary saved, alone, is insufficient support for an abolishment based on reasons of greater economy.

V. PREPARE PROPOSED LAYOFF LIST

To prepare for the paper layoff, the agency needs to prepare a seniority list for the affected classifications for the entire region to be affected (seniority of affected employees at the facility and seniority of employees in affected classifications in contiguous counties). Start with the seniority lists provided by DAS quarterly. If you need a special list, contact OCB for assistance.

The list should be shared with the Association well before the reduction in force. The procedure is as follows:

- 1) Determine the positions by classification to be affected and the pay range.
- 2) Determine the appropriate classification groupings. *[See Appendix G of the CBA]*
- 3) Determine the appropriate counties. Pursuant to section 18.05, the layoff areas are dictated by the county of the positions to be abolished and those counties that are contiguous. *[See Section 18.05 of the CBA]*

- 4) Obtain DAS printout of all employees in the affected classifications including holding classifications (30000), employees currently on disability and classification into which employee may displace.
 - ✓ **See OEA - 1a for a sample request for a layoff roster**
- 5) Agency must account for all employees currently on disability in affected classifications.
 - ✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. *See OAC 123:1-41-21*
- 6) Seniority date of each employee
 - ✓ **See Article 20**
- 7) Effective date of layoff
- 8) Prepare list by following order set forth in Article 18

If your abolishments include any exempt positions, the agency should immediately identify the employees filling the exempt positions and pull the employment history of those individuals to determine if they have held a bargaining unit position in the past three years which they may have bumping rights to.

VI. INDIVIDUAL POSITION RATIONALES

Once the agency has developed the general reason for the reduction, you must also determine the specific positions that will be abolished. The agency will need to develop an **individual rationale** for each position to be reduced. Each individual rationale should relate to the general rationale. Make sure the individual position rationale:

1. Specifies the PCN and then addresses the duties of that position. It is important to address all the duties performed by the position. (Refer to position description). The PCNs listed should reflect the positions of the employees with the least state seniority in a classification title and/or parenthetical subtitle. All part-time employees within the classification title and/or parenthetical subtitle shall be reduced in force prior to the reduction of full-time employees.
2. Specifically states which duties were never performed or are no longer performed.
3. Specifies, **to the extent possible**, which PCN(s) will be assuming the remaining duties (of the duties that will remain) and ensure that this will not have a significant impact on the person(s) assuming the duties

[See sample OEA - 3 for a blank form and 3a for a sample]

★ **NOTE:** The agency should always verify that the classifications of the PCN(s) assuming the duties allow for the performance of the transferred duties.

APPEALS:

In an appeal, representatives of the agency will be challenged on the contents and validity of the statements in the rationale and supporting documentation. Generally, decisions to layoff employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational, structure, mission and future goals, as projected.

▲ **Remember**, as stated above, decisions to layoff must be demonstrated by a preponderance of the evidence.

CAUTION:

Pitfalls to watch out for when developing your rationale are two-fold:

1. The **bad faith layoff**
2. The **transference of a substantial portion of the duties** of the eliminated position to another position

★ **NOTE:** These two concepts prevent you from looking at individuals and require you to focus on duties.

1. **Bad faith layoff:** means the Employer cannot use the job abolishment as a pretext or strategy to get rid of an employee. Job abolishments will be disaffirmed if the preponderance of the evidence does not support the position to be abolished.
2. You may not **transfer the duties** of the abolished position to one individual, *unless it will not become a substantial portion of that position*. The theory behind this case law is that you may not take someone's duties and simply give them to another. If the duties must be performed and will become a substantial portion of another's job, then the job abolishment of that position may not be proper. The position, which you are transferring the duties to, may be the position that warrants elimination. As with any kind of consolidation of duties, the abolished position's duties may not become the substantial portion of another person's position.

Exception: may be found if the Employer has two full-time positions, which are only really performing the work of one full-time position. In that case, the Employer should abolish the PCN of the position with the less senior employee.

The Employer should only eliminate bargaining unit positions and transfer the remaining duties to an exempt employee when the Employer can show that the exempt classification specification overlaps and therefore the duties do not purely belong to the unit. The Union is likely to challenge an elimination of a bargaining unit position that transfers duties to an exempt position.

Thus, if you eliminate a bargaining unit position that transfers duties to an exempt position, you should be able to show:

- (1) The work was not purely bargaining unit work
- (2) The assumption of those duties by the exempt employee does not make up a substantial portion of the exempt position.

★ **NOTE:** Time spent percentages are helpful in defending your case.

VII. OCB REVIEW OF DRAFT COPY

A copy of all documents prepared to support the proposed layoff should be submitted to OCB for review and revisions prior to the intended date for notification of the Union and request for approval from DAS.

The information should include:

- ✓ The rationale statement and supporting documentation
- ✓ The rationale for each individual position
- ✓ Position Descriptions of all positions identified to be abolished
- ✓ The Table of Organization both before and after the layoff
- ✓ The date employees will be notified of the layoff
- ✓ The effective date of the layoff

VIII. SENIORITY

The agency **may** allow employees to challenge their seniority. **THIS IS NOT A CONTRACTUAL REQUIREMENT NOR A RIGHT OF THE EMPLOYEE.** If the agency should allow challenges to seniority to be reviewed, the agency should establish a specified period of time and share all revisions with the union. Any changes in seniority should be reflected in the bumping paperwork and shared with the union.

★ **NOTE:** If you allow challenges to seniority credits and retention points, post the seniority list for BU and/or retention points for exempts with a period of time to challenge. *Note that this is not a contractual requirement nor a right of the employee.*

IX. ASSOCIATION NOTIFICATION AND MEETINGS

The contract requires that at least forty-five (45) calendar days prior to the anticipated effective date of a reduction in force, the Association must be afforded an opportunity to meet with the agency. At this meeting, the Association must be provided a written rationale, with supporting documentation, if any has been prepared, setting forth the basis for the reduction in force.

At this meeting, the agency must also inform the Association of:

- ✓ The anticipated classification(s) where reductions may occur
- ✓ The particular position(s) and appointment types which may be reduced
- ✓ The names of employee(s) in the classification(s) where the reduction is anticipated with the seniority dates of employees within the classification(s)
- ✓ The series affected
- ✓ The expected duration of the reduction in force
- ✓ The facility or facilities to be affected
- ✓ A listing of any vacancies that might be available for displacement.

Either at this meeting, or within ten (10) calendar days, the Association shall be provided an opportunity to challenge the rationale offered and/or to discuss the reduction in force with the agency to offer suggestions for how the reduction in force may be avoided or its impact lessened. Input from the Association shall be seriously considered before any final decision is made to have a reduction in force.

X. FINAL RATIONALE STATEMENT

The proposed rationale statement should be modified to include changes, if any, which are necessary as a result of the meeting with the Association. Submit the final rationale statement to OCB for review.

XI. DEPARTMENT OF ADMINISTRATIVE SERVICES AND ASSOCIATION NOTIFICATION OF FINAL DECISION

The agency shall make a final decision as to whether it will effect a reduction in force within five (5) calendar days after the Association provides its input, but no later than thirty (30) calendar days prior to the proposed effective date of the reduction in force. The final decision shall be communicated to the Association and the Department of Administrative Services simultaneously.

If a reduction in force is to be effected, the agency will supply the Association with:

- ✓ A written rationale, to include, if any, supporting documentation, revised if necessary, setting forth the basis for the final decision

- ✓ A final listing of the classification(s) where reduction in force will occur, the particular position(s) and appointment types, names and seniority of employees affected with seniority and work facility or facilities, vacancies available, and the expected duration of the reduction in force
- ✓ A complete seniority list of all employees within each facility affected, and the facilities within the county and counties contiguous to each facility affected

When the agency makes its final decision to effect a reduction in force, it may not move employees into or out of affected classifications within the affected facility and facilities in the county of or counties contiguous to the affected facility by means of promotions, transfers, voluntary reductions (as per Article 17), classification changes, or reassignments, except in the case where transfers out of a classification or implementation of the findings of a position audit commenced prior to the employing agency's final decision may be implemented.

★ **NOTE:** The Association has fifteen (15) *working days* from when it is notified of the agency's final decision to effect a reduction in force to grieve the substantive validity or any procedural errors to the Office of Collective Bargaining and the agency. If an appeal is not received by the Office of Collective Bargaining and the agency within this time period, the *Association waives any and all rights* to arbitrate or appeal the substantive validity of the agency's final decision.

After the agency makes the final decision to proceed with the reduction in force, the agency in which the layoff, job abolishment or institutional closing occurs must notify all other agencies employing Unit 10 members of the reduction in force.

The notice shall state the number of Unit 10 employees being laid off or abolished, general job titles and when the employee(s) will be available for other employment.

Agencies receiving such notice shall respond by telephone or facsimile within five (5) **working days** of receipt of the notice, if the agency has any Unit 10 vacancies. Upon receiving notice that another agency has Unit 10 vacancies, the agency must make that information available to employees being laid off.

- ✓ **See Section 18.01(B) of the Agreement**

XIII. PREPARE REDUCTION IN FORCE LIST

Posting of Reduction in Force List: The agency must post the reduction in force list, in a conspicuous public place, accessible to affected employees, fourteen (14) calendar days prior to any reduction in force. The posting shall include a statement that employees may volunteer, regardless of seniority, to be reduced in force or displaced pursuant to section 18.11 and explain how to submit such a request.

Read sections 18.03 (C). Basically, the employee within the affected facility with the least state seniority (as defined in Article 20 of the contract) in a classification title and/or parenthetical subtitle and appointment type is laid off first and the reduction proceeds by inverse seniority, except that full-time employees may displace part-time employees with more seniority.

★ **NOTE:** If full-time employees and part-time employees are to be laid off, all part-time employees must be laid off first.

The list should include the following information of all employees in the affected classification series:

- ✓ The names
- ✓ Dates of appointment
- ✓ Types of appointment
- ✓ Classification
- ✓ Seniority listing of all employees in the affected classification series
- ✓ An indication of which particular positions will be reduced in force

★ **NOTE:** In accordance with section 18.11, where employees request voluntary reduction in force, the most senior names on the reduction in force list shall be deleted accordingly in direct number to the number of employees granted voluntary layoff.

A. NOTIFICATION LETTERS

Each employee whose particular position is reduced in force or displaced shall be given advance written notice by the agency. The notice must be hand-delivered to the employee at work or mailed by certified mail to the employee's last known address on file within the official personnel file of the agency.

[See OEA - 4 for sample notification letter]

★ **NOTE:** Please review carefully the specific contents required by 18.04(B) to be included in the notice. Employees who volunteer for layoff need not be notified.

Remember: Notification letters need to be sent prior to conducting the bumping process. Fourteen (14) calendar days if hand-delivered and seventeen (17) calendar days if sent by certified mail.

B. ADM-4138

As each affected employees is notified of the reduction in force of his or her position, the employee will be given a form **ADM-4138**. This form asks the employee to indicate 1) whether or not the employee wishes to exercise displacement options, and 2) the counties in which the employee is willing to return to work if reduced in force then subsequently recalled.

In determining the recall and reemployment rights that each employee may have, the distinction between the two terms should be understood. The terms are often used interchangeably, but their meanings are quite different.

Recall means that an employee is requested to return to employment with the same agency from which the employee was laid off. The ADM-4138 must list all counties where the employing agency has offices or institutions to which the employee has recall rights.

Reemployment means that an employee is requested to return to employment at a different agency than the one from which the employee was laid off. The ADM-4138 must list all counties in the applicable District according to **OAC 123: 1-41-13** to which the employee has reemployment rights.

The location of the employee's position at the time the layoff is first implemented dictates the applicable counties for which the employee is eligible for recall or reemployment.

Please contact DAS Certification to verify proper jurisdiction.

[See OEA 4a for a sample ADM-4138 and 4b for instructions to help agency complete the form]

★ **NOTE:** When listing available *reemployment options*, the Employer must revert to the layoff jurisdiction (districts) designated in **OAC 123:1-41-13**. *For example:* if an employee is laid off from Franklin County, he/she shall have reemployment rights to District 7. Reemployment options should reflect only the counties within the District the employee is currently working in as listed in the Ohio Revised Code.

[See Recall/Reemployment Options (OEA - 12)]

★ **NOTE:** Employees will have five (5) calendar days to complete and return the forms to their agency HR office.

- ✓ **NOTE:** The employee should be instructed that failure to resubmit form will result in recall rights to only the classification and parenthetical of the current position and in the selection of all counties that the employing agency has offices and institutions in.
- ✓ The employee should also be instructed that failure to resubmit the form will result in reemployment rights in all 88 counties.

★ **NOTE:** OEA layoffs are conducted in “waves” with only the positions targeted for abolishment or layoff being notified in the first wave. Only after receipt of the employee’s decision to exercise bumping rights and determining where the employee’s seniority will allow him or her to bump can the employee displaced by the first employee be notified *[See OEA - 10]*. Each wave takes a minimum of five days in order to allow the employees time to complete the ADM-4138 and return it to the agency personnel office.

The agency should develop bumping forms at the same time they are sending out the employee Notification Letters and ADM-4138 and waiting on resubmission of the ADM-4138.

- ✓ The agency should sort affected positions by classification and pay range with the name of the incumbent and his or her seniority as well as a blank space for the employee who may choose to bump into the position.

[See OEA - 15 for a sample bumping form]

★ **NOTE:** In smaller agencies, there may be no displacement or bumping rights for an employee to exercise. In that case, the displacement process does not apply and the employee may be notified at this point that he/she will be laid off. *[See OEA - 5-9]*.

XV. DETERMINE REDUCTION IN FORCE

GENERAL RIGHTS: The following are general rules applicable to displacement rights of employees.

- ✓ Cannot displace into classification title with higher classification base.
- ✓ Cannot displace employee with more seniority except part-time, interim, or intermittent employees.
- ✓ Must have minimum qualifications for new position.

- ✓ Except Librarian 1 and 2, an employee qualified for two (2) or more parenthetical subtitles of a classification title shall displace the employee with least seniority in any of the parenthetical subtitles for which the employee is qualified.
- ✓ If an employee has no rights under (3) or (4), that employee may displace within the classification series for which he/she meets the minimum qualifications. See Displacement Procedures on page 23.
- ✓ Pursuant to 18.09 of the Agreement, employees on sick leave, authorized leave of absence, or disability leave, are treated the same as other employees and must be notified in accordance with section 18.04. Temporary vacancies that result from displacements exercised by the employee on leave may be filled by an interim employee.
- ✓ Note the displacement compensation requirements of section 18.10.
- ✓ Pursuant to Section 18.11 of the Agreement, employees *within affected class titles* may volunteer in writing to be laid off without consideration of seniority. If granted, the agency will report to the Ohio Department of Jobs and Family Services (ODJFS) that it has laid off the employee and not contest eligibility for unemployment compensation.
 - Volunteering to be laid off does *not* waive the employee's recall rights, unless the employee does so in writing
- ✓ Section 18.15 of the Agreement, the agency is required to assist employees who have been reduced in force by offering career counseling and resume writing services and/or job retraining services.
- ✓ In accordance with section 18.16, employees to be laid off who have no further displacement options, and who have no discipline exceeding a one (1) day suspension, may submit an application for any posted vacancy, covered by the contract. However, the Employee is limited to within the agency from which he/she is being laid off, in the classification from which he/she is proposed to be laid off or displaced. The most senior applicant meeting the minimum qualifications shall be awarded the vacancy.

★ **NOTE:** Make sure to review the overall requirements of section 18.06, 18.07, 18.09, 18.10 and 18.11 which apply to all displacements.

DISPLACEMENT PROCEDURES:

First, displacements occur within the work facility.

Second, displacements occur within the work facilities operated by the agency within the same county.

Third, displacements occur within facilities operated by the agency within contiguous counties, in the following order, with full-time employees first displacing against full-time employees:

- 1) Within any available vacancy in the class title and/or same parenthetical subtitle from which the employee was reduced in force or displaced
- 2) Within any available vacancy in the class title and different parenthetical subtitle from which the employee was reduced in force or displaced
- 3) Against the employee with the least state seniority within the same class title and/or parenthetical subtitle from which the employee was reduced in force or displaced
- 4) Against the employee with the least state seniority in the same class title and different parenthetical subtitle from which the employee was reduced in force or displaced
- 5) Against the employee with the least state seniority within the next lower classification title to include parenthetical subtitles or successively lower classification titles as set forth in 18.07 in which the reduction in force or displacement occurred
 - Classification series are recognized for purposes of displacement and recall. Classification titles are listed in Appendix G of the SCOPE/OEA contract.
- 6) Against the employee with the least state seniority in the class title to include parenthetical subtitles most recently held by the employee within the last five (5) years provided that the class is a lower or equivalent class to the employee's current class and is within the bargaining unit
- 7) Against the employee with the least state seniority in the class title next previously held, and in successive previous classifications, provided that the classification(s) is included within the bargaining unit
- 8) After paragraphs 1 through 7 have been applied, the most senior full time employee may displace the least senior part-time employee, following the order specified in 1 through 7 even if the employee to be displaced has more seniority. A full-time employee may waive the right to displace a part-time employee without adversely affecting the full-time employee's right to recall
- 9) If the full-time employee is unable or unwilling to exercise displacement against a part-time employee, then the most senior full-time employee may elect to displace, in the order specified in 1 through 7, first the least senior interim employee at the work facility only and secondly, the least senior intermittent employee at the work facility only, even if the interim or intermittent employee has more seniority. A full-time employee may waive the right to displace an interim employee without adversely affecting the full-time employee's right to displace an intermittent. A full-time employee's right to recall will not be affected regardless of whether the displacement option against an interim or intermittent is exercised
- 10) An employee displaced by an employee possessing more state seniority may displace an employee in the order and manner specified in paragraphs 1 through 9 subject to the requirements enumerated in B.1. below (Section 18.06 of the contract).

★ **NOTE: Displacement List:** [See section 18.08 of the CBA]

Within **ten (10)** calendar days after all displacements have occurred, the agency shall furnish a complete list of displacements to the Union, including names of displaced employees, seniority, work facility, classifications, and appointment types.

XVI. NOTIFICATION LETTERS TO EMPLOYEES

There will be several different letters that need to be sent prior to the effective date of the layoff.

- ▲ **Remember:** Notification letters need to be sent prior to the paper layoff—14 calendar days if hand-delivered and 17 calendar days if sent by certified mail.

★ **NOTE:** The letters are for example purposes only. The agency should modify the letter to suit the particular needs of the agency.

A. NOTIFICATION LETTERS

All impacted employees should receive **one** of the following letters:

- 1) COBRA notice and leave conversion attachments for employees who chose to voluntarily be laid off. (See OEA - 5, 13, and 14)
- 2) COBRA notice, and leave conversion attachments for employees who chose to bump, but have no bumping options and will be laid off. (See OEA - 6, 13, and 14)
- 3) COBRA notice, and leave conversion attachments for employees who chose not to exercise rights to bump and will be laid off. (See OEA - 7, 13, and 14)
- 4) Displacement Letter for employees who were displaced into a lower classification. (See OEA - 8)
- 5) Displacement Letter only for employees who were displaced into a new PCN, but same classification. (See OEA - 9)

B. SICK LEAVE CONVERSION

When sending out notification letters of displacement, the agency must also include a form that lists the employee's option to either cash out or save all accumulated sick leave. The Sick Leave Conversion Form must be submitted with the employee's Personnel Action whenever an employee is laid off. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.

[See OEA - 13 for sample Sick Leave Conversion Form]

C. NOTIFICATION OF COBRA

It is the agency's responsibility to notify the employee of his or her rights under COBRA. Each employee should receive a form stating his or her right to this benefit.

[See OEA - 14 for sample COBRA Notification Attachment]

★**NOTE:** Also note that the Agency must provide notice of vacancies to laid-off employees who have bidding rights in accordance with section 18.16 as well as assistance in career counseling, resume and retraining services.

XVII. SECOND WAVE NOTIFICATION (TO DISPLACED EMPLOYEES)

Repeat process starting of providing notice and opportunity to exercise displacement rights to next set of employees who were displaced

- ✓ Send Second Wave Displacement Letter (See OEA - 10)
- ✓ Send ADM-4138 (See OEA - 4a and 4b for instructions to help agency complete this form)

XVIII. PERSONNEL ACTION

Personnel action form ADM-4100 should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. You should also include:

- ✓ Whenever an employee is displaced into a lower or different classification or laid off, an ADM-4138 form must be submitted with the employee's designation of the counties he or she indicated as acceptable for reinstatement purposes
- ✓ Attachments showing changes which will result from the layoff
- ✓ Copies of the letters notifying employees of the layoff
- ✓ An explanation of whether employees had displacement rights and whether or not they were exercised.

- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification

Personnel Action Form 4100 will then be forwarded to DAS certification to add employees to reinstatement/recall and existing layoff certification lists.

XIX. DRAFTING RECALL/REEMPLOYMENT LISTS

In addition to the agencies forwarding the ADM-4138 that the employee completed to DAS, the agency must also prepare a recall list. This list should be sent to DAS seven (7) calendar days prior to the effective date of the layoff.

- ✓ Recall lists must include name of each employee displaced from their original classification, the employee's seniority credits, a list of each classification in the classification series equal or lower than the classification in which the employee was employed at the time of the reduction or displacement (those classifications listed in Appendix G of collective bargaining agreement with same or lower pay range), and all counties, office or institutions the employee indicated on the ADM-4138 that he/she was willing to be recalled to.
 - If an employee indicated on the ADM-4138 that he or she is certified in two (2) or more parenthetical subtitles, the agency must list the parenthetical subtitles for which the employee wishes to be recalled. If the employee failed to list additional parenthetical subtitles, the employee shall only be placed on the recall list for the classification and parenthetical subtitle held at the time of the reduction or displacement.
- ✓ Counties for Reemployment must include names of employees laid off, classification displaced from, and seniority credits and a list of the counties the employee on the ADM-4138 indicated he/she was willing to be recalled to.

[See OEA - 16 for a sample recall list]

★ **NOTE:** An employee who is able to displace within their classification and parenthetical, does **not** have rights to be placed on a recall list, regardless of location of the new position.

General considerations that the agency and employee should know about recall/reemployment:

- If the employee does not resubmit the ADM-4138 form, the Employer should attach a blank form to the Personnel Action and submit to DAS. Certification will place the employee on the recall and reemployment lists as if the employee had selected ALL

available counties but only for the classification and parenthetical the employee currently holds. For this reason, it is important that the agency not only verify that the options listed for each employee are correct, but that the employee also understands that failure to carefully select only those options that he or she is able to work in will result in placement on all lists.

- Failure on the employee's part to carefully select only those options that he or she can reliably return to will result in the employee having to turn down an employment option that is not feasible and result in being taken off the recall and/or reemployment lists. All agencies should train those persons responsible for the development and maintenance of recall lists regarding the incorporation of appointment category.
- All employees are placed on the list by effective date of layoff and are recalled by State seniority. Employees who are receiving Workers' Compensation or Disability shall also be laid off on the same date without interruption to currently approved benefits.

FILLING VACANCIES FROM RECALL AND REEMPLOYMENT LISTS

The purpose of this manual is to aid an agency in implementing a layoff. Part of the layoff process guarantees employees specific rights under recall and reemployment. This manual will not address all aspects of the recall and reemployment process, but will provide some tips on frequently discussed issues as well as sample recall and reemployment letters.

FILLING A VACANCY THROUGH RECALL

For the two (2) years following the reduction in force, agencies are prohibited from hiring, transferring or promoting into a classification title and/or parenthetical subtitle in a facility operated by the employing agency for which a recall list exists. Employees reduced in force or displaced have recall rights for two (2) years from the effective date of the reduction in force or displacement. Specific recall rights are enumerated in Section 18.12 (A) of the contract and should be reviewed carefully.

Employees to be recalled must be notified of reinstatement by certified letter to the address maintained in the employee's official personnel file. The notice must specify under which conditions the employee's declining the position will result in removal from that or other recall lists, and indicate that the employee has 14 calendar days to respond and report to work.

★ **NOTE:** Extenuating circumstances may provide a reason for an extension of the time allowed before returning to work.

Employees may be removed from the recall list for a number of reasons. *[See Section*

18.12(C) of the CBA]. Section 18.12(D) addresses recall requirements concerning pay, probationary periods and qualifications.

The agency is required to maintain an accurate recall list, which is open to inspection by employees subject to recall, and available upon request to the Association.

[See also OEA - 11 for sample letter]

FILLING A VACANCY THROUGH REEMPLOYMENT

The Employer must fill vacancies in the classification series from the reemployment list prior to hiring, promoting, or transferring.

Laid-off employees have reemployment rights with other agencies for a period of twelve (12) months, subject to the requirements of **Section 18.16** of the contract, which should be reviewed carefully. A reemployment list for laid-off employees shall be established by state seniority (as set forth in Article 20) for the bargaining unit.

Acceptance of reemployment shall remove an employee's name from the recall list of the Agency that laid off the employee. Refusal to accept a reemployment offer shall cause the employee's name to be removed from the reemployment list, but shall not affect a recall to an employee's employing agency. The reemployment provisions do not apply to the Schools for the Deaf and Blind.

★ **NOTE:** Discipline in excess of a one-day suspension shall bar the employee from being considered for reemployment. *Also*, pursuant to 18.16 of the CBA, please refer to the criteria that shall be utilized when filling vacant positions by reemployment.

[See also OEA - 12 for sample letter]

Please coordinate all recall/reemployment through DAS Certification.

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated ORC 124.30(A) and 124.327(B) by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that "... the law is not required to give way to administrative convenience," meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. *See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.*

OE A EXHIBITS

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

PRELIMINARY NOTICE OF PROPOSED INTENT TO LAYOFF

TO: _____, Human Resources Analyst, DAS
_____, Labor Relations Specialist, OCB
_____, Agency Analyst, OBM

FROM: Director of Agency

SUBJECT: Staff Reduction in _____
(Department/Agency)

DATE: _____

This memo will serve as preliminary notice that we are considering a staff reduction resulting in the layoff of personnel. The initial estimates are as follows:

The total number of layoffs (positions to be abolished) estimated is: _____

An estimation of the number of personnel to be laid off (people who will not have any bumping options) is: _____

The proposed layoff date is: _____

Our Personnel and Labor Relations staff has has not had experience in the procedures of layoff in the state system.

The representative who will be the primary contact from our department will be:

Name	Title	Phone#
------	-------	--------

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**DIRECTOR
DEPARTMENT OF ADMINISTRATIVE SERVICES
30 E. BROAD STREET, 40TH FLOOR
COLUMBUS, OH 43215**

ATTN: STATE SERVICES MANAGER

Dear Director:

Please find attached justification to abolish Exempt and Bargaining Unit positions, in the Central Office of the Department of **AGENCY, PAYROLL NUMBER 000-000**.

Please prepare a layoff roster for the following Exempt positions, and all same, similar or related classifications:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OCSEA/AFSCME** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OTHER UNION** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

The **AGENCY** is filing the accompanying Executive Summary which explains our reorganization plan, and the justification for positions identified for abolishment, in order to comply with various sections of the Ohio Revised Code and Administrative Rules. As indicated, we are abolishing these positions as a result of a reorganization for the efficient operation and/or reasons of economy in this Department’s Central Office.

Please prepare a layoff roster for the exempt positions listed in above, and all same, similar or related classifications.

If you have any questions regarding this matter, please contact **HUMAN RESOURCE ADMINISTRATOR** at **PHONE NUMBER**.

Sincerely,

DIRECTOR

Attachment

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

Current Date

**Department of Administrative Services
Director of Human Resources
Address**

Re: DAS Job Abolishment

Dear (*Director of DAS Human Resources*):

Provide Brief Statement of Reason for Reduction (Economy, Efficiency, Lack of Work) and Listing of the specific PCNs to be impacted:

Example: The Board of State Development respectfully requests to abolish four full-time positions effective July 26, 2003, as the result of reorganization for efficiency. The four positions are Test Examiners, specifically Position Control Numbers 0005.0, 0006.0, 0007.0 and 0008.0. A review of the existing scheduling pattern, in addition to advancing technology resulting in fewer in-house tests, only requires examiners be present approximately twenty to thirty hours a week. Consequently, the Board of State Development intends to abolish four positions and distribute the remaining duties of these positions to the remaining four Test Examiners, specifically Position Control Numbers 0001.0, 0002.0, 0003.0 and 0004.0. The abolishments will allow for the same testing schedule while eliminating duplication of work.

Brief History/Mission of Agency (one to two paragraphs):

Example: The Board of State Development was created by an act of the legislature in 1932 to establish and maintain sanitary and professional industrial standards. Today, the Board licenses over 125,000 individuals and businesses in the various branches of the industry. The Board's mission is to develop, monitor and enforce the standards used in the business for the safety and protection of the patron. To accomplish this mission, the Board must provide for the examination of students to demonstrate minimum competency levels consistent with established national minimum standards before allowing students to offer services to the public.

The Board also provides both written and practical examinations supplied by the National Council (NC). These examinations give the Board valid, legally defensible examinations and require specific standards that must be adhered to during the administration of the tests. Specifically, the Board offers three licensing categories: Surveyors, Managers, and Professional.

Summary as to why the abolishment is necessary (decrease in population being served, reduction in revenues, changes in services, greater technology resulting in less work/elimination of duties, merging of offices, elimination of duplication of work, etc). All reasons stated for the need for abolishment should be supported by numbers and/or objective criteria such as percentages, budget reduction, or numbers of population served prior compared to the current numbers.

The Board administers the majority of these tests in-house at the central office location, but with the passage of House Bill 000, the reciprocity rules have changed. Where all applicants for a license used to be required to take the written and practical examinations, now those individuals with five years of experience will only be required to take the written exam and can do so through Testing, Inc., a national testing company that provides the same National Council-related exams to many state licensing boards. Testing, Inc. is a computer based testing company that has eleven sites in Ohio and over 700 in the United States. With the new testing requirements, advancing technology and increasingly constituent computer awareness, Testing, Inc. is being used more often than in the past and has reduced the number of in-house written exams. From April 1, 2002 through March 3, 2002, Testing, Inc. administered 1,234 NC written, greatly reducing the number of in-office examinations given.

Of the remaining practical and written examinations that are offered through the Board, the NC requires at least one examiner for each eight examinees for practical exams with a maximum number of examinees at any one time of twenty-four (24) on most exams. These guidelines also limit the maximum number of examinees for written examinations at any one time to sixteen (16) and require one examiner, but recommends two examiners always be present to ensure test integrity and ease in administration. As a result, the Board policy is to always have at least two examiners for all written examinations.

Below is a breakdown of the current scheduling requirements for each test:

The written and practical examination for Surveyors is completed within four hours, allowing the Board to schedule two groups in one day. Based on NC standards, the Surveyors' practical examinations are restricted to a maximum of eight examinees at one time and require two examiners to administer. With the current work schedule, there are four examiners present, resulting in an excess of two examiners. The reorganization will allow for only two examiners to be scheduled on these days, eliminating the duplication of work.

The NC standards limit the maximum number of examinees for the practical Managers' examination to twenty-four (24) at any one time and takes four hours to complete. The written portion of this exam only allows for up to sixteen (16) examinees at one time and can be completed in under two and a half hours. The Board normally schedules as many as twenty-four (24) examinees for the practical portion, then divides and staggers the group into two afternoon sessions to remain below the sixteen (16) person cap for written exams. Accordingly, the NC standards would only require three examiners during the practical exam and two during the written. By reducing the total number of Examiners to four, there will be sufficient coverage while deleting any duplication of effort.

The Professional examinations can be completed within four hours and are usually scheduled on the same day as Managers' exams. This is one of the least used tests and can easily be administered by the same staff upon completion of the Managers' exam. The limit on examiners remains the same as the Managers' exam and therefore requires the same number of examiners.

In addition to the current duplication of effort listed above, there are several days a year where no examinations are scheduled. From April of 2002 to March of 2003, there were eleven (11) days that no examinations were offered. As a result, eight Examiners reported to work, but

there was only enough grading activity for four Examiners. This resulted in three-hundred and fifty-two non-productive "Examination" hours. The reorganization to only four Examiners would allow the schedule to reflect this lower need for these days and prevent wasted hours. Attached is a spreadsheet reflecting the examinations offered from April 2002 to March 2003 to support the information provided above. Based on the examinations offered and the current full-time staff of eight examiners; there was approximately 2,312 hours examiners were scheduled, but were not needed. This equates to approximately 289 days of non-productive "Examination" time.

All duties of the position description should be addressed as either 1) never performed, 2) no longer performed and why, 3) remaining duties and who shall be assuming the duties (classification(s) and PCN(s)). It is important to note that no one person should have a significant increase in duties and more than one person should normally be assuming the duties. Ensure that if an exempt employee is assuming the duties this is a red flag to the union for erosion. It is normally best if the duties to be redistributed are spread among the remaining bargaining unit population as long as the classification of the employees allows for performance of these duties.

The position description of an Examiner reflects that eighty percent (80%) of the duties of these positions revolve around administration of the exams. The remaining twenty percent (20%) consists of performing other duties as assigned such as responding to phone inquiries regarding examination procedures and results, conducting school tours at the Board test-site, administering off-site examinations at the Ohio Council or assisting in Board-offered continuing education classes. These duties are not regularly assigned, do not represent a significant portion of time, and can easily be accomplished during the compressed work schedule.

Attached is a sample schedule for April 2003, based on actually scheduled days, as well as a sample schedule for June 2003.

For the reasons stated above and a resulting reorganization for efficiency, the Board of State Development respectfully requests to abolish the four full-time Examiner positions.

Please feel to call my office with any questions at _____.

**Sincerely,
Director**

Copy: OCSEA Central Office

**ATTACHMENTS: Individual Rationale Sheets for each PCN abolished
Position Descriptions of each PCN abolished
Position Descriptions of each PCN assuming transferred duties**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]**DATE**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

SUBJECT: Layoff

The Department of XXX requests to layoff the attached list of positions from its Operations, the Central Pharmacy Inpatient section (4) and the Central Pharmacy Outpatient (1). The following is both a historical perspective and the reason for the request for a job abolishment.

The Department of XXX was established by State statute (ORC Section 000.00) to provide certain goods and services, which are in the public interest and considers it advisable to provide these goods and services. Designated departments and other non-profit organizations shall receive such goods and services when it is determined that providing such goods and services will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible.

The Central Pharmacy Inpatient section provides pharmaceutical services to residents of facilities operated by the Ohio Department of XXX. This operation once provided pharmaceutical services to XXX facilities and XXX. XXX is currently the only agency that continues to utilize this service, and only within some of the facilities. As a result, this section lost \$171,000 for fiscal year 1994 and projections for the upcoming year show an even larger loss. Therefore, we are closing Central Pharmacy Inpatient for sound business reasons.

Primary reasons for the loss can be attributed to the following: 1) Facilities no longer need pharmacists to dispense drugs. The State Board of Pharmacy no longer mandates this procedure. Nurses can now dispense in an inpatient setting, thus reducing the need for facilities to contract with Central Pharmacy Inpatient. 2) XXX facilities have and continue to contract private pharmacists who in turn bill directly to the Department of XXX for all Medicaid/Medicare eligible clients. This results in a reduction in cost to XXX that Central Pharmacy cannot compete with due to a lack of authority to bill third party.

The positions to be abolished as a result of this action are:

PCN 6101.0 Pharmacy Operations Manager
PCN 6137.1 Pharmacist

PCN 6139.0 Pharmacy Attendant
PCN 6139.2 Pharmacy Attendant

Also to be laid off is one position within the Central Pharmacy Outpatient section. Currently there are six Computer Operator 2 positions in the Central Pharmacy Outpatient section of the Department of XXX. These positions previously performed data entry of prescriptions on displaywriter. In March 1993, Central Pharmacy Outpatient completed a phased-in conversion from data entry on displaywriter to data entry on the IBM 36 for all 134 community centers. This conversion resulted in significant time savings for Computer Operators. In addition, the Computer Operators no longer have to pull hard copy prescriptions for refilling.

With the speed of the IBM 36 and the change in the procedure for pulling prescriptions, we find that the workload for our Computer Operator 2 positions has diminished. It would be more efficient to abolish one Computer Operator position. The responsibilities would be transferred to the five remaining Computer Operator 2 positions.

The position to be laid off as a result of this action is:

PCN 6132.0 Computer Operator 2

For the five employees that will ultimately be affected through layoff, OSS will work with the Regional Worker Adjustment Committee to ensure that the following service be provided.

- OBES “Rapid Response” Service
- Job Seeking/Interviewing Skills Training
- Resume Writing Assistance
- Information Provided on all Available Benefits
- Stress Management Workshops

In total, the Office of Support Services requests the layoff of five (5) FTE’s. The layoff is for the purpose of Reorganization for Efficiency.

Any questions regarding this reorganization and abolishment plan should be directed to **NAME** at **PHONE NUMBER**.

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p> <p>The Agency's employee population has been downsized over the past 10+ years, reducing the number of hospitals from 17 to 9, and employees from over 6,000 to approximately 3,000. The result is that the functions of the Personnel Section have decreased in correspondence to this statewide downsizing. The creation of two Management Analyst Supervisor 2s have proved to be more effective in handling the personnel workload.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p> <p>PCN 2000.0 will directly supervise the two Management Analyst Supv 2s; oversee personal service contracts and attend Controlling Board Hearings regarding same; oversee layoff/abolishment processing procedures with the two MAS 2s. PCN 2041.0 will assume Class Plan; WOOC grievances, PBR appeals; Advance Step Hiring. PCN 2042.0 will handle oversight of authorization for vacancy fills; ceiling numbers and hiring freeze; schedules and leave coordination for personnel staff; assist w/personal service contracts.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
STREET ADDRESS
CITY, STATE & ZIP

Dear (**EMPLOYEE NAME**):

We regret to inform you that due to abolishment of positions and (lack of work/funds /**reorganization for efficiency/economy**) in this agency, a layoff of personnel is necessary. As a result, you are being (laid off) from your position as a (provisional/certified) **CLASS** effective **DATE**. This action is based upon your retention point rating of ____ points.

You have the right to displace another employee and you must notify **PERSONNEL OFFICER** whether or not you wish to exercise that right in writing within five (5) calendar days from the receipt of this letter. If you do not give notice of your decision concerning bumping rights, you will forfeit your right to bump another employee. These options must be indicated on form ADM 4138.

You may also have the option to select the counties within the layoff jurisdiction for which you will be available for reinstatement and/or re-employment. This option must be indicated on form ADM 4138.

Whether or not you wish to exercise your bumping rights, you will retain reinstatement rights to your original class in this agency for one (1) calendar year from the effective date above. Likewise, you will retain re-employment rights to other agencies within this jurisdiction within the same time period. Both reinstatement and re-employment will be based upon retention points.

It is your responsibility to maintain a current address with the Personnel Office of this department during your year of reinstatement eligibility.

As a laid off or displaced employee, you also have the right to appeal this action in writing to the State Personnel Board of Review, 65 E. State Street, 12th Floor, Columbus, Ohio 43215, within ten (10) calendar days after receipt of this letter. Should you wish it, a copy of the Administrative Rules governing this layoff will be provided by our Personnel Office.

You may have the option to convert any unused sick, personal or vacation leave credited to you. You may also have the option to convert your health, dental, vision and life insurance. Please see **PERSONNEL OFFICER** for further information regarding these rights.

Sincerely,

SIGNATURE OF APPOINTING AUTHORITY

Attachments: ADM 4138

FOR LAID-OFF EMPLOYEES WHO HAVE DISPLACEMENT RIGHTS

I do / do not wish to exercise my displacement rights. I understand that if I do not exercise this right, my name will be on the reinstatement list only in the classification from which I was laid off.

Employee's Signature

Date

**FOR LAID-OFF EMPLOYEES OF STATE AGENCIES, BOARDS,
COMMISSIONS AND INDEPENDENT INSTITUTIONS**

I am / am not interested in **all** of the counties in the jurisdiction in which I am being laid off. If I am not, the following are the counties in which I am available for reinstatement and reemployment. I understand I will NOT be permitted to add or delete counties at a later date.

Employee's Signature

Date

**Return to the Department of Administrative
Services with the Personnel Action (ADM-4100)
affecting the employee's layoff**

ADM-4138 (REV 4/96)

Instructions for filling out an ADM-4138 for OEA

1. Recall rights are statewide within the employing agency.
2. Agency must list the county where the affected employee's position was located at the time of the layoff as well as all other counties where the employing agency has offices or institutions to reflect employee's recall rights. If the employee fails to indicate counties, the employee will be placed on agency statewide list.
3. Agency must list all counties in the applicable District according to OAC 123: 1-41-13 to which the employee has reemployment rights. If the employee fails to indicate counties, the employee will be placed on agency statewide list.
4. The location of the employee's position at the time the layoff is first implemented dictates the applicable counties for which the employee is eligible for reemployment.
5. The agency should instruct employee that if he or she is qualified for reinstatement of two (2) or more parenthetical subtitles, he or she may list the parenthetical subtitles for which the employee wishes to be recalled. If the employee fails to list additional parenthetical subtitles, the employee shall only be placed on the recall list for the classification and parenthetical subtitle held at the time of the reduction or displacement.
6. Agency lists the employee's class title and parenthetical subtitle.
7. If the employee is reduced or displaced to a class title with a different parenthetical subtitle or lower class title in the series, list all class titles in series that are equal or lower to the employee's original class.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

This letter is to confirm your wish to exercise your right to take a voluntary layoff in accordance with Article 18 of the OEA Contract. The effective day of the layoff is **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM - 4138 within five (5) calendar days of receipt of this letter and return it to **DIRECTOR OF PERSONNEL/LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 5 of the OEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION/OFFICE** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM - 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME

HOME OR WORK ADDRESS

CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

We can inform you that after an analysis of the replies received, and in accordance with Article 18 of the OEA contract, you were not able to displace into another position. The effective date of the layoff shall be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM - 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 5 of the OEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at (**AREA CODE**) **TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at (**AREA CODE**) **TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM - 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME

HOME OR WORK ADDRESS

CITY, STATE, ZIP CODE

Dear **EMPLOYEE:**

In accordance with Article 18 of the OEA contract, you chose not to exercise your bumping/displacement rights with the "paper layoff" which was conducted on **DATE**. Your last day of work will be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM - 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 5 of the OEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at (**AREA CODE**) **TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at (**AREA CODE**) **TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM - 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME

ADDRESS

CITY, STATE ZIP

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 18 of the OEA contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR ON DATE AT START TIME**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the **FACILITY/INSTITUTION** and within the recall jurisdiction (**APPLICABLE FACILITIES**) for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction for the same time period. Both reinstatement and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You have the option to select the counties for re-employment that you would desire to be on the recall list for future employment. The counties are: **LIST OF APPLICABLE COUNTIES.**

Please complete Attachment 1 within five (5) calendar days of receipt of this letter and return it to Director of Personnel/Labor Relations Department.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 5 of the OEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

Director

**cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

Attachments: ADM - 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME
ADDRESS

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 18 of the OEA contract, you are able to displace into another position effective **DATE.**

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	SAME TITLE AS ABOVE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR ON DATE AT START TIME.**

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT.**

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 5 of the OEA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
STREET ADDRESS
CITY, STATE & ZIP**

Dear (**EMPLOYEE NAME**):

We regret to inform you that due to abolishment of positions and (lack of work/funds /**reorganization for efficiency/economy**) in this agency, a layoff of personnel is necessary. As a result, you are being (displaced by the bumping process **and may be laid off**) from your position as a (provisional/certified) **CLASS** effective **DATE**. This action is based upon your retention point rating of ____ points.

You have the right to displace another employee and you must notify **PERSONNEL OFFICER** whether or not you wish to exercise that right in writing within five (5) calendar days from the receipt of this letter. If you do not give notice of your decision concerning bumping rights, you will forfeit your right to bump another employee. These options must be indicated on form ADM 4138.

You may also have the option to select the counties within the layoff jurisdiction for which you will be available for reinstatement and/or re-employment. This option must be indicated on form ADM 4138.

Whether or not you wish to exercise your bumping rights, you will retain reinstatement rights to your original class in this agency for one (1) calendar year from the effective date above. Likewise, you will retain re-employment rights to other agencies within this jurisdiction within the same time period. Both reinstatement and re-employment will be based upon retention points.

It is your responsibility to maintain a current address with the Personnel Office of this department during your year of reinstatement eligibility.

As a laid off or displaced employee, you also have the right to appeal this action in writing to the State Personnel Board of Review, 65 E. State Street, 12th Floor, Columbus, Ohio 43215, within ten (10) calendar days after receipt of this letter. Should you wish it, a copy of the Administrative Rules governing this layoff will be provided by our Personnel Office.

You may have the option to convert any unused sick, personal or vacation leave credited to you. You may also have the option to convert your health, dental, vision and life insurance. Please see **PERSONNEL OFFICER** for further information regarding these rights.

Sincerely,

SIGNATURE OF APPOINTING AUTHORITY

Attachments: ADM 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: OEA Recall

Dear **EMPLOYEE**:

This letter is to serve as official notification that, per Article 18.12 of the Bargaining Unit Agreement you are being recalled to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

Article 18.12 allows recall to a position provided the affected employee is qualified to perform the duties. A copy of the position description is attached.

You must notify us, in writing, of your intent to report to work within fourteen (14) days of **receipt** of this notice otherwise you shall forfeit your recall rights to this position and may forfeit your recall rights to other positions. In the event of extenuating circumstances that prevent you from returning to work within fourteen (14) days, a reasonable extension, not to exceed sixty (60) days, may be granted for return to work, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: **Position Description**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: OEA Reemployment

Dear **EMPLOYEE**:

This letter is to serve as official notification that, per Article 18 of the Bargaining Unit Agreement you are being offered reemployment rights to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

Article 18 allows reemployment to a position “provided the employee is qualified to perform the duties”. A copy of the position description is attached.

You must notify us, in writing, of your intent to report to work within ten (10) days of **receipt** of this notice otherwise you shall forfeit your reemployment rights to this position and may forfeit your reemployment rights to other positions. Likewise, failure to report to work within sixty (60) days will also forfeit your reemployment rights to this position and may forfeit your reemployment rights to other positions.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: Position Description

**IMPORTANT COBRA NOTIFICATION
FOR STATE OF OHIO EMPLOYEES AND DEPENDENTS**

It is important that all covered individuals (employee, spouse and dependent children) take the time to read this notice and be familiar with its contents.

Under federal law, the State of Ohio is required to offer covered employees and family members the opportunity for a temporary extension of health coverage when insurance coverage ends due to certain qualifying events.

Covered Employee: If you are the employee covered by a group health plan you may have the right to continue your coverage due to termination of employment (for reasons other than gross misconduct) or a reduction in hours.

Covered Spouse: If you are the covered spouse of a state employee covered by a group health plan, you may have the right to continue coverage for yourself if you lose coverage for the following reasons: termination of your spouse's employment or a reduction in your spouse's hours; the death of your spouse; divorce or legal separation from your spouse; or your spouse becomes entitled to Medicare.

Covered Dependent Children: If you are the covered dependent child of an employee covered by a group health plan, you may have the right to continuation coverage for yourself if you lose coverage for the following reasons: termination of the employee's employment or a reduction in hours; death of the employee; parents divorce or legal separation, the employee becomes entitled to Medicare; or you cease to be a dependent child under the terms of the plan

Coverage Periods: Generally, if the event causing the loss of coverage is a termination of employment or a reduction in hours, coverage is available for an additional 18 months. If the event causing the loss of coverage was the death of the employee, divorce, legal separation, Medicare entitlement, or a dependent child ceasing to be a dependent, continuation coverage is available for 36 months.

Important Employee, Spouse and Dependent Notifications Required

Under the law, the employee, spouse or other family member has the responsibility to notify the State of Ohio of a divorce, legal separation, or a child losing dependent status under the group health plan. This notice must be made within 60 days of the event or the date coverage will end, whichever is later. If this notification is not made, your right to continuation coverage will be forfeited.

Notification procedure

Employees or a covered family member should inform the employing state agency or Benefits Administration Services (614-466-8857) of any qualifying event that results in a loss of coverage. Information will then be sent to the requesting party about the length of available coverage periods, premium rates, conversion rights when COBRA coverage ends, and other information related to your rights under COBRA.

Cost: Premiums for continued coverage are the group rate that the State of *Ohio* pays for coverage, plus a 2% administrative fee.

**BUMPING SELECTION FORM
OEA**

OEA - 15

SITE	PCN	NAME	CLASS	CBU	SENIORITY	DISTRICT	TIE BKR	Selection
A	42141		TEACHER	10	619.5	South		
B	52141		TEACHER	10	324	South		
C	33141		TEACHER	10	239	South		
D	55141		TEACHER	10	120	South		
				10				
E	31681		TEACHER	10	932	South		
E	31680		TEACHER	10	273	South		
				10				
A	33236		LIBRARIAN	10	190	South		
B	55224		LIBRARIAN	10	686	South		
B	55220		LIBRARIAN	10	682	South		
D	33222		LIBRARIAN	10	262	South		
E	55222		LIBRARIAN	10	258	South		
E	55221		LIBRARIAN	10	240	South		
B	52219		LIBRARIAN	10	228	South		
D	33920		LIBRARIAN	10	222	South		
D	52217		LIBRARIAN	10	221	South		
F	33219		LIBRARIAN	10	196	South		
F	52222		LIBRARIAN	10	189	South		
F	52218		LIBRARIAN	10	184	South		
E	55223		LIBRARIAN	10	179	South		
A	33915		LIBRARIAN	10	179	South		
B	52216		LIBRARIAN	10	176	South		
B	52224		LIBRARIAN	10	172	South		
D	33225		LIBRARIAN	10	164	South		
D	33220		LIBRARIAN	10	162	South		
B	33918		LIBRARIAN	10	147	South		
B	33919		LIBRARIAN	10	137	South		
B	33223		LIBRARIAN	10	136	South		
B	33228		TEACHER	10	130	South		
B	33917		TEACHER	10	128	South		
A	55218		TEACHER	10	117	South		
A	33916		TEACHER	10	117	South		
D	52221		TEACHER	10	93	South		

**BUMPING SELECTION FORM
OEA**

OEA - 15

D	55219		TEACHER	10	89	South		
E	52223		TEACHER	10	64	South		
E	33227		TEACHER	10	61.5000	South		
E	52220		TEACHER	10	41.4617	South		
F	42212		TEACHER	10	23	South		
F	33221		TEACHER	10	16	South		
F	42207		TEACHER	10	15	South		
B	33226		TEACHER	10	0	South		
F	33217		TEACHER	10	189.5241	South		
F	55217		TEACHER	10	54.2695	South		
A	55216		TEACHER	10	1	South		
				10				
A	65456		TEACHING COORD	10	328	South		
A	42987		TEACHING COORD	10	241	South		
B	63456		TEACHING COORD	10	203	South		
B	66456		TEACHING COORD	10	159	South		
B	33985		TEACHING COORD	10	153	South		
B	33986		TEACHING COORD	10	0	South		
				10				
D	33992		LIBRARIAN	10	387	South		
D	33993		LIBRARIAN	10	373	South		
E	52990		LIBRARIAN	10	211	South	000-00-0093	
E	52991		LIBRARIAN	10	211	South	000-00-3386	
E	52993		LIBRARIAN	10	199	South		
F	33990		LIBRARIAN	10	181	South		
F	55991		LIBRARIAN	10	164	South		
F	42992		LIBRARIAN	10	141	South		
B	33994		LIBRARIAN	10	138	South		
B	52992		LIBRARIAN	10	116	South		
A	55990		LIBRARIAN	10	92	South		
A	55992		LIBRARIAN	10	78	South		
A	33995		LIBRARIAN	10	0	South		
				10				
				10				
G	31665		TEACHER	10	610	South		
G	63437		TEACHER	10	402	South		

**BUMPING SELECTION FORM
OEA**

G	66465		TEACHER	10	0	South		
G	65465		TEACHER	10	0	South		
				10				
				10				
E	66470		GUIDANCE COUNS	10	725	South		
E	65470		GUIDANCE COUNS	10	680	South		
F	42170		GUIDANCE COUNS	10	459	South		
F	55170		GUIDANCE COUNS	10	118	South		
A	63470		GUIDANCE COUNS	10	0	South		
A	33170		GUIDANCE COUNS	10	0	South		
B	52171		GUIDANCE COUNS	10	0	South		
				10				
D	33193		TEACHER	10	792	South		
				10				
E	63473		GUIDANCE COUNS	10	721	South		
E	33182		GUIDANCE COUNS	10	671	South		
E	66479		GUIDANCE COUNS	10	653	South		
E	33178		GUIDANCE COUNS	10	628	South		
				10				
B	52189		GUIDANCE COUNS	10	604	South		
G	65473		GUIDANCE COUNS	10	591	South		
G	65480		GUIDANCE COUNS	10	569	South		
G	65476		GUIDANCE COUNS	10	541	South		
B	52183		GUIDANCE COUNS	10	520	South		
H	52177		GUIDANCE COUNS	10	506	South		
H	66439		GUIDANCE COUNS	10	505	South		
G	63474		GUIDANCE COUNS	10	494	South		
G	33176		GUIDANCE COUNS	10	475	South		
G	65472		GUIDANCE COUNS	10	449	South		
G	66480		GUIDANCE COUNS	10	437	South		
G	62473		GUIDANCE COUNS	10	430	South		
A	42179		GUIDANCE COUNS	10	418	South		
C	66476		GUIDANCE COUNS	10	414	South		
C	52173		GUIDANCE COUNS	10	409	South		
C	66474		GUIDANCE COUNS	10	402	South		
C	65475		GUIDANCE COUNS	10	396	South		

**BUMPING SELECTION FORM
OEA**

OEA - 15

C	33187		GUIDANCE COUNS	10	387	South		
C	33189		GUIDANCE COUNS	10	386	South		
C	63472		GUIDANCE COUNS	10	378	South		
D	63475		GUIDANCE COUNS	10	371	South		
D	66473		GUIDANCE COUNS	10	370	South		
D	65481		GUIDANCE COUNS	10	361	South		
G	42175		GUIDANCE COUNS	10	358	South	000-00-6749	
A	33175		GUIDANCE COUNS	10	358	South	000-00-8220	
A	62439		GUIDANCE COUNS	10	350	South		
A	65438		GUIDANCE COUNS	10	349	South		
F	42174		GUIDANCE COUNS	10	346	South	000-00-2267	
F	63481		GUIDANCE COUNS	10	346	South	000-00-9942	
F	63480		GUIDANCE COUNS	10	343	South	000-00-2556	
F	63477		GUIDANCE COUNS	10	343	South	000-00-4209	
F	66481		GUIDANCE COUNS	10	332	South		
F	65477		GUIDANCE COUNS	10	328	South		
G	65439		GUIDANCE COUNS	10	325	South		
G	66438		GUIDANCE COUNS	10	316	South		
G	65968		GUIDANCE COUNS	10	314	South		
G	65474		TEACHER	10	311	South		
A	63483		TEACHER	10	310	South		
A	33183		TEACHER	10	301	South		
A	63439		TEACHER	10	296	South		
A	66475		TEACHER	10	286	South		
B	63438		TEACHER	10	280	South		
B	66472		TEACHER	10	276	South		
B	66478		TEACHER	10	275	South		
D	63476		TEACHER	10	271	South		
D	33174		TEACHER	10	263	South		
D	66968		TEACHER	10	260	South		
A	65478		TEACHER	10	257	South		
A	52179		TEACHER	10	248	South		
A	42181		TEACHER	10	242	South		
B	52182		TEACHER	10	241	South		
B	52185		TEACHER	10	240	South		
B	52180		TEACHER	10	239	South		

**BUMPING SELECTION FORM
OEA**

OEA - 15

C	63478		TEACHER	10	236	South		
C	63482		TEACHER	10	230	South		
E	33190		TEACHER	10	228	South		
A	52176		TEACHER	10	223	South		
F	50445		TEACHER	10	220	South		
B	62474		TEACHER	10	216	South		
B	66482		TEACHER	10	213	South		
A	52184		TEACHER	10	205	South		
A	33173		TEACHER	10	199	South		
E	42176		TEACHER	10	193	South	000-00-6070	
F	62475		TEACHER	10	193	South	000-00-6750	
F	62969		TEACHER	10	191	South		
F	52190		TEACHER	10	190	South		
G	66477		TEACHER	10	187	South		
G	52188		TEACHER	10	183	South	000-00-2858	
G	52186		TEACHER	10	183	South	000-00-3223	
E	62438		TEACHER	10	175	South	000-00-3147	
E	55175		TEACHER	10	175	South	000-00-5321	
E	55174		TEACHER	10	175	South	000-00-5936	
E	55179		TEACHER	10	175	South	000-00-6307	
D	52187		TEACHER	10	167	South		
D	33192		TEACHER	10	163	South		
B	55182		LIBRARIAN	10	162	South		
B	50444		LIBRARIAN	10	120	South		
B	63968		LIBRARIAN	10	89	South		
A	52178		LIBRARIAN	10	75	South		
A	33186		LIBRARIAN	10	74	South		
A	33191		LIBRARIAN	10	70	South		
A	33180		LIBRARIAN	10	60	South	000-00-2436	
E	33181		LIBRARIAN	10	60	South	000-00-5735	
E	52181		LIBRARIAN	10	60	South	000-00-9718	
E	33188		LIBRARIAN	10	58	South		
E	62968		LIBRARIAN	10	55	South		
F	42177		LIBRARIAN	10	53	South		
F	55180		LIBRARIAN	10	44	South		
G	42183		LIBRARIAN	10	42	South		

**BUMPING SELECTION FORM
OEA**

G	55177		LIBRARIAN	10	41	South	6/29/92 *	
G	55176		LIBRARIAN	10	41	South	8/13/00 *	
G	55178		LIBRARIAN	10	41	South	8/13/01 *	
G	55173		LIBRARIAN	10	22	South		
H	52174		LIBRARIAN	10	20	South		
H	52175		LIBRARIAN	10	0	South		
H	65482		LIBRARIAN	10	0	South		
A	65483		LIBRARIAN	10	0	South		
A	65484		LIBRARIAN	10	0	South		
A	50443		LIBRARIAN	10	0	South		
A	33179		LIBRARIAN	10	0	South		
B	33184		LIBRARIAN	10	0	South		
B	33185		LIBRARIAN	10	0	South		
C	65479		LIBRARIAN	10	0	South		
H	63484		LIBRARIAN	10	0	South		
* indicates a seniority date prior to promotion into 1199								
** indicates a vacancy that was not offered on the Bumping Option Sheet								

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

TO: **Deputy Director
Human Resources Division
Department of Administrative Services**

THROUGH: **Human Resources Analyst
Certification Unit
Human Resources Division**

FROM: **Chief
Office
Agency Name**

SUBJECT: **Agency Recall and Reemployment List**

CERTIFIED RECALL LIST

<u>NAME</u>	<u>APPT. TYPE</u>	<u>SENIORITY CREDITS</u>
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000

[The Employer should indicate the selected counties by the employee for recall, as well as the counties selected for reemployment]

OEA ARBITRATION AWARDS

Arbitration Award: # 425
Agency: Mental Health
Arbitrator: Jonathan Dworkin
Decision date: May 15, 1990

This grievance concerned reductions in force at Oakwood Forensic Center, which provides acute care to state prison inmates. The reductions were the result of a steady decline in patient enrollments during the last 11 years. Held that the contract permits arbitration of the “substantive validity” of employer RIFS on a position-by-position basis with the burden being on the employer to demonstrate the validity of its decisions.

Arbitration Award: # 773
Agency: Veteran’s Children’s Home
Arbitrator: Harry Graham
Decision date: June 5, 1992

The grievance comprised two issues: Did the Employer meet the procedural requirements of Article 18 in effecting the Reduction in Force (RIF) and, has the Employer established that there is substantive validity to support the RIF due to a lack of funds to sustain the positions of two teachers?

The Union argues that the Employer failed to meet the procedural requirement of the contract by not notifying the Union of the final decision within 30 days of the layoff. On the merits of the layoffs, the Union contends that the Employer could have made cuts in other areas. The Home has funds from other General Revenue dollars.

Management maintains that they cannot reallocate funds among various accounts to pay salaries and benefits of those laid off. Should these Grievants be restored to employment, personnel in other bargaining unit and/or additional management personnel will have to be laid off in order to make up the necessary funding shortfall.

Arbitrator Graham found that the 30 day notice requirement refers to notice, not when the Employer is obligated to provide to the Union the itemized list of people to be laid off. To require the Employer to hold an additional meeting and essentially restart the clock because the layoff list had changed at the behest of the Union is an exercise in futility. The State complied with the procedural aspects of the layoff specified in the Agreement. To adopt the Union’s argument would necessitate further layoffs. Concerning the merits of the case the Employer has demonstrated the requisite “lack of funds” and that it indeed had a bona fide “reason for economy” which necessitated the unfortunate action at issue in this proceeding.

Arbitration Award: # 803
Agency: Mental Health
Arbitrator: Dennis Minni
Decision date: July 31, 1992

A reduction in force (RIF) eliminated an Educational Specialist II position and reclassified the Librarian position to a half-time position.

The Union argues that there was an adequate amount of work to perform for both Grievants that was within the objectives of Oakwood Forensic Center (OFC). The Union does not feel that substantive validity has been established by management.

Management maintains that OFC's mission is to stabilize its patients until they can be reintroduced to their respective correctional institutions. This is not by way of making light of the value of the educational services offered at OFC Concession. It cannot be overlooked that there is a million dollar reduction being effectuated over a three-year period. Regrettably, jobs, along with contracted services, had to become the object of working within the ambit of these cuts.

Arbitrator Minni found that management's burden of proof has been met. Management did establish the substantive validity of its rationale that "long-term educational programming is an economic drain with no clear therapeutic benefit being realized." The employer's reliance on its managerial right (Article 5) to determine where the cuts would be effectuated is compelling as well. It is well-settled in arbitration practice that the Office of Arbitrator does not carry with it the ability to gainsay a managerial decision because the Arbitrator personally disagrees with it.

Arbitration Award: # 900
Agency: Mental Health
Arbitrator: Marcus Sandver
Decision date: August 18, 1993

On Sept. 5, 1992 the Department of Mental Health laid off Grievant Borys Ostrowskyj from his position as a teacher at Western Psychiatric Hospital.

The issue in the case was, "Did management at the Department of Mental Health violate, misinterpret, and misapply the 1992-94 Agreement between SCOPE/OEA and the State of Ohio when they failed to correct the seniority list for employees employed in the Mental Health facilities, thus improperly reducing Mr. Borys Ostrowskyj? If so what should the remedy be?"

The Arbitrator denied the grievance. Section 20.03 indicated that the parties contemplated errors in the seniority list and provided for a procedure for correcting errors in the seniority. In looking over all the evidence and testimony relating to the seniority list issue the Arbitrator held that

while there may have been errors in the seniority roster at Western Reserve and Sagamore these errors did result in the inappropriate or unauthorized bumping of Ostrowskyj.

Arbitration Award: # 928
Agency: Rhonda Rivera
Arbitrator: Mental Health
Decision date: December 2, 1993

The Grievant was laid off from his position as a Educational Specialist at the Oakwood Forensic Center. He then applied for a Teacher A.B.E. position at the Dayton Mental Health Center but was not chosen for the position. The Grievant claims that he did not receive the opportunity to recall rights. The Union also argued that the Grievant had been performing the duties of a teacher during his time at Oakwood.

The Arbitrator pointed to the express words of the Agreement which give no recall rights to teaching positions to Educational Specialists I or II. From this the Arbitrator felt that the Employer did not deny any proper rights under the express provisions of the Agreement. As for the Union's claim that the Grievant had been performing the duties of a teacher while at Oakwood, The Arbitrator felt that the Grievant should have brought up this issue prior to being laid off because until this time he played the system to his own financial advantage.

Arbitration Award: # 1065
Agency: Mental Health
Arbitrator: David Pincus
Decision date: August 1, 1995
1065

Arbitrator's award: "The grievance is arbitrable. The parties, however, are ordered to prepare for arguments on the merits identified on the grievance form and limited to rights and obligations afforded the association per the agreement. As such, the Teacher 2 position is the only one in dispute with specific reference to the substantive validity of the reduction in force. Also, procedural defects will not be raised (by the union) at the hearing since this issue was not previously articulated. Only potential contractual violations of Article 18 will be considered at the hearing. Other provisions articulated by the Association are not reserved to the Association and were inappropriately cited."

Facts: On May 28, 1994, Susan May, Grievance Chairperson for SCOPE/OEA, filed a grievance contesting the MR Cambridge Developmental Center abolishment of all three of its teaching positions. The grievance was simultaneously filed at Steps 3 (agency) and 4 (OCB) of the grievance procedure. The employer challenged the arbitrability of the grievance based on several procedural flaws contained on the face of the grievance. SCOPE's contract does not

require a Step 3 meeting or answer, therefore, the Association was put on notice as to management's arbitrability challenge at the mediation.

Employer Position: SCOPE's contract is unique in that the layoff Article (18) specifies two distinct pathways which can be utilized to file reduction in force (RIF) grievances. One way is articulated in Section 18.01 c and the other in Section 18.13. Sections 18.01 is reserved to the Association to grieve the substantive validity of the RIF and/or procedural errors. Section 18.13 is reserved exclusively to individual employees who may grieve in four areas: selection of the EE for RIF; displacement; timeliness of the notice; and failure to be placed on a recall/re-employment list. Based on the fact that the Association had obviously used a mixture of both sections in filing the RIF grievance, the employer argued that it was impossible to assess the grievance and to determine MR's liability since it could not determine which type of filing pathway had been utilized. In addition, the employer argued that nowhere in Article 18 or Article 5 does the contract convey the right to Association or B/U members the ability to file RIF class action grievances. Ms. May had filed the RIF grievance "on behalf of the Association, Susan D. May, et.al."

Arbitrator Pincus upheld this argument by the employer. He stated, "The parties never articulated that the affected members and/or the Association have standing to file class action reduction in force grievances....By failing to reference Section 5.03 (in Article 18.01 or 18.13) the parties, for whatever reason, did not intend to certify the filing of class action grievances as proposed by the Association."

The employer made an alternative argument in the event that the Arbitrator found the grievance arbitrable that the union be limited to only that position which was identified on the face of the grievance. i.e., a Teacher 2 position. The employer also asked that the union be limited to only those Articles of the contract granted in Article 18.01 to the Association.

Union Position: The Association argued that Ms. May had standing to file the grievance on behalf of the affected members of the Association and that the "et. al." designation was appropriate since she is a member of the "Association". The union also argued that this is the first time that an arbitrable challenge has been made by the State and therefore, the State has waived its right by accepting and processing all the previous RIF grievances. Custom and practice, alleges the Union, indicate the parties' mutual actions have caused them to amend potentially clear language negotiated by the parties. Finally, the Union alleged that by challenging the arbitrability of this grievance, the State had violated the Association's exclusive representation rights as codified in the contract and the ORC.

Dr. Pincus stated regarding the exclusive representation allegation that the employer's actions in no way violated either the contract or the ORC. He stated "the Association's exclusive representation rights are not limitless. The Association, through a series of contract negotiations, has placed certain limitations on its exclusive representation prerogatives in terms of the initiation of certain reduction in force grievances. As such, the exclusive representation provisions in Section 5.06 are not all encompassing".

Arbitration Award: # 1093
Agency: Youth Services
Arbitrator: Mollie Bowers
Decision date: November 12, 1995

The grievant and SCOPE filed a grievance alleging DYS improperly conducted a RIF. The State made procedural objections regarding the arbitrability of the grievance. The case was bifurcated to resolve the procedural issues before the merits were discussed.

The State put forth that Article 18 contained different standards for filing RIF grievances from other grievances. Within Article 18, depending upon the type of RIF, there are different standards regarding timelines, who may file, and the issues which may be grieved. Regarding the instant grievance, and Association are both named on the grievance. The substance of the grievance is an issue which only the Association may grieve. In addition to the argument of who could file a grievance on this issue was the secondary issue that the Association had a contractual requirement to simultaneously file the grievance at Step 3 and 4. The Association failed to meet this requirement. Finally, regardless of who grieved the issue, the grievance is untimely filed. Individual grievances must be filed within 10 days of the employee's notification of the RIF. The grievant acknowledged receipt of the final notice on 12/23/93, closing the window of timeliness on 1/2/94. The Association has 15 days from the date of notice to file a grievance. In this case, the Association was sent notice on 12/17, add three days for mail and the timeliness ran on 1/23. On January 28, the employer received a grievance which was dated 1/10/94. Due to the timeliness, the grievance is not arbitrable because the grievance itself is improperly filed.

The union had six arguments. 1) The employer tried to confuse/mislead the Association regarding the initial date of the notice of RIF; 2) the Association was not given an opportunity to meet with the employer 45 days prior to the RIF; 3) the employer participated in and responded to the grievance at each step of the grievance procedure without raising a procedural objection; 4) the parties agreed to alter the procedures; 5) the employer did not raise the issue of arbitrability until after OEA filed a request for arbitration; and 6) the 12/17 final notice of RIF was not received until 1/3/94 because OEA closed for 2 weeks over the holidays. Therefore, the time to file a grievance was tolled until after 1/24—by which time Brad Rahr had the grievance or knowledge of it even if it was not sent to the correct designee.

Arbitrator Bowers found the grievance both improperly and untimely filed. She found the language in Article 18 to be clear and specific. Though the grievant's name was on the grievance form in conjunction with the Association, the narrative of the grievance establishes the issue as an Association grievance. Nothing on the form or in the narrative of the grievance list claims that an employee may have. Therefore, the requisites applying to the Association grievance apply. The language is clear that an Association grievance must be filed simultaneously at Steps 3 & 4. The Association failed to file the grievance at Step 4. The arbitration request, filed under Section 5.05 rather than Article 18, was dated 3/18/94. As to the timeliness of the grievance, it was found to be untimely. Arbitrator Bowers determined that the employer was not notified the offices of the Association would be closed. Yet, the closing was pre-planned and it was incumbent upon

the Association to make arrangements in advance, such as to seek a waiver of time limits. Even if the grievance was an individual grievance, it would have been untimely filed.

Arbitration Award: # 1158
Agency: Mental Retardation/Developmental Disabilities
Arbitrator: Everette Freeman
Decision date: September 23, 1996

The Department of Mental Retardation and Developmental Disabilities laid off 32 of the 33 remaining teachers in 6 of its 12 centers. The Employer met its burden of proof based on the preponderance of the evidence that the reduction in force was substantially for valid reasons. Arbitrator Freeman stated “to deny the Employer the right to efficiently reorganize its operations merely because such a reorganization might result in workforce reductions would be to unduly fetter Management in the exercise of its rights. If the Employer is able to provide a substantially valid reason for such action, then the Arbitrator has no option but to uphold that right.”

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FOP CHECKLIST:

The following is a chronological checklist setting forth the steps required to implement a layoff of FOP bargaining unit employees. Please note that this checklist is to be utilized as a quick reference guide and is not intended to be an exclusive representation of the information needed to successfully carry out a reduction in force. Please refer to the “Detailed Overview” section of this manual, immediately following this checklist, and associated exhibits and appendices for further guidance. If you have any questions, please contact your Labor Relations Specialist at the Office of Collective Bargaining.

_____ Send notice of a **Proposed Intent to Layoff** to DAS, OCB, and OBM

- ✓ **See section II of Detailed Overview**
- ✓ **See sample FOP - 1**

_____ Early **Retirement Incentive Plan**

- ✓ Is an ERI Plan mandatory?
- ✓ **See section III of Detailed Overview**
- ✓ **See Appendices B & C**
- ✓ *See Ohio Revised Code § 145.297*

_____ Develop draft rationale

- 1) Objectives of Agency
 - 2) Number of Employees Affected
 - 3) Affected Positions
 - 4) Cost Savings
 - 5) Reason for Layoff (Rationale)
 - a) Lack of Funds
 - b) Lack of Work
 - c) Abolishment of Position(s) Due to Reorganization
 - Lack of Work
 - Efficiency
 - Economy
- ✓ **See section IV of the Detailed Overview**
 - ✓ **See sample FOP - 2**

_____ Prepare proposed **Layoff List**

- 1) Determine all classifications to be affected
 - ✓ **See Appendix A of CBA**
- 2) Determine appropriate jurisdictions
 - ✓ **See Appendix B of CBA**

- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
 - ✓ **See FOP - 1a for a sample request for a layoff roster**
- 4) Agency must account for all employees currently on disability in affected classifications.
 - ✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. *See OAC 123:1-41-21*
- 5) Seniority date of each employee
 - ✓ **See Article 34**
- 6) Effective date of layoff
- 7) Prepare list by following order set forth in Article 18
 - ✓ **See section V of Detailed Overview**

Develop Individual Position Rationales

- ✓ **See section VI of Detailed Overview**
- ✓ **See sample FOP - 3 and FOP - 3a**

Submit draft rationale to OCB for review and revisions with the following documents:

- ✓ General rationale
- ✓ Individual position rationales
- ✓ Intended date of layoff and date employees will be notified
- ✓ Table of organization both before and after reduction
- ✓ **See section VII of the Detailed Overview**

Upon approval of the rationale from OCB, submit to DAS/HRD

- ✓ Rationale Statement with all supporting documentation as stated above
- ✓ List of employee's computed seniority credits
- ✓ If the layoff involves abolishment of exempt positions, the agency must wait for DAS to verify any retention points for exempt employees, but may proceed with the union layoff process (e.g., meeting with the union if requested, posting and/or verification of seniority of affected FOP employees and/or preparing Order of Displacement letters to the impacted FOP employees).
- ✓ The agency may not want to conduct any bumping of FOP personnel until all exempt bumping has been completed. It is considered most efficient to allow the exempt employees who may ultimately have rights to previously held FOP classifications to be included in the bumping process.
- ✓ **See section VIII of the Detailed Overview**
- ✓ **See section 35.03 of Annotated Contract**

Union Notification

- ✓ **See section IX of the Detailed Overview**

_____ If the agency allows challenges to seniority credits, post seniority list with a period of time to challenge. ***Note that this is not a contractual requirement nor a right of the employee.***

- ✓ **See section X of Detailed Overview**

_____ If requested, schedule a meeting with FOP to discuss rationale prior to distributing Order of Displacement paperwork.

- ✓ Agency should try to have any revisions to seniority prepared to discuss at meeting if the agency allowed challenges
- ✓ Ensure that all exempts that have rights to positions are placed on the bumping list
- ✓ **See section XI of Detailed Overview**

_____ Send out “Order of Displacement Form” to all affected FOP employees.

- ✓ Employees have 5 days to return to the completed Order of Displacement form
- ✓ Agency may work on developing bumping forms.
- ✓ List of all potentially affected employees, including seniority credits, should be posted in a conspicuous place. ***See OAC 123:1-41-20***
- ✓ If layoffs will impact both FOP and Exempt, it is most efficient to conduct all exempt bumping before bargaining unit bumping. This will ensure all exempt persons with fallback rights are included in the Union bumping process.
- ✓ **See section XII of Detailed Overview**
- ✓ **See FOP - 4 for a sample Order of Displacement form**
- ✓ **See FOP - 15 for a sample bumping form**

_____ Conduct **Paper Layoff**

- ✓ **See section XIII of Detailed Overview – all bumping rights dictated by the contract, no default to the code**
- ✓ **See FOP - 15 for a sample bumping forms**

_____ Send all affected employees appropriate notification letters at least fourteen (14) days prior to the effective date of the layoff (seventeen (17) days if sent by certified mail), including:

- 1) Recall and Reemployment Options, COBRA notice, and leave conversion attachments for employees who chose to bump, but have no bumping options and will be laid off. **(See FOP - 5, 12, 13, and 14)**
- 2) Recall and Reemployment Options, COBRA notice, and leave conversion attachments for employees who chose not to exercise rights to bump and will be laid off. **(See FOP - 6, 12, 13, and 14)**
- 3) Recall and Reemployment Options for employees who were displaced into a lower classification. **(See FOP - 7, 12)**
- 4) Letter only for employees who were displaced into a new PCN but same classification. **(See FOP - 8)**

- ✓ **See section XIV of Detailed Overview for information about notification letters and instructions on developing detailed recall and reemployment forms**
 - ✓ **See Appendix B of collective bargaining agreement for a list of all counties in the agency layoff jurisdiction**
 - ✓ **See Ohio Administrative Code 123:1-41-13**
- 5) Employees have five (5) days from receipt to return Recall and Reemployment Form.

Agency should submit **Personnel Action** (ADM-4100) at least seven (7) days prior to the effective date of the layoff. Include the following:

- 1) Recall and Reemployment Options - This form will be forwarded to DAS Certification to add the employees to the existing layoff certification lists.
 - 2) Sick Leave Conversion Form. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.
 - 3) Copy of letter notifying the employee of layoff
 - 4) Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification
- ✓ **See section XV of Detailed Overview**

In addition to submitting the employee Recall/Reemployment Forms to DAS, the agency must compile recall and reemployment lists and submit to DAS Certification seven (7) days prior to layoff

- ✓ Recall rights are for twenty-four (24) months
- ✓ Reemployment rights are for twelve (12) months
- ✓ **See section XVI of the Detailed Overview**
- ✓ **See FOP - 14 Recall List**
- ✓ **See Appendix A of the CBA for a list of all same classifications in the series**

FOP DETAILED OVERVIEW

I. SUMMARY

Article 35 of the Collective Bargaining Agreement (CBA) governs a reduction in force of Fraternal Order of Police/Ohio Labor Council (FOP/OLC) employees. The agreement states that layoffs are made pursuant to Ohio Revised Code (ORC) 124.321 et seq. and Ohio Administrative Code (OAC) 123:1-41 et seq., except as modified by the agreement.

Therefore, a FOP layoff is very similar to a layoff of exempt employees, except that retention points are not used. If contemplating a layoff of FOP employees, please review the applicable sections of the Revised Code, the Administrative Code and Article 35 of the collective bargaining agreement, which are provided in this manual.

FOP bargaining unit members do have different bumping and displacement rights and layoff jurisdictions. They also have special provisions, which apply when there is a closing of a facility. FOP layoffs are rare and there is not much experience or case law. As a result, the process for FOP layoffs is the state's position on how to best conduct an FOP layoff – subsequent arbitration decisions may impact this process.

Submission of the final rationale to DAS and FOP central office starts the clock. The agency must be very aware of notification requirements, not only to the employees, but also to the Union, especially when layoffs may occur across multiple unions and/or include exempt positions.

The average timeline is between 60 to 120 days from beginning to end, but keep in mind that the process may take longer than the contractual requirements. Just because a certain number of days may be required, that amount of time may not be enough to adequately perform the *mechanics* of a layoff.

Layoffs are time consuming and can be difficult to implement. You are encouraged to contact your Labor Relations Specialist at the Office of Collective Bargaining throughout the process for assistance.

II. NOTICE OF PROPOSED INTENT TO LAYOFF

Notice of Proposed Intent to Layoff is not referenced in the contract or code as a required step in the layoff process. *However*, it is established practice that the agency shall put the Department of Administrative Services (DAS), the Office of Collective Bargaining (OCB), and the Office of Budget and Management (OBM) on notice of their intent to layoff.

[See FOP - 1 for a sample notice form]

Helpful Tips:

- The Notice of Intent should be submitted at least seven (7) days prior to the submission of the final rationale
- The Notice of Intent should be a one-page summary of the expected number of positions to be abolished and the approximate number of people who may be ultimately displaced
- This document can be submitted while the agency is drafting and/or revising the detailed rationale for the layoff
- Please contact DAS, Office of Collective Bargaining with any questions.

III. EARLY RETIREMENT INCENTIVE PLAN

An Early Retirement Incentive Plan (“ERIP”) allows the employer to purchase additional service credit for employees, which enables employees to retire early or retire with a larger retirement benefit than they may have otherwise been entitled. *[See ORC § 145.297]*

★ **NOTE:** Early Retirement Incentive Plan is *mandatory* if the agency proposes to close a state institution or to lay off, within a six-month period, a number of persons employed that equals or exceeds the lesser of 350 employees or 40 percent of the employees of the employing unit. **(See ORC § 145.298)**

Basics:

- Form F-111b, and the ERIP must be submitted to PERS
- Form F-111b, the ERIP, and a cost analysis of the ERIP must be submitted to OBM
- OBM will not approve the affordability of a ERIP unless the agency’s cost analysis clearly demonstrates that the agency has budgeted for the ERIP from available funds.
- This process will take a minimum of sixty-seven (67) days to receive approval from the Office of Budget Management. The agency should work on drafting the rationale and collecting seniority credits during this time.

[See Appendices B and C for specific details, procedures, and materials to assist you in preparing such a Plan]

★ **NOTE:** if the proposed layoff is for a lack of funds, and therefore a certification of lack of funds from OBM is necessary, the ERIP must be adopted prior to the certification.

Please contact the appropriate LRS at OCB if you are planning to offer a ERIP so that you may be assisted with notifying the Union. Note that the decision in *State Employment Relations*

Board v. Youngstown City School District Board of Education, 93-ULP-01-0095, held that impact bargaining may be necessary prior to establishment of an early retirement incentive plan.

IV. SUPPORTING DOCUMENTATION

Appointing authorities are *required* to file with the director of DAS documentation that justifies a reduction in force.

The documentation should include:

- Objectives of the agency
- The number of employees affected
- The affected positions
- The cost savings, if any
- The reason for the layoff

[See FOP - 2 for a sample rationale letter]

★ **NOTE:** It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff. Draft copies of the rationale should be submitted to OCB for review and suggestions. Thus, if the rationale is not sound, suggestions and changes may be made prior to the formal announcement. **Remember** that these documents are subject to public records requests and should be carefully considered.

The reasons for a reduction in force are limited to those specifically allowed by law. Employees may be laid off whenever a reduction in force is necessary for any of the following **three** reasons:

- 1) Lack of funds
- 2) Lack of work
- 3) Abolishment of positions due to reorganization
 - a) Lack of work
 - b) Efficiency
 - c) Economy

[See OAC 123:1-41-01 and ORC 124.321]

★ **NOTE:** The state must demonstrate by a **preponderance** of the evidence that a job abolishment was undertaken for one of the above reasons.

The documentation required by the OAC to support the layoff depends upon which of these three (3) reasons is being used.

A. LACK OF FUNDS

A lack of funds means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn. *[See ORC § 124.321(B) and OAC § 123: 1-41-02]*

The director of OBM is responsible for determining whether a lack of funds exists. Therefore, **certification by OBM is required**. Agencies should contact OBM for assistance in completing the appropriate financial analysis. *See Appendix D for additional information and OBM memo.*

- ▲ **Remember**, as stated above, if your agency is required to adopt an Early Retirement Incentive Plan, it must be adopted prior to obtaining the certification for lack of funds.

★ **NOTE:** If your agency has determined that the underlying reason for the reduction in workforce is for a lack of funds, it is important to realize that this is a time-consuming process requiring certification from OBM. This type of reduction will dictate a layoff by classification and by appointment category. As a result, the agency's discretion in determining specific positions to be eliminated is much more limited under a certification of lack of funds. *[See OAC § 123: 1-41-06]*

If your agency is contemplating a layoff for lack of funds, please contact your LRS at OCB and OBM analyst immediately.

B. LACK OF WORK

A lack of work, for purposes of layoff, means an appointing authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels. The determination of a lack of work shall indicate the current or projected decrease in the workload of an appointing authority and whether the current or projected staffing levels of the appointing authority will be excessive. *[See ORC § 124.321(C) and § OAC 123:1-41-02]*

The director of DAS shall determine if a lack of work exists. The agency is required to submit the following:

- Request for determination of lack of work
- Adequate information to establish that a lack of work exists, which may include:
 - ✓ Comparison between current work levels and work levels when a lack of work did not exist
 - ✓ Statistical data and additional supporting materials
 - ✓ Reasons for the elimination or diminution of duties
 - ✓ Allocation of any duties remaining after the layoff

★ **NOTE:** Remaining duties should not be reassigned across bargaining units, across classifications, or across exempt/bargaining unit lines.

C. ABOLISHMENT OF POSITIONS

The abolishment of positions due to reorganization is the most commonly utilized reason for layoffs.

Abolishment means the permanent deletion of a position or positions from the organization or structure of the appointing authority due to a lack of continued need for the position, as opposed to a general layoff by classification(s) due to a lack of funds or lack of work.

[See ORC § 124.321(D) and OAC § 123: 1-41-04]

Abolishment of specific positions, as opposed to a general layoff by classification(s) due to lack of funds or lack of work, may be done for any of the following **three** reasons:

- 1) As a result of a reorganization for the efficient operation of the agency; or
- 2) Reasons of economy; or
- 3) Lack of work

1) Efficiency of Operation

A statement of rationale to support an abolishment on the basis of reorganization for efficiency of operation should include well-documented information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a discussion of changes in organizational emphasis and goals.

Efficiency of operation should be utilized when the agency has no other savings then salary and benefits and can point to unnecessary services, duplicate services, outdated services, better ways of accomplishing tasks, or change in philosophy or programming that requires the reallocation of resources.

Examples: the rationale should include information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a discussion of changes in organizational emphasis and goals.

2) **Reasons of Economy**

A statement of rationale to support an abolishment for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reasons of economy should be utilized when the agency cannot point to efficiency gains, but can show that the elimination of positions results in other economic savings. Agencies must consider savings regarding salary, benefits, and other matters associated with the abolishment of the position. Reason of economy should be used if:

The agency's operating budget is reduced by executive or legislative action (if this option is chosen, the abolishment must happen within one year of the announcement of the decreased funding). In this instance, the agency may consider only salary and benefits savings regarding affected positions.

OR

A current or projected deficiency in funding is expected to make it difficult to maintain current service levels.

HOWEVER:

- * The abolishment must be done in good faith
- * If the funding is reduced for one specific program, then the abolishment must be from that program's staff
- * If the funding reduction is not for a specific program, then the most appropriate position to abolish must be determined.

When computing savings, ensure that all expenditures after layoff are included (*i.e* ERIP costs, unemployment costs, and moving and changing office equipment costs).

Examples: consolidation of offices requiring fewer positions, reduction of process requiring fewer positions (technological upgrades, simplification of procedures), and matching equipment/material needs to the workforce under a reduced budget.

3) **Lack of Work**

A lack of work may be due to legislative change or the elimination of services not required by an agency's enabling statute or mission or other changes in operation. A statement of rationale and supporting information are required.

Examples: elimination of a governmental function by legislation (liquor control), elimination of a regulatory function, and elimination of non-essential functions.

★ **NOTE:** If the abolishment of positions results from a technological advance, closure, lease or transfer of a facility or contracting out, then refer to Section VII of this Overview and Article 38 of the collective bargaining agreement for additional notice requirements.

Importance of supporting documentation:

- ❖ It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff.
- ❖ In an appeal, representatives of the Agency will be challenged on the contents and validity of the statements of rationale and supporting documentation.
- ❖ Generally, decisions to lay off employees will be most defensible if expressed in understandable operational terms that explain the Agency's organizational structure, mission and future goals, as projected. Layoffs for a valid business purpose may be successfully defended.
- ❖ It is important to focus on which duties are no longer necessary or justified, not upon an individual employee's attributes or faults. When these factors enter into the decision making process, the reduction in force becomes suspect.

★ **NOTE:** Do not assert unnecessary, multiple reasons for an abolishment unless the agency is able to persuasively defend all reasons. *For example*, strong documentation supporting a lack of work will usually be sufficient to support an abolishment. Adding greater economy as a reason for the abolishment without credible documentation may not withstand an appeal. Various court and arbitration decisions have held that the assertion of salary saved, alone, is insufficient support for an abolishment based on reasons of greater economy.

V. PREPARE PROPOSED LAYOFF LIST

To prepare for the paper layoff, the agency needs to prepare a seniority list for the affected classifications for the entire geographic jurisdiction. Start with the seniority lists provided by DAS quarterly. If you need a special list, contact OCB for assistance.

The list should be shared with the Union well before the paper layoff. In order to prepare the proposed layoff list:

- 1) Determine all classifications to be affected

- ✓ **See Appendix A of CBA**
- 2) Determine appropriate jurisdictions
 - ✓ **See Appendix B of CBA**
- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.
 - ✓ *See FOP - 1a for a sample request for a layoff roster*
- 4) Agency must account for all employees currently on disability in affected classifications.
 - ✓ The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended. [*See OAC 123:1-41-21*]
- 5) Seniority date of each employee
 - ✓ **See Article 34**
- 6) Effective date of layoff
- 7) Prepare list by following order set forth in Article 35
 - ✓ **See section V of Detailed Overview**

If your abolishments include any exempt positions, the agency should immediately identify the employees filling the exempt positions and pull the employment history of those individuals to determine if they have held a bargaining unit position in the past three years which they may have bumping rights to.

★ ***NOTE: Unlike other collective bargaining agreements, when a reduction in force is necessary under the FOP contract, seniority is determined by the bargaining unit seniority and not based on statewide service.***

VI. INDIVIDUAL POSITION RATIONALES

Once the agency has developed the general reason for the reduction, you must also determine the specific positions that will be abolished. The Agency will need to develop an **individual rationale** for each position to be reduced. Each individual rationale should relate to the general rationale. Make sure the individual position rationale:

1. Specifies the PCN and then addresses the duties of that position. It is important to address all the duties performed by the position. (Refer to position description).
2. Specifically states which duties were never performed or are no longer performed.
3. Specifies, **to the extent possible**, which PCN(s) will be assuming the remaining duties (of the duties that will remain) and ensure that this will not have a significant impact on the person(s) assuming the duties

[See sample FOP - 3 for a blank form and 3a for a sample]

★ **NOTE:** The agency should always verify that the classifications of the PCN(s) assuming the duties allow for the performance of the transferred duties.

VII. OCB REVIEW OF DRAFT COPY

A copy of all documents prepared to support the proposed layoff should be submitted to OCB for review and revisions prior to the intended date for notification of the Union and request for approval from DAS.

The information should include:

- ✓ The rationale statement and supporting documentation
- ✓ The rationale for each individual position
- ✓ Position Descriptions of all positions identified to be abolished
- ✓ The Table of Organization both before and after the layoff
- ✓ The date employees will be notified of the layoff
- ✓ The effective date of the layoff

VIII. DAS NOTIFICATION

Upon approval of the rationale from OCB, the agency should submit the information listed above to DAS/HRD.

If the layoff involves both exempt and bargaining unit employees, the agency must wait for DAS to verify any retention points for the exempt employees before proceeding with the layoff. However, the agency may proceed with next steps in preparing for the layoff of affected OCSEA members (e.g., posting and/or verifying seniority credits, meeting with the Union to discuss layoff, preparing Order of Displacement forms, etc.).

If applicable, the agency may send out any exempt bumping paperwork to begin the first wave of bumps upon receiving verification of retention points from DAS. The bumping should continue until all bumps have occurred.

It is considered most efficient to allow the exempt who may ultimately have rights to previously held FOP classifications to be included in the bumping process. After all bumping rights of exempts have been exhausted, if any exempts do have a right to an FOP position, their seniority at the time they left the union should be calculated as specified by Article 34 of the Agreement. That employee's name should be included in the paper layoff process.

IX. UNION NOTIFICATION

The Union must be notified of the proposed layoff no later than when the agency submits its official rationale to DAS. Formal notice of layoff to the Union is fulfilled upon submission of the rationale to the Central FOP headquarters.

X. SENIORITY

The agency **may** allow employees to challenge their seniority. **THIS IS NOT A CONTRACTUAL REQUIREMENT NOR A RIGHT OF THE EMPLOYEE.** If the agency should allow challenges to seniority to be reviewed, the agency should establish a specified period of time and share all revisions with the union. Any changes in seniority should be reflected in the bumping paperwork and shared with the union.

★ **NOTE:** If you allow challenges to seniority credits, post seniority list for BU with a period of time to challenge. **Note that this is not a contractual requirement nor a right of the employee.**

XI. MEET WITH UNION IF REQUESTED

The Union must then be provided with an opportunity to discuss the layoff prior to the date of the paper bump. The agency should offer the Union an opportunity to meet within a certain period of time. This meeting should occur after formal submission of the rationale, but prior to distributing bumping paperwork. Agency should try to have any revisions to seniority prepared to discuss at meeting if the agency allowed challenges.

XII. NOTICE OF PAPER LAYOFF AND EXERCISE OF BUMPING/DISPLACEMENT RIGHTS

ORDER OF DISPLACEMENT FORM

- All potentially impacted employees must be sent an Order of Displacement Form including information regarding the date and time of the paper layoff. *[See FOP - 4, Appendix A and Appendix B of CBA]*. The form must include the following fields for the employee's reference: name and seniority date, PCN, pay range, appointment type, class title, and work location.
- Since displacement is based on the "least senior" versus "less-senior," the agency is not required to provide each employee with a seniority roster. The agency must only make a seniority roster available for review.
- All Order of Displacement Forms should be completed and returned to the agency within 5 working days of the employee's receipt of the form.
- The Union must be supplied a copy of all completed Order of Displacement Forms.

★ **NOTE:** If no bumping options are available, notice must be given 14 calendar days (if hand-delivered) or 17 calendar days (if sent by certified mail) prior to the effective date of the layoff.

★ **NOTE:** In smaller agencies, there may be no displacement or bumping rights for an employee to exercise. In that case, the paper layoff process does not apply and the employee may be notified at this point that he/she will be laid off. *[See “Notification Letters” Header on next page and Sample Notification Letters FOP - 6-9]*

The agency should develop bumping forms at the same time they are sending out the employee Order of Displacement Forms and waiting on resubmission of the these forms. *[See FOP - 15 for a sample bumping form]*

- To develop bumping forms, the agency should sort all impacted positions by classification and pay range, then determine the appropriate classification groupings. *[See Appendix A of the FOP CBA]*. The list of all available PCNs to bump into is to be shared with the union at the time of the paper layoff.
- Determine the appropriate geographical jurisdictions. The statutory jurisdictional layoff areas shall not be utilized. Instead, the geographic divisions of each agency shall be used. *[See Appendix B of the FOP CBA]*
- A list of all potentially affected employees, including seniority credits, should be posted in a conspicuous place. *[See OAC 123:-1-41-20]*

XIII. CONDUCT LAYOFF/DISPLACEMENT OF EMPLOYEES

Upon receipt of all returned Order of Displacement forms, the agency and Union shall meet on the designated date of the paper layoff.

- The paper layoff process is very paper intensive; however, the process allows bargaining unit members to displace in conjunction with any exempts who may have rights into the Union.
- Agencies are encouraged to involve the Union in the entire process. On the date of the paper layoff, there should be copies of the Order of Displacement Forms and bumping paperwork for the appropriate Union personnel, including the staff representative, chapter president, and stewards.
- Employees may bump the least senior employee in priority order within an equal or lower position within the same, similar or related classification series.
- If layoffs will impact both FOP and Exempt, it is most efficient to conduct all exempt bumping before bargaining unit bumping. This will ensure all exempt persons with fallback rights are included in the Union bumping process.

★ **NOTE:** If an employee volunteers for a layoff, resulting in an additional vacancy, the agency must still follow through with the bumps as they are designated from the paper layoff. Upon completion of the layoff and lifting of the hiring freeze, the additional vacancies may be filled through recall/reemployment unless mutually agreed otherwise.

[See Arbitration Award #937]

PAPER LAYOFF

1. The agency should begin with the most senior employee affected, within a classification grouping.
2. Review the employee's displacement forms, along with the Union.
3. Record the employee's designated position on a record keeping form.
4. The agency should have a complete employment history printed for each employee to refer to during the paper layoff process.
5. Review the Order of Displacement form of the next most senior employee affected, either by a layoff or displacement.
6. This process shall be continued until all impacted employees' Displacement Forms have been reviewed.

★ **NOTE:** The employee doing the bumping must be more senior than the employee who is being displaced. The employee bumping must also be in the same or higher pay range than the employee being displaced.

Because the Contract specifically addresses bumping/displacement rights, employees shall only have rights to bump/displace as set forth in Article 35.

★ **NOTE:** The procedures for bumping/displacement were changed significantly during the bargaining of the 2003-2006 CBA. Please make sure to review the new contract language, as it expands the displacement rights of affected employees.

Bumping Process:

Under the Contract, employees who are laid off or whose positions are abolished shall have the bumping options. If an employee chooses to bump, he/she must follow the order of bumping established below:

- 1) Employees shall first have the option to bump within the applicable facility or layoff jurisdiction within their department. *[See Appendix B of CBA]*

Specifically:

- A. To displace the least senior employee within the *same classification*, or
 - B. To bump the least senior employee within the *same classification series*
- 2) If the employee is unable to bump under 1A or 1B, the least senior affected employee in the facility/jurisdiction may bump the least senior employee in their classification statewide.

★ **NOTE:** The least senior affected employee in the facility/jurisdiction that is *full-time*, should be canvassed and offered the opportunity to bump a less than full-time (LTFT) position within the facility/jurisdiction before bumping into a full-time position within their classification statewide. Regardless of seniority, the full-time employee can *only* bump the least senior employee within the LTFT appointment types in the applicable facility/jurisdiction. *Thus, it is possible that a full-time affected employee could displace a more senior LTFT employee within the facility/jurisdiction.*

★ **NOTE:** Likewise, make note that the term “facility” was intended to indicate “institution.” This is a matter that should be clarified with the Union at the onset of the layoff process. Likewise, Appendix B only applies to agencies without “facilities” (*i.e.* Mental Health and Mental Retardation and Developmental Disabilities).

★ **NOTE:** This article only applies to permanent appointment types for the Departments of Mental Health and Mental Retardation and Developmental Disabilities and not to established term irregulars, as they serve in a more contractual capacity.

After the paper layoff is complete, the record sheet should be reviewed and signed off by the Union Representative for accuracy and with agreement as to all procedural matters. A record should be kept of who attends the paper layoff and any concerns that arise. The management sheet should be labeled “Official Record.”

★ **NOTE:** Although keeping a record sheet is not a requirement, it is strongly encouraged.

XIV. NOTIFICATION LETTERS TO EMPLOYEES

A. NOTIFICATION LETTERS

All impacted employees should receive **one** of the following letters:

1. *See FOP - 5* for employees who chose to bump but have no bumping options and will be laid off. Attachments should include (1) Recall and Reemployment Options; (2) COBRA notification; and (3) Leave Conversion information. *(See FOP - 5, 12, 13 and 14)*
2. *See FOP - 6* for employees who chose not to exercise rights to bump and will be laid off. Attachments should include (1) Recall and Reemployment Options, (2) COBRA notification, and (3) Leave Conversion information. *(See FOP - 6, 12, 13 and 14)*
3. *See FOP - 7* for employees who were displaced into a lower classification. Attachment should include 1) Recall and Reemployment Options. *(See - FOP 7 and 12)*
4. *See FOP - 8* for employees who were displaced into a new PCN but remain in the same classification.

▲ *Remember:* Notification letters need to be sent prior to the effective date of the layoff—14 calendar days if hand-delivered and 17 calendar days if sent by certified mail.

★ **NOTE:** The letters are for example purposes only. The agency should modify the letter to suit the particular needs of the agency.

B. RECALL AND REEMPLOYMENT OPTIONS

When sending out notification letters of displacement, the agency must develop a form that lists all recall and reemployments opportunities for each employee. The Recall and Reemployment Options must be submitted with the employee's Personnel Action whenever an employee is displaced into a lower or different classification or laid off.

In determining the recall and reemployment rights that each employee may have, the distinction between the two terms should be understood. The terms are often used interchangeably, but their meanings are quite different.

Recall means that an employee is requested to return to employment with the same agency from which the employee was laid off. The Recall list must show all counties within the geographic jurisdiction of the employee. *[See Appendix B of Agreement]*

★ **NOTE:** An employee who is able to displace within their classification, regardless of location, does **not** have rights to be placed on a recall list or at their previous location.

Reemployment means that an employee is requested to return to employment at a different agency than the one from which the employee was laid off and can only be to the same classification and appointment type from which the employee was laid off. The Recall and Reemployment Options Letter to the employee must list all counties that the employee may have reemployment rights to according to **OAC 123: 1-41-13**.

[See FOP - 12 for a sample Recall/Reemployment Options form]

★ **NOTE:** Because the contract references the Ohio Revised and Administrative Codes, recall and re-employment rights of employees closely mirror the rights of non-bargaining unit employees. However, section 35.03 and Appendix A and Appendix B of the CBA modify portions of the codes. See these sections and contact DAS Certification prior to preparing recall/re-employment lists.

RECALL RIGHTS

General considerations that agency and employee should know about recall/reemployment:

- ✓ Employees have five (5) days from receipt to return Recall and Reemployment Form.
- ✓ The employee should be instructed that failure to resubmit the form will result in all counties in the geographic district and layoff district in code to be listed on the recall and reemployment lists for the employee
- ✓ Also instruct the employee that failure to accept any offer in the classification; appointment type and/or county may result in removal from the list for that classification, appointment type or county
- ✓ All employees are placed on the list by effective date of layoff and are recalled by State seniority.
- ✓ Employees who are receiving Workers' Compensation or Disability shall also be laid off on the same date without interruption to currently approved benefits.

C. SICK LEAVE CONVERSION

When sending out notification letters of displacement, the agency must also include a form that lists the employee's option to either cash out or save all accumulated sick leave. The Sick Leave Conversion Form must be submitted with the employee's Personnel Action whenever an employee is laid off. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.

[See OAC 123: 1-41-22 and FOP - 14 for sample Sick Leave Conversion Form]

D. NOTIFICATION OF COBRA

It is the agency's responsibility to notify the employee of his or her rights under COBRA. Each employee should receive a form stating his or her right to this benefit.

[See FOP - 13 for sample COBRA Notification Attachment]

XV. PERSONNEL ACTION

Personnel action form ADM-4100 should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. You should also include:

- ✓ The forms submitted by the employee indicating the counties he or she designated as acceptable for reinstatement purposes
- ✓ Attachments showing changes which will result from the layoff
- ✓ Copies of the letters notifying employees of the layoff
- ✓ An explanation of whether employees had displacement rights and whether or not they were exercised. *[See OAC 123:1-41-08(G) and (H)]*
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification

Personnel Action Form 4100 will then be forwarded to DAS certification to add employees to recall and existing layoff certification lists.

[See OAC 123:1-41-08(G) and (H)]

XVI. DRAFTING RECALL/REEMPLOYMENT LISTS

In addition to the agencies forwarding the recall and reemployment options that the employee completed to DAS, the agency must also prepare a recall list. This list should be sent to DAS seven (7) calendar days prior to the effective date of the layoff.

- ✓ Recall list must include name of each employee displaced from original classification, the employee's seniority credits, and all counties the employee indicated on the ADM-4138 that he/she was willing to be recalled to.
- ✓ Reemployment list must include names of employees laid off, classification displaced from, the employee's seniority credits and a list of the counties the employee on the ADM-4138 indicated he/she was willing to be recalled to.
- Although the Employer does not have to create a separate list for reemployment rights, the Employer must somehow communicate the counties the employee is eligible and selected on the form for reemployment. These will not be the same counties as on the recall list.

[See FOP - 14 for a sample recall list]

XVII. APPEALS

In an appeal, representatives of the agency will be challenged on the contents and validity of the statements in the rationale and supporting documentation. Generally, decisions to layoff employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational, structure, mission and future goals, as projected.

Remember, as stated above, decisions to layoff must be demonstrated by a preponderance of the evidence.

CAUTION:

Pitfalls to watch out for when developing your rationale are two-fold:

- 1) The **bad faith layoff**
- 2) The **transference of a substantial portion of the duties** of the eliminated position to another position

★ **NOTE:** These two concepts prevent you from looking at individuals and require you to focus on duties.

1. **Bad faith layoff:** means the Employer cannot use the job abolishment as a pretext or strategy to get rid of an employee. Job abolishments will be disaffirmed if the preponderance of the evidence does not support the position to be abolished.
2. You may not **transfer the duties** of the abolished position to one individual, *unless it will not become a substantial portion of that position*. The theory behind this case law is that you may not take someone's duties and simply give them to another. If the duties must be performed and will become a substantial portion of another's job, then the job abolishment of that position may not be proper. The position, which you are transferring the duties to, may be the position that warrants elimination. As with any kind of consolidation of duties, the abolished position's duties may not become the substantial portion of another person's position.

Exception: may be found if the Employer has two full-time positions, which are only really performing the work of one full-time position. In that case, the Employer should abolish the PCN of the position with the less senior employee.

The Employer should only eliminate bargaining unit positions and transfer the remaining duties to an exempt employee when the Employer can show that the exempt classification specification

overlaps and therefore the duties do not purely belong to the unit. The Union is likely to challenge an elimination of a bargaining unit position that transfers duties to an exempt position.

Thus, if you eliminate a bargaining unit position that transfers duties to an exempt position, you should be able to show:

- (1) The work was not purely bargaining unit work
- (2) The assumption of those duties by the exempt employee does not make up a substantial portion of the exempt position.

★ **NOTE:** Time spent percentages are helpful in defending your case.

FILLING VACANCIES FROM RECALL AND REEMPLOYMENT LISTS

[See OAC § 123: 1-41-18]

The purpose of this manual is to aid an agency in implementing a layoff. Part of the layoff process guarantees employees specific rights under recall and reemployment. This manual will not address all aspects of the recall and reemployment process, but will provide some tips on frequently discussed issues as well as sample recall and reemployment letters.

FILLING A VACANCY THROUGH RECALL *[See Section 35.04 of the Agreement]*

The Employer must fill vacancies in the classification series from the recall list prior to hiring, promoting, or transferring.

- Employees have recall rights for twenty-four (24) months.
- The most senior employee is recalled first within the applicable district from which the employee was laid off. The layoff jurisdictions are set forth in the Appendix B of the FOP collective bargaining agreement.
- Employees are to be notified by certified mail of recall and have fourteen (14) calendar days to report to work or forfeit recall rights.
- Employees are not entitled to reimbursement for moving expenses as a result of a layoff or recall.
- Please note the rights of employees who were laid off due to a closing of facilities as set forth in section 35.05 of the contract. After recall lists have been exhausted, such Unit 2 employees are entitled, by seniority, to fill vacancies in the same like classification, which the employee held immediately prior to layoff.
- The employee that is recalled shall not serve a probationary period.
- If you are delivering a recall notice by hand, a witness must be present and the employee must sign a receipt for the notice. If the Agency plans to mail the notice, send by certified mail with a signature requirement.

[See FOP - 9 for sample recall letter]

FILLING A VACANCY THROUGH REEMPLOYMENT

The Employer must fill vacancies in the classification series from the reemployment list prior to hiring, promoting, or transferring.

★ **NOTE:** OAC 123:1-41-17 governs reemployment rights of laid off FOP employees.

- The employee that is reemployed from another agency shall not serve a probationary period.
- If you are delivering a reemployment notice by hand, a witness must be present and the employee must sign a receipt for the notice. If the Agency plans to mail the notice, send by certified mail with a signature requirement.
- If an employee fails to notify the Agency of intent to report to work within ten (10) days (sixty (60) days if extenuating circumstances exists) of recall notice, the recall rights are forfeited.
- Employees who are laid off and reemployed continue to earn service credit while on layoff.
- Reemployment rights exists for twenty-four (24) months.
- Employees who are laid off and reemployed continue to earn service credit while on layoff.

[See also FOP - 10 for sample reemployment letter]

Coordinate all recall/reemployment through DAS Certification.

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated ORC 124.30(A) and 124.327(B) by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that “. . . the law is not required to give way to administrative convenience,” meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. *See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.*

FOP EXHIBITS

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

PRELIMINARY NOTICE OF PROPOSED INTENT TO LAYOFF

TO: _____, Human Resources Analyst, DAS
_____, Labor Relations Specialist, OCB
_____, Agency Analyst, OBM

FROM: Director of Agency

SUBJECT: Staff Reduction in _____
(Department/Agency)

DATE: _____

This memo will serve as preliminary notice that we are considering a staff reduction resulting in the layoff of personnel. The initial estimates are as follows:

The total number of layoffs (positions to be abolished) estimated is: _____

An estimation of the number of personnel to be laid off (people who will not have any bumping options) is: _____

The proposed layoff date is: _____

Our Personnel and Labor Relations staff has has not had experience in the procedures of layoff in the state system.

The representative who will be the primary contact from our department will be:

Name	Title	Phone#
------	-------	--------

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**DIRECTOR
DEPARTMENT OF ADMINISTRATIVE SERVICES
30 E. BROAD STREET, 40TH FLOOR
COLUMBUS, OH 43215**

ATTN: STATE SERVICES MANAGER

Dear Director:

Please find attached justification to abolish Exempt and Bargaining Unit positions, in the Central Office of the Department of **AGENCY, PAYROLL NUMBER 000-000**.

Please prepare a layoff roster for the following Exempt positions, and all same, similar or related classifications:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OCSEA/AFSCME** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OTHER UNION** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

The **AGENCY** is filing the accompanying Executive Summary which explains our reorganization plan, and the justification for positions identified for abolishment, in order to comply with various sections of the Ohio Revised Code and Administrative Rules. As indicated, we are abolishing these positions as a result of a reorganization for the efficient operation and/or reasons of economy in this Department’s Central Office.

Please prepare a layoff roster for the exempt positions listed in above, and all same, similar or related classifications.

If you have any questions regarding this matter, please contact **HUMAN RESOURCE ADMINISTRATOR** at **PHONE NUMBER**.

Sincerely,

DIRECTOR

Attachment

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

Current Date

**Department of Administrative Services
Director of Human Resources
Address**

Re: DAS Job Abolishment

Dear (*Director of DAS Human Resources*):

Provide Brief Statement of Reason for Reduction (Economy, Efficiency, Lack of Work) and Listing of the specific PCN's to be impacted:

Example: The Board of State Development respectfully requests to abolish four full-time positions effective July 26, 2003, as the result of reorganization for efficiency. The four positions are Test Examiners, specifically Position Control Numbers 0005.0, 0006.0, 0007.0 and 0008.0. A review of the existing scheduling pattern, in addition to advancing technology resulting in fewer in-house tests, only requires examiners be present approximately twenty to thirty hours a week. Consequently, the Board of State Development intends to abolish four positions and distribute the remaining duties of these positions to the remaining four Test Examiners, specifically Position Control Numbers 0001.0, 0002.0, 0003.0 and 0004.0. The abolishments will allow for the same testing schedule while eliminating duplication of work.

Brief History/Mission of Agency (one to two paragraphs):

Example: The Board of State Development was created by an act of the legislature in 1932 to establish and maintain sanitary and professional industrial standards. Today, the Board licenses over 125,000 individuals and businesses in the various branches of the industry. The Board's mission is to develop, monitor and enforce the standards used in the business for the safety and protection of the patron. To accomplish this mission, the Board must provide for the examination of students to demonstrate minimum competency levels consistent with established national minimum standards before allowing students to offer services to the public.

The Board also provides both written and practical examinations supplied by the National Council (NC). These examinations give the Board valid, legally defendable examinations and require specific standards that must be adhered to during the administration of the tests. Specifically, the Board offers three licensing categories: Surveyors, Managers, and Professional.

Summary as to why the abolishment is necessary (decrease in population being served, reduction in revenues, changes in services, greater technology resulting in less work/elimination of duties, merging of offices, elimination of duplication of work, etc). All reasons stated for the need for abolishment should be supported by numbers and/or objective criteria such as percentages, budget reduction, or numbers of population served prior compared to the current numbers.

The Board administers the majority of these tests in-house at the central office location, but with the passage of House Bill 000, the reciprocity rules have changed. Where all applicants for a license used to be required to take the written and practical examinations, now those individuals with five years of experience will only be required to take the written exam and can do so through Testing, Inc., a national testing company that provides the same National Council-related exams to many state licensing boards. Testing, Inc. is a computer based testing company that has eleven sites in Ohio and over 700 in the United States. With the new testing requirements, advancing technology and increasingly constituent computer awareness, Testing, Inc. is being used more often than in the past and has reduced the number of in-house written exams. From April 1, 2007 through March 3, 2007, Testing, Inc. administered 1,234 NC written, greatly reducing the number of in-office examinations given.

Of the remaining practical and written examinations that are offered through the Board, the NC requires at least one examiner for each eight examinees for practical exams with a maximum number of examinees at any one time of twenty-four (24) on most exams. These guidelines also limit the maximum number of examinees for written examinations at any one time to sixteen (16) and require one examiner, but recommends two examiners always be present to ensure test integrity and ease in administration. As a result, the Board policy is to always have at least two examiners for all written examinations.

Below is a breakdown of the current scheduling requirements for each test:

The written and practical examination for Surveyors is completed within four hours, allowing the Board to schedule two groups in one day. Based on NC standards, the Surveyors' practical examinations are restricted to a maximum of eight examinees at one time and require two examiners to administer. With the current work schedule, there are four examiners present, resulting in an excess of two examiners. The reorganization will allow for only two examiners to be scheduled on these days, eliminating the duplication of work.

The NC standards limit the maximum number of examinees for the practical Managers' examination to twenty-four (24) at any one time and takes four hours to complete. The written portion of this exam only allows for up to sixteen (16) examinees at one time and can be completed in under two and a half hours. The Board normally schedules as many as twenty four (24) examinees for the practical portion, then divides and staggers the group into two afternoon sessions to remain below the sixteen (16) person cap for written exams. Accordingly, the NC standards would only require three examiners during the practical exam and two during the written. By reducing the total number of Examiners to four, there will be sufficient coverage while deleting any duplication of effort.

The Professional examinations can be completed within four hours and are usually scheduled on the same day as Managers' exams. This is one of the least used tests and can easily be administered by the same staff upon completion of the Managers' exam. The limit on examiners remains the same as the Managers' exam and therefore requires the same number of examiners.

In addition to the current duplication of effort listed above, there are several days a year where no examinations are scheduled. From April of 2006 to March of 2007, there were eleven (11)

days that no examinations were offered. As a result, eight Examiners reported to work, but there was only enough grading activity for four Examiners. This resulted in three-hundred and fifty-two non-productive "Examination" hours. The reorganization to only four Examiners would allow the schedule to reflect this lower need for these days and prevent wasted hours. Attached is a spreadsheet reflecting the examinations offered from April 2006 to March 2007 to support the information provided above. Based on the examinations offered and the current full-time staff of eight examiners; there was approximately 2,312 hours examiners were scheduled, but were not needed. This equates to approximately 289 days of non-productive "Examination" time.

All duties of the position description should be addressed as either 1) never performed, 2) no longer performed and why, 3) remaining duties and who shall be assuming the duties (classification(s) and PCN(s)). It is important to note that no one person should have a significant increase in duties and more than one person should normally be assuming the duties. Ensure that if an exempt employee is assuming the duties, this is a red flag to the union for erosion. It is normally best if the duties to be redistributed are spread among the remaining bargaining unit population as long as the classification of the employees allows for performance of these duties.

The position description of an Examiner reflects that eighty percent (80%) of the duties of these positions revolve around administration of the exams. The remaining twenty percent (20%) consists of performing other duties as assigned such as responding to phone inquiries regarding examination procedures and results, conducting school tours at the Board test-site, administering off-site examinations at the Ohio Council or assisting in Board-offered continuing education classes. These duties are not regularly assigned, do not represent a significant portion of time, and can easily be accomplished during the compressed work schedule.

Attached is a sample schedule for April 2007, based on actually scheduled days, as well as a sample schedule for June 2007.

For the reasons stated above and a resulting reorganization for efficiency, the Board of State Development respectfully requests to abolish the four full-time Examiner positions.

Please feel to call my office with any questions at _____.

**Sincerely,
Director**

Copy: FOP Central Office

**ATTACHMENTS: Individual Rationale Sheets for each PCN abolished
Position Descriptions of each PCN abolished
Position Descriptions of each PCN assuming transferred duties**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]**DATE**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

SUBJECT: Layoff

The Department of XXX requests to layoff the attached list of positions from its Operations, the Central Pharmacy Inpatient section (4) and the Central Pharmacy Outpatient (1). The following is both a historical perspective and the reason for the request for a job abolishment.

The Department of XXX was established by State statute (ORC Section 000.00) to provide certain goods and services, which are in the public interest and considers it advisable to provide these goods and services. Designated departments and other non-profit organizations shall receive such goods and services when it is determined that providing such goods and services will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible.

The Central Pharmacy Inpatient section provides pharmaceutical services to residents of facilities operated by the Ohio Department of XXX. This operation once provided pharmaceutical services to XXX facilities and XXX. XXX is currently the only agency that continues to utilize this service, and only within some of the facilities. As a result, this section lost \$171,000 for fiscal year 2005 and projections for the upcoming year show an even larger loss. Therefore, we are closing Central Pharmacy Inpatient for sound business reasons.

Primary reasons for the loss can be attributed to the following: 1) Facilities no longer need pharmacists to dispense drugs. The State Board of Pharmacy no longer mandates this procedure. Nurses can now dispense in an inpatient setting, thus reducing the need for facilities to contract with Central Pharmacy Inpatient. 2) XXX facilities have and continue to contract private pharmacists who in turn bill directly to the Department of XXX for all Medicaid/Medicare eligible clients. This results in a reduction in cost to XXX that Central Pharmacy cannot compete with due to a lack of authority to bill third party.

The positions to be abolished as a result of this action are:

PCN 6101.0 Pharmacy Operations Manager
PCN 6137.1 Pharmacist

PCN 6139.0 Pharmacy Attendant

PCN 6139.2

Pharmacy

Attendant

Also to be laid off is one position within the Central Pharmacy Outpatient section. Currently there are six Computer Operator 2 positions in the Central Pharmacy Outpatient section of the Department of XXX. These positions previously performed data entry of prescriptions on displaywriter. In March 2004, Central Pharmacy Outpatient completed a phased-in conversion from data entry on displaywriter to data entry on the IBM 36 for all 134 community centers. This conversion resulted in significant time savings for Computer Operators. In addition, the Computer Operators no longer have to pull hard copy prescriptions for refilling.

With the speed of the IBM 36 and the change in the procedure for pulling prescriptions, we find that the workload for our Computer Operator 2 positions has diminished. It would be more efficient to abolish one Computer Operator position. The responsibilities would be transferred to the five remaining Computer Operator 2 positions.

The position to be laid off as a result of this action is:

PCN 6132.0 Computer Operator 2

For the five employees that will ultimately be affected through layoff, OSS will work with the Regional Worker Adjustment Committee to ensure that the following service be provided.

- OBES “Rapid Response” Service
- Job Seeking/Interviewing Skills Training
- Resume Writing Assistance
- Information Provided on all Available Benefits
- Stress Management Workshops

In total, the Office of Support Services requests the layoff of five (5) FTE’s. The layoff is for the purpose of Reorganization for Efficiency.

Any questions regarding this reorganization and abolishment plan should be directed to **NAME** at **PHONE NUMBER**.

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p> <p>The Agency's employee population has been downsized over the past 10+ years, reducing the number of hospitals from 17 to 9, and employees from over 6,000 to approximately 3,000. The result is that the functions of the Personnel Section have decreased in correspondence to this statewide downsizing. The creation of two Management Analyst Supervisor 2's have proved to be more effective in handling the personnel workload.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p> <p>PCN 2000.0 will directly supervise the two Management Analyst Supv 2's; oversee personal service contracts and attend Controlling Board Hearings regarding same; oversee layoff/abolishment processing procedures with the two MAS 2's. PCN 2041.0 will assume Class Plan; WOOC grievances, PBR appeals; Advance Step Hiring. PCN 2042.0 will handle oversight of authorization for vacancy fills; ceiling numbers and hiring freeze; schedules and leave coordination for personnel staff; assist w/personal service contracts.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

FOP ORDER OF DISPLACEMENT FORM

Name	Classification
Division/Office	Classification Grouping (Appendix I)
Facility/Institution	Appointment Type
Collective Bargaining Unit : 2	Seniority Credits

Please read and thoroughly complete the following information. You should return the form to _____ no later than _____. The answers that you provide to the following questions will be used during the paper layoff to determine where you may be displaced. While filling out this form, please review the applicable seniority listing (available from _____).

Please provide any telephone number where you can be reached on the day of the paper layoff which will occur on _____. You may be contacted at the numbers indicated _____.

ELECTION OF DISPLACEMENT RIGHTS

1. I want to exercise my displacement rights if my position is abolished? ____Yes ____No
*I understand that failure to exercise displacement rights will result in layoff.
2. I understand that if I exercise my displacement rights, I must first displace the least senior in the same classification and within the same facility/jurisdiction. ____Yes____No
3. If I am not able to displace under #2 above, I understand that I must displace the least senior within the same classification series within the facility/jurisdiction. ____Yes ____No
4. If I am not able to displace under #2 or #3, I choose to bump the least senior employee statewide who is in the same classification. ____Yes ____No
5. If I am not able to displace under #2 or #3 and I am a full-time permanent employee, I choose to forgo my right to bump within my appointment types and classification on a statewide basis. I would instead choose to first bump the least senior Less-Than-Full-Time (LTFT) employee in the facility/jurisdiction before bumping on a statewide basis. ____Yes ____No
6. If I am not able to bump a LTFT employee in the facility, I choose to not exercise my rights to bump statewide. ____Yes ____No
7. If I am not able to bump a LTFT employee in the facility, I choose to only then exercise my rights to bump statewide. ____Yes ____No

*For the purposes of the layoff process, classification series is defined as those classifications with the same first four digits of the classification series number.

Note: This is a suggested format. Agencies may modify this form to accommodate their structure

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

We can inform you that after an analysis of the replies received, and in accordance with Article 35 of the FOP contract, you were not able to displace into another position. The effective date of the layoff shall be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix C of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the FOP contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Dear **EMPLOYEE:**

In accordance with Article 35 of the FOP contract, you chose not to exercise your bumping/displacement rights with the “paper layoff” which was conducted on **DATE**. Your last day of work will be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix C of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the FOP contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.



Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME

ADDRESS

CITY, STATE ZIP

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 35 of the FOP contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR** at **DATE AND START TIME**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the **FACILITY/INSTITUTION** and within the recall jurisdiction (**APPLICABLE FACILITIES**) for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction for the same time period. Both reinstatement and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You have the option to select the counties for re-employment that you would desire to be on the recall list for future employment. The counties are: **LIST OF APPLICABLE COUNTIES.**

Please complete Attachment 1 within five (5) calendar days of receipt of this letter and return it to Director of Personnel/Labor Relations Department.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the FOP contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

Director

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

Attachments: ADM 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME
ADDRESS

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 35 of the FOP contract, you are able to displace into another position effective **DATE.**

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	SAME TITLE AS ABOVE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR** at **DATE AND START TIME.**

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT.**

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the FOP contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources**

**Union
Employee File**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: FOP Recall

Dear **EMPLOYEE**:

This letter is to serve as official notification that, per Article 35 of the Bargaining Unit Agreement you are being recalled to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

Article 35 allows recall to a position “provided the affected employee is qualified to perform the duties”. A copy of the position description is attached.

You must notify us, in writing, of your intent to report to work within fourteen (14) days of **receipt** of this notice otherwise you shall forfeit your recall rights to this position and may forfeit your recall rights to other positions. In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: **Position Description**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: FOP Reemployment

Dear **EMPLOYEE:**

This letter is to serve as official notification that, per Article 35 of the Bargaining Unit Agreement you are being offered reemployment rights to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address.**

Article 35 allows reemployment to a position “provided the employee is qualified to perform the duties”. A copy of the position description is attached.

You are to report to work within ten (10) days of **receipt** of this notice otherwise you shall forfeit your reemployment rights to this position and may forfeit your reemployment rights to other positions. In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days.**

Sincerely,

(Name)
(Title)

Attachment: Position Description

FOR DISPLACED EMPLOYEES OF STATE AGENCIES, BOARDS, COMMISSIONS AND INSTITUTIONS

INSTRUCTIONS FOR EMPLOYEE: Return this form to your Personnel Office within five (5) calendar days from the receipt of this form. If you have any questions regarding your options for recall or reemployment, please contact your personnel officer or union steward.

Recall Rights

Section 35.04 of the collective bargaining agreement establishes that an employee who is displaced from his or her classification shall be placed on a recall list for twenty-four months. If your current Employer should fill a vacancy within the same geographic jurisdiction in a same class in the same or lesser appointment type while a recall list is in place, the employee with the most state seniority shall be recalled to that position, provided the individual is qualified to perform the duties.

INSTRUCTIONS FOR AGENCY: List only the counties designated within your agency geographic jurisdiction (Counties or Institutions) for Recall Options. The location of the employee’s position at the time the layoff is first implemented dictates the applicable geographic jurisdiction.

- Refer to Appendix B for the listing of your agency’s geographic jurisdiction (this may differ from county listings and may refer to a specific institution or office location).
- If agency designation is “Statewide” the agency is required to list all 88 counties
- If the agency does not have a geographic jurisdiction listed in Appendix B of the collective bargaining agreement, the agency must designate the jurisdictions as listed in OAC 123: 1-41-13.

Adams	Darke	Hocking	Miami	Scioto
Allen	Defiance	Holmes	Monroe	Seneca
Ashland	Delaware	Huron	Montgomery	Shelby
Ashtabula	Erie	Jackson	Morgan	Stark
Athens	Fairfield	Jefferson	Morrow	Summit
Auglaize	Fayette	Knox	Muskingum	Trumbull
Belmont	Franklin	Lake	Noble	Tuscarawas
Brown	Fulton	Lawrence	Ottawa	Union
Butler	Gallia	Licking	Paulding	Van Wert
Carroll	Geauga	Logan	Perry	Vinton
Champaign	Greene	Lorain	Pickaway	Warren
Clark	Guernsey	Lucas	Pike	Washington
Clermont	Hamilton	Madison	Portage	Wayne
Clinton	Hancock	Mahoning	Preble	Williams
Columbiana	Hardin	Marion	Putnam	Wood
Coshocton	Harrison	Medina	Richland	Wyandot
Crawford	Henry	Meigs	Ross	
Cuyahoga	Highland	Mercer	Sandusky	

Insert employee’s classification and appointment type:

Reemployment Rights

In addition to recall rights to his or her agency pursuant to ORC 124.327, a displaced employee also retains rights to vacancies of other state agencies in the classification from which he or she was displaced within the applicable layoff jurisdiction districts. If a vacancy is not filled pursuant to Section 35.04, the Employer must

offer the position to the employee with the most state seniority who was laid-off or displaced provided the employee is qualified to perform the duties. Such rights shall be for twelve (12) months.

INSTRUCTIONS FOR AGENCY: List only the counties designated within the Layoff Jurisdiction District according to OAC 123: 1-41-13 for Reemployment Options. The location of the employee’s position at the time the layoff is first implemented dictates the applicable Layoff Jurisdiction District.

[Agency may only list counties within applicable District]

- District 1 – Defiance, Fulton, Henry, Paulding, Williams
- District 2 – Erie, Lucas, Ottawa, Sandusky, Wood
- District 3 – Crawford, Huron, Marion, Seneca, Wyandot
- District 4 – Allen, Auglaize, Hancock, Hardin, Mercer, Putnam, Van Wert
- District 5 – Champaign, Clark, Logan, Shelby
- District 6 – Darke, Greene, Miami Montgomery, Preble
- District 7 – Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, Union
- District 8 – Butler, Clermont, Clinton, Hamilton, Warren
- District 9 – Adams, Brown, Gallia, Highland, Jackson, Lawrence, Pike, Ross, Scioto, Vinton
- District 10 – Athens, Hocking, Meigs, Monroe, Morgan, Noble, Perry, Washington
- District 11 – Belmont, Carroll, Coshocton, Guernsey, Harrison, Holmes, Jefferson, Muskingum, Tuscarawas
- District 12 – Ashland, Knox, Morrow, Richland
- District 13 – Medina, Portage, Stark, Summit, Wayne
- District 14 – Ashtabula, Columbiana, Mahoning, Trumbull
- District 15 – Cuyahoga, Geauga, Lake, Lorain

INSTRUCTIONS FOR AGENCY: List the classification from which the employee is being displaced (this is the only classification to which the employee has reemployment rights).

(List classification here:) _____

Employee’s Designation

I have indicated all counties, offices or institutions (whichever is applicable) for which I am interested in being **recalled** within the geographic jurisdiction from which I am being displaced/laid off. I understand that I shall indicate only the counties, offices or institutions in which I am willing to accept employment. Failure to indicate such will result in being placed on a recall list for all counties. I further understand that accepting or

declining a position may result in removal from the recall list and discontinue my recall rights.

I have indicated all counties to which I am interested in being **reemployed** within the Layoff Jurisdiction District from which I am being laid off. I understand that I shall only indicate the counties in which I am willing to accept employment. Failure to indicate such will result in being placed on a reemployment list for all counties. I further understand that accepting or declining a position may result in removal from the reemployment list and discontinue my reemployment rights.

Employee's Signature

Employee's Name (Printed)

Date

**IMPORTANT COBRA NOTIFICATION
FOR STATE OF OHIO EMPLOYEES AND DEPENDENTS**

It is important that all covered individuals (employee, spouse and dependent children) take the time to read this notice and be familiar with its contents.

Under federal law, the State of Ohio is required to offer covered employees and family members the opportunity for a temporary extension of health coverage when insurance coverage ends due to certain qualifying events.

Covered Employee: If you are the employee covered by a group health plan you may have the right to continue your coverage due to termination of employment (for reasons other than gross misconduct) or a reduction in hours.

Covered Spouse: If you are the covered spouse of a state employee covered by a group health plan, you may have the right to continue coverage for yourself if you lose coverage for the following reasons: termination of your spouse's employment or a reduction in your spouse's hours; the death of your spouse; divorce or legal separation from your spouse; or your spouse becomes entitled to Medicare.

Covered Dependent Children: If you are the covered dependent child of an employee covered by a group health plan, you may have the right to continuation coverage for yourself if you lose coverage for the following reasons: termination of the employee's employment or a reduction in hours; death of the employee; parents divorce or legal separation, the employee becomes entitled to Medicare; or you cease to be a dependent child under the terms of the plan

Coverage Periods: Generally, if the event causing the loss of coverage is a termination of employment or a reduction in hours, coverage is available for an additional 18 months. If the event causing the loss of coverage was the death of the employee, divorce, legal separation, Medicare entitlement, or a dependent child ceasing to be a dependent, continuation coverage is available for 36 months.

Important Employee, Spouse and Dependent Notifications Required

Under the law, the employee, spouse or other family member has the responsibility to notify the State of Ohio of a divorce, legal separation, or a child losing dependent status under the group health plan. This notice must be made within 60 days of the event or the date coverage will end, whichever is later. If this notification is not made, your right to continuation coverage will be forfeited.

Notification procedure

Employees or a covered family member should inform the employing state agency or Benefits Administration Services (614-466-8857) of any qualifying event that results in a loss of coverage. Information will then be sent to the requesting party about the length of available coverage periods, premium rates, conversion rights when COBRA coverage ends, and other information related to your rights under COBRA.

Cost: Premiums for continued coverage are the group rate that the State of *Ohio* pays for coverage, plus a 2% administrative fee.

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

TO: **Deputy Director
Human Resources Division
Department of Administrative Services**

THROUGH: **Human Resources Analyst
Certification Unit
Human Resources Division**

FROM: **Chief
Office
Agency Name**

SUBJECT: **Agency Recall and Reemployment List**

CERTIFIED RECALL LIST

NAME	APPT. TYPE	SENIORITY CREDITS
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000

[The Employer should indicate the selected counties by the employee for recall, as well as the counties selected for reemployment]

Row#	DISTRICT	FACILITY	CLAS	CBU	CLASSIFICATION	PCN	NAME	SENIORITY	Tie Breaker	APP TYPE	ABOLISHED	REPORT TYPE
1	3	A		2	PARK OFFICER	042136.0		452	1342	1	Y	1
2	3	A		2	PARK OFFICER	033136.0		409	4288	1		
3	3	A		2	PARK OFFICER	055136.0		337	8010	1		
4	3	A		2	PARK OFFICER	052136.0		187	6579	1		
5	3	A		2	PARK OFFICER	033086.0		547	4276	1	Y	6
6	3	B		2	PARK OFFICER	042735.0		226	4466	1	Y	3
7	3	B		2	PARK OFFICER	042349.0		466	1415	1	Y	1
8	3	B		2	PARK OFFICER	055345.0		188	5613	1		
9	3	B		2	PARK OFFICER	033349.0		0		1		
10	3	B		2	PARK OFFICER	052353.0		462	5339	1		
11	3	B		2	PARK OFFICER	033400.0		445	1553	1		
12	3	B		2	PARK OFFICER	055352.0		441	7556	1		
13	3	B		2	PARK OFFICER	033133.0		432	8372	1		
14	3	B		2	PARK OFFICER	033351.0		414	3737	1		
15	3	D		2	PARK OFFICER	042400.0		404	8778	1	Y	1
16	3	D		2	PARK OFFICER	042353.0		264	4198	1	Y	1
17	3	D		2	PARK OFFICER	052401.0		209.0229	1160	1		
18	3	D		2	PARK OFFICER	052352.0		209	3119	1		
19	3	C		2	PARK OFFICER	033352.0		201.2686	4703	1		2
20	3	C		2	PARK OFFICER	055401.0		193	5969	1		
21	3	C		2	PARK OFFICER	052351.0		187	5194	1		4
22	3	C		2	PARK OFFICER	055400.0		172	8972	1		6
23	3	C		2	POLICE OFFICER	055350.0		164	5822	1	Y	6
24	3	C		2	POLICE OFFICER	052400.0		62.3078	625	4		6
25	3	D		2	POLICE OFFICER	042116.0		154.585	8585	1	Y	3
26	3	D		2	POLICE OFFICER	055121.0		169	8792	1	Y	6
27	3	D		2	POLICE OFFICER	042298.0		802	8392	1	Y	
28	3	D		2	POLICE OFFICER	050018.1		754	7936	1	Y	4
29	3	D		2	POLICE OFFICER	033306.0		402	2004	1		
30	3	D		2	POLICE OFFICER	033307.0		316	3599	1		2
31	3	E		2	POLICE OFFICER	052900.0		265	2895	1		
32	3	E		2	POLICE OFFICER	052230.0		232	6922	1		
33	3	E		2	POLICE OFFICER	055090.0		188	6826	1	Y	4
34	3	E		2	POLICE OFFICER	052015.0		179	6656	1		
35	3	E		2	POLICE OFFICER	052306.0		90	1303	1		6
36	3	E		2	POLICE OFFICER	055305.0		78	3298	1		2
37	3	E		2	POLICE OFFICER	055310.0		589	8379	1		
38	3	E		2	POLICE OFFICER	033310.0		462	7872	1		
39	3	F		2	POLICE OFFICER	042830.0		419	4360	1	Y	1
40	3	F		2	POLICE OFFICER	055235.0		395	6854	1		
41	3	F		2	POLICE OFFICER	055905.0		392	5888	1		
42	3	F		2	POLICE OFFICER	042300.0		367	2631	1	Y	1
43	3	F		2	POLICE OFFICER	055190.0		349	3182	1		
44	3	F		2	POLICE OFFICER	052198.0		329	8063	1	Y	4
45	3	G		2	POLICE OFFICER	052309.0		314	8916	1		

FOP Sample Bumping Form

FOP - 15

46	3	G		2	POLICE OFFICER	052197.0		277	2998	1	Y	4
47	3	G		2	POLICE OFFICER	055192.0		277	319	1		
48	3	G		2	POLICE OFFICER	052405.0		257	8868	1		
49	3	H		2	POLICE OFFICER	033906.0		218.0647	2434	1		
50	3	H		2	POLICE OFFICER	052200.0		213	4121	1		2
51	3	H		2	POLICE OFFICER	055017.0		161	4731	1		
52	3	H		2	POLICE OFFICER	052199.0		154.52	4293	1		4
53	3	H		2	POLICE OFFICER	042220.0		117.2174	3424	1	Y	2
54	3	F		2	POLICE OFFICER	055191.0		61	214	1		6
55	3	F		2	POLICE OFFICER	033169.0		0		1		
56	3	F		2	POLICE OFFICER	033907.0		0		1		
57	3	F		2	FOREST OFFICER	033908.0		0		1		
58	3	E		2	FOREST OFFICER	033909.0		0		1		
59	3	E		2	FOREST OFFICER	033910.0		0		1		
60	3	E		2	FOREST OFFICER	052060.0		358	7611	1		
61	3	D		2	FOREST OFFICER	042051.0		352	388	1	Y	1
62	3	D		2	FOREST OFFICER	052130.0		269	3572	1		
63	3	D		2	FOREST OFFICER	055060.0		170	8767	1		
64	3	D		2	FOREST OFFICER	033060.0		0		1		
65	3	D		2	FOREST OFFICER	052355.0		440	5369	1	Y	6
66	3	D		2	FOREST OFFICER	033135.0		118.5799	1979	1	Y	4
67	3	A		2	FOREST OFFICER	052066.0		174.1	6430	1		
68	3	A		2	FOREST OFFICER	052067.0		166	768	1		
69	3	A		2	FOREST OFFICER	033068.0		165	9092	1		
70	3	A		2	FOREST OFFICER	033069.0		15	67	1		
71	3	B		2	FOREST OFFICER	055067.0		0		1		
72	3	B		2	FOREST OFFICER	042078.0		983	4637	1	Y	5
73	3	B		2	FOREST OFFICER	033078.0		417	8868	1		
74	3	B		2	FOREST OFFICER	033077.0		234	4124	1		
75	3	B		2	FOREST OFFICER	055077.0		181	9459	1		
76	3	C		2	FOREST OFFICER	042077.0		164.5325	2800	1	Y	3
77	3	C		2	FOREST OFFICER	042081.0		226.925	1553	1	Y	1
78	3	C		2	FOREST OFFICER	052080.0		205	575	1		
79	3	C		2	FOREST OFFICER	055081.0		180	2239	1		
80	3	C		2	FOREST OFFICER	052079.0		166	8707	1		
81	3	C		2	FOREST OFFICER	055080.0		164	9355	1		
82	3	C		2	FOREST OFFICER	042080.0		118.3624	3334	1	Y	1
83	3	D		2	FOREST OFFICER	033081.0		116	8227	1		6
84	3	D		2	FOREST OFFICER	052081.0		73	7456	1		6
85	3	D		2	FOREST OFFICER	033080.0		0		1		
86	3	D		2	FOREST OFFICER	033083.0		0		1		
87	3	D		2	FOREST OFFICER	033084.0		0		1		
88	3	D		2	FOREST OFFICER	033074.0		432	9170	1		
89	3	D		2	FOREST OFFICER	033072.0		621	4090	1		
90	3	D		2	FOREST OFFICER	052072.0		481	6685	1		
91	3	E		2	FOREST OFFICER	055072.0		0		1		
92	3	E		2	FOREST OFFICER	042085.0		204	1562	1	Y	3

FOP Sample Bumping Form

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93	3	E		2	FOREST OFFICER	055073.0		170	3363	1		
94	3	E		2	FOREST OFFICER	042040.0		732	1720	1	Y	
95	3	E		2	FOREST OFFICER	033029.0		652	5232	1	Y	2
96	3	F		2	FOREST OFFICER	033028.0		440	4820	1	Y	2
97	3	F		2	FOREST OFFICER	052034.0		403	6862	1		
98	3	F		2	FOREST OFFICER	033034.0		393	532	1		
99	3	F		2	FOREST OFFICER	033033.0		325	6255	1		2
100	3	F		2	FOREST OFFICER	042033.0		314	9918	1	Y	3
101	3	G		2	FOREST OFFICER	033032.0		307	3236	1		2
102	3	G		2	FOREST OFFICER	052031.0		206	8262	1		
103	3	G		2	FOREST OFFICER	052032.0		190	1656	1		
104	3	G		2	FOREST OFFICER	055034.0		170	5524	1		
105	3	G		2	FOREST OFFICER	055033.0		169	9608	1		
106	3	B		2	FOREST OFFICER	055032.0		169	8904	1		
107	3	B		2	FOREST OFFICER	042032.0		116	7158	1	Y	3
108	3	B		2	FOREST OFFICER	052037.0		283	9932	1		
109	3	B		2	FOREST OFFICER	052039.0		194	796	1		
110	3	B		2	FOREST OFFICER	033039.0		182.5723	7225	1		
111	3	B		2	FOREST OFFICER	055037.0		169	6694	1		
112	3	B		2	FOREST OFFICER	055036.0		169	2626	1		
113	3	B		2	FOREST OFFICER	033043.0		161.5587	3545	1		
114	3	B		2	FOREST OFFICER	055039.0		157.2373	5763	1		
115	3	A		2	TAX ENFORCEMENT	042037.0		105	3567	1	Y	1
116	3	A		2	TAX ENFORCEMENT	042038.0		97.3394	3138	1	Y	
117	3	A		2	TAX ENFORCEMENT	052036.0		97	8801	1		
118	3	A		2	TAX ENFORCEMENT	052038.0		96	8439	1		
119	3	A		2	TAX ENFORCEMENT	042036.0		70.9825	4520	1	Y	5
120	3	A		2	TAX ENFORCEMENT	033037.0		53	980	1		
121	3	G		2	TAX ENFORCEMENT	033040.0		53	196	1		2
122	3	G		2	TAX ENFORCEMENT	055040.0		52.2479	9823	4		
123	3	G		2	TAX ENFORCEMENT	052040.0		34.8606	9535	4		
124	3	H		2	TAX ENFORCEMENT	055038.0		32	1027	1		6
125	3	H		2	TAX ENFORCEMENT	033038.0		24	1422	1		6
126	3	H		2	TAX ENFORCEMENT	033041.0		15	2808	1		6
127	3	H		2	TAX ENFORCEMENT	033044.0		0		1		
128	3	H		2	TAX ENFORCEMENT	033059.0		0		1		
129	3	A		2	TAX ENFORCEMENT	052047.0		450	2842	1		
130	3	A		2	TAX ENFORCEMENT	033049.0		232	8181	1		
131	3	A		2	TAX ENFORCEMENT	055049.0		169	1782	1		
132	3	A		2	TAX ENFORCEMENT	052049.0		167	4601	1		
133	3	A		2	TAX ENFORCEMENT	033047.0		160.1135	3366	1		
134	3	A		2	POLICE OFFICER	055051.0		124	6349	1		
135	3	C		2	POLICE OFFICER	052048.0		107	1770	1		
136	3	C		2	POLICE OFFICER	055047.0		106	3202	1		
137	3	C		2	POLICE OFFICER	055048.0		105	1577	1		
138	3	C		2	POLICE OFFICER	052046.0		100	5668	1		
139	3	C		2	POLICE OFFICER	055046.0		93	4843	1		

140	3	D		2	POLICE OFFICER	052051.0		93	3525	1		
141	3	D		2	POLICE OFFICER	055050.0		87	7582	1		
142	3	D		2	POLICE OFFICER	042044.0		67.9937	3416	1	Y	1
143	3	E		2	POLICE OFFICER	042043.0		65	9116	1	Y	1
144	3	E		2	POLICE OFFICER	042045.0		64.82	9570	1	Y	1
145	3	E		2	POLICE OFFICER	033054.0		53	208	1		
146	3	E		2	LIQUOR CONTROL	033046.0		48.5771	717	1		6
147	3	F		2	LIQUOR CONTROL	042048.0		47	8668	1	Y	5
148	3	F		2	LIQUOR CONTROL	042042.0		15	7912	1	Y	5
149	3	F		2	LIQUOR CONTROL	033050.0		12.0323	5278	4		
150	3	F		2	LIQUOR CONTROL	033048.0		11.5386	9679	4		
151	3	B		2	LIQUOR CONTROL	033051.0		11.3785	9324	4		
152	3	B		2	LIQUOR CONTROL	052050.0		0		1		
153	3	B		2	LIQUOR CONTROL	033055.0		0		1		
154	3	B		2	LIQUOR CONTROL	033056.0		0		1		
155	3	H		2	LIQUOR CONTROL	033057.0		0		1		
156	3	H		2	LIQUOR CONTROL	033058.0		0		1		
157	3	H		2	LIQUOR CONTROL	033052.0		0		4		
158	3	A		2	LIQUOR CONTROL	042089.1		649	5756	1	Y	1
159	3	A		2	PARK OFFICER	055086.0		169	6385	1		
160	3	B		2	PARK OFFICER	042088.0		94	8053	1	Y	1
161	3	B		2	PARK OFFICER	033095.0		63	6058	1		6
162	3	B		2	PARK OFFICER	033094.0		0		1		
163	3	F		2	PARK OFFICER	042151.0		637	4698	1	Y	1
164	3	F		2	PARK OFFICER	033151.0		560	1432	1		
165	3	F		2	PARK OFFICER	052152.0		504	5241	1		
166	3	F		2	PARK OFFICER	033150.0		326	6487	1		2
167	3	G		2	PARK OFFICER	052150.0		303	1017	1		
168	3	G		2	PARK OFFICER	042150.0		213	8058	1	Y	3
169	3	G		2	PARK OFFICER	055153.0		175	1455	1		
170	3	G		2	PARK OFFICER	055151.0		173	1365	1		
171	3	H		2	PARK OFFICER	055152.0		172	1962	1		
172	3	H		2	PARK OFFICER	052151.0		153.4162	4574	1		
173	3	H		2	PARK OFFICER	055150.0		94	968	1		
174	3	H		2	PARK OFFICER	052155.0		280	467	1		
175	3	H		2	PARK OFFICER	052156.0		225.2893	5590	1		
176	3	H		2	PARK OFFICER	052157.0		173.5	3516	1		
177	3	H		2	PARK OFFICER	033156.0		150	636	1		
178	3	H		2	PARK OFFICER	055155.0		142.1317	7423	1		
179	3	E		2	PARK OFFICER	052158.0		81.899	389	1		
180	3	E		2	PARK OFFICER	033160.0		62	8948	1		
181	3	E		2	PARK OFFICER	042153.0		15	5388	1	Y	1
182	3	E		2	PARK OFFICER	055156.0		0		1		
183	3	E		2	PARK OFFICER	033155.0		0		1		
184	3	E		2	PARK OFFICER	033157.0		0		1		
185	3	E		2	PARK OFFICER	033159.0		0		1		
186	3	E		2	ARMORER	042205.0		316	5847	1	Y	5

187	3	E		2	ARMORER	033212.0		0		1		
188	3	C		2	ARMORER	042160.0		17	4877	1	Y	
189	3	C		2	ARMORER	055241.0		188	7745	1	Y	2
190	3	C		2	ARMORER	055242.0		169	1953	1	Y	2
191	3	C		2	ARMORER	055278.0		180	8103	1	Y	6
192	3	C		2	ARMORER	052302.0		90	6564	1	Y	6
193	3	C		2	ARMORER	042786.0		577	5304	1	Y	1
194	3	C		2	ARMORER	042787.0		570	5868	1	Y	1
195	3	D		2	ARMORER	042810.0		461	337	1	Y	1
196	3	D		2	ARMORER	042755.0		435	4287	1	Y	1
197	3	D		2	POLICE OFFICER	042770.0		401	1824	1	Y	1
198	3	D		2	POLICE OFFICER	042750.0		388	7432	1	Y	1
199	3	F		2	POLICE OFFICER	042794.0		349	348	1	Y	1
200	3	F		2	POLICE OFFICER	042783.0		347	8739	1	Y	1
201	3	F		2	POLICE OFFICER	042785.0		323.8121	7896	1	Y	1
202	3	F		2	POLICE OFFICER	042761.0		311	1255	1	Y	1
203	3	G		2	POLICE OFFICER	042763.0		309	2419	1	Y	1
204	3	G		2	POLICE OFFICER	042759.0		305	9977	1	Y	
205	3	G		2	POLICE OFFICER	042753.0		296	9719	1	Y	1
206	3	H		2	POLICE OFFICER	042784.0		295	9873	1	Y	1
207	3	H		2	POLICE OFFICER	042757.0		291	4568	1	Y	1
208	3	H		2	POLICE OFFICER	042779.0		287	8331	1	Y	1
209	3	H		2	POLICE OFFICER	042762.0		287	3471	1	Y	1
210	3	A		2	POLICE OFFICER	042745.0		278	1780	1	Y	1
211	3	A		2	POLICE OFFICER	042815.0		260	3672	1	Y	1
212	3	A		2	POLICE OFFICER	042765.0		242	5555	1	Y	1
213	3	A		2	POLICE OFFICER	042758.0		234	7892	1	Y	1
214	3	A		2	POLICE OFFICER	042805.0		206	5161	1	Y	1
215	3	A		2	POLICE OFFICER	042781.0		204	8025	1	Y	1
216	3	A		2	POLICE OFFICER	042803.0		195	5701	1	Y	1
217	3	A		2	POLICE OFFICER	042797.0		193	6504	1	Y	1
218	3	A		2	POLICE OFFICER	042776.0		189	4496	1	Y	1
219	3	A		2	POLICE OFFICER	042752.0		189	4363	1	Y	1
220	3	A		2	POLICE OFFICER	042756.0		174	6830	1	Y	1
221	3	A		2	POLICE OFFICER	042764.0		174	1899	1	Y	1
222	3	A		2	POLICE OFFICER	042749.0		162	1317	1	Y	1
223	3	A		2	POLICE OFFICER	042767.0		160	7442	1	Y	1
224	3	A		2	POLICE OFFICER	042741.0		134	5090	1	Y	1
225	3	A		2	POLICE OFFICER	042793.0		126	9971	1	Y	1
226	3	A		2	POLICE OFFICER	042811.0		126	2127	1	Y	1
227	3	A		2	POLICE OFFICER	042802.0		122	6346	1	Y	1
228	3	A		2	POLICE OFFICER	042796.0		117	2514	1	Y	1
229	3	A		2	POLICE OFFICER	042789.0		115	8381	1	Y	1
230	3	A		2	POLICE OFFICER	042801.0		102	9587	1	Y	1
231	3	A		2	POLICE OFFICER	042743.0		98	7153	1	Y	1
232	3	A		2	POLICE OFFICER	042772.0		90	9603	1	Y	1
233	3	A		2	POLICE OFFICER	042760.0		69	7166	1	Y	

234	3	B		2	PARK OFFICER	050727.0		65	9486	1		
235	3	C		2	PARK OFFICER	033876.0		63	5044	1		
236	3	D		2	PARK OFFICER	055806.0		63	4676	1		
237	3	D		2	PARK OFFICER	055808.0		63	795	1		
238	3	E		2	PARK OFFICER	033854.0		62	8330	1		
239	3	A		2	PARK OFFICER	042788.0		61	5224	1	Y	1
240	3	C		2	PARK OFFICER	033752.0		57	9739	1		
241	3	C		2	PARK OFFICER	033838.0		57	9534	1		
242	3	C		2	PARK OFFICER	033795.0		57	7403	1		
243	3	C		2	PARK OFFICER	033836.0		57	2790	1		
244	3	C		2	PARK OFFICER	033750.0		57	721	1		
245	3	C		2	PARK OFFICER	033849.0		54	4138	1		
246	3	C		2	PARK OFFICER	033819.0		54	2353	1		
247	3	C		2	PARK OFFICER	033868.0		53	7747	1		
248	3	D		2	PARK OFFICER	055779.0		53	6495	1		
249	3	D		2	PARK OFFICER	042778.0		53	871	1	Y	1
250	3	D		2	PARK OFFICER	052778.0		51	9102	1		
251	3	D		2	PARK OFFICER	052776.0		51	1336	1		
252	3	G		2	PARK OFFICER	055776.0		50	1183	1		
253	3	A		2	PARK OFFICER	042800.0		47	9137	1	Y	
254	3	A		2	PARK OFFICER	042804.0		47	3689	1	Y	5
255	3	A		2	PARK OFFICER	042754.0		47	2960	1	Y	1
256	3	H		2	PARK OFFICER	052763.0		45	9190	1		
257	3	H		2	PARK OFFICER	052807.0		45	4813	1		
258	3	H		2	PARK OFFICER	033778.0	44.2007		3756	1		4
259	3	H		2	PARK OFFICER	052757.0		43	5037	1		
260	3	B		2	PARK OFFICER	052758.0		43	4032	1		
261	3	B		2	PARK OFFICER	055827.0		42	8035	1		
262	3	B		2	PARK OFFICER	055823.0		42	6477	1		
263	3	B		2	PARK OFFICER	052812.0		42	6443	1		
264	3	B		2	PARK OFFICER	055825.0		42	5897	1		
265	3	B		2	PARK OFFICER	055826.0		42	4437	1		
266	3	D		2	PARK OFFICER	052764.0		42	4342	1		
267	3	A		2	PARK OFFICER	042751.0		42	3395	1	Y	5
268	3	B		2	PARK OFFICER	055824.0		42	2782	1		
269	3	C		2	PARK OFFICER	052793.0		42	1496	1		
270	3	B		2	PARK OFFICER	055829.0		41	9979	1		
271	3	C		2	PARK OFFICER	055830.0		41	8989	1		
272	3	C		2	PARK OFFICER	052771.0		41	8955	1		
273	3	C		2	PARK OFFICER	055832.0		41	7249	1		
274	3	D		2	PARK OFFICER	055828.0		41	5001	1		
275	3	D		2	PARK OFFICER	052805.0		39	5774	1		
276	3	G		2	PARK OFFICER	055831.0		38	3821	1		
277	3	H		2	PARK OFFICER	052769.0		37	7543	1		
278	3	H		2	PARK OFFICER	055801.0		36	9863	1		
279	3	H		2	PARK OFFICER	055774.0		36	9768	1		
280	3	A		2	PARK OFFICER	042747.0		36	5125	1	Y	5

281	3	B		2	PARK OFFICER	050726.0		35	2900	1		4
282	3	B		2	PARK OFFICER	042775.0		33	7265	1	Y	1
283	3	H		2	WILDLIFE OFFICER	033820.0		29	3083	1		6
284	3	H		2	WILDLIFE OFFICER	052761.0		27	5944	1		
285	3	H		2	WILDLIFE OFFICER	052754.0		27	462	1		
286	3	B		2	WILDLIFE OFFICER	033759.0		24	7495	1		6
287	3	B		2	WILDLIFE OFFICER	033827.0		24	4985	1		6
288	3	A		2	WILDLIFE OFFICER	042809.0		24	2085	1	Y	5
289	3	C		2	WILDLIFE OFFICER	052770.0		21	6798	1		
290	3	C		2	WILDLIFE OFFICER	052772.0		20	7004	1		
291	3	F		2	WILDLIFE OFFICER	033840.0		19	9521	1		6
292	3	F		2	WILDLIFE OFFICER	042746.0		19	8209	1	Y	5
293	3	F		2	WILDLIFE OFFICER	033755.0		19	6969	1		4
294	3	F		2	WILDLIFE OFFICER	052774.0		18	1255	1		
295	3	G		2	WILDLIFE OFFICER	042780.0		17	9885	1	Y	1
296	3	G		2	WILDLIFE OFFICER	055784.0		17	8077	1		
297	3	H		2	WILDLIFE OFFICER	055785.0		16	5725	1		
298	3	B		2	WILDLIFE OFFICER	033845.0		16	5057	1		6
299	3	B		2	WILDLIFE OFFICER	033835.0		15	7456	1		6
300	3	A		2	WILDLIFE OFFICER	055812.0		15	7043	1		
301	3	A		2	WILDLIFE OFFICER	033848.0		15	6813	1		
302	3	A		2	WILDLIFE OFFICER	055762.0		15	2682	1		6
303	3	A		2	WILDLIFE OFFICER	052751.0		10	3604	1		6
304	3	A		2	WILDLIFE OFFICER	052803.0		0		1		
305	3	D		2	WILDLIFE OFFICER	050729.0		0		1		
306	3	D		2	WILDLIFE OFFICER	050737.0		0		1		
307	3	D		2	WILDLIFE OFFICER	033743.0		0		1		
308	3	D		2	WILDLIFE OFFICER	033744.0		0		1		
309	3	G		2	WILDLIFE OFFICER	033745.0		0		1		
310	3	G		2	WILDLIFE OFFICER	033746.0		0		1		
311	3	G		2	WILDLIFE OFFICER	033749.0		0		1		
312	3	G		2	WILDLIFE OFFICER	033754.0		0		1		
313	3	H		2	WILDLIFE OFFICER	033761.0		0		1		
314	3	H		2	WILDLIFE OFFICER	033766.0		0		1		
315	3	H		2	WILDLIFE OFFICER	033767.0		0		1		
316	3	H		2	WILDLIFE OFFICER	033772.0		0		1		
317	3	F		2	WILDLIFE OFFICER	033785.0		0		1		
318	3	F		2	WILDLIFE OFFICER	033790.0		0		1		
319	3	F		2	WILDLIFE OFFICER	033791.0		0		1		
320	3	B		2	WILDLIFE OFFICER	033796.0		0		1		
321	3	B		2	WILDLIFE OFFICER	033801.0		0		1		
322	3	B		2	WILDLIFE OFFICER	033817.0		0		1		
323	3	A		2	WILDLIFE OFFICER	033834.0		0		1		
324	3	A		2	WILDLIFE OFFICER	033842.0		0		1		
325	3	A		2	WILDLIFE OFFICER	033857.0		0		1		
326	3	A		2	WILDLIFE OFFICER	033859.0		0		1		
327	3	B		2	WILDLIFE OFFICER	033873.0		0		1		

328	3	B		2	WILDLIFE OFFICER	033883.0		0		1		
329	3	B		2	WILDLIFE OFFICER	033884.0		0		1		
330	3	D		2	WILDLIFE OFFICER	033885.0		0		1		
331	3	D		2	WILDLIFE OFFICER	033900.0		0		1		
332	3	D		2	WILDLIFE OFFICER	033901.0		0		1		
333	3	F		2	WILDLIFE OFFICER	033902.0		0		1		
334	3	F		2	WILDLIFE OFFICER	033903.0		0		1		
335	3	F		2	WILDLIFE OFFICER	033904.0		0		1		
336	3	F		2	WILDLIFE OFFICER	033905.0		0		1		
337	3	F		2	WILDLIFE OFFICER	033754.0		0		1		

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME

HOME OR WORK ADDRESS

CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

This letter is to confirm your wish to exercise your right to take a voluntary layoff in accordance with Article 35 of the FOP contract. The effective day of the layoff is **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same, similar, or related classification series in the applicable offices, institutions and counties within the recall jurisdiction as defined in Appendix C of the collective bargaining agreement for a period of twenty-four (24) months, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain re-employment rights to your original classification to other institutions and agencies within the jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the offices, institutions and counties for recall and the counties for re-employment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **DIRECTOR OF PERSONNEL/LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the FOP contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION/OFFICE** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

FOP ARBITRATION AWARDS

Arbitration Award: # 534
Agency: Mental Health
Arbitrator: Harry Graham
Decision date: December 21, 1990

The Union alleged that the bargaining unit had been eroded at Athens Mental Health when it did not fill two (2) positions from which the incumbents retired. Management maintained the grievance was not arbitrable, as it was filed untimely, and further on the merits, the agency had neither eroded the bargaining unit nor determined to fill the vacant positions. The Arbitrator determined the grievance was continuous in nature, and was therefore timely filed and arbitrable. Further, he found that the bargaining unit had been eroded as there were supervisors working there with no one to supervise, as well as two (2) intermittent employees, all of whom were performing bargaining unit work. A motion to vacate this awards pending. (3/91)

Arbitration Award: # 862
Agency: Mental Health
Arbitrator: Harry Graham
Decision date: April 13, 1993

The grievance was DENIED. The issue was whether Article 35 was violated when the grievant's position as a Police Officer was abolished due to reasons of economy.

The Union contends that the State bears the burden of proving that the abolishment was both necessary and properly performed. The reason of economy cannot be supported. The funds for Oakwood are combined with those of the Psychiatric Services Department; a transfer of funds between the two (2) is possible. The Chief Financial Officer testified that the facility had sufficient funds to retain the position. The decline in patient population occurred prior to the grievant being hired. There has not been a permanent deletion of the grievant's position; his tasks are being performed by others. His position has not been abolished.

The Employer asserted the grievant's position was abolished for reasons of economy. "Economy" is a broad-based concept, which includes the efficient use of resources. Corrections Officers from LCI easily perform the grievant's tasks. The position descriptions of Police Officer and Correction Officer overlap. The difference being that the Police Officer has arrest power, but has never been called upon to use these arrest powers at Oakwood. The security system at Oakwood minimized the need for patrol function. The burden is on the Union to prove the State violated section 7.03, erosion of the bargaining unit.

Arbitrator Graham determined that one of the tests to support a job abolishment is "lack of need for the position" under ORC Section 124.321. It was the judgement of the responsible officials

at Oakwood that they could ensure the security of the institution without the position occupied by the grievant. It is unnecessary to resolve the conflicting testimony regarding the funding; both parties showed that there was a necessity for the Employer to economize. Article 7 was not violated. Grievant's principal job duties concerned patrol. Correction Officers at the adjacent facility are bargaining unit members from a different Union and have routinely patrolled the joint perimeter; the amount of patrol work performed by these Officers has not increased since the abolishment. Their position descriptions duplicate the grievant's. The power of arrest that differentiated the grievant's position has never been used. Supervisors are not performing bargaining unit work formerly performed by grievant.

Arbitration Award: # 1017
Agency: Mental Health
Arbitrator: Harry Graham
Decision date: December 9, 1994

In the Spring of 1993, Athens Mental Health Center Facility was closed and the patients and staff were transferred to a newly constructed facility, the Southeast Psychiatric Hospital. Southeast is a smaller, more modern facility and is fitted with electronic security devices. Prior to the construction of Southeast, the inpatient population at Athens declined by around fifty (50) percent. Many of these patients were removed, in accordance with the Mental Health Act of 1988, from the institution and remanded to the community for assistance. In the early part of 1994, three (3) Police Officers were laid off and their positions were subsequently abolished.

The employer argued that there was a lack of continued need for the Police Officer positions. Under Article 35 of the Contract, which incorporates ORC Section 124.321 (D), the layoff was for reasons of efficiency. With the decline in patient population and the advent of electronic monitoring, it would be inefficient to continue having a Police Department. The minimal safety related tasks that were previously performed by the Police Officers are now performed by the newly created position of Safety and Health Officer (Safety Officer). Before and after the layoff any incidents would be reported to the Highway Patrol; the Police Officers conducted very few investigations over the years.

The union contended that the Employer intended to subvert the bargaining unit. The overlapping duties of the Police Officers and the newly created Safety Position was not accidental. The Employer cannot show that the workload of the Police Officers declined. In fact, the duties of a Police Officer continue to be performed by both supervisory and bargaining unit employees.

The Arbitrator ruled that as in past arbitration decisions the burden is on the Employer to prove a lack of continued need for a position. A position may be abolished for reasons of economy or lack of work. One (1) way an Employer may meet this burden is to show a comparison between the current work levels and work levels when a lack of work did not exist. Although it may appear intuitively that with patient decline and modern technology the abolishment is justified, this is not enough. The Union introduces a monthly compilation of incident reports that show there has been no decline in the amount of work being performed by the Police Officers.

The Arbitrator also found that the Employer's distinction between the Police Officer and Safety Officer could not be supported by the evidence. The Employer, in the Arbitrator's opinion, simply transferred job duties from one (1) position to another. The transfer of job duties is evidence that there is not a "continued lack of need for the position.'

The grievances were sustained in their entirety. The Employer argued that one (1) grievant that was not present at the arbitration is no longer a party and should not be entitled to a remedy. The Arbitrator stated that the Union is the representative of the grievants and all are entitled to a remedy, regardless of whether or not they are physically present. The grievants will receive all back pay including an y shift differential, plus one hundred (100) percent of all medical expenses that would have otherwise have been paid by health insurance.

Arbitration Award: # 1192
Agency: Mental Retardation/Developmental Disabilities
Arbitrator: Harry Graham
Decision date: March 17, 1997

The grievant was injured on the job while employed as a Security Guard at the Warrensville Heights Facility. Due to his injury, the grievant was absent from work from April of 1988 to September of 1994. The grievant received temporary total disability from the State of Ohio through the Bureau of Workers Compensation during this period of absence. Evidence further revealed that throughout his absence, the grievant had taken three (3) tests for other Police Officer positions throughout central and northern Ohio. These positions were all full time and full duty positions, all during the time the grievant was receiving disability payments. In March of 1989, the grievant's position was taken by a more senior bid and the grievant has had no job since that time. The grievant has already grieved his job abolishment and the matter was settled. Thus, when the grievant returned to work in 1994, he was advised by the Human Resources Department that he had been laid off.

The main issue of the case was determining what recall rights the grievant had and whether the grievant had a contractual right to file this grievance. Under the terms of the 1986 Agreement, the grievant had recall rights for twelve (12) months. If the 1992-1994 Agreement was appropriate, the grievant had recall rights for eighteen (18) months. And if the 1994-1997 Agreement was followed, the grievant had recall rights for twenty-four (24) months. The Arbitrator believed that the appropriate recall provision for this grievant was twelve (12) months. The Arbitrator felt it was apparent that the twelve (12) months ran pursuant to the terms of the 1986 Agreement. During his disability period, the grievant was not able to work and turned down an opportunity to work in September of 1989. The Arbitrator held that the grievant could not work, and if he could not work, he could not win this case because the recall benefits were exhausted. Therefore, the grievance was denied.

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OSTA CHECKLIST:

The following is a chronological checklist setting forth the steps required to implement a layoff of OSTA employees. Please note that this checklist is to be utilized as a quick reference guide and is not intended to be an exclusive representation of the information needed to successfully carry out a reduction in force. Please refer to the “Detailed Overview” section of this manual, immediately following this checklist, and associated exhibits and appendices for further guidance. If you have any questions, please contact your Human Resources Analyst at the Department of Administrative Services.

_____ Send notice of a **Proposed Intent to Layoff** to DAS and OBM

- ✓ **See section II of Detailed Overview**
- ✓ **See sample OSTA - 1**

_____ **Early Retirement Incentive Plan**

- ✓ Is an ERI Plan mandatory?
- ✓ **See section III of Detailed Overview**
- ✓ **See Appendices B & C**
- ✓ *See Ohio Revised Code § 145.297*

_____ Prepare **Supporting Documentation**

- 1) Objectives of Agency
 - 2) Number of Employees Affected
 - 3) Affected Positions
 - 4) Cost Savings
 - 5) Reason for Layoff (Rationale)
 - a) Lack of Funds
 - b) Lack of Work
 - Verification of retention points shall not be completed prior to determination that a lack of work or lack of funds exist. *See OAC 123:1-41-02*
 - c) Abolishment of Position(s) Due to Reorganization
 - Lack of Work
 - Efficiency
 - Economy
- ✓ **See section IV of Detailed Overview**
 - ✓ **See OSTA - 2 for sample supporting documentation**

_____ Prepare proposed **Layoff List**

- 1) Determine classifications to be affected
- 2) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability and classifications into which employees may displace.

- ✓ **See OSTA - 1a for a sample request for a layoff roster**
- ✓ **See OAC 123:1-41-06 for a list of similar classes**
- 3) Agency must account for all employees currently on disability in affected classifications. Make sure to check for automatic certifications and pending job audits in affected classifications. **This could change the order of displacement for employees in the affected classifications. See OAC 123:1-41-21—The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended.**
- 4) Determine retention points of each employee
 - ✓ **See OAC 123:1-41-08 and 09**
 - ✓ Contact State Services for a disk with retention point calculator
- 5) Prepare layoff list by following order set forth in **revised OAC 123:1-41-07(D)**
 - ✓ **See section V of Detailed Overview**

Develop **Individual Position Rationales**

- ✓ **See section VI of Detailed Overview**
- ✓ **See sample OSTA - 3 and OSTA - 3a**

Submit draft rationale to OCB for review and revisions with the following documents:

- ✓ General rationale
- ✓ Individual position rationales
- ✓ Intended date of layoff
- ✓ Table of organization both before and after reduction
- ✓ **See section VII of Detailed Overview**

Upon approval of the rationale from OCB, submit the final rationale with individual position rationales to DAS/HRD

- 1) Date employees will be notified of layoff
- 2) Effective date of layoff
- 3) Rationale Statement with all supporting documentation as stated above
- 4) List of employee's computed retention points
 - ✓ If different from the DAS printout, the employee must provide supporting documentation
- 5) Notice of available vacancies
 - ✓ The agency must wait for DAS to verify any retention points for exempt employees.
 - ✓ **See OSTA - 4 for sample notice of available vacancies**
- 6) **General considerations:**
 - ✓ If the layoff involves abolishment of exempt positions, the agency must wait for DAS to verify any retention points for exempt employees, but may proceed with the union layoff process
 - ✓ The agency may not want to conduct any bumping of OSTA personnel until all exempt bumping has been completed. It is considered most efficient to allow the exempt employees who may ultimately have

rights to previously held OSTA classifications to be included in the bumping process.

- ✓ The agency can usually work on several issues while the exempt layoff is being conducted (e.g. meeting with the union if requested, posting and/or verification of seniority of affected OSTA employees and/or preparing notification and ADM-4138 letters to be impacted OSTA employees).
- ✓ **See section VIII of the Detailed Overview**

Notify Union

- ✓ Of targeted classifications/positions in writing no later than when the agency submits its official rationale to DAS
- ✓ **See section IX of the Detailed Overview**

If the agency allows challenges to seniority credits, post seniority list with a period of time to challenge. *Note that this is not a contractual requirement nor a right of the employee.*

- ✓ **See section X of the Detailed Overview**

If requested, schedule a meeting with OSTA to discuss rationale prior to distributing notification paperwork.

- ✓ Agency should try to have any revisions to seniority prepared to discuss at the meeting if the agency allowed challenges.
- ✓ **See section XI of the Detailed Overview**

Provide Notice and Opportunity to Exercise Displacement Rights

- 1) Abolishment Letter to affected Employees pursuant to *OAC 123:1-41-10*
 - 2) ADM-4138 must be included in notice: The Employer must list all counties available for recall (*See Appendix A for Unit 15 counties and Appendix B for Unit 1 counties*), and the Employer must list all counties in the layoff jurisdiction. *See OAC 123:1-41-13 for reemployment opportunities*
- ✓ Notify 14 calendar days prior to layoff if hand-delivered
 - ✓ Notify 17 calendar days prior to layoff if sent by certified mail
 - ✓ List of all potentially affected employees, including retention points, should also be posted in a conspicuous place. *See OAC 123:-41-20*
 - ✓ **See section XII of Detailed Overview**
 - ✓ **See OSTA - 5 for sample abolishment letter**
 - ✓ **See OSTA - 12 for sample ADM-4138**
 - ✓ Employees have five (5) days to respond
 - ✓ List all potentially affected employees including seniority credits and post in a conspicuous place pursuant to *OAC 123:1-41-20*

Conduct Layoff/Displacement of Employees

- ✓ Follow displacement Procedures in Section 35.03 of the CBA
- ✓ **See section XIII of the Detailed Overview**
- ✓ **See OSTA - 15 for a sample bumping form**

- **NOTE:** If layoffs will impact both exempt and bargaining unit positions, it is most efficient to conduct all exempt bumping before bargaining unit bumping to ensure that all exempt persons with fallback rights are included in the union bumping process.

_____ Send applicable letters to employees. **See section XIV of the Detailed Overview**

- 1) **Layoff Letter** with notice of conversion of leave and COBRA to employees who chose NOT to bump, and will be laid off. (See OSTA - 7, 13 and 14)

***NOTE: The Code does not allow for a “voluntary” layoff—OSTA employees who volunteer for a layoff do not have recall rights or a right to unemployment.**

- 2) **Layoff Letter** with notice of conversion of leave and COBRA to employees who chose to bump, but have **no bumping options** and will be laid off. (See OSTA - 8, 13 and 14)

- 3) **Reassignment Letter** to employees displaced from and moved to a new Position Control Number (PCN) (See OSTA - 9)

_____ Repeat process starting with “provide notice and opportunity to exercise displacement rights” to next set of employees who were displaced. See prior page.

- ✓ Send Displacement Letter (See OSTA - 10)
- ✓ Send ADM-4138 (See OSTA - 11)
- ✓ **See section XV of the Detailed Overview**

_____ Prepare and Send **Personnel Action** form, together with the recall list, (ADM-4100) to DAS 7 calendar days prior to layoff effective date

- ✓ Include ADM-4138, submitted by employees, indicating acceptable counties for recall as well as any same or similar classifications for recall
- ✓ Attachments showing changes which will result from layoff
- ✓ Copies of letters notifying employees of layoff
- ✓ Explanation of whether employees had displacement rights and whether or not they were exercised (*See OAC 123:1-41-08(G) and (H)*)
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification
- ✓ **See section XVI of the Detailed Overview**

_____ In addition to submitting the employee’s ADM-4138 to DAS, the agency must compile recall list and submit to DAS Certification seven (7) days prior to layoff

- ✓ **See section XVII of Detailed Overview**
- ✓ **See OSTA - 15 for a sample reinstatement list**
- ✓ Unit 1 employees have recall rights for twenty-four (24) months

- ✓ Unit 15 employees have recall rights for thirty-six (36) months
- ✓ Unit 1 and 15 employees have reemployment rights for twelve (12) months
- ✓ **See Appendix A of Unit 1 for a list of similar classes**

OSTA DETAILED OVERVIEW

I. SUMMARY

Article 35, in each of the two OSTA collective bargaining agreements (CBAs), governs a reduction in force of The Ohio State Troopers Association (OSTA). The agreements state that layoffs are made pursuant to Ohio Revised Code (ORC) 124.321 et seq. and Ohio Administrative Code (OAC) 123:1-41 et seq., except as modified by the agreement.

Therefore, an OSTA layoff is very similar to a layoff of exempt employees, except that retention points are not used. If contemplating a layoff of OSTA employees, please review the applicable sections of the Revised Code, the Administrative Code, and Article 35 of the CBAs, which are provided in this manual. There are some differences in the rights and/or procedures that apply to the OSTA bargaining units. Those differences are as follows:

- (1) Different bumping and displacement rights and layoff jurisdictions
- (2) Layoff jurisdictions (Appendix A in Unit 15 and Appendix B in Unit 1)
- (3) List of same and similar classifications (Appendix A in Unit 1)
- (4) Recall rights (24 months for Unit 1 employees and 36 months for Unit 15 employees)
- (5) OSTA layoffs are very rare, and as a result, there is little experience and/or law governing the process. Thus, the procedures set forth in this manual should serve as a general guideline.

This manual is structured to provide a step-by-step approach to guide you through the detailed and complicated layoff process. Layoffs are time consuming and can be difficult to implement. You are encouraged to contact your Labor Relations Specialist at the Office of Collective Bargaining throughout the process for assistance. *[See Appendix A for a list of OCB contacts].*

II. NOTICE OF PROPOSED INTENT TO LAYOFF

Notice of Proposed Intent to Layoff is not referenced in the contract or code as a required step in the layoff process. *However*, it is established practice that the agency shall put Department of Administrative Services (DAS), the Office of Collective Bargaining (OCB), and the Office of Budget and Management (OBM) on notice of their intent to layoff.

[See OSTA - 1 for a sample notice form]

Helpful Tips:

- The Notice of Intent should be submitted at least seven (7) days prior to the submission of the final rationale
- The Notice of Intent should be a one-page summary of the expected number of positions to be abolished and the approximate number of people who may be ultimately displaced
- This document can be submitted while the agency is drafting and/or revising the detailed rationale for the layoff

Please contact your LRS at OCB if you have any questions.

III. EARLY RETIREMENT INCENTIVE PLAN

An Early Retirement Incentive Plan (“ERIP”) allows the employer to purchase additional service credit for employees, which enables employees to retire early or retire with a larger retirement benefit than they may have otherwise been entitled. [See **ORC § 145.297**]

★ **NOTE:** Early Retirement Incentive Plan is *mandatory* if agency proposes to close a state institution or to lay off, within a six-month period, a number of persons employed that equals or exceeds the lesser of 350 employees or 40 percent of the employees of the employing unit. [See **ORC § 145.298**]

Basics:

- Form F-111b, and the ERIP must be submitted to PERS
- Form F-111b, the ERIP, and a cost analysis of the ERIP must be submitted to OBM
- OBM will not approve the affordability of a ERIP unless the agency’s cost analysis clearly demonstrates that the agency has budgeted for the ERIP from available funds
- This process will take a minimum of 67 days to complete. The agency should work on drafting the rationale and calculating seniority credits during this time period

[See Appendices B and C for specific details, procedures, and materials to assist you in preparing such a ERIP]

★ **NOTE:** if the proposed layoff is for a lack of funds, and therefore a certification of lack of funds from OBM is necessary, the Early Retirement Plan must be adopted prior to the certification.

Please contact the appropriate LRS at OCB if you are planning to offer an ERIP so that you may be assisted with notifying the Union. Note that the decision in *State Employment Relations*

Board v. Youngstown City School District Board of Education, 93-ULP-01-0095, held that impact bargaining may be necessary prior to establishment of an early retirement incentive plan.

IV. SUPPORTING DOCUMENTATION

Appointing authorities are *required* to file with the director of DAS documentation that justifies a reduction in force. This documentation is often referred to as the “Rationale” for the layoff. This “rationale” consists of both a general rationale and individual rationales for each position identified for layoff.

GENERAL RATIONALE:

The documentation should include:

- Objectives of the agency
- The number of employees affected
- The affected positions
- The cost savings, if any
- The reason for the layoff

[See OSTA - 2 for a sample rationale letter]

★ **NOTE:** It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff. Draft copies of the rationale should be submitted to OCB for review and suggestions. Thus, suggestions and changes may be made prior to the formal announcement. **Remember** that these documents are subject to public records and should be carefully considered.

The reasons for a reduction in force are limited to those specifically allowed by law. Employees may be laid off whenever a reduction in force is necessary for any of the following **three** reasons:

- 1) Lack of funds
- 2) Lack of work
- 3) Abolishment of positions due to reorganization
 - a) Lack of work
 - b) Efficiency
 - c) Economy

★ **NOTE:** The state must demonstrate by a **preponderance** of the evidence that a job abolishment was undertaken for one of the above reasons.

[See OAC 123:1-41-01 and ORC 124.321]

The documentation required by the OAC to support the layoff depends upon which of these three reasons is being used.

A. LACK OF FUNDS

A lack of funds means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn. *[See ORC § 124.321(B) and OAC § 123: 1-41-02]*

The director of OBM is responsible for determining whether a lack of funds exists. Therefore, **certification by OBM is required**. Agencies should contact OBM for assistance in completing the appropriate financial analysis. *See Appendix D for additional information and OBM memo.*

▲ **Remember**, if your agency is required to adopt an Early Retirement Incentive Plan, it must be adopted prior to obtaining the certification for lack of funds

★ **NOTE:** If your agency has determined that the underlying reason for the reduction in workforce is for a lack of funds, it is important to realize that this is a time-consuming process requiring certification from OBM. This type of reduction will dictate a layoff by classification and by appointment category. As a result, the agency's discretion in determining specific positions to be eliminated is much more limited under a certification of lack of funds

If your agency is contemplating a layoff for lack of funds, please contact your LRS and OBM Analyst immediately.

B. LACK OF WORK

A lack of work, for purposes of layoff, means an appointing authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels. The determination of a lack of work shall indicate the current or projected decrease in the workload of an appointing authority and whether the current or projected staffing levels of the appointing authority will be excessive. *[See ORC § 124.321(C) and § OAC 123:1-41-02]*

The director of DAS shall determine if a lack of work exists. The agency is required to submit the following:

- Request for determination of lack of work
- Adequate information to establish that a lack of work exists, which may include:
 - ✓ Comparison between current work levels and work levels when a lack of work did not exist
 - ✓ Statistical data and additional supporting materials
 - ✓ Reasons for the elimination or diminution of duties
 - ✓ Allocation of any duties remaining after the layoff

★ **NOTE:** remaining duties should not be reassigned across bargaining units, across classifications, or across exempt/bargaining unit lines.

Please see the rules below that are applicable to abolishment of positions.

C. ABOLISHMENT OF POSITIONS

Often agencies are seeking a **permanent reduction** in their staffing level, but it does not rise to the level required to obtain a certification of lack of funds. As a result, the **abolishment of positions due to reorganization is the most commonly utilized** reason for layoffs.

Abolishment means the permanent deletion of a position or positions from the organization or structure of the appointing authority due to a lack of continued need for the position, as opposed to a general layoff by classification(s) due to a lack of funds or lack of work.

[See ORC § 124.321(D) and OAC 123:1-41-04]

Abolishment of specific positions, as opposed to a general layoff by classification(s) due to lack of funds or lack of work, may be done for any of the following **three** reasons:

- 1) As a result of a reorganization for the efficient operation of the agency; or
- 2) Reasons of economy; or
- 3) Lack of work

1) Efficiency of Operation

A statement of rationale to support a layoff for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reasons of economy should be utilized when the agency cannot point to efficiency gains, but can show that the elimination of positions results in other economic savings. Agencies must consider savings regarding salary, benefits, and other matters associated with the abolishment of the position. Reason of economy should be used if:

- a. The agency's operating budget is reduced by executive or legislative action (if this option is chosen, the abolishment must happen within one year of the announcement of the decreased funding). In this instance, the agency may consider only salary and benefits savings regarding affected positions.

OR

- b. A current or projected deficiency in funding is expected to make it difficult to maintain current service levels.

HOWEVER:

- The abolishment must be done in good faith
- If the funding is reduced for one specific program, then the abolishment must be from that program's staff
- If the funding reduction is not for a specific program, then the most appropriate position to abolish must be determined.

Examples: the rationale should include information such as studies relative to delivery of services, improvement in productivity, cost effectiveness of services, and a discussion of changes in organizational emphasis and goals.

2) Reasons of Economy

A statement of rationale to support an abolishment for greater economy should include detailed information of prior, current and projected budgets and financial factors.

Reasons of economy should be used when the agency cannot point to efficiency gains, but can show that the elimination of positions results in other economic savings. The savings of only salary and benefits are not sufficient to prove economy (except in rare circumstances outlined in ORC 124.321(D)(2)). For this reason, there must be additional savings to justify this reason, such as closing an office, where savings could include the elimination or reduction of rental costs, utilities, courier costs, etc. This should include detailed information of prior, current and projected budgets and financial factors.

When computing savings, ensure that all expenditures after layoff are included (*i.e.*, ERIP costs, unemployment costs, and moving and changing office equipment costs).

Examples: consolidation of offices requiring fewer positions, reduction of process requiring fewer positions (technological upgrades, simplification of procedures), and matching equipment/material needs to the workforce under a reduced budget.

Lack of Work

A lack of work may be due to legislative change or the elimination of services not required by an agency's enabling statute or mission or other changes in operation. A statement of rationale and supporting information are required.

Examples: elimination of a governmental function by legislation (liquor control), elimination of a regulatory function, and elimination of non-essential functions.

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated ORC 124.30(A) and 124.327(B) by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that “. . . the law is not required to give way to administrative convenience,” meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. *See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.*

Importance of supporting documentation:

- ❖ It is important to develop sound supporting documentation because the documents will be the basis for defending any challenge to the layoff.
- ❖ In an appeal, representatives of the agency will be challenged on the contents and validity of the statements of rationale and supporting documentation.
- ❖ Generally, decisions to lay off employees will be most defensible if expressed in understandable operational terms that explain the agency's organizational structure, mission and future goals, as projected. Layoffs for a valid business purpose may be successfully defended.
- ❖ It is important to focus on which duties are no longer necessary or justified, not upon an individual employee's attributes or faults. When these factors enter into the decision making process, the reduction in force becomes suspect.

V. PREPARE PROPOSED LAYOFF LIST

To prepare for the paper layoff, the agency needs to prepare a seniority list for the affected classifications for the entire geographic jurisdiction. Start with the seniority lists provided by DAS quarterly. If you need a special list, contact OCB for assistance.

The list should be shared with the Union well before the paper layoff. The procedure is as follows:

- 1) Determine the positions by classification to be affected and the pay range.
- 2) Determine the appropriate classification groupings. *[See Article 36 and Appendix A (Unit 1 only) of the CBA]*

- 3) Obtain DAS printout of all employees in the affected classifications including holdings classifications (30000), employees currently on disability, and classifications into which employees may displace.
 - ✓ *See OSTA - 1a for a sample request for a layoff roster and OAC 123:1-41-06 for a list of similar classes.*
- 4) The agency must account for all employees currently on disability in affected classifications. Make sure to check for automatic certifications and pending job audits in affected classifications. **This could change the order of displacement for employees in the affected classifications.** *See OAC 123:1-41-21—The effective date of the layoff or displacement for employees on sick leave, disability, or leave without pay, may not be extended.*
- 5) Determine retention points of each employee
 - ✓ *See OAC 123:1-41-08 and 09*
 - ✓ Contact State Services for a disk with retention point calculator
- 6) Prepare layoff list by following order set forth in **revised OAC 123:1-41-07(D)**.

If your abolishments include any exempt positions, the agency should immediately identify the employees filling the exempt positions and pull the employment history of those individuals to determine if they have held a bargaining unit position in the past three years which they may have bumping rights to.

VI. INDIVIDUAL POSITION RATIONALES

Once the agency has developed the general reason for the reduction, you must also determine the specific positions that will be abolished. The agency will need to develop an **individual rationale** for each position to be reduced. Each individual rationale should relate to the general rationale. Make sure the individual position rationale:

1. Specifies the PCN and then addresses the duties of that position. It is important to address all the duties performed by the position. (Refer to position description).
2. Specifically states which duties were never performed or are no longer performed
3. Specifies, **to the extent possible**, which PCN(s) will be assuming the remaining duties (of the duties that will remain) and ensure that this will not have a significant impact on the person(s) assuming the duties.

[See sample OSTA - 3 for a blank form and 3a for a sample]

★ **NOTE:** The agency should always verify that the classifications of the PCN(s) assuming the duties allow for the performance of the transferred duties

CAUTION:

Pitfalls to watch out for when developing your rationale are two-fold:

1. The **bad faith layoff**
2. The **transference of a substantial portion of the duties** of the eliminated position to another position.

★ **NOTE:** These two concepts prevent you from looking at individuals and require you to focus on duties.

1. **Bad faith layoff:** means the Employer cannot use the job abolishment as a pretext or strategy to get rid of an employee. Job abolishments will be disaffirmed if the preponderance of the evidence does not support the position to be abolished.
2. You may not **transfer the duties** of the abolished position to one individual, *unless it will not become a substantial portion of that position*. The theory behind this case law is that you may not take someone's duties and simply give them to another. If the duties must be performed and will become a substantial portion of another's job, then the job abolishment of that position may not be proper. The position, which you are transferring the duties to, may be the position that warrants elimination. As with any kind of consolidation of duties, the abolished position's duties may not become the substantial portion of another person's position.

Exception: may be found if the Employer has two full-time positions, which are only really performing the work of one full-time position. In that case, the Employer should abolish the PCN of the position with the less senior employee.

If the layoff includes both bargaining unit and exempt employees, the Employer should only eliminate bargaining unit positions and transfer the remaining duties to an exempt employee when the Employer can show that the exempt classification specification overlaps and therefore the duties do not purely belong to the unit. The Union is likely to challenge an elimination of a bargaining unit position that transfers duties to an exempt position.

Thus, if you eliminate a bargaining unit position that transfers duties to an exempt position, you should be able to show:

- (1) The work was not purely bargaining unit work
- (2) The assumption of those duties by the exempt employee does not make up a substantial portion of the exempt position

★ **NOTE:** Time spent percentages are helpful in defending your case.

VII. OCB REVIEW OF DRAFT COPY

A copy of all documents prepared to support the proposed layoff should be submitted to OCB for review and revisions prior to the intended date for notification of the Union and request for approval from DAS.

The information should include:

- ✓ The rationale statement and supporting documentation
- ✓ The rationale for each individual position
- ✓ Position Descriptions of all positions identified to be abolished
- ✓ The Table of Organization both before and after the layoff
- ✓ The date employees will be notified of the layoff
- ✓ The effective date of the layoff

VIII. DAS NOTIFICATION

Upon approval of the rationale from OCB, the agency should submit the final rationale with individual position rationales to DAS/HRD and to OSTA Central Office.

The agency must wait for DAS to verify any retention points for exempt employees, but may proceed with next steps in preparing for the layoff of affected OSTA members (e.g., posting and/or verifying seniority credits, meeting with the Union to discuss layoff, preparing ADM-4138).

If applicable, the agency may send out any exempt bumping paperwork to begin the first wave of bumps upon receiving verification of retention point. The bumping should continue until all bumps have occurred.

After all bumping rights of exempts have been exhausted, if any exempts do have a right to an OSTA position, their seniority at the time they left the union should be calculated as specified by Article 36 of the Agreement. That employee's name should be included in the bargaining unit layoff process.

IX. UNION NOTIFICATION

Pursuant to 35.02, the Union must be notified in writing of the targeted classifications/positions involved in the layoff. It has been past practice to fulfill this obligation no later than when the agency submits its official rationale to DAS. Formal notice of layoff to the Union is fulfilled upon submission of the rationale to the Central OSTA headquarters.

X. SENIORITY

The agency **may** allow employees to challenge their seniority. **THIS IS NOT A CONTRACTUAL REQUIREMENT NOR A RIGHT OF THE EMPLOYEE.** If the agency should allow challenges to seniority to be reviewed, the agency should establish a specified period of time and share all revisions with the union. Any changes in seniority should be reflected in the bumping paperwork and shared with the union.

★ **NOTE:** If you allow challenges to seniority credits and retention points, post the seniority list for BU and/or retention points for exempts with a period of time to challenge. *Note that this is not a contractual requirement nor a right of the employee.*

XI. MEET WITH UNION IF REQUESTED

The Union must then be provided with an opportunity to discuss the layoff prior to the date of the paper bump. The agency should offer the Union an opportunity to meet within a certain period of time. This meeting should occur after formal submission of the rationale, but prior to distributing bumping paperwork. Agency should try to have any revisions to seniority prepared to discuss at meeting if the agency allowed challenges

XII. EMPLOYEE NOTIFICATION AND EXERCISE OF DISPLACEMENT RIGHTS

Employees must be provided notice of the impending layoff in writing pursuant to **OAC 123:1-41-10.**

★ **NOTE:** If the written notice is hand-delivered, it must be delivered at least 14 calendar days prior to the effective date of the layoff. If the notice is sent by certified mail, it must be mailed at least 17 calendar days prior to the layoff. *Also*, please note the specific contents of the notice, which are required by OAC 123:1-41-10. [*See Exempt - 51*]

Displacement Rights: All potentially affected employees will be given a form ADM-4138. [*See Exempt - 11*]. This form asks the employee to indicate whether or not the employee wishes to exercise displacement options, as well as the counties in the layoff jurisdiction the employee would be willing to work. Agencies should list on the ADM-4138 the counties in the jurisdiction. Make sure to list only counties designated within the layoff jurisdiction (according to Appendix A for Unit 15 and Appendix B for Unit 1) for recall options. The location of the

employee's position at the time that the layoff is first implemented dictates the applicable layoff jurisdiction. The Employer must then also list all counties available for reemployment pursuant to **OAC 123:1-41-13**.

★ **NOTE:** Employees will have five (5) calendar days to complete and return the forms to their agency HR office

★ **NOTE:** The specific contents of the notice that are required by **OAC 123:1-41-10**.

General Considerations:

- The Employee should be instructed that failure to resubmit the recall options form will result in **all** counties in the layoff jurisdiction to be listed on the recall list and reemployment lists. If the employee does not resubmit the Recall Options form, the Employer should attach a blank form to the Personnel Action and submit to DAS
- Also instruct the employee that failure to accept any offer in the classification and appointment type will result in removal from the list for that classification and appointment type, regardless of the county of the opportunity.
- All employees are placed on the list by effective date of the layoff and are recalled by State seniority.
- Employees who are receiving disability shall also be laid off on the same date without interruption to currently approved benefits. *[See OAC 123:1-41-21]*
- **Remember:** that Unit 1 employees have recall rights for twenty-four (24) months and Unit 15 employees have recall rights for thirty-six (36) months. Employees are also not entitled to moving expenses as a result of a layoff.

★ **NOTE:** Under the CBA, OSTA employees do not have explicit reemployment rights, but under section 35.01, the Code provides such rights.

A list of potentially affected employees, including retention points, should also be posted in a conspicuous place.

XIII. CONDUCT LAYOFF/DISPLACEMENT OF EMPLOYEES

General Rights: Because the contract specifically addresses bumping/displacement rights, employees shall only have rights to bump/displace as set forth in the applicable contract.

Order of Bumping or Displacement: All laid-off employees, by seniority, shall have one option within the applicable facility or agreed upon layoff district, as set forth in the contract, in the following order:

- (1) To displace the least senior within the same like classification or;
- (2) To bump the least senior within the same like classification series or;
- (3) To be laid off and await recall to the facility or district where layoff occurred.

XIV. NOTIFICATION LETTERS TO EMPLOYEES

There will be several different letters that need to be sent prior to the effective date of the layoff.

★ **NOTE:** The letters are for example purposes only. The agency should modify the letter to suit the particular needs of the agency.

[See OAC 123:1-41-10 for a list of information required to be in the notice]

All impacted employees should receive **one** of the following letters:

- 1) **Layoff Letter** with notice of conversion of leave and COBRA to employees who chose NOT to bump, and will be laid off. (*See OSTA - 7, 12 and 15*)

***NOTE:** The code does not allow for a “voluntary” layoff – OSTA employees who volunteer for a layoff do not have recall rights or right to unemployment.

- 2) **Layoff Letter** with notice of conversion of leave and COBRA to employees who chose to bump, but have **no bumping options** and will be laid off. (*See OSTA - 8, 12 and 15*)
- 3) **Reassignment Letter** to employees displaced from and moved to a new Position Control Number (PCN) (*See OSTA - 9*)

B. SICK LEAVE CONVERSION

When sending out notification letters of displacement, the agency must also include a form that lists the employee’s option to either cash out or save all accumulated sick leave. The Sick Leave Conversion Form must be submitted with the employee’s Personnel Action whenever an employee is laid off. If the employee fails to complete and resubmit the form, all eligible sick leave will automatically be converted and cashed out.

[See Sick Leave Conversion Form (OSTA - 13) and OAC 123:1-41-22 for language regarding cash conversion of accrued leave]

C. COBRA NOTIFICATION

Finally, it is the agency's responsibility to notify the employee of his or her rights under COBRA. Each employee should receive a form stating his or her right to this benefit.

[See OSTA - 14 for sample COBRA Notification Attachment]

XV. SECOND WAVE DISPLACEMENT

Repeat the process starting with providing notice and opportunity to exercise displacement rights to next set of employees who were displaced.

- ✓ Send Displacement Letter (See OSTA - 10)
- ✓ Send ADM-4138 (See OSTA - 4a)

XVI. PERSONNEL ACTION

Personnel action form ADM-4100 should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. You should also include:

- ✓ The forms submitted by the employee indicating the counties he or she designated as acceptable for reinstatement purposes
- ✓ Attachments showing changes which will result from the layoff
- ✓ Copies of the letters notifying employees of the layoff
- ✓ An explanation of whether employees had displacement rights and whether or not they were exercised. *[See OAC 123:1-41-08(G) and (H)]*
- ✓ Decentralized agencies are responsible for processing the Personnel Action form and are also responsible for sending the ADM-4138 and reinstatement/recall list to certification
- ✓ Personnel Action Form 4100 will then be forwarded to DAS certification to add employees to recall and reemployment certification lists.

XVII. RECALL AND REEMPLOYMENT LIST

Agencies must prepare recall reemployment list after the completion of the bumping process. These lists should be sent to DAS seven (7) calendar days prior to the effective date of the layoff. *[See OAC 123:1-41-16 and 123:1-41-17]*

[See OSTA - 15 for a sample recall list]

An employee may have recall and reemployment rights. Although the terms are often used interchangeably, their meanings are quite different and must be understood.

- Recall means that an employee is requested to return to the same agency from which the employee was laid off in any class that is in the same like classification series in the same or lower pay range as the employee's current classification.
- *Employees will have recall rights for two (2) years pursuant to Section 35.04 for Unit 1, thirty-six (36) months for Unit 15.*

[See Appendix A in Unit 1 for a like class (does not exist in Unit 15)]

- Reemployment means that an employee is requested to return to employment at an agency different from the one from which the employee was laid off, in the same classification from which the employee was laid off. *Employees will have reemployment rights for one (1) year pursuant to OAC 123:1-41-17 (B).*

FILLING VACANCIES FROM RECALL AND REEMPLOYMENT LISTS

[See OAC 123:1-41-18]

The purpose of this manual is to aid an agency in implementing a layoff. Part of the layoff process guarantees employees specific rights under reinstatement and reemployment. This manual will not address all aspects of the reinstatement and reemployment process, but will provide some tips on frequently discussed issues as well as sample reinstatement/recall and reemployment letters.

FILLING A VACANCY THROUGH RECALL

The Employer must fill vacancies in the classification series from the recall list prior to hiring, promoting, or transferring.

- The employee that is recalled shall not serve a probationary period.
- If you are delivering a recall notice by hand, a witness must be present and the employee must sign a receipt for the notice.
- If an employee is not able to return to work within five (5) days of the recall notice, the recall rights are forfeited. If there are extenuating circumstances, the Employer shall grant an extension not to exceed 60 days.
- Employees who are laid off and recalled continue to earn service credit while on layoff.

[See also OSTA - 14 for a sample letter and OAC 123:1-41-16]

FILLING A VACANCY THROUGH REEMPLOYMENT

The Employer must fill vacancies in the classification series from the reemployment list prior to hiring, promoting, or transferring.

- The employee that is reemployed from another agency shall not serve a probationary period.
- If you are delivering a reemployment notice by hand, a witness must be present and the employee must sign a receipt for the notice.
- Employees who are laid off and reemployed continue to earn service credit while on layoff.
- If an employee is not able to return to work within five (5) days of the recall notice, the recall rights are forfeited. If there are extenuating circumstances, the Employer shall grant an extension not to exceed 60 days.

★ **NOTE:** In a 1997 decision, the Court of Appeals of Ohio held that DAS violated ORC 124.30(A) and 124.327(B) by approving three provisional hires to Administrative Officer 2 positions on March 8 and 10, 1993, after the recall list came into existence on March 6, 1993. Furthermore, the Court found that the Director of DAS cannot ignore any potential recall lists that come into existence between the time the Director grants the appointing authority permission to hire a provisional employee and the time the Director actually approves the hiring of the provisional employee. The Court stated that “. . . the law is not required to give way to administrative convenience,” meaning that DAS should have checked for a recall list on March 8 and 10 before hiring the provisional employees. *See Brant v. Ohio Department of Administrative Services, Ohio App. 10 Dist. 1997.*

XVIII. APPEAL PROCEDURE

Ohio Revised Code section 124.328 provides the following appeal rights:

- An employee may appeal a layoff, or a displacement which is the result of a layoff, to the State Personnel Board of Review.
- The appeal shall be filed or postmarked no later than ten (10) calendar days after receiving the notice of layoff or after the date the employee is displaced.
- An employee shall be considered displaced the date the employee is notified that another employee has exercised his or her right to displace the employee from the employee's position.
- In cases involving the laying off of Employees may appeal the decision of the State Personnel Board of Review to the common pleas court. The appeal from the State

Personnel Board of Review shall be made in accordance with **Section 119.12 of the Revised Code.**

- **See section IV of this portion of the manual for possible pitfalls.**

[See OAC 123:1-41-11(I)]

OSTA EXHIBITS

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

PRELIMINARY NOTICE OF PROPOSED INTENT TO LAYOFF

TO: _____, Human Resources Analyst, DAS
_____, Labor Relations Specialist, OCB
_____, Agency Analyst, OBM

FROM: Director of Agency

SUBJECT: Staff Reduction in _____
(Department/Agency)

DATE: _____

This memo will serve as preliminary notice that we are considering a staff reduction resulting in the layoff of personnel. The initial estimates are as follows:

The total number of layoffs (positions to be abolished) estimated is: _____

An estimation of the number of personnel to be laid off (people who will not have any bumping options) is: _____

The proposed layoff date is: _____

Our Personnel and Labor Relations staff has has not had experience in the procedures of layoff in the state system.

The representative who will be the primary contact from our department will be:

Name	Title	Phone#
------	-------	--------

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**DIRECTOR
DEPARTMENT OF ADMINISTRATIVE SERVICES
30 E. BROAD STREET, 40TH FLOOR
COLUMBUS, OH 43215**

ATTN: STATE SERVICES MANAGER

Dear Director:

Please find attached justification to abolish Exempt and Bargaining Unit positions, in the Central Office of the Department of **AGENCY, PAYROLL NUMBER 000-000**.

Please prepare a layoff roster for the following Exempt positions, and all same, similar or related classifications:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OCSEA/AFSCME** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

This Department will prepare the layoff roster for same, similar, and related classifications, based on seniority, for the following **OTHER UNION** Bargaining Unit positions:

<u>PCN</u>	<u>CLASSIFICATION</u>	<u>CLASS #</u>
000.0	POSITION	00000

The **AGENCY** is filing the accompanying Executive Summary which explains our reorganization plan, and the justification for positions identified for abolishment, in order to comply with various sections of the Ohio Revised Code and Administrative Rules. As indicated, we are abolishing these positions as a result of a reorganization for the efficient operation and/or reasons of economy in this Department’s Central Office.

Please prepare a layoff roster for the exempt positions listed in above, and all same, similar or related classifications.

If you have any questions regarding this matter, please contact **HUMAN RESOURCE ADMINISTRATOR** at **PHONE NUMBER**.

Sincerely,

DIRECTOR

Attachment

*[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]***Current Date**

**TO: Deputy Director
Human Resources Division
Department of Administrative Services**

**THROUGH: Human Resources Analyst
State Services
Human Resources Division**

**FROM: Chief
Office
Agency Name**

Re: Job Abolishment

Dear (*Director of DAS Human Resources*):

The following is the statement of rationale and description of the job abolishment layoffs, effective **DATE**, to be conducted by the **AGENCY**. This job abolishment layoff is being conducted for reasons of economy and/or efficiency, as further described below.

[FINANCIAL BACKGROUND AND RATIONALE]: The **PROGRAM** is funded from Fund #000, ALI 000-000, in accordance with House Bill 000. The agency designates this **PROGRAM** as an Employing Unit, as defined in **PROGRAM** 145.297(A)(2) of the Ohio Revised Code, and as a fund source, pursuant to Section 126-2-01(A)(3) of the Ohio Administrative Code.

In our SFY **YR-YR** biennium budget submission, the **AGENCY** requested \$00 million per year from the State General Revenue Fund (GRF), which would earn and match \$00 million of federal money for a total **PROGRAM** funding level of \$00 million for each year of the biennium. This proposal was given a zero funding level in the Governor's Budget, which was recently submitted to the General Assembly. Consequently, the federal funds would not be available to the **AGENCY** for this **PROGRAM**.

A grant was considered as a possible option for defining a "fund source" to absorb these positions. The grant is projected to finish the **YR-YR** biennium with a projected \$000,000 deficit, after applying all available non-federal deficit reduction funds, which can be hopefully absorbed through good management practices. The projected deficit means that this grant **PROGRAM** is not a feasible alternative funding source for the **PROGRAM**.

In addition, the **AGENCY** has attempted to seek funding for the **PROGRAM** through a contractual arrangement with **NAME OF AGENCY**, for a statewide agreement to allow the **PROGRAM** to continue at lower, current or expanded levels. Similar county-specific agreements, with county departments, have been developed, and only one county-specific

agreement (with **NAME OF COUNTY**) has been reached. Consequently, these contractual relationships are not a viable source of replacement funding for the **PROGRAM** budget cuts.

[DECISION FOR LAYOFF]: This funding decision requires total elimination of the **PROGRAM** before July 1, **YEAR**. Therefore, we must, for reasons of economy and/or efficiency, abolish the positions within the **PROGRAM** and conduct a layoff pursuant to these job abolishments. These layoffs are being conducted pursuant to Section 124:321 of the Ohio Revised Code, et. seq., and Article 18 of the collective bargaining agreement between the state of Ohio and OCSEA/AFSCME.

[DETERMINATION OF POSITIONS TO BE ABOLISHED; RATIONALE]: The **AGENCY** researched positions employed by the **PROGRAM** to determine the number of affected employees. The **AGENCY** defined affected positions as all positions that fall under the **PROGRAM**. The **AGENCY** definition was developed to limit as much as possible the number of employees who would be affected by this layoff; some of the functions of the **PROGRAM** can be absorbed by the Employment Services unit of the **AGENCY**, thereby making this job abolishment an efficient means of coping the funding deficit.

The number of positions eliminated in the **PROGRAM** by this abolishment action is **00**. The projected cost/deficiency for these positions, including non-personal services expenses, would be \$0,000,000 in SFY **YEAR** and \$0,000,000 in SFY **YEAR**. As the **PROGRAM** has been totally eliminated in the Governor's Budget, no savings can be realized through a voluntary Early Retirement Incentive (ERI) program, or through attrition.

It is clear, therefore, that positions in the **PROGRAM** must be abolished, because the elimination of funding for this **PROGRAM** has caused a projected agency deficit. In fact, the state Office of Budget and Management has determined that, based on projected budget levels and staffing, the elimination of funding for the **PROGRAM** would cause a lack of funds to the **AGENCY** in the amount of more than \$0.0 million in the **YR-YR** biennium. It is therefore economical for the **AGENCY** to abolish the positions in the **PROGRAM** in order to eliminate this projected deficit.

The affected positions as determined at this time, are as follows:

[INSERT POSITIONS HERE]

[LOGISTICAL MATTERS; UNEMPLOYMENT COMPENSATION AND MANDATORY EARLY RETIREMENT INCENTIVE PLAN]: The **AGENCY** is a reimbursable employer, for the purpose of determining unemployment compensation liability. Unemployment cost will be projected by taking the maximum benefit, since we have, as yet, no information regarding the number of dependents, or length of eligibility for unemployment compensation. The total cost for unemployment compensation, assuming five of the affected employees will take advantage of the mandatory ERI, is projected to be \$000,000.

As the unit has 00 employees, a mandatory ERI program will be offered to all eligible employees. The agency will purchase one-year for any individual who is interested and eligible. Budget and Finance Division staff analyzed state payroll records for the employees in the affected positions with 29 years service; 24 years service and age 55; and 9 years service and age 60. From this group, 00 people were identified as being potentially eligible

for ERI. We input their service/salary information onto disc (provided by PERS) to get the total cost of the ERI. The total ERI cost for this plan is projected to be \$00,000.00.

The total cost to close out the **PROGRAM**, therefore, is projected to be \$000,000.00. This will be paid, if possible, from current **PROGRAM** funds. Failing that approach, closeout costs will be taken from surcharge funds.

[JOB ABOLISHMENTS VS. LACK OF FUNDS LAYOFF]: As previously noted, the Office of Budget and Management has certified a projected lack of funds for the entire agency, because of the elimination of the **PROGRAM'S** funding. The **AGENCY** believes, however, that a job abolishment layoff, for reasons of economy and/or efficiency is the prudent form of layoff. In a lack of funds layoff, the **AGENCY** administrator would be required, pursuant to Section 124.322 of the Ohio Revised Code, to determine the classifications to be laid off. This would result in an agency-wide layoff, as opposed to a layoff of positions only in the **PROGRAM**. Such an agency-wide layoff could result in great administrative difficulty, including mandatory transfers and greater costs. Clearly, the elimination of positions in the **PROGRAM** for which funds have been eliminated is the prudent course of action, and job abolishment will accomplish this plan. The elimination of funding for this **PROGRAM** provides a sound rationale for the economy of such an action.

[CONCLUSION]: For reasons of economy and/or efficiency, job abolishment layoffs of positions in the **PROGRAM** are strongly indicated.

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

LAYOFF RATIONALE

Office, Institution or County:	
Position Class Title	PCN
Work Unit of Position	
Bargaining Unit Name	Bargaining Unit No.

Why are you doing layoffs? Lack of Funds Lack of Work

Why are you doing abolishments? Reasons of Economy Reorganization for Efficiency Lack of Work

Attach a copy of the approved position description for this position. Please answer and/or provide the requested information in as much detail as possible.

<p>1. State the specific reason(s) why this position is no longer needed.</p> <p>The Agency's employee population has been downsized over the past 10+ years, reducing the number of hospitals from 17 to 9, and employees from over 6,000 to approximately 3,000. The result is that the functions of the Personnel Section have decreased in correspondence to this statewide downsizing. The creation of two Management Analyst Supervisor 2's have proved to be more effective in handling the personnel workload.</p>
<p>2. Will any of the functions of the position be retained and/or redistributed to other staff? Yes/No</p>
<p>If yes, indicate specifically the duty/duties on the attached position description that will be retained and how such duties will be performed after the abolishment of this position.</p> <p>PCN 2000.0 will directly supervise the two Management Analyst Supv 2's; oversee personal service contracts and attend Controlling Board Hearings regarding same; oversee layoff/abolishment processing procedures with the two MAS 2's. PCN 2041.0 will assume Class Plan; WOOC grievances, PBR appeals; Advance Step Hiring. PCN 2042.0 will handle oversight of authorization for vacancy fills; ceiling numbers and hiring freeze; schedules and leave coordination for personnel staff; assist w/personal service contracts.</p>

Signature of Chief Executive Officer or Office Chief	Date
Signature of Director or Designee	Date

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
STREET ADDRESS
CITY, STATE & ZIP**

Dear (**EMPLOYEE NAME**):

We regret to inform you that due to abolishment of positions and (lack of work/funds /reorganization for efficiency/economy) in this agency, a layoff of personnel is necessary. As a result, you are being laid off from your position as a (provisional/certified) **CLASS** effective **DATE**. This action is based upon your seniority credits of ____ credits.

You have the right to displace another employee and you must notify **PERSONNEL OFFICER** whether or not you wish to exercise that right in writing within five (5) calendar days from the receipt of this letter. If you do not give notice of your decision concerning bumping rights, you will forfeit your right to bump another employee. These options must be indicated on form ADM 4138.

You may also have the option to select the counties within the layoff jurisdiction for which you will be available for reinstatement and/or re-employment. This option must be indicated on form ADM 4138.

Whether or not you wish to exercise your bumping rights, you will retain reinstatement rights to your original class in this agency for one (1) calendar year from the effective date above. Likewise, you will retain re-employment rights to other agencies within this jurisdiction within the same time period. Both reinstatement and re-employment will be based upon retention points.

It is your responsibility to maintain a current address with the Personnel Office of this department during your year of reinstatement eligibility.

As a laid off or displaced employee, you also have the right to appeal this action in writing to the State Personnel Board of Review, 65 E. State Street, 12th Floor, Columbus, Ohio 43215, within ten (10) calendar days after receipt of this letter. Should you wish it, a copy of the Administrative Rules governing this layoff will be provided by our Personnel Office.

You may have the option to convert any unused sick, personal or vacation leave credited to you. You may also have the option to convert your health, dental, vision and life insurance. Please see **PERSONNEL OFFICER** for further information regarding these rights.

Sincerely,

SIGNATURE OF APPOINTING AUTHORITY

Attachments: ADM 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME

STREET ADDRESS

CITY, STATE & ZIP

Dear (**EMPLOYEE NAME**):

We regret to inform you that due to abolishment of positions and (lack of work/funds /reorganization for efficiency/economy) in this agency, a layoff of personnel is necessary. As a result, you are being (displaced by the bumping process and may be laid off) from your position as a (provisional/certified) **CLASS** effective **DATE**. This action is based upon your retention point rating of ____ points.

You have the right to displace another employee and you must notify **PERSONNEL OFFICER** whether or not you wish to exercise that right in writing within five (5) calendar days from the receipt of this letter. If you do not give notice of your decision concerning bumping rights, you will forfeit your right to bump another employee. These options must be indicated on form ADM 4138.

You may also have the option to select the counties within the layoff jurisdiction for which you will be available for reinstatement and/or re-employment. This option must be indicated on form ADM 4138.

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It is your responsibility to maintain a current address with the Personnel Office of this department during your year of reinstatement eligibility.

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You may have the option to convert any unused sick, personal or vacation leave credited to you. You may also have the option to convert your health, dental, vision and life insurance. Please see **PERSONNEL OFFICER** for further information regarding these rights.

Sincerely,

SIGNATURE OF APPOINTING AUTHORITY

Attachments: ADM 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME

HOME OR WORK ADDRESS

CITY, STATE, ZIP CODE

Dear **EMPLOYEE**:

We can inform you that after an analysis of the replies received, and in accordance with Article 35 of the OSTA contract, you were not able to displace into another position. The effective date of the layoff shall be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same like class and/or the same like class series within the applicable district from which you were laid-off within the recall jurisdiction as defined in Appendix A and B of the collective bargaining agreement for a period of twenty-four (24) months for Unit 1 and thirty-six (36) months for Unit 15, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain reemployment rights to your original classification within the applicable jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the counties for recall and reemployment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM 4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the OSTA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at (**AREA CODE**) **TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at (**AREA CODE**) **TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM-4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

**EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE**

Dear **EMPLOYEE:**

In accordance with Article 35 of the OSTA contract, you chose not to exercise your bumping/displacement rights with the “paper layoff” which was conducted on **DATE**. Your last day of work will be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same like class and/or the same like class series within the applicable district from which you were laid-off defined in Appendix A and B of the collective bargaining agreement for a period of twenty-four (24) months for Unit 1 or thirty-six (36) for Unit 15, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain reemployment rights to your original classification within the applicable jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the counties for recall and reemployment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM-4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the OSTA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

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Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME

HOME OR WORK ADDRESS

CITY, STATE, ZIP CODE

Dear **EMPLOYEE:**

In accordance with Article 35 of the OSTA contract, you chose not to exercise your bumping/displacement rights with the “paper layoff” which was conducted on **DATE**. Your last day of work will be **DATE**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same like class and/or the same like class series within the applicable district from which you were laid-off defined in Appendix A and B of the collective bargaining agreement for a period of twenty-four (24) months for Unit 1 or thirty-six (36) for Unit 15, providing you meet the minimum qualifications as stated in the classification specification and position description.

You will also retain reemployment rights to your original classification within the applicable jurisdiction defined in the Ohio Revised Code for the same time period. Both recall and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You must select the counties for recall and reemployment that you would desire to be on the recall and the reemployment lists for future employment.

Please complete the attached ADM-4138 within five (5) calendar days of receipt of this letter and return it to **Director of Personnel/Labor Relations Department**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the OSTA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Please review the attached leave conversion form and contact **EMPLOYEE BENEFITS COORDINATOR**, to discuss conversion of your benefits at **(AREA CODE) TELEPHONE NUMBER**.

A third attachment describes your right to continue health benefits beyond the effective date of the layoff. Please review and contact the **EMPLOYEE BENEFITS COORDINATOR**, to discuss continuing your health benefits at **(AREA CODE) TELEPHONE NUMBER**.

Your past services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

**Attachments: ADM 4138
Leave Conversion Form
COBRA Health Care Information**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME

ADDRESS

CITY, STATE ZIP

Dear **EMPLOYEE:**

We can inform you that after an analysis of the replies received, and in accordance with Article 35 of the OSTA contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

to the following position:

Position Control Number:	00000.0
Classification:	TITLE
Status:	Example—Full-time Certified
Step:	00
Hourly Rate:	\$ (base + ?)

You are to report to **NEW SUPERVISOR** at **DATE AND START TIME**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

You shall have recall rights in your same like class and/or same like class series within the recall jurisdiction (**APPLICABLE FACILITIES**) for a period of twenty-four (24) months for Unit 1 and thirty-six (36) months for Unit 15, providing you meet the minimum qualifications as stated in the classification specification.

You will also retain reemployment rights to your original classification within the applicable jurisdiction for the twenty-four (24) month period. Both reinstatement and re-employment will be based upon your state seniority date and every attempt will be made to place you in a position similar to your present one as soon as possible.

You have the option to select the counties for re-employment that you would desire to be on the recall list for future employment. The counties are: **LIST OF APPLICABLE COUNTIES.**

Please complete the ADM-4138 within five (5) calendar days of receipt of this letter and return it to Director of Personnel/Labor Relations Department.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the OSTA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS.**

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

Director

**Cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File**

Attachments: ADM 4138

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

CURRENT DATE

NAME
ADDRESS

Dear **EMPLOYEE**:

We can inform you that after an analysis of the replies received, and in accordance with Article 35 of the OSTA contract, you are able to displace into another position effective **DATE**.

Therefore, you are being displaced from:

Position Control Number: 00000.0
Classification: TITLE
Status: Example—Full-time Certified
Step: 00
Hourly Rate: \$ (base + ?)

to the following position:

Position Control Number: 00000.0
Classification: SAME TITLE AS ABOVE
Status: Example—Full-time Certified
Step: 00
Hourly Rate: \$ (base + ?)

You are to report to **NEW SUPERVISOR** at **DATE AND START TIME**.

Should you wish, a copy of Chapter 123:1-41 of the Administrative Code governing layoff procedures will be provided to you by the **AGENCY LABOR RELATIONS DEPARTMENT**.

If you wish to appeal your layoff, you must file a written grievance pursuant to Article 20 of the OSTA contract within ten (10) calendar days of receipt of this letter. The grievance should be forwarded to **LABOR RELATIONS MANAGER, COMPLETE ADDRESS**.

Your services with **FACILITY/INSTITUTION** are greatly appreciated, and we wish you well in your future endeavors.

Sincerely,

DIRECTOR

cc: Department of Administrative Services, Employment Processing
Department, Division of Human Resources
Union
Employee File

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: OSTA Recall

Dear **EMPLOYEE**:

This letter is to serve as official notification that, per Article 36.04 of the Bargaining Unit Agreement you are being recalled to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

If you fail to report for work within five (5) days following receipt of notification, you shall forfeit all recall rights.

In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: **Position Description**

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

DATE

EMPLOYEE NAME
HOME OR WORK ADDRESS
CITY, STATE, ZIP CODE

Re: OSTA Reemployment

Dear **EMPLOYEE**:

This letter is to serve as official notification that you are being offered reemployment rights to work in the classification of **Appointment Type, Classification (Class #)** at the **Department, Site, Address**.

Article 35 allows reemployment to a position “provided the employee is qualified to perform the duties”. A copy of the position description is attached.

You are to report to work within ten (10) days of **receipt** of this notice otherwise you shall forfeit your reemployment rights to this position and may forfeit your reemployment rights to other positions. In the event of extenuating circumstances that prevent you from returning to work within the above time limit, you may be granted a reasonable extension, not to exceed sixty (60) days, to be determined by the Director.

If you have questions, please contact me at **number** or **Name** at **number** during the hours of **Times, Days**.

Sincerely,

(Name)
(Title)

Attachment: Position Description

FOR LAID-OFF EMPLOYEES WHO HAVE DISPLACEMENT RIGHTS

I do / do not wish to exercise my displacement rights. I understand that if I do not exercise this right, my name will be on the reinstatement list only in the classification from which I was laid off.

Employee's Signature

Date

**FOR LAID-OFF EMPLOYEES OF STATE AGENCIES, BOARDS, COMMISSIONS
AND INDEPENDENT INSTITUTIONS**

I am / am not interested in all of the counties in the jurisdiction in which I am being laid off. If I am not, the following are the counties in which I am available for reinstatement and reemployment. I understand I will NOT be permitted to add or delete counties at a later date.

Counties in
Jurisdiction #
(Agency should list
counties)

*[Lists counties per applicable
district in Appendix A and B
for recall]*

*[List counties per applicable
district under OAC 123:1-41-13
for reemployment]*

Employee's Signature

Date

**Return to the Department of Administrative Services
with the Personnel Action (ADM-4100) affecting the
employee's layoff**

STATE OF OHIO
SICK LEAVE CONVERSION FORM

NAME: _____

DEPARTMENT: _____

EFFECTIVE DATE OF SEPARATION: _____

Section 124.384 of the Revised Code and the collective bargaining agreements provide that within three years of separation of state service an eligible employee may be paid for a percentage of accumulated sick leave at the rate of one hour of pay for each two hours of accumulated balance.

- _____ I would like to be paid for all of my accumulated sick leave balance.
- _____ I would like to be paid for hours of my accumulated sick leave balance with the remainder being held for future payment (*within three years from the date of separation*) or reinstatement when I am re-employed in the future (*within 10 years from the date of separation*).
- _____ I would like to retain all of my accumulated sick leave balance for reinstatement when re-employed within ten years or for conversion at any time within three years.
- _____ I do not have the state service required for sick leave conversion. (One year of state service for employees who are exempt, covered by the District 1199 contract, or covered by bargaining agreements with the Secretary of State and Attorney General. Five years of service for employees covered by OCSEA, FOP. -OSTA 1, OSTA 15, OEA, Auditor of State and Treasurer of State contracts.)

SIGNATURE OF EMPLOYEE

DATE

SIGNATURE OF AGENCY DESIGNEE

DATE

Distribution: Agency File
Employee

ADM 4259 - Revised 2-2001

**IMPORTANT COBRA NOTIFICATION
FOR STATE OF OHIO EMPLOYEES AND DEPENDENTS**

It is important that all covered individuals (employee, spouse and dependent children) take the time to read this notice and be familiar with its contents.

Under federal law, the State of Ohio is required to offer covered employees and family members the opportunity for a temporary extension of health coverage when insurance coverage ends due to certain qualifying events.

Covered Employee: If you are the employee covered by a group health plan you may have the right to continue your coverage due to termination of employment (for reasons other than gross misconduct) or a reduction in hours.

Covered Spouse: If you are the covered spouse of a state employee covered by a group health plan, you may have the right to continue coverage for yourself if you lose coverage for the following reasons: termination of your spouse's employment or a reduction in your spouse's hours; the death of your spouse; divorce or legal separation from your spouse; or your spouse becomes entitled to Medicare.

Covered Dependent Children: If you are the covered dependent child of an employee covered by a group health plan, you may have the right to continuation coverage for yourself if you lose coverage for the following reasons: termination of the employee's employment or a reduction in hours; death of the employee; parents divorce or legal separation, the employee becomes entitled to Medicare; or you cease to be a dependent child under the terms of the plan

Coverage Periods: Generally, if the event causing the loss of coverage is a termination of employment or a reduction in hours, coverage is available for an additional 18 months. If the event causing the loss of coverage was the death of the employee, divorce, legal separation, Medicare entitlement, or a dependent child ceasing to be a dependent, continuation coverage is available for 36 months.

Important Employee, Spouse and Dependent Notifications Required

Under the law, the employee, spouse or other family member has the responsibility to notify the State of Ohio of a divorce, legal separation, or a child losing dependent status under the group health plan. This notice must be made within 60 days of the event or the date coverage will end, whichever is later. If this notification is not made, your right to continuation coverage will be forfeited.

Notification procedure

Employees or a covered family member should inform the employing state agency or Benefits Administration Services (614-466-8857) of any qualifying event that results in a loss of coverage. Information will then be sent to the requesting party about the length of available coverage periods, premium rates, conversion rights when COBRA coverage ends, and other information related to your rights under COBRA.

Cost: Premiums for continued coverage are the group rate that the State of *Ohio* pays for coverage, plus a 2% administrative fee.

BUMPING SELECTION FORM
Ohio State Troopers Association

OSTA - 15

SITE	PCN	NAME	CLASS	CBU	SENIORITY	DISTRICT	TIE BKR	Selection
A	42141		TROOPER	1	619.5	South		
B	52141		TROOPER	1	324	South		
C	33141		TROOPER	1	239	South		
D	55141		TROOPER	1	120	South		
				1				
E	31681		TROOPER	1	932	South		
E	31680		TROOPER	1	273	South		
				1				
A	33236		RADIO OPER	1	190	South		
B	55224		RADIO OPER	1	686	South		
B	55220		RADIO OPER	1	682	South		
D	33222		RADIO OPER	1	262	South		
E	55222		RADIO OPER	1	258	South		
E	55221		RADIO OPER	1	240	South		
B	52219		RADIO OPER	1	228	South		
D	33920		RADIO OPER	1	222	South		
D	52217		RADIO OPER	1	221	South		
F	33219		RADIO OPER	1	196	South		
F	52222		RADIO OPER	1	189	South		
F	52218		RADIO OPER	1	184	South		
E	55223		RADIO OPER	1	179	South		
A	33915		RADIO OPER	1	179	South		
B	52216		RADIO OPER	1	176	South		
B	52224		RADIO OPER	1	172	South		
D	33225		RADIO OPER	1	164	South		
D	33220		RADIO OPER	1	162	South		
B	33918		RADIO OPER	1	147	South		
B	33919		RADIO OPER	1	137	South		
B	33223		RADIO OPER	1	136	South		
B	33228		RADIO OPER	1	130	South		
B	33917		RADIO OPER	1	128	South		
A	55218		RADIO OPER	1	117	South		
A	33916		RADIO DISP	1	117	South		
D	52221		RADIO DISP	1	93	South		

BUMPING SELECTION FORM
Ohio State Troopers Association

OSTA - 15

D	55219		RADIO DISP	1	89	South		
E	52223		RADIO DISP	1	64	South		
E	33227		RADIO DISP	1	61.5000	South		
E	52220		RADIO DISP	1	41.4617	South		
F	42212		RADIO DISP	1	23	South		
F	33221		RADIO DISP	1	16	South		
F	42207		RADIO DISP	1	15	South		
B	33226		RADIO DISP	1	0	South		
F	33217		RADIO DISP	1	189.5241	South		
F	55217		RADIO DISP	1	54.2695	South		
A	55216		RADIO DISP	1	1	South		
				1				
A	65456		TROOPER	1	328	South		
A	42987		TROOPER	1	241	South		
B	63456		TROOPER	1	203	South		
B	66456		TROOPER	1	159	South		
B	33985		TROOPER	1	153	South		
B	33986		TROOPER	1	0	South		
				1				
D	33992		ELEC TECH	1	387	South		
D	33993		ELEC TECH	1	373	South		
E	52990		ELEC TECH	1	211	South	000-00-0093	
E	52991		ELEC TECH	1	211	South	000-00-3386	
E	52993		ELEC TECH	1	199	South		
F	33990		ELEC TECH	1	181	South		
F	55991		ELEC TECH	1	164	South		
F	42992		ELEC TECH	1	141	South		
B	33994		ELEC TECH	1	138	South		
B	52992		ELEC TECH	1	116	South		
A	55990		ELEC TECH	1	92	South		
A	55992		ELEC TECH	1	78	South		
A	33995		ELEC TECH	1	0	South		
				1				
				1				
G	31665		RADIO OPER	1	610	South		
G	63437		RADIO OPER	1	402	South		

BUMPING SELECTION FORM
Ohio State Troopers Association

OSTA - 15

G	66465		RADIO OPER	1	0	South		
G	65465		RADIO OPER	1	0	South		
				1				
				1				
E	66470		RADIO OPER	1	725	South		
E	65470		RADIO OPER	1	680	South		
F	42170		RADIO OPER	1	459	South		
F	55170		RADIO OPER	1	118	South		
A	63470		RADIO OPER	1	0	South		
A	33170		RADIO OPER	1	0	South		
B	52171		RADIO OPER	1	0	South		
				1				
D	33193		TROOPER	1	792	South		
				1				
E	63473		ELEC TECH	1	721	South		
E	33182		ELEC TECH	1	671	South		
E	66479		ELEC TECH	1	653	South		
E	33178		ELEC TECH	1	628	South		
				1				
B	52189		TROOPER	1	604	South		
G	65473		TROOPER	1	591	South		
G	65480		TROOPER	1	569	South		
G	65476		TROOPER	1	541	South		
B	52183		TROOPER	1	520	South		
H	52177		TROOPER	1	506	South		
H	66439		TROOPER	1	505	South		
G	63474		TROOPER	1	494	South		
G	33176		TROOPER	1	475	South		
G	65472		TROOPER	1	449	South		
G	66480		TROOPER	1	437	South		
G	62473		TROOPER	1	430	South		
A	42179		TROOPER	1	418	South		
C	66476		TROOPER	1	414	South		
C	52173		TROOPER	1	409	South		
C	66474		TROOPER	1	402	South		
C	65475		TROOPER	1	396	South		

BUMPING SELECTION FORM
Ohio State Troopers Association

OSTA - 15

C	33187		TROOPER	1	387	South		
C	33189		TROOPER	1	386	South		
C	63472		TROOPER	1	378	South		
D	63475		TROOPER	1	371	South		
D	66473		TROOPER	1	370	South		
D	65481		TROOPER	1	361	South		
G	42175		TROOPER	1	358	South	000-00-6749	
A	33175		TROOPER	1	358	South	000-00-8220	
A	62439		TROOPER	1	350	South		
A	65438		TROOPER	1	349	South		
F	42174		TROOPER	1	346	South	000-00-2267	
F	63481		TROOPER	1	346	South	000-00-9942	
F	63480		TROOPER	1	343	South	000-00-2556	
F	63477		TROOPER	1	343	South	000-00-4209	
F	66481		TROOPER	1	332	South		
F	65477		TROOPER	1	328	South		
G	65439		TROOPER	1	325	South		
G	66438		TROOPER	1	316	South		
G	65968		TROOPER	1	314	South		
G	65474		TROOPER	1	311	South		
A	63483		TROOPER	1	310	South		
A	33183		TROOPER	1	301	South		
A	63439		TROOPER	1	296	South		
A	66475		TROOPER	1	286	South		
B	63438		TROOPER	1	280	South		
B	66472		TROOPER	1	276	South		
B	66478		TROOPER	1	275	South		
D	63476		TROOPER	1	271	South		
D	33174		TROOPER	1	263	South		
D	66968		TROOPER	1	260	South		
A	65478		TROOPER	1	257	South		
A	52179		TROOPER	1	248	South		
A	42181		TROOPER	1	242	South		
B	52182		TROOPER	1	241	South		
B	52185		TROOPER	1	240	South		
B	52180		TROOPER	1	239	South		

BUMPING SELECTION FORM
Ohio State Troopers Association

OSTA - 15

C	63478	TROOPER	1	236	South		
C	63482	TROOPER	1	230	South		
E	33190	TROOPER	1	228	South		
A	52176	TROOPER	1	223	South		
F	50445	TROOPER	1	220	South		
B	62474	TROOPER	1	216	South		
B	66482	TROOPER	1	213	South		
A	52184	TROOPER	1	205	South		
A	33173	TROOPER	1	199	South		
E	42176	TROOPER	1	193	South	000-00-6070	
F	62475	TROOPER	1	193	South	000-00-6750	
F	62969	TROOPER	1	191	South		
F	52190	TROOPER	1	190	South		
G	66477	TROOPER	1	187	South		
G	52188	TROOPER	1	183	South	000-00-2858	
G	52186	TROOPER	1	183	South	000-00-3223	
E	62438	TROOPER	1	175	South	000-00-3147	
E	55175	TROOPER	1	175	South	000-00-5321	
E	55174	TROOPER	1	175	South	000-00-5936	
E	55179	TROOPER	1	175	South	000-00-6307	
D	52187	TROOPER	1	167	South		
D	33192	TROOPER	1	163	South		
B	55182	TROOPER	1	162	South		
B	50444	TROOPER	1	120	South		
B	63968	TROOPER	1	89	South		
A	52178	TROOPER	1	75	South		
A	33186	TROOPER	1	74	South		
A	33191	TROOPER	1	70	South		
A	33180	TROOPER	1	60	South	000-00-2436	
E	33181	TROOPER	1	60	South	000-00-5735	
E	52181	TROOPER	1	60	South	000-00-9718	
E	33188	TROOPER	1	58	South		
E	62968	TROOPER	1	55	South		
F	42177	TROOPER	1	53	South		
F	55180	TROOPER	1	44	South		
G	42183	TROOPER	1	42	South		

BUMPING SELECTION FORM
Ohio State Troopers Association

OSTA - 15

G	55177		TROOPER	1	41	South	6/29/92 *	
G	55176		TROOPER	1	41	South	8/13/00 *	
G	55178		TROOPER	1	41	South	8/13/01 *	
G	55173		TROOPER	1	22	South		
H	52174		TROOPER	1	20	South		
H	52175		TROOPER	1	0	South		
H	65482		TROOPER	1	0	South		
A	65483		TROOPER	1	0	South		
A	65484		TROOPER	1	0	South		
A	50443		TROOPER	1	0	South		
A	33179		TROOPER	1	0	South		
B	33184		TROOPER	1	0	South		
B	33185		TROOPER	1	0	South		
C	65479		TROOPER	1	0	South		
H	63484		TROOPER	1	0	South		
* indicates a seniority date prior to promotion into 1199								
** indicates a vacancy that was not offered on the Bumping Option Sheet								

[THIS FORM SHOULD BE ON YOUR AGENCY LETTERHEAD]

TO: **Deputy Director
Human Resources Division
Department of Administrative Services**

THROUGH: **Human Resources Analyst
Certification Unit
Human Resources Division**

FROM: **Chief
Office
Agency Name**

SUBJECT: **Agency Recall and Reemployment List**

CERTIFIED RECALL LIST

NAME	APPT. TYPE	SENIORITY CREDITS
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000
<u>CLASS # & POSITION</u>		
EMPLOYEE NAME	FT/PT	000

[The Employer should indicate the selected counties by the employee for recall, as well as the counties selected for reemployment]

OSTA ARBITRATION AWARDS

Arbitration Award: # 534
Agency: Mental Health
Arbitrator: Harry Graham
Decision date: December 21, 1990

The Union alleged that the bargaining unit had been eroded at Athens Mental Health when it did not fill two (2) positions from which the incumbents retired. Management maintained the grievance was not arbitrable, as it was filed untimely, and further on the merits, the agency had neither eroded the bargaining unit nor determined to fill the vacant positions. The Arbitrator determined the grievance was continuous in nature, and was therefore timely filed and arbitrable. Further, he found that the bargaining unit had been eroded as there were supervisors working there with no one to supervise, as well as two (2) intermittent employees, all of whom were performing bargaining unit work. A motion to vacate this awards pending. (3/91)

Arbitration Award: # 862
Agency: Mental Health
Arbitrator: Harry Graham
Decision date: April 13, 1993

The grievance was DENIED. The issue was whether Article 35 was violated when the grievant's position as a Police Officer was abolished due to reasons of economy.

The Union contends that the State bears the burden of proving that the abolishment was both necessary and properly performed. The reason of economy cannot be supported. The funds for Oakwood are combined with those of the Psychiatric Services Department; a transfer of funds between the two (2) is possible. The Chief Financial Officer testified that the facility had sufficient funds to retain the position. The decline in patient population occurred prior to the grievant being hired. There has not been a permanent deletion of the grievant's position; his tasks are being performed by others. His position has not been abolished.

The Employer asserted the grievant's position was abolished for reasons of economy. "Economy" is a broad-based concept, which includes the efficient use of resources. Corrections Officers from LCI easily perform the grievant's tasks. The position descriptions of Police Officer and Correction Officer overlap. The difference being that the Police Officer has arrest power, but has never been called upon to use these arrest powers at Oakwood. The security system at Oakwood minimized the need for patrol

function. The burden is on the Union to prove the State violated section 7.03, erosion of the bargaining unit.

Arbitrator Graham determined that one of the tests to support a job abolishment is “lack of need for the position” under ORC Section 124.321. It was the judgement of the responsible officials at Oakwood that they could ensure the security of the institution without the position occupied by the grievant. It is unnecessary to resolve the conflicting testimony regarding the funding; both parties showed that there was a necessity for the Employer to economize. Article 7 was not violated. Grievant’s principal job duties concerned patrol. Correction Officers at the adjacent facility are bargaining unit members from a different Union and have routinely patrolled the joint perimeter; the amount of patrol work performed by these Officers has not increased since the abolishment. Their position descriptions duplicate the grievant’s. The power of arrest that differentiated the grievant’s position has never been used. Supervisors are not performing bargaining unit work formerly performed by grievant.

Arbitration Award: # 1017
Agency: Mental Health
Arbitrator: Harry Graham
Decision date: December 9, 1994

In the Spring of 1993, Athens Mental Health Center Facility was closed and the patients and staff were transferred to a newly constructed facility, the Southeast Psychiatric Hospital. Southeast is a smaller, more modern facility and is fitted with electronic security devices. Prior to the construction of Southeast, the inpatient population at Athens declined by around fifty (50) percent. Many of these patients were removed, in accordance with the Mental Health Act of 1988, from the institution and remanded to the community for assistance. In the early part of 1994, three (3) Police Officers were laid off and their positions were subsequently abolished.

The employer argued that there was a lack of continued need for the Police Officer positions. Under Article 35 of the Contract, which incorporates ORC Section 124.321 (D), the layoff was for reasons of efficiency. With the decline in patient population and the advent of electronic monitoring, it would be inefficient to continue having a Police Department. The minimal safety related tasks that were previously performed by the Police Officers are now performed by the newly created position of Safety and Health Officer (Safety Officer). Before and after the layoff any incidents would be reported to the Highway Patrol; the Police Officers conducted very few investigations over the years.

The union contended that the Employer intended to subvert the bargaining unit. The overlapping duties of the Police Officers and the newly created Safety Position was not accidental. The Employer cannot show that the workload of the Police Officers declined. In fact, the duties of a Police Officer continue to be performed by both supervisory and bargaining unit employees.

The Arbitrator ruled that as in past arbitration decisions the burden is on the Employer to prove a lack of continued need for a position. A position may be abolished for reasons of economy or lack of work. One (1) way an Employer may meet this burden is to show a comparison between the current work levels and work levels when a lack of work did not exist. Although it may appear intuitively that with patient decline and modern technology the abolishment is justified, this is not enough. The Union introduces a monthly compilation of incident reports that show there has been no decline in the amount of work being performed by the Police Officers.

The Arbitrator also found that the Employer's distinction between the Police Officer and Safety Officer could not be supported by the evidence. The Employer, in the Arbitrator's opinion, simply transferred job duties from one (1) position to another. The transfer of job duties is evidence that there is not a "continued lack of need for the position."

The grievances were sustained in their entirety. The Employer argued that one (1) grievant that was not present at the arbitration is no longer a party and should not be entitled to a remedy. The Arbitrator stated that the Union is the representative of the grievants and all are entitled to a remedy, regardless of whether or not they are physically present. The grievants will receive all back pay including an y shift differential, plus one hundred (100) percent of all medical expenses that would have otherwise have been paid by health insurance.

Arbitration Award:	# 1192
Agency:	Mental Retardation/Developmental Disabilities
Arbitrator:	Harry Graham
Decision date:	March 17, 1997

The grievant was injured on the job while employed as a Security Guard at the Warrensville Heights Facility. Due to his injury, the grievant was absent from work from April of 1988 to September of 1994. The grievant received temporary total disability from the State of Ohio through the Bureau of Workers Compensation during this period of absence. Evidence further revealed that throughout his absence, the grievant had taken three (3) tests for other Police Officer positions throughout central and northern Ohio. These positions were all full time and full duty positions, all during the time the grievant was receiving disability payments. In March of 1989, the grievant's position was taken by a more senior bid and the grievant has had no job since that time. The grievant has already grieved his job abolishment and the matter was settled. Thus, when the grievant returned to work in 1994, he was advised by the Human Resources Department that he had been laid off.

The main issue of the case was determining what recall rights the grievant had and whether the grievant had a contractual right to file this grievance. Under the terms of the 1986 Agreement, the grievant had recall rights for twelve (12) months. If the 1992-1994

Agreement was appropriate, the grievant had recall rights for eighteen (18) months. And if the 1994-1997 Agreement was followed, the grievant had recall rights for twenty-four (24) months. The Arbitrator believed that the appropriate recall provision for this grievant was twelve (12) months. The Arbitrator felt it was apparent that the twelve (12) months ran pursuant to the terms of the 1986 Agreement. During his disability period, the grievant was not able to work and turned down an opportunity to work in September of 1989. The Arbitrator held that the grievant could not work, and if he could not work, he could not win this case because the recall benefits were exhausted. Therefore, the grievance was denied.