

Approved 1984

Revised and approved 2011

(1.0) Definition of Financial Exigency

For the purposes of this policy, a financial exigency is a bona fide imminent financial crisis that threatens the continuation of the academic programs in their present form, and that cannot be alleviated by other means. Words like "crisis" and "survival" are used to make it clear that an exigency must involve extremely serious financial problems, and not merely minor or temporary budget difficulties. These financial problems may be due to a budget shortfall, a lack of enrollment or an increase in overhead expenses. The definition of financial exigency also embodies its primary consequence, the authority to dismiss tenured and tenure-track faculty which may be due to the cancellation of a program. This is a drastic step that should be taken only after all reasonable alternatives (See section E) have been exhausted. The declaration of an exigency requires that the dismissal of tenured and tenure-track faculty is likely, even if such dismissals are not imminent.

(2.0) Consultation Prior to Declaration of Exigency.

When the University of Houston–Clear Lake (UHCL) President believes a *bona fide* financial exigency exists, he/she shall convene with the Faculty Senate in one meeting at least 30 days prior to a Board of Regents meeting. One intention of this meeting is to investigate the root causes of the financial exigency. The request for a meeting shall be accompanied by written supporting documentation, including detailed financial data. The Faculty Senate, in accordance with its bylaws, will in turn, provide advice and consultation to the UHCL President about the declaration of an exigency. Disagreements should be noted by the Faculty Senate, and the Faculty Senate President will present the position of the Faculty Senate to the UHCL President.

(3.0) Declaration of Financial Exigency.

The decision to declare a financial exigency may be made only by the Board of Regents. Before declaring a financial exigency, the Board must meet in open session to consider the positions of the UHCL President and the Faculty Senate President. The declaration of an exigency requires the affirmative vote of the Board according to procedures established in its bylaws.

(4) Consultation during Exigency.

After the declaration of an exigency, major steps for dealing with the financial crisis will be reviewed jointly by the UHCL President and the Faculty Senate. Proposals to terminate or significantly alter academic programs shall be submitted for consideration to the Faculty Senate by the UHCL President.

(5.0) Consideration of Less Drastic Alternatives Prior to Termination of Faculty.

Prior to issuing notices of dismissal to tenured and tenure track faculty or canceling academic programs, the UHCL President shall thoroughly explore all reasonable alternatives including, but not limited to, the following:

- a. Reducing Budgets
- b. An early retirement program
- c. Voluntary leaves of absence, voluntary reduction in salary or reassignment to part-time employment.
- d. Temporary adjustment in workload including the reduction of summer course offerings.
- e. Transfer of faculty to other positions for which they are qualified at the University of Houston-Clear Lake. This may include, but is not limited to, faculty teaching courses in other programs.
- f. Reduction or postponement of nonacademic expenses.
- g. Sale of assets and other means to increase revenue.
- h. Increased charges, e.g., facilities rental fees, to at least cover expenses.
- i. Elimination of administration and/or staff positions.
- j. Reduction in Administrative, Faculty, and/or Staff salaries.

(6.0) Plan for Retrenchment.

A retrenchment plan must be approved by the Board of Regents before actions are taken pursuant to a declaration of financial exigency. Prior to the approval of a plan, or the amendment of an existing plan, the Board must meet in open session to consider the positions of the UHCL President and the Faculty Senate. Termination of faculty appointments or major changes in academic programs must conform to the principles established in the exigency plan, as well as the provisions of this document. Only in extraordinary circumstances may the plan provide for the termination of tenured faculty in one program and the retention of untenured faculty in another program in which tenured faculty are qualified to teach. Academic considerations, to be determined in consultation with the Faculty Senate, will be primary in making program and personnel decisions. No administrative, staff, or academic areas of the University will be considered exempt from the effects of an impending financial crisis. During the formation of a retrenchment plan, issues regarding recovery will be considered and included.

(7.0) Order of Termination.

Except in extraordinary circumstances where a distortion of an academic program would otherwise result, non-tenure track faculty within a program shall be terminated before any tenure-track faculty are terminated, and any untenured faculty within a program shall be terminated before any tenured faculty are terminated. Where consistent with the academic needs of the university, preference shall be given to tenured faculty of higher rank, and to more senior faculty within the same rank. All applicable federal and state laws, including non-discrimination laws, shall be observed when making termination decisions under this policy.

(8.0) Termination Notice and Procedure. Termination of tenured faculty and tenure-track faculty with at least eighteen months probationary service requires notice of at least twelve months. Tenure-track faculty in the first year of probationary service will be given notice of termination at least three months before the end of the academic year. Tenure-track faculty in the second year of probationary service must be given notice of termination at least six months before the end of the academic year. Recommendations for the dismissal of tenured and tenure-track faculty are initiated by the President in consultation with the Faculty Senate. The final decision is made by the Chancellor of the University of Houston System, with the concurrence of the Board of Regents. In all cases the administration shall exercise due diligence to ensure that actions taken to give notice of termination conform to all applicable state and federal laws. After receiving notice of termination and prior to the actual termination of employment, a faculty member may choose retirement, if eligible.

(9.0) Procedures for Review of Personnel Actions Based on Financial Exigency.

Any faculty member who is given notice of termination or is subject to a personnel action that would be prohibited in the absence of an exigency is entitled to a hearing before a designated faculty body. The designated faculty body will consist of at least five faculty members, all from the Council of Professors. One member will be named by the faculty member; a second faculty member will be named by the UHCL President. Within ten working days, these two representatives shall select, in any manner they agree upon, the other three committee members from the Council of Professors. If the representatives cannot agree on the choice of the other members of the committee within the time allotted after their selection as representatives, the President of the Faculty Senate will select the remaining members of the committee, within an additional ten working days. Among the issues to be considered by the review committee are:

- a. Disagreements concerning the existence and extent of a *bona fide* financial exigency.
- b. Adherence to the plan for retrenchment.
- c. Compliance with procedural requirements.
- d. Improper motives related to academic freedom, race, national origin, religion, age, handicap, veteran's status, gender, or sexual orientation in the dismissal of a faculty member.

The burden of proof in dismissal proceedings rests with the university. The findings of the Faculty Senate regarding the existence of a financial exigency may be introduced in review proceedings. The review committee shall forward a recommendation to both the UHCL President and the affected faculty member.

(10.0) Policies Related to Financial Exigency. The following policies will be followed with regard to tenured and tenure-track faculty dismissed due to financial exigency.

- a. Job placement services will be provided free of charge.
- b. Eligibility to participate in state premium sharing and group insurance programs sponsored by the university will continue at least until the end of the notice period. Eligibility for 18 months of additional coverage is available through Consolidated Omnibus Budget Reconciliation Act

(COBRA) without premium sharing. The individual will pay the full cost for the COBRA coverage

- c. From the time notice is given until the termination of assigned duties, terminated faculty members are entitled to enroll in courses for credit without payment of tuition or fees, provided that the faculty can (1) meet fundamental job obligations and (2) meet the requirements for admission to the course or UHCL program.
- d. If faculty positions terminated in a *bona fide* financial exigency become available again, irrespective of rank, within two years of such termination or two years after the termination of the exigency, whichever is longer, the university shall first offer those positions to qualified tenured faculty members terminated under the financial exigency. The offer will be a tenured position at the same rank as previously held. The university is obligated to make an offer only one time to that faculty member. New academic, staff and administrative appointments will not be made while a financial exigency is in effect, unless a disruption in the academic program would otherwise result.