

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-25 (rev. 6), “REDUCTION-IN-FORCE PROCEDURES”
JANUARY 1, 2017
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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-25 (rev. 5)
November 1, 2010

EXECUTIVE DIRECTIVE

SUBJECT: REDUCTION-IN-FORCE PROCEDURES

AUTHORITY: Tex. Gov't Code §§ 493.001, 493.006(b), 493.007, 657.002, 657.003, 657.007, 661.062, 661.063(c), 661.205, 672.002; 38 U.S.C. §§ 4301-4334, *Uniformed Services Employment and Reemployment Rights Act*; BP-02.08, "Statement of Internal Controls"

APPLICABILITY: Texas Department of Criminal Justice (TDCJ) with the exception of employees in temporary or grant funded positions and employees on active military service.

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

When the TDCJ is required to delete positions through a reduction in force (RIF), the identification of filled positions to be deleted will be conducted without regard to an incumbent employee's race, color, religion, sex (gender), national origin, age, disability, or genetic information. In addition, the identification of filled positions to be deleted will comply with the provisions of applicable federal and state laws relating to employment for current or former members of the uniformed services.

The TDCJ has zero tolerance for all forms of employment discrimination in the RIF process. No employee will be subjected to harassment or retaliation for opposing or reporting employment discrimination in the RIF process.

DEFINITIONS:

“Foster Child Employment Preference,” for the purpose of this directive, is the preferential consideration in retaining employment given, when all factors taken into consideration for retention of an employee are equal, to an employee currently 25 years of age or younger who was under the permanent managing conservatorship of the Texas Department of Family and Protective Services on the day preceding the employee’s 18th birthday.

“Reduction-in-Force Priority Consideration” is the process selection reviewers shall follow prior to considering other qualified applicants for a position vacancy by: (1) considering those qualified employee applicants whose position has been identified for RIF and who are in a position with an established salary rate the same or higher than the established salary rate of the position being filled; and (2) if the qualified employee applicant identified for RIF is not selected for the position, providing a written justification for not selecting the employee for the position.

“Reduction-in-Force Separation” is the involuntary separation from employment of an employee whose position has been eliminated by the TDCJ for reasons not related to job performance or disciplinary violations.

“Veteran’s Employment Preference,” for the purpose of this directive, is the preferential consideration for employment given, when all factors taken into consideration for selection are equal, to the following: (a) a veteran who was honorably discharged and served in the U.S. armed forces or in an auxiliary service or reserve component of one of the branches, to include a veteran with a disability, who is classified as service-connected disabled by the U.S. Department of Veterans Affairs, its successor, or the branch of the service served; (b) a veteran’s surviving spouse who has not remarried; and (c) an orphan of a veteran killed while on active duty.

PROCEDURES:

I. General Provisions

The TDCJ may require a RIF for any business-related reason, including a legislative mandate, budgetary constraints, program curtailments, or a consolidation or reorganization to include the deletion or merger of functions.

II. Reduction-in-Force Determination and Implementation

- A. The executive director or deputy executive director will determine when a RIF becomes necessary.
- B. When it becomes necessary for the TDCJ to implement a RIF, the provisions in the Reduction-in-Force (RIF) Fact Sheet (Attachment A) shall be followed.

III. Written Notification for Affected Employees

The Human Resources Division director shall coordinate the process of providing a written notification of RIF separation to employees in positions identified for deletion. Each written notification shall include:

- A. The date the employee's position is to be deleted; and
- B. Information relating to continued employment options.

IV. Reduction-in-Force Priority Consideration for Position Vacancies

Prior to RIF separation, an employee may apply for any TDCJ position vacancy including one or more posted positions, a correctional officer (CO) position, or a parole officer (PO) position.

A. General Provisions

- 1. When a RIF employee accepts a position and the selection results notification has been released, the employee is no longer eligible for RIF priority consideration when applying for other positions.
- 2. If a RIF employee does not accept an offered position, the RIF employee will still be eligible for RIF priority consideration until the employee's RIF separation.
- 3. The RIF salary provisions in PD-72, "Employee Salary Administration," will apply if a RIF employee accepts a position with the same or lower established salary rate than the established salary rate of the RIF employee's current position.

B. Posted Positions

- 1. A RIF employee will be eligible for RIF priority consideration for posted positions closing on or after the date of the employee's formal written RIF notification, if the RIF employee:
 - a. Applies for a posted position with the same or lower established salary rate of the RIF employee's current position; and
 - b. Meets the minimum qualifications for the position.
- 2. A RIF employee who is eligible for RIF priority consideration shall be interviewed and a determination made for selection or non-selection of the RIF employee prior to interviewing other applicants.
 - a. Documentation of interviews with RIF employees who are eligible for RIF priority consideration shall be in accordance with the procedures in PD-71, "Selection System Procedures."

- b. A RIF employee identified as being entitled to the foster child employment preference or the veteran's employment preference shall be given preferential consideration for selection when the RIF employee is equally qualified with other RIF priority applicants.

If a RIF employee entitled to foster child employment preference is equally qualified with a RIF employee entitled to veteran's employment preference, the former foster child shall be selected for the position.

If all factors taken into consideration are equal, and more than one applicant is eligible for the veteran's employment preference, the applicant shall be selected in the following order of priority: (1) a veteran with a disability; (2) a veteran; (3) a veteran's surviving spouse who has not remarried; and (4) an orphan of a veteran if the veteran was killed while on active duty.

- c. If one or more RIF employees who are eligible for RIF priority consideration apply for a position and a RIF employee is not selected, a rationale for non-selection of each qualified RIF employee who was eligible for RIF priority consideration shall be forwarded in writing to the appropriate division director for concurrence. This documentation shall become part of the selection packet.

If the appropriate division director concurs with the non-selection, the screening and interview process for the other applicants may proceed in accordance with the procedures in PD-71, "Selection System Procedures." If the position is a dual supervised position, both the administrative and technical line of supervision shall agree with the decision to not select a RIF employee.

C. Correctional Officer or Parole Officer Career Ladder Position

- 1. A RIF employee applying for a CO position will be subject to the CO selection criteria and training requirements in accordance with PD-73, "Selection Criteria for Correctional Officer Applicants."
- 2. A RIF employee applying for a PO career ladder position will be subject to the provisions in PD-72, "Employee Salary Administration."

V. Impact of Reduction-in-Force Separation on Leave Accruals

A. Vacation Leave

1. A RIF employee will not be permitted to remain on the TDCJ's payroll after the RIF separation effective date to exhaust the employee's accrued vacation leave.
2. A RIF employee who has accrued six months of continuous state employment and separates from state employment is entitled to a lump sum payment for accrued and unused vacation leave, if within 30 calendar days from the date of RIF separation, the employee has not been reemployed by the state in a position that accrues vacation leave. A lump sum payment for accrued and unused vacation leave will not be made until the employee has been separated from employment for at least 30 calendar days. The rate of compensation used to determine the lump sum payment amount will not include longevity pay or hazardous duty pay.
3. If a RIF employee is reemployed by a state agency to a position that accrues vacation leave within 30 calendar days of a RIF separation, the employee's vacation leave balance will be restored. Such an employee will not receive a lump sum payment for accrued and unused vacation leave.

B. State Compensatory Leave

A RIF employee shall exhaust accrued state compensatory leave balances, including "comp time" and "holiday time," prior to the RIF separation date. The employee will not be allowed to run these accrued leave balances past the RIF separation date.

C. Overtime

An employee will be paid for any overtime balance remaining upon RIF separation.

D. Sick Leave

A RIF employee will have the employee's sick leave balance restored if the employee is reemployed by the state within 12 months after the end of the month in which the employee's RIF separation occurred.

VI. Appeal by Employee Entitled to the Foster Child Employment Preference

An employee entitled to the foster child employment preference who is aggrieved by the TDCJ decision to delete the employee's position through a RIF may appeal the decision by filing a written complaint with the Texas Board of Criminal Justice (TBCJ). The TBCJ may render a different decision if the TBCJ determines that the foster child employment preference was not applied.

VII. Appeal by Employee Entitled to the Veteran's Employment Preference

An employee entitled to the veteran's employment preference who is aggrieved by the TDCJ decision to delete the employee's position through a RIF may appeal the decision by filing a written complaint with the executive director. The executive director may render a different decision if the executive director determines that the veteran's employment preference was not applied.

Bryan Collier
Executive Director

Texas Department of Criminal Justice Reduction-in-Force (RIF) Fact Sheet

1. Military Reservists

- Federal and state law provides that an employee on active military service is entitled to reemployment into the same or similar job. Therefore, an employee on active military duty is not subject to the RIF.
- State law provides that an employee who returns from active military duty is not subject to a RIF for a period of one year after reinstatement.

2. Family and Medical Leave (FML) Impact

An employee on FML does not receive a preference. The question to be asked is whether the position would be deleted if the employee were actively working. If the answer is yes, the position may be deleted.

3. RIF Methodology

- It is not necessary to apply the RIF methodology when a one-of-a-kind position is to be deleted or when all positions with the same title and function within the same geographical area or working group are to be deleted.
- The RIF methodology will be applied only when some but not all positions within the same geographical area or working group and with the same payroll title and function are to be deleted. In such instances, the following factors (tie breakers) shall be considered in the order listed to determine which position(s) are to be deleted.

| RIF Methodology | |
|--|--|
| Factors: | Delete position(s) held by employee(s): |
| Total Months of State Service | With the least total months of state service |
| Current Date of Hire (Consider only if total months of state service are equal.) | With the most recent date of hire |
| Foster Child Employment Preference* (Consider only if the total months of state service and current date of hire are equal.) | Not covered by the foster child employment preference (as defined in PD-25, "Reduction-in-Force Procedures") |
| Veteran's Employment Preference* (Consider only if total months of state service and current date of hire are equal and the foster child employment preference does not break the tie.) | Not covered by the veteran's employment preference (as defined in PD-25, "Reduction-in-Force Procedures") |
| Job-related Education, Experience, Certification, and Training (Consider only if total months of state service and current date of hire are equal and the veteran's employment preference does not break the tie.) | Who has the least amount of combined inside and outside job-related education, experience, certification, and training (consideration shall be similar to selecting an applicant for the position and shall be documented) |
| Performance of Job-Related Duties (Consider only if all other factors are equal.) | Who has the lower performance evaluation ratings as documented on the employee's most recent annual performance evaluation |
| * If a RIF employee entitled to foster child employment preference is equally qualified with a RIF employee entitled to veteran's employment preference, the former foster child's position shall not be deleted. | |