

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-2701**

SUBJECT: Reduction in Work Force Due to Financial Exigency: Faculty Personnel

REFERENCE: SCP-2000, *Elimination of Faculty Positions Due to Program Reduction or Elimination*
SCP-2218, *Evaluation Process for Full-time Faculty*
SCP-3620, *Policy Regarding Program Review*
SCP-5260, *Meeting Financial Exigency*

ORIGINATION: February 17, 2004

EFFECTIVE: March 26, 2015

REVIEWED: September 24, 2014

SECTION 1. PURPOSE

- 1.1 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.

SECTION 2. SCOPE AND APPLICABILITY

- 2.1 This policy applies to all full-time faculty employees whose positions are eliminated under the declaration of Financial Exigency.

SECTION 3. DEFINITIONS

- 3.1 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.
- 3.2 Credentials – Faculty rank, the faculty member’s current academic degree(s) and its application to the academic program in Faculty rank, the faculty member’s current academic degree(s) and its application to the academic program under consideration, and faculty evaluations under consideration, and faculty evaluations.

SECTION 4. POLICY

- 4.1 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. The primary consideration in any decision to eliminate positions and/or reassign affected faculty personnel will be in the interest of the preservation of the quality and effectiveness of the College’s programs. Consequently, those faculty members who are deemed to have the most relevant credentials in accordance to a specific program being eliminated will be retained in preference to other faculty members.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 None.

SECTION 6. GENERAL PROVISIONS

- 6.1 Prior to a declaration of a Financial Exigency, the President in conjunction with the chief academic officer, the chief financial officer, and the academic divisions heads shall undertake program reviews and consider any other pertinent program data to determine if elimination of faculty positions under program review will avoid the necessity of a declaration of Financial Exigency. After such a review, 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. Any elimination of faculty positions as a result of program review will be made in accordance with SCP-2000, *Elimination of Faculty Positions Due to a Program Reduction or Elimination*.
- 6.2 Upon declaration of Financial Exigency, any resulting elimination of faculty positions across the organization will be made in accordance with this policy.
- 6.3 Basis for Elimination of Faculty Positions – 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 chief financial officer, and academic division heads.
- 6.4 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 and credentials will be retained.
- 6.5 Order of 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 have specialized academic experience unique to a particular program:
- 6.5.1 Non-tenured:
 - 6.5.1.1 Adjunct Faculty
 - 6.5.1.2 Lecturer and Temporary Faculty
 - 6.5.1.3 Instructor
 - 6.5.1.4 Assistant Professor
 - 6.5.1.5 Associate Professor
 - 6.5.1.6 Professor
 - 6.5.2 Tenured:
 - 6.5.2.1 Assistant Professor
 - 6.5.2.2 Associate Professor
 - 6.5.2.3 Professor
- 6.6 President's Authority – In addition to position eliminations made in response to a Financial Exigency, the President may terminate the employment of faculty members with recommendation of the chief academic officer, the chief financial officer, the academic division heads, and to the Board of Governors at any time for reason of lack of funds, lack of work, reduction in enrollment or abolition of position. The termination of the employment of faculty members shall not be made until affected faculty members have been afforded a hearing as provided herein.
- 6.7 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 eight (8) calendar (working) days of a notice of recommended termination. Among the issues to be considered by the President or designee is:

- 6.7.1 Adherence to the policy relating to Financial Exigency.
 - 6.7.2 Material deviations from procedural requirements, if any, by the institution or the faculty member.
 - 6.7.3 Actions that may be perceived to violate the principles of academic freedom or established discrimination law related to race, national origin, religion, age, disability, veteran's status, ethnicity, color, marital status, sexual, or gender orientation in the dismissal of a faculty member.
 - 6.7.4 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.
 - 6.7.5 The hearing may be recorded at the request of either party.
 - 6.7.6 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. Copies of the decision shall be provided to the affected employee and kept in human resources in a separate file.
 - 6.7.7 Use of the appeal procedure does not delay the effective date of employment termination.
- 6.8 Term Faculty Members – Under normal circumstances, a reduction-in-force of faculty members under 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 a hearing under the terms of this policy. However, in the event a faculty member serving under a term appointment is recommended for employment termination prior to the expiration of the current 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 herein. College administration 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 termination. The affected faculty member shall be provided with a copy of the instructions and form for filing an appeal with the West Virginia Public Employees Grievance Board.
- 6.9 Refusal of Transfer – If the employment of a faculty member whose position is deemed vital to a particular campus (as determined herein) is terminated on the basis of rank, his or her position will be offered to the faculty member with the greatest seniority and credentials within the relevant discipline from another campus. Reasonable effort should be made to allow the faculty member offered the position the opportunity to remain on their current campus. This includes offering the faculty member online classes, classes over ICR, and/or any other means deemed appropriate. Should that faculty member decline to accept the vacant position, and no other qualified faculty member from the other campuses will volunteer to accept the position, the employment of the faculty member with the least seniority and credentials refusing the transfer will be terminated and the position deemed vital to a particular campus will be posted as a vacancy.
- 6.10 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. 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 members or those faculty that have been terminated due to Financial Exigency.

- 6.11 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.
- 6.12 Termination of Exigency – The termination of a Financial Exigency will not imply that employment terminations made during a period of declared Financial Exigency are automatically withdrawn or otherwise invalid.
- 6.13 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:
 - 6.13.1 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 shall be offered the position.
 - 6.13.2 If the position is refused, it shall be offered to other similarly affected faculty members in rank order.
 - 6.13.3 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.
 - 6.13.4 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 an address in order to retain recall status.
- 6.14 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 faculty. Priority should always be to re-hire affected faculty members for adjunct positions before posting the associated adjunct position externally. Additionally, as soon as a full-time faculty position becomes available or an eliminated program has been reestablished, affected faculty members should be offered full-time re-employment under the guidelines of this policy.
- 6.15 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. Additionally, the affected faculty member that is rehired will not lose earned credit for years of service in relation to faculty promotions.
- 6.16 Rights of Returning Term Faculty Members – A term faculty member who has been terminated and who

accepts full-time faculty re-employment with the College under the terms of this policy will assume their rank held at the time of employment termination and be paid a salary equal to their previous employment with the College or a salary commensurate with their rank as it would be offered at the current level should the job be posted externally. Additionally, the affected faculty member that is rehired will not lose earned credit for years of service in relation to faculty promotions.

SECTION 7. RESPONSIBILITIES

- 7.1 The President with advice and assistance of the chief academic officer, the chief financial officer, and the academic division heads shall have primary responsibility regarding elimination of faculty positions.
- 7.2 The Office of Human Resources shall have primary responsibility for the implementation of the provisions of this policy.

SECTION 8. CANCELLATION

- 8.1 None.

SECTION 9. REVIEW STATEMENT

- 9.1 This policy shall be reviewed on a regular basis with a time frame for review to be determined 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.

SECTION 10. SIGNATURES

Board of Governors Chair **Date**

President **Date**

Attachments: None.

Distribution: Board of Governors (12 members)
www.southernwv.edu

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.

December 2012 – Revisions reflect a change in the policy review cycle. Policy was reformatted into the new policy format and title was changed. Minor modifications were made to reflect correct authority and methods for elimination of faculty positions.

September 2014 – Modifications made to reflect correct authority and methods for elimination of faculty positions.