

Financial Exigency Policy

I. Purpose:

The purpose of this policy is to describe emergency financial procedures to follow in the event of a financial crisis as required by TBR Policy 5:02:06:00.

II. Scope:

This DSCC policy is applicable to all DSCC departments and employees.

III. Policy:

A. Introduction - It is the intent of Dyersburg State Community College that this policy outline policies and operational practices designed to provide emergency procedures, including reduction-in-force, should DSCC experience a condition of financial exigency. This policy incorporates all the provisions of Board Policy 5:02:06:00. Those provisions are:

1. A definition of Financial Exigency (included in Section B., below),
2. A process section describing actions required prior to the declaration of financial exigency (included in Section C.),
3. A process section describing actions required subsequent to the declaration of financial exigency (included in Section D.), including the appointment and composition of a Financial Exigency Committee,
4. A statement of procedures for termination of personnel under conditions of financial exigency (included in Section E.),
5. A statement of continuing rights of persons terminated under conditions of financial exigency (included in Section F.),
6. A description of procedures for terminating a declaration of financial exigency (included in Section G.), and
7. A glossary of terms (included in Section H.).

B. Definition - Financial exigency is the formal declaration by the Tennessee Board of Regents that one of its institutions faces an imminent financial crisis, that there is a current or

projected absence of sufficient funds (appropriated or non-appropriated) for the campus as a whole to maintain current programs and activities at a level sufficient to fulfill its educational goals and priorities, and that the budget can only be balanced by extraordinary means which include the termination of existing and continuing academic and non-academic appointments.

C. Actions Required Prior to the Declaration of Financial Exigency - Financial exigency results from an imminent fiscal crisis characterizing the entire institution; thus, the condition of financial exigency may not be declared at a level below that of the President (i.e., it may not be declared at the level of an academic or administrative unit such as a division, department, or similar account-level unit). In light of the gravity of consequences resulting from a declaration of financial exigency, the process leading to an institutional recommendation to the Tennessee Board of Regents that financial exigency be declared will be cautious, fair, well informed, and as responsive as possible to the interests of various segments of the institution.

1. The responsibility for initiating the proposal for declaration of financial exigency resides with the President of the institution. 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 DSCC are exhausted and that no efforts have been spared to enhance revenues.
2. Prior to proposing the declaration of financial exigency, the President shall share with the entire faculty and staff or their representative bodies all pertinent analysis and documentation that demonstrate an imminent fiscal crisis for the entire institution that would warrant a declaration of financial exigency. That analysis and documentation should be shared promptly and with sufficient notice to all personnel constituencies (including the Faculty Assembly); and opportunities should be provided for discussions with and advice from those bodies, answers to appropriate questions, and general deliberations befitting an educational institution.
3. After discussion and review of any advice from various personnel constituencies, the President shall (if he or she remains convinced that conditions warrant a recommendation for declaration of financial exigency) present the recommendation with full documentation to the Chancellor.
4. If his or her review supports the conclusion that conditions warrant a declaration of financial exigency, the Chancellor shall so recommend to the Tennessee Board of Regents. In addition to providing the Tennessee Board of Regents with a recommendation to declare financial exigency, the Chancellor in consultation with the DSCC President shall also submit a statement of findings and conclusions which shall include at least the following:
 - a. A description of the current fiscal condition of the institution, including the projected amount of deficit that would result from failure to declare financial exigency.

- b. 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.
- c. An analysis of the reason for the current imminent fiscal crisis characterizing the entire institution, specifying with appropriate documentation those identifiable factors contributing to the crisis.
- d. A statement of assurance, with supporting evidence, that available and reasonable procedures to reduce expenditure levels of the institution are exhausted, that further retrenchment within existing policies is not compatible with the objective of assuring maximum protection for the academic programs of the institution and the educational needs of students, and that efforts to enhance revenues have been carried out in a responsible manner.
- e. A transmittal of any advice, alternatives, or information in writing by any DSCC personnel constituencies (including the representative faculty body).

D. Actions Required Subsequent to the Declaration of Financial Exigency - Should the Tennessee Board of Regents formally declare a state of financial exigency at DSCC, the President shall in a reasonable time and with appropriate documentation initiate a proposed plan to allocate necessary funding reduction among the primary budgetary sub-units (e.g., academic/ student affairs, business/administrative services, and institutional advancement) within the institution. The following procedures shall be followed:

- 1. The President shall convene the institution's Financial Exigency Committee, the composition of which shall be broadly representative of all personnel constituencies. The Financial Exigency Committee shall include:
 - a. the Chair and Vice-Chair of the Faculty Assembly,
 - b. the President and Vice-President of the Administrative Office Professionals,
 - c. one professional staff person from each of the following offices; Computer Center, Student Services, the Learning Resource Center, Continuing Education, and Public Information,
 - d. the Chair of the Faculty Assembly shall serve as Chair of the Committee.
- 2. The President's proposed plan for allocating necessary funding reductions to primary budgetary sub-units shall be reviewed by the Financial Exigency Committee.
 - a. The Committee shall review the amounts of proposed reductions, evaluate proposed reductions in the light of institutional priorities, and consider administrative organization and academic priorities.
 - b. It shall also consider the magnitude of proposed reductions in each primary budgetary

sub-unit in the light of factors prescribed by applicable state or federal laws regarding fair employment practices.

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

- (1) 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.

- (2) This final plan shall be communicated broadly to all personnel constituencies (including the Faculty Assembly) as well as the Chancellor.

3. Heads of primary budgetary sub-units (Vice Presidents, Deans, Managers), with broad and clearly defined faculty and staff consultation, shall recommend to the President plans for effecting their designated budget reductions. Those recommendations from institution financial exigency Tennessee Board of Regents heads of primary sub-units 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.
4. As a primary component of his or her review of plans submitted by heads of primary sub-units, the President shall - prior to accepting them submit the plans for review by the Financial Exigency Committee.
5. The institution will provide out-placement counseling for any employees who are terminated.
6. The Financial Exigency Committee will consider the following general principles:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. To avoid the possibility of compromising the quality of highly productive programs within the institution and to recognize the best interests of continued academic excellence, reduction-in-force cannot normally be accomplished on a strictly across-the-board basis.
 - e. Affirmative action plans should be carefully considered in all personnel decisions.

- f. Unless an exception is made to maintain a viable academic or support program (see b. above) or for reasons of affirmative action (see e. above), decisions as to the order of personnel terminations in academic or administrative units should be made in light of DSCC's listing of factors to be used in determining the order of personnel terminations.

- (1) Staff: Performance evaluations of staff will determine who is terminated
Staff with the best performance evaluations will be terminated last.
- (2) Faculty: Faculty with temporary appointments will be terminated first followed by faculty with term contracts, then probationary appointments and finally tenured faculty.
- (3) Between Members with Temporary Appointments or Term or Probationary Contracts:
- (4) The following rules in the order set forth below shall determine who has the right to continued employment in the aforementioned categories:
 - i. The member more senior shall have the right. A member is more senior if the total time elapsed since the date of his/her initial appointment for his/her last period of unbroken service is greater than another member's total time. For purposes of this rule, periods of unbroken service include maternity leaves, parenthood leaves, leaves due to illness or injury, and authorized, unpaid leaves of absence. A "year of service" means a full-time nine-month, ten-month or twelve-month appointment, as the case may be.
 - ii. Between faculty having the same seniority, the member with the higher academic rank shall have the right to continued employment.
 - iii. Between faculty having the same seniority and the same academic rank, the faculty with the higher academic degree shall have the right to continued employment.
 - iv. Between faculty having the same seniority, the same academic rank and the same academic degrees, the faculty who first in time received his/her highest academic degree shall have the right to continued employment.
 - v. If rules "i." through "iv." hereof do not determine which faculty shall have the right to continued employment, the President shall have the sole determination.

- (5) Between Tenured Faculty:

The following rules in the order set forth below shall determine

between tenured faculty the right to continued employment:

- i. The more senior faculty shall have the right to continued employment. For purposes of this rule, a tenured faculty's seniority shall be determined by "points." The faculty shall receive points as follows: Three points per year of service since tenure plus one point per year of services as a tenured assistant professor plus two points per year of service as a tenured associate professor plus three points per year of services a tenured full professor at DSCC. A "year of service" means a full-time nine-month, ten-month or twelve-month appointment, as the case may be.
- ii. Between faculty having the same seniority, the faculty whose total time since tenure is greater shall have the right to continued employment.
- iii. Between faculty having the same seniority and the same total time since tenure, the faculty higher in academic rank shall have the right.
- iv. Between faculty having the same seniority, the same academic rank and the same total time since tenure, the faculty whose total time is greater shall have the right to continued employment.
- v. If rules "i." through "iv." hereof do not determine which faculty shall have the right to continued employment, the President shall have the sole determination.

7. 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 sub-units.
 - a. That response shall include either an endorsement or a recommendation of alternatives.
 - b. 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 sub-units.
 - c. The President shall communicate his/her composite plan for reducing expenditures to the entire campus community. The President shall submit for approval by the Chancellor his or her composite plan for effecting budgetary reductions as required by the fiscal condition of the institution. 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 sub-units and

(2) plans for the primary budgetary sub-units for effecting their designated budget reductions.

- d. If the Chancellor approves the plan for implementation, he or she shall submit it as information - together with any analysis he or she may deem appropriate - at the next meeting of the Tennessee Board of Regents.

E. Procedures for Termination of Personnel Under Conditions of Financial Exigency - Following declaration by the Tennessee Board of Regents that a condition of financial exigency exists at DSCC, the President having complied with those actions required subsequent to the declaration of financial exigency (see Section D. above) 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.

1. The procedures for termination described in Section E. of this policy are in force only during a period in which the Tennessee Board of Regents has declared that DSCC is in a condition of financial exigency.
2. An individual selected for termination shall receive prompt written notification from the President. That notification shall include the following:
 - a. a statement of the basis on which the individual was selected for termination (see Section D if one or more of the three is appropriate),
 - b. an indication of the data or reasons supporting the choice if it is not a clearly defined factor such as rank or tenure status,
 - c. a statement of the date on which the termination is to become effective,
 - d. a copy of the declaration of financial exigency adopted by the Tennessee Board of Regents, and
 - e. such other information as the President may deem appropriate.
3. An individual who received notice of termination, as described in Section 3. above, may appeal the decision under the conditions indicated in this section.
 - a. Faculty shall have the right to appeal to the Faculty Hearing Committee which shall be composed of the Executive Committee of the Faculty Assembly. If a member of the executive committee is appealing the decision, and that individual is serving as a division representative, a replacement shall be appointed, from the same division, by the Dean.

- b. Staff shall have the right to appeal to the Staff Hearing Committee which shall be composed of the Executive Committee of the Administrative Office Professionals plus a representative from Student Services, Continuing Education, Computer Center, Learning Resource Center, and one representative from the academic division. The representatives will be elected by the non-secretarial or faculty staff in each unit.
 - c. The Faculty Hearing Committee and the Staff Hearing Committee shall insure prompt hearings that 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.
 - d. The following conditions constitute grounds for appeal by an individual of notice of termination.
 - (1) that established institutional procedures or provision of Board Policy 5:02:06:00 were not followed.
 - (2) that appropriate criteria were not applied, including but not limited to the allegation that his or her selection constituted a violation of the individual's academic freedom or that unfounded or arbitrary assumptions of fact were made.
 - e. 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 sub-unit.
 - f. A recommendation will be sent from the Faculty or Staff Hearing Committee to the President recommending that he or she uphold or reverse the action of termination, and the President will inform the appropriate Hearing Committee and the individual of his or her final decision.
 - g. The final decision of the President may be appealed to the Chancellor and, after he has made a decision, to the Tennessee Board of Regents.
- F. 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 non-academic), provided that the person terminated keeps DSCC informed of his or her current mailing address. If the person previously terminated is offered the position and accepts, he or she will be returned in the same rank and tenure status.

- G. 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, that 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 decision to cease to exist.
- H. Definitions - The following are general definitions of words and terms used in this policy which are not defined above. These words and terms are subject to further qualification and definition in the previous sections of this policy.
1. Reduction-in-force - the termination of employment of faculty or staff resulting from a budgetary crisis reflected in a declared state of financial exigency.
 2. Entire institution - any one of the institutions of the Tennessee Board of Regents System for which funds are separately appropriated by the Tennessee General Assembly.
 3. Academic or administrative unit - an academic department or other similar account-level unit.
 4. Representative faculty body - the major faculty organization devoted to governance (as implied in Board Policy 1:03:10:00).
 5. Primary budgetary sub-unit - a major budgetary area of an institution (e.g., academic affairs, student affairs, fiscal affairs) usually headed by an administrator reporting directly to the president.

Compliance:

All faculty and staff s must adhere to this policy. Persons found to be in violation of this policy will have their names reported to the President of the college.

Definitions:

Financial Exigency: a crisis or emergency requiring immediate action as further defined in 2b.

Revision History:

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