# Layoff Information Guide for Academic and University Staff



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# Introduction

## **Layoff Information Guide**

This guide walks you through the HR workflow for layoffs for both University and Academic Staff, from the planning phase to providing phase. This guide assumes that all other options have been considered, including non-renewal for academic staff, and layoff has been determined as the only option.

#### Purpose

There are many different complex policies and processes when considering layoffs. This guide aims to assist HR professionals though this process, and to provide you with the knowledge and resources to effectively make decisions on how to execute a layoff plan for individuals and groups.

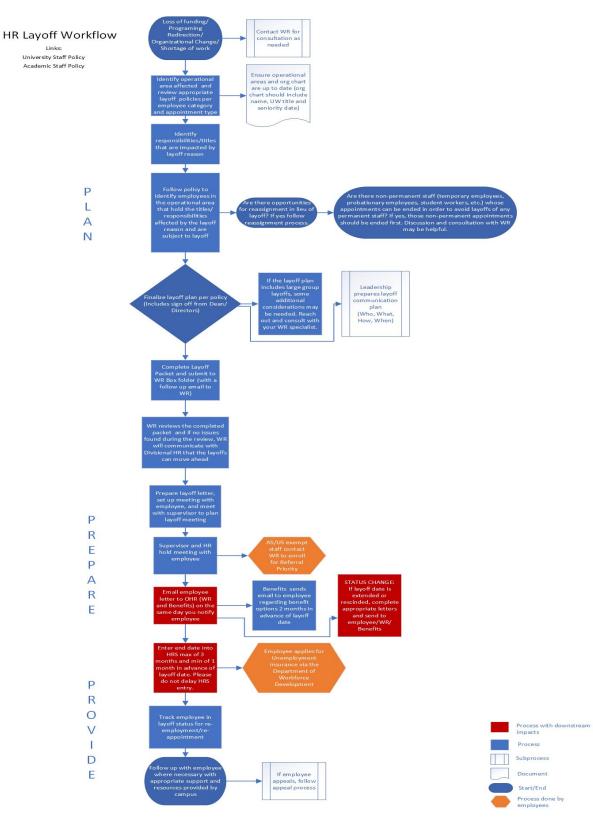
#### Who to contact?

For specific workflow questions, please reach out to the appropriate subject matter expert.

If you have general comments or feedback about this guide, contact your Collaboration Team Lead.



# Workflow





The first step when you know a layoff is on the horizon is to start the planning. The following questions will assist in the planning phase of layoff.

- What is happening?
- Why it is happening?
- Who is impacted (operational areas, employee class, titles, employees)?
- What responsibilities still need to be performed?
- Are there employees who may be least senior, but are essential to keep?
- How will the work be covered if employees decide to quit prior to the layoff effective date?
- Are there reassignment opportunities?

This guide will look at these questions in more detail; however, if at any point you struggle with answering some of these questions, you should consult with your Workforce Relations (WR) Specialist for help.

During the planning stage you and your leadership team will need to create a communication strategy. Communication is critical throughout the layoff process to ensure a smooth transition during a difficult situation. Your communication plan should allow to communicate early and often, and should include:

- Who, what, where and how are you communicating throughout the layoff process?
- Communication to all stakeholders including:
  - o Leadership
  - o Supervisors
  - Employees being laid off
  - Employees that are staying
- Transparent communication where possible

Resource: Communication Plan Template

## Policies

It is important to follow respective layoff policies for guidance in answering the questions during the planning phase. Academic Staff and University Staff layoff policies are similar but referring to the policies will ensure that the small differences are accounted for.

Academic Staff Layoff Policy: <u>https://policy.wisc.edu/library/UW-5078</u> University Staff Layoff Policy: <u>https://policy.wisc.edu/library/UW-5077</u> *Resource:* Policy comparison chart: <u>https://uwmadison.app.box.com/folder/123928889783</u>

## Forms/Templates/Additional Resources

Throughout the layoff process, certain forms and documents need to be completed. Here is a quick guide to those forms/documents as well as additional resources to support the process (these are also referenced throughout this guide).



University Staff	Academic Staff
US Layoff Plan Form	AS Layoff Plan Form
US Layoff Checklist	AS Layoff-Nonrenewal Checklist
US Layoff Template Letters (Partial or Full)	AS Layoff Letter Templates (Partial and Full)
US Reappointment after Layoff Sheet	Sensitive Data Report Instructions
US My UW and UW Facilities Access Form	Operational Area Guidance
Sensitive Data Report Instructions	ASPP Chapters 3,5,7,9
Operational Area Guidance	Referral Priority Program Guide for Employees
Individual Meeting Notice Template	Individual Meeting Notice Template
Communication Plan Template	Communication Plan Template
Layoff Conversation Guide for HR and Supervisors	Layoff Conversation Guide for HR and Supervisors
Benefits Impacts Information	Benefits Impact Information
Unemployment Resources	Unemployment Resources

## Layoff reasons - Why?

## Academic Staff Reasons:

### Nonrenewal vs. Layoff

"Nonrenewal" is the termination of an academic staff member's employment at the end of the appointment because of funding loss, a budget or program decision, or unsatisfactory performance, when proper notice of nonrenewal under ASPP 3.04 is given.

Schools/Colleges/Divisions (S/C/D) should always "non-renew" someone when possible, if there's enough time.

*"Layoff"* is the termination of an academic staff member's employment because of funding loss or a budget or program decision either prior to the end of the appointment, or when proper notice of nonrenewal under ASPP 3.04 cannot be given. You cannot layoff an employee for unsatisfactory performance.

### **Budget and Funding Loss DEFINED**

"Budget or Program Decision" refers to the reallocation or termination of resources by a University management decision that requires a program to be discontinued, curtailed, modified, or redirected and may result in staffing reductions in a program or operational area. This is distinct from funding loss.

Example: While there are still funds from the grant available, management decides to close a teenage intervention program to reallocate those funds for an early intervention program. Funds are still coming in for intervention research, but the focus is different.

*"Funding Loss"* is an unanticipated cancellation or reduction of a contract or grant (usually from an external agency) or an unanticipated decline in an income account supporting a particular activity. Funding loss results from a decision neither made by nor within the control of University management. (Funding loss requires less notice period for employees.)

### **University Staff Reasons:**

"Lack of funds" - A reduction in the work force necessary due to a lack of funds.

"Organizational change and shortage of work" - A reduction in the work force as a result of a reorganization to more



# Layoff Decisions - Who?

There are three basic elements to consider when reviewing layoff requests: operational area, title, and seniority.

**Step 1: Identify the Operational Area Affected by the Layoff Reason -** The operational area is important to identify as it defines who you will be comparing.

*Definition:* An operational area is an area of focus or function in a school, college, division, department, or office. An operational area will generally be a subset of a school, college, division, department, or office, and need not include the whole unit.

• An operational area can be as small as a PI's lab, or as big as a division, but it cannot be specified as a grant. The smaller the operational unit, the smaller the comparison group.

*Keep operational areas up to date* - Create revised appointment letters or an <u>operational change memo</u> whenever there are changes. Accurate appointment letters are required to submit with the layoff packet to Workforce Relations when justifying the person identified for layoff.

• Reminder - In the case of funding loss, split in funding should be well defined in the appointment letter, and state specifically what the split is regarding for each operational area. For example: 50% of operational area is in department of X and 50% of operational area is in department of Y.

## Resource: Operational Area Guidance Sheet

**Step 2: Identify the Title** - If the entire operational area is not affected, then it will need to be determined what title(s) are affected by the layoff reason.

Identifying titles is necessary in order to compare seniority in similar titles, in the same operational area, and in the same employee class. An example of similar titles may be Scientists, Researchers and Research Specialists.

## **Step 3: Identify Seniority of Employees**

If there is more than one person in the same title in the operational area, and not all employees in that title are being laid off, then layoffs are primarily decided on identifying the least senior employee

### How do you determine seniority?

Employee Type	Start Date	Type of service that is counted
University Staff (Classified Permanent positions)	Employees who were in permanent service <b>prior</b> to	Use STATE service (adjusted continuous service date)
	July 1, 2015	



University Staff (Classified Permanent Positions)	Employees who were in permanent service <b>after</b> July 1, 2015	Use UW-Madison service only (adjusted continuous service date)
Academic Staff	Any start date	Use UW-Madison Academic Staff years of service only (adjusted continuous service date) *If an employee has moved from a US to AS during employee choice, years of service will be determined by the employee's relevant professional experience in addition to their Academic Staff years of service.

### Considerations when counting Years of UW Service:

- Years of paid UW-Madison Academic Staff service does not to take into account percentage of appointment
- Service in other employment categories does not count towards Academic Staff service. For example, time in an RA or SH would not count.
- Breaks in Service should not exceed the employee's employment category sick leave reinstatement period.
  - <u>Academic Staff</u> break of service of more than three years results in a loss of prior years' employment credit.
  - <u>University Staff</u> break of service of more than five years results in a loss of prior years' employment credit.
- Do not count the time the person is NOT working at the UW (i.e. between jobs), *except* for University Staff that were in permanent service prior to 7/1/15.
- Appointment of one or both semesters of an academic year counts as one year of service.
- Carefully examine lump sum appointments. Are they sick leave earning? If yes, count them.
- Make sure that overlapping appointments are only counted once.

Resource: <u>Continuous Service Policy</u> <u>Continuous Service & Adjusted Continuous Service</u>

### Other considerations:

Employees in terminal positions (continuity code 02A, 02B, 02C) cannot be laid off or non-renewed for the following reasons:

- The layoff provisions only provide notice periods for probationary, fixed term renewable, rolling horizon and indefinite appointments.
- The appointment letter language indicates that fixed-term terminal positions do not have any expectation of ongoing employment. Layoff or non-renewal only applies to positions with those expectations of ongoing employment.
- HOWEVER, S/C/D should provide as much notice as possible to the employee that that is affected by the funding loss



# Exemptions to layoff order

Here are some reasons why an exemption may be applied to the layoff order:

- The not least senior employee has training in a specific area, for example expertise in Word Press or CADD programming that the more senior employee does not.
- The not least senior employee may have objective, job-related standards, which may include differences in knowledge, skills, and abilities that more senior staff have.
- Layoff exemption requests for diversity reasons may also constitute justification for an exemption from the layoff order.
- Temporary and Fixed-term Terminal positions in similar titles will end prior to layoff or FTE reduction of permanent staff.

## Reassignment

Once an employee has been identified for layoff, best practice is to first look for reassignment opportunities. Why do this? Campus is committed to keep our talent within UW-Madison when possible.

## What to consider:

- Look for similar titles within the employee's own S/C/D.
- In some cases, consider looking to other schools/colleges and divisions for opportunities.
- For guidance on how to identify these opportunities, consult with your WR Specialist.
- If a position is identified, HR and supervisor should meet the employee and discuss the opportunity.
- If it isn't a permanent position, it needs to be clear that reassignment is temporary, and layoff will happen after reassignment.
- If the reassignment is a good fit, HR can assist in scheduling a meet and greet with the employee and the supervisor of the reassignment.

## University Staff: Reassignment in lieu of layoff

- There will be no layoff if there is a vacancy within the S/C/D with similar title to the layoff group for which the staff member qualifies.
- Employee will be placed in the vacancy unless they don't have minimal qualifications required.
- Employee can decline reassignment if: lower job level or salary; more than .25 FTE greater or less than the position from which laid off; or located more than 40 miles from home address or previous work location. Otherwise, Dean/Director/designee has discretion to reassign.
- Employees reassigned will not serve a probationary period.

## Notice Period

Academic Staff: Layoff notice will depend on the reason for layoff as well as the employee's years of service.

Continuity Status	Minimum Notice	Minimum Notice Budget/Program Decision



	Funding Loss	
Fewer than 2 years	1 month	2 months
At least 2, but fewer than 6 years	2 months	3 months
At least 6, but fewer than 10 years	3 months	5 months
10 or more years	4 months	6 months
Rolling Horizon	6 months	12 months
Indefinite	24 months	24 months

For an employee who has a Rolling Horizon, do NOT "unroll" (or end) the rolling horizon first, simply proceed with the layoff and give the proper amount of notice needed.

**University Staff:** Divisions must provide permanent University Staff employees designated for layoff with written notice as soon as is practicable, but no less than 60 days prior to the layoff date.

# Layoff Packet

Once the why, the who, and the when are determined, Divisional HR will prepare the layoff packet for central OHR to review. Divisions will need to upload the following information to a BOX folder (BOX folder access should be requested by emailing <u>LONR@OHR.wisc.edu</u>):

- Organizational Chart
  - o Include names, titles, start dates and/or years of service for all staff within operational area
  - Appointment Letters or Operational Change/ Identification Memo (most current)
    - $\circ$  The operational area in the appointment letter should match the organizational chart.
    - If the operational area has changed within the last 6 months, provide explanation.
- Layoff Plan Review Form
  - Signed by the chair and reviewed by the Dean/Director or designee
  - Include justification for the layoff
  - Make sure to use the correct layoff plan form for (<u>University Staff Layoff Plan Form</u> or <u>Academic Staff</u> <u>Layoff Plan Form</u>)
- Sensitive Data
  - Needs to match the organizational chart
  - Impacted employees should be highlighted
    - Resource: <u>Sensitive Data Report Instructions</u>
- Job History
  - o Should include everyone in the operational unit
  - Academic Years of Service Report and Job History can be used together to accurately determine years of service
- Send Completed Packet
  - Upload to <u>BOX</u> folder;



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- Send an email to the LONR@OHR.wisc.edu so WR knows it was uploaded.
- $\circ$   $\;$  Incomplete packets will be returned and the review by WR may be delayed

OHR Timeline for Review: This is dependent on a few factors: A) Was all of the information submitted correctly in the packet? B) How many layoffs are taking place? C) Are there any complexities to the layoff?

In general, OHR tries to turn these around within a few days, but it can vary based the reasons noted.

Resources: AS Layoff-Nonrenewal Checklist

US Layoff Checklist

## Justification

Justifications should include thorough details—make no assumptions about the knowledge that the person reviewing or reading the justification may have.

- Write a justification that is robust enough to defend the layoff decision.
- Write the justification that can easily be used for historical reference for your own S/C/D purposes.
- Have documentation that supports the layoff decision (for example: resume reflecting skills).

If you need help making the decision, reach out to Workforce Relations.

Consider the following if not least senior person is being laid off to include in your justification:

- Does the lesser senior employee have more specific expertise that the program or operational area still needs going forward? (for example: an employee who did not take the special training offered, and so was not qualified)
- Will it take more than 6 months to a year to train the more senior employee to have the specific expertise? Compare educational and work experience, are they at all similar or completely different? Pull resumes from ImageNow to compare if necessary.
- Do the levels of responsibility differ and/or is there a need to maintain that level within a program or operational area?

## Appeals

If there is an appeal, it will happen after the employee has been notified.

Appeal rights:

University Staff	Academic Staff ( <u>Chapter 5.05</u> )
May appeal a layoff in accordance with the University Staff Grievance Policy.	No valid grounds for layoff.
Office of Human Resources	



Another academic staff member should have been laid off instead.
The decision was arbitrary or capricious (made without a basis in fact or for inconsequential or unsubstantial reasons when the needs of the program have not changed and funds for the position are available.

A fully comprehensive layoff package with proper justification will allow you to be prepared should an appeal occur, and help you defend the decision.

# Prepare

## Letter to employees

Once the layoff packet has been reviewed and returned to Division HR, follow the S/C/D process to prepare the layoff letter. Letter templates are available for both University and Academic Staff in Box. Please be sure to download the letter templates out of box each time there is a new layoff to ensure that you are using the most up to date version.

Notice does not start until the letter has been given to the employee. It is important to make sure that the date on the letter reflects the date that the letter is distributed. This also impacts the official termination date based on required notice.

## **Considerations for Leave Balances**

ALRA/Banked Leave	Personal Holiday	Vacation
Use during the notice period, and/or paid out by central fund	Option 1: If not used during notice period, then paid out.	Option 1: If not used during notice period, then paid out.
	Option 2: If not used during notice period, then no lump sum payout.	Option 2 ( <b>for AS only):</b> If not used during notice period, then no lump sum payout.

Vacation considerations:

• For Academic Staff only: Although policy does permit remaining leave that could have been used prior to the end date to be forfeited, it is recommended that the S/C/D have a standard strategy on when they would apply this, and use it fairly and equitably across the S/C/D. A written strategy may be useful should this decision be appealed. Do not hesitate to consult with Workforce Relations on these matters.

Attachments to include with letter (depending on the employee type):

o <u>Benefits after layoff documents</u>



- o Academic Staff: <u>Referral Priority Information</u>
- University Staff:
  - <u>US MyUW and UW facilities Access Form (for full layoffs only)</u>
    - US Reemployment After Layoff Sheet

### Resources:

US Layoff Letter Templates

AS Layoff Letter Templates

## Layoff conversation with employee(s)

Before the layoff conversation with the employee, HR and the supervisor will want to prepare for the discussion.

Suggested best practices for 1:1 conversation with employee:

- Supervisor/Manager and HR be present during the meeting
- Prepare in advance practice what you will say and review logistics
- Provide straightforward and factual information balanced with empathy
- Be ready for different responses
- Know your follow up plan

If you are planning on doing a group conversation:

- Consider what should be communicated to the large group vs individuals
- Who else needs to be included in the conversation?
- What is the follow up plan to answer individual questions?

*Resource*: <u>Layoff Conversation Guide for HR and Supervisors.</u> Review this guide in advance of the conversation. It covers:

- The dos and don'ts of a layoff conversation
- Logistics to consider
- Group conversation considerations and suggestions
- Script sample
- How to prepare for different emotional responses

Every S/C/D may have different processes and procedures that they follow, so the information provided can be used and adapted to suit their needs.

Resources: Individual Meeting Notice Template

## Critical Steps for HR:

- Depending on your S/C/D process, Division or Department HR must send final signed layoff letter to OHR (<u>LONR@ohr.wisc.edu</u>) and Madison Benefits Services (<u>benefits@ohr.wisc.edu</u>) on the same day that letter is provided to the employee.
  - Must be a signed copy
- If there is an Extension/Rescinded/Retirement/Resignation, appropriate letters must be distributed to the employee to communicate changes and once again sent to OHR & Benefits Services on the same day the letter or notification is distributed to the employee.
- Workforce Relations is not required to review rescissions or extensions, but WR does need to get the copy of the letters for reporting purposes.

Enter Layoff into HRS at least 1 month prior to the effective date.



NOTE: Untimely submission of the above items will have negative impact on the employee.

Resources:

Rescission and Extension Letter Templates

# Provide

# Benefits

Once the final layoff letter has been sent to Madison Benefits Services, MBS will note the termination date, and will send information to the employee regarding benefits at layoff about 2 months in advance of that date. **If MBS does not receive the letter, they will not know to contact the employee.** 

## How Layoff Impacts Employees Benefits

- If an employee is not eligible to retire because of age or because not vested, employee will receive version <u>UWS41</u>
- If an employee is eligible to retire, employees will receive version UWS42

## Health Insurance Premium Payment at Layoff (UWS40)

If an employee has State Group Health (SGH) at time of layoff:

- SGH will terminate at the of the month following the layoff date (this is the pre-paid month)
- Employee must decide if they want to continue SGH with Employer contribution for additional 3 months
- If so, will they pay their employee share via payroll deduction (pre-tax), use sick leave (SL), pay by credit card (post-tax) or write a check (post-tax)?
- Note for Supervisors Payroll: UW Shared Services (UWSS) will not set up payments for Health using sick leave credits if there are any missing Leave Reports. (These are most common from the final pay period.) You will need to enter any missing Leave Reports not entered prior to employee's date of layoff (since employees do not have access to their MyUW portal after their layoff date).

## Other considerations:

Employees Eligible to Retire:

If an employee is at the minimum retirement age (55 or older for most employees or age 50 if they have Protective state service (e.g. police) and vested in WRS (MBS can look that up if HR isn't sure), employee should request a retirement estimate.

- ETF's online request form: <u>Request an ETF Retirement Estimate</u>
- It is the employee who decides if they want to begin their WRS annuity following layoff.
- For most employees, taking an immediate pension following layoff is beneficial, and they must have the estimate in hand to begin the pension. (Simply requesting and receiving the estimate doesn't require them to begin the immediate annuity.)
- If an employee does decide to take an immediate pension (we call this a Retirement in Lieu of Layoff), the employee is still eligible to receive the 3 months of health insurance with the Employer contribution.
- When to use Retirement in Lieu of Layoff reason code in HRS:
  - It would be appropriate to use the reason code "Retirement in lieu of Layoff" for employees who are losing their job due to Layoff and who are age 55+ (and vested in the WRS) and who end their employment as of the Layoff date.
  - It would be inappropriate to use the "Retirement in lieu of Layoff" termination reason code if the employee is a non-renewal.



 It would be inappropriate to use the "Retirement in lieu of Layoff" termination reason code if the employee chooses to leave sooner than they had to (before the Layoff date); if age 55+ and vested, this would be coded as a "normal" Term/Retirement.

Supplemental insurances (dental, vision, life insurances) terminate end of month in which employment ends.

• UWSS mails continuation information to employee address near to or immediately after the layoff.

**Multiple Appointments:** If an employee has multiple appointments, layoff from one may or may not affect the employee's benefits. The employee should contact MBS to ask questions about their benefits.

**Layoff and Furlough:** If an employee has been on unpaid full furlough prior to the layoff, their layoff benefits could be affected. The employee should contact MBS to ask questions about their benefits.

• Divisions/Departments should ensure that furlough types/dates are up to date in HRS if issuing layoff notices.

NOTE: Benefits for a non-renewal are different than Layoff benefits. Refer Non-Renewed Employees to this link for more information: <u>Termination Benefits</u>

Resources:

#### Full Layoff:

How Layoff Impacts Your Benefits If Not Eligible to Retire (UWS 41)

How Layoff Impacts Your Benefits If Eligible to Retire (UWS 42)

Sick Leave Credit Conversion Program Estimator

#### **Partial Layoff:**

Benefit Impacts (UWS 43U) - Faculty, Academic Staff and Limited Appointees

Benefit Impacts (UWS 43C) - University Staff Employees

Non-Renewal:

**Termination Benefits** 

## **Referral Priority**

What is Referral Priority (RP)? Employees who are eligible for referral priority services are given access to the Referral Priority section of the employment website. This page allows employees to view and apply for eligible jobs before they are posted to the public.

### Role of HR:

S/C/D should provide RP information in the layoff letter to eligible employees.

### Eligibility:

Eligible:

- Exempt University Staff laid off for lack of funds or organizational change and shortage of work
- Academic Staff layoff for loss of funding or budget/program decision

### Not Eligible:



Non-exempt University Staff Office of Human Resources

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• Employees terminated during their evaluation period ended due to funding loss

## Process:

Employee emails <u>rp@ohr.wisc.edu</u> with copy of layoff letter and NetID if they choose to enroll. OHR – Workforce Relations then completes enrollment.

Employee can apply to jobs using the RP website OR through jobs.wisc.edu (which flows to TREMS).

- RP website applications system sends to hiring unit & <u>rp@ohr.wisc.edu</u> when submitted
- TREMS applications employee forwards TREMS application acknowledgement email to <u>rp@ohr.wisc.edu</u>
- OHR Talent Recruitment and Engagement (TRE) facilitates communication between S/C/D and applicant to ensure hiring unit knows an RP candidate applied, and what the S/C/D options are

## Resources:

Referral Priority resources for Employees

Referral Priority for Layoffs and Long-term Nonrenewed Academic Staff Employees

## Reemployment/Reappointment

## University Staff Reemployment after Layoff:

- University Staff have the right to mandatory placement into the same title within the same division from which the employee was laid off, for **one year** from the layoff date
- The rate of pay shall be no less than what they earned prior to layoff
- Exceptions to reemployment after layoff: employee does not have the minimal qualifications to perform the work

## Academic Staff Reappointment Rights:

- Academic Staff have the right to reappointment for vacancies in the same operational area where there have been layoffs during the last **three years**
- The duties to be performed by the person filling the vacancy are reasonably comparable to the duties performed by persons laid-off.
- Prospective employing department/unit must first offer the position to those persons in layoff status before considering any other candidates.
- Rate of pay is at least equivalent to the salary rate when laid off

### S/C/D HR should be tracking who is in layoff status for reemployment/reappointment purposes.

## Unemployment

### Purpose:

The purpose of unemployment benefits (UI) is to bridge the gap between jobs when workers lose their jobs through no fault of their own.

• If claimant is out of work through no fault of their own and has worked for a covered employer (an employer who pays UI tax) in the last 18 months, claimant needs to apply for regular UI benefits before they can begin filing a weekly claim.

### Role of HR:



S/C/D is asked to share the layoff list with Payroll Services and ensure timely updates in HRS by divisions.

- Wrong termination dates can impact employee's unemployment claim
- Payroll needs to respond to DWD's UCB-16 Separation notice

## Orders of the Governor:

Effective 11.02.20, based on the orders of the Governor, any termination letter, including layoff, should have the following information for employees regarding applying for unemployment benefits:

Applying for Unemployment Benefits --You may file an unemployment claim in the first week that your employment stops, or your work hours are reduced. See <u>digital poster</u> for when and how to apply for unemployment benefits (<u>En Español</u> | <u>Txhais lus Hmoob</u>) (<u>https://dwd.wi.gov/eworkboard</u>).

### Other unemployment resources:

- Filing Requirements Video (https://youtube/NMwGFvkcO6Y)
- <u>Information You Need to Apply</u> (https://dwd.wi.gov/uiben/information-needed.htm)
- <u>Apply Online</u> (https://dwd.wi.gov/uiben/apply)
- More Information and FAQs (https://dwd.wi.gov/uiben)

As a reminder, the fact that University of Wisconsin provides this notice and information to employees does not necessarily mean employees will meet the requirements of Wisconsin UI eligibility laws.

If an employee needs help using online unemployment services or is unable to go online, they can call (414) 435-7069 or toll-free (844) 910-3661 <u>during business hours</u>.

