

Reduction-in-Force and Furlough Policy

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§ 1. Policy

The State of North Carolina is committed to providing a fair workplace that is focused on continuous efforts to be efficient and effective. At times, however, the workforce may be impacted by circumstances that require restructuring. These efforts may include a Reduction in Force (RIF) or furlough.

§ 1.1. Reduction in Force

An agency or university has the authority to permanently separate an employee whenever it is necessary due to:

- Shortage or loss of funds;
- Shortage or loss of work;
- Abolishment of a position; or
- Other material changes in position duties or organization.

No loss of funds shall be required as a precondition for a reduction in force; however, an agency or university may not use the RIF process to circumvent the disciplinary process required to separate or demote an employee for a disciplinary reason.

A RIF requires written guidelines for that specific RIF (the RIF plan) as described below starting in Section 2 of this policy. RIF procedures also apply to position or budgetary changes that result in a permanent involuntary reduction in an employee's work hours.

§ 1.2. Furlough

An agency or university has the authority to implement a furlough when funds are not available to pay an employee. A furlough is temporary involuntary leave without pay. The Leave Without Pay Policy applies to the employee on furlough, except: (1) no application is required, (2) vacation, sick, bonus, and other forms of leave do not need to be exhausted before the employee is placed on leave without pay, and (3) the employee is not required to give written notice of intention to return to work before the end of the leave.

A furlough, unlike a RIF, may be implemented immediately. No RIF plan is required before implementing a furlough. A furlough gives the agency or university the opportunity to learn more details in a time-sensitive situation and develop a comprehensive response. The furlough process is available not only for funding interruptions that are expected to be temporary, but also as a response to a funding interruption that may be permanent.

If funding is restored, the furlough must end. If funding is not restored, a RIF may be necessary. If a furlough lasts for more than 30 calendar days, or for more than 22 discontinuous workdays, the agency should begin the process for a RIF action and should begin preparing a RIF plan as described in this policy. The RIF should proceed on a reasonable timeline given the circumstances, and it can be delayed if the agency believes in good faith that funding will be restored and that the employee will have the opportunity to return to work.

Before any furlough, Cabinet agencies should obtain approval from the Office of State Budget and Management (OSBM) and Office of State Human Resources (OSHR). Non-Cabinet agencies and university institutions are encouraged, but not required, to contact OSBM and OSHR before any furlough. The employee should be contacted immediately when a furlough is implemented.

At the end of the furlough, if funding has been restored and the funding source allows retroactive payment for the furlough period, agencies and universities are authorized to pay employees for time that they were out on furlough. However, agencies are not required to compensate employees for the time they were out on furlough.

§ 1.3. Partial Furlough by Reduction in the Employee's Work Schedule

If some, but not all, of the funding for an employee is not available, the agency may reduce the employee's work schedule. The employee should be contacted immediately when a work schedule reduction is implemented. For the part of the employee's schedule where work has been reduced, the same procedures apply as for a full-time furlough; the employee is placed on temporary involuntary Leave Without Pay for that portion of the workweek. A work schedule reduction does not change an employer's responsibilities under the Fair Labor Standards Act (FLSA).

§ 2. RIF Retention Factors

Each agency or university has the authority to decide whether a RIF is necessary and when the RIF will take place. When the decision to implement a RIF is made, the agency or university should consult with its Human Resources Office and its legal counsel before finalizing the timing and scope of the RIF. As part of that effort, the agency or university must prepare a written RIF plan that includes the retention factors listed below.

Once the agency or university makes these decisions, the retention factors then determine which employee(s) are identified for a RIF action. Retention of employees in classes affected by a RIF action shall be based on a fair and systematic consideration, at a minimum, of the following factors. Additional retention factors may be evaluated by the agency or university when those factors are related to the circumstances of the RIF.

§ 2.1. Type of Appointment

Neither temporary nor probationary employees in their initial 12 months of employment (or initial 24 months of employment for sworn law enforcement officers) shall be retained in classes in which employees with permanent appointments (those who have satisfactorily completed a probationary or equivalent trial period) must be separated in the same or related class.

§ 2.2. Relative Efficiency

Relative efficiency shall be expressed as the employee's most recent overall performance rating received during the Annual Progress Review. Management may also consider the rating for each individual or institutional goal and value, if the agency uses the individual ratings model, when overall performance ratings are equivalent, documented employee skills and ability to perform the remaining work required of class members after the implementation of the RIF, and past performance reviews including previous active and inactive disciplinary actions.

§ 2.3. Actual or Potential Adverse Impact

In accordance with federal guidelines on equal employment opportunity, all decisions concerning reduction-in-force must be analyzed to determine their impact on agency utilization goals based on race and sex to avoid adverse impact in violation of Section 4.d of the Uniform Guidelines on Employee Selection Procedures as applied to selection rates for separation through RIF.

§ 2.4. Length of Service

Total state service determines length of service credit. In determining the length of service credit, an eligible veteran shall be accorded one year of state service for each year, or fraction thereof, of military service, up to a maximum of five (5) years of credit.

Although all retention factors must be evaluated, they may be weighted differently for each RIF event to meet the needs of the employing agency or university. Analysis of factors may include any mitigating or exacerbating circumstances relevant to each factor.

§ 3. Area of Analysis for RIF

When preparing for a RIF, the agency or university defines the Area of Analysis that establishes the geographical and organizational limits for RIF evaluation. The agency or university's written RIF plan must include this Area of Analysis. The analysis may include all or part of an agency (a unique work unit, division or entire agency/university). Differences in operation, work function, funding source, staff, and personnel administration may be considered when determining the appropriate area of analysis.

§ 4. Avoiding a RIF

A decision to implement a RIF must be reached only after the systematic consideration of actions designed to avoid the layoff. These actions may include but are not limited to the elimination of vacant positions; reduction in non-personnel related expenses; placement in a vacant position for which the employee qualifies; or retaining employees to facilitate placement in other positions at the agency or university.

§ 5. Office of Human Resources Responsibility

The responsibilities of OSHR shall include, but are not limited to, the following:

1. Establishing the RIF Plan Requirements and Program Guidelines to be followed by all agencies and universities to ensure commitment to, and accountability throughout, State Government;
2. Reviewing, approving and monitoring RIF plans and updates for agencies;
3. Providing technical assistance, training, oversight, monitoring, evaluation, and support to the RIF program; and
4. Developing, updating, and maintaining the RIF Priority Verification List database system

§ 6. Agency or University Responsibility

The responsibilities of each Agency Head, Department Head and University Chancellor, or their designees, shall include:

1. Adhering to the RIF policy and programs that have been adopted by the State Human Resources Commission and approved by the Governor;
2. Agencies only: Submitting RIF plans via Smartsheet and any necessary updates for approval by OSHR a minimum of two weeks prior to notifying employee of RIF actions; and

3. Universities only: Submit RIF plans and any necessary updates for approval by the President of the University System (or a Chancellor of a constituent institution, if delegated this power by the President of the University System) a minimum of one week prior to notifying employees of RIF actions. Submit approved RIF plans to OSHR for informational purposes within five (5) calendar days after approval.
4. Submitting employee information via Smartsheet within 30 days of RIF notification to OSHR to maintain the RIF Priority Verification List.

§ 7. Notification Requirement

The employing agency or university shall notify the employee in writing as soon as possible and in any case no fewer than 30 calendar days prior to the effective date of RIF separation. The written notification shall include the reasons for the RIF.

§ 8. Appeals

An employee separated through a reduction in force may appeal the action only on the grounds listed in the applicable Employee Grievance Policy.

§ 9. Leave

§ 9.1. Vacation Leave

Employees who are separated due to a RIF may request, subject to approval by management, to exhaust vacation leave and be paid in a lump sum for the balance not to exceed 240 hours. If an employee had over 240 hours of vacation leave at the time of their separation the excess leave shall be reinstated when reemployed within one year after separation.

§ 9.2. Bonus Leave

Bonus leave will be paid in a lump sum if eligible to employees who are separated due to a RIF.

§ 10. Sick Leave

Employees separated due to reduction-in-force shall be informed that their sick leave shall be reinstated if employed in any agency or university within five years.

§ 11. Sources of Authority

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-4\(5\)](#), regarding “[h]ours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment;”
- [N.C.G.S. § 126-4\(7a\)](#), regarding “[t]he separation of employees;”
- [N.C.G.S. § 126-4\(10\)](#), regarding “programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and modern system of personnel administration;” and
- [N.C.G.S. § 126-7.1](#), regarding RIF.

Note: Policy History moved to a separate document.