

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

SUBJECT: Reduction in 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 8, 2023

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, excluding adjunct teaching experience and administrative experience, regardless of the faculty rank held during administrative assignment.

3.2 Credentials – The faculty member’s current academic degree(s), application to the academic program, 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 Human Resources Officer, the Chief Finance Officer, and the academic Deans 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 shall 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 Human Resources Officer, the Chief Finance Officer, and academic Deans.
- 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 more than one faculty member holding the same rank and teaching the same discipline, the College will retain the faculty member with the greater seniority. In the event of a conflict in seniority, the College will consider the faculty member’s credentials.
- 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 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 the recommendation of the Chief Academic Officer, the Chief Human Resources Officer, the Chief Finance Officer, the academic Deans, and the Board of Governors at any time for the 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. 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 14 calendar 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 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.
 - 6.7.8 Use of this appeal procedure does not replace or supersede the faculty member’s right to file a grievance with the West Virginia Public Employees Grievance Board in accordance with W. Va. Code § 6C-2-1, et seq. related to the reduction in force.
- 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 reduction in force prior to the expiration of the current term of employment because of Financial Exigency, that faculty member is 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 a grievance 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. The College will make reasonable effort 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 Interactive Classroom (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 the President’s Cabinet has determined 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 Reduction in Force – Notwithstanding any other recall rights contained in the policy, in the case of the reduction in force of a tenured faculty member occupying a permanent faculty position, the College shall recall such faculty to the position from which the faculty member was terminated in reverse order from the order in which the reduction in force occurred. The College shall create and maintain a recall list of all faculty reduced in force due to Financial Exigency, and such faculty shall remain on the recall list for the length of his or her service with the College on the date of the reduction in force or for two years, whichever period is shorter. If a faculty member does not accept the College’s offer of recall within 30 calendar days after the College extends the offer, then the faculty member may be removed from the recall list.
- 6.12 Termination of Exigency – The termination of a Financial Exigency does not mean that reductions in force made during a period of declared Financial Exigency are automatically withdrawn or otherwise invalid. Faculty personnel shall be recalled only in accordance with this policy.
- 6.13 Process for Re-employment of Affected Personnel – The College shall observe the following process for determining 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 that faculty member declines or refuses such an offer, the College shall offer the position to other similarly affected faculty members in rank order.
 - 6.13.3 Any refusal of an offer of re-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 an 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 – A terminated faculty member’s duties will, under no circumstances, be assumed by adjunct faculty. The College may make it a priority to re-hire faculty members who have been reduced in force due to Financial Exigency into adjunct positions before posting such adjunct positions externally. Additionally, as soon as a full-time faculty position becomes available or an eliminated program has been reestablished, affected faculty members shall 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 reduced in force and recalled under the terms of this policy shall 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 accumulated sick leave as of the date of employment termination; provided, the date of termination is one year or less than the date of reemployment. However, if the reemployment is more than one year from the date of termination, no more than 30 days of accumulated sick leave may be reinstated (135 C.S.R. 38). Additionally, the recalled faculty member 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 reduced in force and recalled under the terms of this policy will assume the rank held at the time of the reduction in force and be paid a salary equal to the salary being paid at the time of the reduction in force or a salary commensurate with their rank as it would be offered at the current level should the job be posted externally. Additionally, the recalled faculty member 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 from the Chief Academic Officer, the Chief Human Resources Officer, the Chief Finance Officer, and the academic Deans, shall have primary responsibility regarding the 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

	Date
Board of Governors Chair	
	Date
President	

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 the 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. The policy was reformatted into the new policy format, and the title was changed. Minor modifications were made to reflect the correct authority and methods for the elimination of faculty positions.

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

September 2023 – Modifications are grammatical in nature, correction of the definition of “Credentials” and use the credential criteria when eliminating faculty positions with equal rank in the same discipline only if there’s a conflict in seniority in Section 6.4, and correction of statement regarding accumulated sick leave reinstatement pursuant to 135 C.S.R. 38 in Section 6.15.