Operating Policy and Procedure

OP 70.23: Reduction in Force Policy

DATE: January 23, 2019

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to provide guidelines and procedures for implementing a reduction in force that affects non-faculty employees (“employees”) of Texas Tech University.

REVIEW: This OP will be reviewed in March of even-numbered years by the Assistant Vice President for Human Resources and the Office of Equal Opportunity with substantive revisions forwarded through the Vice Chancellor & General Counsel and the Associate Vice President for Administration and Chief of Staff to the President.

POLICY/PROCEDURE

1. Policy

The university may reduce the number of employees due to reorganization, anticipated decrease in funding or other financial reasons, reductions in services to be provided, or other purpose deemed appropriate.

This policy does not apply to faculty positions, positions requiring student status as a condition of employment, and wholly grant funded positions that are modified or eliminated due to changes in grant or contract funding. Nothing in this policy shall be deemed to alter or modify the employment-at-will status of employees nor shall it apply to separations pursuant to OP 70.31, Employee Conduct, Discipline, and Terminations.

2. Procedures

   a. Reason for Reduction

      If a reduction in force (RIF) is to be system-wide, it shall be based upon notice from the Chancellor; if it is a university-wide RIF, it will be based upon notice from the President. The notice shall set forth the facts and circumstances identifying the financial or other reasons for a possible reduction in force. If the reduction is in an isolated unit or department, it shall be based upon a request setting forth the facts and circumstances identifying the financial or other reasons for a RIF prepared by the head administrator in the unit to be approved by the Chancellor or President, as appropriate, prior to commencing the process set forth below.

      A reduction in force process is not to be used to dismiss an employee if the sole cause for dismissal is either misconduct or lack of satisfactory performance.
b. Methodology

The head of each unit shall determine whether a reduction of budgeted funds should be addressed by a reduction in personnel or in non-personnel expenses or some combination thereof. If personnel reductions will be involved, this determination shall describe the estimated number of positions to be eliminated and the resultant cost savings before individuals are identified for separation from employment by the university.

c. Criteria for Affected Positions and Employees

The head of the unit seeking the reduction ultimately shall be responsible for deciding which positions will be eliminated and which employees will be separated. In making that decision, existing business conditions, as well as future needs of the unit and the university, shall be considered.

Positions may be eliminated either because existing jobs are combined or because a number of the same or substantially similar jobs are eliminated.

(1) Elimination of Similar Jobs

When reducing the number of jobs that are the same or substantially similar, the number of positions to remain will be decided based on the needs of the unit after reductions. Criteria to use in deciding which employees will remain shall be their qualification to perform the essential functions of the position. If more than one person is qualified to perform the job, the criteria to be used to decide who will fill the job shall include, but are not limited to, the following:

(a) Employee work performance as evidenced by written evaluations or other documentation;

(b) Veteran status of the employee, as required by Texas Government Code 657.007;

(c) Former foster child status of the employee, as required by Texas Government Code Chapter 672;

(d) Status as a full-time employee may be given preference unless it is in the best interest of the university to employ part-time employees for the position in question; and

(e) Amount of relevant experience in the field.

If two or more employees are substantially equivalent in the criteria listed above, the decision may be determined by the greatest length of service in the position.

The criteria shall be applied independently to the employees in question by no less than two members of management of the unit making the decision. If there are not two members of management in the unit available to conduct the above rating and ranking, then a member of the Human Resources Department shall serve as the second person to do so.
Reorganization and Combination of Jobs

When reducing the number of employees by combining two or more existing positions, the head of the unit shall determine, with assistance as necessary from Human Resources, the nature and job descriptions of the positions needed to remain in the unit after consolidation. Criteria to use in deciding which employees shall fill the positions in the reorganized unit shall be their qualifications to perform the essential functions of the new positions. If more than one person is qualified to perform the job, the criteria to be used to decide who will fill the job shall include, but are not limited to, the following:

(a) Employee work performance as evidenced by written evaluations or other documentation;

(b) Veteran status of the employee as required by Texas Government Code Chapter 657;

(c) Former foster child status of the employee as required by Texas Government Code Chapter 672;

(d) Status as a full-time employee will be given preference unless it is in the interest of the university to employ part-time employees for the position in question; and

(e) Amount of relevant experience in the field.

If, in applying these criteria, two or more qualified employees have substantially equivalent qualifications, length of service with TTU may be considered in determining who is offered the position.

The criteria shall be applied independently to the employees in question by no less than two members of management of the unit making the decision. If there are not two members of management in the unit available to conduct the above rating and ranking, then a member of the Human Resources Department shall serve as the second person to do so.

d. Development of Report

The decision to undertake a reduction in force will be based on a report prepared for the appropriate vice chancellor or vice president by the unit administrator, under the direction of the Office of the General Counsel and with the assistance and approval of Human Resources and the Office of Equal Opportunity. The contents of the report requesting a reduction in force will include supporting documentation and contain the following:

(1) Factual information indicating that a need for a reduction in force exists. For example, a proposed reorganization would show that the reduction in force would result in a more cost effective or efficient unit;

(2) A description of the functions or services supplied by the unit that will be affected by the proposed reduction in force, how those functions or services will be combined, altered, or eliminated, and the rationale for the combination, alteration, or elimination;
Identification of those jobs or positions that will be affected; and

Utilization of the criteria in section c. above to identify those employees who will remain and those who are to be separated, and an explanation of how and why each person was selected for separation.

e. Notification of Employees

After review of the reduction in force report, employees identified for separation will be notified in writing. Notice will be provided at least 30 days in advance of the proposed date of separation or the end of the fiscal year if 30 days’ notice is not possible.

The written notice of separation shall include an explanation of the reasons for the reduction in force, an explanation of why an employee’s position is to be eliminated or why a particular employee has been selected for separation, and an explanation of the employee’s appeal rights.

f. Appeal Procedures

Employees who are separated due to a reduction in force may appeal the decision by submitting a written appeal to the assistant vice president for human resources within 10 working days of receiving written notice of separation of employment. The reasons for appealing shall be limited to claims that the separation decision was made for a reason that is unlawful under state or federal laws. The written appeal shall state the facts that support the employee’s allegations.

Within 15 working days following receipt of the appeal, a written decision will be provided to the employee by mail. This appeal shall be the employee’s sole remedy for separation pursuant to this policy, and the decision rendered upon appeal shall be final.

The written appeal and all decisions or responses regarding the appeal shall be a part of the employee’s file.

g. Reinstatement, Rehire, or Reemployment

(1) Barring circumstances that would render the individual unable to perform the essential functions of the position or would have resulted in their ineligibility for employment or their separation of university employment, an employee whose employment is separated due to a reduction in force or reorganization shall remain eligible for reemployment.

(2) If the eliminated position formerly filled by an employee separated under this policy is reestablished within a period of 12 months from the date of the written notice of separation, the individual has the right to reinstatement into that position, barring circumstances occurring in the interim that would either render the individual unable to perform the essential functions of the position or that would have resulted in their ineligibility for or separation from employment.

(3) Reinstated employees will be paid within the salary range for the position at the time of reinstatement.
(4) Special consideration for reemployment will be given to employees separated due to a reduction in force. If the employee is qualified for a vacancy, a hiring department that has a vacant position may consider that employee without recruiting for the position and/or interviewing other candidates. The employee must have been separated under this policy within the preceding six months to utilize these re-hiring procedures. An administrator who is considering hiring an employee who has been separated because of a reduction in force within the preceding six months must notify and receive approval from Human Resources prior to any employment action.

h. Nondiscrimination and Preferences in Separation and Reemployment

All separation and reemployment decisions pursuant to this policy shall be made without regard to race, color, national origin, religion, sex (including pregnancy), sexual orientation, gender identity, age, disability, genetic information, or an individual’s refusal to submit to a genetic test, or other protected categories, classes, or characteristics. The veteran status and former foster child status of the employee will be considered in any separation or reemployment decision pursuant to this OP as required by state and federal laws.

3. Right to Change Policy/Conflicting Policies

The university reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time. This policy supersedes any conflicting university policies regarding reductions in force for the reasons set forth in section 1 above.

4. Authoritative References

Texas Government Code 657.007

Texas Government Code Chapter 672