

# Reduction in Force of Staff and Non-Tenure Track Employees

**Original Implementation:** July 28, 1986

**Last Revision:** July 21, 2020

## Purpose

This policy establishes a process for effecting a reduction in force of staff and non-tenure track employees (as defined by policy 7.2, Academic Appointments and Titles). 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 due to re-prioritization of work, re-organization of work, elimination or lack of work, changes in technology or research needs, budgetary needs, legislative enactments, or other 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.

## 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 (as defined by policy 7.2, Academic Appointments and Titles), full-time and part-time, 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 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.

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.

## **Methodology**

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 units, activities, programs, organizations (collectively, “affected areas”) will be affected. If an entire unit, activity, program, or organization 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 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 subject to the RIF or why a particular employee has been selected for 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 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 RIF 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. Reasonable effort will be made by the 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 a position is re-established within six (6) months of being eliminated, 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 and specialized training, previous performance evaluations, 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 separation. An employee 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.

**Cross Reference:** Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101, et seq.); Tex. Gov't Code §§ 657.007, 672.004; Academic Appointments and Titles (7.2); 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