

LDWA PERSONNEL POLICIES & PROCEDURES

SECTION X: TERMINATION OF EMPLOYMENT

1. **TYPES OF TERMINATION.** Any involuntary termination or termination of any employee who is allowed to resign, in lieu of an involuntary termination, should be reviewed with legal counsel before termination is pursued or a resignation is accepted to ensure the employee's due process property rights are not violated.
 - A. **Retirement.** Voluntary termination at the end of an employee's career.
 - B. **Voluntary Resignation.** When an employee wishes to leave LDWA, they will provide a notice of resignation to the LDWA Board or designee. The resignation should state an effective date.
 - C. **Resignation, in Lieu of an Involuntary Termination, Agreement.** A quorum of the LDWA Board may conclude that any employee should be involuntarily terminated for no reason employees or for cause. If Involuntary Termination proceedings have begun, but have not been completed and an employee suggests that they would like to voluntarily resign, the LDWA Board may agree to a Resignation In Lieu Of An Involuntary Termination Agreement.
 - D. **Involuntary Termination.** The LDWA Board may conclude that an employee should be involuntarily terminated for no reason, or for cause, based on Utah State At-Will Employment laws.
 - E. **Reductions in Force/Layoffs.** Whenever it is necessary to reduce the number of employees in LDWA because of lack of work or lack of funds, the LDWA Board will attempt to minimize layoffs by readjustment of personnel through reassignment of duties, wage adjustments, and other work areas.
 - F. **Medical.** The American's with Disabilities Act (ADA) prohibits illegal discrimination by an employer against an otherwise qualified individual with a disability. Consequently, an employee should not be terminated for medical reasons without prior consultation with legal counsel.
 - G. **Death.** If an employee of LDWA dies, their estate receives all pay due and any earned and payable benefits (such as payment for compensation time) as of the date of death.

2. REQUIRED NOTICE PRIOR TO TERMINATION.

- A. It is requested that all employees provide the LDWA Board or their designee at least two (2) weeks notice before retiring or voluntarily resigning.
- B. Once approved by the LDWA Board, it does not have to give any prior notice to an employee before terminating their employment with LDWA.
- C. Unused and accrued compensation time will be paid for terminations of employment of all types, including resignation, termination, retirement, reduction in force, layoff, medical reasons, and death.

3. TERMINATION PROCEDURES.

- A. Voluntary resignation by an employee should be provided in writing to the LDWA Board.
- B. Involuntary Termination and/or Separation for Cause do not require the LDWA Board to provide their terminating employees with written notification of due process.
- C. A Resignation in Lieu of an Involuntary Termination Agreement, signed by the employee and the LDWA Board or designee may be utilized in negotiated terminations. A Resignation In Lieu of an Involuntary Termination Agreement does not require LDWA to provide their terminating employees with written notification of due process.
- D. The following steps should be taken for Voluntary Retirements:
 - (1) Employees who desire retirement should give LDWA at least two (2) weeks notice and preferably up to three (3) months notice in advance.
 - (2) LDWA should communicate the status of each employee's benefits, if any.
 - (3) LDWA should carefully explain to the employee, if applicable, what the options are (such as Cobra and Retirement Plan Options).
 - (4) LDWA should have the employee sign a release, or at least a declaration statement, to the effect that they are electing retirement of their own free will.

- E. The following steps should be taken for Reductions in Force/Layoffs:
- (1) Determine whether LDWA is required to follow statutory guidelines related to the reduction in force/layoff. If LDWA is required to follow statutory guidelines, policy, procedure and actual practice must comply with said guidelines.
 - (2) If LDWA is facing a possible reduction in labor force, LDWA should explain the situation to its employees, advising them of the possibility that reductions in force/ layoffs may become an economic necessity for LDWA.
 - (3) In the selection of employees for LDWA's reduction in force and/or layoff, the following guidelines should be considered:
 - (a) Selection will be based on the employee's ability to perform the work assignments within the affected department.
 - (b) Seniority governs the selection only when ability and knowledge are equal.
 - (c) Emergency, temporary, and probationary employees will be laid off first.
 - (d) Permanent employees will be the last to be laid off.
 - (e) Before any reduction in force/layoff, LDWA should determine whether it is subject to the requirements of the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101, et seq.
 - (f) LDWA should carefully explain to the employee, if applicable, what the options are (such as Cobra and Retirement Plan Options).
 - (g) If LDWA cannot give advanced notice of a reduction in force/layoff to the employee, two weeks severance pay may be given in lieu of notice for a bona fide reduction in force/layoff and with majority vote approval of the LDWA Board.
 - (4) Written reductions in force/layoffs notices should contain the following information:

- (a) Statement that separation from employment is based on reduction in force/layoff.
- (b) Anticipated date of layoff.
- (c) Any options regarding employee placement in another position.

F. Outstanding Pay.

- (1) Arrange for distribution of any paychecks, which may be due the employee, including pay for any hours worked but not paid or pay for unused, accrued compensatory time.
- (2) The final payment after termination will be on the next regularly scheduled pay day.

G. The terminating employee will return any supplies, keys or equipment, which are the property of LDWA, to LDWA at time of termination.

4. COBRA. (If applicable) Any employee who is participating in health insurance coverage at the time they are separated from LDWA is entitled to a continuation of insurance coverage per the mandates of the Consolidated Omnibus Budget Reconciliation Act of 1985 or COBRA plan, as stated in LDWA COBRA Notification.

A. Federal Public Law 99-272 (which became effective July 1, 1986 and is known as COBRA) requires that all employers of twenty (20) or more full time employees offer a continuation of group insurance coverage to individuals who fall under one (1) of the following qualifying events:

- (1) Termination of employment (other than for gross misconduct), for a maximum continuation period of eighteen (18) months.
- (2) Reduction of work hours below eligibility requirement, for a maximum continuation period of eighteen (18) months.
- (3) Dependent coverage terminated due to death of employee, for a maximum continuation period of thirty six (36) months.
- (4) Divorce or legal separation from employee, for a maximum continuation period of thirty six (36) months.
- (5) Spouse or dependent of Medicare eligible employee, for a maximum continuation period of thirty six (36) months.
- (6) Dependent child who ceases to be a dependent under the

generally applicable requirements of the group plan, for a maximum continuation period of thirty six (36) months.

- B. Under the Act, a qualifying individual is entitled to continued group insurance coverage identical to that, which is provided to similarly situated beneficiaries to whom a qualifying event has not occurred. Individuals who are entitled to continued benefits under COBRA guidelines are required to pay the entire premium required under the policy during the entire period of the continued coverage. The premium a qualifying individual will be required to pay may not exceed one hundred and two percent (102%) of the applicable premium, for any period of continued coverage. Failure to pay the monthly premium will result in a cancellation of the insurance.
- C. The insurance benefits offered under the COBRA guidelines will be terminated if and when any of the following occur:
 - (1) A qualifying individual fails to pay the premium at the time it is required.
 - (2) A qualifying individual becomes eligible for coverage under any other group insurance plan due to employment or remarriage.
 - (3) At the expiration of a qualifying individual's maximum continuation period.
- D. The offer of continued insurance coverage under COBRA is made independent of any other offer to continue insurance that may be required under any applicable state law.
- E. A qualifying individual has sixty (60) days from the termination date of their current coverage to decide whether to continue their insurance coverage under this plan. If they decide to apply for the continued coverage, all due and owing premiums must be paid before coverage will be granted. If they fail to apply for coverage within the sixty (60) days, they will have waived their rights to continuation of coverage under the COBRA guidelines. They are not required to apply for or accept coverage under COBRA.