



# EL PASO COMMUNITY COLLEGE PROCEDURE

For information, contact Institutional  
Effectiveness: (915) 831-6740

**DMC-2**

## **Reduction in Force of Contracted Administrative, Professional, and Classified Staff**

(Working Draft: Considered Official)

**APPROVED:**

Year of last review: 2021

**REVISED:**

**AUTHORIZING BOARD POLICY: DMC**

Classification: Institutional

Vice President or Associate Vice President: Vice President of Financial and Administrative Operations

Designated Contact: Executive Director of Human Resources

**OBJECTIVE:** To establish a uniform procedure for implementing a Reduction In Force (RIF) at the College for contracted, full-time administrative, professional, and classified staff and part-time employees (jointly, "Staff,") due to financial exigency, program change, or other business necessity.

### **PROCEDURE:**

**I. DEFINITIONS:** For the purposes of this procedure, the following definitions of terms will apply:

1. "Reduction in Force" is the dismissal of Staff employees within a particular unit, department, division, support area, campus or location, for reasons of financial exigency, program change, or other business necessity.
2. "Financial exigency" is any decline in the College's financial resources caused by a decline in enrollment, cuts in funding, a decline in tax revenue, budgetary changes, or any other action or event that creates a need for the College to reduce financial expenditures.
3. "Program change" is any elimination, curtailment, or reorganization of a curriculum offering, program, instructional discipline, or College operation due to the lack of student enrollment in particular course offerings, legislative revisions to program funding, reorganization or consolidation of two or more departments in the College, or any other reason necessitating a program change.
4. "Business necessity" is a legitimate business purpose that justifies an employment decision as effective and needed to achieve the College's goals and ensure that operations run safely and efficiently.
5. "Staff employee" is a contracted and non-contracted, full-time Administrative, Professional, and Classified staff employee, and part-time employee of the College.
6. "Contracted Staff Employee" is a Staff employee who is subject to an employment contract of the College.
7. "Furlough" is a temporary, involuntary, unpaid leave of absence from work, a reduction of work hours, or reduction in pay, for a designated period of time, as determined by the College.

### **II. GENERAL PROVISIONS**

1. A Reduction in Force may take place when the College President determines that financial exigency, program change, or other business necessity requires the discharge of one or more Staff employees in the affected areas. Such determination constitutes adequate cause for contract termination or non-renewal of contracted Staff employees in the affected areas.
2. All Staff contracts must contain a provision that a Reduction in Force constitutes adequate cause for termination or non-renewal of contracted Staff employees whenever the College President determines that financial exigency, program change, or other business necessity requires the discharge of one or more Staff employees in the affected areas.

3. Reduction in Force decisions will be made without regard to a Staff employee's race, creed, color, national origin, citizenship status, age, disability, pregnancy, religion, gender, sexual orientation, gender identity, genetic information, marital status, veteran status, or any other legally protected characteristic. Additionally, Reduction in Force decisions will be made without regard to a Staff employee's exercise of rights guaranteed by the Constitution or rights conferred by statute, including, but not limited to, the Family Medical Leave Act, Uniformed Services Employment and Reemployment Rights Act, and the Texas Whistleblower Act.
4. This procedure does not address or govern modification in or the elimination of jobs due to changes in funding for grants or external contracts, as the College is not obligated to provide funding that compensates for the diminished sources of funding available to pay the salary of Staff employees employed under grants or external contracts.
5. This procedure does not address or govern modification in or the elimination of jobs of non-contracted Staff employees, or part-time employees, as they are employees at-will in accordance with Texas law and as such, are subject to separation at any time for no reason or any non-discriminatory reason, including Reduction in Force.
6. This procedure does not address or govern the dismissal of any Staff employee for misconduct, unacceptable performance, or other reasons that are not due to a Reduction in Force.
7. This procedure does not apply to non-contracted administrative staff, professional staff, classified staff, or part-time employees, who are at-will employees of the College and are subject to termination at any time, for no reason or any non-discriminatory reason, including Reduction in Force.
8. A leave of absence will not be granted in lieu of a Reduction in Force.

### III. EMPLOYMENT AREAS THAT MAY BE AFFECTED

1. A Reduction in Force may be implemented in one, several, or all divisions and departments of the College.
2. The College President's Cabinet, with advice from Human Resources/Employee Relations, will make recommendations to the College President to assist the College President in determining the employment areas to be affected. The College President will review such recommendations and make the final determination regarding which employment areas are to be affected.
3. In determining employment areas to be affected, the College President may combine and/or coordinate employment areas or may identify programs within the employment areas to be affected.

### IV. PROCEDURES

#### 1. Preliminary Measures

The following measures may be considered prior to or in conjunction with the implementation of a Reduction in Force, in no particular order of importance or preference:

- a. Reduce or temporarily freeze departmental budgets, and/or specific line items within budgets. This may include, but is not limited to, the option to reduce or freeze expenditures in one area while increasing expenditures in other areas, resulting in a net budget reduction;
- b. Permanently recoup budgeted salaries for full-time or part-time positions that have been vacant for at least 18 months;
- c. Reduce the pay or benefits of one or more unit, department, division, support area, campus or location, and/or individual positions within those components;
- d. Job sharing;
- e. Cross-training;
- f. Furloughs;

g. Incentives for voluntary separation;

h. Other cost-saving considerations.

## 2. Criteria for Selection

The College may apply the following criteria, in no particular order of importance, to full-time contracted Staff employees, and will apply the former foster child preference and Veteran's preference as appropriate under Chapters 657 and 672 of the Texas Government Code, respectively, when identifying the particular Staff positions to be reduced:

- a. *Qualifications and Background.* The contracted Staff employee's total work experience in the field may be considered, as reflected in, by example only, special certification(s) or license(s), specialized skills and training, such as proficiency in use of equipment or programs, and transferable skills.
- b. *Performance and Conduct.* The contracted Staff employee's overall effectiveness may be considered, as reflected in, by example only, written evaluations, appraisal documentation, disciplinary documentation, and/or other communications regarding performance or conduct in the last three academic years.
- c. *Seniority.* The contracted Staff employee's length of continuous years of service in the College may be considered, which will be determined by calculating continuous service in the College, as measured from the contracted Staff employee's most recent date of employment as a contracted Staff employee. An authorized leave or break in College employment of fewer than six months will not be considered an interruption of continuous service.

## 3. Final Action

After considering appropriate recommendations, the College President will determine the contracted Staff positions to be reduced.

## 4. Notice

Contracted Staff employees subject to a Reduction in Force will be given notice of the College President's decision if their position is reduced. The College will comply with applicable law, if any, regarding notice requirements to contracted Staff employees.

## V. APPEAL FOR CONTRACTED STAFF EMPLOYEES

1. *Termination during the term of a contract.* A determination of financial exigency, program change, or other business necessity requiring a Reduction in Force constitutes adequate cause for termination of a contracted Staff employee during a contract term. Termination by Reduction in Force of contracted Staff employees may be appealed through the grievance procedure afforded under Board Procedure 3.43.02.10, except that the initial step of the grievance must be taken, if at all, within five (5) business days of receiving written notice of the Reduction in Force, and will start at Level III of the grievance, with the appropriate Vice President or equivalent Senior Administrative Supervisory Official.
2. *Nonrenewal of a contract at the end of the contract term.* A determination of financial exigency, program change, or other business necessity requiring a Reduction in Force constitutes adequate cause for the nonrenewal of a contracted Staff employee at the end of a contract term. Appeal of the contract non-renewal at the end of a contract term due to a Reduction in Force will be handled in accordance with the process afforded under Board Policy 3.43.03.
3. *Dismissal of non-contracted staff employees.* Dismissal by Reduction in Force of a non-contracted staff employee may be appealed through the grievance procedure afforded under Board Procedure 3.43.02.10, except that the initial step of the grievance must be taken, if at all, within five (5) business days of receiving written notice of the Reduction in Force and will start at Level III of the grievance, with the appropriate Vice President or equivalent Senior Administrative Supervisory Official.
4. *Veteran's Preference.* A staff employee who believes he or she did not receive a Veteran's employment preference for his or her retention in a Reduction in Force may utilize the grievance procedure in Board Policy 3.43.01.10.

5. *Former Foster Preference.* A staff employee who believes he or she did not receive former foster child preference for his or her retention during a Reduction in Force may utilize the complaint procedures outlined in Texas Government Code § 672.004, as amended.

## VI. EFFECT OF REDUCTION IN FORCE ON COMPENSATION AND BENEFITS

Compensation and benefits of Staff employees dismissed, as a result of a Reduction in Force will be affected, as follows:

1. All eligible accrued vacation will be paid within 6 days of the date of separation. The eligible accrued sick leave percentage will be calculated in accordance with EPCC policies and procedures and will be paid within 6 days of the date of separation.
2. If a staff employee elects to have health insurance through the College, the College will continue to provide health insurance in accordance with existing law and health benefit program requirements. Staff employees who wish to remain covered, or have their families remain covered, under the College's health insurance policy after the College has met its legal obligations to provide such coverage, may elect continuation of coverage through the Consolidated Omnibus Benefit Reconciliation Act (COBRA). Medical and dental insurance may continue under the provisions of COBRA if the Staff employee timely elects continuation of coverage and pays the COBRA monthly premium(s).
3. Compensation and benefits may be otherwise affected, as required or allowed by law or EPCC policy or procedure.

## VII. REHIRE

1. A Staff employee dismissed as a result of a Reduction in Force is eligible to re-apply for any vacant position for which he or she is qualified and will be considered for employment on the same basis as to all other applicants. Former Staff employees will be responsible for reviewing posted vacancies and complying with College application procedures to be considered for a particular vacancy.
2. Credited service and other benefits, such as sick leave and vacation, will not accrue after dismissal of a Staff employee as a result of a Reduction in Force. However, if a contracted staff employee is re-employed and returns to a benefits-eligible contracted Staff position within six (6) months of the date of dismissal, such contracted staff employee previously dismissed as a result of a Reduction in Force will have credited service restored and will begin to accrue vacation at the accrual rate that was applicable as of the date of the Reduction in Force dismissal.