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TO: Monique Musick, Chair, Staff Alliance

FROM: Erik Seastedt, Chief Human Resource Officer

A handwritten signature in black ink, appearing to read "Erik Seastedt".

DATE: March 2, 2015

RE: Proposed Emergency Revisions to R04.07.110 Layoff, Recall and Release; & R04.08.060.G

This is in response to your February 17, 2015 memo regarding the proposed revisions to R04.07.110 and R04.08.060.G. I appreciate the thorough review and professional response by Staff Alliance especially in light of the expedited timeline. Following is a brief summary of the changes that were made based on Staff Alliance's input and an explanation of the reasons that some of the other suggestions were not incorporated. The subsection references are to the revised version of the re-draft which is attached.

The Definitions, which are now in subsection A, now include a definition of "authorized administrator" as requested.

In subsection B, Reasons for Layoff, the reasons are not limited to a lack of "budgeted" funds because that limitation would unnecessarily delay the university's ability to respond in situations such as the present, when projected declines in state revenue and, for example, UA's FY17 budget, are certain.

In subsection C, Selection for Layoffs, length of service is one of several factors considered in selecting individual employees for layoff. It does not create a seniority system. Since selection for layoff is not based on seniority, the regulation leaves open the possibility that either an employee with longer service in the unit, or an employee with longer overall university service, could be selected for layoff, depending on the other factors listed.

The reference to "previously documented" employee performance was added to the re-draft of subsection C.1 because as a practical matter, undocumented performance, whether good or bad, is difficult to rely on when distinguishing between two or more similarly qualified employees.

In response to Staff Alliance's comments on subsection C.2, language has been added to clarify that affected department leadership will continue to have input into the selection for layoffs.



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Regarding subsection D, Notice Period, we appreciate Staff Alliance's understanding of the fiscal situation currently facing the university. We intend to reduce all notice periods for exempt and at-will employees from six months to three months. With respect to D.3., no change was made. That section establishes the last day the employee is actually at work as the effective date of layoff in the event that the University provides pay in lieu of notice. Changing the effective date of layoff in the event of pay in-lieu of notice to be the last day of administrative leave does not enhance a department's flexibility to ensure coverage. Providing pay in lieu of notice is already discretionary and thus allows department flexibility. However, if the University elects pay-in-lieu, employment terminates immediately.

In the redraft, subsection E, Alternatives to Layoff, was revised to more completely describe the available alternatives to layoff. E.2. now reads, "A potential or notified layoff employee may be offered a reduced or modified appointment, including a change to "term" status, as an alternative to layoff. As with all alternatives to layoff, E.2. first requires that a layoff, that would terminate employment completely, be authorized under the circumstances. The employee may then be offered a choice to accept the layoff or the proposed modified appointment. In uncertain times, the judicious use of term appointments as an alternative to layoffs may reduce the need for broader layoffs. In addition, when positions are funded by restricted funds, such as auxiliary funds, grants or other outside contracts, it is necessary that employees be appointed for the specified duration of the project, grant or contract. Although oftentimes such funding is renewed and employees receive another contract, term appointments reflect that restricted funding is subject to being modified or discontinued.

Subsection E.3 describes the circumstances in which employees may be direct-appointed to another position as an alternative to layoff. It does not restrict an employee's ability to compete with other internal candidates for a position at a higher pay grade or at another university within the system.

As requested by Staff Alliance, the maximum tuition credits in subsection F.3 are increased to 15 per semester and 30 per academic year.

The recall provisions were not changed in the redraft. Since the recall order applies to employees within the same unit from which the employee was laid off, as well as the same job class and pay, departments can choose which positions are most critical to recall, but in effect the same criteria used to lay off employees from a specific job class are used for recall.

Staff Alliance also requested that employees have access to information on which layoff decisions are based. A new sentence has been added to the first paragraph of subsection H to require that employees receive a written explanation of the reasons for layoff and consideration of the selection factors.

In response to concerns expressed by Staff Alliance, the proposed review process in Subsection I has been changed so that requests for review will be submitted to the Chief Human Resources Officer who



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may assign an appropriate reviewer. Depending on the issues raised, the reviewer may decide the issues on the materials submitted, may choose to schedule a meeting with *both* the employee and the unit's representative, or may provide for a different procedure. A layoff, unlike a termination for cause, is not a decision that is directed at an individual employee. Thus the purpose of review in the context of a layoff is not to require the university to demonstrate that it has cause to terminate employment; it is primarily to protect employees and the university from those unusual situations in which the selection criteria for layoff is applied improperly, e.g., based on illegal motivations. The vast majority of layoffs in a widespread downsizing effort are not likely to raise such issues. The re-drafted regulation provides a better fit between the rights at stake and the process provided. It permits a simpler review in cases that require only a simple review, and allows for a grievance-like process in those infrequent cases where there is an issue of illegal motivation. In those cases, the Chief Human Resources Officer would refer the matter to a hearing before a different hearing officer. Thus the re-draft does not eliminate due process rights, it provides for due process procedures when the request for review raises issues that require them, and does not require those elaborate procedures when the request does not. In doing so it better fits the process to the issue.