

	FGCU POLICY 3.054	Responsible Unit: Human Resources
	Layoffs	

A. POLICY STATEMENT

The University recognizes that at certain times layoffs are necessary to meet the needs of the organization. University procedures are designed to promote respect for the individual throughout the layoff process. If the University administration determines layoffs are warranted, FGCU will follow the layoff procedures outlined in this Policy. The procedures are designed to administer layoffs in an equitable manner and in conformance with applicable laws and regulations.

B. REASON FOR POLICY

Reasons for layoffs, which may occur at any time, are adverse financial circumstances; reallocation of resources; reorganization of degree or curriculum offerings or requirements; reorganization of academic or administrative structures, programs, or functions; curtailment or abolishment of one or more programs or functions; shortage of work; or a material change of duties. In accordance with its policy on equal employment opportunity and the requirements of applicable federal and state law, the University will effect decisions regarding layoff and recall without unlawful discrimination.

C. APPLICABILITY AND/OR ACCOUNTABILITY

This Policy applies to out-of-unit faculty, executive service, administrative and professional (A&P), and support personnel (SP) employees, not governed by any applicable collective bargaining agreement(s). As such, this Policy would not apply to in-unit faculty.

D. DEFINITION OF TERMS

1. *Comparable Employment Opportunity*: As defined by Human Resources (HR), a Comparable Employment Opportunity:
 - a) Offers a salary that is not less than ninety percent (90%) of the employee's previous salary;
 - b) Offers weekly or monthly hours of employment that are equivalent to a full-time position if the employee held a full-time position at the University or a part-time position if the employee held a part-time position;
 - c) Qualifies the employee for employee benefits; and

- d) Entails the performance of job duties that are substantially the same.
2. *Comparable Position:* As determined by Human Resources (HR), a Comparable Position:
- a) Offers a salary that is not less than ninety percent (90%) of the employee's salary at time of layoff;
 - b) Offers weekly or monthly hours of employment that are equivalent to the employee's hours at the time of layoff (represent a full- time position if the employee held a full-time position at the University or a part-time position if the employee held a part-time position);
 - c) Qualifies the employee for employee benefits if:
 - 1) The employee qualified for health and welfare benefits at the University, and
 - 2) The company offers a similarly situated health and welfare benefit plan; and
 - d) Entails the performance of job duties that are substantially the same as the duties the employee performed at the University.
3. *Layoff Unit:* The Layoff Unit will be at the organizational level such as a campus, division, college, school, department, area, program, or other level of organization as Human Resources (HR), in consultation with the President or appropriate Vice President, deems appropriate. In designating the makeup of the Layoff Unit, HR may consider the special qualifications and relevant experience required for specific positions and exclude such positions from the Layoff Unit.
4. *Outsourcing:* The process, embodied in a formal, written contract, by which the function(s) performed by a unit is assigned on a permanent basis to a company or organization external to the University, with the resulting elimination of one (1) or more regular employee positions at the University.
5. *Temporary Employee:* Employees hired for a limited period of time, either part-time or full-time, through a temporary agency or through the University and whose role is not classified as administrative and professional (A&P) or support personnel (SP).
6. *Time-Limited:* Time-Limited positions are positions established and funded through Time-Limited project approval or grants.
7. *Unit Head:* The person designated by the President or Vice President of a division to be immediately responsible for the administration of a Layoff Unit.

E. PROCEDURES

1. Layoff Plan

The Unit Head must complete the layoff review plan. He or she is responsible for:

- a. Administering the decision that one (1) or more employees should be laid off;
- b. Designating the Layoff Unit(s);
- c. Applying the criteria set forth below for the selection of the individuals to be laid off;
and
- d. Consulting HR during the planning stages of any reorganization or layoff plan.

If new positions must be defined or old positions reclassified or eliminated to carry out the work after layoffs are effected, the Unit Head must obtain the concurrence of HR before individual employees are selected for layoff.

Any planned layoff of employees requires the approval of the Vice President and must be discussed with, and approved in concept, in advance, by the President.

In consultation with the President or respective Vice President, HR will approve or disapprove such requests for layoff. HR will identify the following:

- a. The Layoff Unit for layoff purposes;
- b. The class, classes, or classifications of positions from which layoffs are to be made;
- c. The number of positions in each class to be affected; and
- d. The timing of the layoff effective date(s) within the layoff process.

2. Outsourcing

If employee positions are eliminated in a unit as a result of Outsourcing and the employee whose position is eliminated is offered a Comparable Position with the company that executes the Outsourcing contract with the University, then that employee shall not be deemed to have been laid off and the provisions of this Policy shall not be applicable.

- a. If the employee is offered a Comparable Position at the company but does not accept it, then the employee will be considered to have voluntarily separated himself or herself from University service.

- b. If the employee is not offered a Comparable Position by the company, then the employee will be considered to have been laid off and the provisions of this Policy shall be applicable.

3. Order of Layoff

The selection of employees for layoff within a designated Layoff Unit and within a particular job classification will be made in the following sequence, and in accordance with the following criteria:

- a. Temporary Employees (with the exception of employees hired under a grant). The other sections of this Policy do not apply to Temporary Employees;
- b. Regular, probationary employees; and
- c. Regular employees who have completed their probationary periods or who are not subject to probation. Such employees will be selected for layoff in accordance with the following criteria:
 - 1) Qualifications (knowledge, skills, education, and abilities needed to staff the positions remaining);
 - 2) Level of performance, as determined on the basis of documented performance evaluations;
 - a) Any period of employment where an annual evaluation is considered to be meeting performance standards but no documentation is on file;
 - b) Any period of leave for active military service counts as continuous employment and is considered at the same level of performance as when the employee was previously evaluated;
 - c) Presence or absence of documentation or indication of poor job performance or unsatisfactory conduct; and
 - 3) Cumulative time of service at Florida Gulf Coast University, measured in months.

If all other factors are equal, selection will govern, as determined by the University President, or designee, those with special skill and ability that benefit the University.

4. Notifying Affected Employees of Layoff

- a. Affected employees are to be notified of layoff as soon as practicable. Along with the department representative, a Human Resources representative will meet with the affected employee(s) to provide written notice of layoff, the placement/recall process,

and refer employee(s) to the Benefits Section for information on continuation of benefits upon layoff. Notices of layoff not delivered in person must be sent by certified mail, return receipt requested.

5. Placement of Affected Employees

HR will make reasonable efforts to locate an appropriate alternate or Comparable Employment Opportunity within the University for employees identified for layoff.

- a. If an employee who has been notified of layoff refuses placement in a position, he or she forfeits further placement opportunity. This excludes placement in a Time-Limited position, which refusal is permitted.
- b. Positions at the University in applicable classes that are vacant at the time HR notifies an employee in writing of layoff will not be advertised or filled until placement or layoff occurs. Exceptions may be requested by the appropriate VP for consideration by HR. Other exceptions may be made by HR on a case-by-case basis.
- c. Regular employees who have been notified in writing of layoff have seven (7) calendar days after receiving the notice of layoff to submit a written request to HR for:
 - 1) A change in assignment to a position in a class within the same salary range as the employee's current class, provided they are qualified, or
 - 2) A demotion, in lieu of layoff, to a position in a class in which the employee would hold regular status.
- d. HR will assist the employee in locating a suitable position prior to the anticipated date of layoff where possible. Appointment to a position in lieu of layoff is conditioned on the employee meeting the specific qualifications for the position and having an overall history of meeting performance standards.
- e. Employees without regular status are not eligible under this provision. However, HR will inform such employees of the University's recruitment and selection practices and assist them in determining their eligibility for available jobs.

F. BENEFITS

1. Separation Notice

Based on FGCU Regulation 5.023, Separations, employees notified of layoff are eligible for Separation with Advance Notice.

2. Annual Leave, Compensatory Time, Sick Leave Pay

Laid off employees will be paid any remaining balances of annual leave and/or compensatory time for which they were eligible. If applicable, sick leave will be paid according to FGCU Policy 3.034, Sick Leave.

3. Assistance for Employees Laid Off

An employee who is laid off may be eligible for unemployment benefits through the Florida Department of Labor.

4. Employee Benefits upon Layoff

Employees enrolled in State Group Health Insurance at the time of layoff may be eligible to continue coverage under the group plan following the layoff date. The employee's University-sponsored coverage will continue through the month in which premiums are paid by the University. The employee is eligible to receive a one-time payment equivalent to one (1) month of employer's share of medical insurance that may be used to extend coverage under COBRA. HR Benefits Section will provide laid off employees with information regarding the continuation of health insurance under the provisions of COBRA, as well as options regarding retirement funds and other applicable benefits.

5. Tuition Benefits

An employee who is laid off and who is receiving tuition benefits as outlined in FGCU Policy 3.002, Tuition and Fee Voucher Policy, is eligible to continue to receive tuition benefits for himself or herself during the semester in which the layoff occurs. (This provision is extended to dependents only for the semester layoff occurs). If the original approval was for a two-semester course, the employee will be eligible to receive the benefit for the second semester. If an employee is seventy percent (70%) or more complete with their degree program, they are eligible to continue to receive tuition benefits for up to three (3) continuous years. An employee should consult with the Payroll Department about taxes for which he or she may be liable.

G. RECALL PROCESS FOR AFFECTED EMPLOYEES

1. Recall

Following layoff, a regular employee may be recalled if a position in the same classification and in the same department or Layoff Unit becomes available. An individual will be eligible for recall for up to twelve (12) months after the effective date of layoff, or a period of time equivalent to his or her length of continuous employment with the University, whichever is less. If more than one (1) employee is on layoff status in that classification, the same criteria used in determining order of layoff will be used in determining order of recall. A regular employee with documented less-than-satisfactory

performance on the last annual review and/or an active formal disciplinary action prior to the effective date of layoff is not eligible for recall.

2. Re-employment

A former regular employee who is recalled or re-employed within twelve (12) months of the date of layoff, or within a period of time equivalent to his or her length of continuous employment with the University, whichever is less, will be given his or her original start date and the period of layoff will be treated as a non-paid leave of absence. This will not affect the terms and conditions of benefits plans unless inconsistent with benefit plans. If retirement has been triggered, this provision is not applicable.

3. Waiving Privileges

If, during the period of eligibility for recall or the period described in the re-employment section of this Policy, the individual rejects an offer of an equivalent or higher-level position for which he or she is qualified, the individual waives the privileges of recall. The University, therefore, will have fulfilled its responsibility to recall and the individual will not receive any further notification.

4. Probation

An employee who is laid off and subsequently re-employed will serve a probationary period consistent with the position according to FGCU Regulation 5.001, Employee Compensation and Classification Plans, unless he or she is recalled to the same position in the same Layoff Unit from which he or she was laid off, at which point, they will complete their probationary period remaining when they left.

5. Competitive Placement

At any time during the layoff notice period or after the effective date of layoff, an employee can apply and compete, without prejudice, with other internal applicants for any open posted position for which he or she is qualified.

Authority

BOG Regulation 1.001, Universities Board of Trustees Powers and Duties

History

New 12/02/20

APPROVED

*s/Michael V. Martin
Michael V. Martin, President

December 2, 2020
Date