

## FINANCIAL EXIGENCY

### 2.8.7 Financial Exigency

The following policy, approved by the Board of Regents, governs financial exigency at the University.

#### 2.8.7.1 Definition

Financial exigency which justifies the termination of tenured faculty or staff is an imminent financial condition which seriously jeopardizes the quality of the University's academic program and the ability of the University to fulfill its obligations to the public. Projections of enrollment, or instructional subsidies, and of other sources of revenue must indicate that the shortage of funds will be both severe and persistent. The Board of Regents must find that institutional operations within such budgetary constraints requires a reduction in personnel such that tenured faculty or staff must be terminated or laid off, or probationary faculty must be terminated or laid off prior to the end of their respective appointments. Such a reduction in faculty or staff positions shall be deemed required only if, in the Board's judgment, it will have an effect substantially less detrimental to the institution's ability to fulfill its mission than with other forms of budgetary curtailments available to the institution.

#### 2.8.7.2 Program Reduction or Elimination

The Board will review the faculty ratios in each degree program as well as the cost per student for each academic course. If it is determined that budgetary conditions, governmental mandate or economic currents have resulted in reduced student enrollment within certain colleges, schools, units or programs then the Board may eliminate or curtail such college, school, unit or program.

#### 2.8.7.3 Faculty and Staff Committee

Any time a financial exigency is declared; the President shall designate or create a standing committee approved by the Board to consult with the President. The committee shall consist of faculty and staff members who represent the various academic and administrative units of the University. The faculty members shall be chosen from a list of faculty members provided to the President by the Faculty Senate and the staff members shall be provided to the President by the Rotating Advisory Committee or such other committee as is designated as the official representative of all University staff members. The committee shall act as the representative of the faculty's and staff's interest in both their personal and professional concerns for the University's programs.

#### 2.8.7.4 Preliminary Determination and Statement

If the Board declares that a state of financial exigency exists or is imminent or a program change has occurred or should seriously be considered, and termination of one or more faculty or staff may be required as a consequence of either circumstance, it shall prepare a statement that identifies the state of financial exigency or other program change. The statement shall outline the options for response which might involve termination of employment. This statement shall be transmitted to the Faculty and Staff Committee with a request for its action in accordance with this policy. This statement shall also be published and made available to all faculty and staff. Pending committee action, the Board shall undertake, through the President's Office, to obtain advice and recommendations with respect to the matters addressed in the statement.

#### 2.8.7.5. Duties of the Faculty and Staff Committee

In the event that a financial exigency is declared, the President shall consult with and seek advice from the faculty and staff committee at least twenty (20) days before the Board takes any final action which might result in layoffs or termination. The President and the committee shall consider identifiable alternative methods of budget reductions; determine which colleges, schools, units or programs, faculty or staff positions should be eliminated; and prepare a report, with supportive documents, for submission to the Board. Such a report shall include both majority recommendations and minority reports. It shall be the responsibility of the committee to recommend criteria that may be used by the President and the Board for academic program evaluations and priorities. A decision to curtail or discontinue an academic or administrative unit shall be made in the best interests of the students and the University's mission.

#### 2.8.7.6 Individual Designations

Once the Board has declared a state of financial exigency and has identified the particular departments or administrative units in which a reduction in staff is necessary, it shall be the primary responsibility of the President to recommend to the Board which individuals are to be terminated or laid off. Such a recommendation shall normally follow seniority, unless an exception is made to preserve the diversity of specializations with a department or unit, to preserve academic accreditation or when strict application of seniority would otherwise threaten a viable academic or administrative program or department or unit.

#### 2.8.7.7 Seniority

The following sequence shall be followed in determining seniority: tenured faculty or staff of superior academic rank would have preference for retention over tenured faculty of lesser rank. A faculty or staff member who has obtained tenure prior to another faculty or staff member of the same rank would have preference over the latter faculty or staff member. If tenure and rank considerations are the same for two faculty members,

the faculty member with the longer period of employment would have retention preference. Only in a case where program needs dictate other considerations will a non-tenured faculty or staff member be retained over a tenured person. Such a situation will only be warranted upon a showing that diversity of specialty is necessary to preserve academic accreditation or when application of seniority threatens a viable academic program.

#### 2.8.7.8 University Obligations

In making specific recommendations for termination of individual tenured faculty or staff positions, the President shall take into account the following: If funded vacancies exist, reasonable effort will be made to offer the tenured faculty or staff member another existing position within the institution for which the tenured person is qualified by experience and education.

#### 2.8.7.9 Lay-Off Status

A faculty or staff member whose position has been eliminated or reduced in accordance with the provisions of this policy shall, at the end of the appropriate notice period, be placed on lay-off status, unless the lay-off notice has been rescinded prior to that time. A person on lay-off status shall remain on such status until:

- a. For a probationary faculty, the probationary appointment would have expired under its own terms;
- b. For tenured faculty or staff, the earliest of one of the following occurs: Reappointment to the position or failure to accept such reappointment would terminate the faculty or staff member's employment;
- c. Resignation; or
- d. Failure by the affected faculty or staff member to notify the President not later than December 15 of each year while on lay-off status as to his or her location, employment status, and desire to remain on lay-off status. Failure to prove such notice of desire to remain on lay-off status shall terminate such person's employment.

A person on lay-off status has all of the reemployment rights and also has the following minimal rights: participation in departmental, unit, and institutional activities permitted by departmental and/or unit guidelines; continued use of campus facilities; continued participation in fringe benefit programs which are not dependent on payroll or require University financial contributions.

#### 2.8.7.10 Notification

The President shall send to each tenured faculty or staff member recommended for termination a written notice of the Board's initial decision to make such termination. The notice shall include a statement of the basis for the decision, a description of the manner in which the decision to terminate was made, that the tenured faculty or staff member will be provided an opportunity to have the particular decision reconsidered by the President with advice from the Faculty and Staff Committee, and the rights of the said faculty or staff member.

#### 2.8.7.11 Reconsideration

A tenured faculty or staff member may secure reconsideration of the decision by filing a written request with the President within thirty (30) days after receipt of notice. The Faculty and Staff Committee shall consider the information furnished to the tenured faculty or staff member and provide him or her with an opportunity to furnish it with written information or statement tending to prove the accuracy and correctness of the facts stated in the request. A genuine effort will be made to resolve the entire matter by informal methods of preliminary inquiry, consultation, discussion, and confidential mediation. No formal evidentiary hearing of an adversarial nature will be conducted on such a complaint. If the difficulty is not resolved in fifteen (15) days, the Committee shall submit to the President a written report containing its advice and recommendation with a supporting statement of its specific reasons. After consideration of the report, the President shall make a recommendation to the Board.

#### 2.8.7.12 Final Matters

A faculty or staff member having been laid off because of financial exigency shall upon recall have restored to his or her credit sick leave which had been accrued and unused at the time of separation as well as being restored to his or her status prior to such lay-off. Eligibility for all other University benefits will be consistent with personnel policies and benefits in effect at the time of recall.