

## Layoffs- At A Glance

### Faculty - Tenured:

1. *How do you determine if a financial emergency exists for purposes of layoffs?*

It is the responsibility of the Board of Regents to declare a financial emergency for an institution. To reach this conclusion, the Board must determine that the general program operations budget of the institution, excluding adjustments for salary/wage increases and inflationary impact on non-salary budgets, has been reduced; that institutional operations within this reduced budget requires a reduction in the number of faculty positions (only if such a reduction would be substantially less detrimental to the institution's ability to fulfill its mission than would other forms of budgetary curtailment available to the institution); and that a required consultation has taken place between the chancellor and the faculty committee, and that a recommendation to the system president and the board has been prepared and presented. [UWS 5, RPD 20-24](#). See also [Wis. Stat. § 36.21](#) and [Wis. Stat. § 36.22](#).

### Faculty – Tenure Track:

Nonrenewal involves the termination of an employment appointment at (or after) the conclusion of its term. Given that tenured faculty have indefinite appointments, this avenue is only available for tenure-track faculty.

For tenure-track faculty, renewal/nonrenewal of appointments is governed by Wis. Admin. Code §§ UWS 3.06-3.10 and UWPF Chapter 6.

UWS 3.06 states that “appointments may be granted only upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution.” While most provisions regarding tenure-track faculty appointments regard the consideration of a faculty member’s portfolio, there is no limitation on the reasons for which a chancellor may make a negative recommendation leading to the nonrenewal of a faculty member’s appointment. UWPF 6.06 indicates that “nothing in this chapter should be read to imply any obligation of reappointment from year to year for probationary faculty.” Furthermore, layoff provisions make clear that “nonrenewal of an appointment, regardless of the reason, is not a layoff or termination.” Wis. Stat. § 36.22(2)(c).

Thus, the chancellor has the discretion and authority to nonrenew tenure-track faculty member appointments for budgetary reasons. There is also no requirement in law or policy that the university or Board of Regents declare a financial emergency to nonrenew tenure-track faculty for budgetary reasons.

Nonrenewed faculty have rights resembling those for laid-off faculty. Required notice of nonrenewal is up to 12 months (for faculty in at least their third year), though appointments may be extended with terminal one-year appointments to provide adequate notice. A table outlining notice deadlines is below.

Year of appointment	Specific notice deadline	Appointment end date	General notice requirement
First year	March 1, 2024	May 31, 2024	At least 3 months
Second year	December 15, 2023	May 31, 2024	At least 6 months
Third year			At least 12 months

Nonrenewed faculty also have rights to provision of written reasons for nonrenewal, nonadversarial reconsideration of the nonrenewal, and appeal of the nonrenewal decision. On appeal, the faculty member would bear the burden to prove to the faculty hearing body that the nonrenewal decision was based on improper consideration of impermissible factors. The chancellor retains final decision-making authority regarding any nonrenewal. See UWS 3.08 and UWPF 6.08.

*2. What happens to faculty who are laid off? Are there recall rights?*

There are recall rights. Under UWS 5.18, each institution is required to create a reappointment policy to ensure that where layoffs occur due to financial emergencies, no person may be employed at that institution within 3 years to perform reasonably comparable duties to those of the faculty member laid off or terminated without first offering the laid off or terminated faculty member reappointment without loss of tenure, seniority and other rights.

Academic Staff:

*1. What is required for the layoff of an academic staff member?*

The decision to layoff an academic staff member must be based on a finding of necessity due to budget or program decisions requiring program discontinuance, curtailment, modification or redirection. The procedures for this are institution-level procedures, which also govern the nature and timing of any consultation appropriate to the circumstances giving rise to the layoff decision. Layoff should normally be based on seniority, but this presumption may be overcome if program needs dictate other considerations. The layoff notice should follow the same time requirements as the notice of non-renewal, with indefinite appointees receiving 12-months' notice. Indefinite appointees are entitled to notice and hearing rights. If the indefinite appointee requests a written statement outlining the reasons for the layoff decision within 20 days of receiving notice of that decision, they are entitled to receive that statement within 15 days of the request. Within 20 days of receiving that statement, an indefinite appointee may request a review and hearing before a hearing body or a hearing examiner provided by the chancellor. For all appointment types, the institution must devote its best efforts to finding an alternative appointment within the institution for which laid off staff are qualified. Laid off academic staff do have reappointment rights for 3 years following the layoff. [UWS 12](#). See also [Wis. Stat. § 36.21](#).

NOTICE PERIODS. Written notice that a probationary academic staff appointment will not be renewed shall be given accordingly: at least three months before the end of the appointment in the first two years; at least six months for service of at least two years but less than seven years; at least nine months for service of at least seven years but less than 10 years; and at least 12 months for staff who have served 10 years or more. Academic staff employed 50% time or more must receive written notice of non-reappointment separate from the appointment letter and at the appropriate required time. Academic staff paid from soft monies need not receive separate non-reappointment notice

**University Staff:**

*1. What is required to terminate a temporary or project university staff member?*

Temporary and project university staff are employees-at-will, which means they can be terminated for any reason or no reason, as long as the reason for termination was not unlawful (e.g. discrimination,

retaliation, etc.) It is recommended that an institution, where practicable, provide at least two-week's notice of termination. [SYS 1256 \(4\)\(c\)](#).

*2. How are layoffs handled for permanent university staff?*

The layoff provisions for university staff are governed by Wi Stat 230.34(2), SYS 1232 and SYS 1233. University staff may be laid off because of a reduction in force due to a stoppage or lack of work or funds or owing to material changes in duties or organization. Whenever practicable, employees in temporary or project appointments must be reduced or discontinued before laying off permanent university staff. If layoffs are needed, any staff member designated for layoff must receive written notice as soon as practicable, but not less than 90 days prior to the date of layoff. Lateral movement and/or demotion for an impacted employee may be made outside of the normal recruitment process to avoid a reduction in force. Prior to providing layoff notice to any employees, the employer must develop a layoff plan, which must be discussed with the chancellor and such committees or representatives as may be required by local institution policies. The requirements for the plan are outlined in SYS 1232 (4)(C). A university staff employee subject to layoff may grieve the layoff decision. A grievance regarding a layoff can proceed no further than step 2, and the issue before the decision maker will be whether the appropriate layoff procedure was followed.

A laid off employee may continue to receive health insurance for a period of time after the layoff. For 3 years after the layoff, the laid off employee may apply for vacant UW System positions as an internal applicant. Laid off employees do have recall rights. No person may be employed at the institution within 3 years to perform reasonably comparable duties to those of the university staff member laid off or terminated without first offering the laid off university staff member reappointment without loss seniority and other rights. A refusal to accept such an offer will terminate the employee's recall rights. [SYS 1232](#).

**Limited Appointees:**

*1. How are layoffs handled for limited appointees?*

Limited appointees may be terminated for any reason or no reason. There is no system-wide layoff policy applicable to limited appointees, however if a limited appointee holds a concurrent appointment, the layoff procedures relevant to that concurrent appointment must be honored. [UWS 15](#). [SYS 1250 \(4\)\(a\)](#)