

For the UC  
~~Matthew [unclear]~~  
For the AFT  
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1/20/16

**ARTICLE 17  
LAYOFF, REDUCTION IN TIME AND REEMPLOYMENT**

**A. General Provisions**

1. Consistent with this MOU, all layoffs **and reductions in time**, and reemployment from layoff status, must be made in accordance with the provisions of this Article.
- 2. This Article does not apply to Summer Session appointments.**
- ~~3.~~ Consistent with this MOU, the University has the sole, discretion to determine when a layoff or reduction in time is necessary, and to determine the function(s) and the title code(s) on a particular campus within which the staffing level(s) are to be reduced.
- ~~4.~~ The provisions of this ~~section~~ **Article** do not nullify or modify the applicable University and campus policies or procedures that exist or may be developed pertaining to disestablishment.
- ~~5.~~ **All The** provisions of ~~Section B, C, and D.~~ **this Article** pertain to actions taken within ~~the~~ **unit of a layoff unit.**
- ~~6.~~ The University shall not apply the provisions of this Article in an arbitrary, capricious or unreasonable manner.
7. For purposes of Article 7a and 7b and this Article only, layoff periods of less than one quarter or semester count towards eligibility for Continuing Appointment status and seniority.

**B. Definitions**

1. Layoff
  - a. A layoff is an involuntary separation from employment in a layoff unit, which occurs because of a lack of instructional need due to a programmatic change, budgetary considerations, or a lack of work for the NSF. budgetary considerations, or programmatic change.
  - b. Pre-Six Appointees are considered to be separated from employment at the expiration of their appointment. Such separation does not constitute a layoff.

**2. Reduction in Time: A reduction in time occurs when an NSF's appointment in a layoff unit is involuntarily reduced due to a programmatic change, budgetary considerations, or a lack of work for the NSF.**

**3. Layoff Unit**

The layoff unit shall be the department, program or equivalent unit.

**4. Seniority**

- a. Seniority is based on the number of terms of service (**quarters or semesters**) on pay status in the bargaining unit, in the same ~~department, program, or unit~~ **layoff unit**. If two or more NSF have the same number of terms of service, the number of terms at 50% or greater shall be used to determine which NSF has greater seniority. If two or more NSF have the same number of terms of service and the number of terms at 50% or greater, the tie breaker shall be earliest hire date in the department, program, or unit.
- b. When a pre-six NSF and a Continuing Appointee are teaching the same course in the same ~~department, program or unit,~~ **layoff unit** the University shall lay off ~~or reduce the appointment percentage~~ of the pre-six NSF before laying off ~~or reducing the appointment percentage of~~ a Continuing Appointee.
- c. **NSF who hold Continuing Appointments shall have seniority over NSF who have achieved Continuing status but who have not yet begun a Continuing Appointment. NSF who achieved Continuing Appointee status but who have not yet begun a Continuing Appointment shall have seniority over Pre-six year NSF.**

**C. Alternatives to Layoff Considerations Prior To Layoff or Reduction in Time**

1. When the University has determined that the NSF staffing cuts are necessary, ~~in accordance with this Article, above,~~ it will consider attrition, retirement, the non-reappointment of pre-six year NSF, and voluntary reduction in NSF staffing within the ~~department, program or unit~~ **layoff unit** in order to avoid a layoff ~~or reduction in time~~.
2. ~~By mutual agreement between the University and the Union, regardless of seniority, At the sole, non-grievable discretion of the University, a the department, program, or unit may elect to invite all NSFs within a layoff unit to volunteer for layoff or a reduction in time. Where the parties have reached such agreement in such cases, the University shall have the sole, non-grievable discretion to select who, among the volunteers, shall be laid off or reduced in time. The Union shall be sent provided with a copy of the~~

~~invitation at the same time the invitation is within one (1) business day of the invitation being transmitted to employees. The Union shall also be informed of the identities of volunteers and the person(s) selected for layoff or reduction in time before the layoff or reduction in time occurs.~~ **At its sole discretion, the University may accept any NSF's written request to volunteer for layoff or reduction in time. However, the University shall not solicit volunteers for layoff or reduction in time. The University will transmit a copy to the Union of the acceptance, if any, of the NSF's request no later than the next business day.**

**D. Implementation of Layoff and Reduction in Time**

1. When there is no substantial difference in the degree of special skills, knowledge, or ability essential to the ~~department, program, or~~ **layoff** unit as determined by the University, the order **of** layoff or reduction in time shall be in inverse order of seniority.
2. **In addition to the reasons set forth in B.1. and B.2 above,** ~~the~~ University may lay off **or reduce the appointment percentage of** a Continuing Appointee as a result of assigning the course(s) taught by the Continuing Appointee to Senate Faculty or to ~~an~~ graduate academic student employee. Nevertheless, the University may not lay off or reduce the appointment of a Continuing Appointee in order to assign the course(s) taught by the Continuing Appointee to a graduate academic student employee who is studying in a different department and unrelated discipline, unless such assignment is in accordance with the department's or division's academic plan for the pedagogical training of its graduate students.
3. When a Continuing Appointee has received a ~~layoff notice~~ **notice of layoff or reduction in time**, and the Continuing Appointee or the Union on behalf of the Continuing Appointee alleges that s/he is equally qualified to perform the work being done by one or more less senior NSF(s) in the same layoff unit, the University shall evaluate the qualifications of the less senior NSF(s) named by the Continuing Appointee. If the University determines that the more senior Continuing Appointee's qualification are substantially equal to those of the less senior NSF, the University shall lay off **or reduce in time** the less senior NSF.

**E. Layoff and Reduction in Time - Pre-Six-Year Appointees** ~~Layoff and Reduction in Time~~

~~NSF with pre-six-year appointments Appointees shall be given 30 calendar days written notice of the effective date of any layoff or reduction in time. Whenever practicable, notice will be given as follows subject to the provisions below:~~

1. **Written Notice of Layoff or Reduction in Time**

NSF with pre-six year appointments shall be given written notice of the effective date of any layoff **or reduction in time. The notice shall identify whether the layoff or reduction in time is due to a programmatic change, budgetary considerations, or a lack of work for the NSF.** ~~Whenever practicable, a~~ Notice will be given as follows subject to the provisions below:

- a. ~~Such~~ NSF on quarter or semester appointments or initial one-year appointments ~~will~~ **shall** be given at least thirty (30) calendar days advance written notice.
- b. ~~Such~~ NSF with an appointment of at least one year with four (4) through nine (9) quarters **or three (3) through six (6) semesters** of University service ~~at the campus~~ **in the layoff unit shall** ~~will~~ be given at least sixty (60) calendar days advance written notice.
- c. ~~Such~~ NSF with an appointment of at least one year with ten (10) or more quarters **or seven (7) semesters or more** of University service ~~at that campus in the layoff unit shall~~ ~~will~~ be given at least ninety (90) calendar days advance written notice.
- d. Notwithstanding the foregoing, any pre-six NSF whose appointment is reduced by **only up to one (1) IWC** (or one course if valued at greater than one IWC) shall be entitled to only thirty (30) calendar days advance written notice.
- e. When the University provides written notice to the NSF, ~~of the University's layoff intent,~~ the University ~~will~~ **shall** transmit a copy of the notice to the Union no later than the next business day.

## **2. Pay in Lieu of Notice for Layoff or Reduction in Time**

- ~~a) The period of notice will not extend past the expiration date of an appointment. Pay in lieu of notice will not be greater than the amount of pay the NSF would have received through the last day of appointment.~~
- ~~b) Where advance written notice of layoff is not given, such as in emergency situations, pay in lieu of notice will be provided subject to the above provisions.~~
- ~~c) Where advance written notice of reduction in time is not given, thirty (30) calendar days pay in lieu of notice will be provided.~~
- a. Where advance written notice of layoff **or reduction in time** is not given, ~~such as in emergency situations,~~ **thirty (30) calendar days** pay in lieu of notice will be provided. ~~subject to the above provisions.~~

- ~~2.b. The period of notice will not extend past the expiration date of an appointment. Pay in lieu of notice will not be greater than the amount of pay the NSF would have received through the last day of appointment. Pay in lieu of notice shall never exceed the pay the NSF would have received absent the layoff or reduction in time.~~

**E. Layoff and Reduction in Time – Continuing Appointees**

**1. Written Notice of Layoff**

**a. Written Notice**

- 1) Continuing Appointees ~~will~~ **shall** be given at least twelve (12) months written notice of full separation from employment resulting from layoff. **The notice shall identify whether the layoff is based on programmatic change, budgetary considerations, or a lack of work for the NSF.**

~~b. NSF with Continuing Appointments shall be given written notice of the effective date of any layoff including a reduction in time as soon as practicable after the decision is made. When ~~Where~~ advance notice of layoff is not given, pay in lieu of notice will be provided in accordance with this section, the University will provide pay in lieu of notice. Pay in lieu of notice will not extend past the notice period provided.~~

~~c. Pay in lieu of notice will not result in the NSF receiving greater pay than would have been received had the NSF not been laid off. (check w #2 above)~~

- 2) When the University provides written notice to the NSF, the University ~~will~~ **shall** transmit a copy of the notice to the Union no later than the next business day.

**b. Pay in Lieu of Notice for Layoff**

1) ~~NSF with Continuing Appointments shall be given written notice of the effective date of any layoff including a reduction in time as soon as practicable after the decision is made. When **Where advance** notice of layoff is **not given, pay in lieu of notice will be provided** in accordance with this section, the University will provide pay in lieu of notice. Pay in lieu of notice will not extend past the notice period provided.~~

- 2) **Pay in lieu of notice will not result in the NSF receiving greater pay than would have been received absent the layoff.**

**2. Reduction in Time That Does Not Exceed One "Instructional Workload Credit"(IWC) or One Course**

**a. Written Notice**

- 1) ~~Continuing Appointees shall be given at least~~ **When a reduction in time entails the elimination of up to one Instructional Workload Credit or one course if greater than one IWC from the appointment, notice will be provided no later than thirty (30) calendar days written notice prior to of reduction in time when the reduction does not exceed one IWC or one course (if course is valued greater than one IWC), first date of the performance of assigned responsibilities. The notice shall identify whether the layoff or reduction in time is based on programmatic change, budgetary considerations or lack of work for NSF.**
- 2) When the University provides **advance** written notice to the NSF, ~~of the University's layoff intent,~~ the University ~~will~~ **shall** transmit a copy to the Union no later than the next business day.

**b. Pay In Lieu of Notice**

- 1) **Where advance notice is not given, pay in lieu of notice shall be provided.**
- 2) **Pay in lieu of notice shall not exceed the pay the NSF would have received absent the reduction in time.**

**3. Reduction in Time that Exceeds One Instructional Workload Credit (IWC) or One Course**

**a. Written Notice**

- 1) Continuing Appointees ~~shall~~ **will** be given at least sixty (60) calendar days written notice of reduction in time when the reduction in time exceeds one IWC or one course **(if the course is valued at greater than one (1) IWC), whichever is greater. The notice shall identify whether the reduction in time is based on programmatic change, budgetary considerations, or lack of work for NSF.**
- 2) When the University provides written notice to the NSF, ~~of the University's layoff intent,~~ the University ~~will~~ **shall** transmit a copy of the notice to the Union no later than the next business day.

**b. Pay In Lieu of Notice**

**1) Where advance written notice is not given, pay in lieu of notice shall be provided.**

**2) Pay in lieu of notice shall not ~~never~~ exceed the pay the NSF would have received absent the reduction in time. Pay in lieu of notice will not result in the NSF receiving greater pay than would have been received had the NSF not experienced a reduction in time.**

**4. Reduction in Time that Impacts Health and Welfare Benefits**

**a. Whenever possible, Continuing Appointees shall be given additional advance notice when the reduction in time can reasonably be expected to affect their eligibility for health and welfare benefits. The notice shall identify whether the reduction in time is based on programmatic change, budgetary considerations, or lack of work for NSF.**

**b. When the University provides written notice to the NSF, the University shall transmit a copy of the notice to the Union no later than the next business day.**

**G Meet and Discuss / Consult**

**1. ~~If the department chair or unit head chooses not to consult, the University shall, upon request, meet within a reasonable period of time with the Union to discuss the effects of a layoff. Within fifteen (15) calendar days of the date of the issuance of the layoff notice, the Union may request to meet with the University to discuss the effect of the layoff or reduction in time.~~**

**2. ~~However, n~~Nothing in this Article shall preclude the department chair or unit head from consulting with the affected NSF.**

**H. Reemployment**

**1. Duration**

**a. ~~Pre-six year NSF: The p~~Pre-six year-NSF ~~have reemployment rights has not been laid off for more than a period equivalent to~~ for the remaining duration of the NSF's appointment prior to the layoff or reduction in time. ~~or~~**

**b. ~~Continuing Appointee: The~~Continuing Appointees ~~have reemployment rights for~~ has not been laid off for more than two years from the effective date of the layoff or reduction in time.**

2. **Order of Reemployment**

If more than one qualified person NSF is on layoff **or reduced time** status from the same department, program or unit, the order of reemployment shall be on the basis of special skills, knowledge or ability essential to the department or unit. When there is no substantial difference in the degree of special skills, knowledge and ability essential to the department or unit as determined by the University, the order of reemployment shall be in inverse order of layoff **or reduction in time, according to the definition of seniority as set forth in B.4. above.**

3. **Temporary Reemployment**

In the event the University decides to offer temporary reemployment opportunities of no more than one quarter or semester in the same department, program or **layoff** unit and title group, ~~area in which the NSF has taught or performed work from which an NSF has been either laid off or has had his/her percentage of appointment reduced,~~ the temporary reemployment ~~does~~ **shall** not constitute a recall for reemployment purposes. Further, an NSF's acceptance of temporary reemployment of no more than one quarter or semester will not nullify said NSF's layoff **or reduced time** status. Should instructional need exist beyond this temporary period, the NSF's reemployment status previous to the layoff **or reduction in time** ~~will~~ **shall** be reinstated.

4. Termination of the Right to Reemployment

a. The right to reemployment terminates if an NSF:

- 1) ~~accepts another~~ **an appointment at the same or higher percentage of time in the same title and layoff unit from which the NSF was reduced in time or laid off** ~~bargaining unit at the same or higher percentage of time at the University;~~
- 2) refuses or fails to respond within fourteen (14) days to a second written offer of reemployment at the same or higher percentage of time sent to the NSF's last known address. However, the right to reemployment does not terminate if the two offers are for courses/work within the same academic year or if the NSF is unable to resume employment because of other employment commitments made in response to the layoff.

b. If the University is attempting to employ an NSF on an urgent basis and if a laid-off or reduced in time NSF who has ~~rehire~~ **reemployment** rights cannot be reached and/or does not respond within seven (7) calendar days, the University



may fill the position. In this instance or when failure to respond was due to extraordinary circumstances, a laid off or reduced in time NSF will not have waived any future reemployment rights.

I. **Placement Assistance**

To the extent available at each department or campus, the University will, upon request, provide assistance in seeking placement to any NSF who has been laid off.

J. **Benefit Coverage**

An NSF on ~~layoff~~ **reduced time** may continue, if previously enrolled, in certain group insurance programs for the length of time provided by the University's Group Insurance Regulations, subject to the payment of full premiums by the NSF. ~~A reduced time on layoff~~ **appointment** of more than one-half of the working days of a month does not count towards University service for benefit purposes unless the reduced time appointment continues to qualify the NSF for such benefits.

K. **Grievance and Arbitration**

1. A grievance alleging a violation of this article must be filed within thirty (30) calendar days of the transmission of notice to the Union. With respect to grievances based on alleged violations that would not be apparent when the written notice is issued, such grievances must be filed within thirty calendar (30) days of the date on which the NSF/Union knew or should have known of the alleged violation, whichever is earlier.
2. In any arbitration involving layoff **or reduction in time**, the arbitrator shall not have the authority to substitute her/his judgment for that of the University regarding the necessity for the layoff **or reduction in time**, or the functions/programs or titles affected by the layoff **or reduction in time**. Consistent with the provisions of this MOU, the Arbitrator shall defer to the University's judgment regarding an NSF's academic qualifications unless the Union demonstrates that there was no reasonable basis for the University's decision.
3. If the arbitrator determines that the University failed to consider the qualifications of a Continuing Appointee relative to a less senior NSF identified by the Continuing Appointee or the Union (pursuant to Section D.~~31-b~~), the arbitrator's remedial authority shall be limited to ordering such consideration. Upon the request of either party, the arbitrator may retain jurisdiction to ensure that the procedural flaws have been addressed.

4. When the Union has alleged that the University's stated reason(s) for a decision to lay off is pretextual or factually incorrect, the arbitrator will consider all the evidence submitted by the parties and may reverse a University decision when s/he determines that the decision is contrary to the weight of all the evidence.
5. Allegations of procedural violations of this Article shall be subject to the Grievance and Arbitration provisions of this MOU.