

The College shall maintain a procedure for reduction in force in the event of financial necessity.

A reduction in force (RIF) is defined as the elimination or involuntary reduction of regular administrative, professional, faculty, or support staff positions due to declining enrollment, lack of work, lack of funds, budget constraints, grant expiration, departmental reorganization, elimination or curtailment of courses and/or programs, or other business reasons resulting in the necessary curtailment of personnel.

Procedure

1. Whenever possible, pre-reduction in force alternatives will be considered. Alternatives may include but are not limited to reassignment of staff to another work area or teaching discipline as long as all qualifications are met, reduction of contract length with corresponding reductions in pay, reductions in office hours or work days, or freezing current salaries.
2. The President determines that a RIF is warranted and notifies the Board. The President then solicits recommendations for reductions in order of priority from the administrators and department heads. The President ranks the recommendations in priority for meeting the mission of the college and determines which position reductions are warranted. The President can extend the reductions beyond what was recommended or determine that it is in the best interest of the college to choose other reductions.
3. When the President determines that a reduction in force is necessary, the President shall send a written notification of intent to impose a reduction in force to the office of human resources. The written notification shall include the reason(s) for the elimination of staff positions, the position(s) to be eliminated or involuntarily reduced, the name(s) of the employee(s) to be separated from the college, and the effective date of separation.
4. The human resources office will assist the department heads and administrators throughout the process. Human resources will review with the administrator or designee how the criteria provided in the notification were used in determining which employee(s) are to be separated from college employment as a result of the reduction in force.
5. Human resources will assist the administrator or designee in writing appropriate, individual reduction in force notifications to each affected employee that includes: the action being taken and the effective date of the action; a brief statement as to why the action is being taken; a statement explaining that the employee may obtain special assistance from the human resources department in applying for another position at the college; a statement of the employee's right to appeal (grieve) the reduction in force decision if the employee alleges that college policies have been violated; or the right to appeal under Discrimination and Sexual Harassment Complaint Procedures if discrimination is alleged; and, instructions to contact the human resources office for information on continuation of medical insurance under COBRA. Notifications will be hand delivered or mailed US postal service certified mail at least thirty (30) days prior to the RIF separation. A copy of the written notice to the employee is to be placed in the employee's personnel file.
6. The President may determine that it is in the best interest of the college to pay employees severance pay for thirty days in lieu of a timely notice. In this instance, employees will be provided with the severance check and written notification within three (3) business days.

7. For six (6) months following the date of RIF, employees laid off due to a RIF will be recalled without advertising if an opening occurs in the same department in a position of the same classification within an equal or lower level. If more than one person has been laid off from the same classification and department within the preceding six (6) months, the employee who best meets the qualifications of the position will be offered the position.

Separation Pay

Upon involuntary separation, the employee will receive any compensation due him/her, by placing payment in the US mail within seven (7) business days of the termination.

Date of Adoption: Adoption of Manual

References: ARS 15-1445

The college shall establish procedures for employee separation from employment that conform to federal and state statute and regulations (ARS 15-1445).

Constructive Discharge Pursuant to Arizona Law

An employee is encouraged to communicate to the employer whenever the employee believes working conditions may become intolerable to the employee and may cause the employee to resign. Under Arizona Revised Statutes 23-1502, an employee may be required to notify an appropriate representative of the employer in writing that a working condition exists that the employee believes is intolerable, that will compel the employee to resign or that constitutes a constructive discharge, if the employee wants to preserve the right to bring a claim against the employer alleging that the working condition forced the employee to resign.

Under the law, an employee may be required to wait for fifteen calendar days after providing written notice before the employee may resign if the employee desires to preserve the right to bring a constructive discharge claim against the employer. An employee may be entitled to paid or unpaid leave of absence of up to fifteen calendar days while waiting for the employer to respond to the employee's written communication about the employee's working condition. Constructive discharge may be established by either of the following:

1. Evidence of objectively unpleasant working conditions to the extent that a reasonable employee would feel compelled to resign, or
2. Evidence of outrageous conduct by the employer, managing agent of the employer, including sexual assault, threats of violence directed at the employee, a continuous pattern of discriminatory harassment by the employer or by a managing agent of the employer or other similar kinds of conduct, if the conduct would cause a reasonable employee to feel compelled to resign.

Procedure for Constructive Discharge Complaint by College Employee

1. In order to preserve a claim of constructive discharge, an employee must (1) submit a written statement to the Office of Human Resources, describing in detail the working conditions or conduct of any managing agent of the College which he/she believes constitutes or may constitute constructive discharge, and (2) allow fifteen days for the director's response before resigning.
2. The complaining employee may be entitled to up to fifteen days paid leave at the discretion of the Office of Human Resources pending a response to the employee's claim or complaint. If leave is granted, the employee must keep the director informed as to how the employee may be contacted for further information and/or for service or delivery of the director's response.
3. Upon receipt of the response from the Office of Human Resources, the employee may elect to (1) resign, (2) proceed under formal grievance procedures pursuant to Section 5.160 or (3) treat the matter as resolved and return to work.
4. When a claim of constructive discharge is established, the alleged offending college administrator(s) may be subject to the disciplinary procedures in administrative procedures.

5.170-B

**Separation from Employment
Constructive Discharge**

5.170-B

Date of Adoption: Adoption of Manual

*References: ARS 15-1445
Arizona Revised Statutes 23-1502*

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The employment relationship may be terminated at any time, with or without cause.

Dismissal of an At-Will Employee

The employment relationship of an at-will employees may be terminated at any time, with or without cause. A supervisor, who determines the need to dismiss an employee, will notify Human Resources. Human Resources will evaluate the grounds for termination, seek approval from the appropriate campus dean or chief officer and prepare a written notice of dismissal. The notice will include the reason(s), if any, for dismissal and the effective date.

The notice of dismissal will be given to the employee in person, or via certified mail. No employee will be dismissed for a legally impermissible reason such as race, color, gender, religion, national origin, age, or disability.

Dismissal of a Term Employee

Any faculty or staff member employed under a notice of term appointment may be dismissed mid-term for cause only. A supervisor, who determines the need to dismiss an employee, will notify Human Resources who will evaluate the grounds for termination, seek approval from the appropriate campus dean or chief officer and prepare a written notice of dismissal. The notice will include the reason(s), if any, for dismissal and the effective date.

Appeal

The employee may appeal the decision to dismiss by submitting a written request for a hearing to Human Resources within five (5) workdays of receiving written notice. Failure to submit a written request for an appeal to the Human Resource Office within the time limit results in forfeiture of any appeal rights. Human Resources will convene a hearing, which will proceed in accordance with section 5.165.

President's Review

The findings, conclusions and recommendations of the hearing officer, along with the termination, the employee's notice of appeal and the record of the appeal, will be reviewed by the President. The President shall within ten (10) business days, under unusual circumstances as many as 20 days, forward a written decision to Human Resources. Human Resources shall, within two business days, deliver copies of the decision to all interested parties. Delivery shall be complete upon mailing to the last-known address of each party. The President's decision will be final.

Judicial review of this agency's decision shall be filed in a court of competent jurisdiction, if at all, within 30 calendar days of the date of delivery of the President's decision.

5.170-C

**Separation from Employment
Employee Dismissal**

5.170-C

Date of Adoption: Adoption of Manual

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Arizona Revised Statutes 23-1502*

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Employee Exit Procedures

Upon receipt of notice of an employee's intent to separate from employment, the supervisor shall submit written documentation of the notice to Human Resources. If the employee gives verbal notice, the supervisor shall endeavor to obtain a written notice from the employee. If an employee refuses to provide a written notice, the supervisor shall document the verbal notice and submit it to Human Resources. The employee's last day of employment is the last day that the employee physically works at the assigned work station for a minimum of 50% of the scheduled work day. The last day of employment is considered a leave blackout date and Employees are not generally granted leave on this day, unless approved by Human Resources and the President's Office.

On the employee's last day of employment, the supervisor will meet with the separating employee to review the employee separation checklist and collect any College property the employee may have been issued, including but not limited to: keys, laptop computer or other mobile computing device, name tag, or credit card.

The supervisor submits the completed separation checklist form to Human Resources. The employee will be provided a voluntary exit interview form to be completed and return to Human Resources.

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Arizona Revised Statutes 23-1502*