

**WAC 357-46-035 Layoff option. (1) What option does a permanent employee have to take a position when the employee is scheduled for layoff?**

Within the layoff unit, a permanent employee scheduled for layoff must be offered the option to take a position, if available, that meets the following criteria:

(a) The position is allocated to the class in which the employee holds permanent status at the time of the layoff. If no option to a position in the current class is available, the employee's option is to a position in a class in which the employee has held permanent status that has the same salary range maximum. If the employee has no option to take a position that has the same salary range maximum, the employee must be given an opportunity to take a position in a lower class in a class series in which the employee has held permanent status, in descending salary order. The employee does not have to have held permanent status in the lower class in order to be offered the option to take a position in the class.

(b) The position is comparable to the employee's current position as defined by the employer's layoff procedure.

(c) The employee satisfies the competencies and other position requirements.

(d) The position is funded and vacant, or if no vacant funded position is available, the position is occupied by the employee with the lowest employment retention rating.

**(2) What if the employee has no option under subsection (1) of this section?**

(a) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an available position in the layoff unit to offer the employee in lieu of separation that meets the following criteria:

(i) The position is at the same or lower salary range maximum as the position from which the employee is being laid off;

(ii) The position is vacant or held by a probationary employee or an employee in a nonpermanent appointment;

(iii) The position is comparable or less than comparable; and

(iv) The position is one for which the employee meets the competencies and other position requirements.

(b) If more than one qualifying position is available, the position with the highest salary range maximum is the one that must be offered.

**(3) What happens when a class in which the employee previously held permanent status has been revised or abolished?**

(a) If a class in which an employee has previously held permanent status has been revised or abolished, the employer shall determine the closest matching class to offer as a layoff option. The closest matching class must be at the same or lower salary range maximum as the class from which the employee is being laid off.

(b) For employees who held permanent status in abolished information technology (IT) classes, an employer may use the IT Assessment form along with any other documentation to determine the closest matching class to offer as a layoff option.

**(4) Does an employee have layoff option rights as provided in subsection (1) of this section to classifications the employee held permanent status in prior to any breaks in state service?**

General government employees have layoff option rights as provided in subsection (1) of this section to classifications the employee

has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff options to classes they held permanent status in prior to any breaks in state service.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. WSR 19-11-134, § 357-46-035, filed 5/22/19, effective 7/1/19. Statutory Authority: Chapter 41.06 RCW. WSR 10-11-068, § 357-46-035, filed 5/14/10, effective 6/15/10; WSR 09-17-064, § 357-46-035, filed 8/13/09, effective 9/16/09; WSR 09-11-063, § 357-46-035, filed 5/14/09, effective 6/16/09; WSR 04-18-114, § 357-46-035, filed 9/1/04, effective 7/1/05.]