

**LP 5.33****Effective:**  
8/22/2020**Revised:****Policy Owner:**  
Board of Trustees**Policy Administrator:**  
Human Resources**Affected Parties:**  
Employees**Table of Contents:**

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## Employee Reduction in Force (LP5.33)

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### 1 Summary

The purpose of the Reduction in Force (RIF) policy is to prescribe the way in which faculty and staff at Lander University in full-time equivalent (FTE) positions would be released in an equitable manner in the event of a RIF per South Carolina Code of Laws Sections 8-11-185, 8-11-230 (6) and 8-17-370 and the Annual Appropriations Act (117.71 Reduction in Force/Agency Head Furlough).

### 2 Statements of Policy

- 2.1 A RIF may require the separation, involuntary demotion, reassignment, or reduction in work hours of the university's FTE covered employees.
- 2.2 A RIF does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees, and employees exempt from the State Employee Grievance Procedure Act).
- 2.3 The university may implement a RIF for one or more of the following four reasons:
- 2.4 Reorganization;
- 2.5 Work shortage;
- 2.6 Loss of funding; or
- 2.7 Outsourcing/Privatization.

### 3 Management Decisions

3.1 The university shall determine the following items prior to developing its RIF plan:

- 3.1.1 What is the reason(s) for the RIF;
- 3.1.2 What area(s) of the university are to be impacted by the RIF [competitive area(s)];
- 3.1.3 What state class title(s) within the competitive area(s) are to be affected [competitive group(s)]; and
- 3.1.4 How many positions in each state class title(s) are to be eliminated.

### 4 Competitive Area(s)

4.1 The university shall determine the competitive group(s) based on the state class title(s) within the competitive area(s) that the RIF will affect. If the RIF 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, Audits Manager I, Audits Manager II ) or in state class titles that are part of the agency's customary career path (e.g., Administrative Assistant, Communications Coordinator, Program Coordinator II, Program Manager I).

### 5 Affected Persons

5.1 The university shall identify the position(s) within the competitive area(s) and competitive group(s) by identifying the following information:

- 5.1.1 State class title;
- 5.1.2 State class code;
- 5.1.3 Pay band, if applicable;
- 5.1.4 Total number of positions in the state class title within the competitive area; and
- 5.1.5 Total number of positions in the state class title within the competitive area to be eliminated.

## 6 Retention Points

6.1 The university 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, be reassigned, have reduced work hours, or be separated. Retention points shall be based on the total scores of the two most recent annual performance appraisals and length of continuous state service. The sum of the retention points for performance and length of continuous state service are the total retention points that an employee uses in the competition.

### 6.2 Performance Appraisal Points

6.2.1 The university will determine the total score for an annual performance rating by using the following numerical values assigned to the Employee Performance Management System (EPMS) performance ratings:

6.2.1.1 Exceptional Performance Requirements – 2

6.2.1.2 Successful Performance Requirements – 1

6.2.1.3 Unsuccessful Performance Requirements – 0

6.2.2 For any year that a supervisor did not complete an EPMS evaluation for an employee, the university will assign one point for Successful Performance Requirements. However, for a covered employee who has been in a position in the same state class title for two or more continuous years, and if the covered employee received a higher than Successful Performance Requirement in the preceding year, the university will assign the points corresponding to the higher performance rating. If the covered employee's most recent performance is an Unsuccessful Performance Requirement rating (0) that is more than two years old, the university will assign the points equivalent to Successful Performance Requirements rating.

6.2.3 For employees who have transferred to the university whose previous state entity utilized more or fewer levels of performance, the university will recognize the performance ratings based on the previous state entity's conversion to the three standard levels of performance in the State Employee Performance Management System.

### 6.3 Continuous State Service Points

6.3.1 Covered employees will receive one retention point for each year of continuous service after completion of a 12-month probationary period. Six months or more of continuous state service will be considered as one year of service and less than six months of service will receive no retention points.

## 6.4 Additional Retention Points

- 6.4.1 When a covered employee is bumped from a position with a higher pay band in a state class title series to compete with others for a position in a lower pay band, covered employees will receive an additional two retention points.

## 6.5 Exception to Procedure for Retention Point Calculation

- 6.5.1 If every position in the competitive area is being eliminated, the university 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 university must calculate retention points at the time of recall. The university must calculate retention points using continuous state service and performance appraisal points based on the effective date of the RIF.

# 7 Sequence of Reduction in Force

- 7.1 The order of the RIF of covered employees in each state class title(s) shall be determined by the total number of retention points for each employee. If two or more employees affected by a RIF have the same number of retention points and not all are to be affected by the RIF, the university hire date will determine the order of the employees affected. If after using the university hire date to determine the order of affected employees a tie still exists, the university will use the last four digits of the employees' social security number; the employee with lowest number will be retained.
- 7.2 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 RIF. Bumping rights are provided only downward.

# 8 Retention of Necessary Qualifications

- 8.1 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 university determines that a Retention of Necessary Qualifications applies.
- 8.2 If an employee is competing for a position that is not being eliminated and the university 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 preference to the employee with higher retention points. The university 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.

- 8.3 When a Retention of Necessary Qualifications is used in a RIF plan, justification for this retention must be documented and approved by the university prior to submitting the RIF plan to the Division of State Human Resources (DSHR) for review and approval for procedural correctness. The university should retain documentation to support any retentions made on this basis.

## 9 Writing the Reduction in Force Plan

- 9.1 Once the university has made the decisions outlined above and prior to the implementation of a RIF, the university president (or designee) shall develop the RIF plan. This plan must include the following:

- 9.1.1 The reason(s) for the RIF;
- 9.1.2 The identification of the competitive area(s);
- 9.1.3 The identification of the competitive group(s) [state class title(s)];
- 9.1.4 The number of position(s) to be eliminated in each state class title;
- 9.1.5 A list of the covered employees, in order of retention points, in the competitive area(s) and competitive group(s) to include the following:
  - 9.1.5.1 Name;
  - 9.1.5.2 Age, race, and gender; and
  - 9.1.5.3 Retention points;
- 9.1.6 Justification of any Retention of Necessary Qualifications used in the RIF plan; and
- 9.1.7 The university's efforts to assist employees affected by the RIF.

## 10 Approval Process

- 10.1 Once the RIF plan has been completed, the university shall submit the following information to DSHR for review and approval for procedural correctness:
- 10.1.1 The RIF plan as outlined in Section 9:

- 10.1.1.1 An organizational chart including each position (designated with the state class title and incumbent's name) within the competitive area(s);
- 10.1.1.2 A copy of the university's RIF policy; and
- 10.1.1.3 A sample letter to employees affected by the RIF, including information as outlined in Section XII, along with:
  - 10.1.1.3.1 A list of the employee's recall and reinstatement rights;
  - 10.1.1.3.2 The university's procedure for the recall of an employee; and
  - 10.1.1.3.3 The employee's grievance rights.

## 11 Implementation of the Reduction in Force

- 11.1 The university shall communicate the following information to each affected employee after DSHR approves the RIF plan for procedural correctness and before the RIF becomes effective:
  - 11.1.1 The reason(s) for the RIF;
  - 11.1.2 The competitive area(s) and competitive group(s) in which the employee competed;
  - 11.1.3 The benefits to which the employee is entitled and the way in which the RIF will affect the employee's benefits (e.g., health insurance, optional life insurance, retirement);
  - 11.1.4 The employee's reinstatement rights (e.g., reinstatement of all sick leave; option of buying back all, some, or none of the employee's annual leave at the rate at which it was paid out);
  - 11.1.5 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 RIF;
  - 11.1.6 The way the university will notify the employee of any such vacancies;
  - 11.1.7 The requirements of South Carolina Code of Laws Section 8-11-185, which requires the university to report information about the employees affected in a RIF to DSHR.

## 12 Recall and Reinstatement Rights

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

### 12.1 Recall Rights

12.1.1 If a vacancy occurs within the competitive area which is in the same state class title as the position the employee held prior to the RIF, the university will recall employees in the inverse order of the RIF. The university will notify the employee, in writing, of the job offer and recall rights. If the employee does not accept the job offer within ten (10) days, the employee's recall rights are waived. Should the employee accept the job offer, the university will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of the employee's annual leave at the rate that it was paid out at the time of the separation. Upon returning to employment in an insurance-eligible 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 South Carolina Code of Laws Section 9-1-1140(D) for the period that the employee was not employed by state government, at the cost specified in South Carolina Code of Laws Section 9-1-1140(D). When an employee is recalled, this time will not be considered punitive in the determination of retiree insurance eligibility.

### 12.2 Reinstatement Rights

12.2.1 An employee separated by a RIF may apply for any state job for which the employee meets the minimum training and experience requirements. Should the separated employee accept a job offer to an FTE position, the university will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of the employee's annual leave at the rate it was paid out at the time of the separation. Upon returning to employment in an insurance-eligible 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 South Carolina Code of Laws Section 9-1-1140(D) for the period that the employee was not employed by state government, at the cost specified in South Carolina Code of Laws Section 9-1-1140(D). When an employee is reinstated, this time will not be considered punitive in the determination of retiree insurance eligibility. If the employee is reinstated to another position, the employee still retains his or her recall rights to a position in the same state class in the competitive area.

## 13 Grievance Rights

13.1 A covered employee who is affected by a RIF has the right to file a grievance to the university and an appeal to the State Human Resources director only if the grievance or appeal is based on improper or inconsistent application of a RIF policy or plan.

## 14 History

- Drafted and/or revised by Lander University Office of Human Resources on 10/22/2020.
- Approved by the South Carolina Division of State Human Resources on 10/22/2020.
- Reviewed by Policy Coordinator on 7/29/2021.
- Final provisional draft approved by the Lander University director of Human Resources on 8/11/2021.
- Approved by the Lander University Board of Trustees on 9/14/2021.