POL 05.20.01

Reduction in Force (RIF) Policy

**Authority:** Chancellor

**History:**

* First Issued: August 1995
* Revised: March 2011
* Last Revised: June 18, 2019

**Related Policies:**

* [UNC Policy Manual 300.3.1 [R]](http://www.northcarolina.edu/apps/policy/index.php?pg=vs&id=322&added=1)
* [NC OSHR: State Human Resources Manual - Reduction in Force](https://oshr.nc.gov/policies-forms/separation/reduction-in-force-policy)
* [NC OSHR: State Human Resources Manual – Vacation Leave Policy](https://files.nc.gov/ncoshr/documents/files/Vacation_Leave_0.pdf)
* [Title VII of the Civil Rights Act of 1964](https://www.dol.gov/oasam/regs/statutes/2000e-16.htm)
* [Age Discrimination Act of 1975 - U.S. Department of Labor](https://www.dol.gov/general/topic/discrimination/agedisc)
* [Section 504 of the Rehabilitation Act of 1973 – U.S. Department of Labor](https://www.dol.gov/oasam/regs/statutes/sec504.htm)

**Additional References:**

* [NCOSHR RIF guide to benefits](http://oshr.nc.gov/state-employee-resources/employee-relations/reduction-in-force/for-employees/reduction-force-guide-benefits)
* [RIF checklist](http://oshr.nc.gov/state-employee-resources/employee-relations/reduction-in-force/supervisors-managers/rif-checklist)
* [NC OSHR: State Human Resources Manual - Severance Salary Continuation](https://oshr.nc.gov/policies-forms/separation/severance-salary-continuation)
* [25 NCAC 01C .1004 - Reduction in Force](http://ncrules.state.nc.us/ncac/title%2025%20-%20state%20human%20resources/chapter%2001%20-%20office%20of%20state%20human%20resources/subchapter%20c/25%20ncac%2001c%20.1004.pdf)
* [N.C.G.S. §126-4(7a) - Powers and duties of State Human Resources Commission](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=126-4)
* [N.C.G.S. §168A – Persons with disabilities protection act](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_168A.html)
* [UNCP Office of Title XI and Clery Compliance](https://www.uncp.edu/resources/title-ix-clery-compliance)

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**1. PURPOSE**

1.1 The purpose of the reduction in force (RIF) policy is toprovide a fair and systematic process for potential downsizing of the workforce due to shortage of funds or work, abolishment of a position, or other material change in duties or organization. The process for priority re-employment consideration is described in this RIF policy.

1.2 In accordance with federal and state guidelines affecting equal employment opportunity (EEO) and affirmative action, RIF decisions shall be made without regard to race, sex (such as gender/gender identity, marital status, and pregnancy), age, color, national origin (including ethnicity), religion, disability, genetic information or political affiliation—except where sex, age or ability represent bona fide occupational qualifications (BFOQ).

1.3 This policy is not to be used for disciplinary measures. The process for separating employees due to either unacceptable personal conduct or unsatisfactory job performance is located in the SHRA disciplinary policy.

1.4 The Assistant Vice Chancellor for Human Resources and/or designee shall ensure any proposed RIF meets the requirement of this policy prior to the proposed reduction submitted to the Chancellor for final approval. In addition, the Assistant Vice Chancellor and/or designee shall serve on the RIF committee to review and analyze the impact of any RIF on the diversity of the workforce.

**2. SCOPE**

2.1 This policy applies to all full and part time employees subject to the State Human Resources Act (SHRA), regardless of source of funds for the position. This policy is not applicable to time-limited employees, employees exempt from the Human Resources Act (EHRA), including faculty and non-faculty, temporary and student employees. RIF actions apply campus wide and are taken only after examining all other available alternatives.

**3. Policy**

3.1 The university shall examine and consider various alternatives to a RIF to avoid involuntary separation of permanent employees. These alternatives may include the following:

3.1.a. job sharing arrangements;

3.1.b. implementation of a hiring freeze on vacant positions;

3.1.c. transfer/reassignment of staff;

3.1.d. limiting purchases of items/services and business travel and expenditures;

3.1.e. work schedule alternatives; and

3.1.f. reducing (vacant) full time equivalent (FTE) positions

3.2 RIF is at the sole discretion of the university and is not a decision on the part of the employee. RIF will not be used as a means of separating employees who should be separated for unacceptable performance or conduct through the disciplinary process.

3.3 Upon determination to implement a RIF, retention of employees and positions in occupational classes affected (boundary of the targeted RIF unit) shall be based on systematic consideration of the following factors:

3.3.a. type of appointment

3.3.b. documented relative efficiency

3.3.c. potential impact on the diversity of protected group individuals

3.3.d. employee’s length of service\* (Neither temporary, probationary, nor trainee employees in their initial six (6) months of training shall be retained in classes where employees with a permanent appointment (career-status) must be separated in the same or related occupational class.

\* **NOTE:**    In situations where seniority or years of service is one of the considerations in retention, an eligible veteran shall be accorded one (1) year of State service for each year or fraction thereof of military service, up to a maximum of five (5) years credit.

3.4 The university will inform the employee in writing, at least thirty (30) calendar days in advance of separation giving the reasons for the reduction in force, his/her eligibility for priority reemployment consideration, appeal rights, and other benefits available.

3.5 The following criteria may be used, upon determination of a RIF:

3.5.a. the number of positions which must be abolished to meet the established goal;

3.5.b. the feasibility of eliminating entire programs or parts of programs or services;

3.5.c. identification of areas where positions must be reduced or eliminated;

3.5.d. identification of the classification of positions to be eliminated to determine whether personnel can be interchanged with other work units. (Consideration to utilize vacant positions to avoid RIF impact to employees who would otherwise be separated.);

3.5.e. exploration of all alternative measures which would avoid the involuntary separation of employees.

**4. Procedures**

4.1 The university’s Cabinet, with the Chancellor’s approval, shall determine and identify a reason(s) for a reduction in labor workforce to include budget reductions, elimination of program(s), shortage of work or a material change in duties and organization.

4.2 Mission-critical (vital) positions and services should be evaluated and excluded from a reduction order, which might include, but is not limited to, safety, health or other essential positions.

4.3 A boundary should be identified based upon the program, positions or services impacted by the reduction order. 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.

4.4 The boundary’s divisional Vice Chancellor should submit a written request to the Assistant Vice Chancellor for Human Resources notifying the Office of Human Resources of the reduction order. The written request should include, at a minimum, a description of alternative measures executed to avoid a RIF or an explanation of why the alternatives were not feasible to meet the university’s needs, a list of occupational groups (position banded class and competency level) within the boundary, which should be considered for RIF and the number of employee(s) and position(s) that shall be reduced to meet the established RIF goal.

4.5 The written request will serve as notice to the Assistant Vice Chancellor for Human Resources to conduct an analysis and confirm all position(s) have been identified in the boundary.

**5. Identification of Positions for Reduction of Force**

5.1 After the Assistant Vice Chancellor for Human Resources has confirmed the specific positions provided by the divisional Vice Chancellor, a review is conducted by the RIF committee, appointed by the Chancellor, to complete a comparison of the impacted boundary between employees in the same or related band within the divisional work unit. The analysis must include a systematic consideration, at a minimum, of the following employee factors:

5.1.a. types of appointments;

5.1.b. relative efficiencies. This includes an evaluation of the relative competencies (knowledge, skills, and abilities) and documented performance evaluation of the recommended employee(s) and all others in related classification bands in the divisional work unit in comparison to operational need;

5.1.c. length of service which includes the employee’s total State service (including one year of State service for each year or fraction thereof of military service, up to a maximum of five (5) years for eligible Veterans);

5.1.d. current and past two (2) documented performance management evaluations and work/improvement plans;

5.1.e. active disciplinary action(s).

5.2 Additionally, the RIF committee shall review the potential impact of a RIF decision on the diversity of the university’s workforce and ensure the RIF is made without regard to race, sex (such as gender/gender identity, marital status and pregnancy), age, color, national origin (including ethnicity), religion, disability, genetic information or political affiliation, except where sex, age, or ability represent bona fide occupational qualifications (BFOQ).

5.3 Upon approval of the recommendation of RIF from the divisional Vice Chancellor, the RIF committee will submit a written notice to the Chancellor including the analyses described in items 5.1.(a-e) above and the method by which each specific employee or employees are identified for being reduced in force. The result may necessitate some reassignments within the divisional work unit prior to the final recommendation regarding the identified employee(s). The Chancellor will notify, in writing, the Assistant Vice Chancellor for Human Resources the RIF order has been approved and the Office of Human Resources shall execute the RIF.

**6. Notification to RIF Employee**

6.1 The Assistant Vice Chancellor for Human Resources (or designee) will provide assistance to the divisional Vice Chancellor (or designee) with the notification to RIF an employee. The university must provide employees with a thirty (30) calendar day notice of separation. If possible, the written notification should be delivered in person during a private meeting with the identified employee, the supervisor and/or manager and a human resources representative. The written notification must be signed by the divisional Vice Chancellor.

6.2 The following information includes pertinent information that shall be provided to the RIF employee. The Human Resources representative will provide resource information to the RIF employee as follows:

6.2.a. Vacation and Bonus Leave - Employees shall be paid a lump sum for the balance, on the next available payroll after the date of the RIF, of any vacation leave up to 240 hours. Any excess leave above 240 hours shall be reinstated if the employee returns to State government within twelve (12) months. Employees will be paid a lump sum for the balance, on the next available payroll after the RIF, of any bonus leave in accordance with the Office of State Human Resources (OSHR) Vacation Leave policy (section 5, page 120 – 122).

6.2.b. Sick Leave - Employees sick leave balance at the time of RIF shall be reinstated if employed, in a leave earning position, in any State agency within five (5) years.

6.2.c.Severance salary continuation (subject to the approval of the Office of State Budget Management) shall be paid to a permanent State employee who is separated as a result of reduction in force and for whom there is no foreseeable opportunity for reemployment at the time of separation. Severance pay does not apply to employees who are probationary; who are separated at the end of time-limited appointments; whose reduction in force is temporary; or who are separated due to retirement. (Employees may be eligible for discontinued service retirement as an alternative to severance pay and the employee should consult with the Office of Human Resources, Benefits Manager, for this option.)

6.2.d. Health Insurance **-** Employees with at least one (1) year of cumulative State service who are participating in the State Health Plan (SHP) at the time of separation due to a reduction in force will receive university-sponsored individual health insurance coverage for one (1) year from the date of separation or until reemployed in another permanent State position, whichever is sooner.  Dependent coverage is not included but may be purchased by the former employee under COBRA.

**7. Placement to Avoid RIF**

7.1 Until the effective date of separation, the Office of Human Resources, Employment Manager, will assist the RIF candidates who have received notice indicating selection for Reduction in Force (the “RIF Candidate”) with finding a suitable position in any unit of the university. Until the effective date of the separation, the employment manager 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. The RIF Candidate must apply for any vacancies of interest. If employees identify as RIF candidates, priority re-employment rights will be applied.

**8. Priority Re-Employment**

8.1 Priority re-employment is only afforded to “career status” State employees who have been separated due to a reduction in force and have not retired. A career status State employee is one who is in a permanent position appointment *and* has been continuously employed by the State of North Carolina in a position subject to the State Human Resources Act for the immediate preceding twelve (12) months. Career status employees, who are notified of a RIF and desire priority re-employment consideration, must apply for any and all vacancies during the job posting period, meet the minimum qualification requirements, and identify status as a RIF State employee. The university will report the names and classifications of all SHRA RIF employees to the Office of State Human Resources (OSHR) for inclusion in the OSHR RIF Priority Verification List. For a period of twelve (12) months after the date of official notification of separation, career status SHRA 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:

8.1.a. at the same salary grade or lower as held at the time of notification,

8.1.b. at the same banded class and the same competency level or lower as held at the time of notification, or

8.1.c. for positions in a different banded classification with the same or lower journey market rate as held at the time of notification.

8.2 For detailed information on priority re-employment rights, conditions and loss of rights, employees should refer to the employee guide provided by the Office of State Human Resources at <http://northcarolina.edu/sites/default/files/documents/final-university_shra_employee_grievance_policy-eff-2016-02-01.pdf>.

**9. Appeals**

9.1 An eligible SHRA career State employee with a permanent appointment, who is separated due to reduction in force may grieve and appeal the separation if it is alleged that the separation is in retaliation for the employee's opposition to alleged discrimination against the employee on account of the employee's age, sex, race, color, national origin, religion, , genetic information, political affiliation, denial of veteran’s preference or disabling condition as defined by Chapter 168A of the N.C. General Statutes.

9.2 The employee should follow the procedures described in the university’s SHRA grievance policy at <http://northcarolina.edu/sites/default/files/documents/final-university_shra_employee_grievance_policy-eff-2016-02-01.pdf>.