

The Job You Save May be Your Own

--Understanding the New Normal at LLNL, and Surviving it

James Wolford, SPSE-UPTE Chief Steward

Of the many changes that LLNL has undergone since the 2007 transition to private-sector management, none have been so far-reaching as the revisions to Laboratory Policy that are scheduled to go into effect on January 1, 2013. Presented as an evolutionary change to make the Lab more competitive, they in essence tear up the social contract between Lab employees and management that has existed since the Lab's inception. For many decades LLNL has been able to recruit top-ranked technical talent into esoteric areas of scientific work—a career choice that, once you're several years in, limits your options for moving on—by offering among other things a reasonable degree of job security. A career position at LLNL meant just that; if you succeeded at your job, you had a solid opportunity to make a career of it until you retired. Now, not so much. Read the revised policy sections (<https://human-resources.llnl.gov/pdoc-review.htm> from inside LLNL) particularly Section K, and you will see that starting next year, management will be able to terminate pretty much anyone they choose for any reason they can explain as “business related”. The changes include:

- A broadening of the definition of “reasonable cause” for dismissal, to include:
 - “Other business-related reasons as may be determined by Laboratory Management in its sole discretion”
- Making permanent layoffs a routine form of separation from the Lab, using broad new justifications including:
 - “inability within a reasonable period of time to locate a fully-funded assignment”
 - “Other business-related reasons as may be determined by Laboratory Management in its (sic) discretion”
- Furloughs for employees in programs that claim financial hardship—possibly without notice
- Dropping seniority as a required consideration in determining order of layoff for *all* employees
- New disclosure rules for romantic relationships between co-workers
- A twelve-month probation period (up from six) for new employees (including flex-terms whose positions are converted to career indefinite)

Along with written policy changes, management plans to re-vamp the flexible term employment category, and in the future apply it only to positions with a definite expiration date, e.g., those hired for the sole purpose of constructing a new facility or establishing a new capability. At the same time, they will evaluate current flex term positions for conversion to permanent. Thus while the flex term category as we have known it is going away, soon we will *all* become flex terms in the sense of being effectively at-will for dismissal.

Management has begun holding all-hands meetings to give their slant on the changes. It is clear from their answers to questions that management plans to interpret the policy language as it goes along. For example, the length of the “reasonable period” one may spend between assignments before getting

axed is up to the individual departments.[†] We are left to wonder whether the individual departments will apply the same grace period to everyone, and whether time spent at say 95% of full funding will be weighted the same as time spent on full burden. Also, the new policy makes no distinction between positions funded programmatically and those supported by overhead. Some employees get paid from both sources, and the organization benefits from that flexibility. How will departments decide when such a person is fully funded and when they are “between assignments”? In true Orwellian fashion, the new Separations policy states that dismissals will not occur for arbitrary reasons, and then states that management can make up its own reasons for dismissing someone (for that is what *sole discretion* means). Indeed, the policy wording seems designed to allow dismissal or layoff with the vaguest of justifications. This invites abuse, and is a recipe for employee stress. SPSE-UPTTE officers and activists have been discussing the coming changes since the announcement, and we distill our conclusions into the following take-aways:

1. The old assurances no longer apply

The job security that career indefinite employees enjoyed under UC and for a while under LLNS is gone. Rather than “clarifying” the reasonable cause standard for dismissal, management has expanded it to mean literally anything they choose to pin on you. Reductions in force, made *de rigueur* by the new policy, can now happen on any scale, down to the individual, and so-called business-related reasons for them can be manufactured at management’s whim.

2. There is no one minding the store

We would all like to believe that along with ending structural protections for employees against arbitrary treatment, management would rise to the new responsibilities implicit in the powers that the changes give them. We see no evidence of this occurring. Changing a policy does not bestow emotional maturity or improve the judgment of those executing it.

3. You cannot rely on the LLNS internal dispute resolution (grievance) process as a backstop

As a result of changes to Lab policy since LLNS took over in October 2007, the Lab's formal complaint resolution process has become a sham, a simulacrum of due process. In particular, neither a manager nor an independent party reviewer can rule on whether corrective action against you is appropriate and just, but only on whether the proper procedures were followed in the course of disciplining you: not whether your dismissal was warranted, but whether management used the right forms and got the right signatures.[‡] In our judgment, nothing short of arbitration with an outside hearing officer will give you a just outcome in a dispute over discipline or dismissal, and even arbitration has been curtailed in scope by post-transition Lab policy.

Management has the right (and yes the duty) to run LLNL in a safe and efficient manner, and needs some flexibility to do so, but employees also have rights, including to fair and predictable treatment. They have a right to know the rules and standards they will be held to, and to know they will not fall

[†] Human Resources Associate Director Art Wong’s update to Operations and Business personnel in building 543 auditorium on Monday November 19, 2012.

[‡] LLNS Policy and Procedures Section H, subsection I.3.2, version of July 16, 2012.

victim to some secret litmus test. Far from making LLNL more efficient in a business sense, the coming changes will enable abusive and negligent management to flourish, unhindered and unexposed.

Select groups of LLNS employees are exempt from the changes, and from most Lab policies in general. They are the represented members of SPSE-UPTE's Skilled Trades Bargaining Unit, and the security employees in the Security Police Officers Association. In place of HR-written policies, they follow labor contracts they have negotiated with management. In the case of the Skilled Trades, their workforce management practices are close to what we all had under UC management prior to the transition. The lesson is clear: without the power to negotiate the terms of your employment, those terms will get dictated by management in the form of policies. The best way for LLNS employees to regain job security and due process rights is to organize.

Please give us your feedback with a very short 3 question survey at <http://www.surveymonkey.com/s/2012LLNLJobSurvey>

How New Policies Damage the Lab's Science and National Security Missions

Jeff Colvin, SPSE-UPTE Legislative & Political Director

In the previous article we summarized the new LLNS personnel policies and how they seriously degrade our job security and due process rights, and even put our health benefits at risk. This is only the beginning of the story, though. In this article we summarize how the new policies damage the Lab's science and national security missions, and may even violate the NNSA-LLNS contract and federal law.

Intellectual and Scientific Freedom

Section B-H-36 of the NNSA-LLNS contract requires that "scientific and engineering personnel at the Laboratory shall be accorded the rights of --- open debate". This right, however, can be exercised only in an environment in which job security is protected. Without these protections there can be no free and open debate. The new personnel policies destroy the working environment on which intellectual and scientific freedom depends. It is natural for employees to feel inhibited in free and open debate knowing that loss of project funding can result in layoff. Loss of intellectual and scientific freedom, in turn, will be a major drag on the Lab's ability to accomplish its scientific and national security missions.

Federal Law Governs How Layoffs are to be Conducted at the NNSA Labs

Section I of the NNSA-LLNS contract requires LLNS to comply with Section 3161 of the 1993 National Defense Authorization Act to "use its best efforts to accomplish workforce restructuring or displacement so as to mitigate social and economic impacts" on surrounding communities. In other words, federal law recognizes that layoffs at the Lab have a big impact both inside and outside the fence, and require Lab management to take steps --- such as re-training, retirement incentives, and preferential rehire --- to reduce the necessity of layoffs and mitigate their impact when they do become necessary. The new

policies, which now allow individual layoffs without advance notice, violate the spirit, if not the letter, of federal law.

Recruitment and Retention

In February of this year the National Academy of Sciences (NAS) issued their report on the first phase of their comprehensive study of how the transition of the Lab to private company management affected its science and national security missions. Although the NAS found little evidence that recruitment and retention had declined significantly since the transition, they did recognize that the transition happened at the same time as a significant downturn in the U.S. economy, and that it was the economic downturn that probably had the dominant influence on keeping the recruitment and retention numbers steady. Accordingly, in Finding 5-2 the NAS Report says the “Labs should not be complacent about their ability to attract and retain staff.” It is difficult to imagine a way LLNS could have been more complacent about recruitment and retention than putting in place new personnel policies that eliminate long-term job security along with employee due process rights.

