Policy 5.34

Reduction in Force Policy

The President has the right to reduce College personnel in the event of (1) decline in student enrollment, (2) financial exigency, or (3) program or organizational changes for demonstrable, bona fide institutional reasons. The College is committed to rational, consistent and non-discriminatory means of providing for an orderly reduction in College personnel. All contract terminations resulting from a reduction in force circumstances must be made in accordance with the provisions provided in this section.

Definitions

The following terms shall have the meanings indicated:

- "Reduction in force" shall mean the cessation of employment of an employee(s) before the end of an appointment, transfer to a lower paying position; reduction to part-time employment; or reduction in pay; for reasons of enrollment decline; financial exigency, or program change. "Employee" shall mean any individual providing services to the College under an employment contract. This shall include full-time, part-time, salaried or hourly paid individuals. It shall include any agency or institution under a contractual agreement to provide instruction.
- "Decline in student enrollment" shall mean a reduction in student enrollment in a particular program area, both curriculum and non-curriculum, which necessitates the elimination, curtailment, or reorganization of the program when the beginning student enrollment is insufficient to justify its initiation.
- "Financial exigency" shall mean a demonstrable, bona fide reduction in the College's financial resources that is brought about by a decline in enrollment or by other actions or events that compel a reduction in the College's operating budgets.
- "Program or organizational change" shall mean any elimination, curtailment, or reorganization of a program or division within the College, the reasons for which are not related to decline in student enrollment or financial exigency but are related to a demonstrable, bona fide institutional circumstances.
- "Day," except where calendar day is specified, shall mean every day including Saturday, Sunday, and faculty work days, but does not include official College holidays.
- "College or Institution" shall mean Beaufort County Community College.
- "Board" shall mean the Board of Trustees of Beaufort County Community College.

Procedures

- The President shall monitor the availability of financial resources, program needs, College enrollment, and staffing requirements.
- If the President, decides that (i) a state of financial exigency exists or is imminent, or a significant decline in student enrollment has occurred or should seriously be considered and (ii) termination of employment of one or more employees may be required as a consequence of any of these circumstances, he/she shall prepare a statement that identifies with reasonable particularity the state of financial exigency, decline in student enrollment, or the program, or organizational change. The statement shall outline in terms as specific as circumstances permit, the options readily apparent to the President at the time, including any options that would or might involve termination of employment. The following prioritized determination criteria shall be utilized.
    - Necessity to College operations in order to maintain a sound and balanced program consistent with the purpose of the College.
    - Employee performance.
    - Relative skills, knowledge, productivity and value of employee.
    - Degrees held, where applicable.
    - Seniority, when applicable.
- If the President acts to terminate the employment of one or more employees, he/she shall give written notice of that fact by registered or certified mail, return receipt requested, to the employee(s) to be terminated. The notice shall include a statement of the conditions requiring termination, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data on which the decision was based, and the date of separation which shall not be less than thirty (30) calendar days after the employee receives notice of the President's action.

Due Process

- Within ten (10) calendar days after receiving a notice of termination, an employee may request a review of the President's action by the Board, which may, in its discretion, refer the matter to a hearing committee appointed by the Board, charged with conducting hearings on a Reduction in Force. The hearing shall be held solely to determine whether the decision to terminate was arbitrary or capricious with respect to the individual. The request for review must be in writing and addressed to the Chair of the Board. It must specify the grounds on which it is contended that the decision was arbitrary or capricious and must include a short, plain statement of facts that the employee believes support the contention. Submission of such a request constitutes on the part of the employee (i) a representation that he/she can support his/her contention by

factual proof and (ii) an agreement that the College may offer in rebuttal of his/her contention any relevant data in its possession.

The Board shall consider the request and shall grant a hearing if it determines (i) that the request contains a bona fide contention that the decision to terminate was arbitrary or capricious and (ii) that the facts suggested the contention. A denial of the request finally confirms the decision to terminate, and the Board shall so notify the employee. If the request is granted, a hearing shall be held within ten (10) days after the request is received; the employee shall be give at least five (5) days notice of the hearing.

- The hearing shall be conducted informally and in private, with only the members of the Board or the hearing committee appointed by the Board, the employee, the President, the division deans, and such witnesses as may be called. In addition the employee and the President may each be accompanied by a person who may give council but may not participate directly in the hearing. A quorum for the purposes of the hearing shall be a simple majority of the Board's membership, unless a hearing committee is appointed. Any Board member having a conflict of interest shall disqualify himself/herself. If requested, a transcript of the proceeding shall be made and given to the employee, together with a bill for the cost if the Chair so decides. The Board or hearing committee shall consider only such evidence as is presented at the hearing that it considers fair and reliable. Witnesses may be questioned by the Board or committee members, the employee and the President. Except as otherwise provided, the conduct of the hearing shall be under the Chair's control.

  The employee shall first present contentions, limited to those specified in the request for hearing and supported by such proof as he/she decides to offer. When his/her presentation concludes, the Board shall recess to determine whether the proof established the contention, unless it is rebutted. If it determines that the contention has not been established, it shall notify the parties and conclude the proceedings. This action shall finally confirm the decision to terminate. If it decides that rebuttal is desirable, it shall notify the parties and the hearing shall proceed. The President may then present such testimony or documentary proof as he/she desires to offer, including his/her testimony.

  After the President completes his/her presentation, the Board or the hearing committee if so appointed, shall consider the matter in executive session. The burden shall be on the employee to satisfy the Board or hearing committee by a preponderance of the evidence that the decision to terminate was arbitrary and capricious.

- If the Board determines that the employee's contention has not been established, it shall so notify the employee and the President. Such determination finally

confirms the decision to terminate. If the Board determines that the employee's contention has been established, it shall notify him/her and the President by a written notice which includes necessary corrective action. If the hearing committee is appointed, and the committee determines that the employee's contention has been established, the committee chair shall notify the employee, the President, and the Board by a written notice including recommendation for corrective action to be taken by the Board. In all cases where a hearing committee has been appointed, the committee's decision shall be advisory to the record of evidence offered before the hearing examiner, and the employee shall not have a right to a trial de novo before the Board.

Obligations with Respect to Re-employment or Other Employment

- For one year after the effective date of a termination pursuant to these provisions, the President shall not fill the vacated position without first offering the position to the terminated employee. The offer of re-employment shall be made by registered or certified mail, return receipt requested, and the employee must accept in writing within fifteen (15) calendar days. His/her failure to do so eliminates all employment rights of the employee.
- An employee who is recalled within one year of termination shall have restored to him/her all of the sick leave and unused personal leave he/she had accrued to the effective date of his/her termination.

Exclusive Procedure

This procedure is the only one that may be used in a reduction of force. Any existing procedure for reconsidering or examining an employee discharged,, non-reappointment, or grievance is not available for considering an issue that arises for a reduction in force. Similarly, no personnel action other than a reduction in force may be considered under this procedure.

References

Legal References: *1C SBCCC 200.94*

SACSCOC References: *Enter SACSCOC references here*

Cross References:

History

Senior Staff Review/Approval Dates: *11/6/13*

Board of Trustees Review/Approval Dates: *11/6/13*

Implementation Dates: *Enter date(s) here*