

LAYOFF PROCEDURE FOR WASHINGTON MANAGEMENT SERVICE EMPLOYEES

Policy Number: HR-403

Effective Date: May 6, 2020

Application: Applies only to all Washington Management Service (WMS) employees of the **Eastern Washington State Historical Society (EWSHS)**.

History: This policy updates a previous version of the policy dated February 1, 2017. This replaces previous version HR Policy BP#128. The EWSHS Board of Trustees adopted final changes on May 6, 2020.

NOTE: Nothing in this layoff policy and procedure shall be construed to negate the rights of the **EWSHS** to transfer, promote, demote, dismiss, or separate any employee of any employment status in any manner permissible under the Civil Service Rules.

Purpose - The purpose of this policy is to define the EWSHS permanent layoff procedure. This policy only details procedures applicable to permanent layoffs. Temporary layoffs are discussed in WAC 357-58-550 through 555 and not further detailed in this policy.

Definitions

Agency Director – The director of the **EWSHS** functioning with the authority to set agency direction and implement internal policy.

General Government Transition Pool (GGTP) – Per WAC 357-46-090, the purpose of the transition pool program is to minimize the effects of staff reductions on general government employees while meeting needs of general government employers to fill vacant positions.

Layoff Unit – Per WAC 357-58-065, "layoff unit" is a clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

Eligible Veteran – Any permanent employee who:

1. Has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and
2. Has received, upon termination of such service:
 - a. An honorable discharge;
 - b. A discharge for physical reasons with an honorable record; or
 - c. A release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

"An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

Employment Retention Rating (ERR) – An employee’s employment retention rating is used when identifying layoff options. The employer determines an employee’s employment retention rating using seniority as calculated in WAC 357-46-055. Employers with performance management confirmation may consider properly documented performance in addition to seniority. If performance is not considered, an employee’s employment retention rating is equal to the employee’s seniority.

Layoffs - Layoff is an employer-initiated action taken in accordance with WAC 357-58-445 that results in:

1. Separation from service with an employer.
2. Employment in a WMS position with a lower salary standard or evaluation points or a Washington General Service (WGS) position with a lower salary range maximum.
3. Reduction in the number of work hours.

Washington General Service (WGS) - The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter [41.06](#) RCW which are not exempt under RCW [41.06.070](#) and which do not meet the definition of manager found in RCW [41.06.022](#).

Washington Management Service (WMS) - The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW [41.06.022](#) and [41.06.500](#).

Policy Statement

The EWSHS is committed to attracting and retaining a workforce that contributes to the organization’s mission, vision, values and goals, with the primary focus placed on excellence in performance. While commitment to the organization is valued, the successful performance of its employees is what ensures the organization’s success. Layoff is not viewed as a disciplinary action within the EWSHS and the agency will only implement a layoff for reasons permitted by the Washington Administrative Code (WAC). Reasons include, but are not limited to:

1. Lack of funds.
2. Lack of work.
3. Organizational change.

Examples of layoff actions due to lack of work may include, but are not limited to:

1. Termination of a project or special employment.
2. Availability of fewer positions than there are employees entitled to such positions.
3. Elimination of a position when the work of the position has been competitively contracted.
4. Employee's ineligibility to continue in a position which has been reallocated to the WGS.

Other alternatives considered prior to implementing a layoff

In order to diminish the impacts of layoff, whenever practical and when actions do not disrupt business operations, the **EWSHS** will consider the viability of alternative actions before initiating a layoff. These actions include, but are not limited to:

1. Voluntary employee transfer.
2. Voluntary reduced schedules.
3. Voluntary leave without pay.
4. Vacancy management.

Identifying layoff units

To keep from unduly restricting its employees during a layoff, the **EWSHS** will be considered one single layoff unit, with the exception of projects or special employment programs. Each project will be a separate and exclusive layoff unit. Additionally, special employment programs will be separate and exclusive layoff units.

Positions that will not be impacted by layoff

Prior to implementing a layoff action, the agency director may exclude certain positions from the layoff based on legitimate business requirements. Such business requirements may include circumstances or characteristics that render a position (or group of positions) vital to business continuity such as meeting critical deadlines, research progress or the implementation of legislation.

Determining positions that will be abolished or vacated in the event of a layoff

The agency director will make all final decisions regarding which positions are to be abolished or vacated. These decisions will be made without prejudice according to the established procedures that are consistent with WAC 357-58. Once the decisions have been made, the Employee Retention Rating (ERR) will determine the order in which layoffs occur.

Permanent employee options when scheduled for layoff

Under WAC 357-58-465:

1. Within the layoff unit, a permanent employee scheduled for layoff from a WMS position must be offered the option to take a position, if available, that meets the following criteria:
 - a. The employee has the required competencies for the position.
 - b. The WMS position is at the same salary standard and/or evaluation points. If no option to a position with the same salary standard and/or evaluation points is available, the employer must consider other WMS positions with a lower salary standard and/or evaluation points, or general service positions in accordance with WAC 357-46-035 (1) in descending salary order if the employee has held permanent status in a WGS classification. At the agency's discretion, the employee may be offered a vacant position at higher evaluation points.
 - c. The position being offered as the option is funded and vacant. If no vacant position is available, the position being offered as the option must be occupied by the employee with the lowest retention rating.
2. If a permanent employee has no options available under subsection (1) of this section, the employer must determine if there is an acting position in the layoff unit for which the employee is qualified.

Calculating Employment Retention Ratings (ERR)

For the **EWSHS** an employee's ERR is equal to the employee's seniority (in years, months, and days) as calculated in WAC 357-46-055.

Veteran's Preference

Eligible veterans will receive preference by having seniority increased to include eligible veteran's total active military service, not to exceed five (5) years, to their unbroken service date. The surviving spouse or surviving registered domestic partner of an eligible veteran is entitled to veteran's seniority preference for up to five years as outlined above regardless of whether the veteran had at least one year of active military service.

Breaking a tie when more than one employee has the same ERR

Ties in seniority will be broken by first measuring the employee's last continuous time within their current classification. If a tie still exists, by measuring the employee's last continuous time in the current agency. If a tie still exists, by lot.

Layoff Notification

Permanent employees must receive at least fifteen (15) calendar days written notice of layoff, except when the employer and employee agree to waive the fifteen (15) day notice. Notice of layoff must include the reason or basis for layoff and the employee's right to appeal the layoff.

WMS employees without permanent status must receive at least one calendar day's written notice of layoff.

Timeline to accept or reject a layoff option

The layoff letter specifies how long an employee has to select a layoff option and how they are to respond. In most cases, this will be five (5) business days from the date the layoff notice letter was delivered. Failure to respond within the specified timeframe will be regarded as a rejection of the option(s).

WMS employee appeal rights

Any permanent employee in a WMS position who is laid off, dismissed, suspended, demoted, separated, whose position has been reassigned beyond a reasonable commute without agreeing to the reassignment, or whose base salary is reduced may appeal in accordance with chapter 357-52 WAC. Any WMS employee who is adversely affected by a violation of the state civil service law (chapter [41.06](#) RCW) or the civil service rules pertaining to WMS employees (chapter [357-58](#) WAC) may appeal in accordance with chapter [357-52](#) WAC. The conclusion of an acting appointment is not subject to appeal.

Primary roles and responsibilities for WMS layoff procedure with the EWSHS.

Role	Responsibilities
Agency Director	<ul style="list-style-type: none"> Determine which areas of the EWSHS will be impacted due to layoff and how they will be impacted.
Agency Director & DES HR Consultant	<ul style="list-style-type: none"> Ensure that seniority dates are correct for affected employees. Compute ERRs for employees within affected layoff unit(s).
Agency Director & DES HR Consultant	<ul style="list-style-type: none"> Identify layoff options for employees in positions selected for layoff or who are affected by layoff.
DES HR Consultant	<ul style="list-style-type: none"> For layoff of permanent WMS employee, provide at least fifteen (15) calendar day's written notification prior to layoff action. Notification will contain the following: <ul style="list-style-type: none"> The reason or basis for layoff. A statement of the employee's right to appeal the layoff.
Supervisor/DES HR Consultant	<ul style="list-style-type: none"> For layoff of a permanent WMS employee hand-deliver layoff notification as closely as possible to the beginning of a scheduled business day. NOTE: Delivery date will constitute the first calendar

	<p>day of notice.</p> <ul style="list-style-type: none"> When hand delivery is not possible, mail layoff notification via certified mail at least sixteen (16) calendar days prior to layoff. NOTE: The day after postmark will constitute the first calendar day of notice.
DES HR Consultant	<ul style="list-style-type: none"> Record the date of layoff notification delivery.
DES HR Consultant	<ul style="list-style-type: none"> Add affected employee names to any applicable internal layoff lists effective the same date as layoff notification delivery. Upon employee request, coordinate employee placement on the state layoff list and general government transition pool program.
Employee	<ul style="list-style-type: none"> Advise the DES HR Consultant by completing and submitting the document which indicates acceptance or rejection of the options provided in the layoff notification within five (5) business days. <p>NOTE: Failure to respond to the HR Staff within the prescribed time limit will be regarded as a rejection of the option(s).</p>
Agency Director & DES HR Consultant	<ul style="list-style-type: none"> Proceed forward with the layoff action and provide information and assistance to affected employees.

WAC's that apply to this policy and procedure

357-58-440 (notice)	357-58-465 (options)
357-58-445 (reasons)	357-58-470 (employee retention rating)
357-58-455 (layoff)	357-58-475 (veterans preference in layoff)
357-58-460 (procedure)	357-58-505 (appeals)
WAC 357-46-090	WAC 357-58-550 through 555
WAC 357-58-065	WAC 357-46-055

NOTE: If any new WAC's are published that affect or are pertinent to the layoff area, they are hereby incorporated and referenced to this policy and procedures.