

Article 15
REDUCTION IN FORCE

Notice to the Association

- 15.1 The Board shall notify the Association before implementing any reduction in force. “Reduction in force” means termination or reduction of the employment of any contract or regular faculty employee because of a reduction or discontinuation of a particular kind of service or a decline in enrollment pursuant to Education Code Sections 87743, 87744, 87745, and 87746. For the purposes of this article, “contract faculty employee” shall be limited in meaning to “probationary faculty employee.”
- 15.2 On or before February 1, the Board shall provide the Association with the reasons the Board believes a reduction in force is necessary. If the Board fails to provide those reasons, the Association itself may initiate a grievance under Article 5 seeking compensation for any extra expenses it reasonably incurred because of the Board’s failure to adhere to this section, but the failure shall not be grievable by any individual faculty employee nor shall it invalidate the reduction in force.
- 15.2.1 In addition, on or before February 1, the Board shall provide the Association with a list of potentially affected programs based on then available information. This provision shall not be grievable nor shall it invalidate the reduction in force.

Alternatives to Reduction in Force

- 15.3 Before the initiation of any formal reduction in force proceedings as described below in Section 15.5, an appropriate administrator shall meet with the faculty employee whose program is subject to reduction or discontinuation. The purpose of this meeting shall be to discuss alternatives listed as part of this section. The faculty employee shall have the right to be accompanied by an FA representative. Subsequent to this meeting, the Board shall assign the faculty employee who would otherwise be subject to layoff to one or more of the following if, in the judgment of the Board, any of them are available:
- 15.3.1 Reassignment under provisions of Article 12;
- 15.3.2 Transfer under provisions of Article 13;
- 15.3.3 Multi-campus assignments;
- 15.3.4 Saturday assignments as part of the five-day work week;
- 15.3.5 Day/evening assignments;
- 15.3.6 Evening assignments; or
- 15.3.7 Other duties beneficial to the District as determined by the Board.
- 15.4 In addition, to avoid layoffs the Board may, in consultation with the Association, offer to any faculty employees who are willing to agree to do so, voluntary reduction in contract, reassignment under Article 12.4, and/or transfer under Article 13.2.

Formal Reduction in Force Procedure

- 15.5 Formal reduction in force proceedings shall commence with Board action at a regularly scheduled Board meeting within the thirty-day period immediately preceding March 15. Faculty employees subject to layoff in the event of a reduction in force shall be notified by the Board in accordance with the Education Code.
- 15.5.1 At the commencement of probationary employment with the District, a faculty employee shall be assigned to the appropriate Faculty Service Area(s) (FSA) as defined in Article 1.1.25 for which he or she qualifies by the terms of employment. After initial employment, a faculty employee who is eligible for additional FSAs shall declare and provide proof of such eligibility in accordance with Sections 15.8 and 15.9.
- 15.5.2 In the event of a reduction in force, faculty employees in an FSA shall be subject to layoff in the inverse order of their seniority.
- 15.5.3 Seniority shall be determined by the first date of paid employment as a probationary faculty employee of the District.
- 15.5.3.1 The seniority date for a faculty employee initially hired as an academic administrator prior to June 30, 1990 shall be the first date of his or her paid employment in the District in a probationary position.
- 15.5.4 A faculty employee in an FSA shall be entitled to “bump” a less senior faculty employee.
- 15.5.5 If two or more faculty within an FSA have the same seniority date, seniority shall be determined by lot. That is, each faculty employee shall draw a seniority number to determine the order of layoff.
- 15.5.6 Pursuant to Education Code Section 87743, the services of no regular employee shall be terminated while any probationary employee, or any other employee with less seniority, is retained to render a service in an FSA for which that regular employee is both qualified and competent as defined in Section 15.6.

Faculty Service Area(s)

- 15.6 In the event of reduction in force proceedings, regular and/or probationary faculty employees shall be assigned in such a manner that they shall be retained to render service in any FSA in which the faculty employee is both qualified and competent. In order to be retained to render service in an FSA during a reduction in force, the faculty employee must both:
- 1) Meet state minimum qualifications adopted by the State Board of Governors as prescribed in Title 5 or possess a valid credential in the appropriate discipline, and
 - 2) Be competent in the applicable faculty service area as set forth in the competency criteria in Subsection 15.6.1 below.

- 15.6.1 For the purposes of this article only, a faculty employee shall be considered to be competent to serve in an FSA if he or she fulfills at least one of the following:
- 15.6.1.1 Has had previous satisfactory District employment in the FSA for at least three quarters or for two quarters and one summer session;
 - 15.6.1.2 Has been employed full-time for at least one academic year during the previous five years in an accredited post-secondary institution to render a service that, if it had been rendered in the District, would have been in the applicable FSA.
- 15.7 The District Office of Human Resources shall maintain a list of the faculty service areas and the faculty employees who are competent in each FSA. A copy of the current list shall be available in each division office, the Office of Faculty and Staff at Foothill and Academic Services at De Anza, and the Faculty Association Office. Changes to the designation of faculty service areas shall be negotiated and the Faculty Association shall consult with the Academic Senates in developing its proposals. Recommendations of the Dean and the faculty of the Division for changes to the designation of faculty service areas shall be forwarded to the appropriate Academic Senate and the chief negotiators for the Faculty Association and the District.
- 15.8 Each faculty employee's official personnel file shall reflect the Faculty Service Area(s) for which the faculty employee is competent. Upon attaining competence in additional FSA(s) in accordance with the provisions of Subsection 15.6.1 of this article, the faculty employee may request in writing to the Division Dean or appropriate administrator that his/her official personnel file reflect the new FSA(s) and that his/her name be added to the list maintained pursuant to Section 15.7. A copy of this request shall be forwarded by the Division Dean to the Vice Chancellor of Human Resources and the Dean of Academic Services at De Anza or the Dean of Faculty and Staff at Foothill. The faculty employee shall be responsible for initiating the request to have additional FSA(s) recorded and shall be responsible for verifying competence in any additional FSA(s).
- 15.8.1 Any dispute arising from an allegation that a faculty member has been improperly denied a faculty service area shall be classified and procedurally addressed as a grievance under provisions of Article 5.
- 15.9 It shall be the responsibility of the individual faculty employee to furnish any necessary valid credential or credentials, to establish the necessary minimum qualifications in the appropriate discipline, to establish competency in the applicable FSA in accordance with the terms of Subsection 15.6.1 and its subsections, and to provide all necessary information to the Vice Chancellor of Human Resources or his or her designee on or before February 15 of the year during which reduction in force proceedings are commenced.

Termination Notice and Faculty Recourse

- 15.10 The Board shall furnish to FA copies of all notifications of termination because of a reduction in force.

- 15.11 A faculty employee who has been notified that his or her employment may be reduced or terminated because of a reduction in force may either:
- 15.11.1 Initiate the grievance procedure under provisions of Article 5 if the employee believes that the Board has violated, misapplied, or misinterpreted the specific provisions of this article (in which case the grievance shall be the exclusive means of reviewing the reduction or termination of employment); or
 - 15.11.2 Request a hearing under Education Code Section 87740 (in which case the hearing shall be the exclusive means of reviewing the reduction or termination of employment).

If the faculty employee elects to file a grievance, the decision that results from that grievance shall be final and the employee may not request a hearing under Education Code Section 87740. If the faculty employee elects instead to request a hearing under Education Code Section 87740, the decision that results from that hearing shall be final (unless appealed to the Superior Court), and the employee may not allege a violation, misapplication, or misinterpretation of this article by filing a grievance under Article 5.

Paid Benefits, COBRA Rights, and Rehire Provisions

- 15.12 A contract or regular faculty employee who has been laid off because of reduction in force shall be provided three (3) months of paid benefits following layoff and subsequently may continue to receive medical, dental, and vision care benefits in accordance with COBRA rights.
- 15.13 The District shall follow Education Code requirements related to rehire provisions for faculty employees laid off by a reduction in force.