SHRA Employee Reduction-in-Force

Policy 601.7

NOTE: For purposes of all Appalachian State University policies, references to SPA (subject to the State Personnel Act [former terminology]) shall be interchangeable with SHRA (subject to the State Human Resources Act [current terminology]); and references to EPA (exempt from the State Personnel Act [former terminology]) shall be interchangeable with EHRA (exempt from the State Human Resources Act [current terminology]).

1 Introduction

1.1 Appalachian State University has established this policy, subject to any changes in applicable laws, regulations, or other policies, to ensure that potential reductions in force shall be considered on a fair and systematic basis in accordance with defined factors. In all instances, reduction in force decisions are made without regard to race, sex, age, color, national origin, religion, disability, sexual orientation, political affiliation, veteran status, or relationship to other University constituents, except where such factors represent bona fide occupational qualifications. This policy specifies the conditions and process for identifying and separating employees due to shortage of funds, shortage of work, abolishment of a position, or other material change in duties and organization.

1.2 This policy will not be used for disciplinary measures. The process for separating employees due to unacceptable performance or conduct is contained in SHRA Disciplinary Action, Suspension, and Dismissal.

2 Scope

2.1 This policy applies to all permanent Appalachian State University employees with a permanent appointment who are subject to the State Human Resources Act (SHRA), regardless of source of funds for the position. This policy does not apply to student workers, temporary employees, SHRA employees with time-limited appointments, faculty, or any other employees exempt from the State Human Resources Act (EHRA).

3 Definitions

3.1 "Career status" or "career State employee"

Refers to an employee 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 Personnel Act for the immediate preceding 24 months.

3.2 FTE

Means full-time equivalent.

3.3 HR

Means Human Resources or Office of Human Resources.

3.4 RIF

Means reduction in force.

3.5 Work unit

Refers to a department or other organizational group affected by separation from employment of one or more employees through a reduction in force (as determined by a Vice Chancellor or the Chief of Staff on the basis of similarity of job content, unity of mission, proximity of workers or other relevant factors).

4 Policy and Procedure Statements

4.1 General

4.1.1 In accordance with North Carolina State Personnel Commission regulations, Appalachian State University makes reasonable effort to avoid involuntary separation of permanent employees. Therefore, employees with temporary or probationary appointments, and trainees in their initial six months of training, in the same work unit shall not be retained in classes where permanent employees must be separated in the same or related classification band and competency level.

4.1.2 If a position is reduced from full-time to part-time resulting in an economy in the State budget, the employee in the position may choose to be reduced in force, with the rights and benefits provided by policy, in lieu of accepting the reduced hours.

4.1.3 The reduction in force procedure for SHRA employees provides equitable treatment for the separation of SHRA employees when reduction in force becomes necessary. A reduction in force decision based on financial reasons should be reached only after measures such as a hiring freeze on vacant positions, limits on purchasing and travel, and job sharing or work schedule alternatives have been considered.

4.1.4 If a general reduction in operating funds affects the University, Appalachian State University may elect to meet its reduction obligation by prioritizing campus needs. For example, the University may first reduce staff positions in areas outside the academic core to preserve instruction, research, or student services positions. The University may also exempt safety, health, or other such critical positions from a reduction order.

4.2 Work Unit Analysis and Recommendation

4.2.1 To determine which position(s) within the identified work unit are subject to a reduction in force, a thorough analysis of the operational need for particular positions must occur (in consultation with HR) in order to assure the University can provide the highest level of service possible with a reduced workforce. Such an evaluation must include:

1. Determination of the number of positions which must be abolished; feasibility of eliminating entire programs or parts of programs; identification of areas where the number of positions must be reduced or eliminated; and
2. Identification of the classification (banded classification and competency level) of positions to be eliminated and a determination of whether personnel can be interchanged with other work units. Vacant positions within the work unit may be eliminated in order to utilize employees who would otherwise be separated.

4.2.2 After specific positions are identified, comparisons between employees in the same or related band are made. The analysis must include a systematic consideration, at a minimum, of the following factors:

1. Employees' types of appointments.
2. Employees' 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 work unit in comparison to operational needs.
3. Actual or potential adverse impact on the diversity of the work force.
4. Employees' length of service (which may include up to 5 years of eligible military service).

4.2.3 The director or department head must submit a written recommendation to HR via the appropriate Vice Chancellor or Chief of Staff. The written recommendation must include the analyses described in paragraphs 4.2.1 and 4.2.2 of this section, a description of measures taken to avoid a reduction in force, and the method by which a specific employee or employees are identified for reduction in force. The effect of the analysis at the work unit level is that the employee in the targeted position possibly may not be the employee separated through the reduction in force. Following the analysis and priority determinations, another employee may be identified for reduction in force instead, and the resulting vacancy would be filled through reassignment of the employee who was in the original targeted position.

4.3 Endorsement of Vice Chancellor or Chief of Staff

4.3.1 The division Vice Chancellor or Chief of Staff for the Chancellor’s Division must decide whether to endorse the recommendation to separate the identified employee(s) from employment under this policy. This includes the review of other employees within the identified work unit in like positions.

4.4 Human Resources Final Review and Notice of Separation

4.4.1 Upon receipt of an endorsement from the Vice Chancellor or Chief of Staff, the HR Director ensures:

1. the justification for a reduction in force has considered all the necessary factors; and
2. the decision is made in compliance with the University’s EEO/AA SHRA plan and policy, and applicable federal law.

4.4.2 Upon completion of this review, the HR Director, on behalf of the Chancellor, notifies the Vice Chancellor, Chief of Staff, or their designee of the decision:

1. If the reduction in force is found to be compliant, the Office of HR prepares the official notice of separation letter and authorizes the Vice Chancellor or delegate to issue the letter to the employee. The employee must receive the letter at least thirty (30) calendar days before the date of separation.
2. If the reduction in force is found to be non-compliant, an HR representative will discuss options and alternatives with the appropriate administrator.

4.4.3 After delivery of the notification letter, an HR representative will meet with the employee to provide information about priority reemployment rights, eligibility for severance or discontinued service retirement, unemployment insurance eligibility, leave payouts, and health insurance continuation.

4.5 Reassignment to Avoid Separation

4.5.1 Once the Notice of Separation letter from the division is issued to the employee, HR attempts to find a suitable vacant position in another division for the employee to avoid the separation. Reasonable efforts will be made to maintain the employee's same salary before the RIF occurred; however, contributing factors could prevent full salary restoration in the reassigned position. A suitable vacant position is one:

1. that is in the same banded classification at the same or lower competency level as is currently held or for positions in a different banded classification with the same or lower journey market rate as is currently held,
2. for which the employee meets minimum qualifications,
3. in which the employee could perform the job within a reasonable period of time as set forth by the supervisor, including normal orientation and training given any new employee, and
4. which is the same FTE.

4.5.2 When HR identifies a vacancy that appears to be suitable, HR reviews the employee's qualifications against the position's requirements to determine whether the employee meets the minimum qualifications.

4.5.3 If a vacancy is either not advertised or advertised but applications have not been referred, the employee's application is forwarded to the department. This referral requires more consideration than other applicants. The department is expected to interview and hire the employee if the employee meets the minimum qualifications for the position and can perform the job within a reasonable period of time as set forth by the supervisor, with normal orientation and training given any new employee. If the department head does not believe that the individual can perform the job duties, the department head must document the reasons and forward this documentation to both the division Vice Chancellor or Chief of Staff and HR for review and consideration.

4.6 Severance Salary Continuation

4.6.1 A permanent, full-time or part-time (20 hours per week and over) employee who does not obtain another permanent job as a State employee by the effective date of the reduction in force may be eligible for severance salary continuation if reemployment is not available. 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. Years of service, age, reemployment, retirement, and funding as directed by the Office of State Budget and Management affect severance. Severance salary continuation payment is subject to prior approval by the Office of State Budget and Management.

4.7 Leave Balances

4.7.1 Vacation Leave Employees will be paid a lump sum for the balance of their vacation leave at the time of separation not to exceed 240 hours. If an employee has over 240 hours of vacation leave at the effective date of separation due to reduction in force, the excess leave will be reinstated if the employee is re-employed by the State within one year.

4.7.2 Sick Leave An employee's sick leave balance at the time of separation due to reduction in force will be reinstated if the employee returns to State employment within five years.

4.8 Discontinued Service Retirement Allowance

4.8.1 Employees notified of a reduction in force with: (a) 20 or more years of creditable retirement service, and who are age 55 or older (no reduction in benefits); or (b) who have 20 or more years of creditable retirement service, and who are age 50 or older (benefits reduced by ¼ of 1 percent for each month that retirement precedes the employee's fifty-fifth birthday), might be eligible for discontinued service retirement allowance. Employees should contact the Benefits Manager in HR to obtain more information about their specific retirement eligibility. The ultimate decision to offer either discontinued service retirement or severance pay is made by the employer, not the employee, subject to approval by the Office of State Budget and Management.

4.9 Health Insurance

4.9.1 Employees with at least one year of State service who are participating in the State Health Plan at the time of separation due to a reduction in force will receive University-sponsored individual health insurance coverage for

1. one year from the date of separation; or
2. until re-employed in another permanent State position; or
3. until the employee is provided health coverage on a non-contributory basis by a subsequent employer, whichever is sooner.

4.9.2 Dependent coverage is not included, but may be purchased by the employee.

4.10 Appeals

4.10.1 An employee separated through a reduction in force may appeal that 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, political affiliation or disability, or if it is alleged that the separation was a denial of veterans preference. Such an appeal may be made in accordance with the Appalachian State University formal grievance process or may be filed directly with the State Personnel Commission through established procedures of the Office of Administrative Hearings, at the choice of the employee (except that allegations of sexual orientation discrimination may be appealed only through the University procedure).

5 Additional References

State Personnel Manual

6 Authority

N.C.G.S., §§ 126-4; 126-8.5; 28A-25-6; 25 NCAC 01C; 25 NCAC 01E; 25 NCAC 01H

7 Contact Information

Office of Human Resources; (828) 262-3186

8 Original Effective Date

August 17, 2011

9 Revision Dates