

Approved by University Council May 8, 1997

REDUCTION IN FORCE OF REGULAR STAFF EMPLOYEES

1. PURPOSE AND APPLICATION

1.1 The purpose of this policy and its related procedures is to ensure that reduction in force decisions are made only after careful analysis and that employees who are affected are treated fairly and with dignity.

1.2 This policy applies to decisions made by administrative and faculty supervisors affecting all regular staff employees in all units of UHCL, regardless of the source of funds.

2. DEFINITIONS

2.1 Regular staff employee means one who is employed for at least 20 hours per week on a regular basis for a period of at least 4-1/2 continuous months, excluding students employed in positions which require student status as a condition of employment.

2.2 Temporary staffing means the employment of an individual in an exempt or non-exempt staff position at any FTE (1 % to 100%) when employment is for a specific period of less than 4-1/2 months. An individual hired on a temporary staffing basis may not be employed by the same department in the same temporary capacity sooner than 4 months after a break in service.

2.3 RIF means a reduction in force.

2.4 Layoff means the involuntary termination of a staff employee because of an approved reduction in force. A layoff is considered a no-fault dismissal.

3. POLICY

3.1 UHCL endeavors to provide stable employment. Certain situations, such as lack of funds, reorganization, or changes in work priorities may necessitate a reduction in force. It is the policy of UHCL that all reduction in force decisions will be made based on careful analysis and fair application of procedures for decision making.

3.2 Each RIF plan must be reviewed and approved by the President prior to notifying any employee that his or her job will be eliminated. This clause applies to RIFs resulting from loss of funding for a grant or contract through which individuals are employed by UHCL, a departmental reorganization, or a university-wide reduction in force.

3.3 Employees affected by reductions in force will be assisted with re-employment endeavors to the extent provided in this policy and its related procedures.

3.4 Nothing in this policy shall be used as the basis for discrimination against any individual or group.

POLICY PROVISIONS

4. REDUCTION IN FORCE DETERMINATION

4.1 Reduction in force ("RIF") is the elimination of an occupied position or positions resulting from an administrative decision appropriate under such circumstances as a lack of funds, a lack of sufficient work, reorganization, changes in technology or research needs, or other factors that require some manner of reduction in non-faculty personnel.

4.2 A suspension, dismissal, or discontinuance of non-regular part time or temporary employment does not constitute a reduction in force.

4.3 While broad discretion is conferred upon the administrative units of the university to determine RIF necessity, all RIF decisions must include these steps:

- a. Careful analysis to determine which areas, activities, programs; or organizations should be reduced.
- b. Identification of the jobs and functions that will need to be performed after the reductions.
- c. Evaluation of present employees as to their qualifications and abilities to perform the jobs remaining, as determined in Section 4.4 below.
- d. Presentation of the comprehensive RIF plans to the President through proper channels, including review of human resources and affirmative action concerns. Any such plan must include a clear statement of the rationale for eliminating or reducing programs and/or services; the ultimate benefits to be achieved, such as reallocation of resources, budget reduction, or enhanced productivity; a summary of the racial, gender, age, and disability composition of the administrative unit, including names and protected class status of employees to be displaced. A summary of the factors outlined above must be presented to the President, via the Executive Director of Human Resources and Affirmative Action, in writing, using the approved form.
- e. Signature approval of comprehensive RIF plans by human resources and affirmative action officials, allowing sufficient time for a determination that policy has been observed and that the proposed RIF does not constitute illegal discrimination against protected groups, must take place before written notice is given to affected employees.

4.4 In evaluating present employees as required by 4.3.c., managers required to make RIF decisions may consider an employee's:

- a. Effectiveness on the job, including past performance, records of achievement, and disciplinary history;
- b. Special skills that are necessary for a particular function;
- c. Length of time in service within the University of Houston System; and
- d. Amount of experience in the field.

4.5 An employee who will be affected by a reduction in force should be given written notice as soon as practicable, but not less than 30 days prior to the effective date of the action. Notification letters must be approved in advance by the Executive Director of Human Resources and Affirmative Action, or

designee. An employee who has been notified that his or her job will be eliminated due to a RIF may request an explanatory conference with the responsible supervisor(s) and a representative of the Office of Human Resources.

4.6 In the case of an employee whose duties are divided between two or more departments, a RIF decision by one department does not obligate the other department(s) to increase funding in order to retain this employee and compensate for the reduction.

4.7 The decision to layoff an employee is effective upon delivery of the written notice of reduction in force to the affected employee. Any appeal requested by the employee does not affect the effective date of the RIF decision.

4.8 An employee who has been notified of reduction in force may be removed from the worksite, with pay, immediately upon receipt of the written notice of reduction in force, providing all of the following conditions are met:

- a. There is reason to believe that the employee will cause damage to university property, including computer and business systems; and
- b. The employee's supervisor is able to articulate this danger in written documentary form to the satisfaction of the Executive Director of Human Resources and Affirmative Action; and
- c. The employee is given, in writing, a work assignment to be completed away from the worksite.

5. TEMPORARY STAFFING

5.1 When work needs or projects require temporary staffing as defined in 2.2, applicants will be informed of the anticipated duration of employment at or before the time of employment. Such advance notice will be given to all employees to be funded from the same source on a temporary staffing basis.

5.2 This practice will be an acceptable substitute for the detailed analysis specified in 3.1 and the RIF plans specified in 3.2.

5.3 When a specific termination date is set for employees hired under the temporary staffing provision, the affected employees will be informed of that date, at least orally. The department and the employees will arrange for completion of terminal clearance and return of any university property that may be checked out to the employees.

5.4 All employees hired for the project on a temporary staffing basis will be treated uniformly.

5.5 If any employee hired under the temporary staffing provision remains employed by the same department and doing essentially the same work for more than 4-1/2 continuous months, the employing supervisor will be required to develop and submit a RIF plan for the entire work group.

6. REPLACEMENT EFFORTS, RECALL, AND BENEFITS

6.1 The university will grant reasonable leave with pay to an employee who is to be laid off solely for the purpose of enabling the employee to interview for other employment.

6.2 If an employee is offered other employment within the University of Houston System 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.

6.3 An employee who has been dismissed under the provisions of this policy will be offered the same position if it is re-established within six months of the reduction in force, provided the employee has retained the ability to perform the work. If, within six months of the reduction in force, the department establishes a position which is essentially the same, as determined by the UHCL Office of Human Resources and Affirmative Action, the dismissed employee who has not forfeited recall rights as outlined in 6.2 will be offered an opportunity to qualify for and be considered for the new position.

6.4 An employee who has been dismissed under the provisions of this policy who does not respond within ten calendar days of the date on the notice regarding either a recall to work or an opportunity to interview for an open position forfeits all further recall rights. Notice of recall will be sent by registered mail to the employee's last reported address as shown on official personnel records. It is the obligation of the employee to ensure that such records are correct.

6.5 An employee who is dismissed due to a reduction in force and who is re-employed within the University of Houston System within 12 months of the reduction in force shall have his or her sick leave balance restored.

6.6 An employee who is dismissed due to a RIF, who later returns to work at UHCL, is subject to the following probationary regulations:

- a non-probationary employee who is RIFd and is recalled to employment in the same position within 6 months following the RIF will not be subject to a new probationary period;
- a non-probationary employee who is RIFd by any UHS component and who is later hired in a different position by UHCL is subject to a new probationary period. Such probationary period will be the first 6 continuous months of employment for non-exempt employees and the first 12 continuous months of employment for exempt employees.

For greater detail on probationary periods for staff employees, refer to [UHS Administrative Memorandum 02.A.18](#) or the [UHCL Probation Period for Regular Staff Employees](#).

7. APPEAL RIGHTS

7.1 Any employee affected by a RIF decision may appeal. The employee may not challenge the nature of the reduction measures taken when the component presents evidence that a reduction is necessary. The purpose of the appeal hearing is to give the employee an opportunity to show that the true reason for the reduction in force is not due to a factor listed in 4.1, but rather based on a reason impermissible under laws, constitutions, or regulations of the United States, the State of Texas, the University of Houston System, or UHCL.

7.2 A person who wants to appeal must present an appeal in writing. This written and signed document must be delivered to the Executive Director of Human Resources and Affirmative Action, or designee, within five working days of receipt of the written notice of reduction in force. Failure to comply with this requirement will be deemed a waiver of the right to appeal.

7.3 The Executive Director of Human Resources and Affirmative Action, or designee, will review all requests for appeal to determine that the appeal is timely. The appealing party must present sufficient information to convince the Executive Director of Human Resources and Affirmative Action that the appeal warrants a hearing. Appeals which are determined to be valid and not frivolous will be scheduled for hearing in the order of receipt.

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8. HEARING PROCEDURES

8.1 The Executive Director of Human Resources and Affirmative Action or designee will, on behalf of the President, appoint one or more hearing panels as may be necessary. Each panel will consist of 3 members who were not factually involved in the decision to layoff the appealing employee(s). The panel will consist of one benefits-eligible support staff employee, one benefits-eligible exempt employee, and will be chaired by a benefits-eligible faculty member or academic administrator.

8.2 The hearing panel will set the date, time, and place for the hearing of an appeal. The hearing will be held as soon as practicable after the request for a hearing is received. The President will provide a written charge and administrative support to each hearing panel. The hearing panel will elect a chair. The elected chair of the hearing panel will be responsible for the conduct of the hearing process, including the calling of witnesses, the hearing of testimony, and the maintenance of records of the hearing.

8.3 At least 2 days prior to the hearing, the employee shall be given a copy of the explanation sent to the President under 4.3.

8.4 The hearing will be closed to the public.

8.5 The appealing employee may be assisted by an advisor who has the right to advise the employee but not to take part in the hearing.

8.6 The component and the appealing employee may offer any written evidence or oral testimony that is material to the issues; formal rules of evidence and procedure will not be followed.

8.7 The burden will be upon the appealing employee to show that the reason for the reduction action is not reasonably related to a factor described or implied in section 4.1, or that procedures were improperly applied. No other issues will be heard or considered by the hearing panel.

8.8 The hearing panel will make written findings of fact and a recommendation to the President as soon as practicable after the hearing. As soon as possible thereafter, the President will make a final decision and forward it to the Executive Director of Human Resources and Affirmative Action, who will inform the employee of the decision in writing. A copy of this notification to the employee will be placed in the employee's official personnel file in the UHCL Office of Human Resources. Records of the hearing will be maintained by the Office of Human Resources for seven years following the hearing.

8.9 If the appeals process is not completed by the employee's last scheduled day of work, the employee will be released on the effective date of the RIF. If the appeal results in a decision to reinstate the employee, the employee will be reinstated with back wages, less the amount of any unemployment compensation received from the Texas Workforce Commission while the appeal was pending. In such case, the Texas Workforce Commission will be notified promptly in writing of the employee's reinstatement.