

BOARD POLICY

405.5

RETRENCHMENT

I. Purpose

The purpose of this policy is to establish procedures for ~~the~~ retrenchment of programs for the campuses, divisions, and units¹ of the University of Arkansas System. ~~Under certain circumstances, the University may be compelled to reduce the staffing of certain departments of instruction, academic disciplines, services, or programs or eliminate some departments and programs altogether. This policy establishes the circumstances under which retrenchment may be implemented and establishes the process for implementing retrenchment.~~

II. Applicability

~~Retrenchment shall be utilized only in those instances in which the Board of Trustees has specifically authorized a retrenchment. This policy does not limit the authority of the President, the chancellor, or the chief executive officer for any campus, division or unit (campus) to terminate employees holding positions for which tenure may not be awarded, to implement functional changes, for budgetary reasons, or to reallocate institutional resources. This policy also does not limit the authority of the President, chancellors, chief executive officers, or campus administrators to terminate employees pursuant to Board Policies 405.1, 405.4, and other applicable policies.~~

III. Definitions

~~Retrenchment is a reduction ~~in~~ or elimination of programs and/or services which results in the termination of employment only because of (1) a *bona fide* financial exigency or (2) formal academic planning, including Board-approved changes in institutional missions, substantial program changes (pursuant to Board Policy 620.1), ~~or, and~~ major reallocations of resources for academic, research, or support services. ~~In the implementation of retrenchment, fair and humane treatment of faculty, staff, and students is of great concern. Serious efforts shall be made to relocate affected faculty and staff in other parts of the program area or in a different program area of the same campus or division. Similarly, currently enrolled students will be permitted, through special arrangements, to complete a program of studies begun before retrenchment was implemented.~~~~

Commented [WB1]: Consistent with current Section IV "Board of Trustees Approval"

Commented [WB2]: Definitions are taken and modified from current Sections I., II. and III.

Commented [WB3]: Moved to new Section VI. "Processes Applicable to All Retrenchments"

¹ The Arkansas Archeological Survey, the Arkansas School for Mathematics, Sciences and the Arts, the Criminal Justice Institute, and the University of Arkansas Grantham are not subject to this policy.

Financial Exigency Retrenchment occurs when a campus is threatened by an imminent financial crisis which is of such gravity as to make imperative the termination of personnel.

- ~~1. The head of a unit² proposes a situation of financial exigency documented with budget summaries and projections.~~

~~Academic administrative personnel~~Academic Planning Retrenchment occurs when faculty (tenured or untenured) are to be terminated as a result of established planning activities, including Board-approved changes in institutional mission, substantial program changes, a reduction or elimination of programs, or major reallocations of resources for academic, research, or support services.

IV. Financial Exigency Retrenchment

A. The following process shall be followed for Certification of Financial Exigency:

- ~~1. The chancellor or chief executive officer of a campus shall propose a Financial Exigency Retrenchment and support the proposal with budget summaries and projections and other appropriate documentation.~~

~~1-2. The appropriate administrators² and a unit wide governance standing committee which is appointed by the campus governance structure body representative of ~~unit~~all campus constituencies shall separately evaluate the ~~documentation~~proposal and, within 10 calendar days ~~recommend to the unit head, make a recommendation to the chancellor or chief executive officer as to~~ whether they concur with the ~~determination of the bona fide exigency proposal~~. The governance ~~body structure~~ shall be informed of the recommendation made by ~~its standing~~the committee. ~~The requirement of a committee evaluation does not apply if the campus has no governance body.~~~~

~~2-3. The unit head~~The chancellor or chief executive officer shall evaluate the recommendations ~~made by the academic administrative personnel and by the committee and shall~~ forward them, along with ~~his/her~~the final recommendation of the ~~chancellor or chief executive officer~~, to the President, who will report the results of the campus deliberation, along with ~~his/her~~the President's own recommendations, to the Board of Trustees ~~for action.~~

~~3-4. The Board of Trustees shall either (1) certify a bona fide financial exigency and the unit head shall~~direct the chancellor or chief executive officer to initiate the

²Hereafter the Chancellor, Vice President for Agriculture, or director of a unit which reports directly to the President will be referred to as a head of a unit.

retrenchment process, ~~or;~~ (2) declare the situation to be a financial ~~stringency~~difficulty and direct the ~~unit head shall~~chancellor or chief executive officer to ameliorate the situation through budget reductions ~~which shall~~that do not ~~involve~~require the immediate termination of personnel.; or (3) ~~determine that no financial exigency or difficulty exists and require no action.~~

B. Implementing Financial Exigency Retrenchment

1. If the Board of Trustees certifies a *bona fide* financial exigency, the ~~unit~~chancellor or chief executive officer shall initiate retrenchment. ~~The unit head~~

1.2. ~~The chancellor or chief executive officer~~ shall consult with the appropriate administrators and the ~~standing~~ committee ~~of~~appointed by the governance ~~body~~ structure representative of all campus constituencies (if any) before determining that major sub-~~unit(s)~~units³ or programs are to be retrenched and the financial level of retrenchment. -In determining major sub-units to be retrenched, the following criteria must be considered:- (1) centrality of the sub-unit to the mission of the institution, (2) quality of the sub-unit, and (3) cost of the sub-unit, including the relative degree of economic self-sufficiency. -In making this determination ~~they, shall examine~~ nonacademic areas and programs shall be examined for possible budget reductions or retrenchment as well as in addition to academic programs.

2.3. Once the extent of necessary retrenchment has been ~~ascertained~~determined, each affected academic dean⁴ or the administrative officer of a nonacademic ~~areas~~area shall be responsible for recommending programs to be retrenched and the number of personnel affected in accordance with criteria and procedures established by this policy and the appropriate applicable campus policy (if any) previously adopted by the campus governance body, structure and approved by the President. In recommending programs to be retrenched, the above-listed criteria, ~~listed above,~~ must be considered. Alternatives to termination of personnel shall be considered such as early retirement, transfer, ~~voluntary~~ salary reduction, leave-of-absence without pay, as well as normal attrition of personnel; and reductions or postponements in benefits. Within a given department, any faculty member with tenure must be retained over a person who does not have tenure.

3.4. The college dean⁵ or other administrative officer shall report his/ ~~or~~ her recommendations to the ~~unit head~~chancellor or chief executive officer through

³ For purposes of this policy, a major sub-unit is generally a college or school of a campus, or in the case of a unit that is neither a college nor a university, an administrative division or department.

⁴ The dean of a college or school or the head of a major ~~academic~~ sub-unit.

⁵ See footnote 2.

Commented [WB4]: Moved to new section VI. "Processes Applicable to All Retrenchments:

appropriate administrative channels. ~~The unit head shall notify the employee(s) who are to be terminated. A person who has been terminated may, in writing, appeal the decision within ten (10) calendar days of the receipt of a certified letter of notification of termination. The appeal shall be based on whether there was material deviation from the established campuswide guidelines for termination because of retrenchment and shall be filed with the unit head and heard by a committee designated by the campus governance body. The committee shall make a report and recommendations within five working days to the unit head who shall, who will make the final decision/decisions and notify the appellant immediately. Nonexempt employees⁶ retrenched because of financial exigency will be terminated in accord with Board Policy 405.4 and in no case will termination be effected without 30 days notice. Non-classified employees retrenched because of financial exigency cannot be assured that notice of the duration specified in Board Policy 405.1 will precede termination. Exempt employees retrenched because of financial exigency shall be given notice at least 60 days in advance of termination. who are terminated.~~

~~I. Academic Planning Retrenchment~~

~~5. Academic Planning Retrenchment occurs when Tenured, tenure-track, and clinical or other non-tenure track faculty, tenured or untenured, are to be with merit-based multi-year appointments under Board Policy 405.4 who are terminated as a result because of established planning activities. The three reasons for this retrenchment are Board approved changes in institutional mission, substantial program changes and major reallocations of resources for academic or support services. a Financial Exigency Retrenchment shall be given notice at least 60 days prior to termination. All other employees terminated because of a Financial Exigency Retrenchment shall receive notice in accordance with Board Policy 405.4.~~

~~IV. Process for Academic Planning Retrenchment shall involve the~~

~~A. The following steps/process shall be followed for Academic Planning Retrenchment:~~

- ~~1. 1. The head of a unit/The chancellor or chief executive officer shall propose a retrenchment/an Academic Planning Retrenchment and justify the proposal with appropriate documentation.~~
- ~~2. 2. The proposal shall be reviewed and recommendations made by the/The appropriate academic and other administrators and by the appropriate governance body/entity or bodies. In all cases involving academic programs, the(if any) shall separately and promptly review shall be made pursuant to the proposal and make any~~

⁶As defined by the Fair Labor Standards Act

~~recommendations. This requirement is satisfied by the review procedures set forth in Board Policy 620.1, which applies to all Academic Planning Retrenchments that require the addition, deletion, or significant modification of an academic program.~~

3. ~~3. The unit head~~The chancellor or chief executive officer shall evaluate the recommendations and ~~shall forward them, along with his/her final recommendation~~the final recommendation of the chancellor or chief executive officer, to the President, who will report the results of the campus deliberation, along with ~~his/her~~the President's own recommendations, to the Board of Trustees.

4. ~~If the~~The Board of Trustees ~~declares~~shall declare an Academic Planning Retrenchment,~~the unit head or determine that no action is required.~~

B. Implementing Academic Planning Retrenchment

4.1.~~The chancellor or chief executive officer~~ shall work with the appropriate administrators to determine the needed level of retrenchment and the personnel affected. ~~Within a given academic program, any faculty member with tenure must be retained over a person who does not have tenure.~~

2. ~~Faculty members, Tenure-track and tenured and non-tenured, faculty~~ who are terminated under Academic Planning Retrenchment shall be given notice as specified in Board of Trustees Policy 405.1, Section IV.B. ~~Any appeal by a tenure-track or tenured faculty member under Academic Planning Retrenchment shall be in accordance with Section V.C. of this policy. Staff who are~~

5.3.~~Other employees~~ terminated ~~under because of an~~ Academic Planning Retrenchment shall ~~be governed by~~receive notice in accordance with Board of Trustees Policy 405.4. ~~Any appeal made as a result of Academic Planning Retrenchment shall be in accord with the existing appellate structure.~~

II. Board of Trustees Approval

~~All retrenchment recommendations, financial and academic, must be approved by the Board of Trustees.~~

~~The foregoing policy shall be utilized only in those instances in which the Board of Trustees has specifically determined that the policy and procedures therein are applicable. It is recognized that the President, Chancellors and the Vice President for Agriculture on occasion may be required to terminate staff or faculty members and other academic employees in positions for which tenure may not be awarded under the provisions of Board Policy 405.4 to implement functional changes, for budgetary reasons or other reallocation of institutional resources. The President, Chancellors and the Vice President~~

~~for Agriculture shall continue to be authorized to effect terminations of such employees for the foregoing reasons on such terms and under such procedures as they might deem fair, reasonable and appropriate, consistent with the required notification provisions of Board Policy 405.4, and this Board Policy 405.5 shall not be applicable to such terminations.~~

Commented [WB5]: Replaced by Section II. "Applicability"

V. Processes Applicable to All Retrenchments

A. Unless the campus specifies otherwise in a policy adopted by the campus governance structure and approved by the President prior to the commencement of the retrenchment process, the order of retrenchment shall be as follows:

1. Within a given department or program (including a clinical program), a faculty member with tenure must be retained over one who does not have tenure.
2. Retrenchment of faculty members within the same department or program (including a clinical program) should be based on the following criteria in the stated order: (1) relevance and expertise, determined in consultation with relevant faculty; (2) rank; (3) the last into the rank will be the first out; and (4) seniority at the institution.
3. This order of retrenchment is conditioned upon the remaining faculty members having the necessary qualifications and credentialing to teach the remaining courses and perform remaining duties (including clinical duties).

B. In the implementation of retrenchment, fair and respectful treatment of faculty, staff, and students is of great concern. Faculty members holding positions eliminated by reduction or elimination of programs will be relocated to other academic units of the campus for which they are qualified whenever possible. Based on the qualifications of a relocated tenured faculty member, the campus may recommend the faculty member to the President for tenure in the new academic program or unit. Similarly, currently enrolled students will be provided with reasonable arrangements to complete a program of study begun before retrenchment was implemented.

C. Tenure-track, tenured, and clinical or other non-tenure track faculty with merit-based multi-year appointments under Board Policy 405.1 who are terminated through a retrenchment may appeal the decision, in writing, within 10 calendar days of notification of termination. The only basis for an appeal is if the termination decision resulted from a material deviation from this policy or the previously established campus retrenchment policy approved by the President prior to the commencement of the retrenchment process. The appeal shall be filed with the chancellor or chief executive

officer and heard by a committee designated by the campus governance structure (for the chancellor or chief executive officer, if no such governance body exists) for this purpose. The committee (if any) shall make a report and recommendation within five working days to the chancellor or chief executive officer, who shall make the final decision and immediately notify the appellant.

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DRAFT