

## **PERSONNEL**

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#### **Financial Exigency (6.17)**

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## **PURPOSE**

The following policy has been designed to comply with and incorporate all the provisions of Board policy No. 5:02:06:00. It is the intent of this policy to provide emergency guidelines, including reduction-in-force, should the University experience a condition of financial exigency.

## **POLICY**

It shall be the policy of Tennessee State University that, in the event of emergency conditions as a result of financial exigency, the University will explore all available methods to effectively resolve the condition. A reduction-in-force will be considered as a viable alternative to resolve the condition.

## **PROCEDURE**

### **Definitions:**

Financial Exigency is a formal declaration by the Tennessee Board of Regents that Tennessee State University faces an imminent financial crisis due to a current or projected absence of sufficient funds (appropriated or non-appropriated) for the campus as a whole. The lack of such funds creates an inability to maintain current programs and activities at a level sufficient to fulfill its educational goals and priorities and the budget can only be balanced by extraordinary means which include the termination of existing and continuing academic and nonacademic appointments.

The following are general definitions of words and terms used in this policy. These words and terms are subject to further qualification and definition in the previous sections of this policy.

## **I. ACTION REQUIRED PRIOR TO THE DECLARATION OF FINANCIAL**

### **EXIGENCY**

Financial exigency results from an imminent fiscal crisis characterizing the entire University; thus, the condition of financial exigency may not be declared at a level below that of the institution (i.e., it may not be declared at the level of an academic or administrative unit such as a school, department, or similar account-level unit). In light of the gravity of consequences resulting from a declaration of financial exigency, the process leading to a recommendation to

the Tennessee Board of Regents that financial exigency be declared must be cautious, fair, well informed and as responsive as possible to the interests of various segments of the University.

(a) The responsibility for initiating a proposal for declaration of financial exigency resides with the President. Since recommending the declaration of financial exigency is an extreme measure, that responsibility requires the President to provide all appropriate assurances and documentation that available and reasonable procedures to reduce the expenditure levels of Tennessee State University are exhausted and no efforts have been spared to enhance revenues.

(b) Prior to proposing the declaration of financial exigency, the President shall share with the entire faculty or its representative body and with representatives of other campus personnel constituencies all pertinent analysis and documentation that, in his opinion, demonstrates an imminent fiscal crisis for the entire University. That analysis and documentation should be shared promptly and with sufficient notice to all personnel constituencies (including the representative faculty body); and opportunities should be provided for discussions with and advice from those bodies, answers to appropriate questions and general deliberations befitting the University.

(c) After discussion and review of any advice from various personnel constituencies, the President shall, if he remains convinced conditions warrant a recommendation for declaration of financial exigency, present the recommendation with full documentation to the Chancellor.

In addition to providing the Tennessee Board of Regents with a recommendation to declare financial exigency, the Chancellor, in consultation with the campus president, shall also submit a statement of findings and conclusions which shall include at least the following:

(1) A description of the current fiscal condition of Tennessee State University, including the projected amount of deficit that would result from failure to declare financial exigency.

(2) A projection of the fiscal condition that would result, in the opinion of the President and the Chancellor, from general types of action anticipated to be taken subsequent to a declaration of financial exigency.

(3) An analysis of the reason for the current imminent fiscal crisis characterizing the entire University, specifying, with appropriate documentation, those identifiable factors contributing to the crisis.

(4) A statement of assurance, with supporting evidence, that available and reasonable procedures to reduce expenditure levels of the University are exhausted, further retrenchment within existing policies is not compatible with the objective of assuring maximum protection for the academic programs of TSU and the educational needs of students and efforts to enhance revenues have been carried out in a responsible manner.

(5) A transmittal of any advice, alternatives or information in writing by any University personnel constituencies (including the representative faculty body).

## **II. ACTIONS REQUIRED SUBSEQUENT TO THE DECLARATION OF FINANCIAL EXIGENCY**

Should the Tennessee Board of Regents formally declare a state of financial exigency at Tennessee State University, the President shall, in a reasonable time and with appropriate documentation, initiate a proposed plan to allocate necessary funding reductions among the primary budgetary subunits (e.g., academic affairs, student affairs, fiscal affairs, etc.) within the University. The following procedures shall be followed:

- (a) The President shall convene the University's Financial Exigency Committee, the composition of which shall be broadly representative of all personnel constituencies (including the representative faculty body) and shall be defined in this policy.
- (b) The President's proposed plan for allocating necessary funding reductions to primary budgetary sub-units shall be reviewed by the Financial Exigency Committee.

Budgetary subunits shall be reviewed by the Financial Exigency Committee. The Committee shall review the amounts of proposed reductions, evaluate proposed reductions in light of University priorities and consider administrative organization and academic priorities. It shall also consider the magnitude of proposed reductions in each primary budgetary subunit in light of factors prescribed by applicable state or federal laws regarding fair employment practices.

The Committee shall submit to the President in writing within thirty days its response to the President's plan, which shall include either an endorsement or a recommendation of alternatives.

The President shall consider any alternatives recommended by the Committee and, within thirty days, shall indicate to the Committee a final decision relative to the internal allocation of necessary funding reductions. This final plan should be communicated broadly to all personnel constituencies including the representative faculty body.

- (c) Heads of primary budgetary subunits, with broad and clearly defined faculty and staff consultation, shall recommend to the President plans for effecting their designated budget reductions. Those recommendations from heads of primary budgetary subunits shall include proposed reductions in programs or personnel, shall achieve the designated reductions and shall respond to any inquiries the President or the Financial Exigency Committee may direct.

- (d) As a primary component of his or her review of plans submitted by heads of primary budgetary subunits, the President shall prior to accepting them submit the plans for review by the Financial Exigency Committee.

This policy shall indicate general principles that the Committee will consider in reviewing plans submitted by heads of primary budgetary subunits. While policies may include other principles, the Committee must consider at least the following general principles:

- (1) Retrenchment other than reduction-in-force should reflect as its major priority maximum protection for the academic programs of the institution and the educational needs of students.

- (2) When an academic or administrative unit undergoes reduction-in-force, the principal consideration in determining which persons to retain and which to terminate should be the maintenance of viable academic or support programs within that unit.
- (3) Personnel of affected academic or administrative units should have clearly defined advisory involvement relative to determining specific persons and minimal personnel needs or areas of specialization essential to a unit's viability.
- (4) To avoid the possibility of compromising the quality of highly productive programs within the University and to recognize the best interests of continued academic excellence, reduction-in-force cannot normally be accomplished on a strictly across-the-board basis.
- (5) Affirmative action plans should be carefully considered in all personnel decisions.
- (6) Unless an exception is made to maintain a viable academic or support program (see #2 above) or for the reasons of affirmative action (see #5 above), decisions as to the order of personnel terminations in academic or administrative units should be made in light of factors clearly defined in Tennessee State University policies.

The financial exigency plan should specify clearly and in rank order the role of defined factors in determining order of personnel terminations in academic or administrative units under conditions of financial exigency. Those factors shall include but are not limited to tenure status, rank, seniority within rank, local seniority within rank, length of service, performance evaluations.

The Financial Exigency Committee shall submit in writing to the President its response to the plans for recommended reductions submitted by heads of primary budgetary subunits. That response shall include either an endorsement or a recommendation of alternatives.

(e) After appropriate review of response by the Financial Exigency Committee, the President shall indicate his or her acceptance, rejection or amendments to reduction plans submitted by heads of primary budgetary subunits.

The President shall communicate his composite plan for reducing expenditures to the entire campus community.

(f) The President shall submit for approval by the Chancellor his composite plan for effecting budgetary reductions as required by the fiscal condition of the University. That transmittal must include the written response by the Financial Exigency Committee to both (1) the President's plan for allocating necessary funding reductions to primary budgetary subunits and (2) plans for the primary budgetary subunits for effecting their designated budget reductions.

If the Chancellor approves the plan for implementation, he or she shall submit it as information at the next meeting of the Tennessee Board of Regents.

### **III. PROCEDURES FOR TERMINATION OF PERSONNEL UNDER CONDITIONS OF FINANCIAL EXIGENCY**

Following declaration of the Tennessee Board of Regents that a condition of financial exigency exists at Tennessee State University, the President of Tennessee State University, having complied with those actions required subsequent to the declaration of financial exigency (see Section IV.), is authorized to carry out those actions including reduction-in-force, which are included in the plan approved by the Chancellor. Reduction-in-force under this policy may include any personnel classification, including tenured faculty members or probationary faculty members prior to the end of their terms of appointment.

(a) The procedures for termination described in this policy are in force only during a period in which the Tennessee Board of Regents has declared Tennessee State University is in a condition of financial exigency.

(b) An individual selected for termination shall receive prompt written notification from the President. That notification shall include the following:

(1) a statement of the basis on which the individual was selected for termination

(2) an indication of the data or reasons supporting the choice if it is not a clearly defined factor such as rank or tenure status

(3) a statement of the date on which the termination is to become effective

(4) a copy of the declaration of financial exigency adopted by the Tennessee Board of Regents

(5) such other information as the President may deem appropriate.

(c) An individual who receives notice of termination, as described in Section b above, may appeal the decision as specified in Tennessee Board of Regents Policy No. 5:06:06:00.

Tennessee State University shall provide in its policy on Financial Exigency procedural provisions for a Faculty Hearing Committee and for a Staff Hearing Committee. The Faculty Hearing Committee and the Staff Hearing Committee shall ensure prompt hearings are thorough and fair but need not be judicial in nature. Strict rules of procedure (e.g., confrontation, cross-examination, and formal rules of evidence) need not be required.

The following conditions constitute grounds for appeal by an individual on notice of termination:

(1) established institutional procedures or provisions of Board Policy 5:02:06:00 were not followed.

(2) appropriate criteria were not applied, including but not limited to the allegation his or her selection constituted a violation of the individual's academic freedom or unfounded or arbitrary assumptions of fact were made.

The Hearing Committees shall not review the decision concerning the declaration of financial exigency or the president's plan for the amount of reduction to be assumed by each primary budgetary subunit.

A recommendation will be sent from the Faculty or Staff Hearing Committee to the President recommending he uphold or reverse the action of termination, and the President will inform the appropriate Hearing Committee and the individual of his final decision.

The final decision of the President may be appealed to the Chancellor and, upon reaching a decision, to the Tennessee Board of Regents.

#### **IV. CONTINUING RIGHTS OF PERSONS TERMINATED UNDER CONDITIONS OF FINANCIAL EXIGENCY**

No vacancy caused by a termination under conditions of financial exigency shall be filled for a period of three years from the time of notice of termination without first offering the position to the person terminated (academic or nonacademic), provided the person terminated keeps the institution informed of his or her current mailing address. If the person previously terminated is offered and accepts the same or closely similar position in the same department from which he/she left, he or she will be returned with the same rank and tenure status and salary level.

#### **V. TERMINATION OF DECLARATION OF FINANCIAL EXIGENCY**

If the financial health of the institution improves sufficiently, the President shall initiate a proposal for the termination of a declared state of financial exigency. The policies and procedures established by this policy shall continue in effect during the period of a state of financial exigency. At the termination of a declared state, action by the Tennessee Board of Regents shall cause all policies, procedures and bodies created in this policy for the sole purpose of making and implementing exigency decisions cease to exist.

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#### **REFERENCE**

TBR Policy No. 5:02:06:00