UCSF Layoff Process and Procedures

An Overview
What is a Layoff?

- A layoff is the involuntary separation from employment or a reduction in the appointment percentage of a career non-probationary employee due to a:
  - lack of funds
  - lack of work
  - reorganization
What is a Layoff?

- Layoffs focus on positions, not individuals
- Layoffs are *not* to be used for resolving employee performance problems
Layoffs Under UC Policy and Union Contracts

- Layoffs are effected by classification within a layoff unit
  - A layoff unit is an organizational sub-unit of an Office, School, Department or Division
- Layoffs are affected in inverse order of seniority
  - Exceptions
    - Waiver of seniority
    - Special Skills, Knowledge and Abilities
Considering Alternatives to Layoffs

- Elimination of vacant, limited or per-diem positions
- Transfer or reassignment to open vacant positions
- Temporary layoffs
- Reductions-in-time
Timing the Layoff Process

- **Start process at least 90 days prior to anticipated date of layoff** to allow for:
  - Preparation of business plan
  - Labor/Employee Relations’ review of business plan and confirmation of seniority
  - Administration of seniority/bumping process
  - Notice to individual employees affected by layoff
    - 60 days’ notice for most represented employees
    - 30 days’ notice for Professional and Support Staff
The Business Plan

The Business Plan provides the information to support the business need for the layoff, explains why specific positions are affected and describes how work will be accomplished to the extent that it will continue to be performed.

Estimated Time (Department): 1-3 business days
The Business Plan

- Along with the Business Plan, departments must submit:
  - Pre- and post-layoff organizational charts
  - Request for Order of Layoff Form
The Business Plan

- Labor & Employee Relations reviews plan, seeks clarification if needed, approves plan and calculates seniority

Estimated Time (Labor/Employee Relations): 3-5 business days
Employees May Be Given Notice of Layoff At This Point If . . .

- Employee targeted for layoff is the least senior in the classification and layoff unit;
- Least senior employee in classification and layoff unit is laid off;
- Employee targeted for layoff is the sole incumbent in the classification and layoff unit; or
- All incumbents in the classification and layoff unit are being laid off
Seniority

- Seniority is based on:
  - full-time equivalent months (or hours) of total University service (Clerical, Police, Professional and Support Staff, Staff Research Associates and Technical); or
  - most recent date of hire into a career position at the University (Patient Care Technical, Service, Nurses and Healthcare Professionals)

- University service is not limited to UCSF employment, but includes all hours worked as a UC employee so long as there was no break in service
Selection for Layoff – The Rule: Seniority Order

- The order of layoff for career employees in the same classification and layoff unit is in inverse order of seniority

- A more senior employee whose position is being eliminated or reduced may have the right to be reassigned to a position held by a less senior employee
  - The less senior employee is “bumped” out of her/his position
Selection for Layoff – Example 1

Seniority Order Bumping

1. Most Senior – Betty 100% (targeted)
2. Bob 100%
3. Jane 100%
4. Jim 100%
5. Least Senior – Kate 100%

Betty bumps Kate because Betty is more senior
Selection for Layoff – Example 2 (Made Whole or Better)

Seniority Order of Bumping
“Made Whole or Better”

1. Most Senior - Betty 100%
2. Bob 75% (targeted)
3. Jane 100%
4. Jim 50%
5 Least Senior - Kate 60%

1st Bump

2nd Bump

Bob cannot be reassigned to take Kate’s position because that would result in his being reduced in time when he is not the least senior employee; he is reassigned to a position held by the next employee in order of seniority whose appointment percentage is equal to or greater than his own, which in this example is the position held by Jane.

1st Bump – Bob bumps Jane
2nd Bump – Jane bumps Kate, who is laid off.

Note: Jane and Kate are now subject to reductions in time, making them eligible for recall/preference and/or severance.
Selection for Layoff – The Exception: Special Skills, Knowledge and Abilities

- A department may retain an employee irrespective of seniority if the employee possesses special skills, knowledge or abilities (“SKAs”) that are not possessed by other employees in the same classification and which are necessary to perform the ongoing functions of the department.
Selection for Layoff – The Exception: Special Skills, Knowledge and Abilities

- Special SKAs cannot be relied upon to retain employees out of seniority order if the SKAs can be acquired in a reasonable period of time.

- Some union contracts allow for the retention of a less senior employee based on special SKAs only if the SKAs cannot be learned within a specified period of time.
  - Clerical – 6 months
  - Patient Care Technical and Service – 6 months or less without negatively affecting patient care
  - Health Care Professionals and Nurses – 30 days
Selection for Layoff – The Exception: Special Skills, Knowledge and Abilities

- A targeted employee’s failure to meet performance expectations – whether documented or not – is not a relevant consideration in determining whether she/he possesses special SKAs
Process for Retention of Employees Out of Seniority Order – Inform Employee of Seniority Rights

1. Department informs employee targeted for layoff of seniority rights and provide employee with the job description for the least senior employee’s position
   - If the targeted employee indicates a lack of interest in bumping, immediately contact Labor & Employee Relations

Estimated Time: 1 week to several months (Department and Campus Human Resources)
Process for Retention of Employees Out of Seniority Order – Assess Special SKAs

2. Department evaluates whether the targeted employee meets the position qualifications of each less senior position, and whether the incumbents possess special SKAs which the targeted employee does not possess

- Should include review of the targeted employee’s resume and job description, and review of the Employee Requisition Forms (ERF), job descriptions and resumes of all less senior employees
3. Beginning with the position of the least senior employee, department schedules a meeting between the targeted employee and manager or supervisor of the less senior employee

- Purpose of this meeting is to obtain additional information regarding the targeted employee’s ability to perform the job duties of the less senior employee’s position that may not be reflected in the targeted employee’s resume and job description
- This is not a job interview
Process for Retention of Employees Out of Seniority Order – Document Basis for Retaining Employee Out of Seniority Order

4. If department determines that a less senior employee possesses special SKAs not possessed by the targeted employee, a written justification to retain the less senior employee is submitted to Labor & Employee Relations for review

- Special SKA Justification: 1) identifies any and all special SKAs, including but not limited to, job requirements (qualifications), 2) describes how the special SKAs are possessed by the less senior employee and not possessed by the targeted employee and 3) addresses why the special SKAs could not be acquired by the targeted employee within a reasonable or otherwise specified period of time
Process for Retention of Employees Out of Seniority Order – Review by Campus Human Resources

5. Campus Human Resources advises as to whether the retention of the less senior employee is justified

6. If retention is justified, targeted employee is provided copy of written justification and laid off, assuming there are no other less senior employees
   - If there are other less senior employees, the process continues with a review of next employee’s position in seniority order
**Current Process**

- **Step 1:** Department informs targeted employee of seniority rights and presents job description of least senior position.
- **Step 2:** Department evaluates whether less senior employee possess special SKAs not possessed by targeted employee by reviewing resume and job description of targeted employee, as well as Employee Requisition Form, job description and resume of less senior employee.
- **Step 3:** If a conclusion is reached that the less senior employee should be retained, department prepares special SKA justification and submits to L/ER.
- **Step 4:** L/ER reviews written justification and advises as to whether basis exists to retain less senior employee.
- **Step 5:** Department meets with targeted employee and presents written justification to them.
- **Step 6:** Assuming employee disagrees with department’s reasons for retaining less senior employee, employee meets with supervisor of less senior employee and responds to the justification set forth by the department for retaining the less senior employee.
- **Step 7:** Department submits to L/ER additional written justification for retaining less senior employee which addresses employee’s response to first written justification.
- **Step 8:** L/ER and Staffing review written justification and other relevant documentation and advise as to whether a basis exists to retain the less senior employee.
- **Step 9:** Targeted employee does not “bump” least senior and is either issued a layoff notice or considered for other less senior positions, if there are any.

**Streamlined Process**

- **Step 1:** Department informs targeted employee of seniority rights, and presents job description of least senior position.
- **Step 2:** Department evaluates whether less senior employee possess special SKAs not possessed by targeted employee by reviewing resume and job description of targeted employee, as well as Employee Requisition Form, job description and resume of less senior employee.
- **Step 3:** Supervisor of less senior employee meets with targeted employee to obtain additional information regarding targeted employee’s experience and background.
- **Step 4:** If a conclusion is reached that the less senior employee should be retained, department prepares special SKA justification and submits to L/ER.
- **Step 5:** L/ER and Staffing review written justification and other relevant documentation and advise as to whether a basis exists to retain the less senior employee.
- **Step 6:** Department presents written justification to targeted employee, who does not bump less senior employee. Targeted employee is either issued a layoff notice or considered for other less senior positions, if there are any.
Process for Retention of Employees Out of Seniority Order

- Some union contracts require the University to notify the union in advance of the layoff date if a less senior employee will be retained
Selection for Layoff – Example 2 (Retention of Less Senior Employee)

- **First Round**: Kate and Jim are retained based on possession of special SKAs. Betty bumps Jane.
- **Second Round**: Since Jane is not the least senior, she bumps Kate, who is then laid off.
Facilitating the Seniority Process

- Departmental human resources needs to play a strong coordinating role in the process and ensure that all relevant parties are engaged and understand relevant timelines.

- As soon as it is clear that staff will be reduced and there could be bumping, all managers or supervisors of less senior employees should be informed of the potential impact of the layoff/reduction-in-time to their employees.

- A department can review multiple positions in the order of seniority simultaneously, although those positions should be presented to the targeted employee in the appropriate order so that the employee does not form the mistaken belief that she/he can pick and choose between positions.
Layoff Notice

- Employees selected for layoff are entitled to 30-60 days’ notice depending on the applicable policy or contract.
- Policy and contract allow the University to pay an employee in lieu of notice.
Rights of Employees Who Have Been Laid Off

- Severance
  - Under policy and most contracts, employees may elect to receive severance in lieu of recall/preferential rehire rights
  - UPTE contracts allow employees with more than 5 years of University service to elect severance or reduced severance and recall/preferential rehire rights

- Outplacement Transition Services (non-represented employees only)
Rights of Employees Who Have Been Laid Off

- Recall: The right of an employee to return to University service to an active, vacant career position in the same classification and department at the same or lesser percentage of time as the position from which the employee was laid off.

- Preferential Rehire: The right of an employee to be granted first consideration for a vacant career position in the same bargaining unit and at the same campus/hospital/ laboratory as the position from which the employee was laid off. The position must be at the same or lower salary range maximum and at the same or lesser percentage of time as the position from which the employee was laid off.
Employee Appeal Rights

- The decision that a layoff is necessary is considered a management right and is not subject to the University’s complaint resolution and grievance procedures.

- A decision to retain an employee irrespective of seniority is subject to the complaint resolution and grievance procedures and can be appealed through arbitration/hearing.
“Laying Off” Managers and Senior Professionals

- MSP employees “may be terminated when, in management’s judgment, the needs or resources of a department . . . do not justify the continuation of an employee’s appointment.”

- Seniority is not a consideration in the decision to terminate the appointment of a MSP employee.

- Departments must prepare a limited business plan, which addresses the reason(s) for the decision to terminate an employee.
“Laying Off” Managers and Senior Professionals

- MSP employees are entitled to 60 days’ notice of termination or pay in lieu of notice
  - Since policy makes no distinction between terminating and laying off MSP employees, they are first issued a “notice of intent” and provided an opportunity to respond to the proposed termination

- MSP employees who are terminated for reasons other than performance or conduct may receive severance conditioned on the signing of a separation agreement and general release

- Outplacement Transition Services
Questions