

3359-20-04.4 Guidelines for academic retrenchment due to financial exigency for faculty members not governed by collective bargaining agreement.

This rule applies to faculty members not governed by the collective bargaining agreement between the university of Akron and Akron-AAUP.

(A) Preamble.

- (1) The board of trustees, in consultation with appropriate members of the university community (to include the president, the senior vice president and provost, and the vice president for finance and administration), will determine when a financial exigency exists at the University, and does hereby establish and promulgate these guidelines.
- (2) These guidelines are board guidelines and are adopted to inform all affected thereby. They are not intended to, nor do they impair any existing rights or grant new rights to any person or persons.
- (3) The board reserves to itself the resolution of any financial exigency in accordance with its statutory obligation.
- (4) The board does recognize and respect the rights of all those affected by its decision and within the limits of the financial exigency and the board's duty, the board will respect and consider their rights.

(B) Guidelines.

(1) Consultation.

Early in the process of making recommendations concerning program reduction, the university president, the senior vice president and provost and other appropriate administrators shall make a good faith effort to consult with deans, department heads, faculty, and students. It is especially important that faculty members whose educational programs or positions may be adversely affected have an opportunity to be heard, through the faculty advisory committee, by the administration. It is recognized, however, that the ultimate university decision-making

authority, both as to the decision to carry out the academic retrenchment and as to the timing of that decision, rests in the board of trustees.

(2) Data and documentation.

The university administration must make a good faith effort to determine and to explain clearly the nature of the fiscal limitations, and to establish appropriate educational priorities.

(3) Procedures for faculty consultation: the faculty advisory committee.

(a) There shall be a faculty advisory committee to discuss proposals from the university administration concerning academic retrenchment due to financial exigency.

(b) The faculty advisory committee shall consist of all the elected faculty members then serving on faculty senate. When there is need for this committee, it may be assembled upon the call of either the university president or five of its members; when assembled, the committee will proceed to elect its own chairman, vice chairman, and secretary. These three committee officers shall be from three different colleges (with the university library being defined as a separate academic college for these purposes).

(4) Administrative recommendation and faculty discussion.

(a) After the university administration has assembled the pertinent data and documentation, and has prepared its specific recommendation for program reduction, but before it has taken any further action on the matter, it will report its recommendation to the faculty advisory committee for discussion and advice. Any such discussion shall not delay the implementation of the program reduction.

(5) Academic due process.

When program reductions in response to financial exigency involve termination of faculty appointments, special care must be

taken to protect and honor accepted procedures and rights appropriate to a faculty member's tenured or probationary status. Upon appeal, faculty members will have an opportunity to be heard through established university grievance procedures. Termination because of financial exigency must be distinguished from a proceeding that might lead to dismissal for cause.

- (6) Procedures for faculty reduction in force (rif).
  - (a) A faculty reduction in force (rif) shall, whenever possible, be treated as a layoff--temporary in nature--not as a termination. The released faculty member's place will not be filled by a replacement for a period of three years, unless the released faculty member has been offered reappointment and sixty days within which to accept or decline.
  - (b) Tenured members of the faculty shall be retained in preference to probationary appointees. This preferential status shall include wherever possible and practicable an opportunity to transfer or readapt to other programs within the department, college or university.
  - (c) If a faculty member wishes, he may accept early retirement or transfer from full-time to part-time service. However, such actions shall be governed by the same guidelines and procedural safe-guards as those which operate in other situations brought about by financial exigency.
  - (d) The following objective criteria will be considered in determining the order in which faculty members are to be released in the event of a necessary faculty reduction in force:
    - (i) All temporary or part-time faculty within the affected program will be released before any probationary faculty.
    - (ii) All probationary faculty within the affected program will be released before any tenured faculty.

- (iii) Within any academic department, discipline, or other appropriate administrative division, faculty reduction in force will proceed according to seniority within each classification of faculty status defined as tenured, probationary, temporary, part-time: The least senior faculty member in terms of length of academic service at the university is released first, followed by the next least senior, and so on until the most senior faculty member is reached.
    - (b) In computing seniority, the most pertinent point is total full-time service at the university of Akron (in any of the ranks of instructor, assistant professor, associate professor or professor). (Also included herein are those who occupy the position of full-time lecturer.) Time of service in a particular rank, or following tenure, is a less important consideration.
    - (c) In extraordinary and compelling circumstances--as where a junior tenured faculty member is the only member of a department (or other appropriate administrative division) who is competent (as judged on the basis of training and experience and documented by scholarly and/or creative contributions in that field) to teach a needed program or set of courses--the seniority principle may be disregarded. In such situations, however, the university administration will provide the adversely affected faculty members with a written explanation of the decision to disregard seniority in the instance in question.
- (7) Rights and benefits for faculty members released because of financial exigency.

- (a) Before being released from the university, the faculty member will have the right to fill any existing faculty vacancy for which he is qualified, or to transfer to any other college or division or department and to fill any vacancy therein for which he is qualified. His qualifications will be determined principally by his teaching experience and his academic training.
- (b) Faculty members who have been released and later recalled will retain as many fringe benefits as is legally possible.
- (c) A faculty member released due to financial exigency will receive from the university, to commence at the time of release, a one-year continuance of his/her university health insurance policy without charge. He or she will also be given the option to continue his or her health insurance for a second year by paying premiums at the group rate.

(8) Timing.

The university president should provide as much advance notice as possible in making financial exigency decisions. In cases where faculty appointments are to be terminated, timely notice of termination or nonreappointment must be given. In extreme situations, if timely notice cannot be given, financial compensation to the faculty member proportional to the lateness of the notice may be an appropriate substitute for full notice.

- (C) For purposes of this rule, a “financial exigency” is defined as a situation requiring reduction or reallocation of resources or reorganization or elimination of programs which cannot be accomplished through normal academic, budgetary, and personnel processes. The emergency may be caused by a decline in student enrollments, a reduction in state appropriations or allotments, a loss of income from non-state sources, or some serious event or condition requiring anticipated or unanticipated major expenditure reductions. The emergency may be university-wide or it may be restricted to only one school, department, program, or area.

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