
SUBJECT: Reduction in Force and Financial Exigencies

1.0. PURPOSE

- 1.1. This Policy sets forth the policy and guidelines in matters related to personnel reductions due to the elimination of positions or programs and/or in case of a Bona Fide Financial Exigency as defined in Utah Board of Higher Education policy R482. The College has a fundamental loyalty and concern for its faculty and staff employees, and personnel reductions will occur only when positions or programs are eliminated or in the event of a financial exigency that will be declared only under very unusual conditions after other feasible alternatives have been carefully weighed.
- 1.2. This policy supersedes all Snow College Reduction-in-Force and Financial Exigencies policies prior to the approval date listed above and does not supersede federal or state law.
- 1.3. The College reserves all rights afforded to it under applicable law. Nothing in this policy or related policies, procedures, and practices of the College or the College's governing institutions shall be read to offer or constitute a legal agreement or be subject to legal jurisdiction in the law courts of any kind. The College policies, procedures, and practices are subject to change at any time.

2.0. REFERENCES

- 2.1. [Bona Fide Financial Exigency and Personnel Reduction](#), Utah Bd. of Higher Education R482.
- 2.2. [Guidelines for Reduction in Force Policy](#), Utah Bd. of Higher Education R843
- 2.3. [Reduction in Force and Severance Pay](#), Utah Bd. of Higher Education R963.
- 2.4. [Guidelines for Payment in Lieu of Notice Policy](#), Utah Bd. of Higher Education R845
- 2.5. [Approval of New Programs, Program Changes, Discontinued Programs, and Program Reports](#), Utah Bd. Of Higher Education R401
- 2.6. Snow College Policy 327 Notice of Termination of Employment

3.0. DEFINITIONS

- 3.1. Reduction in Force (RIF): The elimination of positions required by circumstances that may include inadequate funds, budget constraints, grant expiration, change of workload, lack of work, departmental reorganization, or other business reasons.
- 3.2. Necessity: The decision to curtail, modify or eliminate a position, unit, sub-unit, department, program, course or functions due to bona fide circumstances, i.e. for legitimate reasons that are not a pretext for action against an individual.
- 3.3. Elimination of Positions or Eliminate Positions: The elimination of positions, units, sub-units, departments, programs, courses or functions. Includes staff, faculty, and administrative positions.
- 3.4. Bona Fide Financial Exigency: An imminent financial crisis which threatens the survival of the College as a whole and which cannot be alleviated by less drastic means than to terminate appointments of tenured and non-tenured faculty or regular staff members.
- 3.5. Academic Program: A unit within the College with an identifiable teaching, research, or other academic mission. For the purpose of this Policy an "Academic Program" is to be determined by existing academic standards, and "Academic Programs" are never to be

defined with the aim to single out individual faculty members for adverse treatment. For a unit to be designated as an “Academic Program,” it shall have an identified group of faculty and shall fulfill one or more of these criteria:

- 3.5.1. Whether the unit has “program,” “center,” “institute,” “laboratory,” “department,” “school,” or “college” in its title or has otherwise been designated as a program;
 - 3.5.2. Whether the unit offers or administers a degree, certificate, or some other credential as recognized by Board of Higher Education policy R401;
 - 3.5.3. Whether the unit has an identifiable curriculum or is formally described in current College catalogs or other publications;
 - 3.5.4. Whether the unit has a separate budget as listed in official College documents.
- 3.6. Non-academic Program: A unit within the College with an identifiable purpose. Non-academic Programs are never to be defined with the aim to single out individual staff members for adverse treatment.
- 3.7. Bona Fide Discontinuance of an Academic Program or Unit: The termination of an Academic Program for reasons based upon educational and academic considerations. Educational and academic considerations do not include cyclical or temporary variations in enrollment, but must be based on evidence and reflect judgments that in the long term the basic educational mission of the College will be strengthened by the discontinuance of the program. This does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational considerations.
- 3.8. Bona Fide Discontinuance of a Non-academic Program or Unit: The termination of a Non-academic Program or unit for reasons based upon legitimate College needs.
- 3.9. Serious Distortion: Results that impact the transferability or accreditation of programs or credits. The finding of “serious distortion” is based on the ability to maintain a quality academic program and includes key staff or faculty. A finding of “serious distortion” in conjunction with the layoff of a tenured faculty member does not require a finding of any deficiency in his/her performance.

4.0. POLICY

- 4.1. In order for the College to carry out its responsibilities, it may become necessary for the College to curtail, modify, or Eliminate Positions (including Academic Programs, or Non-academic Programs) due to the needs of the College, including demonstrated unfavorable financial circumstances or a Bona Fide Financial Exigency; this may include staff and faculty positions. The Elimination of Positions shall follow this Policy and its adopted procedures.
- 4.2. The College’s first priority is the maintenance of the educational and academic programs central to the mission of the College and necessary related support programs. High priority shall be given to the preservation of the quality and effectiveness of all essential non-instructional, maintenance, administrative or support functions of the College.
- 4.3. Snow College shall follow Utah Board of Higher Education Policy R482 when considering, declaring, and managing a RIF due to a situation of financial exigency or an unfavorable financial situation.

5.0. DECLARATION

- 5.1. The College through declaration by the President and approval by the Board of Trustees, or declaration by the Board of Higher Education, may declare a Bona Fide Financial Exigency. A declaration of Bona Fide Financial Exigency may authorize the President to recommend and implement a RIF of faculty and staff personnel. The declaration is not subject to contest by faculty or staff in any grievance or appeal procedure within the College or before the Board of Trustees or Utah Board of Higher Education.
 - 5.2. The Faculty Senate, Academic Deans, and established staff advisory committees will advise the President when considering, declaring, and instituting a RIF due to a situation of financial exigency or a demonstrated unfavorable financial situation. The advisory committees may also provide alternatives at their discretion on areas of reduction in the event the College is faced with an unfavorable financial situation, which is less severe than a Bona Fide Financial Exigency.
- 6.0. PERSONNEL REDUCTIONS UNDER A FINANCIAL EXIGENCY
- 6.1. Prior to implementing a RIF, alternative solutions must be considered by the President.
 - 6.2. Staff and faculty may be terminated or their hours and/or salaries reduced without any demonstration or suggestion of incompetence, poor performance, or wrongdoing as the result of a RIF, with the approval of the President and appropriate Vice President/CAO in accordance with this policy.
 - 6.3. Snow College will submit RIF plans according to directives and guidelines found in R482. No RIF actions shall take place until the College receives approval from the appropriate board on the RIF Plan.
 - 6.4. Personnel reductions shall be done equitably, in good faith, and in a systematic manner directly related to the financial exigency.
 - 6.5. Upon identification and approval of positions to be eliminated, the affected department(s), with assistance from the human resources department, shall then identify staff working in the department in the same job classifications, and apply the following criteria in selecting staff for separation from employment in the following order:
 - 6.5.1. Temporary, non-benefited staff shall be released prior to any other staff members holding benefits eligible positions who have completed their probationary period.
 - 6.5.2. Those employees who are in their probationary period shall be considered next for release after all temporary, non-benefited staff.
 - 6.5.3. Staff members holding a benefits eligible position in the position(s) or job title(s) selected who have:
 - 6.5.3.1. received a written performance evaluation within the preceding 12 months which documents performance substantially lower than the staff in the position or job title selected;
 - or
 - 6.5.3.2. received a written corrective or disciplinary action within the preceding 12 months period; shall be released before the other staff members holding benefits eligible positions that are in the position(s) or job title(s) selected.
 - 6.5.4. Lastly, seniority will govern the selection of the staff members holding a benefits eligible position that are in the position(s) or job title(s) to be released.

- 6.5.4.1. The administrator should arrange layoffs beginning with less senior employees, unless the employee is considered key to the department and their loss would create a serious distortion, which necessitates a different order of layoffs. Any time an administrator lays off employees out of the order of seniority, he or she will provide written reasons to the Human Resources Office.
 - 6.6. The Faculty Senate, Academic Deans, and the Provost will assess educational and academic programs and identify faculty for separation from employment.
 - 6.7. Generally, within a specific program, a tenured faculty member will not be laid off in favor of retaining a non-tenured faculty member. Faculty who are deemed to be of key importance to the educational and academic programs central to the mission of the College, meaning dismissal will be considered a serious distortion, will be retained in preference to other faculty, whatever their status.
 - 6.8. The College will not lay off tenured faculty members from a program and at the same time make new faculty appointments to other positions in that program, except where a serious distortion in the academic program of the College would otherwise result.
- 7.0. NOTICE OF LAYOFF
 - 7.1. The President or a designee will notify in writing faculty and staff who are affected by a personnel reduction as per this policy and the times of notice addressed in Board of Higher Education policy R482. The supervisor of the staff or faculty member to be laid off will deliver the notification in person when possible. The notice must include:
 - 7.1.1. The effective date of layoff;
 - 7.1.2. a statement of the reasons for a RIF
 - 7.1.3. any opportunity available for reconsideration or appeal including access to appropriate documentation and the issues that may or may not be considered, and
 - 7.1.4. the reinstatement rights of the employee.
 - 7.2. Reassignment: The College shall, to the extent practicable, make a good faith effort to reassign any faculty or staff member to be laid off to an existing vacant position within the College for which that employee is qualified.
 - 7.2.1. The affected faculty or staff member may negotiate with the College on the proposed new assignment regarding tenure, salary, and rights.
 - 7.2.2. A faculty or staff member to be laid off will not displace another faculty or staff member from his or her position.
 - 7.2.3. The College's effort to reassign faculty and staff will not extend beyond the effective date of the layoff.
 - 7.2.4. A faculty or staff member may appeal the RIF decision under the guidelines of R482.
- 8.0. REESTABLISHMENT OF POSITIONS AND REINSTATEMENT
 - 8.1. Reestablishment of a position which has been discontinued under a RIF action requires prior approval from the Human Resources Officer and the appropriate VP and/or CIO. A budgeted position may not be reestablished for at least one (1) calendar year from the effective date of the layoff, unless the College determines recall of positions may begin sooner.

- 8.2. Employees laid off due to a RIF will be reinstated without advertising if an opening occurs in the same department in a position of the same job family with equal or lower classification, and if the recall takes place within one (1) year from the date of layoff. If more than one person has been laid off from the same employment category and department, the supervisor will reinstate employees according to their seniority prior to the layoff, unless important job-related reasons for recall out of order can be demonstrated. Submit the justification in writing to the Human Resources Officer for final approval.
 - 8.3. For Regular Staff Members: In cases of layoff of all other regular staff members 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 laid off has been recalled to that position and has not accepted the offer within thirty (30) calendar days from extension of the offer.
 - 8.4. Snow College will adhere to faculty and staff reinstatement rights as defined in R482.
- 9.0. PERSONNEL REDUCTIONS ABSENT A FINANCIAL EXIGENCY
- 9.1. The College may also Eliminate Positions as necessary including where there is less than a Financial Exigency, impose Bona Fide Discontinuance of an Academic Program or Unit, or otherwise reduce its workforce. The following procedures apply to those decisions.
 - 9.1.1. The following applies to faculty reductions absent a financial exigency.
 - 9.1.1.1. The College may take alternative actions in a demonstrated unfavorable financial situation less than a Bona Fide Financial Exigency and shall comply with R482.
 - 9.1.1.2. The College may discontinue academic programs or units. The following procedures shall apply:
 - 9.1.1.3. Before the discontinuance of programs, the College shall hold substantive consultations with the Faculty Senate, Academic Deans, and established staff advisory committees, conduct an analysis of the circumstances which may support or oppose the discontinuance of the program, and have a review of reasonable alternatives to the discontinuance.
 - 9.1.1.4. Proposal of program or unit discontinuance shall be given to the Board of Trustees, and, where appropriate, to the Board of Higher Education, in accord with the Board of Higher Education Policy R401. This allows the Board to review such proposals, to disapprove the discontinuance of a program if it concludes the program should be retained at the College, or to approve the discontinuance with College assurances that students in the program will be able to complete the program.
 - 9.1.1.5. Placement in Another Suitable Position: Before dismissing a tenured faculty member because of bona fide discontinuance of a program or unit, the College, with faculty participation, will make a reasonable effort to place the faculty member concerned in another suitable, vacant, existing position within the College for which the faculty member is qualified. A tenured faculty member to be dismissed from

the College cannot displace another faculty or staff member from a position to maintain employment.

- 9.1.2. The following applies to staff reductions absent a financial exigency.
- 9.1.2.1. The College may also Eliminate Positions of regular staff employees and departments and restructure such positions as necessary (RIF) absent a financial exigency or academic program or unit discontinuance.

9.1.2.2. An Administrative Employee may eliminate and/or replace staff member positions within their area for the purpose of reorganization. Human Resources may recommend such action. Reasons for reorganization include:

- 9.1.2.2.1. restructuring;
- 9.1.2.2.2. change of strategy;
- 9.1.2.2.3. process improvement;
- 9.1.2.2.4. utilization of available resources;
- 9.1.2.2.5. lack of position relevance in relation to goals;
- 9.1.2.2.6. work shortage;
- 9.1.2.2.7. loss of funding;
- 9.1.2.2.8. outsourcing;
- 9.1.2.2.9. budget reduction; and
- 9.1.2.2.10. all other legitimate business reasons that support the College's mission.

9.1.2.3. In general, part-time, temporary, and probationary employees will be laid off before regular staff members in any affected operating unit. However, budgetary concerns may necessitate termination of regular staff members before probationary, part-time and/or temporary employees in some circumstances. Employees who are deemed of key importance to the specific program or function will be retained in preference to other employees, whatever their status.

9.1.2.4. If reorganization leads to the creation of new positions, replacement positions must be considered significantly different as determined by the Human Resources Office when compared to the position that has been selected for elimination. Factors in determining if a replacement position is significantly different as compared to the position that has been selected for elimination include:

- 9.1.2.4.1. pay grade;
- 9.1.2.4.2. education/experience requirements;
- 9.1.2.4.3. major job functions; and
- 9.1.2.4.4. job family.

9.1.3. A RIF shall not be used as a replacement for the College's discipline policy and procedure or ongoing performance management issues.

- 9.1.3.1. 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. Regular staff members will ordinarily be given written notice of termination at least two calendar weeks before the effective date of the layoff. Administrative Employees will ordinarily be given a four-week notice. Faculty notifications will be as per R482.

- 9.1.3.2. The President or a designee must give written notice to employees who are affected by a personnel reduction. The direct supervisor will deliver the written notice to the affected employee in person when possible. The notice must include:
 - 9.1.3.2.1. the effective date of layoff;
 - 9.1.3.2.2. a statement of the reasons for a RIF;
 - 9.1.3.2.3. any opportunity available for reconsideration or appeal including access to appropriate documentation and the issues that may or may not be considered, and
 - 9.1.3.2.4. the reinstatement rights of the employee.
- 9.1.3.3. Reassigning Employees
 - 9.1.3.3.1. In the event that a RIF is required in any operating unit, the College will notify affected employees of open positions at the College for the next 60 days.
 - 9.1.3.3.2. Affected employees may apply for any open position for which they apply and meet the minimum qualifications. They will be given preference for an interview, however, they will not be automatically placed in a position. The affected employee must be selected by the hiring supervisor.
 - 9.1.3.3.3. An employee to be laid off will not displace another faculty or staff member from his or her position.
 - 9.1.3.3.4. A good faith effort to reassign employees need not extend beyond the effective date of the layoff.
- 9.1.3.4. Contesting a RIF
 - 9.1.3.4.1. An affected employee may contest a reduction only for (a) violation of his/her academic freedom or constitutional rights, or (b) the College's failure to comply with this policy. The decision to Eliminate Positions is not subject to contest by faculty or staff in any grievance or appeal procedure within the College.
- 9.1.3.5. Recall and Replacement
 - 9.1.3.5.1. In the event that the original position from which a regular staff member was released becomes available within six (6) months, the affected employee will be recalled. This can occur only in the organizational unit from which the regular staff member was released.
 - 9.1.3.5.2. Where more than one affected employee is eligible for recall, priority will be given to the last employee laid off.
 - 9.1.3.5.3. 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.
 - 9.1.3.5.4. Recall does not apply to part-time and temporary staff members.
 - 9.1.3.5.5. Non-tenured faculty and regular staff members who are laid off due to a RIF, 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.
 - 9.1.3.5.6. Tenured faculty who are recalled within three (3) years will be reinstated at the same rank and tenure as per R482.
 - 9.1.3.5.7. The hire date of the employee prior to the RIF will be used in determining time-related rights concerning date of original hire, vacation accrual rate, accrued sick leave, medical/hospital coverage, tenure.

- 9.1.3.5.8. Benefits, which may not be within the power of the College to grant, may be an exception.
- 9.1.3.5.9. If an offer of reinstatement is not accepted within the timelines stated above, the College has no further obligation to the person laid off.
- 9.1.3.6. Payment in Lieu of Notice
 - 9.1.3.6.1. If the required advance notice is not given, or is given for a shorter period than provided under giving notice sections, a payment in lieu of notice will be given.
 - 9.1.3.6.2. An employee is not eligible for payment in lieu of notice if:
 - 9.1.3.6.2.1. he or she is a part-time, temporary or probationary staff member, or
 - 9.1.3.6.2.2. the termination is for cause. Payment in lieu of notice is not available to employees whose termination is voluntary.
 - 9.1.3.6.3. 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.
 - 9.1.3.6.4. 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.
 - 9.1.3.6.5. In the remarks section of the appropriate Payroll Action Form (PAF) the supervisor will:
 - 9.1.3.6.5.1. authorize payment in lieu of notice;
 - 9.1.3.6.5.2. indicate the appropriate amount to be paid with guidance from the Human Resources office; and
 - 9.1.3.6.5.3. give the reason for termination.