

CALIFORNIA INSTITUTE OF TECHNOLOGY
STAFF PERSONNEL MEMORANDA

SUBJECT TERMINATIONS	MEMO NO. <u>14</u> PAGE <u>1</u> OF <u>8</u> DATE <u>01/16/2009</u>
Approved by: Julia M. McCallin, Associate Vice President for Human Resources	

(This supersedes Memo No. 14, dated 11/01/01)

1. Policy

It is the policy of the Institute that employee terminations be handled in a fair manner whether it is the employee or management who initiate the termination. Employees may be terminated with or without notice as described below.

2. General

a. Types of Voluntary Terminations:

(1) Voluntary Resignation and Retirement

Voluntary terminations are those initiated by the employee. Employees are expected to give reasonable advance notice of resignation and provide a written notice. Normally, two weeks is considered reasonable notice. Employees who are eligible to retire should provide their supervisor and the Benefits Office with at least sixty (60) days advance notice of their intent to retire.

Employees who have requested to take vacation after they have given their advance written notice of their intent to voluntarily terminate their employment must have written approval from their supervisor, or designee, prior to the vacation commencing.

(2) Failure to return from a leave of absence

Employees who fail to return to work from a leave of absence or an approved extension within the approved time period, will be considered to have voluntarily resigned. Employees on vacation, leave of absence and/or who accept regular employment with another employer will be considered to have voluntarily resigned as of the date they began employment with a new employer.

(3) Declining a reassignment

Employees who are reassigned by management to an alternative but comparable position and refuse this assignment will be considered to have voluntarily resigned.

Supervisors should contact Employee Relations to review all pending reassignments due to layoff or outsourcing. Refer to Layoffs in Section b. (5) of this policy.

(4) Job Abandonment

An employee who is absent from work for three consecutive workdays without notifying his or her supervisor may be considered to have abandoned his or her job and voluntarily resigned. Supervisors should review all potential job abandonment situations with Employee Relations.

(5) Reemployment after a voluntary resignation

Employees who have completed their initial probationary period and who voluntarily terminate and are reemployed within 12 calendar months will be considered to have uninterrupted service for purposes of eligibility for sick leave and vacation accrual and credit for service awards.

Refer to the Caltech Benefits Handbook, Section 2, General Information <http://hr.caltech.edu/Benefits/benefits.html> for treatment of benefits, including the Institute's defined contribution retirement plan (Section 7, Retirement – Participation upon reemployment).

b. Involuntary Terminations

Employees may terminate their employment at anytime for any reason as may the Institute.

Employees who are involuntarily terminated may be offered the opportunity to resign or to elect to retire, provided, however, that if the employee elects resignation or retirement, he or she gives up the right to file a grievance. Employees are responsible for informing Employee Relations of their decision to resign or elect to retire within ten calendar days of their termination date. The employee's file will be documented to indicate the resignation or retirement was in lieu of involuntary termination.

(1) Immediate Termination

Certain conduct cannot be permitted and may result in disciplinary action up to and including termination depending on the circumstances, even for the first occurrence. Examples of such offenses may include but are not limited to:

- serious misconduct of any kind
- insubordination
- willful neglect
- dishonesty
- falsification of records, including timekeeping records
- deliberate damage to Government or the Institute's property or the property of another
- theft including, but not limited to, unauthorized taking, removal, or possession of funds or property belonging to the Institute or a fellow employee
- unauthorized charges against the Institute's accounts
- fighting, and/or threatening or committing physical violence against another person
- bringing or being in possession of a weapon or other dangerous device on the Institutes property without authorization a violation of the substance abuse policy
- a violation of computer and/or network security by an employee of the Institute, including but not limited to unauthorized access, intrusion into, use or corruption of, interference with, disruption or slow down of service with respect to the Institute's automated information systems or information, or attempts thereto. In addition, the employee may be held financially responsible for any damages that may result.
- a violation of safety or security policies or practices
- a violation of business ethics policy or practices
- accessing/downloading pornographic material
- a violation of the Institute Policies, including Accommodations for Disabilities, Acceptable Use of Electronic Resources, Non-Discrimination and Equal Employment Opportunity, Sexual Assault, Substance Abuse, Export Compliance and Unlawful Harassment

(2) Probationary Release

Supervisors should contact Employee Relations as soon as any concerns arise during a probation period. Supervisors should contact Employee Relations well in advance of a probation release.

a. New Hires

Upon employment employees are placed on a probationary period. A new hire probationary employee who does not meet the job requirements or is otherwise determined to be unsuitable for the job may be terminated with or without warning

at any time during the probationary period. Employees who are terminated during their initial probationary period are not entitled to use the grievance procedure unless they allege unlawful conduct.

b. Transfers, Reassignments, and Promotions

Employees who have been transferred, reassigned, or promoted to a new assignment are placed on probationary status by the supervisor in order to determine the appropriateness of the placement. At the discretion of the supervisor, the employee may complete probation at any time during the probationary period. Employees who are terminated during this probationary period, and who have completed their initial probationary period, are eligible to utilize the Grievance Procedure.

(3) End of Temporary Employment

Employees who are hired on a temporary basis may be terminated by their supervisor at any time, with or without cause or notice and before the completion of their original work assignment or any work extension thereof.

(4) Layoff

(a) A layoff is an involuntary termination resulting from circumstances such as, but not limited to:

- A reorganization or a reduction in force.
- A redirection of work due to the cessation of, or change in, the activities of the Institute.
- A change in job function or technology which results in the position being eliminated or filled by an individual who has the requisite skills, knowledge or abilities which, in management's opinion, the incumbent does not possess.
- Loss of funding or other budget constraints.
- Change in direction, focus or method of carrying out the Institute's activities that results in the Institute no longer having a need for the incumbent.
- An involuntary reduction of an employee's regularly scheduled hours by 50% or more per week.

(b) Layoff Criteria

When the Institute decides that a layoff is necessary or appropriate, the positions to be eliminated and/or individuals to be laid off will be selected based upon with the Institute's needs, in accordance with the Institute's judgment. Layoff is not to be used in lieu of disciplinary procedures.

(c) Notice of Layoff

Pending layoffs should be reviewed with Employee Relations before informing employees. Supervisors are encouraged to inform employees of the possibility of layoff as far in advance as possible and should discuss the appropriate layoff notice period with Employee Relations.

Employee Relations determines if and when the Worker Adjustment and Retraining Notification Act obligations are triggered.

(d) Separation Pay and Separation Notice Eligibility

Employees subject to layoff may receive either, Separation Pay or Separation Notice:

Separation Pay

Regular, benefit-based employees who are laid off may be eligible to receive a lump sum separation payment on their last day worked. This includes laid off employees who are eligible to retire. Regular benefit-based employees who have not completed new hire probationary period are not eligible to receive separation pay.

If applicable, an eligible **exempt** employee will receive separation pay equal to 21 working days, plus five working days for each year of uninterrupted service, up to a maximum of 130 working days (26 weeks), less authorized deductions and withholdings required by law.

If applicable, an eligible **non-exempt** employee will receive separation pay equal to 21 working days, plus five working days for each year of uninterrupted service, up to a maximum of 65 working days (13 weeks), less authorized deductions and withholdings required by law.

Example: A laid off employee who is regularly scheduled to work forty hours per week and has five years of continuous service will receive pay for 46 working days.

Separation Notice

Employees may be required to report to work through all, or a portion of, the time covered by separation pay as outlined above.

Separation Pay and Separation Notice will be prorated based on the number of hours the affected employee(s) works on a regularly scheduled basis. For example, a part time employee working 20 hours a week is eligible for 50% of the Pay or Notice that a full time employee who is scheduled to work 40 hours a week would receive.

Separation Pay and Separation Notice normally approved in the case of a layoff will not apply in cases where an employee is offered and declines a reassignment to a comparable position with the Institute or a sub-contractor of the Institute. A comparable position is considered to be a position that is at the same or greater grade, pay, and location as the position that was eliminated. However, an employee may receive separation pay or separation notice should the Associate Vice President for Human Resources or designee determines the position is ultimately not comparable.

Partial Layoff/ Hours Reduction

In the event of a reduction of an employee's regularly scheduled hours by 50% or more per week, the employee will be given several options:

1. The employee can accept the reduction to their weekly scheduled hours and receive prorated separation pay or separation notice as determined by their supervisor.
2. The employee may opt to decline the reduction of their weekly scheduled hours and elect to take full separation pay or separation notice as determined by their supervisor.

NOTE: Employees must have completed eleven months of uninterrupted service at the time of layoff notification to receive credit for a full year of service. The separation payment is calculated using the employee's base salary at the time of layoff.

Employees who have been laid off but are able to obtain a position at the Institute prior to the layoff termination date will no longer be eligible for layoff benefits.

Employees who receive separation pay and are reemployed by the Institute will be required to repay a portion of their separation pay, if applicable.

Example: An employee who receives 46 days of separation pay and is reemployed at the Institute 15 working days after the date of layoff is required to repay the equivalent of 31 days of net pay upon reinstatement. The base salary at time of layoff is used to calculate the repayment.

An employee who is laid off more than once in a twelve month period is not eligible for any additional separation payments within the twelve month period following the first layoff.

(e) Vacation Benefit at the Time of Layoff

Benefit based employees who are laid off will be paid for accrued, but unused vacation hours, as well as their Personal Holiday, if unused, upon termination.

In the case of a layoff, unused vacation is defined as accrued, but unused vacation hours as of the termination date plus a vacation accrual based upon the number of "Separation Days," if any, paid to the employee at termination. This

payment, less authorized deductions and withholdings required by law or authorized by the employee, will be included in the employee's final paychecks.

(f) Sick Leave Credit at the Time of Layoff for Employees' Eligible to Retire

Employees who are accruing sick leave at the time of layoff and are eligible for retirement will earn sick leave credit based upon the number of "Separation Days," if any, paid to the employee at the time of layoff. This credit will be added to the hours of accrued sick leave as of the employee's termination date.

(g) Medical/Dental Benefits at time of Layoff

Upon the effective date of the layoff, regular, benefit-based employees who elect to continue medical and/or dental coverage through COBRA may qualify to continue coverage at their "Institute employee rate" for a period of one to six months after the layoff date. The Institute will provide employees with one-month of coverage at their existing "employee rate" for each year of uninterrupted service up to a maximum of six months. This benefit will be coordinated with the retiree medical benefit and COBRA coverage as applicable. COBRA coverage is contingent upon the employee's timely payment of their portion of the medical and dental premiums.

A regular, benefit-based employee who is laid off more than once in a twelve month period may qualify to continue coverage at the "Institute employee" rate as outlined above.

(h) Reemployment after a layoff

Regular, benefit-based employees who have completed their initial probationary period and who are subsequently laid off and reemployed within the reemployment period set forth below will be considered to have uninterrupted service for purposes of eligibility for sick leave and vacation accrual, and credit for service awards.

Length of Service

Reemployment Period

One year or less

Reemployed within 12 months of termination date

More than one year

Reemployed within time period equal to the Institute service but not to exceed 24 months.

Refer to the Caltech Benefits Handbook, Section 2, General Information <http://hr.caltech.edu/Benefits/benefits.html> for treatment of benefits, including the Institute's defined contribution retirement plan (Section 7, Retirement – Participation upon reemployment).

3. Procedures

- a. The terminating department should forward appropriate notification to the Human Resources Records Unit at least three business days prior to the date a final paycheck is needed (i.e., termination date).
- b. At termination, the amount of vacation hours accrued and used by the employee will be determined in the Human Resources Employee Records Unit.
- c. An Employment Termination Notice will be completed for each terminating employee and all copies must be sent to the Human Resources Employee Records Unit with all required termination paperwork.
- d. Final Paychecks for all terminating employees will be paid on the termination date. However, an employee who resigned but did not provide at least seventy-two (72) hours advance notice will receive a final paycheck within seventy-two (72) hours after the employee gave notice to his or her supervisor.

The final paycheck will include deductions for insurance premiums to provide coverage through the last day of the month in which the employee worked, if applicable.

- e. Termination Date

The termination date is normally the last day worked or the first day of approved absence from work. If different from the last day worked, please note the last day worked and any comments on the difference from the effective date, on the notification of termination being sent to the Records Department.

- f. Termination Clearance

Supervisors are responsible for assuring that employees terminating from their department have returned any Institute computers, passwords, phones, tools, keys, books and other property assigned to them (refer to Personnel memoranda #14-1 for details of termination clearance procedure).

- g. Termination Inquiries

All inquiries by outside organizations concerning a terminated employee should be referred to the Human Resources Department (Employee Relations Unit). Supervisors and employees who receive requests to verify the employment of a terminated employee are to refer the inquiry to Human Resources.

4.0 Exceptions

Any exception to this policy requires the approval of the Associate Vice President for Human Resources or designee.