

Reduction in Force of Staff Personnel

Summary/Purpose: In the event a reduction in workforce is deemed necessary, the procedure process is given including possible reasons for reduction and the rights and responsibilities of permanent employees who are terminated.

Purpose:

To create an equitable and systematic policy and procedure to be used in the event that the University has a need to reduce its administrative, professional and/or other staff.

Scope:

This policy applies to all permanent full-time and part-time administrative, professional and other staff employees of The University of Mississippi.

Definitions for Purposes of this Policy:

1. Dean--the administrative head of the College of Liberal Arts or one of the respective Schools of the University.
2. Department Chair--a faculty member appointed to coordinate the activities of an academic department and designated as the budgetary officer of the department.
3. Department Head--an administrative employee appointed to direct the activities of a non-academic department and designated as the budgetary officer of the department.
4. Director--the administrative head of an academic unit which reports to the Provost/Vice Chancellor for Academic Affairs.
5. Job Class--the classification assigned to a group of positions which involve similar work.
6. Permanent Employee--an employee is considered permanent if he or she is placed in a position considered permanent, is paid on a fixed salary or wage rate, and has successfully completed a probationary period. Permanence of employment is dependent upon agreement on terms at the beginning of employment, continued merit and fitness for the job, continued need for the work being done, and the availability of funds to support it.
7. Prima Facie Case--a case established by sufficient evidence which, if not rebutted or contradicted, will remain sufficient.
8. Probationary Status--the status of a non-faculty employee during his or her first three to six months (unless extended) of continuous employment in a position considered permanent.
9. Seniority--length of continuous service with the University.

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10. Temporary Employee--an employee is considered temporary if at time of employment he or she is to be employed for no longer than twelve months and if he or she is: (a) a substitute for a permanent employee on a brief leave, (b) employed for a short interval during peak periods or for a specified length of time.

Policy Statement:

In the event that a reduction in workforce on the campus of The University of Mississippi is necessary because of adverse financial circumstance; reallocation of resources; reorganization of academic or administrative structures, programs or functions; curtailment of one or more programs or functions as the University deems appropriate; or the declaration of financial exigency by the Board of Trustees of State Institutions of Higher Learning, a document outlining the reasons for the reduction and the personnel to be affected will be developed.

The primary functions of the staff of the University are to provide the best possible support for academic programs, the effective operation of the University, and the welfare of students. Therefore, the determination of those members of the staff to be terminated will be based upon the needs and priorities of the University or department; the performance and productivity of employees and their ability to contribute to the fulfillment of the University's or department's needs; seniority of service within the University or department; and diversity considerations of the University or department.

The University's welfare and that of the students and faculty it serves may not be best protected by a proportional reduction in all areas of the University. Some categories of support services may be eliminated entirely while others are not reduced at all. The highest priority shall be given to retaining personnel necessary to maintain essential programs and functions, both academic and non-academic.

Procedures:

Should a reduction in force become necessary, the following procedures and guidelines will be applied:

1. The dean, director, department chair or department head will review all positions (except faculty) within his or her area of responsibility and provide his or her vice chancellor¹ with the reasons for the reduction and a listing of persons recommended for termination, as well as comments concerning the basis for the personnel decisions, cost savings to be achieved, and programmatic effects of such terminations. In arriving at these recommendations, deans, directors, department chairs and department heads should consider: (a) the role and importance of the position as it relates to the goals and objectives of the department or unit; (b) performance and productivity of employees measured against the ultimate objective of providing the best programs within funding limitations; (c) the needs of faculty and students; (d) seniority of service within the University; and (e) effect on diversity considerations.

¹Proposed reduction in force within the Chancellor's divisions should be made to the Chief

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of Staff to the Chancellor rather than to the Chancellor since the Chancellor serves later in the appeal process.

The respective vice chancellor shall review the reasons for the reductions, the recommended terminations, and comments accompanying each. He or she shall then submit the reduction to the Personnel Committee for review and endorsement. If termination is approved, the Director of Human Resources, after consultation with the appropriate dean, director, department chair or department head and receipt of an approved termination form, shall prepare a letter of termination to the employee in accordance with the guidelines set out below. This letter, accompanied by a copy of the Staff Reduction in Force Plan, shall be hand delivered, if possible, to the employee by his or her director, department chair or department head. If hand delivery is not feasible, certified mail shall be used.

2. As a rule, before any permanent, full-time employee within a department is terminated, temporary and probationary employees within that department will be terminated. Variations from this order of termination may be allowed if the head of the unit involved and the appropriate vice chancellor agree that termination of a specific individual or the loss of that person's expertise would jeopardize the continuance of program effectiveness or undermine the University's capability to meet institutional goals.
3. Rights of permanent employees who are terminated:
 - a. Each employee who is to be terminated pursuant to this policy shall be provided a written notice at least 30 days prior to termination which must contain the following information:
 - (1) the reason for the termination, including the reason for not retaining the particular employee;
 - (2) the effective date of the termination;
 - (3) the right to appeal the termination through the appeal procedure set forth below if received within 5 workdays of receipt of the termination notice;
 - (4) a statement regarding terms of preferential reemployment consideration.
 - b. Upon termination, an employee may receive payment for up to 30 days of accrued Personal Leave as allowed by state law. Any unused accrued Personal Leave above 30 days, as well as unused accrued Major Medical Leave, will be credited to the individual in the Retirement System.
 - c. Each terminated employee has the right to preferential reemployment in the position from which he or she was terminated if such should become funded and available within one year from the date the employee was terminated.
4. Responsibilities of employees who are terminated.

Employees terminated pursuant to this plan who desire to receive preferential treatment in reemployment must comply with the following provisions:

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- a. Keep the University's Department of Human Resources informed of their current mailing address, telephone number, or other contact information.
- b. Indicate in writing to the Director of Human Resources within 5 workdays of receipt of notification of the position opening his or her intent to return to employment at the University.
- c. Report to work no later than 5 workdays from receipt of notification of position opening.
- d. Failure to comply with these requirements shall constitute a waiver of preferential treatment in reemployment and cause the employee to be removed from the list of employees eligible for preferential reemployment.

Appeal Procedures

A staff member receiving a notice of termination pursuant to this plan has the right to appeal his or her termination by making a written request for an appeal to the Director of Human Resources within five workdays after receipt of the notice of termination. The employee's written request for an appeal must contain a short statement of facts which the employee believes supports his or her contention that termination procedures were not followed and/or other criteria were not properly applied.

The Director of Human Resources shall present the written request for appeal to the respective dean, director, department chair or department head and attempt to arrange a meeting between that person and the aggrieved employee within two workdays after receipt of the request for appeal. (In the event that a dean, director, department chair or department head, because of unavoidable circumstances, cannot be available for an appeal meeting or hearing, his or her assistant or designee shall serve in the same capacity.) The dean, director, department chair or department head shall meet with the employee, discuss fully the basis for the termination, and give the employee an opportunity to present his or her complaint that termination procedures were not properly followed and/or appropriate criteria applied in arriving at the decision to terminate. The dean, director, department chair or department head shall review the decision to terminate and either uphold or reverse the original termination decision, notifying in writing, the employee, the appropriate vice chancellor, and the Director of Human Resources of his or her decision within two workdays of the meeting.

The dean, director, department chair or department head shall review established procedures to determine if they were properly followed and appropriate criteria applied in arriving at the decision to terminate. He or she shall not review the existence of a state of financial exigency nor decisions of the Chancellor and vice chancellors concerning budgetary reductions, reallocations, reorganizations, or allocations of funding reductions to various divisions of the University.

Request for Hearing

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Within 5 workdays after receipt of a decision from the dean, director, department chair or department head that the termination had been upheld, the employee who has been given notice of termination may request the Personnel Action Review Board to review the decision to terminate that particular individual. The request for review must be in writing, addressed to the Director of Human Resources. The request shall state the grounds to be relied upon in challenging the propriety of the decision. Grounds for review are limited to a consideration of whether one or more of the following improper factors entered into the decision to terminate or suspend:

- a. Conduct, expressions, or beliefs on the terminated employee's part which are constitutionally protected.
- b. Improper selection of the individual to be terminated or suspended. For the purposes of this provision, "improper selection" occurs if material prejudice resulted from any of the following:
 - (1) the procedures or criteria required by the policy were not followed; or
 - (2) the decision was based upon arbitrary or capricious assumptions of fact or was arrived at in an arbitrary or capricious manner.

The Personnel Action Review Board shall not review the existence of financial exigency nor decisions of the Chancellor, vice chancellors, deans, or department heads concerning budgetary reductions, reallocations, reorganizations, or allocations of funding reductions to various divisions of the University.

Review Board

The Personnel Action Review Board will constitute the panel to hear the appeal. The Board consists of one senior administrator (department head or above), one member of the Staff Council and one additional member appointed by the Chancellor. The Staff Council shall designate five members each year for the Board. From these five, the senior administrators, and other employees, the Chancellor will select the Board. No member of the Board shall be from the department of the employee filing the appeal.

The Director of Human Resources or his/her designee shall serve as the hearing officer in a nonvoting capacity. The Director of Human Resources will notify the other members of the Board and will schedule a hearing as expeditiously as possible.

Hearing Procedure

- a. The Director of Human Resources shall arrange a hearing before the Board scheduled to hear appellate reviews during the time period in question and shall notify the employee at least 5 workdays in advance of the time and place of the hearing. Such hearings shall be held no later than ten (10) workdays after the request, except that this time limit may be extended by consent of the parties or by order of the board.
- b. The hearing shall be closed.

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- c. No staff member who participated in the decision to terminate or suspend or who is a material witness may serve on the Board for purposes of the review. In the event that such situation arises, an alternate member of the Board shall be appointed by the Chancellor.
- d. The terminated employee shall have access to the evidence on which the administration intends to rely to support the decision and shall be guaranteed the following procedural safeguards at the hearing:
 - (1) a right to be heard in his or her own behalf;
 - (2) a right to counsel or other representative, or both, but the role of such counsel or representative shall be limited to an advisory capacity;
 - (3) a right to offer witnesses and documentary evidence;
 - (4) a right to question witnesses;
 - (5) a right to a verbatim record of the hearing which may be a sound recording, provided at no cost;
 - (6) written findings of fact and decision based on the hearing record.
- e. Technical rules of evidence shall not apply at the hearing. The Board shall admit evidence having reasonable probative value and exclude evidence which is irrelevant, immaterial or unduly repetitious.
- f. The terminated employee shall present evidence on whether one or more of the improper factors specified above entered into the decision for termination. The Board shall then consider whether the evidence presented establishes a prima facie case that such factor or factors did enter significantly into the decision. If the Board finds that a prima facie case has not been established, the decision shall be found to have been proper and the hearing shall be ended. If the Board finds that a prima facie case has been established, the dean, director, department chair or department head, as well as the appropriate vice chancellor, shall be entitled to present evidence to support the decision, and, thereafter, the terminated employee may present evidence in rebuttal. On the basis of all the evidence presented, the Board shall make its determination as follows:
 - (1) The Board shall first consider whether one or more of the above specified improper factors entered significantly into the decision. Unless the Board is convinced that such factors did significantly enter into that decision, the Board shall find the decision to have been proper.
 - (2) If the Board believes that improper factors may have entered into the decision but is convinced that the same decision would have been reached had the error or errors not occurred, it shall find the decision to have been proper.

The Board Decision

Upon completion of the hearing, the Board will have 5 working days in which to make a final decision. The decision will be promptly communicated, in writing, to the employee and the administration within 5 working days by the Director of Human Resources. The Director of Human Resources will notify the appropriate Vice Chancellor of the Board's decision. It shall be

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the responsibility of the Vice Chancellor and department head to effect the action(s) handed down by the Board.

Appeal to the Chancellor

Decisions of the Board may be appealed to the Chancellor. An appeal must be filed within 5 working days of the date the employee receives notification of the Board's decision. The appeal must be in writing to the Director of Human Resources. The employee will be notified within 5 working days of the decision of the Chancellor. All decisions of the Board will be subject to review by the Chancellor. The decision of the Chancellor is final. There is no right of appeal to the Board of Trustees.