Section III. Employment

A. Externally Funded Positions

Externally funded positions are those funded by resources other than College general funds. Employees hired into positions funded from sources other than College general funds are considered externally funded employees. General funds are generated from property taxes, and tuition. All other funding sources are considered external, including but not limited to, grants, contracts, inter-governmental agreements, student fees, donations, athletic revenue, etc.

Externally funded employees are covered by the terms and conditions of the Exempt Personnel Policy Statement, with the following exceptions:

1. Employment in the externally funded position is contingent upon the continuation of external funding.

2. Externally funded regular employees are eligible to compete for any vacant positions and participate in the regular recruitment process.

3. Externally funded employees do not have seniority or reassignment rights within the College general funded employment process. A regular College employee who is notified his/her externally funded position is ending, prior to the end of his/her external funded position shall be eligible to interview and be considered for a regular vacant position at the same or lower level salary grade level.

4. Regular general funded college employees placed into externally funded positions through a College-initiated appointment shall retain the right to revert to a regular general funded position or a position of comparable wage and duties within the College upon the expiration of the position or external funds.

5. Regular general funded college employees who successfully compete for an externally funded position effectively resign and voluntarily give up their rights to the general funded position and become subject to the provisions of 1-3 stated above in Section III. A.

Institutionalization of externally funded programs or projects is subject to the terms and conditions of the external funds agreement as well as to the College’s ongoing program needs, funds availability and other conditions.

B. Performance Evaluation

The purpose of a performance evaluation is to: review the duties of the position; communicate performance expectations; assist employee in accomplishing job assignments; provide supervisory feedback; afford the employee a formal opportunity to discuss successes/difficulties that occurred within the review period, and establish goals for the next review cycle. The
performance evaluation process is designed to work with and encourage the informal day-to-day practice of performance feedback.

Employee job performance will be evaluated at the end of the initial hire probation period, at the end of any extension of the probation period, and thereafter on an annual basis between February 1 and April 1, unless a probationary period or position change evaluation was completed within the immediately preceding 90 days. The performance evaluation shall be documented on the Exempt Staff performance review document. If the supervisor has not supervised the employee for a continuous period of three months immediately prior to the evaluation date, the performance evaluation may be deferred until the three-month time period has been completed but no later than March 31.

An employee who disagrees with the accuracy of statements on the performance evaluation may submit a written rebuttal within 10 working days to his/her supervisor and administrator, which shall be attached to the official file copy of the evaluation in question.

ACES shall participate in any review of the evaluation instrument and process (see Appendix D).

C. Seniority

Seniority is defined as the length of full-time continuous service of an exempt employee since the most recent date of his/her full-time regular employment with the College.

Exempt employees with an equal amount of seniority shall have such a tie broken by a drawing by lot with the first name picked being designated the most senior employee. This process shall be continued until no name remains. All employees affected shall be notified in writing of the date, time, and place of the drawing. The drawing will be conducted openly and at a time and place that will allow affected association employees to be in attendance.

1. For the purpose of accumulating seniority in accordance with paragraph above, “continuous service” shall be deemed to be broken for the following reasons:
   
   a. employee resignation;
   
   b. employee termination;
   
   c. employee retirement;
   
   d. employee failure to notify the College within five work days of written receipt, after recall from layoff; and/or
   
   e. when an employee has been laid-off/Reduction-in-Force in excess of 12 months.

2. Unpaid leave shall not be credited toward seniority, except in the following instances:

   a. approved education leave;
b. approved professional development leave; or

c. leave taken as provide by the Family Medical Leave Act.

When seniority of a laid-off/Reduction-in-Force employee is eliminated pursuant to this section, the College will notify the affected employee in writing 30 days in advance of the date of elimination.

D. Layoff/Reduction-in-Force (RIF)

1. Statement of Intent

This policy provides the College the ability to adjust staffing to meet the College’s needs.

The College values its employees and shall undertake a RIF only after less impactful alternatives have been exhausted (such as transfer, reduced work hours, flexible schedules, elimination of appropriate temporary and probationary positions, etc.). Once the Chancellor and/or Board of Governors determines the College faces a College-wide enrollment decline or financial exigency that may result in a RIF, he/she will seek broad input from relevant exempt employees and their representative groups, to determine the best possible implementation for a RIF.

In any circumstance addressed by this policy, affected and potentially affected employees will be given as much notice as possible, but no less than 30 days prior, that the provisions of this policy may be invoked.

This policy does not apply to Externally Funded Regular Full-time Positions.

2. Definitions

Reduction-in-Force (RIF) shall mean a reduction in the total number of employees of the College due to a demonstrated enrollment decline, a financial exigency, or other circumstances that affects an individual program or the College as a whole.

An enrollment decline shall mean a pattern of declining enrollment across the College, a Campus, or within a program, i.e., a sustained downward trend over two or more semesters.

A financial exigency shall be deemed to exist when substantial or recurring diminishing financial resources threaten the ability of the College to meet its present financial obligations.

Program reduction means a decision to cancel, consolidate, or realign a program or discipline.

A RIF is not a replacement for the College’s discipline policy and procedure or on-going performance management issues.
3. Reduction-in-force Criteria

While the Chancellor may take a variety of approaches to determine a plan for RIF, she/he is committed to respecting the following principles:

a. Any elimination of staff positions shall have the least possible impact on students.

b. Processes and data used to determine which positions are eliminated be transparent, fair, and communicated to affected employees and their representative groups.

c. Processes used to determine which positions are eliminated make use of quantitative and qualitative data analysis such as enrollment trends, community needs, financial viability of programs, or external accreditation results.

d. Processes make use of subject matter experts.

e. Knowledge, skill, abilities, and performance, shall be considered in determining which employees are laid off.

i. Performance is defined through the performance evaluation, and the absence of active corrective or disciplinary action, and/or a pattern or history of disciplinary action.

ii. In the absence of a completed performance evaluation, corrective, or disciplinary action, an employee’s performance shall be considered to be satisfactory.

iii. Overall qualifications, training, and abilities will be assessed by senior leadership in the affected area and reviewed by Human Resources.

iv. All other factors being equal, seniority will be taken into consideration.

4. Procedures

a. Written notice of a possible RIF shall be given to affected employees as far in advance as reasonably possible. Notice of selection for a RIF will be provided in person whenever possible and in writing no less than 30 days prior to the effective date of such RIF. The College may, in its discretion, elect to pay employees in lieu of providing the minimum notice period. In addition, the representative employee group shall be notified of the number of affected exempt positions.

b. Employees who are selected for a RIF shall be provided with a written notice of the selection criteria and the methodology that were used to determine which employees would be subject to the RIF.
c. Employees who are subject to a RIF are encouraged to apply for other open positions within the College. Upon request from the employee, Human Resources will provide assistance in locating available positions within the College.

d. Employees who obtain an alternate position with the College within one year after the date of the RIF shall retain all pre-existing employment rights, including credit for salaries, and sick leave.

e. Individuals selected for RIF pursuant to this policy may file a grievance in accordance with College policy. Refer to Section VI. Grievance Procedure in the Personnel Policy Statement.

f. Termination of employment as a result of a RIF pursuant to this policy is not dismissal for cause and shall not be recorded or reported as such.

g. Any unpaid annual leave, accrued as of the date of layoff/Reduction-in-Force, shall be paid to the employee.

h. In accordance with federal guidelines affecting equal employment opportunity/affirmative action, any application of the RIF policy must be reviewed by Human Resources to determine its impact on the College’s affirmative action goals.

i. The College shall make recommendations for outplacement services for those staff affected by a RIF.

E. Recall

A laid-off employee from a general funded position on the recall list shall be offered recall from layoff in accordance with seniority, provided such employee is qualified to perform the duties of the job. A laid-off employee will remain on the recall list for 12 months after the effective date of the layoff.

There is no recall list for externally funded employees. Within 12 months after the effective date of the layoff, a laid-off employee from an externally funded position may be recalled to another externally funded position for which the employee is qualified, subject to the conditions of the external funds agreement in existence between the College and the funder.

A laid-off employee recalled for work, who has been notified at her/his last known address by certified mail, must notify the Human Resources Office within ten work days after receipt of the notification by the College if he/she will accept the recall and report for work no later than ten work days after receipt of recall letter. Any employee failing to respond or accept the recall shall be deemed to have resigned except as provided elsewhere herein.

A laid-off employee may reject a recall to employment with the College to a job classification in a lower salary range than the job classification held at the time of layoff. Recall will be initiated by the College immediately upon the existence of a vacancy in the
College. However, a laid-off regular full-time employee on the recall list must be offered the opportunity to return to work to fill a vacancy within a classification in which he/she worked prior to the College initiating an external recruitment. The College will make a good faith effort to restore employees to their former classifications and salary ranges during the recall period.

An employee laid off from a general fund position who accepts a recall to a general fund position will have his/her benefits eligibility, seniority, and if applicable, banked step eligibility restored. If rehired to the same general fund job classification as he/she was laid off, the employee will be placed at the same salary step at time of layoff. An externally funded employee recalled to an externally funded job classification, benefits eligibility and banked step eligibility may be restored, and if recalled to the same salary classification as he/she was laid off, placed at the same step at time of layoff, when permitted by the external funding source.

**F. Selection Process for Lead Assignments**

All regular classified exempt employees must be advised of and offered the opportunity to express interest in lead assignments within the work unit. Should more than one employee express interest and have the requisite qualifications to successfully accomplish the purpose and goals of the assignment, the supervisor will work with the Human Resources Department to design an appropriate selection process. In the event that two or more employees are deemed to qualify, selection will be in order of seniority. If no employee expresses an interest, the supervisor shall select a qualified employee by direct appointment or through an internal appointment.

**G. Selection Process for Vacancies**

In the event that a regular full-time position becomes open, the position shall be filled according to AP 5.01.01

**H. Additional Work as Adjunct Faculty**

The College values the experience and educational credentials its exempt employees can provide to students as adjunct faculty. Regular exempt employees may be employed by the College as adjunct faculty provided all of these conditions are met. The employee:

1. Is not subject to Second Corrective Action Plan or disciplinary action.

2. Will instruct at times outside their normal work hours as determined by the employee’s supervisor.

3. Due to extraordinary circumstances which might cause a hardship to the College as determined by the Provost, the executive administrator can allow an exempt employee to instruct during normal work hours. The employee will use annual leave so that adjunct
faculty instructional activities are conducted outside the employee’s regular work schedule.

4. Will instruct no more than six (6) load hours concurrently.

5. Is able to be present for primary assignment when accepting a secondary assignment as adjunct faculty.

6. Has the approval of the supervisor and the executive administrator of the home position to assume a secondary assignment.

I. Rehire

Any employee in good standing who voluntarily resigns from the College may be eligible for a direct appointment rehire within twelve months from separation. To be considered in good standing, a rehire notation must be placed on the former employee’s separation Personnel Action Form. In order to be eligible for a direct appointment rehire, a vacant position at or below the employee’s former classification at separation must be available. The rehired employee may return to his/her former pay classification and step placement or lower. No employee rehired by direct appointment shall return to a pay grade higher or a position of greater responsibility than at time of separation. A direct appointment rehired employee can only be considered for positions in classifications which the employee previously completed probation. Any employee returning to the College by direct appointment shall begin sick and annual leave accruals and seniority rights anew.

A former regular employee who is eligible for rehire in accordance with the above paragraph must submit the request in writing to the Chief Human Resources Officer, along with all new hire paperwork including the application for employment. While a former employee may request to be rehired, the College is not obligated to offer re-employment under this provision.