

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

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TITLE: REDUCTION IN FORCE

**POLICY
REFERENCE NUMBER:** 8-7-103

**DIVISION OF
RESPONSIBILITY:** Human Resource Services

DATE OF LAST REVISION: November 6, 2014

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. Purpose and Scope

The purpose of this procedure is to prescribe the manner in which covered employees of the South Carolina Technical College System (SCTCS) are released in an equitable manner should a reduction in force become necessary. A reduction in force may require the separation, involuntary demotion, reassignment, or reduction in work hours of the System's covered employees.

A reduction in force does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees and employees exempt from the State Employee Grievance Procedure Act.).

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The development, administration, and implementation of reduction in force plans are specific to individual entities within the SCTCS (e.g., the System Office or college).

The System/College President may find it necessary to implement a reduction in force for one or more of the following four reasons:

- a) reorganization; or
- b) work shortage; or
- c) loss of funding; or
- d) outsourcing/privatization.

II. Management Decisions

The System/College President will have responsibility for determining the necessity to implement a reduction in force.

The System/College President shall determine the following items prior to developing the reduction in force plan:

- a) the reason(s) for the reduction in force;
- b) which competitive areas(s) of the System Office/college are to be impacted by the reduction in force;
- c) which State class title(s) within the competitive area(s) are to be affected (competitive groups); and
- d) the number of positions in each State class title(s) that are to be eliminated, demoted, reassigned or have a reduction in hours.

III. Competitive Area(s)

The System/College President shall determine the competitive area(s) the reduction in force will impact. The System/College President should establish a competitive area that is clearly distinguishable from the staff/faculty in other areas and where the interchange of employees would not be practical. This competitive area may be broadly defined as the System Office/college or narrowly defined such as a department, a unit/division, or a geographical location.

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IV. Competitive Group(s)

The System/College President shall determine the competitive group(s) based on the state class title(s) within the competitive area(s) that the reduction in force will affect. If the reduction in force is to apply to more than one state class title, each state class title will be treated separately, except where the reductions are to be made in a state class title series (e.g., Auditor I, Auditor II, Auditor III, Auditor IV) or in state class titles that are a part of the System Office's/college's normal career paths.

V. Position Identification

The System/College President shall identify the position(s) within the competitive area(s) and competitive group(s) by identifying the following information:

- state class title;
- state class code;
- state pay band, if classified position(s);
- total number of positions in the state class title within the competitive area; and
- total number of positions in the state class title within the competitive area that are to be eliminated, demoted, reassigned or have the hours reduced.

VI. Retention Points

The System Office/college shall calculate retention points for covered employees in the competitive area(s) and competitive group(s) to be used in determining which covered employees are to be involuntarily demoted, reassigned, have reduced hours or separated. Retention points shall be based on the total scores of annual performance appraisals, excluding interim appraisals, for the past three (3) years and the length of continuous state service. The sum of the retention points for performance, and length of continuous state service are the total retention points for an employee.

A. Performance Appraisal Points

The System Office/college will determine the total score for an annual performance rating by using the following numerical values assigned to the EPMS/FPMS performance ratings:

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EPMS/FPMS Performance Rating	Value
Exceptional Performance Requirements	6.0
Successful Performance Requirements	2.0
Unsuccessful Performance Requirements	0.0

For any year that the System Office/college did not complete an EPMS/FPMS evaluation for an employee/faculty member, a numerical value of 2.0 will be assigned for Successful Performance Requirements. However, if in the previous year, the employee received a higher than Successful rating the employee will receive points for the higher rating. In cases where an individual transfers from another state agency utilizing four performance ratings, the performance rating will be converted as shown in the conversion chart below:

EPMS/FPMS Performance Rating	Value
Substantially Exceeds as Exceptional Performance Requirements	6.0
Exceeds as Exceptional Performance Requirements	6.0
Meets as Successful Performance Requirements	2.0
Below as Unsuccessful Performance Requirements	0.0

B. Continuous State Service Points

Covered employees will receive one (1) retention point for each full year of continuous state service. Partial years of service of six (6) months or more of continuous state service will be credited with a half of a point (.50) retention point and less than six (6) months of service will receive no retention points.

C. Exception to Procedure for Retention Point Calculation

If every position in the competitive area is being eliminated, the System Office/college is not required to calculate retention points. For positions reestablished within one year of the RIF, in the same competitive area and in the same state class title, the System Office/college must calculate retention points at the time of recall. The System Office/college must calculate retention points using continuous state service and performance appraisal points based on the effective date of the reduction in force.

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VII. Sequence of Reduction in Force

The order of the reduction in force of covered employees in each state class title(s) shall be determined by the total number of retention points for each employee. If two (2) or more employees affected by a reduction in force have the same number of retention points and not all are to be affected by the reduction in force, the agency hire date will determine the order of the employees affected. The individual hired last in the year will be the individual affected by the RIF.

Bumping rights are provided for covered employees who have accumulated more retention points than those with whom they are competing. Under no circumstances can an employee gain from a reduction in force. Bumping rights are only provided downward.

If an employee is allowed bumping rights to another position the employee must accept the assignment in writing within three (3) business days, or the bumping rights will be waived .

VIII. Tiebreaker Method

If after using the agency hire date to determine the order of affected employees a tie still exists, the System Office/college will utilize a non-discriminatory, random method to break the tie. The method to be used for all entities within the SCTCS will be the last four (4) digits of the social security number. The individual with the lower number will be the individual that will be separated.

IX. Retention of Necessary Qualifications

No employee with a lower number of retention points shall be retained in preference to another employee in a competitive area(s) and group(s) with a higher number of retention points except when the System Office/college determines that a Retention of Necessary Qualifications applies.

If an employee is competing for a position that is not being eliminated and the System Office/college asserts that an employee with higher retention points who has rights to be placed in that position cannot satisfactorily perform the duties of the position within a reasonable training period, the employee with lower retention points may be retained in

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preference to the employee with higher retention points. The System Office/college may determine that the employee with higher retention points will not be able within a reasonable training period to satisfactorily perform the duties of the job based on the lack of knowledge, abilities, skills, supervisory responsibilities, or necessary experience.

When the Retention of Necessary Qualifications is used in a reduction in force plan, justification for this retention must be documented in the reduction in force plan to be submitted to the Division of State Human Resources (DSHR) for review and approval for procedural correctness. The System Office/college should retain documentation to support any retentions made on this basis.

X. Writing the Reduction in Force Plan

Once the System Office/college has made the decisions outlined above and prior to the implementation of a reduction in force, the System/College President or designee shall develop the reduction in force plan. This plan must include the following:

1. the reason for the reduction in force;
2. the identification of the competitive area(s);
3. the identification of the competitive group(s) [state class title(s)];
4. the number of position(s) to be eliminated, demoted, reassigned or hours reduced in each state class title;
5. a list of the covered employees, in order of retention points, in the competitive area(s) and competitive group(s) to include the following:
 - a. name;
 - b. age, race, and gender; and
 - c. retention points;
6. justification of any Retention of Necessary Qualifications used in the reduction in force plan; and
7. the System Office's/college's efforts to assist employees affected by the reduction in force.

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XI. Approval Process

College reduction in force plans must be approved by the College President and System Office reduction in force plans must be approved by the System President. College reduction in force plans must be submitted to the System Office Human Resource Services (HRS) for review and compliance with the State Board for Technical and Comprehensive Education (SBTCE) policy and procedure as well as DSHR regulations and guidelines. Once the review process has been completed for the System Office/college reduction in force plan, HRS shall submit the following information to DSHR for review and approval for procedural correctness:

1. the reduction in force plan as outlined in Section X;
2. an organizational chart including each position (designated with the state class title and incumbent's name) within the competitive area(s);
3. a sample letter to employees affected by the reduction in force which only includes information as outlined in Section XII, along with:
 - a. a list of the employee's recall and reinstatement rights;
 - b. the procedure for the recall of an employee; and
 - c. the employee's grievance rights.
4. a copy of the SBTCE Reduction in Force policy/procedure.

XII. Implementation of the Reduction in Force

- A. The System Office/college should notify an employee affected by a RIF (which has been approved for procedural correctness by the DSHR) in writing a minimum of seven (7) working days prior to the effective date of the RIF.
- B. The System Office/college shall communicate the following components of the reduction in force plan to each affected employee after the DSHR approves the reduction in force plan for procedural correctness and before the reduction in force becomes effective:

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1. the reason for the reduction in force;
2. the competitive area(s) and competitive group(s) in which the employee competed;
3. the benefits to which the employee is entitled and the manner in which the reduction in force will affect the employee's state benefits, (e.g., health insurance, optional life insurance, retirement);
4. the employee's reinstatement rights, (e.g., reinstatement of all sick leave; option of buying back all, some, or none of the annual leave, or, in the case of faculty (separated from the SCTCS), faculty non-work days¹ if reinstated to a faculty position at the rate at which it was paid out);
5. the employee's recall rights to any position, within the competitive area, that becomes available in the same state class title as the position the employee held prior to the reduction in force;
6. the manner in which the respective System Office/college will notify the employee of any such vacancies;
7. the requirements of S.C. Code of Laws Ann. Section 8-11-185, which requires the respective System Office/college to report information about the employees affected in a reduction in force to the DSHR.

Upon request, the respective System Office/college will make available to its affected employee(s) the reduction in force plan.

XIII. Recall and Reinstatement Rights

An employee affected by a reduction in force has recall and reinstatement rights to a position in state government for one year after the effective date of the reduction in force.

A. Recall Rights

If a vacancy occurs, within the competitive area, in the same state class title as the position the employee held prior to the reduction in force, the System Office/college will recall employees in the inverse order of the reduction in force. The System Office/college will notify the employee in writing of the job offer and recall rights.

¹ Faculty non-work days are endemic to colleges within the South Carolina Technical College System and are only applicable to persons occupying faculty classifications within this system/agency.

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If the employee does not accept the job offer, in writing, within ten (10) working days, the employee's recall rights are waived. Should the employee accept the job offer, the System Office/college will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his annual leave or faculty non-workdays¹ (if reinstated to a faculty position) at the rate it was paid out at the time of the separation. Upon returning to employment in an insurance eligible Full-Time Equivalent (FTE) position, the employee will also be offered insurance benefits as a new hire. The recalled employee may purchase retirement service credit under the leave of absence provision in S. C. Code of Laws Section 9-1-1140(D) for the period of time that the employee was not employed by state government, at the cost specified in Section 9-1-1140(D). When an employee is recalled, this time will not be considered punitive in the determination of retiree insurance eligibility.

B. Reinstatement Rights

An employee separated by a reduction in force may apply for any state job for which he/she meets the agency's minimum training and experience requirements. Should the separated employee accept a job offer to a Full Time Equivalent (FTE) position, the System Office/college will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his annual leave or faculty non-workdays¹ (if reinstated to a faculty position) at the rate it was paid out at the time of the separation. Upon returning to employment in an insurance eligible Full Time Equivalent (FTE) position, the employee will also be offered insurance benefits as a new hire.

The reinstated employee may purchase retirement service credit under the leave of absence provision in S. C. Code of Laws Section 9-1-1140(D) for the period of time that the employee was not employed by state government, at the cost specified in Section 9-1-1140(D). When an employee is reinstated, this time will not be considered punitive in the determination of retiree insurance eligibility.

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XIV. Salary Reductions – Due to Budgetary Reductions

When a covered employee is assigned lower level responsibilities or demoted as a result of a reduction in force implemented due to budgetary reductions, the employee's salary may be reduced on the effective date of the reduction in force. The System/College President, at his/her discretion, may reduce the employee's salary to a salary either between 0%-15% below the employee's current salary or between the current salary and the midpoint of the lower pay band. In exercising this discretion, the System/College President may use the option which results in the greatest cost savings.

XV. Grievance Rights

A covered employee who is affected by a reduction in force has the right to file a grievance to the System Office/college and an appeal to the Division of State Human Resources Director only if the grievance or appeal is based on improper or inconsistent application of a reduction in force policy or plan.