Policy Name: Reduction in Force of Non-Faculty Employees

Policy Number: 11.23

Is this policy new, being reviewed/revised, or deleted? Review/Revise

Date of last revision, if applicable: 10/29/2018

Unit(s) Responsible for Policy Implementation: Vice President for Finance and Administration

Purpose of Policy (what does it do): Outline the process for implementing a reduction in workforce.

Reason for the addition, revision, or deletion (check all that apply):

- [ ] Scheduled Review
- [x] Change in law
- [ ] Response to audit finding
- [ ] Internal Review
- [x] Other, please explain: Policy enhancement and clarification.

Please complete the appropriate section:

Specific rationale for new policy:

Specific rationale for each substantive revision: Change name to "Reduction in Force of Staff and Non-Tenure Track Employees". Update definition of RIF. Expand the authority to determine when a RIF is necessary to president, vice presidents or designee. Clarify steps of implementation.

Specific rationale for deletion of policy:

Additional Comments:

Reviewers:

Danny Gallant, Vice President for Finance and Administration
Damon Derrick, General Counsel
Reduction in Force of *Staff and Non-Academic Tenure Track* Employees

Original Implementation: July 28, 1986  
Last Revision: October 29, 2018 / July 21, 2020

**Purpose**

This policy establishes a process for effecting a reduction in force of *staff and non-academic faculty employees*. This policy applies to all staff positions and non-tenure track employees appointments. This policy does not apply to the modification to or the elimination of positions due to changes in funding of a grant or contract; such positions are subject to policy 11.2, *At-Will Employment*.

**Definitions**

A reduction in force (*RIF*) is defined as *any action that results in loss of employment or reduction in percent of effort* a layoff of a segment of the work force due to *re-prioritization* a lack of work, re-organization of work, elimination or lack of work, changes in technology or research needs, budgetary needs, legislative enactments, or other *business reasons* factors that require some manner in reduction in the university’s investment in staff or non-tenure track employees. Terminated positions are presumed to have no likelihood or expectation to be reinstated. *Reduction in funding, or reorganization. It is an involuntary termination of employment not involving delinquency or misconduct.*

**General**

*Stephen F. Austin State University (SFA) administration strives to provide a stable environment in which to work, but may occasionally be required to eliminate positions due to anticipated decrease in funding or other financial reasons, a lack of work, reorganization, or changes in needs or technologies. Decisions to implement a reduction in force may originate with the president, vice president, or designee. This policy establishes a process for the reduction of staff and non-tenure track appointments.*

*Faculty, regular full-time and part-time, positions* in these situations. This policy does not apply to temporary employees or students employed in positions which require student status as a condition of employment.

*The president of the university may implement a reduction in force in order to meet operating expenses and maintain sound reserves without diminishing capital or generating unwise or impermissible indebtedness.*

*The provisions of this policy are not to be used to dismiss an employee if the sole cause for dismissal is either misconduct or lack of satisfactory performance.* Refer to SFA policy 11.4 *Discipline and Discharge.*

*RIF decisions will be made without regard to the employee’s race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, age, disability, genetic information, citizenship, or veteran status.* An individual entitled to a veteran’s and/or former foster child’s employment
preference in hiring under Texas Government Code, Chapters 657 and 672, is also entitled to a preference in retaining employment if a reduction in force occurs. However, this preference applies only to the extent that a reduction in workforce involves other employees of a similar type or classification.

The president will have final approval on all RIF actions. Authority may be designated to the appropriate vice president to approve the RIF actions.

Prior to the implementation, the president shall consult with the vice presidents and other administrators of the president’s choice. The consultation shall include a discussion of:

- anticipated income and expenditures;
- retrenchment measures which have been taken;
- reasonable alternatives to reduction in force; and
- other matters the president deems appropriate.

Regular, full-time employees will be given preference for retention over probationary, part-time or temporary employees. Length of service with the university, ability to perform the remaining work in the affected department, and critical skills required for the remaining work shall be weighed equally in selecting employees for layoff. The university will make every effort to place potentially affected employees in vacant positions for which they qualify. Employees who are laid off as a result of a reduction in force will be given priority consideration for vacant positions for which they qualify. If there are no suitable job openings at the university, human resources will provide reasonable assistance to affected employees in finding positions outside the university.

Methodology

A director or other administrator who is instructed by the president to accomplish a reduction in force will prepare a work force profile on all employees in the affected department or program. The president, vice president, or designee will determine when a reduction in force is needed. When such determination has been made, the following steps will be taken to implement the RIF:

1) A written analysis will be performed to determine which areas, units, activities, programs or organizations (collectively, “affected areas”) reductions must be affected. If an entire unit, activity, program, or organization activity is to be eliminated or subject to a reduction in percent of effort, steps 2 and 3 are not applicable. This analysis should identify the need for implementing the RIF in the affected areas.

2) Within the affected area, the job functions that will need to be performed after the reductions will be identified; current business conditions and future needs should be included.

3) Current employees will be carefully evaluated as to their qualifications and ability to perform the job functions determined in step 2. The evaluation of a current employee’s qualifications and ability to perform the job functions should include, for example, factors such as total
relevant experience including specialized training, previous performance evaluations including recognition and documented disciplinary history, and length of service with the university.

4) After the job functions and the individual employees have been evaluated, the determination of which employees will be subject to the RIF will be made. A report of all recommended actions resulting in a RIF will be compiled. This report should describe why particular positions recommended for elimination were selected and why individual employees in the affected area are recommended to be retained or subject to the RIF, using the evaluation conducted in Step 3.

5) The analysis and resulting report, including documentation used in the evaluation process, will be submitted to the university’s human resources department for review. Once reviewed and approved by the human resources department, the proposed RIF must be submitted to the general counsel for review and approval as to legal sufficiency, and the appropriate vice president and president or their designee for final approval.

6) Once the RIF is approved, the department head or equivalent administrative head will notify affected employee(s) of RIF actions in writing. Unless otherwise approved in writing by the university’s human resources department, such notice will be provided at least sixty (60) days prior to the effective date of the reduction in force RIF. The written notice of separation or reduction in percent effort shall include an explanation of the reasons for the RIF, and explanation of why an employee’s position is to be eliminated subject to the RIF or why a particular employee has been selected for separation a RIF, and an explanation of the employee’s appeal rights.

7) An employee who has been notified of reduction in force may be removed from the worksite, with pay, immediately upon receipt of the notice of RIF, with the approval of the department of human resources. Any such employee will be given, in writing, a work assignment to be completed away from the worksite.

**Appeal**

Each employee who is laid off as a result of a reduction in force subject to a RIF may appeal the decision in accordance with the procedure for category I grievances under the Grievance and Appeals (11.15) policy. The appeal shall begin at step three. The burden of proof is on the employee, and the scope of the review is limited to the opportunity for the employee to establish that the layoff was made on a constitutionally impermissible or unlawful basis or an arbitrary or capricious basis, or that this policy was substantially violated.

**Placement Efforts**

If advance notice of the RIF is provided, employees designated for separation or reduction in effort will be given reasonable time off to interview for other jobs prior to the RIF effective date. Every reasonable effort will be made by human resources offices the department of human resources department to place dismissed employees in comparable vacant positions for which they are qualified. An employee who refuses to accept a comparable job may forfeit certain rights to unemployment
compensation benefits. In addition, if an employee is offered other employment within the university in a comparable position for which the employee is qualified, and such offer is refused, the employee will be deemed to have waived all rights under this policy.

**Reinstatement, Rehire, or Reemployment**

The human resources department will maintain a list of individuals who have been separated under the RIF policy.

If an employee is offered other employment within the university in a comparable position for which the employee is qualified, and such offer is refused, the employee will be deemed to have waived all rights under this policy.

If a position is re-established within six (6) months of being eliminated, the reduction in force, the university will send a notice of recall to each employee affected by the elimination of the position. The individual has the right to reinstatement into that position, barring circumstances occurring in the interim that would either render the individual unable to perform the essential functions of the position or that would have resulted in their ineligibility for or separation from employment. When determining the order of recall of affected employees, the department head should review the evaluation of the former employee’s qualifications and ability to perform the job functions, including factors such as total relevant experience including and specialized training, previous performance evaluations, including recognition and disciplinary history, and length of service with the university.

Notice of recall will be mailed to an employee’s last reported address as shown in official personnel records. It is the obligation of the employee to ensure that such records are correct. A reasonable period of time not to exceed seven (7) calendar days will be allowed for the affected employee to reply.

The right to recall shall cease six (6) months after layoff separation. An employee on layoff separated from the university who rejects a recall or job offer for a position for which he/she qualifies shall forfeit further rights to recall.

Reinstated employees will be paid within the salary range for the position at the time of reinstatement.

The work force profile shall indicate the number of positions to be abolished, discontinued or vacated, and the names, job titles, length of service and classification (temporary, probationary, or full-time, regular) of the affected employees. The director or other administrator shall list the employees recommended for separation on a reduction in force roster and forward the roster and the work force profile through the appropriate vice president to the director of human resources.
The director of human resources shall review and certify that the reduction-in-force roster complies with the provisions of this policy. After certification, every affected department's roster shall be sent to the president for final approval.

Upon approval by the president, the director or other administrator of the department will meet with each affected employee, review the reason for the reduction in force, provide the employee with written notification of separation and refer the employee to human resources. Whenever possible, a written notification should be given at least sixty (60) days prior to the effective date of the reduction in force.

Each affected employee will either submit an updated resume or complete a new online application as directed by human resources. Human resources will review the resume or application prior to interviewing the employee. If there are suitable openings with the university, the employee will be referred to those job vacancies for which the employee is qualified.

If there are no suitable openings, the university may replace an employee in one department with an employee who has more seniority in the same or other department. The university may exercise this option in cases where both employees are in the same or similar job classification according to the university's validated job descriptions, or the employee will be provided with placement assistance for positions outside the university. The affected employee who is transferred under this option shall receive the compensation budgeted for the position to which the employee has been transferred.

Human resources will provide each affected employee with information regarding unemployment benefits from the Texas Workforce Commission and other available assistance. Employees who are laid off as a result of a reduction in force will be recalled to the next available position for which they qualify. The right to recall shall be granted on a priority basis. Length of service with the university, ability to perform the work in the affected department and critical skills required for the work shall be weighed equally in selecting employees for recall.

A notice of recall shall be sent to affected employees at the last known address according to university records. A reasonable period of time not to exceed seven (7) days will be allowed for the affected employee to reply. The university may grant written extension when there are extenuating circumstances.
The right to recall shall cease six (6) months after layoff. An employee on layoff from the university who rejects a recall or job offer for a position for which he/she qualifies shall forfeit further rights to recall.

Each employee who is laid off as a result of a reduction in force may appeal the decision in accordance with the procedure for category I grievances under the Grievance and Appeals policy. The appeal shall begin at step three. The burden of proof is on the employee, and the scope of the review is limited to the opportunity for the employee to establish that the layoff was made on a constitutionally impermissible or unlawful basis or an arbitrary or capricious basis, or that this policy was substantially violated.

Cross Reference: Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101, et seq.); Tex. Gov’t Code §§ 657.007, 672.004; Financial Exigency (3.15); Discontinuance of Program or Academic Unit (5.9); Grievance and Appeals (11.15);

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: None

Board Committee Assignment: Academic and Student Affairs