



Reduction-in-Force and Furlough

Q & A

Q1: What Reduction-in-Force options do agencies have?

- A. A Reduction-in-Force (RIF) is the separation from a job, the reduction in pay, or the furlough of one or more employees as the result of a shortage of work or funds or a change in organization.

The most common type of RIF is the separation from a job (layoff) of one or more employees. The reduction may involve both classified and unclassified employees. Before laying off a classified employee, the agency must file a RIF plan and receive approval from the Department of Administrative Services (DOAS). Approval from DOAS is not necessary when laying off an unclassified employee; however, DOAS will need the number of unclassified employees and job titles affected.

A temporary Reduction-in-Force (furlough) occurs when an agency experiences a curtailment of funds. During a period of furlough, employees in the affected agency are placed in a non-pay status and experience a reduction in workdays or scheduled work hours. All furloughs, must be filed with and approved by DOAS prior to implementation. State Personnel Board Rule 16, Absence from Work, requires such approval, regardless of whether affected employees are classified, unclassified, or a combination of both.

Although rare, an agency may file a RIF plan with DOAS to reduce the salary of classified employees for the purpose of conserving funds. Such reductions shall be made applicable to the competitive area defined in the plan and shall reduce the salary of all affected employees for the same amount of time. These types of plans should contain all other elements of a Reduction-in-Force plan except that retention credits need not be calculated. Similar action may be taken with unclassified employees without the need for filing a RIF plan with DOAS; however, DOAS will need the number of unclassified employees and job titles affected. Prior to reducing the salary of a Fair Labor Standards Act (FLSA) exempt employee, an agency should also determine whether the action would result in the loss of the FLSA exemption.

Q2: How much notice must an employee be given prior to implementing a Reduction-in-Force layoff, furlough, or salary reduction?

- A. Classified employees being impacted by a RIF, furlough, or salary reduction must receive at least 30 calendar days' advance notice. An exception applies if the



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agency has insufficient funds to make payroll without immediate implementation of the RIF.

There is no rule that defines a minimum notice period for unclassified employees. To allow them an opportunity to prepare for changed circumstances, advance notice should be provided when possible.

Q3: *When should the State Legislature receive notification of a Reduction-in-Force?*

- A. If a Reduction-in-Force would result in the elimination of twenty-five (25) or more positions or the termination of twenty-five (25) or more employees (including classified and unclassified employees), the agency shall notify the President of the Senate and the Speaker of the House of the proposed reduction at least fifteen (15) calendar days prior to notifying the affected employees.

The notice shall:

- Identify the facility(ies) and operation(s) to be affected and the estimated number of employees to be affected; and,
- State the reason(s) for the proposed action.

Q4: *What is the maximum number of non-pay furlough workdays that an agency can require employees to take in any 12-month period?*

- A. 30 workdays in any 12-month period.

Q5: *How should exempt employees be treated during a week when a furlough day occurs?*

- A. For salaried employees in the public sector (both FLSA exempt and non-exempt), a specific rule applies to furloughs as described in FLSA regulations at 29 C.F.R. § 541.710: "Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced." Salaried employees are, therefore, treated as non-exempt, hourly-paid employees during the workweek in which a furlough occurs. During the furlough week, both exempt and non-exempt employees must be paid for all hours worked; and, overtime hours worked, if any, will be compensated at time and a half.



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Q6: *When should an agency file a RIF plan with the Department of Administrative Services?*

- A. A RIF plan must be filed with and approved by DOAS before implementing any RIF (layoff, furlough, or salary reduction) affecting classified employees.

A RIF plan must also be filed with and approved by DOAS when implementing a furlough affecting unclassified employees.

Neither a RIF plan nor DOAS approval is required when implementing a layoff or salary reduction affecting unclassified employees. The agency is simply required to notify DOAS of the intended action and the number of unclassified employees affected.

Q7: *What information must be included in the Reduction-in-Force plan submitted to the Department of Administrative Services?*

- A. Reduction-in-Force plans affecting classified employees and all furlough plans must be approved by the Department of Administrative Services. The plan submitted to the Department of Administrative Services must contain:
- A brief statement of the circumstances requiring the Reduction-in-Force and the proposed effective date
 - A definition of the competitive area
 - If retention credits must be calculated, a cutoff date after which performance evaluations used for calculating retention credits will not be accepted
 - For a RIF involving a layoff or a salary reduction, a list of employees in each competitive job. If retention credits must be calculated, the employees are to be listed in order of retention credits
 - For a furlough, the number of classified and unclassified employees affected by the furlough
 - If applicable, justification for retaining an employee in favor of another higher in the order of retention
 - If applicable, the manner in which the order of retention shall be determined when employees are tied in total retention credits and at least one, but not all, will be affected

The RIF Tool offered on the DOAS website can be used to document all of the above elements and be submitted as the RIF plan.



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Q8: *In what instance would an agency not be required to calculate retention credits for a Reduction-in-Force:*

- A. Retention credits need not be calculated when any competitive job consists of only one employee or when all incumbents of all jobs in the competitive area are to be affected by the RIF on the same date.

Q9: *How does an agency calculate retention credits?*

- A. Retention credits for classified employees are calculated based upon two employment components: 1) the average summary rating of performance evaluations, and 2) length of continuous and most recent service. Performance is more heavily weighted when calculating retention credits.

Calculating Performance Credits

To calculate the average summary rating:

1. Add the numerical values assigned to the summary ratings of all annual performance evaluations issued in the two (2) years immediately prior to the performance evaluation cutoff date set by the agency in the Reduction-in-Force plan.
2. Divide the sum by the number of ratings.
3. Round to the nearest tenth of a point.

If no performance evaluation was issued during the two-year period, an employee will be assigned a presumptive average summary rating of three (3), Successful Performer.

Retention credits apply to the average summary rating as follows:

1. 0 retention credits for an average summary rating of 1.0 to 1.9
2. 60 retention credits for an average summary rating of 2.0 to 2.4
3. 68 retention credits for an average summary rating of 2.5 to 2.9
4. 76 retention credits for an average summary rating of 3.0 to 3.4
5. 84 retention credits for an average summary rating of 3.5 to 3.9
6. 92 retention credits for an average summary rating of 4.0 to 4.4
7. 100 retention credits for an average summary rating of 4.5 to 4.9
8. 108 retention credits for an average summary rating of 5.0



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Calculating Service Credits

Classified employees receive one (1) retention credit for each full year of continuous service, including any period of leave. One-half year or more will be considered as one (1) year; less than one-half year will be disregarded. Service shall be computed up to the effective date of the Reduction-in-Force.

The sum of the retention credits for performance and length of continuous service will constitute the total number of retention credits for an employee. Although the calculation of retention credits is only required for classified employees, agencies may choose to apply this same formula to unclassified employees. Agencies have the discretion to select a non-discriminatory method for determining the order of unclassified employee retention, such as some combination of performance, tenure, knowledge, skills, abilities, competencies, and discipline history.

Q10: What is the competitive area?

- A. The competitive area is that part of an agency that will be affected by a RIF. An agency may define a competitive area as a particular location, division, unit, or business function. The entire agency might even be the competitive area, as was the case during the recession when all employees within an agency were furloughed for one or more days.

Q11: How does an agency determine the sequence for reduction of employees?

- A. Within a competitive area the order of Reduction-in-Force of employees in each job shall be:
1. First group to be reduced – from the lowest to highest number of retention credits, employees who are not honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is lower than three (3) “Successful Performer,”
 2. Second group to be reduced – from the lowest to highest number of retention credits, employees who are honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is lower than three (3) “Successful Performer,”
 3. Third group to be reduced – from the lowest to highest number of retention credits, employees who are not honorably discharged veterans of a period of



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- armed conflict and whose average summary performance evaluation rating is three (3) “Successful Performer” or higher; and,
4. Fourth group to be reduced – from the lowest to the highest number of retention credits, employees who are honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is three (3) “Successful Performer” or higher.

If two or more employees are tied in the total number of retention credits and one or more, but not all, employees so tied are to be selected for reduction, the agency shall select a non-discriminatory manner to determine the order of retention.