

R963-1. Purpose: To outline the OCHE Policy with respect to the reduction in force of regular Staff employees.

R963-2. References

- 2.1. Policy and Procedure R928, Leaves of Absence (Health-Related)
- 2.2. Policy and Procedure R931, Holidays and Holiday Premium Pay
- 2.3. Policy and Procedure R932, Vacation Leave
- 2.4. Policy and Procedure R951, Staff Employee Grievances
- 2.5. Policy and Procedure R952, Discrimination and Sexual Harassment Complaints

R963-3. Definitions

- 3.1. **Preceding 12 month period:** The 12 month period immediately preceding the date upon which the request for approval from Human Resources to implement a reduction in force.
- 3.2. **Reduction in Force:** The elimination of positions or reduction in FTE (full-time equivalency) due to lack of work, lack of funds, budget constraints, work unit reorganization, or other business reasons.
- 3.3. **Seniority:** Status attained by total length of service in a benefit eligible position with OCHE, not length of service within the position or length of service within the work unit.

R963-4. Policy

4.1. **Reductions in Force:** When a work unit determines that a reduction in force is necessary, it shall send a written request to Human Resources and obtain approval from Human Resources prior to implementing a separation from employment.

4.1.1. Prior to requesting approval from Human Resources, the work unit shall identify the position(s) or job title(s) to be eliminated within the work unit.

4.1.1.1. The naming of position(s) or job title(s) that are to be eliminated during a reduction in force is a work unit decision, and cannot be grieved.

4.1.1.2. If a work unit is going through a reorganization, this policy does not require that there be an elimination or reduction in total FTE positions (full-time equivalency) in the work unit. The fact that a work unit is in need of a substantially different job position, with different skill sets, to complete its work, is sufficient to invoke this policy.

¹ Adopted January 9, 1987; replaced April 21, 2006.

4.1.2. After notification of approval from Human Resources, the work unit shall provide written notice of the reduction in force action to each affected employee, either delivered personally to the employee, sent by email or mailed to his/her last known address.

4.2. **Boundaries:** The boundaries of consideration for a reduction in force action shall be identified as the work unit, unless there is a business reason to assign boundaries based on distinct units/groups within the work unit.

4.2.1. In order to contract or expand the boundaries for a reduction in force, the work unit must make a written request to Human Resources.

4.2.2. The work unit must receive written approval of the new boundaries from Human Resources before the boundaries will become effective.

4.3. **Separation during a Reduction in Force:** Once the positions to be eliminated have been identified, the work unit shall then identify employees working within the work unit in the same job classifications, and apply the following criteria to determine which employee(s) shall be separated from employment:

4.3.1. If there are any employees in the position(s) or job title(s) selected by the work unit who are Temporary Staff, they shall be released prior to any other employees.

4.3.2. Regular employees in the position(s) or job title(s) selected by the work unit who are in their probationary period shall be released after all Temporary Staff employees in the position or job title selected have been released.

4.3.3. After all Temporary Staff and Probationary Period staff in the position (s) or job title (s) selected by the work unit have been released, (or if there were no such employees), Permanent Staff employees in the position (s) or job title (s) selected who have:

4.3.3.1. received a written performance evaluation within the preceding 12 months which documents performance substantially lower than the other employees in the position or job title selected; or

4.3.3.2. received a written corrective or disciplinary action within the preceding 12 months period;

shall be released before the other Permanent Staff employees in the position (s) or job title (s) selected.

4.3.4. After all the Temporary, Probationary Period, and Permanent Staff employees with corrective or disciplinary problems in the selected position(s) or job title(s) have been released, seniority will govern the selection of the Permanent Staff employee(s) in the position (s) or job title(s) to be released. Contracts and applicable federal laws may subject employees to different procedures and requirements.

4.4. **Rehire:** A Permanent Staff employee in good standing (no Final Written Warning) who has been affected by a reduction in force shall be given a preference during the job hiring process at OCHE after the effective date of notification of separation. An employee subjected to a reduction in force who fails to receive an interview for a specific position due to a Final Written Warning may request an interview by submitting an appeal to Human Resources.

4.4.1. If the regular employee who was separated from employment based on a reduction in force applies for an open position at or below the same grade level and meets the minimum qualifications of the open position, the work unit having the opening shall interview the employee.

4.4.2. A work unit interviewing regular employee(s) who have been separated due to a reduction in force is not required to consider other applicants for the open position. The only exceptions would be the possible need to interview other applicants entitled to a preference.

4.4.3. The preferences listed above shall continue for up to six (6) months after the effective date of notification of separation.

4.5. **Reinstatement:** A regular employee who is separated from employment due to a reduction in force and who thereafter is rehired to OCHE within 180 calendar days shall:

4.5.1. be reinstated with his/her original date of hire without loss of benefit entitlement, and

4.5.2. will not be required to serve a new six (6) month probationary period.

4.6. **Unused Leave:** When an employee is separated due to a reduction in force, the employee's unused Vacation leave and Overtime or Compensatory time will be paid out to him/her up to the limit in other policies at the time of separation.

4.6.1. An employee separated due to a reduction in force will not be paid out accrued sick leave or unused Personal Preference days.

4.6.2. When an employee is affected due to a reduction in force and is rehired, s/he will not accrue Sick Leave, Personal Preference days or Vacation Leave during the period between separation and rehire.

4.7. **Notice and Severance Pay:** A Regular Staff employee who is affected by a reduction in force shall be given written notice of the reduction in force at least four (4) business weeks prior to the effective date of the reduction in force.

4.7.1. An employee shall continue as a paid employee of OCHE for 30 days from the date of notice, whether or not they are required to report to work.

4.8. **Reestablishment of a Position that was the Subject of a Reduction in Force:** Reestablishment of a permanent staff position that has been subject to a reduction in force action within the last 12 months shall require prior consultation with Human Resources and approval from the Cognizant Associate Commissioner and Human Resources.

4.8.1. When a position that has been eliminated due to a reduction in force action is reestablished within 12 months of the initial reduction in force separation date, the employee affected by the reduction in force shall be given first right of refusal for rehiring into the position.

4.9. **Grievance Rights:** A Permanent Staff employee has the right to the grievance process found in R951, Staff Employee Grievances, but only if s/he believes that the procedures pertaining to this policy have been violated.

4.9.1. An employee who is separated while s/he is in an "at-will" employment status is not entitled to the grievance process under R951.

4.9.2. An employee who is in an "at-will" employment status may file a complaint under R952, if s/he believes s/he has been discriminated against on the basis of race, color, religion, national origin, sex, age, sexual orientation, or status as a disabled individual, or disabled veteran.