

# Financial Exigency Policy

## EX\_FI\_10

Responsible Officer  
Charles Petitt, Chris Ronk, Chairperson of the Board  
Responsible Office  
Office of the President  
Approving Body  
Board of Trustees  
Approval Date  
2014-01

### Policy Statement

The purpose of the University's Financial Exigency Policy is to provide institutional policy and procedures for managing major financial crisis or financial exigency. A Financial exigency will be declared only under severe conditions after all other feasible alternatives have been carefully considered.

### Policy Procedures

#### Procedures for a Major Financial Crisis

1. A major financial crisis shall relate to a lack of financial ability, where ability means providing from current income the funds necessary to meet current expenses, including debt payment, without invading or depleting capital. A major financial crisis may be declared by the Board of Trustees, if, in the educated opinion of the Board, meeting anticipated current expenses would place the University's Unrestricted General fund in a deficit position at fiscal year-end.
2. A major financial crisis exists only after being declared by the Board of Trustees. As early as it is feasible, when a condition of major financial crisis appears to be a possibility, the President shall inform the Administrative council, faculty and staff concerning: (1) the causes and possible consequences of the crisis; (2) the measures investigated by the University short of declaring a major financial crisis; and (3) the reasons why circumstances may require a declaration of a major financial crisis. The Administrative Council shall receive/seek and consider comments, information and advice from appropriate administrative officers, individual faculty and staff concerning a possible declaration of a major financial crisis. The Administrative council is to present its view in the form of a memorandum of advice and recommendation as to whether, in the opinion of the Council, other reasonable alternatives exist.
3. The President, based on substantive consultations with the Administrative Council and individual faculty and staff, shall provide the Board of Trustees with an analysis of the circumstances that may support or oppose the declaration of a major financial crisis, including a review of reasonable alternatives to such a declaration by the Board of Trustees. The President shall attach to the analysis available information and recommendations from the Administrative Council and individual faculty and staff regarding the declaration of a major financial crisis. In declaring a major financial crisis, the Board of Trustees must detail its actions in the official minutes of the meeting in which a major financial crisis was declared.
4. After a major financial crisis has been declared by the Board of Trustees, the President shall inform the Administrative Council, faculty and staff concerning Board approved strategies for dealing with the crisis which may include, but are not limited to the following:
  1. Voluntary personnel actions including reassignment, retirement, partial retirement, early retirement, resignation, extended unpaid leave, or a severance pay agreement.
  2. Not filling existing faculty and staff vacancies or vacancies resulting from resignation or retirement.
  3. Discontinuance or reduction in nonacademic units and support services to the extent necessary and feasible without significantly impairing the University's ability to pursue its basic institutional mission.
  4. Discontinuance of instructional positions occupied by part-time faculty.
  5. Reductions, where possible, in unit operational budgets.
  6. Salary reductions not tantamount to dismissals.

This list is not intended to be complete in the listing of alternatives or a ranking of priority since it is recognized that the University, when faced with a difficult financial situation, would be engaged in an interactive process to identify possible cost reduction measures, and that programs, departments, and operating units with the University have particular operating needs which vary over time.

#### Procedures for a Financial Exigency

1. For the purposes of this policy, a financial exigency is considered to be more severe than a major financial crisis.
2. In the event that the University is faced with a financial exigency, which is more severe than a major financial crisis, Section 3.d of this policy enumerated various alternative approaches which will be considered by the administrative and Board of

Trustees to deal with the situation.

3. A bona fide financial exigency is an existing or imminent financial crisis which, if uncorrected, would threaten the survival of the University as a whole and which could not be alleviated reasonable by less drastic means. "Survival of the University as a whole" is defined for purposes of this policy as the availability of adequate financial resources to enable the University to substantially fulfill its mission as approved by the Board of Trustees.
4. In order for the University to carry out the purposes and responsibilities central it its mission, it may become necessary for the Board of Trustees to declare a financial exigency and discontinue or reduce nonacademic operating units and/or academic programs/departments. A declaration of financial exigency supposes that efforts to reach the needed level of reduction shall be consistent with goal of preserving the institution's ability to substantially fulfill its academic mission.
5. A financial exigency exists only after being declared by the Board of Trustees. As early as it is feasible, when a condition of financial exigency appears to be a possibility, the President shall the Administrative Council, faculty, and staff concerning:
  1. The causes and possible consequences of the crisis.
  2. The measures investigated by the University short of declaring a financial exigency.
  3. The reasons why circumstances may require a declaration of financial exigency.

The President shall receive/seek and consider comments, information and advice from appropriate administrative officers, individual faculty and staff concerning possible declaration of financial exigency. The President shall present in the form of a memorandum of advice and recommendation as to whether a condition of a financial exigency should be declared, or whether, in the opinion of the Administrative Council, other reasonable alternatives exist.

6. The President, based on the substantive consultations with the Administrative Council, individual faculty and staff, shall provide the Board of Trustees with an analysis of the circumstances that support or oppose the declaration of a financial exigency, including a review of reasonable alternatives to such a declaration by the Board of Trustees. The President shall attach to the analysis available information and recommendations from the administrative Council, individual faculty and staff regarding the declaration of a financial exigency. When declaring a financial exigency, the Board of Trustees must detail its actions in the Official minutes of the meeting in which financial exigency was declared.
7. After a financial exigency has been declared by the Board of Trustees, the President shall inform the Administrative Council, faculty and staff concerning Board approved strategies for dealing with the crisis.
8. After declaration of a financial exigency, the President shall recommend a plan for personnel reductions to the Board of Trustees. The plan will include:
  1. Discussion of the necessity and procedures for personnel reduction
  2. The appropriate nonacademic operating and academic programs/departments within the University identified for personnel reductions.
  3. The criteria for determining which programs will be reduced and/or eliminated.
  4. The criteria for identifying the staff and faculty members who are to be eliminated because of program reduction and/or program discontinuance. (In the development of the plan, there shall be consultation with the University's attorney and substantive involvement with the Administrative Council.)
9. In times of Financial Exigency, the Board shall allow the waiving of the succession policy for Board Officers.

As a first step, the President will instruct each nonacademic operating unit and academic program/department in the University to assess its programmatic operations with regard to its quality and importance to the mission of the University as a basis upon which to determine the plan for personnel reduction. Acting on the information gathered in the process, the President will prepare criteria and determine his recommended plan for personnel reduction. In considering the development of the personnel reduction plan, first retention priority shall be give to the maintenance of the educational and academic programs central to the mission of the University.

## 5. Personnel Reduction

1. Personnel reductions will be done equitably, in good faith, and in a systemic manner directly related to the major financial crisis or financial exigency
2. Criteria for faculty or staff reduction might include, but are not limited to, quality and essentialness of service work, field of specialization, maintenance of necessary programs of services, length of service, accreditation standards, enrollment and graduation numbers in each program and other factors deemed relevant. Those faculty and staff who are deemed to be of key importance to the specific program or function will be retained in preference to other faculty and staff regardless of their status. A faculty or staff member is of "key importance" if their elimination would result in a "serious distortion" of the specific program or function.
3. When faculty reductions occur due to a major financial crisis of a financial exigency, the University will not eliminate faculty members from a program/department and at the same time employ new faculty members in that program/department, except where a serious distortion in the academic program would otherwise result.
4. The finding of "serious distortion" when faculty or staff reductions occur is based on criteria established by the Administrative Council in consultation with the faculty and staff and approved by the President and Board of Trustees in conjunction with a plan for personnel reduction. These criteria should include, but not be limited to, essentialness of service and work, field of specialization, and maintenance of necessary programs or service.
5. The President must give notice in writing to faculty and staff who are affected by a personnel reduction from nonacademic unit or academic program/department discontinuance or reduction. The notice must include the following:
  1. The effective date of layoff.
  2. A statement of the reasons for the Board of Trustees action to declare, respectively, a major financial crisis or a financial exigency.
  3. The basis, procedures and criteria used to select personnel to be affected by layoff.

4. Any opportunity for reconsideration or appeal including access to appropriate documents and the issues that may or may not be considered.
6. The university shall made every effort to give as much notice as practical in light of the major financial crisis or financial exigency to each affected faculty and staff member in advance of the effective date of the layoff. The time required for the Board of Trustees to analyze the financial condition of the University, may allow little time for official notice of layoff. In any case, the Board of Trustees recommends the following minimum written notice of layoff:
  1. To faculty members not less than sixty (60) calendar days before the effective date of layoff.
  2. To all staff members not less than thirty (30) days before the effective date of layoff.
7. At the time it is preparing and implementing a plan for personnel reduction, the University shall, to the extent practical, make a good faith effort to reassign any faculty or staff member to be laid off to another know existing, vacant, or suitable position within the University for which he/she is qualified. This good faith effort to reassign faculty and staff does not extend beyond the effective date of the layoff.
  1. The reassignment of faculty, including decisions regarding salary and other benefits in the new assignment, shall be negotiated with the decision of the President.
  2. A faculty or staff member to be laid off has no right to displace another faculty or staff member from their position or to expect that a new position will be created in order to maintain employment.
8. In cases of layoff of faculty and staff members, the position concerned may not be filled by replacement within a period of one year from the effective date of the layoff unless the person laid off has been offered a return to employment in that position and the person laid off has not accepted the offer within thirty (30) calendar days after the offer was extended. If an offer of reinstatement is not accepted, the University and the Board of Trustees have no further obligation to the person laid off. After the expiration of the applicable reinstatement period, the University and Board of Trustees have no further obligation to the person laid off.
9. A faculty or staff member who has been laid off and who accepts reinstatement in the same position will resume the same academic rank or nonacademic designation held at the time of layoff, be credited with any sick leave accrued
10. Should, as a result of a major financial crisis or financial exigency, a faculty or staff member be laid off by the decision to discontinue or reduce a nonacademic operating unit or academic program/department, the faculty or staff member involved may appeal the decision through the procedures outlined in the University's Grievance Policy.

#### **Periodic Reports the Board of Trustees**

After the Board of Trustees has declared a condition of major financial crisis or financial exigency at the University, the President shall present the Board with progress reports, as requested by the Board, concerning the University's procedures, decisions and recommendations relating to the major financial crisis or financial exigency.

#### **Termination of Major Financial Crisis or Financial Exigency**

The Board of Trustees will terminate a declaration of major financial crisis or financial exigency when in its judgment the conditions which led to the major financial crisis or financial exigency have been corrected and no longer exist

### **Compliance**

#### **TRACS**