

## USC Discussion Questions- Human Resources

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- Which staff types are covered by union agreements, non-exempt, NESS eligible, PSS/exempt? Our union (AFSCME) covered employees are those staff who are non-exempt (who are not confidential employees and those non-exempts who do not supervise). NESS eligible employees are those non-exempt employees who are excluded from collective bargaining (confidential and supervisory). PSS eligible employees are exempt staff of all classifications. Our other unionized employees are the uniformed police officers, who are represented by the FOP.
- Are all staff considered “at will” employees and what does that mean? All exempt staff hired after January 2000 are considered at-will employees. Exempt employees hired before January 2000 may only be removed from service for cause. Our nonexempt employees who have passed original probation may be removed from service only for cause.
  - At-will means that an employer can terminate an employee at any time for any reason, except an illegal one, or for no reason without incurring legal liability. Likewise, an employee is free to leave a job at any time for any or no reason with no adverse legal consequences.
- If an employee is laid off, what is the process and is this different based on the position type, non-exempt vs. exempt? Yes. See BOR VII -1.30 (<https://www.usmd.edu/regents/bylaws/SectionVII/VII130.pdf>) - layoff for nonexempt employees. There is a process for nonexempts. There is also a similar process for AFCSME covered employees.
- Process for nonexempts:
  - 1. Dept. must notify the CHRO in writing.
  - 2. The CHRO conducts a review and certifies that the layoff is appropriate.
- Sequence of layoff:
  - 1. layoff employees on original probation first.
  - 2. layoff all others in order of seniority---employee with the lowest number of seniority points will be laid off first. Seniority points formula: 1 point per month of completed service for a. USM & State service b. service in the department in which the layoff is to occur c. service in the job series in which the layoff is to occur. 0.032 points for a partial month of creditable service. If there is a tie, the President will determine who is to be retained based on a written, detailed account of skills and job knowledge.
- Displacement Rights - an employee in a layoff situation can elect to displace another employee in the progressively lower classifications in the same job series. Or an employee can displace another employee in a job class where the employee previously had satisfactory service. This displacement right is limited to the department where the layoff is to occur.

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- Certification & Rehire - employee must notify CHRO of home institution to go on a list of eligible employees who will receive priority for rehire at the home institution or another USM institution (CHRO will forward the employee's information to the other USM institutions).
- Exempt layoff –
  - 1. Dept provides written notice & justification to CHRO
  - 2. After the CHRO certifies the layoff, the department must provide the employee at least 90 days' notice in writing. If the layoff is due to a termination of funds, the layoff period of notice may be shorter, but the employee must be notified no less than 5 days before the layoff takes effect, if this is the case. The employee can be placed on administrative leave for all or part of this notice period. The employee will continue to accrue leave. NO displacement rights.
- Recall rights - can be recalled within one (1) calendar year from the effective date of layoff, the specific position from which the layoff occurred is reestablished.
  - B. A person who is appointed to any position in the USM within 3 years of being laid off shall be considered in a reinstatement status.
  - C. The layoff of an employee in an exempt position shall not affect any faculty tenure rights which that employee may hold in an academic department of the employing institution.
- Can a position number/title be refilled after an employee is laid off? Position has to be re-established. Do the same rules apply if the position number is reclassified to a different title? If we abolish positions when there is a layoff then it would need to be re-established. If positions are left vacant then it could be reclassified by the department to fit business needs.
- Can a staff member be let go without cause in a way other than being fired? For instance not laid off and not fired. Yes, for example there could be a Medical separation - employee can no longer perform essential job functions - employee receives an options letter - if the employee fails to select an option within 30 days, the employee will be could be separated.
- With the transition and changes in departments is it possible for current staff that's position is no longer applicable in their department to be considered for open positions above outside applicants for open positions? Only in layoff situations (that we can think of) would priority consideration be warranted.

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- Can a staff member be transferred from one department to another without a search? Searches are generally for vacant roles. There could be a business need for a transfer without a search.
- Why can't probation for non-exempt positions be waived for current staff that apply for another internal position? This process is driven by USM's BOR rules. And yes, there are special considerations as explained under the probationary policy.
- Why is the probationary period different for exempt and non-exempt positions? This policy was set by USM (BOR). (<https://www.usmd.edu/regents/bylaws/SectionVII/VII121.pdf>) Exempts are at will, and non-exempts are not. Exempts are typically in positions which involve discretion and decision-making.