

2-16-2006

## Faculty Senate Resolution 06-03

Louisiana State University and Agricultural & Mechanical College

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First read January 19, 2006;  
Amended and adopted February 16, 2006.

**LSU Faculty Senate Resolution 06-03:  
A Commission on Financial Exigency Policy**

Introduced by Charles N. Delzell  
Co-sponsored by Pratul Ajmera

*Whereas*, although the LSU A&M campus administration has recently stated that it has no plan to seek a declaration of financial exigency on this campus, LSU's rules on financial exigency nevertheless need to meet the highest standard of university policies in order for LSU to attract and retain the highest caliber of faculty; and

*Whereas* the exigency rules stated in the American Association of University Professors' "Recommended Institutional Regulations on Academic Freedom and Tenure" (sections 4 and 8; <http://www.aaup.org>) represent the gold standard for university policies on exigency, and have been adopted, in whole or in part, by many universities<sup>1</sup>; and

*Whereas* on May 6, 1996 (<http://senate.lsu.edu/Minutes.html>) the LSU Faculty Senate endorsed a draft policy entitled "Procedures for Dealing with Financial Exigency, LSU-Baton Rouge" that embodies most of the AAUP rules on exigency, but neither this draft nor any other policy on exigency was ever adopted by the LSU A&M administration; and

*Whereas* Section 5-13 ("Financial Exigency") of the Regulations of the Board of Supervisors of the LSU System (<http://appl003.ocs.lsu.edu/ups.nsf/Bylaws?OpenView>) is, in some ways, inconsistent with the AAUP exigency rules referred to above<sup>2</sup>; and

*Whereas* the LSU Faculty Senate Constitution declares: "The Faculty Senate may suggest action or make inquiries or recommendations to the Provost, or if appropriate through the Provost to the LSU Chancellor and/or the LSU System President, on any aspect of University life, such as, but not limited to, the following: ...

- criteria, policies, and procedures regarding faculty appointment, conditions of work, dismissal, evaluations, grievances, promotions, tenure, retirement, and salaries; ...
- in communication with Faculty Senates or corresponding bodies of other campuses, criteria and procedures for the selection of the President of the LSU System;
- the University's role, scope, mission, organization, budget development, and planning";

*Therefore be it resolved* that the LSU Faculty Senate appoints, in consultation with LSU's Provost and Chancellor, a Faculty Senate Commission (at least half of whose members will be LSU faculty members who are not current or former administrators) that is charged with:

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<sup>1</sup> A representative list includes American University ([http://www.american.edu/academic.depts/provost/2/Library\\_regs/reg20\\_21\\_22.html](http://www.american.edu/academic.depts/provost/2/Library_regs/reg20_21_22.html)), Auburn University (<http://www.auburn.edu/academic/provost/handbook/policies.html#because>), Rice University ([http://professor.rice.edu/images/professor/Policy\\_201-01.pdf](http://professor.rice.edu/images/professor/Policy_201-01.pdf)), Syracuse University (<http://www.syr.edu/publications/facultymanual>), the Universities of Pennsylvania ([http://www.upenn.edu/assoc-provost/handbook/ii\\_e\\_17.html](http://www.upenn.edu/assoc-provost/handbook/ii_e_17.html)), South Carolina ([http://www.sc.edu/policies/facman/Faculty\\_Manual\\_2005-06.pdf](http://www.sc.edu/policies/facman/Faculty_Manual_2005-06.pdf)), Tennessee (<http://chancellor.tennessee.edu/facultyhandbook/appendix6.shtml>), and Utah (<http://www.utahsbr.edu/policy/r482.htm>), and dozens of other universities.

<sup>2</sup> For example, Section 5-13 permits declaration of financial exigency by the Board of Supervisors without any input from the faculty.

1. Reviewing and updating the draft policy entitled “Procedures for Dealing with Financial Exigency, LSU-Baton Rouge” endorsed by the Senate in May 1996, bringing it into the form of a Policy Statement that is consistent with AAUP guidelines as far as practical under the current Board Regulations; and

2. Recommending changes to Section 5-13 of the Regulations of the Board of Supervisors to make it consistent with the AAUP guidelines where appropriate.

The Commission will complete the above tasks within six weeks after it its members are appointed.

*Attachments:*

1. “Procedures for Dealing with Financial Exigency, LSU-Baton Rouge,” endorsed by the Senate on May 6, 1996.

2. Section 5-13 (“Financial Exigency”) of the Regulations of the Board of Supervisors of the LSU System.

3. Sections 4 and 8 of the AAUP’s “Recommended Institutional Regulations on Academic Freedom and Tenure.”



*Campus Correspondence*

To: Dr. George Strain, President  
Faculty Senate

Date: July 25, 1995

From: William L. Jenkins  
Vice-Chancellor for Academic Affairs  
& Provost

A handwritten signature in black ink, appearing to read "W. L. Jenkins", is written over the name and title of the sender in the "From:" field.

Re: Financial Exigency Plan

Attached is a copy of the exigency plan that was developed by the *ad hoc* committee of which you were a member. You know how strongly I feel that we should have clearly delineated procedures in place should it ever be necessary for the University to take such a serious step.

Please have the Faculty Senate review the document and report its recommendations to me as expediently as possible.

Thank you.

Attachments:

- Draft (as stated)
- Section from Board of Supervisors *By-Laws & Regulations*

xc: Chancellor Davis  
Vice-Chancellors *Baudin*

RECEIVED  
AUG 02 1995  
BUDGET & PLANNING



*Campus Correspondence*

*To:* Dean David Huxsoll, Chair  
Council of Academic Deans & Directors  
Committee on Administrative Matters

*Date:* July 25, 1995

*From:* William L. Jenkins  
Vice-Chancellor for Academic Affairs  
& Provost

*Re:* Financial Exigency Plan

Attached for the Committee on Administrative Matters' review is a copy of an exigency plan developed by an *ad hoc* committee (Drs. Dan Fogel, John Collier, Erwin Poliakoff, Karl Roider, Loren Scott and George Strain) that I charged with the task. We need to have a set of procedures in place should it ever be necessary for the University to take this very serious step.

Please have the Committee review the document and then report its recommendations to the Council of Deans and Directors as expeditiously as possible.

Thank you.

Attachments:

Draft (as stated)  
Section from Board of Supervisors *By-Laws & Regulations*

xc: Chancellor Davis  
Vice-Chancellors  
Council of Academic Deans & Directors

PROCEDURES FOR DEALING WITH FINANCIAL EXIGENCY  
LSU-BATON ROUGE  
June 12, 1995

A policy concerning financial exigency was adopted by the LSU Board of Supervisors at their meeting of October 30, 1992 (copy attached). As noted in that document, "...exigency shall exist whenever the financial resources of a campus are not sufficient to support the existing programs and personnel of a campus without substantial impairment of the ability of the campus to maintain the quality of its programs and services." Exigency at a particular campus within the LSU System may be declared by the governing board upon recommendation of the Chancellor and with the approval of the President. A request for exigency may be made only "...after consultation with representative faculty members."

The purpose of this document is to outline the policy and procedures to be followed on the campus of LSU and A&M College. Any restructuring or reallocation of University resources will normally follow only from careful and deliberate actions which are themselves consistent with the University's mission. Historically, academic restructuring and reduction have been accomplished by attrition, non-renewal of appointments, and reassignment of duties. This document and its procedures are not meant to apply to normal academic restructuring, except in instances where cumulative or sudden financial pressures of an extraordinary degree necessitate the reduction and/or reallocation of University resources for academic programs.

Under a duly declared state of financial exigency, the University may furlough, lay off, or terminate tenured faculty, non-tenured faculty or other contract employees before the end of their contract term. While the primary concern in implementing such actions must be the present and future educational priorities of the University, all parties must recognize the value of tenure as the essential guarantee of academic freedom. Therefore, even in a situation of financial exigency, the termination of tenured faculty should be allowed only for compelling reasons which do not violate the basic tenets of tenure.

DECLARATION OF FINANCIAL EXIGENCY

Financial exigency is an imminent, *bona fide* financial crisis that threatens the very nature and existence of the institution as a whole and that is extreme enough to justify abrogation of the University's contractual obligations to its faculty, staff, and students.

I. Steps in Advance of Declaration of Financial Exigency

1. If the Chancellor is considering a declaration of financial exigency, a Steering Committee (hereafter referred to as the SC) shall be convened by the Vice Chancellor for Academic Affairs and Provost. The SC shall consist of the following personnel: four faculty members to be drawn from and appointed by the Faculty Senate Executive Committee, the two elected faculty representatives on the University Budget Committee, two regular faculty members

of the Graduate Council (to be named by the Provost after the Faculty Senate Executive Committee members are named to the SC), two deans to be named by the Vice Chancellor for Academic Affairs, and the Vice Chancellor for Research and Economic Development. The Provost will chair the SC and participate in its deliberations but will not vote; the Vice Chancellor for Business Affairs and the Director of Budget and Planning will also serve as non-voting *ex officio* members of the SC.

2. After consultation with the SC, the Chancellor will decide whether to seek a declaration of financial exigency.

3. If the Chancellor decides to proceed to seek a declaration of exigency, then the Chancellor and the SC will provide written notification with a concise rationale for the decision to the faculty at large. Planning data will be immediately provided to the SC by the Office of Budget and Planning and the Strategic Planning Committee.

4. Within five calendar days of the written notification stipulated in step 3, above, the Faculty Senate, the Colleges and Schools, and the University Budget Committee will respond, and the Chancellor and SC will review those responses, which must be submitted in writing.

A. Before responding, each Dean and Director will meet with the appropriate College/School Policy Committee to review the proposed request for a declaration of financial exigency (the Dean/Director should bring to the deliberations of the Policy Committee the responses of department heads, chairs, and directors of schools within colleges). The results of the various meetings with College/School Policy Committees will be conveyed to the Faculty Senate Executive Committee through the Council of Policy Committees and directly by each Dean/Director, in writing, to the Chancellor and the SC.

B. The Faculty Senate Executive Committee will call one or more meetings of the Faculty Senate to review the proposed request for a declaration of financial exigency. The formal response of the Faculty Senate shall be conveyed in writing to the Chancellor and the SC.

C. The University Budget Committee will review the proposed declaration of financial exigency and respond in writing to the Chancellor and the SC.

5. After consultation with the SC, the Chancellor will then reach a decision and if necessary recommend a declaration of financial exigency to the Board of Supervisors.

## II. Steps After Declaration of Financial Exigency

1. The Provost will convene the SC to develop, in no more than three calendar days, a plan of action, including placement of all programs into one of three categories, as follows:

### Category One

This category comprises three co-equal classifications of programs:

- Programs essential to maintaining core undergraduate education in the liberal arts and sciences and in fields critical to the economic interests of the state
- Strong graduate and professional programs with national and

international visibility

Programs essential to maintaining the University's mission as a Land-Grant and Sea-Grant institution.

#### Category Two

This category consists of programs that fall outside of Category One but that are essential for the support of programs in Category One.

#### Category Three

This category comprises all other programs, subclassified as follows:

- Programs with national reputations for excellence
- Programs that generate total revenues substantially in excess of total expenditures
- Programs that are unique in the state and region
- Other programs

2. The SC will distribute the plan and categorization to all program administrators, who will have no more than three calendar days in which to meet with their faculties to review and discuss the plans and develop written comments.

3. The SC will review all written comments as stipulated in step 2, above, and will finalize its categorization of programs in no more than three calendar days. The SC will immediately distribute the revised plan to all program administrators and to all faculty. The SC will also discuss the plan with the Faculty Senate Committee on Courses & Curricula, the Graduate Council, and other groups as appropriate.

4. All of the groups stipulated in step 3, above, will have no more than three calendar days in which to submit written comments to the SC.

5. The SC will consider all written comments and, within one calendar day, will distribute throughout the University Community (i.e., to faculty, administrators, and staff) any further revisions to the SC recommendations or will inform the University Community that the recommendations as distributed per step 3, above, stand unrevised.

6. The SC will hold open hearings on its recommendations for no more than 3 calendar days. The time allotted for addressing the hearings will be allocated so that an officially designated spokesperson for each affected unit of the University who wishes to be heard will have the opportunity to speak. All others wishing to be heard will be accommodated as time allows.

7. After the conclusion of the hearings, the SC will make its final recommendations to the Chancellor.

8. The Chancellor will present the final plan to the President and to the Board of Supervisors and will distribute the final plan to the University Community.

9. The decisions of the Board of Supervisors will be reported to the University Community.

### III. Safeguards

1. The University will make good faith efforts to follow AAUP guidelines for defining and implementing financial exigency.

2. Nothing in this document will be construed as denying faculty members any protections afforded them by law or by the regulations of the Board of Supervisors.

3. Any members of the faculty who are terminated with less than the period of notification to which they are normally entitled will be allowed to continue to participate in the University's group insurance programs for up to six calendar months after termination.

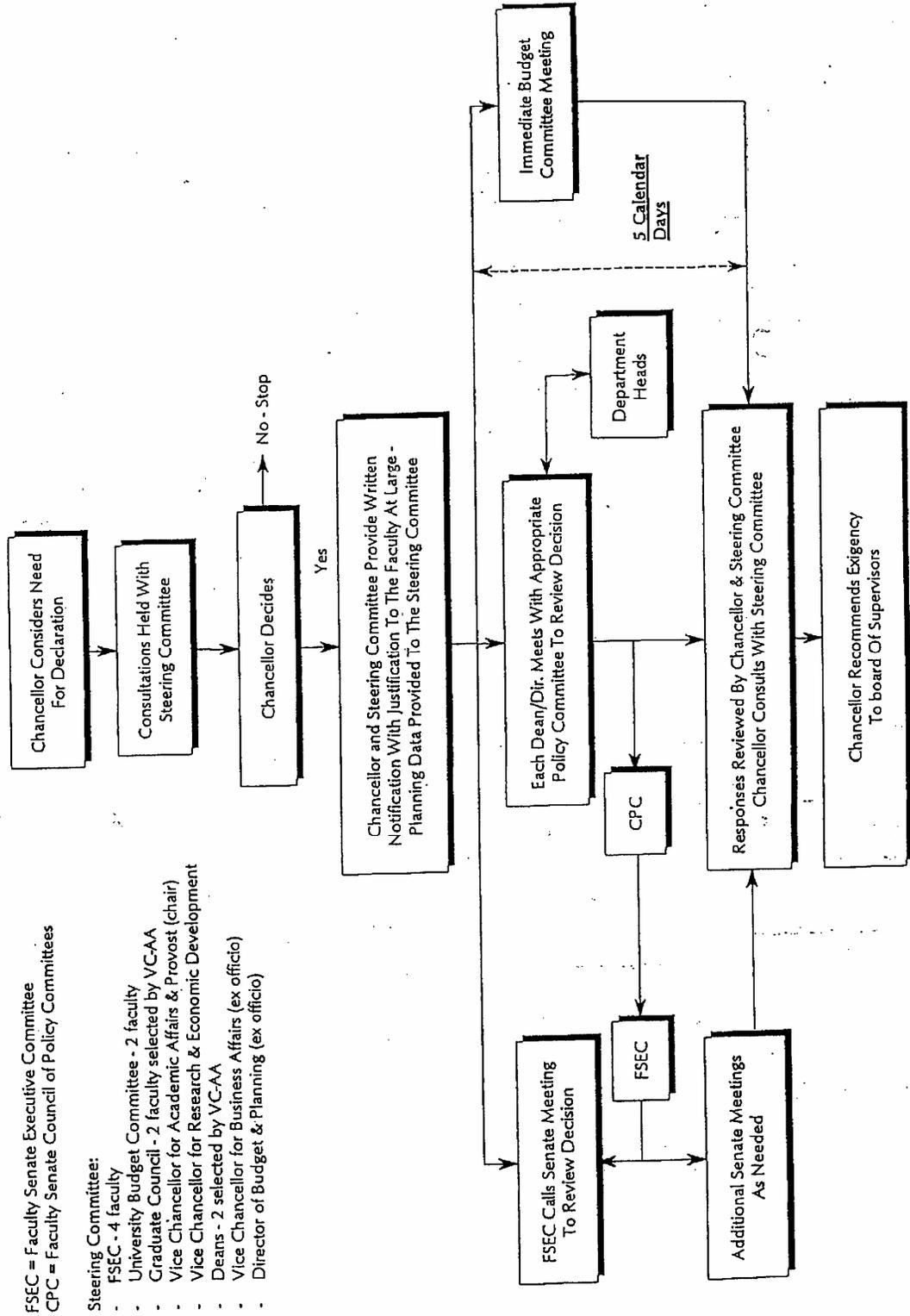
4. If a tenured faculty member's position is eliminated, the University will make a good faith effort to place the individual in another appropriate position.

5. If a position vacated by a tenured faculty member is reopened within three years after its closure, it will first be offered at the same rank to the person who vacated it. The affected individual will be given thirty calendar days from receipt of the offer to accept or decline the offer.

6. An individual receiving notice of termination will be given twenty-one calendar days to request a hearing on the grounds of prejudice, violations of academic freedom, invalid application of the criteria or guidelines, or violation of the procedures outlined in this document. These are the only grounds for a hearing. A special committee, nominated by the Faculty Senate and appointed by the Chancellor, will function as a hearing committee for this purpose, will follow the procedures set forth in the *Faculty Handbook* in the section on Faculty Grievances, and will forward its report to the Chancellor.

7. Should the Chancellor determine that the University cannot follow any particular guidelines stipulated in this document, such problems will be resolved through discussion with the Faculty Senate Executive Committee, which is charged with informing the faculty about the ongoing discussions.

I. STEPS IN ADVANCE OF DECLARATION OF FINANCIAL EXIGENCY

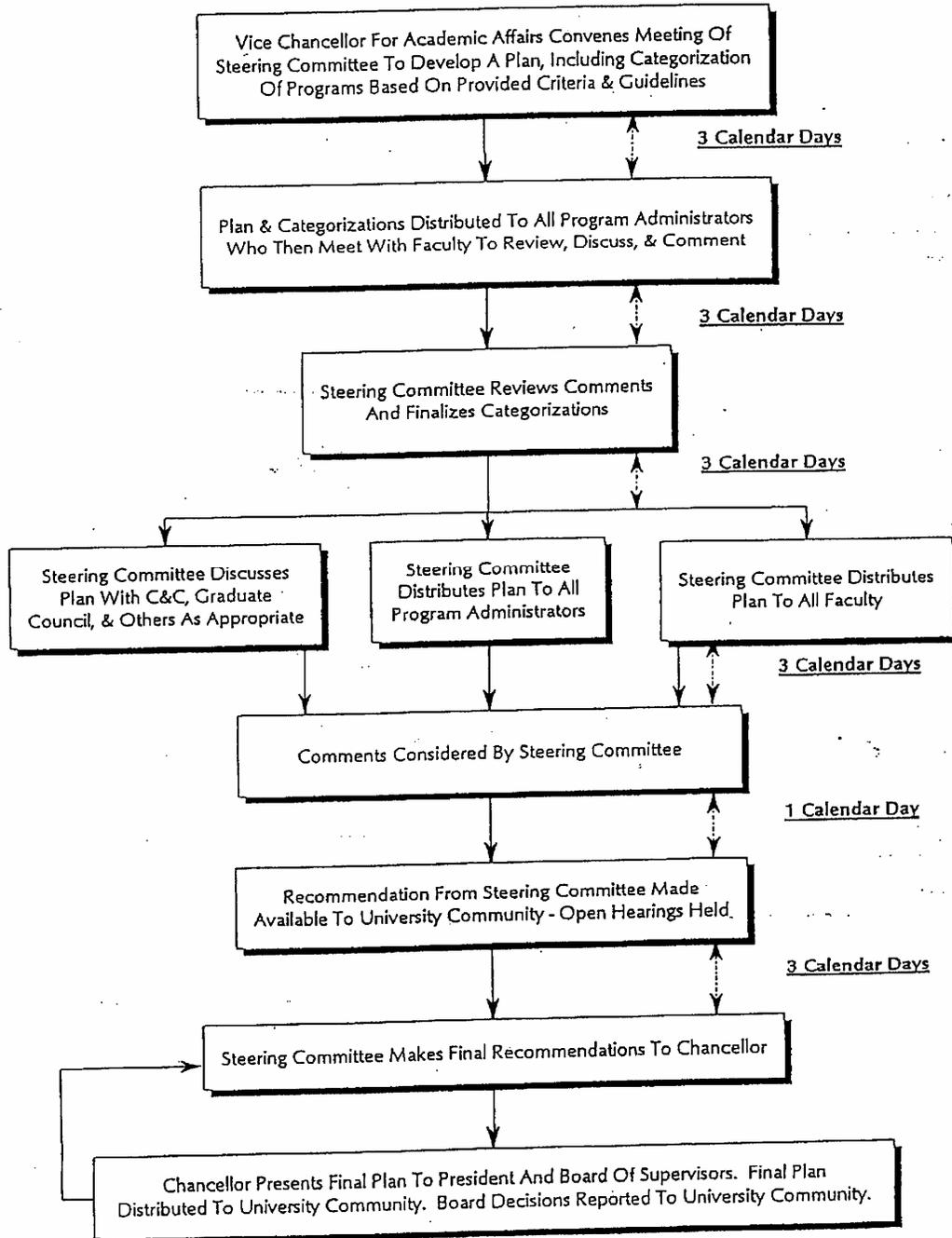


FSEC = Faculty Senate Executive Committee  
 CPC = Faculty Senate Council of Policy Committees

Steering Committee:

- FSEC - 4 faculty
- University Budget Committee - 2 faculty
- Graduate Council - 2 faculty selected by VC-AA
- Vice Chancellor for Academic Affairs & Provost (chair)
- Vice Chancellor for Research & Economic Development
- Deans - 2 selected by VC-AA
- Vice Chancellor for Business Affairs (ex officio)
- Director of Budget & Planning (ex officio)

## II. STEPS AFTER DECLARATION OF FINANCIAL EXIGENCY



## Regulations of the Board of Supervisors of the LSU System, October 28, 2005

### Chapter V: Financial and Business Procedures

Section 5-13. Financial Exigency. Anything in the Regulations of the Board of Supervisors to the contrary notwithstanding, if the Board of Supervisors finds that a condition of Financial Exigency exists at an institution, within an academic or other unit of an institution, or in the LSU System generally, then the furlough, layoff, or termination of tenured faculty, non-tenured faculty or other contract employees before the end of their contract term will be handled in accordance with the Financial Exigency policy set forth below. As used herein, the term "unit" means any identifiable component of the LSU System at any level of its organization which has an annual budget for the operation of such component.

- a. Definition of Financial Exigency. A condition of financial exigency shall exist whenever the financial resources of a campus are not sufficient to support the existing programs and personnel of the campus without substantial impairment of the ability of the campus to maintain the quality of its programs and services. Financial exigency may result from a reduction in financial resources or from the failure to receive increases in financial resources sufficient to maintain quality. Evidence of financial exigency may include, among other factors, reduction of state appropriations, faculty and staff salary levels substantially below national and regional averages, significant loss of personnel or inability to attract new personnel apparently due to inadequate salary and other support, and substantial threat of deterioration of facilities due to lack of resources for maintenance.
- b. Board of Supervisors Action. The Board of Supervisors, in the exercise of fiscal responsibility, may decide to declare financial exigency with respect to the System as a whole, to one or more institutions of the System, or to any unit or program within an institution. Reasonable efforts shall be made to insure that students affected will be allowed to complete their programs, within the limits of budgetary restraints, at the institution or by transfer to another institution.

A declaration of financial exigency shall represent a determination by the Board of Supervisors, upon recommendation of the Chancellor and President, that the financial condition of a unit, institution or system has reached a crisis in which the entity must carefully re-examine its priorities and reduce programs or personnel or both to effect a cost savings sufficient to alleviate the financial exigency.

The determination of financial exigency affecting the System or any institution or within an academic or other unit of an institution shall be the sole responsibility of the Board of Supervisors, but the Chancellor of an institution, after consultation with representative faculty members and approval by the President, may request such a determination by the Board. A request for the declaration of a financial exigency at any level before the institution level must originate at the institution. When such determinations are made, this policy, along with any implementing procedures, will take precedence over those applicable Board policies which govern normal operating procedures.

Implementation of a declaration by the Board of Supervisors of financial exigency shall be developed with the understanding that action taken will be consistent with the basic mission of the System to provide the best possible education, research and public service.

- c. Implementation of Declaration of Financial Exigency. Upon a declaration of financial exigency by the Board of Supervisors, the Chancellor at each institution, after consultation with faculty and staff, and approval by the President, shall determine whether furloughs, layoffs or terminations are required and which employees will be affected. This determination shall be made in accordance with procedures established by the President, which will give primary consideration to the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(Board Regs, Section 5-13, concluded)

Faculty and other employees under contract who are furloughed, laid off, or terminated before the end of their contract terms for reasons of financial exigency shall, whenever possible, be notified at least ninety (90) days in advance of the date of the furlough, layoff, or termination. The notice of furlough, layoff, or termination shall be delivered personally or by certified mail, with return receipt requested. Notice shall be complete upon delivery or mailing. This notice shall include, in writing, a statement of the conditions requiring furlough, layoff, or termination, a general description of procedures followed in making the decision and a statement of the employee's right to respond orally and in writing to a designated official or committee of the institution and to review by the Chancellor within the time specified in the notice as to the reasons for the furlough, layoff, or termination. The employee(s) shall also have the right, upon written request within twenty (20) days from the date of notification of the final decision of the Chancellor, to apply in writing to the Office of the LSU System President for a review of the decision.

The term "furlough" as used in this policy, is defined as temporary leave without pay for any employee, including tenured faculty members or non-tenured faculty or other contracted employees, before the end of their contract term. The term "layoff," as used in this policy, is defined as the temporary dismissal of any employee, including tenured faculty members or non-tenured faculty or other contracted employees, before the end of their contract term. Layoffs may lead to eventual termination. Layoffs or terminations may occur within an academic unit or other unit of an institution without a net loss of faculty members or other personnel at the institution; that is, layoffs or terminations in some academic or other units may occur with simultaneous authorization of new positions for different duties in academic or other units, depending upon the needs of such units.

- d. **Approval Required.** Anything in the regulations of the LSU Board of Supervisors to the contrary notwithstanding, if the Board of Supervisors declares financial exigency, either at an institution, within an academic or other unit of an institution, or in the System, as provided in section (b) above, program modifications or discontinuances recommended by the institution and approved by the President must be approved by the Board of Supervisors. With respect to the implementation of such program modifications or discontinuances upon a declaration of financial exigency, decisions with respect to furlough, layoff, or termination of any tenured faculty, non-tenured faculty, or other contract employee before the end of their contract term must be approved by the Chancellor and the President, and the decisions are final upon approval of the President. Review of such decisions by the Board of Supervisors is at its sole discretion.
- e. **Termination of Financial Exigency.** Financial Exigency shall terminate at the end of the fiscal year in which it was declared.

## American Association of University Professors

### Recommended Institutional Regulations on Academic Freedom and Tenure

[The excerpts below were downloaded on December 24, 2005 from <http://www.aaup.org>.]

*The Recommended Institutional Regulations on Academic Freedom and Tenure set forth, in language suitable for use by an institution of higher education, rules which derive from the chief provisions and interpretations of the [1940 Statement of Principles on Academic Freedom and Tenure](#) and of the [1958 Statement on Procedural Standards in Faculty Dismissal Proceedings](#). The Recommended Institutional Regulations were first formulated by the Committee on Academic Freedom and Tenure (Committee A) in 1957. A revised and expanded text, approved by Committee A in 1968, reflected the development of Association standards and procedures. Texts with further revisions were approved by Committee A in 1972, in 1976, in 1982, in 1990, and in 1999.*

*The current text is based upon the Association's continuing experience in evaluating regulations actually in force at particular institutions. It is also based upon further definition of the standards and procedures of the Association over the years. The Association will be glad to assist in interpretation of the regulations or to consult about their incorporation in, or adaptation to, the rules of a particular college or university.*

#### **Foreword** [omitted here]

#### **1. Statement of Terms of Appointment** [omitted here]

#### **2. Probationary Appointments** [omitted here]

#### **3. Termination Of Appointment by Faculty Members** [omitted here]

#### **4. Termination of Appointments by the Institution**

(a) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may be effected by the institution only for adequate cause.

(b) If termination takes the form of a dismissal for cause, it will be pursuant to the procedures specified in Regulation 5.

#### **Financial Exigency**

(c) (1) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, i.e., an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.

[NOTE: Each institution in adopting regulations on financial exigency will need to decide how to share and allocate the hard judgments and decisions that are necessary in such a crisis.

As a first step, there should be a faculty body which participates in the decision that a condition of financial exigency exists or is imminent,<sup>5</sup> and that all feasible alternatives to termination of appointments have been pursued.

Judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary responsibility of the faculty or of an appropriate faculty body.<sup>6</sup> The faculty or an appropriate faculty body should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service.

The responsibility for identifying individuals whose appointments are to be terminated should be committed to a person or group designated or approved by the faculty. The allocation of this responsibility may vary according to the size and character of the institution, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a faculty

member given notice of proposed termination of appointment will be governed by the following procedure.]

(2) If the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include:

(i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.

(ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of a faculty body on these matters will be considered presumptively valid.

(iii) Whether the criteria are being properly applied in the individual case.

(3) If the institution, because of financial exigency, terminates appointments, it will not at the same time make new appointments except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result.

(4) Before terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution.

(5) In all cases of termination of appointment because of financial exigency, the faculty member concerned will be given notice or severance salary not less than as prescribed in Regulation 8.

(6) In all cases of termination of appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has been offered reinstatement and a reasonable time in which to accept or decline it.

#### **Discontinuance of Program or Department Not Mandated by Financial Exigency<sup>7</sup>**

(d) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply.

(1) The decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof.

[NOTE: "Educational considerations" do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.]

(2) Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. If no position is available within the institution, with or without retraining, the faculty member's appointment then may be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of past and potential service.

[NOTE: When an institution proposes to discontinue a program or department of instruction, it should plan to bear the costs of relocating, training, or otherwise compensating faculty members adversely affected.]

(3) A faculty member may appeal a proposed relocation or termination resulting from a discontinuance and has a right to a full hearing before a faculty committee. The hearing need not

conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in such a hearing may include the institution's failure to satisfy any of the conditions specified in Regulation 4(d). In such a hearing a faculty determination that a program or department is to be discontinued will be considered presumptively valid, but the burden of proof on other issues will rest on the administration.

**Termination Because of Physical or Mental Disability** [omitted here]

**Review** [omitted here]

**5. Dismissal Procedures** [omitted here]

**6. Action by the Governing Board** [omitted here]

**7. Procedures for Imposition of Sanctions Other Than Dismissal** [omitted here]

**8. Terminal Salary or Notice**

If the appointment is terminated, the faculty member will receive salary or notice in accordance with the following schedule: at least three months, if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of probationary service; at least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of probationary service; at least one year, if the decision is reached after eighteen months of probationary service or if the faculty member has tenure. This provision for terminal notice or salary need not apply in the event that there has been a finding that the conduct which justified dismissal involved moral turpitude. On the recommendation of the faculty hearing committee or the president, the governing board, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.

**9. Academic Freedom and Protection Against Discrimination** [omitted here]

**10. Complaints of Violation of Academic Freedom or of Discrimination In Nonreappointment** [omitted here]

**11. Administrative Personnel** [omitted here]

**12. Political Activities Of Faculty Members** [omitted here]

**13. Graduate Student Academic Staff** [omitted here]

**14. Other Academic Staff** [omitted here]

**15. Grievance Procedure** [omitted here]

**Note on Implementation** [omitted here]

**Endnotes** [omitted here]