

Reduction-In-Force

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§ 1. Policy

An agency or university has the authority to 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.

RIF procedures also apply to position or budgetary changes that result in an involuntary reduction in an employee’s work hours.

§ 2. Retention Factors

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:

- Type of appointment;
- Relative efficiency;
- Actual or potential adverse impact on the diversity of the work force; and
- Length of service.

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.

§ 3. Area of Analysis for RIF:

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. However, the analysis to avoid a RIF must apply to the entire agency/university.

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. Relative Efficiency: Relative efficiency shall be expressed as the employee's most recent overall performance rating. Management may also consider the rating for each individual or institutional goal and value 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 any active disciplinary action(s) received by the employee.
3. Actual or Potential Adverse Impact: In accordance with federal guidelines affecting equal employment opportunity and affirmative action, 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.

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.

§ 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 retraining employees to facilitate placement in other positions at the agency or university.

§ 5. Office of Human Resources Responsibility

The responsibilities of the Office of State Human Resources (OSHR) shall include, but are not limited to the following:

1. Establishing the Reduction in Force (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 and any necessary updates for approval by OSHR a minimum of one week prior to notifying employees 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 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 separation. The written notification shall include the reasons for the reduction-in-force,

§ 8. Appeals

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

§ 9. Leave

Vacation Leave: Employees 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.

Bonus Leave: Bonus leave will be paid in a lump sum if eligible.

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.

§ 10. Effective Date and Duration

This Policy is effective at the beginning of the day on October 7, 2021.

§ 11. History of this Policy

Date	Version
7-28-1949	First version

8-03-1973	Established procedure for lay-off and demotion to effect reduction in force in the Employment Security Commission.
1-25-1974	A permanent employee who is separated due to reduction in force shall have the right to appeal to the State Personnel Board for a review to assure that systematic procedures were applied equally and fairly.
1-01-1976	Includes provisions for competitive service positions and provides that all reductions in force be based on systematic consideration of time of appointment, length of service, relative efficiency.
3-01-1978	<p>If an employee with five years of service is either transferred to an exempt position or occupies one that is declared exempt, upon leaving that position for reasons other than just cause, such employee shall have priority to any position that becomes available for which the employee is qualified.</p> <p>A permanent employee, who has been or is scheduled to be separated due to reduction in force, shall have priority to any position that becomes available for which the employee is qualified.</p>
8-01-1978	Reduction in force – priority consideration defined.
8-01-1979	Severance pay equivalent to two weeks approved by 1979 GA.
3-04-1981	Emergency regulation on reduction in force.
6-01-1981	Revision in the wording of the policy to include “neither temporary, probationary nor trainee employees shall be retained in cases where permanent employees must be separated in the same or related classes.” AND that type of appointment, length of service and relative efficiency do not necessarily have to be considered in that order.
08-01-1981	Policy changes due to Governor and Legislature requesting reduction in work force.
10-01-1984	Amendments to AA Policy and RIF.
06-01-1985	Deleted competitive service provisions.
07-01-1985	Section on Appeals revised to conform to Legislation requiring years of service in certain pay grades before becoming a permanent employee.
02-01-1987	Agency responsibility clarified (1) guideline must be openly available for review (2) must inform employees in writing of reasons of RIF, eligibility for priority, appeal rights, and other benefits (3) must give two weeks notice.

	Affirmative Action changed to state all decisions must be analyzed to determine impact on departmental utilization goals and to avoid adverse.
08-01-1988	Reinstatement of sick leave changed to five years instead of three years.
11-01-1990	Leave Without Pay Option deleted since no longer needed.
4-01-1993	Priority Reemployment Consideration – revised to allow a new probation period in certain situations involving the reemployment of a person involved in reduction-in-force.
3-01-1994	Changed “permanent” to “career.”
4-01-1995	Note about veteran preference added for clarification.
12-1-1995	Revised to conform to reduction-in-force statutory provisions.
6-01-2008	Under the paragraph on Leave, added provision that leave in excess of 240 shall be reinstated if reemployed within one year. (This provision has been in the Reinstatement Policy since 2002. It is added here for clarity.) (2) Changed policy to allow an employee who is reduced in force to exhaust vacation leave after their last day of work and still be paid for up to 240 hours of leave in a lump sum.
1-01-2009	A decision of the N.C. Court of Appeals said that an issue regarding the manner in which a reduction in force is carried out is no longer considered a contested case issue; therefore, the paragraph on Appeals is changed to recognize the impact of that decision. (The rule will be changed to reflect this change also.)
3-01-2011	The paragraph on Appeals was changed (per Lynn Floyd) to include appeal if it is alleged that the separation is a denial of the veteran’s preference granted in connection with a reduction in force. (This change is simultaneous with the publication of the new Manual; therefore, no revision was sent out separately.)
12-01-2013	Section on “Appeals” changed to refer RIF employees to Employee Grievance Policy found in Section 7 of the HR Manual.
10-01-2014	<p>Changed trainee eligibility period from 6 months to 24 months to align with the legal definition of probationary period.</p> <p>Notification requirements were moved from “agency responsibility” and put in an independent section to place emphasis on the requirement.</p> <p>Removed the requirement for agencies to send applications of RIF employees to OSHR.</p>

	<p>Added a clarifying statement in the “leave” section that one year time period for reinstating excess leave is from the date of separation and not the date of notification of separation.</p>
2-06-2020	<p>Policy reviewed by the Diversity and Workforce Services Division to confirm alignment with current practices and by the Legal, Commission, and Policy Division to confirm alignment with statutory, rule(s), and other policies. Reported to SHRC on February 6, 2020.</p> <p>North Carolina General Statute has been updated to reflect that no loss of funds shall be required as a precondition for a reduction in force (N.C.G.S. § 126-7.1 (b)). The policy revisions reflect this change, as well as adding some clarification regarding retention factors.</p>
10-07-2021	<p>Policy reviewed by the Diversity and Workforce Services Division to confirm alignment with current practices and by the Legal, Commission, and Policy Division to confirm alignment with statutory, rule(s), and other policies. The RIF policy was modified to reflect changes included in HB602 that allows the UNC System to approve RIF Plans.</p>