

I. POLICY

To maintain academic and educational programs central to the mission of the college and to address unusual financial conditions or financial exigency, the president or designee may initiate a reduction in force. An administrator may eliminate and/or replace staff member positions within their area for the purpose of reorganization.

II. REFERENCES

- A. Bona Fide Financial Exigency and Personnel Reduction, Utah Bd. of Regents r. 482.
- B. Reduction in Force and Severance Pay, Utah Bd. of Regents r. 963.

III. DEFINITIONS

See [Human Resources Definitions](#).

IV. PROCEDURES

A. Reduction in Force

Faculty and staff members may be laid off as the result of a decision to effect a reduction in force subject to the provisions below.

1. If the president of the college determines that reduction in force is necessary, after a declaration of financial exigency or other extreme situation, the president shall, with board of trustees approval, recommend to the board of regents a plan for reductions.
2. When developing this plan, the president shall consult with the Utah Attorney General's Office and with college recognized faculty and staff organizations and established policy advisory committees of the college.
3. The plan shall include discussion of the necessity and procedures for personnel reductions, the appropriate organizational units or subunits within the college identified for personnel reductions, and the criteria for identifying the faculty and staff members considered of key importance and those who are to be laid off.

4. Before any layoffs become effective, the board of regents must first consider and approve the plan for personnel reductions.
5. In recommending a reduction in force, the first priority of the president shall be the maintenance of the academic and educational programs central to the mission of the college.
6. Of high priority will be the preservation of the quality and effectiveness of all essential non-instructional, maintenance, administrative, or support functions of the college.
7. Employees who are deemed of key importance to the specific program or function will be retained in preference to other employees, whatever their status.
8. Part-time, temporary, probationary employees or non-tenured faculty will be laid off before tenured faculty and regular staff members in any affected operating unit.
9. The identification of employees to be laid off as the result of a reduction in force, in any operating unit (distinct budget centers with distinct functions), will be based on position elimination.
10. Criteria that should be considered include, but are not limited to quality and essentiality of service and work, field of specialization, maintenance of necessary programs or services, tenure, rank, time in rank, length of service, and maintenance of affirmative action programs.

11. Giving Notice

- a. The college shall make every effort to give as much notice as practical to each affected employee in advance of the effective date of the layoff.
- b. The granting of adequate notice, and where possible, full notice should be afforded high priority by the college.
- c. The college requires the following minimum written notice of layoff:
 - (1) Regular staff members will ordinarily be given written notice of termination at least two calendar weeks before the effective date of the layoff.
 - (2) Administrators will ordinarily be given a four-week notice.
 - (3) Tenured and Tenure Track Faculty members will receive notice in accordance with the faculty tenure document.

- d. The president or a designee must give notice in writing to employees who are affected by a personnel reduction. The notice must include:
 - (1) the effective date of layoff;
 - (2) a statement of the reasons for a reduction in force;
 - (3) if a financial exigency is declared a statement of the reasons for the board of regents' action to declare a financial exigency;
 - (4) the basis;
 - (5) the procedures, and the criteria used to lay off faculty and staff; and
 - (6) any opportunity available for reconsideration or appeal including access to appropriate documentation and the issues that may or may not be considered, and the reinstatement rights of the employee.
- e. Eligibility for payment in lieu of notice upon layoff for reduction in force shall be determined in accordance with this policy.

12. Reassigning Employees

- a. In the event that a reduction in force is required in any operating unit, the college will undertake to make available to an affected faculty and/or regular staff member other suitable vacant college positions for which he or she qualifies.
- b. According to existing hiring procedures, the affected employee must apply for and be selected by the hiring supervisor.
- c. An employee to be laid off will not displace another faculty or staff member from his or her position.
- d. A good faith effort to reassign employees need not extend beyond the effective date of the layoff.

13. Contesting a Layoff

- a. An affected faculty or regular staff member may contest a layoff only for violation of academic freedom or constitutional rights, failure to comply with this policy, with related college policy, or with the plan for reduction in force approved by the board of regents.
- b. Unless otherwise required by law or regulation, the college's grievance procedure for staff or due process procedure for full-time faculty shall not delay the effective date of the layoff.

14. Recall and Replacement

- a. In the event that the original position from which a regular staff member was released becomes available within six months, the affected employee will be recalled.
- b. This can occur only in the organizational unit from which the regular staff member was released.
- c. Where more than one affected employee is eligible for recall, priority will be given to the last one laid off.
- d. Where two or more eligible employees from the same department were released on the same date, recall will be based on performance and length of service.
- e. Recall does not apply to part-time, temporary or probationary staff members.
- f. Non-tenured faculty and/or regular staff members who are laid off due to a reduction in force, and who thereafter are rehired within six months, will be reinstated without loss of accrued benefits based on length of employment other than the period of non-employment.
- g. The hire date prior to the reduction in force will be used in determining time-related rights concerning date of original hire, vacation accrual rate, accrued sick leave, medical/hospital coverage.
- h. Benefits, which may not be within the power of the college to grant, may be an exception.
- i. In cases of layoff of non-tenured faculty and executive personnel, the position concerned may not be filled by replacement within a period of one year from the effective date of the layoff unless the person has been offered a return to employment in that position and the person has not accepted the offer within thirty calendar days after the offer was extended.
- j. If an offer of reinstatement is not accepted within the timelines stated above, the college has no further obligation to the person laid off.

B. Bona Fide Financial Exigency

1. A bona fide financial exigency at Salt Lake Community College can only be declared by the board of regents.

2. Bona fide financial exigency will be declared, implemented, and terminated subject to the provisions below:
 - a. In the event the college is faced with a financial situation severe enough that a bona fide financial exigency should be considered, the president of the college will consult with the board of regents.
 - b. The president, with approval of the board of trustees and based on substantive consultations with the college counsel and with institutionally recognized faculty organizations and established staff policy advisory committees, shall provide the board of regents with an analysis of the circumstances that may support or oppose the declaration of financial exigency, including a review of reasonable alternatives to such a declaration by the board of regents.
 - c. The president shall attach to the analysis available information and recommendations from faculty, staff, and other campus groups regarding the declaration of financial exigency. When declaring financial exigency, the board of regents will take action by written resolution setting forth the basis for its decision, after notice and hearing, at a meeting of the board of regents.
 - d. A declaration of financial exigency by the board of regents may authorize the president of the college, using the process described in paragraph 23, with the approval of the board of trustees, to recommend and implement, subject to board of regents approvals as provided herein, reductions in force of faculty and staff personnel through layoffs.
 - e. Because the procedures for the declaration of financial exigency contained herein require the demonstration of the need for such declaration after substantive consultations, notice, and hearing, the decision of the board of regents to declare financial exigency is not subject to contest by staff in any grievance or appeal procedure within the college or before the board of regents.
 - f. The president, with the approval of the board of trustees, shall provide the board of regents with progress reports concerning the college's procedures, decisions, and recommendations relating to the financial exigency.
 - g. The board of regents will terminate a declaration of financial exigency when, in its judgment, the conditions meriting declaration of financial exigency no longer exist.

C. Alternatives to Financial Exigency

1. In the event the college is faced with a college wide financial situation that is less severe than a financial exigency, the college may implement various alternative approaches to deal with the situation.
2. The college president will ensure such procedures shall include substantive consultations with the college counsel and with institutionally recognized faculty organizations and established staff policy advisory committees.
3. The president will also ensure consideration of related factors such as enrollment, market analysis and potential job demand for student programs.
4. In considering the alternatives and their application, first priority shall be given to the maintenance of the educational and academic programs central to the mission of the institution and necessary related support programs.
5. These alternatives, not in priority order, might include but are not limited to:
 - a. voluntary action including retirement, partial retirement, early retirement, resignation, extended sabbatical leave, severance pay, or reduction in FTE;
 - b. not filling existing faculty and staff vacancies or vacancies resulting from resignation, retirement, or death;
 - c. reduction in non-academic programs, units and support services to the extent necessary and feasible without significantly impairing the college's ability to pursue its basic educational purposes;
 - d. elimination of instructional positions occupied by teaching assistants, lab aides and assistants;
 - e. salary reductions not equal to dismissals;
 - f. restrictions on student enrollment;
 - g. elimination of non-tenured faculty positions; and
 - h. bona fide program or unit discontinuance pursuant to section 3.9 of the Utah Bd. of Regents r. 482.

D. Reorganization (Non-faculty)

1. An administrator may eliminate and/or replace staff member positions within their area for the purpose of reorganization. Reasons for reorganization include:
 - a. restructuring;

- b. change of strategy;
 - c. process improvement;
 - d. utilization of available resources;
 - e. lack of position relevance in relation to goals;
 - f. work shortage;
 - g. loss of funding;
 - h. outsourcing;
 - i. budget reduction; and
 - j. all other legitimate business reasons that support the college's mission.
2. The Administrator requesting the action must complete and submit the Request for Reduction in Work Force/Reorganization Form (located on the Human Resources website) and obtain the required approval from the applicable supervisory personnel, including cabinet member and Human Resources before proceeding with the reorganization.
 3. In general, part-time, temporary, and probationary employees will be laid off before regular staff members in any affected operating unit.
 4. Budgetary concerns may necessitate termination of regular staff members before part-time and/or temporary employees in some circumstances.
 5. If reorganization leads to the creation of new positions, replacement positions must be considered significantly different as determined by the college's Compensation office in Human Resources when compared to the position that has been selected for elimination.
 6. Factors in determining if a replacement position is significantly different as compared to the position that has been selected for elimination include:
 - a. pay grade;
 - b. education/experience requirements;
 - c. major job functions; and
 - d. job family.

7. The identification of employees to be laid off as the result of a reduction in force, in any operating unit (distinct budget centers with distinct functions), will be based on position elimination.
8. Criteria that should be considered include, but are not limited to:
 - a. quality and essentiality of service and work;
 - b. field of specialization;
 - c. maintenance of necessary programs or services;
 - d. length of service; and
 - e. maintenance of affirmative action programs.
9. A reduction in force is not to be used as a replacement for the college's discipline policy and procedure or on-going performance management issues.
10. The following procedures of the Reduction In Force Procedure listed above, apply to reorganization:
 - a. giving notice;
 - b. reassigning employees;
 - c. contesting termination; and
 - d. recall and replacement.
11. A regular staff member whose position has been eliminated due to reorganization may file a step three grievance in accordance with the Employee Grievance Policy and Procedure.

E. Payment in Lieu of Notice

1. If the required advance notice is not given, or is given for a shorter period than provided under giving notice section IV.A.11, a payment in lieu of notice will be given.

2. An employee is not eligible for payment in lieu of notice if:
 - a. he or she is a part-time, temporary or probationary staff member, or
 - b. the termination is for cause. Payment in lieu of notice is not available to employees whose termination is voluntary.
3. Payment in lieu of notice is not considered part of the regular rate used to compute any overtime payments due upon termination, and cannot be used to reduce any other payments due to the employee, such as accrued overtime, and accrued but unused vacation time.
4. Payment in lieu of notice will be considered for the purpose of FICA and income tax withholding, but will not be considered for the purpose of college benefits and does not extend the employment period beyond the effective date of termination.
5. In the remarks section of the appropriate Personnel Action Form (PAF) the supervisor will:
 - a. authorize payment in lieu of notice;
 - b. indicate the appropriate amount to be paid; and
 - c. give the reason for termination.
6. The supervisor will forward the PAF to Human Resources.

Date of last cabinet review: August 30, 2016

The originator of this policy & procedure is Human Resources. Questions regarding this policy may be directed to the originator by calling 801-957-4210.