

WEST VIRGINIA STATE UNIVERSITY BOARD OF GOVERNORS

West Virginia State University

BOG Policy #4

Title: Seniority as Related to Reduction in Work Force

Section 1. General

1.1 Scope: To provide the framework for creating reductions in the workforce of full-time classified personnel. These activities include i) the creation of a preferred recall list, ii) a renewal of listing and iii) a notice of vacancies.

1.2 Purpose: To formalize the procedures for implementing layoffs and reassignments of full-time classified employees.

1.3 Authority: West Virginia Code Section §18B-7-1.

1.4 Effective Date: September 4, 2003

Section 2. Considerations Determining Layoff and Recall

2.1 Layoffs may be determined by classification for reason of lack of funds or work, or abolition of position, or material changes in duties or organization;

2.1.1 Consideration for recall of employees so laid off will be given to an employee's seniority as measured by permanent employment in the service of the state system of higher education.

2.2 A full-time classified employee facing layoff will first be considered for reassignment to vacant positions within the University and such reassignment may be made at the University's discretion and upon the authority of the President, or his/her designee;

2.2.1 If the employee refuses such reassignment to a position within the same paygrade, he or she relinquishes rights outlined in WV State Code Section §18B-7A-1 and will be terminated;

2.2.2 If the vacant position is in a lower paygrade, and the employee refuses reassignment and is subsequently laid off, he or she will retain all recall rights;

2.2.3 If reassignment attempts are unsuccessful and a layoff is imminent, the employee will be given an opportunity, pursuant to procedures, to displace the least senior employee in the same paygrade or lower pay grade within the University for which the senior employee is qualified, if such position exists.

2.3 If a non-exempt vacant position exists at a higher paygrade, that position will be filled pursuant to WV State Code Section §18B-7A-1 (d).

2.3.1 Exempt level vacant positions will be advertised and filled according to the WVSU Staff Handbook regarding the “Filling of Vacant and New Positions;”

2.4 If displacement is not possible, or if the employee refused displacement rights offered by the University to a lower paygrade, the employee will be laid off with rights of recall.

Section 3. Layoff and Recall Procedures

3.1 An employee will be given a minimum of two weeks written notice prior to the effective date of the layoff;

3.1.1 Such written notice will be sent certified mail to the employee’s last known address of file with the University;

3.1.2 Each notice of the layoff will contain the following information:

1. The reason for the layoff,
2. The effective date of the layoff,
3. A copy of this policy,
4. A statement that the employee is responsible for maintaining a current address with the University, and
5. A statement that an effort will be made to reassign the employee prior to the target date of the layoff.

3.2 The President, or his/her designee, is charged with the responsibility to reassign the employee affected by impending layoff into vacant positions of the same paygrade within the University, for which their qualifications meet position requirements;

3.2.1 If reassignment to a vacant position in the same paygrade is not possible, an employee may desire and be allowed to be voluntarily assigned to a vacancy in a lower paygrade for which he/she is qualified in order to avoid the layoff, but must have been advised of his/her displacement rights upon the layoff;

3.3 The Assistant Vice President for Administrative Affairs or his/her designee will evaluate the qualifications of the affected employee against the requirements of the vacant position(s);

3.3.1 The appropriate person will interview the affected employee and supervisor to verify information before determining which position the employee should be offered, if any;

3.3.2 The vacant position(s) within the University in which the employee affected by layoff may be placed will be exempted from posting requirements and exempted from provisions of WV State Code Section §18B-7A-1 (d);

3.3.3 The employee will be notified by the President’s designee as to his/her reassignment.

3.4 In the event that attempts at reassignment have been unsuccessful, the incumbent in the affected position will be evaluated by the Assistant Vice President for Administrative Affairs based upon qualifications in comparison to position requirements for jobs held by the least senior employees in the same paygrade, and for jobs held by the least senior employees in lower pay grades within the University.

3.4.1 The University may assign the employee in accordance with needs of the University and institutional policy;

3.4.2 As each paygrade is reviewed, displacement consideration must be by seniority, beginning with the least senior employee in that classification;

3.4.3 This process will continue until the affected incumbent displaces an employee pursuant to WV State Code Section §18B-7A-1, refuses to displace another employee, or is found not to qualify for displacement rights in a job title in any lower paygrade.

3.5 In the event of simultaneous multiple position eliminations resulting in several employees having displacement rights over the same position, those rights must be exercised in order of seniority, with the most senior affected employee having first priority of displace;

3.5.1 In all cases of identical seniority ratings, the priority will be determined by a random selection method.

3.6 For the purposes of benefits, employees laid off will be deemed as terminated for purposes not involving misconduct on the part of the employee and will be treated as such under all applicable state and federal laws, rules and regulations;

3.7 According to WV State Code Section §18B-7A-1 (c) “Any employee laid off during a furlough or reduction in force shall be placed upon a preferential recall list and shall be recalled to employment by the University on the basis of seniority;”

3.7.1 An employee’s listing with the University shall remain active for a period of one calendar year from the date of termination or furlough or from the date of the most recent renewal;

3.7.2 If an employee fails to renew the listing with the University, the employee’s name will be removed from the list;

3.7.3 An employee placed on the preferred list shall be recalled to any position opening by the University with the classification(s) in which the employee had previously been employed or to any lateral position for which the employee is qualified;

3.7.4 An employee on the preferred recall list shall not forfeit the right to recall by the University if compelling reasons require such employee to refuse an offer of re-employment by the University.

3.8 Each employee recalled from the layoff will be notified of the offer of reinstatement or re-employment by certified letter;

- 3.8.1 The notice of reinstatement will contain a statement that a refusal of reinstatement, except for compelling reasons, will result in removal of the employee's name from the recall list;
- 3.8.2 For the purpose of recall the employee will be responsible for keeping a current address and telephone number of file with the Human Resources Office and maintain an up-to-date application and/or resume on a yearly basis.
- 3.9 Each employee recalled from the layoff will have five working days from the date of receipt of a certified letter to accept the offer of employment, or explain compelling reasons why they cannot;
- 3.10 The employee will not be placed in a probationary status if they had fulfilled that obligation previously;
- 3.11 The employee's salary will be determined as follows: if the new position is considered a demotion from the employee's previous position, a five percent reduction per paygrade, pursuant to Series 8 of the Policy Commission's Rules, will be applied to that base salary.