

SOUTHWESTERN COMMUNITY COLLEGE	HUMAN RESOURCES/INFORMATION TECHNOLOGY <b>REDUCTION IN FORCE - INVOLUNTARY LEAVE WITHOUT PAY</b>	Policy 4.03.08
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## I. POLICY STATEMENT

The College may terminate employment or may require any employee or class of employees to take involuntary leave without pay at any time because of: 1) a financial exigency; or 2) a program change for institutional reasons.

## II. DEFINITIONS

- A. *Employee* means any full-time and part-time employees ~~who are not considered "at will"~~.
- B. Administrative Reorganization means any elimination, curtailment, or reorganization of an administrative department (non-curriculum) of the College, which may or may not be related to financial exigency.
- C. *Financial Exigency* means any decrease in the College's financial resources that are brought about by decrease in enrollment, decrease in funding from any source (federal, state, local, institutional, etc.) or by other action or events requiring the immediate expenditure or diversion of College resources that prevent or inhibit the College's ability to continue the employment or level of the employee's compensation or a class of employees and cause a need for reduction in force and/or involuntary leave without pay.
- D. *Involuntary Leave without Pay* means a period of mandatory separation from work during which an employee may not take or use any form of paid leave. All state-mandated benefits shall continue to accrue during any period of leave without pay.
- E. *Program Change* means any elimination, curtailment or reorganization of an educational offering or support department which may or may not be related to a financial exigency.
- F. *Reduction in Force* means the termination of employment ~~during a contract period~~ as a result of financial exigency ~~or~~ program change, or administrative reorganization. ~~A non-renewal is not considered a reduction in force under this policy; see Policy 4.03.07 — Non-Renewal of Employment Contracts and Resignations.~~
- G. *Termination* means the cessation of employment ~~during the employment contract period~~ due to a reduction in force. For purposes of this policy, Termination does not mean The College does not issue continuing contracts; therefore, the non-reappointment of an employee on a specified term appointment (i.e., annual, semester, etc.) is not a termination. An employee may not appeal a no-objection to the the College's decision to not issue a non-reappointment for a new term may be filed under this Policy. A non-renewal is not considered a termination under this policy; see Policy 4.03.07 — Non-Renewal of Employment Contracts and Resignations.

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### III. INVOLUNTARY LEAVE WITHOUT PAY/REDUCTION IN FORCE

#### A. General Criteria for the President's Decision

All decisions made under this Policy will take into consideration the needs of the population being served with respect to the College's mission and goals while attempting to minimize the level of impact and quality of services provided. Responsibility will rest with the President working collaboratively with senior level administrators to determine the employee(s) affected by involuntary leave without pay or reduction in force based on recommendations from vice presidents, department heads and/or other management personnel associated with the departments where proposed actions will be implemented.

Further, the President will consider relevant factors when considering a reduction in force or, if applicable, involuntary leave without pay, which may include, but are not limited to:

1. Written recommendations regarding staffing needs from supervisors;
2. Specific and overall program enrollment history and needs;
3. Source of available funds and applicable restrictions;
4. Other beneficial service by an employee to the College;
5. Length of service in the North Carolina Community College System with a higher priority being given to the length of service for the College; and
6. Employee performance evaluations.

These factors are not listed in any particular order or rank.

#### B. President's Decision and Notice to Affected Employees

Once the President makes his/her decision, he/she shall give written notice of termination and/or involuntary leave without pay to each affected employee. The written notice will be given as soon as practicable, and in any event, no less than thirty (30) days prior to the effective date of termination and no less than fourteen (14) days prior to a period of involuntary leave without pay. The written notice shall include: 1) a statement of condition requiring termination and/or involuntary leave without pay; 2) a general description of the procedures followed in making the decision; and 3) a copy of this Policy. The President shall also send a copy of the notice to the Chair of the Board of Trustees ("Chair").

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### C. Request for an Appeal and Procedure

Within five (5) business days after receiving a notice from the President, an affected employee may request an appeal to the Board of Trustees. Such appeals ~~may~~ will be held solely to determine whether the decision to terminate through a reduction in force or place the employee on involuntary leave without pay was arbitrary, capricious, discriminatory or otherwise a violation of this Policy or the law.

The employee's request must be in writing and delivered to the Director of Human Resources who will forward the request to the Chair and copy the President. The written notice must specify the grounds on which it is contended that the decision was arbitrary, capricious, discriminatory, or a violation of the law or this policy and must include a short, plain statement of the facts that the employee believes supports the contention.

Not later than ten (10) business days from the President's receipt of the employee's appeal, unless mutually agreed by the parties, the Board of Trustees' Executive Committee ("Committee") shall conduct a hearing pursuant to Section II of Policy 4.03.04 – Right of Appeal. The employee's failure to inform the President that he/she has retained legal counsel for the appeal at least three (3) business days prior to the hearing shall be automatic grounds for a continuance of the hearing if so desired by the College.

No later than ten (10) business days from the hearing, the Committee shall provide the employee with its written determination to uphold, reject or modify the original decision.

### D. Exclusive Remedy

The rights and remedies set forth herein constitute the sole and exclusive procedure in the event of a termination by reduction in force or involuntary leave without pay. No other personnel action or grievance may be asserted or considered under this Policy.

Cross Reference: 4.03.04 – Right of Appeal  
~~4.03.07 – Nonrenewal of Employment Contracts and Resignations~~

Adopted: April 2001

Revised: October 22, 2013  
April 28, 2015  
March 23, 2021