



Angelo State University
Operating Policy and Procedure

OP 52.60: Reduction in Force

DATE: April 19, 2016

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 of Angelo State University.

REVIEW: This OP will be reviewed in September every three years, or as needed, by the director of human resources with recommended revisions forwarded through the vice president for finance and administration to the president by October 15 of the same year.

POLICY/PROCEDURE

1. Policy

The university may reduce the number of employees due to reorganization, anticipated decreased 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 52.10 Discipline and Dismissal](#).

2. Procedures

a. Reason for Reduction

The university or a university department may reduce the number of employees due to reorganization, anticipated decreased funding or other financial reasons, reductions in services to be provided, or other purpose deemed appropriate. If the reduction is to be university-wide, it shall be based upon notice from the president or his/her designee, setting forth the facts and circumstances identifying the financial or other reasons for a possible reduction in force. If the reduction is in an isolated university department(s), it shall be based upon a request setting forth the facts and circumstances identifying the financial or other reasons for a possible reduction in force (RIF) prepared by the appropriate department head to be approved by the president or his/her designee prior to commencing the process set forth below.

The RIF 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 department 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 department 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 department and the university, shall be considered.

Positions may be eliminated either because some 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 department after reductions. Criteria to use in deciding which employees will remain 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 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, in applying these criteria, two or more employees have virtually identical written performance evaluations, the decision shall 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 department making the decision. If there are not two members of management in the department available to conduct the above rating and ranking, then a member of the Office of Human Resources shall serve as the second person to do so.

(2) Reorganization and Combination of Jobs.

When reducing the number of employees by combining two or more existing positions, the department head shall, with assistance as necessary from human resources, determine the nature and job descriptions of the positions needed to remain in the department after consolidation. Criteria to use in deciding which employees shall fill the positions in the reorganized department 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 are virtually identical in qualifications, the employee with the greatest length of service at the university shall be offered the position.

The criteria shall be applied independently to the employees in question by no less than two members of management of the department making the decision. If there are not two members of management in the department available to conduct the above rating and ranking, then a member of the Office of Human Resources 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-president by the department head under the direction of the Office of the General Counsel and with the assistance and approval of the Office of Human Resources and the Office of Equal Employment Opportunity. The contents of the report requesting a reduction in force will include supporting documentation and contain the following:

- (1) Factual information indicating the purpose of the reduction in force. For example, a proposed reorganization would show that the reduction in force would result in a more cost effective or efficient department;
- (2) A description of the functions or services supplied by the department 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;

- (3) Identification of those jobs or positions that will be affected; and
- (4) 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 a 30 day 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 director of human resources within ten (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 fifteen (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 his/her ineligibility for employment or his/her 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 twelve (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 his/her 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 (6) 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 the Office of 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, genetic information, disability, or other protected categories, classes, or characteristics of the employee. The veteran status and former foster child status of the employee will be considered in any separation or reemployment decision pursuant to this policy 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 without prior notice or consent of employees. This policy supersedes any conflicting university policies regarding reductions in force for the reasons set forth in section 1 above.