



UNIVERSITY
of ALASKA
Many Traditions One Alaska

Staff Alliance

Resolution 2016-04

Regarding Review of Layoff or Recall Decision at UA

WHEREAS, The regulations do not specify that the reviewer and the individual who made the layoff decision cannot be the same person. This opens the potential for a situation where the same person who made the layoff decision also reviews the layoff grievance — not ensuring fairness for the employee; And

WHEREAS, The maximum length of time for the review to occur after a review is requested is not stated in the existing regulations. This does not provide protection for the employee. The employee requesting the review has no assurance that the decision would be made within the 30 day notice period; and

WHEREAS, There is no specification of reinstatement protections if the grievance findings are in the staff member's favor and the layoff decision is reversed. If the review process finds in the employee's favor, that individual should have the same protections as a recalled employee (described in 04.07.110 G); now

THEREFORE BE IT RESOLVED, the UA Staff Alliance supports the changes to University of Alaska 'Regulation 04.07.110 I. Review of Layoff or Recall Decision' proposed by UAF Staff Council Resolution 2016-269-1 on March 7, 2016 (attached).

RATIONALE

Through emergency action in 2015, UA President Gamble signed into regulation a series of changes to the layoff procedures and policies. Included in those changes were a number of modifications to the grievance process, effectively changing the process from a full grievance procedure to a review process. Due to the hurried turnaround of the emergency action, staff governance feedback wasn't included in the original drafting of these changes.

The lack of language clearly stating that the reviewer cannot be the same person who initiated the layoff is our chief concern. In addition, there is no length of time specified for the review, should an employee challenge their layoff. The employee has 10 days from the date notified of

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layoff to request the review, the reviewer has unlimited days to perform the review, once the review is completed, the reviewer must make a recommendation to the Chancellor in five days, the Chancellor has five days to make a final decision. The timeline does not delay the effective date of the planned layoff, so the 30 day notice period could easily expire during the process of the review, sending the employee into a lapse period.

Adopted by Staff Alliance the 14th day of June 2016.

DocuSigned by:

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Faye Gallant, Chair

Voting results as attested by Morgan Dufseth, Executive Officer:

Yes – 7

No – 0

Absent – 1

**University of Alaska Fairbanks
Staff Council
Resolution 2016-269-1
Approved
March 7, 2016**

The University of Alaska Fairbanks Staff Council unanimously approved the following resolution at Meeting #269, on March 7, 2016:

Resolution 2016-269-1:

Resolution Proposing Modifications to the University of Alaska Regulation '04.07.110 I. Review of Layoff or Recall Decision'

Background

Through emergency action in 2015, UA President Gamble signed into regulation a series of changes to the layoff procedures and policies. Included in those changes were a number of modifications to the grievance process, effectively changing the process from a full grievance procedure to a review process. Due to the hurried turnaround of the emergency action, staff governance feedback wasn't included in the original drafting of these changes.

The lack of language clearly stating that the reviewer cannot be the same person who initiated the layoff is our chief concern. In addition, there is no length of time specified for the review, should an employee challenge their layoff. The employee has 10 days from the date notified of layoff to request the review, the reviewer has unlimited days to perform the review, once the review is completed, the reviewer must make a recommendation to the Chancellor in five days, the Chancellor has five days to make a final decision. The timeline does not delay the effective date of the planned layoff, so the 30 day notice period could easily expire during the process of the review, sending the employee into a lapse period.

Resolution 2016-269-1 (cont.):

Resolution to Modify the Grievance Review Layoff Regulations

WHEREAS, The regulations do not specify that the reviewer and the individual who made the layoff decision cannot be the same person. This opens the potential for a situation where the same person who made the layoff decision also reviews the layoff grievance — not ensuring fairness for the employee; and

WHEREAS, The maximum length of time for the review to occur after a review is requested is not stated in the existing regulations. This does not provide protection for the employee. The employee requesting the review has no assurance that the decision would be made within the 30 day notice period; and

WHEREAS, There is no specification of reinstatement protections if the grievance findings are in the staff member’s favor and the layoff decision is reversed. If the review process finds in the employee's favor, that individual should have has the same protections as a recalled employee (described in 04.07.110 G); now

THEREFORE BE IT RESOLVED, UAF Staff Council proposes the following changes to University of Alaska ‘Regulation 04.07.110 I. Review of Layoff or Recall Decision.’

DocuSigned by:
Faye Gallant
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Faye Gallant, President, UAF Staff Council

March 8, 2016
Date

**Resolution 2016-269-1 (cont.):
UAF Staff Council Suggested Revisions to University of Alaska 'Regulation 04.07.110 I.
Review of Layoff or Recall Decision**

I. Review of Layoff or Recall Decision

Any employee who disputes a layoff or recall decision may request review as set forth below.

1. To be valid, a written request for review must be filed with the chief human resources officer within 10 working days of the date notice of layoff or recall was given in accordance with sub-section H. above. The employee will submit a statement of all reasons for questioning the validity of or motivation for the layoff or recall decision, and such supporting evidence as the employee deems appropriate.

2. The scope of the review will be limited to whether the employee can establish that:

a. the procedures provided by the layoff, recall and release policy and this regulation have not been followed in deciding to layoff or not recall the employee;

b. the decision to lay off or not to recall the employee was based on a reason prohibited by law; or

c. the layoff of the employee or a decision not to recall the employee was not authorized under this regulation. Budget reallocations within or between any administrative units of the university are not within the scope of review.

3. The chief human resources officer or designee, or in appropriate cases a substitute, (hereafter referred to as reviewer) may decide the issues raised on the basis of the materials submitted by the employee and the administrator. **THE REVIEWER CANNOT BE THE SAME PERSON WHO MADE THE INITIAL DECISION FOR LAYOFF.** The reviewer is never obligated to provide for a different **REVIEW** procedure, **FOR EXAMPLE, ORAL TESTIMONY OR THIRD PARTY DOCUMENTATION**, but may elect to do so with respect to some or all of the issues raised, by creating a new **REVIEW** procedure, or by adopting or by modifying an existing procedure.

4. In the event that the matter is not decided on the basis of the materials submitted, the reviewer will inform the employee and administrator in writing of the **ADDITIONAL REVIEW procedure PROCEDURES** to be followed.

Resolution 2016-269-1 (cont.):

**UAF Staff Council Suggested Revisions to University of Alaska 'Regulation 04.07.110 I.
Review of Layoff or Recall Decision (cont.):**

5. The reviewer will make his/her recommendation on the matter within ~~five~~ 10 working days of the ~~conclusion of the~~ REQUEST FOR review. The reviewer will make his/her recommendation to the chancellor, or, in the case of Statewide Administration employees,

to the chief human resources officer. The chancellor, chief human resources officer, or designee, will render a decision within five working days.

6. Except in the case of a written agreement between the parties, the time limits provided hereunder will be extended only for compelling reasons as determined by the chancellor, the chief human resources officer, or designee, as appropriate.

7. IF THE REVIEW IS FOUND IN FAVOR OF THE EMPLOYEE, THEY ARE ENTITLED TO THE SAME PROTECTIONS AS RECALLED EMPLOYEES AS DESCRIBED IN 04.07.110 G.

An employee's failure to receive a final decision in a review proceeding will not delay the effective date of any planned layoff or recall.