



REDUCTION IN FORCE

POLICY

The Reduction in Force Policy of Brunswick Community College is designed for the termination of an employment contract due to the lack of sufficient funding as determined by the President after consultation with administrative personnel and the Finance Committee of the Board. All decisions made under this policy will take into consideration the needs of the population being served with respect to the mission and goals of the College while minimizing the negative impact on the level and quality of services provided.

PROCEDURES

Definitions

For purposes of this policy, the following terms have the meanings indicated:

1. **Termination:** The cessation of employment of an employee before the expiration of the contract term or non-renewal of a contract for reasons of financial exigency.
2. **Employee:** Any full-time or part-time (30 hrs.) employee of Brunswick Community College.
3. **Financial exigency:** Any significant decline in the College's financial resources brought about by a decline in enrollment or by other actions or events compelling a reduction in the College's current operations budget.
4. **Cabinet:** President's direct reports.
5. **Day:** Where calendar day is specified, means every day including Saturdays, Sundays and instructor work days, but does not include official school holidays.
6. **School and College:** Brunswick Community College.
7. **Board:** The Board of Trustees of Brunswick Community College.

Factors to Be Used In Implementing a Reduction in Force Program

1. A determination of the services or programs which can be eliminated or which can be assumed by other offices, persons and/or departments.
2. Consideration of employees' skills, qualifications, credentials, knowledge and productivity of employees as determined by personnel files, institutional records, and evaluation records with specific emphasis given to immediate supervisor's recommendation, and length of service at Brunswick Community College.



3. A comparison of qualifications of personnel including any personnel who must meet required standards of external agencies (Southern Association of Colleges and Schools, the NC State Board of Nursing, the NC State Board of Cosmetic Art, etc.)

Considerations in Minimizing the Negative Impact of a Reduction in Force Policy

The Board of Trustees may utilize any of these actions, but is not limited to those listed below. These possible considerations are not listed in order of usage or preference.

1. Full-time employees assuming duties normally assigned to part-time personnel, when feasible.
2. Employees voluntarily assuming more responsibilities.
3. Vacant positions that are judged not to be critical or which can be assumed by other College personnel not being filled.
4. Implementation of temporary changes in employment such as voluntary vacations without pay, summer lay-offs and/or reduced hours rather than termination whenever possible.
5. Across-the-board voluntary percentage reduction in salary.

Steps/Process

President's Preliminary Determination and Statement

If the President decides a state of financial exigency exists or is imminent and termination of employment of one or more employees may be required, he/she shall develop a statement regarding the state of financial exigency. The statement shall be forwarded to the members of the Cabinet.

Cabinet Action

The Cabinet, in cooperation with the President, shall outline in terms as specific as circumstances permit the options readily apparent at the time, including any options that would or might involve termination of employment. Factors included earlier in this policy may be used in identifying options.

Within five (5) days of the Cabinet's decision, the President will prepare a statement for the Finance Committee of the Board of Trustees which reflects the financial exigency and identified options. Simultaneously, a summary of the statement shall be published by any reasonable means to bring it to the attention of all employees. The published statement shall reflect that the subject has been referred to the Finance Committee for consideration.



Finance Committee Action

After receiving the statement from the President, the Finance Committee may obtain advice and recommendations from any College personnel it deems necessary. Within ten (10) days after it receives the President's statement and having due regard for the advice and recommendations received from both the President and other College personnel, the Finance Committee shall determine whether any option involving terminations must be acted upon. The Finance Committee will notify the President and the Chair of the Board of Trustees of their decision.

Notice to Individual Employees

The President will give written notice by registered or certified mail, return receipt requested, to the employee(s) who may be terminated.

Whenever possible, the President shall make reasonable efforts, consistent with the need to maintain sound educational programs within the limit of available resources, to give not less than thirty (30) calendar days' notice before termination of employment.

Review of Individual Terminations

1. Request for a Hearing

Within ten (10) days after receiving a notice of termination, an employee may request a review of the action by the Board, which may, at its discretion, refer the matter to a hearing examiner appointed by the Board. The hearing examiner will be charged with conducting hearings on a reduction in force. Hearings will be held solely to determine whether the decision to terminate was arbitrary or capricious with respect to that individual.

The request for a hearing must be in writing and addressed to the Chair of the Board of Trustees. The request for hearing must specify the grounds on which the employee feels that the decision was arbitrary or capricious and must include a short statement of facts that the employee believes supports his/her position.

The Board shall consider the request and shall grant a hearing if it determines that the request contains a bona fide contention that the decision to terminate was arbitrary or capricious and that the facts support 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 given at least five (5) days' notice of the hearing.

2. Conduct of the Hearing

The hearing shall be conducted informally and in private, with only the members of the Board (or the hearing examiner appointed by the Board), the employee, the President and such



witnesses as may be called by the employee, the President or the Board. However, the employee and the President may each be accompanied by a person who may give counsel but may not participate directly in the hearing. A quorum for purposes of the hearing shall be a simple majority of the Board's membership, unless a hearing examiner shall be appointed. Any Board member having a conflict of interest shall disqualify himself/herself.

If the Board decides to appoint a hearing examiner, his/her position shall be advisory to the Board. The hearing examiner may make recommendations to the Board; however, the Board shall make the final decision on the basis of the record of evidence offered before the hearing examiner. The employee shall not have a right to a new hearing before the Board.

The Board (or hearing examiner) shall consider only the fair and reliable evidence that is presented at the hearing. Witnesses may be questioned by Board members (or hearing examiner), the employee, and the President. Except as otherwise provided, conduct of the hearing shall be under the Chair's control.

The employee shall first present information limited to the information specified in the request for hearing and supported by such proof as he/she decides to offer. When the employee's presentation concludes, the Board (or the hearing examiner) shall meet privately to determine whether the proof establishes the contention. If the Board determines that the contention has not been established, it shall notify the parties and conclude the proceeding, which action shall finally confirm the decision to terminate. If the Board decides that rebuttal is desirable, it shall notify the parties; and the hearing shall proceed. The President may then present such testimony or documentary proofs as he desires to offer, including his own testimony.

After the President completes his presentation, the Board (or the hearing examiner) shall consider the matter in executive session. The burden shall be on the employee to satisfy the Board (or hearing examiner) by a preponderance of the evidence that the decision to terminate was arbitrary or capricious.

3.Procedure after Hearing

If the Board determines that the employee's contention has not been established, it shall so notify the employee and the President in writing. Such a 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 a hearing examiner is appointed and he/she determines that the employee's contention has been established, he/she shall notify the President and the Board by a written notice including recommendations for corrective action to be taken by the Board. In all cases where a hearing examiner has been appointed, his/her decision shall only be advisory to the Board. The Board shall make the final decision on the basis of the record of evidence offered before the hearing examiner, and the employee shall not have a right to a new hearing before the Board.



Obligations with Respect to Re-employment or Other Employment

1. An employee who is separated through a reduction in force will be given priority consideration for re-employment during the next twelve months assuming he/she meets the requisite performance standards and qualifications.

Any offer of re-employment shall be made by registered or certified mail, return receipt requested, and the employee must accept in writing within thirty (30) calendar days of the date mailed. Failure to do so eliminates all employment rights of the employee.

2. Any employee terminated will receive payment for any annual leave earned and not taken. An employee who is recalled within five years of termination shall have restored to him/her all of the unused sick leave which had accrued to the effective date of the termination.
3. Brunswick Community College will remain responsible for employee only coverage through the State Health Plan for a period of no more than a year.
4. When requested by the person whose employment has been terminated, the College shall give him/her reasonable assistance in finding other employment.

Exclusive Procedure

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

Approved by the Brunswick Community College Board of Trustees
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