UTDPP1081 - UT Dallas Policy on Financial Exigency

Policy Statement

Preamble

Rule 31003, Section 1, of the Regents' Rules and Regulations http://www.utexas.edu/board-of-regents/rules/31003-abandonment-academic-positions-or-programs establishes UT System policy concerning the Abandonment of Academic Positions or Programs. Section 1 calls for the President of the University to determine institutional procedures for an in-depth review to inform and guide decisions on these matters “with full and meaningful faculty input.” Section 2 concerns elimination for “Academic Reasons.” Section 3 concerns elimination due to institutional financial exigency. This document establishes UT Dallas policy and procedures relating to Section 3.

General Policy on Interpretation of Regent's Rules

Regents Rule 31003, abandonment of academic positions or programs must be interpreted in the light of Rule 40101 which gives faculty a “major role” in regard to “general academic policies and welfare” and related matters and in the light of the further provisions that assign these faculty responsibilities to the faculty governance organization and require that the organization and procedures of the governance organization be set out in the university Handbook of Operating Procedures and subject to governance review and approval.

The University of Texas at Dallas recognizes the importance of tenure as a fundamental safeguard for academic freedom, an encouragement for faculty to engage in research at the frontiers of knowledge, and as the basis of attracting and retaining the very best possible faculty members. The aim of this policy is to assure that the University’s response to an institutional financial exigency does everything possible to preserve this commitment to tenure while also providing the strongest possible foundation for rapid recovery and future growth.

The term “faculty committee” as used in Regents Rules section 31003 shall be understood here as meaning the Academic Senate of the University of Texas at Dallas, the regular committees of the Senate, or the Exigency Committee and appeals committees to be established in accordance with this policy.

The term “faculty” as used in Regents Rules 31003 to designate those eligible to be appointed as faculty on the Exigency Committee and appeals panels shall be understood here as meaning individuals holding tenure-track, tenured, and emeritus positions with the titles of Assistant Professor, Associate Professor, and Professor with primary assignments in teaching, research, and advising. It shall also include individuals holding yearly or longer-term renewable non-tenure track position with the titles of Senior Lecturer and Clinical Professor with primary assignments in teaching, research and advising. It shall not include faculty holding administrative appointments at the level of dean or above. For purposes of this policy the position of Associate Provost shall be regarded as an administrative appointment at the level of dean or above.

Initial Declaration of Financial Exigency

Institutional financial exigency is a demonstrably bona fide financial crisis that adversely affects an institution as a whole and that, after considering other cost-reducing measures, including ways to cut faculty costs, requires consideration of terminating appointments held by tenured faculty. Whenever there is reason to anticipate that the University as a whole is threatened by financial exigency, the President at the earliest date possible shall inform the Faculty Senate and all potentially affected budgetary units of the problem.

The President shall consult with the Senate and the concerned budgetary units to determine the nature and
seriousness of the problem, the most appropriate of the possible courses of action to be taken, and the means of safeguarding faculty rights and interests, including tenure rights. In solving such a problem, the University shall make every reasonable effort to reassign affected faculty members to other suitable work and to aid them in finding other employment.

On the basis of these deliberations, the President shall write an Initial Declaration of Financial Exigency, giving the extent and scope of the emergency and the general approach to be taken to respond to it.

**Advice of the Senate**

The President shall submit the Initial Declaration of Financial Exigency to the Senate for advice. This process may involve amendments and may, but need not, result in a joint Senate-presidential Exigency Plan. The Exigency Plan, whether joint with the Senate or not, shall include a formula for the membership of the committee “composed of faculty and administrative personnel to make recommendations to the president as to which academic positions and/or academic programs should be eliminated as a result of the financial exigency” designated in rule 3.1, as well as the general criteria the committee should apply in making its recommendations. This committee will be called hereafter the Exigency Committee.

The size and composition of the Exigency Committee shall be specified in the Exigency Plan, provided that it has at least seven members. At least one-half of these members shall be faculty as defined above, and at least one-half of the faculty members shall be appointed from nominations submitted by the Senate. The Senate procedure for making the Senate designated appointments on the Exigency Committee shall be that the Senate will nominate at least twice as many faculty members as there are openings consigned to it, and the President shall appoint the members from among them. For faculty appointed to the remaining positions on the Exigency Committee, no Senate nomination is necessary. At least a majority of the total number of faculty will be tenured. All faculty appointees should seek to represent the university as a whole, not just programs initially slated to be reduced or just those not so slated, and at least some of them will have served on the Committee for Qualifications of Academic Personnel.

**Procedure for Eliminating Positions**

The Exigency Committee shall develop the Exigency Plan in two stages. First, it will assess current programs and recommend cuts or other actions as described in Rule 31003 Section 3.2. Second, upon receiving approval for this assessment or a modified version thereof, it will proceed to recommend positions to be eliminated as described in Rule 31003 Section 3.3 to 3.5, provided that:

1. For section 3.2, assessment of academic programs. The Exigency Committee will provide a written report of its analysis of programs, which shall be submitted to the President, who shall then consult with the Senate before decisions are made for specific positions to be eliminated. As stated in the Rule, “The committee will review and assess the academic programs of the institution and identify those academic positions that may be eliminated with minimum effect upon the degree programs that should be continued and upon other critical components of the institution’s mission. The review will include, but not be limited to, as relevant: (a) an examination of the course offerings, degree programs, supporting degree programs, teaching specialties, and semester credit hour production; (b) an evaluation of the quality, centrality, and funding of research activities; and/or (c) an assessment of the productivity, community service, and quality of clinical services (in relation to teaching, healthcare delivery, and scholarly activity).” The Committee shall consider and may offer advice on all avenues by which terminations of faculty members can be avoided or minimized, and, as well, by which the negative effects of any necessary terminations can be mitigated. Unless an extension is approved by the President, the Committee shall submit its recommendations in writing within 60 days after the committee receives its charge.

2. In section 3.3, Review Consideration. After the President reviews and responds to the recommendations regarding programs to be cut, the Exigency Committee next recommends specific positions to be eliminated. These recommendations should also be contained in a written report. The recommendations
should be related to the Exigency Committee’s assessment of programs. If other officers of the university, such as deans or program chairs, are involved in identifying individuals whose appointments are to be terminated, those recommendations and the process for obtaining them should be described in the report. The Exigency Committee will have available the personnel records of those being considered including current curriculum vitae, annual reports, promotion committee reports and recommendations, and results of periodic performance reviews. It will have access to full personnel files. Faculty whose positions would be jeopardized by the proposed actions will be provided the opportunity to contribute meaningfully to the Committee's review process.

3. For section 3.4, Tenure Preference. The Exigency Committee should not apply an unduly narrow interpretation of the idea that two candidates should be “equally qualified” before preference is given to one with tenure over one without. Preference should be given to tenured faculty over non-tenured if they are have approximately the same qualifications, prospects experience, and service to the university provided that their accomplishments are roughly proportional to their relative academic lifetimes. The decisions should be consistent with the general principle that greater contributions will gain greater recognition.

4. In section 3.5, Recommendation. According to the Rule, “upon completion of its review,” the Exigency Committee “shall promptly recommend in writing to the president those persons who may be terminated, ranked in order of priority, with the reasons for their selection. The president shall, with such consultation with institutional administrative officers as the president may deem appropriate, determine which academic positions are to be terminated because of the financial exigency and shall give the holders of these positions written notice of the decision.” The Exigency Committee’s recommendations to the President shall be made in writing. Unless an extension is approved by the President, the Committee shall complete its work in a period of time no longer than 60 days from the submission of the initial report, specified in section 3.2, identifying the programs to reduce or eliminate.

**Procedure for Notice and Appeal**

A faculty member whose position has been eliminated is entitled to appeal the decision, subject to the requirements of Regents’ Rules 31003 sections 3.7 and 3.8.

1. The burden shall be upon the appellant to show by a preponderance of the credible evidence that:
   1. Financial exigency was not in fact the reason for the initial decision to reduce academic positions; or
   2. The decision to terminate the appellant as compared to another individual in the same discipline or teaching specialty was arbitrary and unreasonable based upon the evidence presented.
   3. Whether the criteria established in the Exigency Plan were properly and fairly applied to the individual case and that any failure to properly and fairly apply the criteria clearly disadvantaged the appellant compared to other individuals in the same discipline or teaching specialty who were considered for termination.

The hearing shall be held before a panel consisting of full-time faculty drawn from the list of faculty in the pool approved for service on hearing tribunals in accordance with the UTD Policy on Hearing Tribunal Selection Procedures, provided that such faculty are not in the academic programs affected by the decision. At least half of the membership of such panels shall be from faculty recommended by the Senate. The size of such appeals panels shall be determined as part of the Exigency Plan. The Hearing Panel shall elect its own Chair. The hearing must be held no later than 30 days after a written request is submitted to the President's office.

The employment of a tenured faculty member who is to be terminated under this policy shall end no sooner than the end of the current academic term; faculty will be allowed reasonable time to close down laboratories, complete teaching assignments, and transfer their responsibilities. If an entire program or functionally distinct part of a program is cut, employment of all tenured faculty in that program will terminate when the program or part itself is terminated, and will not extend beyond the termination of the program. During this period of employment and for three additional years, the terminated faculty member shall have the right to first consideration among equally
qualified candidates for any faculty position at U. T. Dallas for which a recruitment and hiring process is conducted and for which the faculty member in question formally applies. In addition, the considerations noted in Rule 31003, Section 2, Subsections 2.6 - 2.11 of the Regents' Rules and Regulations will be extended to the faculty member to be terminated.

No Concurrent Replacements

If appointments are terminated, the University will not at the same time make new appointments into the same subject area or specialization except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. That is, a tenured faculty member or a more senior faculty will not be terminated only in order for the University to replace him or her with a new person in the same subject area or specialization at lower pay.

Policy History

• Issued: 2010-12-17
• Editorial Amendments: 2016-11-11

Policy Links

• Permalink for this policy: http://policy.utdallas.edu/utdp1081
• Link to PDF version: http://policy.utdallas.edu/pdf/utdp1081
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