

FAYETTEVILLE STATE UNIVERSITY

REDUCTION IN FORCE POLICY FOR EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT

Authority:	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
Category:	Employment – SPA
Applies to:	● Administrators ● Staff
History:	Last Revised – May 15, 2009 First Issued – January 1, 2000
Related Policies:	<i>SPA Grievance Policy</i> <i>Priority Re-employment for RIF Employees</i> [State Personnel Manual, Section 2] <i>Reduction in Force</i> [State Personnel Manual, Section 11] <i>Severance Salary Continuation</i> [State Personnel Manual, Section 11]
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I. PURPOSE

Fayetteville State University (the “University”) has established this policy to assure procedures are administered on a fair and systematic basis for employees eliminated due to Reduction in Force.

This policy applies to full- and part- time employees subject to the State Personnel Act (SPA) who hold permanent appointments, employees with trainee appointments who have completed six months of service, and employees who attained permanent status prior to entering a trainee appointment. This policy is not applicable to employees exempt from the Personnel Act (EPA), SPA employees with time-limited appointments, faculty, temporary employees, and student workers.

This policy describes the conditions and process for separating employees due to shortage of funds or work, abolishment of a position, or other material change in duties and organization. This policy also describes the process for priority re-employment consideration of these employees.

This policy does not describe the process for dismissing employees solely due to performance or conduct concerns. Refer to the University’s *SPA Discipline and Dismissal Policy* for detailed information on that process.

II. GENERAL GUIDELINES

Before implementing a reduction plan, the University shall examine and consider alternatives to Reduction in Force. Once alternatives have been considered, if there still exists a need to implement Reduction in Force procedures, the University shall evaluate the following factors:

- the services needed to maintain continuing programs;
- the type of appointment;
- the documented efficiency of the employee;
- the length of State service by the employee; and
- the potential impact on the diversity of the work force.

The University shall make every effort to avoid termination of permanent employees. Therefore, temporary, probationary, or trainee employees in their first six months of employment shall not be retained in cases where permanent employees must be separated in the same or related class.

Reduction in Force decisions shall be made without respect to race, sex (such as gender, marital status, and pregnancy), age, color, national origin (including ethnicity), creed, religion, disability, or political affiliation -- except where sex, age, or ability represent bona fide occupational qualifications.

The Associate Vice Chancellor for Human Resources shall ensure that any proposed Reduction in Force meets the requirements of this policy prior to the proposed reduction being submitted to the Cabinet Member. Human Resources shall also review and analyze the impact of any Reduction in Force on the diversity of the workforce.

III. DEFINITIONS

- A. **A Boundary** is the identified unit(s) of the University which will be subject to Reduction in Force. For purposes of this policy, the units that may be considered for Reduction in Force are the University as a whole or the individual University division(s), college(s), department(s), and/or office(s). The identified Boundary should be at the lowest unit of the University as specified in the most recent University organizational chart as is reasonably possible and as determined by the University in its sole discretion.
- B. **A Cabinet Member** is a member of the Chancellor's executive team responsible for the operations of an identified Boundary.
- C. **Reduction in Force** is the separation of an employee from a position because of a shortage of funds or work, position abolishment, or material change in duties or organization.

IV. ALTERNATIVES TO REDUCTION IN FORCE

The University shall examine and consider various alternatives, if feasible, before initiating a Reduction in Force. These alternatives may include the following:

- Job sharing arrangements;
- Implementation of a hiring freeze on vacant positions;
- Transfer/reassignment of staff;
- Limiting purchases of items/services and business travel and expenditures;
- Work schedule alternatives; and
- Reducing FTEs.

V. REDUCTION IN FORCE PROCEDURES

A. Step One: Initiating Reduction in Force Plan

1. The Cabinet Member, with the Chancellor's approval, shall order that a Reduction in Force analysis be conducted and determine the Boundary. If program elimination is anticipated, the Cabinet Member should consider the feasibility of making such eliminations.
2. The Chancellor and/or Cabinet Member may specify vital positions that should be evaluated for exclusion from a reduction order. Vital positions are mission-critical services to the Boundary which might include, but not be limited to, safety, health, or other essential positions.
3. After the Boundary has been established, the Cabinet Member for the Boundary must make a written request to the Classification and Compensation Unit of the Office of Human Resources ("Classification and Compensation") to identify positions and employees within the Boundary for Reduction in Force. A copy of this request must be sent to the Human Resources Best Practice Group. The Cabinet Member's written request shall include the following:
 - a. An analysis of the situation that requires a Reduction in Force;
 - b. A description of measures taken to avoid a Reduction in Force and an explanation of why the alternatives were not feasible or adequate to meet the University's needs;
 - c. A list of the classes (banded classes and competency level) within the Boundary which should be considered for Reduction in Force;
 - d. The number of positions that should be reduced to meet the established goal;

- f. A list of vital services which should be examined for exemption from a Reduction in Force analysis; and
- g. Any other documentation or recommendations the Cabinet Member deems as important in the decision-making process including, but not limited to, documentation of knowledge and skills of employees.

B. Step Two: Identifying Employees through Comparative Analysis

Upon the written request of the Cabinet Member as described above, Classification and Compensation shall identify the individual employees to be reduced. In order to make these determinations, Classification and Compensation shall rank all SPA employees in the identified classes of the Boundary according to a comparative analysis. Attached is a worksheet Classification and Compensation will use to complete the comparative analysis. The comparative analysis will provide a thorough evaluation of the relative value and need for particular positions and/or employees which will assure that the University can provide the highest level of services possible with a reduced workforce. The comparative analysis shall include a review of the following:

1. Exemptions from Analysis

The Assistant Director of Human Resources shall examine and determine whether to exempt vital positions identified by the Chancellor or Cabinet Member. The Assistant Director shall provide written justification for any exemption.

2. Relative Efficiency

Reduction in Force often results in fewer employees to perform the same work tasks. Therefore, in the interest of efficiency, the most competent, skilled and better performers shall be ranked higher according to the following review:

- a. **Competency Assessments.** Classification and Compensation shall rank individuals based on their banding competency assessments.
- b. **Specialized Knowledge and Skills.** Classification and Compensation shall rank employees based on documented specialized knowledge and skills (as the Cabinet Member identified) which are important to the Boundary in the delivery of services or programs.
- c. **Performance Management.** Classification and Compensation shall rank individuals based on performance management evaluations and work and improvement plans.

- d. **Disciplinary Actions.** Classification and Compensation shall rank employees based on active disciplinary actions issued in accordance with the University's *SPA Discipline and Dismissal Policy*.

3. **Length of Total State Service**

After completing the analysis for relative efficiency, Classification and Compensation shall consider each of the remaining individuals based on their total length in State service. Length in service may become a differentiating factor, particularly where other criteria are substantially equal or where efficiency documentation does not exist. Note that eligible veterans must be accorded one year of State service for each year or fraction thereof of military service, up to a maximum of five years of credit.

4. **Diversity Impact Review**

Classification and Compensation shall review the potential impact of a reduction decision on the diversity of the workforce and ensure that the reduction decision is made without respect to race, sex (such as gender, marital status, and pregnancy), age, color, national origin (including ethnicity), creed, religion, disability, or political affiliation -- except where sex, age, or ability represent bona fide occupational qualifications.

C. **Step Three: Notify Employee of Reduction in Force Decision**

After receiving the approved Reduction in Force decision from Human Resources, the Cabinet Member, or his or her designee, must notify the identified employee(s) in writing at least thirty (30) calendar days before the date of separation. If possible, the written notification should be delivered in person during a private meeting with the identified employee, his or her supervisor, and a human resources representative. The notification must be signed by the supervising Cabinet Member and must include the following:

- A summary of the reasons and process used to select employees for Reduction in Force;
- The effective date of the separation;
- Information on the right to appeal the decision; and
- If applicable, information on priority re-employment rights, sick leave, salary, vacation and other separation benefits.

VI. **PLACEMENT TO AVOID REDUCTION IN FORCE**

- A. Until the effective date of separation, Human Resources should maintain a process for finding a suitable position in any unit of the University for the University's

SPA employees who have received a letter indicating selection for Reduction in Force (the “RIF Candidate”).

- B.** Until the effective date of the separation, Human Resources should inform the RIF Candidate of any positions within the University that become available if (1) the position is at the same or related banded class; (2) Human Resources determines that the RIF Candidate meets minimum qualifications; and (3) the position offers a pay band that enables the RIF Candidate to maintain his/her salary.
- C.** The RIF Candidate must apply for any position as directed by Human Resources. Human Resources should forward the RIF Candidate’s application to the department if the RIF Candidate meets minimum qualifications.
- D.** RIF Candidates may be eligible for the priority re-employment rights and conditions as described by Office of State Personnel (OSP) regulations and policy.

VII. RIGHTS OF EMPLOYEES SEPARATED DUE TO REDUCTION IN FORCE

A. Priority Re-Employment

For a period of twelve months after the date of official notification of separation, Career Status SPA employees who are officially notified in writing of a separation due to Reduction in Force may have priority re-employment rights to any open position for which the employee is qualified in any State agency or university:

- at the same salary grade or lower as held at the time of notification,
- at the same banded class and the same competency level or lower as held at the time of notification, or
- for positions in a different banded classification with the same or lower journey market rate as held at the time of notification.

The priority re-employment rights and conditions for employees Reduced in Force are described in OSP regulations and policy.

B. OSP Automatic Referrals

Any eligible employee Reduced in Force may request that OSP notify him or her of open positions through OSP’s automatic priority referral system. To request these automatic referrals, the employee must submit a State application to the University’s Office of Human Resources within thirty (30) days of notification of separation. Any employee who declines to use the automatic referral system must sign a waiver to this effect. Human Resources will send any timely submissions of the State applications for the referral system to OSP. OSP manages and operates the automatic referral system.

C. Severance Pay

Permanent SPA employees who are separated due to a Reduction in Force may be eligible for severance pay. Approval of severance pay is made jointly by OSP and the North Carolina Office of State Budget.

D. Health Insurance Benefits

Health insurance benefits may continue in accordance with OSP policy.

E. Discontinued Service Retirement

Some employees may be eligible for Discontinued Service Retirement as an alternative to severance pay. For more information on this option, the employee should consult with OSP.

F. Sick Leave

In accordance with OSP limits, employees separated due to Reduction in Force may have their remaining sick leave reinstated if employed in any State agency.

G. Vacation Leave

Employees separated due to Reduction in Force shall be paid the balance of their vacation leave subject to OSP limits.

H. Appeals

Eligible SPA employees may grieve if it is alleged the separation is in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition. The employee should follow the procedures described in the University's *SPA Grievance Policy*.

VIII. POLICY DISSEMINATION

This *Policy* is available on-line for distribution University-wide and in the Office of Human Resources.

IX. DISCLAIMER

No one has the authority to make binding oral promises, assurances or representations regarding employment status or security. Any such communications are hereby rescinded and superseded by this policy.