

**PIERPONT COMMUNITY & TECHNICAL COLLEGE**  
**Board of Governors Policies and Procedures**  
**PP-2059**

**Short Title:** Layoffs and Reduction in Workforce

**Reference:** W. Va. Code § 18B-7-3 and 135 C.S.R. 9, *Academic Freedom, Professional Responsibility, Promotion, and Tenure*

**Effective Date:** April 28, 2015

**Amended:** May 12, 2026

**Repealed:**

**Reviewed:**

### **SECTION 1. PURPOSE**

- 1.1 The purpose of this policy is to establish uniform procedures that will provide a means to address employee layoffs and reductions-in-force within the ranks of regular full-time employees at Pierpont Community & Technical College (Pierpont) in response business necessity.

### **SECTION 2. SCOPE AND APPLICABILITY**

- 2.1 This policy shall apply to all regular full-time (.53 FTE and above) employees and positions, to include faculty, classified, non-classified, and faculty equivalent/academic professional (FEAP) employees.
- 2.2 Employees at less than .53 FTE, i.e., part-time regular ("1039") or temporary, casual, or project employees are not included in this policy.

### **SECTION 3. DEFINITIONS**

- 3.1 **Full-Time Regular (FTR) Employee:** Any employee in a classified permanent position created to last a minimum of nine months of a 12-month period and in which period such employee is expected to work no less than 1,040 hours. The full-time equivalent (FTE) of such a position must be reported at no less than .53 FTE. Personnel who fail to meet the work threshold for designation as full-time shall hold no seniority.
- 3.2 **Full-Time Faculty:** Employment as a faculty member for a full academic year (at least a nine-month contract basis) for at least six (6) semester credit hours teaching per semester or the equivalent in teaching, research, public service, and/or administrative responsibilities. Faculty are not considered classified employees or subject to the classification program.

- 3.3 **Non-Classified Employee:** An employee, designated by the President, who is responsible for policy formation at the department or institutional level or reports directly to the President of the institution. Non-classified employees are not subject to the classification program but are eligible for benefits.
- 3.4 **Part-Time Regular (PTR) Employee:** An employee in a position created to last less than 1,040 hours during a 12-month period. An employee in a PTR position is not eligible for benefits, but is covered under the classification program.
- 3.5 **Temporary Employee:** An employee hired into a position expected to last fewer than nine months of a 12-month period regardless of hours worked per week. A temporary employee is not eligible for benefits, but is covered by the classification program.
- 3.6 **Casual Employee:** Position created to meet specific operational needs at Pierpont for no more than 225 hours in a 12-month period. Individuals in a casual employee position are not eligible for benefits and are not covered by the classification program.
- 3.7 **Layoff:** A reduction in the number of employees resulting in involuntary separation from employment or reduction in work schedule due to business necessity. Employees who are laid off may be subject to recall.
- 3.8 **Reduction-in-Force (RIF):** The termination of employees and/or positions due to business necessity without the expectation of recall. Reduction-in-force for classified employees shall be in accordance with W. Va. Code § 18B-7-3.
- 3.9 **Seniority** The total number of months or years an employee is employed with Pierpont.
- 3.9.1 For regular employees, this excludes adjunct teaching experience and part-time temporary and/or casual work experience. Temporary and casual employees do not earn or carry seniority.
- 3.9.2 For regular faculty employees, seniority may apply in some circumstances, as detailed in Section 5 following.
- 3.9.3 For non-classified and FEAP employees: seniority generally is not a mitigating factor or consideration.
- 3.10 **Full-Time Equivalency (FTE):** The percentage of time for which a position is established with a full-time position working 1,950 hours per year being 1.00 FTE.
- 3.11 **Business Necessity:** The reason or cause for any of a variety of personnel actions based upon the condition of the College, in whole or in part, or specific program components that may include, but are not limited to, lack of funds or work; abolishment of positions; materials changes in mission, duties, or organization; loss of budgeted, allocated, or available positions; reinstatement of eligible

employees returning from military duty or temporary total disability; reinstatement of an employee in compliance with a legal order; and for recall of employees previously laid off.

- 3.12 **Credentials:** The employee's current academic degree(s), such degree(s) application to the program in which the employee is employed, and employee evaluations.
- 3.13 **Longevity:** The total number of years an employee is employed at a State institution of higher education as that term is defined in W. Va. Code § 18B-1-2 and other agencies of State government in West Virginia.
- 3.14 **Recall:** The reemployment from a recall list of former full-time employees separated due to layoff.

#### **SECTION 4. GENERAL PROVISIONS**

- 4.1 It is the policy of the Board of Governors to undertake reductions in the workforce through either layoff or reduction-in-force in a consistent and fair manner. The primary consideration in any decision to eliminate positions and/or reassign affected personnel will be in the interest of the preservation of the quality and effectiveness of the College's programs. Consequently, those personnel who are deemed to have the most relevant credentials in accordance to a specific program being reduced, reorganized, or eliminated will be retained in preference to other personnel.
- 4.2 After the Board of Governors, in consultation with the President, determines that a business necessity exists and that such business necessity requires either a reduction-in-force or a layoff of College personnel, the President shall develop and implement a plan appropriate to the determined personnel action, which shall be applied to all regular employees equitably and in a manner appropriate to their FTE's and employment type as described above in Section 3. Such a plan must be approved by the Board of Governors in a meeting conducted in accordance with the Open Governmental Proceedings Act.
- 4.3 Teaching faculty may be provided work-release with a corresponding reduction in salary as the method of layoff.
- 4.4 Seniority or longevity are generally not a consideration in a reduction-in-force.

#### **SECTION 5. REDUCTION-IN-FORCE OR LAYOFF – FACULTY**

- 5.1 Following the decision that a business necessity exists, the President shall undertake reviews of program, curricula, administrative, and service requirements to what is in the best interest of the institution. The President may recommend to the Board of Governors the elimination or reduction of programs/curricula deemed appropriate, given financial and enrollment considerations, or what may be in the best interest of the College in general. The primary consideration in any resulting

decision to eliminate positions and to reassign or reduce the number of affected faculty positions and personnel will be the preservation of the quality and effectiveness of the College's programs and overall mission.

5.2 **Elimination of Faculty Positions:** The President shall make recommendations to the Board of Governors concerning the elimination of any faculty position on the basis of need within each discipline, as determined by the President after consultation with the Chief Academic Officer, the deans, and the department chairs.

5.2.1 **Elimination of Positions with Equal Rank in Same Discipline / Department:** In the event all other factors are considered to be equal and a choice must be made concerning the elimination of the position of more than one faculty member holding the same rank and teaching the same discipline, the College will retain the faculty member with the greater seniority. In the event of a conflict in seniority, the College will retain the faculty member with the more relevant credentials.

5.2.2 **Order of Elimination of Faculty Positions:** Non-tenured faculty members within the discipline to be reduced may be terminated prior to the termination of the employment of tenured faculty members. Employment terminations of faculty members will generally follow the order specified below unless there is an identified need to retain faculty members who are deemed to be of key importance to a particular program:

**Non-Tenured:**

- 1 Adjunct Faculty
- 2 Lecturer and Temporary Faculty
- 3 Instructor
- 4 Assistant Professor
- 5 Associate Professor
- 6 Associate Professor, Senior
- 7 Professor
- 8 Professor, Senior

**Tenured**

- 1 Assistant Professor
- 2 Associate Professor
- 3 Associate Professor, Senior
- 4 Professor
- 5 Professor, Senior

5.3 **President's Recommendation:** In addition to recommendations made in response to a business necessity, the President may recommend the termination of the employment of faculty members to the Board of Governors at any time for reason of lack of funds, lack of work, reduction in enrollment, or abolition of position. Recommendations of the President to the Board of Governors relative to the termination of the employment of faculty members shall not be made until affected faculty members have been afforded a hearing as provided herein.

Nothing in this policy shall be interpreted as restricting the right of the College to terminate the employment of any faculty member for reasons related to performance or conduct in accordance with College policy.

**5.3.1 Notice and Hearing for Tenured Faculty Members:** The President shall provide written notice to any full-time tenured faculty member of the intent to recommend termination of employment based upon a reduction-in-force. The notice shall contain a description of the reasons for the intended recommendation. The President must make every effort to give as much notice as is practical in light of the business necessity to each affected faculty member in advance of the effective date of the termination. Upon receipt of such notice, the affected faculty member may request a hearing to be conducted by the President or his or her designee. A request for hearing must be made within five working days of a notice of recommended termination. Among the issues the President or designee may consider are:

5.3.1.a Actions that may be perceived to violate the principles of academic freedom or the laws prohibiting discrimination on the basis of race, ethnicity, color, marital status, gender, sex, sexual orientation, gender identity, gender expression/association, national origin, age, religion, creed, genetic information, disability, or veteran's status in the dismissal of a faculty member.

5.3.1.b Adherence to relevant institutional policies, i.e., financial exigency, program review, program reduction or elimination, etc.

5.3.1.c Material deviations from procedural requirements, if any, by the institution or by the faculty member.

5.3.1.d The burden of proof in termination proceedings rests with the faculty member. The decision that a business necessity exists rests solely with the President and the Board and is not subject to contest by any faculty member.

5.3.1.e The hearing may be recorded at the request of either party and a transcript of such recording shall be provided to both parties.

5.3.1.f Following the hearing, the President or designee shall prepare a written decision upon any matters raised by the appealing faculty member. The decision shall contain a description of the concerns raised by the faculty member and a response to each thereto. The College shall provide a copy of the decision to the affected employee and to Human Resources. These actions will all be completed within 10 working days of the appeal hearing unless an extension is mutually agreed upon by the faculty member and the President or his or her designee.

5.3.1.g Use of the appeal procedure does not delay the effective date of employment termination of the faculty member.

5.3.1.h Use of this appeal procedure does not replace or supersede any affected faculty member's right to file a grievance with the West Virginia Public Employees Grievance Board in accordance with W. Va. Code § 6C-2-1, et seq. related to the reduction-in-force.

5.3.2 **Non-Tenured Faculty Members:** In many instances, a reduction-in-force of faculty members under fixed-term appointments will be accomplished by non-reappointment rather than by a layoff during the term of employment. Non-renewal under these circumstances does not entitle a faculty member to notice and hearing under the terms of this policy. However, in the event a faculty member serving under a fixed-term appointment is recommended for reduction-in-force prior to the expiration of the current term of employment because of a business necessity, that faculty member is entitled to use the appeal procedure described in Section 5.3.1. The College must make every effort to give as much notice as is practical in light of the business necessity to each affected faculty member in advance of the effective date of the termination. The affected faculty member shall be provided with a copy of the instructions and form for filing a grievance with the West Virginia Public Employees Grievance Board.

5.3.3 **Action by the Board of Governors:** Upon receipt of a recommendation by the President, the Board of Governors may approve the termination of employment of a faculty member. No separate hearing shall be afforded to affected faculty members by the Board of Governors. The affected faculty member shall be provided with written notice of the action taken by the Board of Governors and shall also be provided with a copy of the instructions and form for filing an appeal with the West Virginia Public Employees Grievance Board.

5.3.4 **Transfers / Refusals to Transfer:** In some cases, the President may decide to abolish or combine certain programs or curricula, or to close certain physical campuses or locations, whether for purposes of business necessity, a reorganization, or a reallocation of resources. In such case, a faculty member may be reassigned to a new program, school, or physical location. If a faculty member refuses the reassignment to a program, school, or physical location, the President may then terminate that faculty member's employment and, if the position is deemed vital to a particular program or campus, the College will post it as a vacancy.

5.3.5 **New Faculty Positions:** New positions will not be created while a business necessity is in effect unless a serious disruption in the functioning of the College or a loss of grant funds or other program revenue would otherwise result, as determined within the sole discretion of the President. New academic programs or faculty positions may be created only when it can be demonstrated that these programs or positions will help the College

extricate itself from the business necessity and/or program and curriculum performance. Priority for filling these positions will be given to existing, qualified faculty or to faculty who have already been terminated or laid off due to business necessity.

- 5.3.6 **Reemployment Following Reduction-in-Force or Layoff:** Notwithstanding any other recall rights contained in this policy, in the case of the reduction-in-force or layoff of a tenured faculty member occupying a permanent faculty position, the position concerned may not be filled by replacement within a period of two years from the effective date of the termination of employment, unless the faculty member has been offered a return to employment in that position and has not accepted the offer within 10 calendar days after the offer is extended. The College shall recall such faculty to the position from which the faculty member was terminated in reverse order from the order in which the reduction in force occurred. The College shall create and maintain a recall list of all faculty reduced in force due to Financial Exigency, and such faculty shall remain on the recall list for the length of his or her service with the College on the date of the reduction in force or for two years, whichever period is shorter. If a faculty member does not accept the College's offer of recall within 30 calendar days after the College extends the offer, then the faculty member may be removed from the recall list.
- 5.3.7 **Termination of Exigency:** The conclusion of a business necessity does not mean that employment terminations that were made during that period are automatically withdrawn, revoked, or otherwise invalid. Faculty may be recalled only in accordance with this policy.
- 5.3.8 **Process for Reemployment of Affected Personnel:** The College shall follow the process outlined herein for determining recall and reassignment of affected faculty members following termination of the business necessity:
- 5.3.8.a When filling academic positions, the highest ranking qualified tenured faculty member whose employment has been terminated as part of the business necessity reduction-in-force shall be offered the position.
- 5.3.8.b If the faculty member declines or refuses such offer, the College shall offer the position to other similarly affected faculty members in rank order.
- 5.3.8.c Any refusal of an offer of reemployment by a faculty member shall extinguish any further rights to recall. However, a refusal to accept a position shall not preclude a faculty member from making an application for other posted position openings.
- 5.3.8.d The Office of Human Resources shall notify faculty members whose employment has been terminated of position openings in accordance with the terms of this policy. The notice shall be sent by certified mail, return receipt requested, to the last known address of the employee. It is the

responsibility of the employee on the recall list to notify the Office of Human Resources of any change in address in order to retain recall status. The Pierpont email system may be substituted for the certified mail requirement if the faculty member has provided a viable personal email address to Human Resources in writing prior to the recall. The recalled employee shall have 10 calendar days from the date of the notice to notify Human Resources that they accept the recall assignment. Failure to notify Human Resources within the 10 day period will forfeit any future right to employment with Pierpont.

5.3.9 **Assumption of Responsibilities:** A terminated faculty member's duties will, under no circumstances, be assumed by adjunct faculty. The College may make it a priority to rehire faculty members who have been reduced-in-force or laid off due to business necessity into adjunct positions before posting such adjunct positions externally. Additionally, as soon as a full-time faculty position becomes available or an eliminated program has been reestablished, affected faculty members shall be offered full-time reemployment under the guidelines of this policy.

5.3.10 **Rights of Returning Faculty Members:** A tenured faculty member who has been reduced-in-force or laid off under the terms of this policy will resume tenure, if applicable, and the rank held at the time of the employment termination, be paid a salary commensurate with the rank and length of previous service, be credited with any sick leave accrued as of the date of employment termination, and be credited with any annual leave accrued as of the date of the employment termination for which payment has not been made. Additionally, the recalled faculty member will not lose earned credit for years of service in relation to annual increment pay or faculty promotions.

## **SECTION 6. REDUCTION-IN-FORCE OR LAYOFF – CLASSIFIED STAFF**

6.1 When due to business necessity it becomes necessary implement a reduction-in-force or layoff of classified staff, the College shall develop a plan prior to the implementation of such RIF or layoff, including the separation, involuntary reduction in work schedule, or demotion without prejudice of any employee, which shall include a statement of the circumstances requiring the RIF or layoff; the organizational unit(s) in which the proposed action will take place; and a list of employees in each class affected by the action in order of retention. The plan shall be available, upon request in writing, to any employee or adversely affected former employee.

6.2 **Basis for Elimination of Classified Staff Positions:** The continuation of services and programs with appropriately trained and qualified personnel shall be afforded primary consideration in all decisions related to elimination of positions and the reassignment of affected classified personnel. The order of separation in which employees shall be reduced-in-force or laid off shall be applied in the following manner and order:

- 6.2.1 Employees without regular status in the same class or classes identified for RIF or layoff in the following order: contract, temporary, exempt part-time professional, provisional, and probationary; Provided, that an employee in the organizational unit(s) to which the RIF or layoff will apply may volunteer to be separated through layoff in place of a probationary or permanent employee with less seniority.
- 6.3 **Calculation of Seniority:** Seniority accumulation for regular full-time employment begins on the date the employee enters regular full-time employment and continues until such regular full-time employment with the College is severed. Full-time service will be prorated by FTE. Part-time or temporary service performed prior to becoming a full-time regular employee will not be counted in the seniority calculation. Only full-time, benefit eligible service will be counted. Longevity shall be applied to adjust the total months of service. Employees shall accrue seniority while on paid sick leave or annual leave, while receiving temporary total disability benefits under the workers' compensation system, while on approved military leave, or on any authorized paid leave. Employees shall not accrue seniority during periods of disciplinary suspension without pay, leave without pay, or unauthorized absences. Any loss of seniority occasioned by disciplinary suspension or unauthorized absences shall result in an adjustment to an employee's total months of service for seniority purposes.
- 6.3.1 An employee who voluntarily terminates service through resignation or who is terminated for cause shall permanently lose all accumulated seniority. An employee who is subject to a layoff or reduction-in-force shall, upon reemployment, receive credit for previously accumulated seniority, but shall not accumulate seniority during the period of absence prior to reemployment.
- 6.3.2 If two or more employees accumulate identical seniority and longevity, the priority shall be determined by comparing the last four digits of each employee's Social Security Number, considered as a total number. The lower numbers shall determine the priority ranking as to which employee shall be terminated.
- 6.4 **Correction of Erroneous Total Months of Seniority:** It is the responsibility of all classified personnel to bring to the attention of the Human Resources Office any perceived erroneous calculation in their total months of service and adjustments thereto. Human Resources will verify an employee's seniority calculation and will correct it if it confirms the error.
- 6.5 **President's Authority and/or Recommendation:** The President may eliminate classified positions without prior recommendation to the Board of Governors for reasons other than business necessity. These reasons may include, but are not limited to, lack of funds, expirations of special grants or revenue streams, lack of work, material changes in duties, or changes in organization. In the event of a decision that a business necessity exists, the President shall eliminate filled or

vacant part-time (1039), casual, project, temporary, and non-critical positions prior to recommending the elimination of positions held by regular full-time classified personnel.

- 6.6 **Affected Personnel:** Personnel who are serving in positions that have been designated for elimination shall be considered for reassignment based upon their seniority, classification, and any relevant specific qualifications or training they may possess. Once positions have been designated for elimination, the affected employees must update their record of credentials and specific qualifications and training within 10 working days with the Office of Human Resources.
- 6.7 **Consideration of FTE Status:** FTE status shall be considered in evaluating the suitability of positions for reassignment. Notwithstanding the fact that employees with FTEs between .53 and 1.0 are considered full-time, vacancies and other potential positions for an employee's reassignment must not vary more than .20 of the affected employee's FTE status to be considered suitable. However, if there are no suitable vacancies or other available suitable positions held by employees with less seniority, an employee may be reassigned to a position that would otherwise be considered non-suitable for reason of FTE disparity.
- 6.8 **Process for Reassignment of Affected Personnel:** The following process shall be observed for determination of reassignment of affected personnel. In all cases, employees whose jobs have been identified for abolishment must meet the stated qualifications for and be able to perform the duties of the position into which they would be slated on the basis of seniority to move. Human Resources shall make such determinations.
  - 6.8.1 **Priority One:** Qualified affected employees will be transferred to current vacant positions, without regard to seniority, in order to avoid a layoff. The College will attempt to transfer affected employees to vacancies in the same classification. If a vacancy does not exist in the same classification, the College will attempt to transfer employees to vacant positions for which they are qualified in lower classifications.
  - 6.8.2 **Priority Two:** In the event that the College cannot avoid a layoff through application of Priority One, the College will transfer qualified affected employees to other positions within the same classification, displacing the least senior employees in that classification.
  - 6.8.3 **Priority Three:** After exhaustion of available positions in the same classification, the College will transfer qualified affected employees to other positions in a lower classification, displacing the least senior employees in that classification.
  - 6.8.4 **Priority Four:** Transfer to a part-time vacancy within the same classification, if any are available.
  - 6.8.5 **Priority Five:** Transfer to a position held by a part-time employee within the same classification, if any are available.

6.8.6 **Priority Six:** Transfer to a position held by a part-time employee in a lower classification, if any are available.

6.9 **Application of Seniority in Reassignment Determinations:** If the employee in a position that has been identified for elimination has more seniority than other employee(s) within the employee's classification, the employee shall displace the least senior employee within the classification who is in a position for which the more senior employee qualifies, so long as the displaced employee has the same qualifications and can perform the same work for the position held by the less senior employee(s) within that classification. In the event a position held by less senior employees requires specific qualifications or training necessary to provide the services identified by the President as critical to the mission, operations, and needs of students or the institution as a whole, the positions will only be available to a more senior employee if the more senior employee has such specific qualifications and is able to perform such duties. If an employee refuses reassignment to a position in an equivalent classification, the employee forfeits all rights of recall.

6.9.1 If there are no positions within the displaced employee's classification, the College will consider positions in lower classification (in descending rank order of pay grade) as potential assignments in the same manner as described in the foregoing sections; *Provided*, that an employee may elect not to accept reassignment to a lower classification and to be placed on the recall list instead.

6.9.2 Employees who have been displaced by a more senior employee whose position has been eliminated shall have the same rights to reassignment as described in the foregoing sections.

6.9.3 If more than one position in a particular classification is eliminated, the College will consider reassignments in order beginning with the most senior affected employee.

6.10 **Preferred Recall List:** All employees who lack sufficient seniority to retain employment in a layoff or reduction-in force or who have been displaced as a result of the elimination of their positions and who elect to refuse reassignments to lower classifications shall be placed on a preferred recall list. Employees on the preferred recall list shall be recalled to any position opening by the institution within the classification in which the employee had previously been employed or to any position in a lower classification for which the employee is qualified on the basis of seniority and ability to perform the required duties of the job.

6.10.1 An employee on the preferred recall list shall not forfeit the right to recall if compelling reasons, as determined by the President, require the employee to refuse an offer of reemployment. The President and Human Resources, in consultation, will review an employee's stated compelling reasons and

decide on their merits whether the employee should or should not forfeit the right to recall.

6.10.2 The Office of Human Resources shall notify all employees on the preferred recall list of all position openings that exist from time to time. The notice shall be sent by certified mail, return receipt requested, to the last known address of the employee. It is the responsibility of the employee on the recall list to notify the Office of Human Resources of any change in address in order to retain recall status and to be contacted. The Pierpont email system may be substituted for the certified mail requirement if the faculty member has provided a viable personal email address to Human Resources in writing prior to the recall. The recalled employee shall have 10 calendar days from the date of the notice to notify Human Resources that they accept the recall assignment. Failure to notify Human Resources within the 10-day period will forfeit any future right to recall.

6.10.3 An employee's listing shall remain active for a period of one year. However, employees may request in writing that their listing be renewed for one additional year. An employee who fails to renew listing on the recall list prior to the anniversary date of placement on the list or last renewal shall be removed from the list.

6.10.4 No position openings shall be filled by the institution, whether temporary or permanent, until all employees on the preferred recall list who are qualified to perform the available work have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.

## **SECTION 7. REDUCTION-IN-FORCE OR LAYOFF – NON-CLASSIFIED AND FEAP STAFF**

7.1 Seniority of employees in non-classified or FEAP positions is neither a factor nor a consideration in determining layoff or reduction-in-force of such positions. However, following the decision that a business necessity exists, the President shall undertake reviews of program, administrative, and service requirements to determine what is in the best interest of the institution. The President may recommend to the Board of Governors the elimination or reduction of programs or services deemed appropriate given financial, enrollment, and other pertinent considerations, or is in the best interest of the College in general. The primary consideration in any resulting decision to eliminate positions or to reassign or reduce the number affected non-classified or FEAP positions and personnel will be the preservation of the quality and effectiveness of the College's programs and overall mission. Consequently, those employees who are deemed to be of key importance to a specific program or service may be retained in preference to other staff members, whatever their status or seniority.

## **SECTION 8. RESPONSIBILITIES AND PROCEDURES**

- 8.1 The President and the Chief Academic Officer shall have primary responsibility for making recommendations to the Board of Governors regarding elimination of faculty positions.
- 8.2 The Office of Human Resources shall have primary responsibility for the implementation of the provisions of this policy.