

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Reduction in Force – Civil Service Employees

NUMBER: 4.2.2

A. PURPOSE

To define reduction in force provisions for Civil Service Act employees.

B. DEFINITIONS

1. **Layoff:** A layoff is any curtailment of the work force which makes it necessary to reduce the regular working hours of a full-time employee or to terminate the employment of a full-time or part-time permanent employee, due to the elimination or temporary discontinuance of a position
2. **Notice:** Formal, written communication to an employee indicating that the employee is to be laid off.

C. POLICY

1. General Provisions

- 1.1. This plan has been developed in accordance with SDCL § 3-6D.
- 1.2. Layoffs may be isolated to a classification in a work unit or geographic location within an institution. Layoffs shall be recommended by the president/superintendent to the Board of Regents. No layoff action, except for those of forty (40) hours duration or less, may commence prior to notification of the Regents' office.
- 1.3. Status employees laid off under the provisions set forth herein shall be entitled to exercise their re-employment rights in accordance with SDCL § 3-6D, ARSD 55:10:09:01, 55:10:09:02, and 55:10:02:09 and as specified in section 4:24 hereof.
- 1.4. Reasons for Layoff include:
 - 1.4.1. Legislative action;
 - 1.4.2. Shortage of funds or work, or loss of enrollment;
 - 1.4.3. Material change in the duties of the organization;
 - 1.4.4. Internal reorganization resulting in the elimination of a position;
 - 1.4.5. Executive action;
 - 1.4.6. Inefficient or non-productive position.

- 1.5. Questions concerning this plan should be referred to the Human Resources Director of the institution.

2. Layoff Notification

- 2.1. An employee shall be given a minimum of fourteen (14) calendar days written notice prior to effective date of layoff. Layoffs of forty hours duration or less and reduction of hours for less than four weeks do not require the fourteen calendar day notice. The notice shall include:
 - 2.1.1. Reasons for the layoff.
 - 2.1.2. Statement regarding re-employment rights (status employees only).
 - 2.1.3. Timeline (specific dates) afforded to employee documenting their ability to present reasons in writing why the layoff should not take place.
 - 2.1.4. The employer notification shall also include language that this written notification by employee can be waived if other accommodations are agreed upon by both the employee and employer.
 - 2.1.5. Date of layoff – Employer shall specifically document the actual date of layoff for documentation of termination and commencement of re-employment rights for status employees.
- 2.2. A copy of the layoff notification must be forwarded to the institutional Human Resources Office on the same date as it is given to the employee. This shall also be forwarded to the BOR Human Resources Director.
- 2.3. Notice is effective on the day of deposit in the regular mails of a certified notice, or the date notice is personally delivered to the employee.

3. Priorities for Layoff

The following criteria shall be used when more than one Civil Service employee exists in any classification, work unit, or geographic location designated for reductions in force: past and present performance, longevity with the state, employment status, special knowledge, skills, abilities, and potential of employees, type and mixture of funding and fund status, future estimated needs of the department, and geographic location.

The University may designate specific positions as exempt from layoff consideration because of a special need.

4. Re-employment Rights

- 4.1. Status employees who have been laid off in accordance with the provisions of this plan, who have accepted demotions in lieu of a layoff, who have been terminated for inability to perform the essential functions of their position, or who have had regular working hours reduced shall be entitled to have their names placed on a state-wide re-employment register for any Civil Service openings for which the employee applies and qualifies. An employee who is eligible for re-employment with one institution is eligible for re-employment with any Regental institution and any other agency in state government.

- 4.2. A written request for placement on the re-employment register must be filed with the South Dakota Bureau of Human Resources by the employee within forty-five (45) calendar days of the effective date of layoff, termination, or demotion. Re-employment rights may be exercised as soon as the employee receives notification of layoff and applies for same. Eligibility to remain on the re-employment register shall expire one year from the effective date of layoff, termination or demotion or one year from the date re-employment rights are requested, whichever is earlier, or on the date of reemployment.
- 4.3. The employee is responsible for applying for each position of interest. The application in 'YourFuture' (<http://yourfuture.sdbor.edu>) has a field that the individual must select re-employment rights. Where an accommodation is made to accept an application outside of the online employment system, applicant must notify Human Resources of their potential re-employment rights.
- 4.4. Institutional human resources offices shall verify those applications marked "re-employment" by utilizing the re-employment register provided by the Bureau of Human Resources.
- 4.5. It is the policy of the Regents that all Benefit Eligible positions are to be posted at <http://yourfuture.sdbor.edu>. Individuals can request notification from this on-line system for openings or they may go out and search by position, institution or location (city).

5. Benefits

- 5.1. Any laid off employee shall be entitled to the following termination benefits:
 - 5.1.1. The employee must take his earned annual leave in a lump sum.
 - 5.1.2. Laid off employees with seven (7) or more years of consecutive service shall be entitled to payment of one-fourth of their accrued unused sick leave, not to exceed four hundred eighty (480) hours. Such payment shall be made in lump sum with the employee's last payroll warrant. The provisions of SDCL § 3-6C-12, SDCL § 3-6D, and ARSD 55:09:04:02 apply.
 - 5.1.3. If employees are eligible for the South Dakota Retirement System Special Pay Plan, then those lump sum payments shall be made directly to the Retirement System on behalf of the employee. Employee can work directly with South Dakota Retirement System to retrieve monies from the Special Pay Plan.
 - 5.1.4. Benefits through the state will cease at the conclusion of the employment according to the Bureau of Human Resources. For additional information on conclusion of benefits, contact the institutional human resources office.
 - 5.1.5. Employees do have the right to COBRA their benefits through the Bureau of Human Resources. For more information on COBRA rights, please contact the Bureau of Human Resources, Benefits Department. COBRA is defined as Consolidated Omnibus Budget Reconciliation Act. This is where employees (at their own cost) may choose to continue group health benefits provided by their employer with an additional administrative fee. The Bureau of Human

Resources manages the state health benefit plan. This is an optional benefit for the employee and is paid by the employee.

FORMS / APPENDICES:

None

SOURCE:

Civil Service Act Rules 55:10:09:01, 55:10:09:02, 55:10:02:09 and 55:09:04:02; BOR August 1993; BOR October 1999; BOR June 2010; BOR October 2011; December 2014; October 2023 (Clerical).