

Human Resources

Employment Actions and Records

Reduction in Force, Layoff, and Recall--US-Scale Support Employees

This regulation supersedes Regulation 4284.3.

I. PURPOSE

To establish procedures for reduction in force (RIF), layoff, and recall of support employees when there is an excess of these employees in the school system. Such actions result from the abolishment of, or change of, positions because of lack of funds, insufficient student enrollment, deletion of a program or project, or organizational restructuring.

II. CHANGES SINCE LAST PUBLICATION

- A. Section III.C. adds definition of business day.
- B. Section III.G. clarifies terminology from contract to workday.
- C. Section III.I. adds definition of organizational restructuring.
- D. Section III.K. expands definition of probationary employee.
- E. Section III.L. expands definition of reduction in force.
- F. Section III.M. adds definition of regular employee.
- G. Section III.O. simplifies language of service seniority.
- H. Section IV. has been rewritten for clarity.
- I. Section VII. has been rewritten for clarity.

III. DEFINITIONS

The definitions in this section shall apply for purposes of this regulation.

- A. Active Class

A single position or a group of positions that are: (a) considered similar as to kind or subject matter of work, level of difficulty and responsibility, qualifications, and requirements to warrant the use of the same title, (b) defined by the same

specification, (c) assigned the same position code number, and (d) assigned the same salary grade.

1. Career ladder positions with the same position code number make up one active class.
2. An active class may include only one position.
3. For payroll purposes, a few active class assignments may have the same title but two position codes, one designated as monthly and one designated as biweekly. These are considered one active class.

B. Active Class Assignment

The position to which an employee is assigned when he or she becomes subject to the reduction-in-force procedures and its classification as determined by a five-digit numerical code.

1. The active class assignment for employees serving in an acting or staff development capacity shall be the employee's active class prior to being temporarily assigned.
2. The active class assignment for an employee in an underfill position shall be the active class at which the position is authorized to be filled (i.e., the higher class).

C. Business Day

A day upon which FCPS offices are open.

D. Class Seniority

The beginning date of continuous service in an active class. In cases of displacement, class seniority ranking of the affected employee is determined by continuous service from the date the employee first entered the secondary class.

E. Continuous Service

Employment with Fairfax County Public Schools (including service with the Fairfax County government) without interruption, including leave(s) of absence and layoff time. Previous service that led to retirement from a county retirement system shall not be counted. (Temporary employment is not included in continuous service.)

F. Displacement

The reassignment of an employee from a position by application of procedures described in this regulation.

G. Full-Time Staff Member

An employee who works an established number of workdays per year for a full day and/or full week, or a flexible schedule of equivalent work hours.

H. Layoff

Termination that results from displacement or reduction in force and creates certain recall rights.

I. Organizational Restructuring

Significant changes in duties and responsibilities associated with the positions in a department, cluster, or superintendent's office. In such a reorganization, incumbents shall be displaced by applying reduction-in-force procedures.

J. Part-Time Staff Member

An employee who works an established number of workdays per year for less than a full day or less than a full week.

K. Probationary Employee

An employee serving an initial 12-month probationary period with the school system following new hire or promotion, or an extended probationary period authorized by the current version of Regulation 4161. (After one year of service in the active class, employees promoted as part of a career ladder in which competitive selection is excluded are not on promotional probation.)

L. Reduction in Force (RIF)

The action taken to reduce the number of allocated positions in the school system. The Division Superintendent is authorized by the School Board to implement the required reduction-in-force action when a reduction in force is necessary because of lack of funds, insufficient student enrollment, program changes or deletion, or organizational restructuring.

M. Regular Employee

An employee who has completed his or her probationary period.

N. Secondary Class

An equal or lower graded active class to which an employee was previously assigned for a period of one year or more during his or her continuous service with Fairfax County Public Schools. Secondary class shall not include any active class from which the employee was removed for disciplinary or performance reasons.

O. Service Seniority

The date of employment beginning with the most recent term of continuous service with Fairfax County Public Schools and Fairfax County government, including authorized leaves of absence and layoff time. (Temporary employment is not included in determining seniority.)

P. Temporary Staff Member

An employee who is paid on an hourly basis and who works as needed.

Q. Work Location

The department, cluster office, superintendent's office, school, or special services center to which the employee is assigned.

IV. REDUCTION-IN-FORCE PROCEDURE

A. Identification of Active Classes and Excess Employees

1. When it is necessary to reduce the workforce, the responsible assistant superintendent shall recommend the active class(es) or a subset within an active class (e.g., employees assigned to a specific contract length) in which there is an excess number of employees. The Division Superintendent shall determine final approval of the affected classes, or subsets thereof, and numbers to be reduced.
2. Within an active class or a subset of an active class that has been approved for reduction, employees shall be designated as excess in the following order to the extent those categories actually exist within the active class or subset: probationary part-time less-than-12-month, probationary full-time less-than-12-month, probationary part-time 12-month, probationary full-time 12-month, regular part-time less-than-12-month, regular full-time less than 12-month, regular part-time 12-month, and regular full-time 12-month. Within each category, those with less service seniority shall be designated as excess before those with more service seniority.

For example, if the subset approved for reduction consists only of 12-month employees, the order shall be probationary part-time 12-month employees,

probationary full-time 12-month employees, regular part-time 12-month employees, and regular full-time 12-month employees. Alternatively, if the subset approved for reduction consists only of part-time less-than-12-month employees, the order shall be probationary part-time less-than-12-month employees, then regular part-time less than 12-month employees.

3. If an active class or a subset of an active class that has been approved for reduction includes less-than-12-month employees who are assigned to contracts of different lengths, those less-than-12-month employees assigned to the shorter contract length shall be designated as excess before those on longer contracts. Within each contract length, the order shall be probationary part-time, probationary full-time, regular part-time, and regular full-time.

For example, if the subset approved for reduction consists of a certain number of less-than-12-month employees, and, within that subset, some employees are assigned to 9-month contracts and others to 10-month contracts, the order shall be: probationary 9-month part-time employees, probationary 9-month full-time employees, probationary 10-month part-time employees, probationary 10-month full-time employees, regular 9-month part-time employees, regular 9-month full-time employees, regular 10-month part-time employees, and regular 10-month full-time employees

B. Preliminary Actions

1. The assistant superintendent, Department of Human Resources, may suspend the filling of any vacant position for active classes, or subsets thereof, to be included in the scheduled reduction-in-force action, as well as all lower-graded classes within all class series of which said affected classes are a part and any other active class in which placement of a displaced employee may be likely. Such action may occur from the date the assistant superintendent, Department of Human Resources, becomes aware of the scheduled reduction in force until the effective date of transfer or separation of an employee or employees under the reduction-in-force action.
2. A staff member serving on an acting or staff development basis in an affected class shall be returned to his or her active class, displacing the least senior employee in that active class if there is no vacancy.
3. All positions held by temporary staff members in the affected work location shall be examined by the appropriate assistant superintendent to determine which employees are essential and who can be separated prior to implementation of the reduction-in-force procedure.

C. Preparation of Lists for Assignment, Displacement, and Recall in Active and Secondary Classes.

1. The assistant superintendent, Department of Human Resources, shall prepare a reduction-in-force roster ranking each employee within the affected active class(es). This roster shall be open for employee inspection. Within each active class on the roster, employees shall be separated into the following categories and, within each category, ranked in order of service seniority: part-time less-than-12-month; full-time less-than-12-month, part-time 12-month, and full-time 12-month. The roster shall categorize probationary and regular employees separately within each category. Employees shall be placed on the rosters for their eligible active and secondary class(es) by the category(ies) that applied when they served in their position(s).
2. When employees have the same service seniority date, they shall be ranked by their class seniority. If two or more employees have the same service seniority dates and the same class seniority dates, the last two digits of their employee identification numbers shall rank them. The employee ranked lowest numerically will be considered for layoff first. Lot shall break further ties.
3. When information needed to make a reduction-in-force, layoff, or recall decision is unclear, or when there are disputes between two or more employees regarding their rights to a position, the assistant superintendent, Department of Human Resources, shall make the decision based on the best available information and the spirit of this regulation.
4. Temporary employees have no rights under this procedure and shall not be included on rosters prepared under the reduction-in-force procedure.

D. Notices

1. Prior to reassignment, layoff, or termination, an employee shall be given a position list detailing any approved active and, if applicable, secondary class to which the employee has placement rights. Any employee who claims to have placement rights into any class not identified on the notice must notify the Department of Human Resources within ten (10) business days of date of the position list. This notice must be timely, must be in writing, and must identify all classes for which the employee claims placement rights, or the employee shall forfeit rights to any claimed class assignment(s) not already identified on the position list. The Department of Human Resources shall review and certify the eligibility of all requests.
2. Prior to layoff or termination, when possible, an employee shall be given thirty (30) calendar days notice. The notice of layoff to the employee shall be in writing and hand-delivered or sent by U.S. mail delivery to the employee's home address.

3. If an employee is laid off, the employee must notify the Department of Human Resources annually, in writing, and no later than July 1, of his or her continued availability for reemployment. If the employee fails to provide notice by July 1, the employee shall forfeit all recall rights. It is the responsibility of the employee to notify the Department of Human Resources of any change of address.
4. If an employee is to be recalled, he or she shall be notified by U.S. mail at the last known address on record with the Department of Human Resources. If an employee is notified of recall and does not provide written acceptance of the offer of reemployment within ten (10) calendar days of the date of the notice, the employee shall forfeit all recall rights.

E. RIF Procedures for Probationary Employees

1. An employee in the first year of employment designated as excess may apply for a voluntary transfer to a vacant position in an active class that is at an equal or lower grade, as described in F.1.a. below. If no transfer is approved, the employee shall be terminated without recall rights and without severance pay.
2. Promotional probationary employees designated as excess may apply for a voluntary transfer under the terms listed in section F.1.a. and F.1.c. below and may displace employees in secondary classes under the conditions listed in section F.2.a. and F.2.c., below.

F. RIF Procedures for Regular Employees

These procedures shall be applied in sequential order to each employee deemed as excess, taking into account the employee's eligibility for the placement option, the availability of placements, and, where applicable, the employee's option to accept or refuse optional placements.

Employees exercising options under the procedure must exercise these rights in sequential order. A binding decision must be made to exercise or not to exercise one option before proceeding to the next option.

An employee who is displaced pursuant to this procedure shall be deemed to be an excess employee and shall be eligible to use the procedure set forth in this regulation.

Excess employees who cannot be placed under this procedure shall be laid off, unless the procedure specifies a different result in response to an employee's choice to refuse an offered position.

1. Transfers to Vacant Positions

a. Voluntary General Transfers

The Department of Human Resources staff shall determine vacancies to which general transfers can be made. An employee designated as excess may request a transfer to a vacancy in his or her work location or in another work location in an active class that is at an equal or lower grade. Transfer to such a vacancy is voluntary. The employee must meet the minimum qualifications for the vacant position. All transfers must be recommended by the appropriate assistant superintendent and approved by the Department of Human Resources staff.

b. Mandatory Transfers to Active Class Assignment in Another Work Location

If a transfer is not approved under paragraph.1. above, the employee shall be assigned to a vacancy in his or her active class in another work location. When the number of excess employees exceeds the number of vacancies, placement priority shall be determined by service seniority. Transfer to such a vacancy is mandatory, and, if refused, the employee shall be terminated without recall rights and without severance pay.

c. Optional Transfer to Secondary Class Assignment

An employee shall be offered assignment in a vacancy in a secondary class within the same work location or in a different work location. Such transfer is optional; however, employees may not displace other employees in a secondary class in which they have refused transfer to a vacant position under this section and, if laid off, shall forfeit severance pay. When the number of excess employees exceeds the number of vacancies, placement priority shall be determined by service seniority. All transfers must be recommended by the appropriate assistant superintendent and approved by the Department of Human Resources staff.

2. Displacement

If assignment pursuant to the transfer provisions in paragraph 1. is not made, an employee is eligible to displace within active and secondary classes according to the following procedures.

An employee shall not have displacement rights to positions that an employee held: (1) on a probationary basis following new hire or promotion, (2) on a temporary or acting basis, (3) previous to a break in service, (4) previous to being removed for disciplinary or performance reasons, (5) that was at a higher grade than the employee's current position, or (6) that no longer exist. No employee shall be eligible to displace an employee on a

longer contract length or otherwise exercise rights involving longer contracts regardless of length of service.

Placement priority of excess employees shall be determined by service seniority. Displacement shall be administered in reverse order of active and secondary classes previously held by the excess employee. Employees shall be assigned to the first displacement opportunity for which they are eligible. Probationary employees shall be displaced first in order of service seniority followed by the least senior regular employee(s) if necessary.

a. Optional Displacement to Secondary Class Within Same Work Location

An employee designated as excess may displace a probationary employee or an employee with less service seniority in a secondary class within the same work location. Acceptance of the assignment is optional; however, an employee who refuses an assignment in a secondary class for which he or she is eligible shall forfeit displacement rights to all secondary classes at all work locations and, if laid off, shall forfeit severance pay.

b. Mandatory Displacement to Same Active Class in Another Work Location

If not assigned under the terms in paragraph a., above, an employee designated as excess may displace, within the same active class, a probationary employee or an employee with less service seniority at another work location. Acceptance of the assignment is mandatory. An employee who refuses assignment under this section shall be terminated without severance pay and without recall rights.

c. Mandatory Displacement to Secondary Class in Another Work Location

If not assigned under the terms in paragraph b., above, an employee designated as excess may displace a probationary employee or an employee with less service seniority at another work location in a secondary class. Acceptance of the assignment is mandatory; however, an employee who refuses an assignment in a secondary class for which he or she is eligible shall forfeit displacement rights to all secondary classes at all work locations. An employee who refuses assignment under this section shall be laid off without severance pay and without recall rights to any secondary class assignments.

V. RECALL AND REEMPLOYMENT

- A. An excess regular employee who accepts a demotion under this procedure, or who is laid off, shall have his or her name placed on a recall list for his or her active class and for certified secondary classes. Employees on the recall list

shall be accorded first opportunity for reemployment in order of service seniority. Employees who return to positions under this procedure shall be treated as reinstatements with respect to pay and leave accrual.

- B. Employees shall remain on recall lists created under this procedure for two years.
- C. An employee shall be removed from all recall lists when he or she accepts a position with a pay grade equal to his or her active class.
- D. If an employee is offered and rejects an opportunity for reemployment in the active class, he or she shall forfeit all recall rights.
- E. If an employee rejects an opportunity for reemployment in a secondary class, his or her name shall be removed from the recall list for that class and for all secondary classes of equal or lower grade. His or her name shall remain on recall lists for a higher graded active class previously held.
- F. If an employee accepts reemployment in a secondary class of a grade lower than that of the active class, his or her name shall be deleted from all recall lists of secondary classes with lower grades than the new active class. His or her name may remain on recall lists for the prior active class and for secondary classes greater in grade than the new active class.
- G. Temporary positions that become available for which there are qualified employees with recall rights shall be offered to such qualified employees on the basis of seniority. Employees who accept temporary positions shall remain eligible for reemployment as described above.
- H. An employee serving a probationary period following promotion is eligible for recall to secondary class positions only.

VI. PAY RETENTION PROVISIONS

- A. A regular employee accepts a demotion under this procedure shall be redlined in accordance with the current version of Policy 4680 and authorized to be compensated at the employee's current level of pay for not more than two years. The employee shall work the number of contract days represented by that redlined salary.
- B. When an employee serving a promotional probationary period is demoted, his or her salary shall be adjusted in accordance with procedures governing demotion as described in the current version of Regulation 4612.
- C. When a newly hired probationary employee accepts demotion under this procedure, he or she shall receive a salary in accordance with standard procedures for employment in that position.

VII. SEVERANCE PAY AND BENEFITS

- A. Severance pay and benefits shall be given to employees laid off in accordance with the current version of Regulation 4680. Severance payments shall cease upon reemployment by the school system or to a position with the Fairfax County government.
- B. Severance pay shall be forfeited by an employee who declines a transfer, reassignment, or demotion to a vacant position or who declines a displacement opportunity prior to the effective date of separation due to reduction in force.

VIII. MISCELLANEOUS

- A. Notwithstanding any other provisions of this procedure, the Division Superintendent may exempt 100 employees in any fiscal year from reduction in force and displacement and may determine their placement under this provision.
- B. Employees designated as excess in accordance with this regulation may apply for transfer, promotion, and demotion to other Fairfax County Public Schools vacancies in accordance with Fairfax County Public Schools regulations. No vacancy shall be filled by such voluntary transaction if another employee is denied the right to the position in an active or secondary class under the reduction-in-force procedure.

See also the current versions of: Policy 4680, Salary Redlining Procedure
Regulation 4164, Probationary Period for Support
Employees
Regulation 4612, Salary Guides--Employees Assigned to the
Unified Salary Scale
Regulation 4680, Salary Guidelines--Reduction in Force