



**S O U T H E R N W E S T V I R G I N I A
C O M M U N I T Y A N D T E C H N I C A L C O L L E G E
B O A R D O F G O V E R N O R S**

Number:	SCP-2701
Origination:	February 17, 2004
Effective:	February 17, 2004
Reviewed:	October 29, 2007

SUBJECT: Reduction in Work Force—Faculty Personnel

**REFERENCE: SCP-2218, *Evaluation Process for Full-Time Faculty*
SCP-3620, *Policy Regarding Program Review*
SCP-3650, *Program Reduction or Elimination*
SCP-5260, *Meeting Financial Exigency***

1. PURPOSE

The purpose of this policy is to establish uniform procedures that will provide a means to address reduction-in-force within the ranks of faculty personnel in response to a Financial Exigency.

2. SCOPE AND APPLICABILITY

This policy shall apply to all full-time faculty employees.

3. DEFINITIONS

Seniority: Number of full-time years of teaching experience earned at Southern. Excludes adjunct teaching experience and administrative experience regardless of the faculty rank held during administrative assignment.

4. POLICY

It shall be the policy of the Board of Governors to undertake reductions in the workforce of faculty personnel in a consistent and fair manner. Following the declaration of a Financial Exigency, the president shall undertake program reviews to consider any other pertinent program data. The President may recommend to the Board of Governors the elimination or reduction of programs deemed appropriate and in the best interest of the College. The primary consideration in any resulting decision to eliminate positions and reassignment of affected faculty personnel will be the preservation of the quality and effectiveness of the College's programs. Consequently, those faculty members who are deemed to be of key importance to the specific program will be retained in preference to other faculty members, whatever their status.

5. BACKGROUND OR EXCLUSIONS

None.

6. GENERAL PROVISIONS

A. Basis For Elimination of Faculty Positions: Recommendations by the President to the Board of Governors concerning the elimination of any faculty position will be made on the basis of need within each discipline, as defined by the president after consultation with the chief academic officer, the deans and department chairs.

B. Elimination of Positions With Equal Rank in Same Discipline: In the event all other factors are considered to be equal and a choice must be made concerning the elimination of the position of one of two or more faculty members holding the same rank and teaching the same discipline, the faculty member with the greater seniority will be retained. Also, in the event of a conflict between rank and seniority, such as when an assistant professor has substantially more seniority than his or her equally qualified counterpart who is an associate professor, the department chair, dean and the chief academic officer will jointly review the annual evaluations of both faculty members for the previous three years, as well as any other relevant data, and make a recommendation to the president concerning which of the positions better serves the vital interests of the College.

C. Order for Elimination of Faculty Positions: Non-tenured faculty members, within the discipline to be reduced, will be terminated prior to the termination of the employment of tenured faculty members. Employment terminations of faculty members will generally follow the order specified below unless there is an identified need to retain faculty members who are deemed to be of key importance to a particular program:

Non-Tenured:

1. Adjunct Faculty
2. Lecturer and Temporary Faculty
3. Instructor
4. Assistant Professor
5. Associate Professor
6. Professor

Tenured:

1. Assistant Professor
2. Associate Professor
3. Professor

D. President's Recommendation: In addition to recommendations made in response to a Financial Exigency, the President may recommend the termination of the employment of faculty members to the Board of Governors at any time for reason of lack of funds, lack of work, reduction in enrollment or abolition of position. Recommendations of the President to the Board of governors relative to the termination of the employment of faculty members shall not be made until affected faculty members have been afforded a hearing as provided herein.

E. Notice and Hearing For Tenured Faculty Members: The President shall provide written notice to any full-time tenured faculty member of the intent to recommend termination of employment based upon a reduction-in-force. The notice shall contain a description of the reasons for the intended recommendation. The President must make every effort to give as much notice as is practical in light of the financial exigency to each affected faculty member in advance of the effective date of the layoff. Yet, the legislative appropriation process and the subsequent analysis needed before the Board of Governors declares a Financial Exigency and receives, considers and approves implementing programs may allow little time for formal notice to the employees who are to be laid off. Upon receipt of such notice, the affected faculty member may request a hearing to be conducted by the President or his or her designee. A request for a hearing must be made within five (5) calendar (**working**) days of a notice of recommended termination. Among the issues to be considered by the President or designee are:

1. Adherence to the policy relating to Financial Exigency.

2. Material deviations from procedural requirements.
 3. Actions that violated the principles of academic freedom or that violated established law related to race, national origin, religion, age, disability, veteran's status or gender in the dismissal of a faculty member.
 4. The burden of proof in termination proceedings rests with the faculty member. The Board's declaration of Financial Exigency is judgmental or discretionary and is not subject to contest by any faculty member.
 5. The hearing shall be recorded by mechanical means. However, the strict rules of evidence shall not be applied.
 6. Following the hearing, the President or designee, shall prepare a written decision upon any matters raised by a faculty member who has requested a hearing. The decision shall contain a description of the concerns raised by the faculty member and a response thereto. A copy of the decision shall accompany any subsequent recommendation made by the President to the Board of Governors.
 7. Use of the appeal procedure does not delay the effective date of employment termination.
- F. Non-Tenured Faculty Members:** In most instances, a reduction-in-force of faculty members under fixed-term appointments will be accomplished by non-reappointment rather than by layoff during the term of employment. Non-renewal under these circumstances does not entitle a faculty member to notice and hearing under the terms of this policy. In the event a faculty member serving under a fixed-term appointment is recommended for employment termination during the term of employment because of a reduction-in-force under a Financial Exigency, that faculty member shall be entitled to use the appeal procedure described in paragraph E.
- G. Action by the Board of Governors:** Upon receipt of a recommendation by the President, the Board of Governors may terminate the employment of a faculty member. No separate hearing shall be afforded to affected faculty members by the Board of Governors. The affected faculty member shall be provided with written notice of the action taken by the Board of Governors and shall also be provided with a copy of the instructions and form for filing an appeal with the West Virginia Public Employees Grievance Board.
- H. Refusal of Transfer:** If the employment of an instructor whose position is deemed vital to a particular campus (as determined within the sole discretion of the President) is terminated on the basis of rank, his or her position will be offered to the instructor with the greatest seniority within the relevant discipline from another campus. Should that instructor decline to accept the vacant position, and no other qualified instructor from the other campuses will volunteer to accept the position, the employment of the instructor with the least seniority refusing the transfer will be terminated and the position deemed vital to a particular campus will be posted.
- I. New Faculty Positions:** New positions will not be created while a Financial Exigency is in effect unless a serious disruption in the functioning of the College would otherwise result, as determined within the sole discretion of the President. New academic programs or faculty positions may be created only when it can be demonstrated that these programs or positions will help the College extricate itself from Financial Exigency. Priority for filling these positions will be given to existing, qualified faculty.

- J. Re-employment Following Exigency-based Termination:** Notwithstanding any other recall rights contained in the policy, in the case of the termination of the employment of a tenured faculty member occupying a permanent faculty position, the position concerned may not be filled by replacement within a period of two years from the effective date of the termination of employment unless the faculty member has been offered a return to employment in that position and has not accepted the offer within 30 calendar days after the offer is extended.
- K. Termination of Exigency:** The termination of a Financial Exigency will not imply that employment terminations that were made during a period of declared Financial Exigency are automatically withdrawn or otherwise invalid.
- L. Process for Re-employment of Affected Personnel:** The following process shall be observed for determination of recall and reassignment of affected faculty members following the termination of a Financial Exigency: When filling academic positions, the highest ranking qualified tenured faculty member whose employment has been terminated as part of a Financial Exigency reduction-in-force (and who had not been employed in an academic position elsewhere) shall be offered the position. If the position is refused, it shall be offered to other similarly affected faculty members in rank order. Any refusal of employment by a faculty member shall extinguish any further rights to recall. However, a refusal to accept a position shall not preclude a faculty member from making application for other posted position openings. The Office of Human Resources shall notify faculty members whose employment has been terminated of position openings in accordance with the terms of this policy. The notice shall be sent by certified mail to the last known address of the employee. It is the responsibility of the employee on the recall list to notify the Office of Human Resources of any change in address in order to retain recall status.
- M. Assumption of Responsibilities:** The duties of a faculty member terminated under the provisions of this policy will be assumed by his/her remaining colleagues in so far as is feasible. A terminated faculty member's duties will in no circumstances be assumed by adjunct instructors.
- N. Rights of Returning Tenured Faculty Members:** A tenured faculty member who has been terminated and who accepts re-employment with the College under the terms of this policy will resume tenure and the rank held at the time of employment termination, be paid a salary commensurate with the rank and length of previous service, be credited with any sick leave accrued as of the date of employment termination and be credited with any annual leave accrued as of the date of employment termination for which payment has not been made.

7. RESPONSIBILITIES AND PROCEDURES

The President and Chief Academic Officer shall have primary responsibility for making recommendations to the Board of Governors regarding elimination of faculty positions.

The Office of Human Resources shall have primary responsibility for the implementation of the provisions of this policy.

8. CANCELLATION

None.

9. REVIEW STATEMENT

This policy shall be reviewed on a three-year cycle by the President or the President's designee. Upon such review, the President or President's designee may recommend to the Board that the policy be amended or repealed. SCP-2701 is scheduled for review during the 2010-2011 academic year.

10. SIGNATURES

Board of Governors Chair **Date**

President **Date**

Attachments: None.

Distribution: Board of Governors (12 members)
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Revision Notes: October 2007 — Revisions reflect no substantial changes in procedure or documentation requirements. Changes were made in titles to reflect current organizational structure and renaming by the Legislature of the West Virginia State and Education Employees Grievance Board.