

# SUL ROSS STATE UNIVERSITY

*A Member of the Texas State University System*

**SRSU Policy:** Academic Planning and Financial Exigency

**SRSU Policy ID:** FH 2.14

**Policy Reviewed by:** Executive Vice President and Provost

**Approval Authority:** President of the University

**Approval Date:** July 19, 2013

**Next Review Date:** July 19, 2018

Changing patterns of enrollment and/or critical reductions in revenues may necessitate strategies to bring programs and staffing into alignment with enrollment and the financial realities of the University. Program and staffing realignment may be undertaken according to the following policies and procedures:

A. Termination of Faculty under Special Circumstances

If, in the judgment and discretion of the Board of Regents, reductions in legislative appropriations for faculty salaries; governmentally mandated reductions in faculty positions; significant loss of enrollment; consolidation of departments or other reorganization; dropping of courses, programs, or activities for educational or financial reasons; or financial exigency makes such action advisable, the employment of a faculty member before the expiration of the stated period of his or her employment may be terminated in accordance with the provision of this section (*Rules and Regulations, Texas State University System, Chapter V, Section 4.5*).

B. Academic Planning

The demand for classes in specific academic disciplines fluctuates over time as student career choices and the educational preferences of society change. As a result of these fluctuations, the number of the full-time-equivalent faculty allocated to a department or program may fluctuate also—expanding in periods of growth and contracting in periods of retrenchment.

1. The Executive Vice President and Provost has the responsibility of adjusting departmental faculty size during such periods of growth or decline, so that in the long run all departments are treated equitably and the educational goals of the institution are achieved. Of course, tenured faculty may not be arbitrarily dismissed as a result of these routine periodic adjustments to departmental FTE faculty. Thus, the Executive Vice President must ensure that each department maintains a healthy balance between tenured and non-tenured faculty. If too few faculty are tenured, there can be no departmental continuity; if too many are tenured, there might be insufficient flexibility.
2. The Executive Vice President's decisions to adjust FTE faculty allocations will be based on careful academic planning conducted with full faculty participation. The emphasis of this continuing planning process may vary from time to time as

# SUL ROSS STATE UNIVERSITY

*A Member of the Texas State University System*

institutional circumstances change, but the academic plan should, as a minimum, include the following:

- a. historical data on average class size and the student-teacher ratio for each department, together with a departmental statement on the educational implications of present class size,
- b. a demographic analysis of departmental faculty, e.g., rank, age, sex, race and national origin, tenure status, and field, and
- c. faculty and administrative judgments regarding the precise role each department plays in the realization of the broad educational goals of the institution.

## C. Discontinuance of a Program or Dismissal of Faculty for Educational Reasons

1. A department or degree program in which tenured faculty are employed may not be arbitrarily abolished. On the other hand, a department or program may be discontinued or combined for educational reasons.
2. If the long-term educational goals of the institution would be enhanced by the abolition of a department or program which would require the dismissal of tenured faculty, the Executive Vice President and Provost may recommend to the President that a department or program be discontinued. If the President agrees with the recommendation to discontinue, he should submit the question to the Academic Planning Committee (hereinafter called the Committee and defined below) for thorough study. Upon receipt of the written report to the Committee, the President will decide whether or not to recommend to the Board that the department or program be abolished.

## D. Discontinuance of a Program or Dismissal of Faculty for Financial Exigency

1. If, as a result of a substantial loss of enrollment or of financial support which threatens to alter the essential character of the University, it appears to the President or Executive Vice President and Provost necessary to reallocate faculty FTE positions in such a way that tenured members of the faculty would have to be dismissed, other faculty would have to be terminated before the expiration of their term contracts, and/or a department or program would have to be abolished for monetary reasons, then a financial exigency may be imminent. In that event, the Executive Vice President and Provost will inform the President in writing of the nature and extent of the crisis.
2. If the President agrees that the financial crisis facing the University is of sufficient magnitude to justify the dismissal of tenured faculty, the termination of other faculty before the expiration of their contracts, or the abolition of a department or

# SUL ROSS STATE UNIVERSITY

*A Member of the Texas State University System*

program, the President will submit the question to the Academic Planning Committee and so inform the Board of Regents, which alone has the power to declare a state of financial exigency.

3. In making its determination that a state of financial exigency exists, the Board of Regents shall consider whether expenditures exceed operating revenues but need not consider capital funds and assets and fixed endowments. Any faculty dismissals must be for bona fide financial reasons; that is, they are reasonably calculated to alleviate the University's financial exigency.
4. The Committee will investigate, as expeditiously as possible, the extent of the financial difficulty and propose a timetable for action. In its deliberations, the Committee will make a genuine effort to identify all ways and means to retrench less drastically than the dismissal of tenured faculty.

## E. The Academic Planning Committee

The President will activate the Academic Planning Committee immediately upon receipt of any recommendation from the Vice President for Academic Affairs that tenured faculty may need to be dismissed or other faculty terminated before the expiration of their term contracts because of financial exigency or that a department or program should be phased out for educational or monetary reasons.

The President shall appoint six faculty members (four of whom must be tenured) from a list of ten nominees (eight of whom must be tenured) submitted by the Faculty Assembly. Further, the President shall appoint the school deans, the Dean of the Rio Grande College and three department chairs (at least two of whom must be tenured). This group of thirteen should include representatives of all of the schools and be a fair representation of faculty protected by the Civil Rights Act of 1964. In addition, the Vice President for Business Affairs, the Executive Vice President and Provost, and the Chairperson of the Faculty Assembly (Alpine) and the Faculty Senate (RGC) shall be ex-officio members.

1. **Determining Departments or Programs to be Cut Back**  
In its deliberations, the Committee will review the state educational mandates and the mission of the University in the light of the financial crisis in order to determine the departments or programs whose budgets and faculties should be reduced or eliminated.  
The Committee will evaluate each department and program in terms of the educational mission of the University, the department's enrollment statistics, and departmental analyses submitted by the department chairs and the deans of the schools. The mission is the most important consideration.

# SUL ROSS STATE UNIVERSITY

*A Member of the Texas State University System*

The Committee will then identify those departments where faculty reductions may be necessary, and it will submit its recommendations with documentation to the President.

## 2. Determining Which Faculty Members Are to Be Dismissed

If the Board of Regents has declared a state of financial exigency and the President, acting upon the recommendations of the Committee, has identified a department or program as one in which tenured faculty will need to be dismissed because of financial exigency or if a department or program is to be discontinued for educational reasons, the Executive Vice President and Provost will notify that department in writing, specifying the amount by which the faculty salary budget must be cut and the deadline by which the cut must be accomplished.

Upon receipt of the Executive Vice President's memorandum, the department chair of each affected department will promptly convene the tenured and tenure-track faculty who, after consultation with all departmental faculty, will thoroughly explore the implications of the financial crisis or proposed dissolution for educational reasons and prepare a report adhering to the following guidelines:

- a. Whenever possible, faculty reduction will be accomplished through attrition.
- b. Within a designated program, the termination of the employment of a faculty member with tenure may not be recommended in favor of retaining a faculty member without tenure, unless (1) the removal of a non-tenured faculty member would eliminate an essential part of a program or render a program dysfunctional or (2) the removal of a non-tenured faculty member who is deemed to be of equal or greater merit than the tenured faculty member would jeopardize the advances achieved by the University under its affirmative action program.
- c. Once the factors listed in items *a* and *b* above have been properly discussed and weighed, the probable order of dismissal shall be based on the principle of seniority, so the departmental faculty will be listed sequentially starting with the least senior. Thus, non-tenured faculty will be listed before tenured faculty in the following order: part-time, temporary, and probationary. The order of dismissal within a departmental tenured faculty will be determined by educational background, rank, and longevity. Persons without the terminal degree in their discipline will be dismissed before anyone with the terminal degree. Rank will be considered next. An instructor would be dismissed before an assistant professor, who in turn would be dismissed before an associate professor, who in turn would be dismissed before a professor. Within each rank, longevity will determine the order of dismissal following the

# **SUL ROSS STATE UNIVERSITY**

*A Member of the Texas State University System*

principle of last in, first out; if the date of acquiring current rank is the same, the date of acquisition of the previous rank will be used.

d. Possible alternatives.

The department should also explore all possible alternatives to the dismissal of tenured faculty.

The department report, identifying faculty for dismissal or proposing alternatives, will be forwarded, with documentation, to the Committee via the appropriate school dean, who will write comments that either support or disagree with the departmental recommendations. In the event that the department is unable or unwilling to provide the materials described above, the school of the appropriate dean will perform the departmental functions and forward the findings and recommendations to the Committee. The departmental chair and the school dean will immediately provide affected faculty with written notice of their recommendations.

When the Committee has received the departmental and dean's recommendations from all affected departments, it will then consider all previous information, will recommend to the President the particular faculty member or members to be dismissed, and will notify all affected faculty in writing.

Upon receipt of the Committee's recommendations the President shall make a timely decision regarding dismissals, forward a copy of that decision to the Board of Regents, and notify all affected faculty. That decision is final, subject, of course, to the appeal procedures detailed below and approval by the Board of Regents.

F. Individual Faculty Rights in the Event of Termination

Declaration of financial exigency or elimination of programs for educational reasons does not suspend due process protections afforded by the Fourteenth Amendment to the Constitution of the United States against the arbitrary taking of property or liberty interests. However, the existence of the above-stated situation does permit the University and the Regents to modify their existing procedures in order to take timely and responsive action to meet the financial emergency or retrenchment for educational reasons in such ways as the University and the Regents determine best preserve the best interests and academic integrity of the institution.

1. Notice Provision

A faculty member whose employment will be recommended for termination should be given the following information and accorded the following rights:

# **SUL ROSS STATE UNIVERSITY**

*A Member of the Texas State University System*

- a. a written statement of the basis for the decision to recommend the termination of the faculty member's employment,
- b. a description of the manner in which the recommendation of termination was determined,
- c. a disclosure of the information and data upon which the recommendation was based,
- d. the opportunity, consistent with this policy, to participate in or provide input into the decision-making process, and
- e. the opportunity to appeal consistent with the requirements of due process.

## 2. Appeals Provisions

Appeals shall follow the procedures described in this paragraph. A special hearing tribunal, appointed by the President, shall have exclusive jurisdiction to hear all appeals from faculty identified by the President for dismissal under the provisions of this policy. On appeal, the issues shall be limited to the following: a) the existence and extent of the financial exigency or the need for phasing out a program for educational reasons, b) whether the educational judgments placing the faculty member on the "dismissal list" are supported by substantial evidence, and c) whether this policy was followed and evenly applied in the individual case. The faculty member slated for dismissal must request the hearing within ten working days following receipt of the notice of dismissal from the President, must state the bases of the appeal clearly and factually, and shall bear the burden of proof.

## 3. Effective Date

If the President's notice of removal is sent on or before January 15, the University shall make a bona fide attempt to accomplish removal no sooner than the end of the academic year (June 1). If notification is given after January 15, the University shall make a bona fide attempt not to effect removal sooner than the middle of the next academic year (January 15).

## 4. Placement and Reinstatement

If a department or program is, in fact, to be phased out for financial or educational reasons or a faculty member is to be removed because of financial exigency, the Executive Vice President and Provost will make every effort to place the affected tenured faculty member into a suitable alternative position within the University (at comparable rank and salary, if possible), provided that (a) the faculty member is qualified professionally to teach in such an area or is willing to undergo the

# **SUL ROSS STATE UNIVERSITY**

*A Member of the Texas State University System*

appropriate professional retraining, at his or her own expense, that will qualify him or her to do so and (b) a position is available.

If no suitable position is available or if the faculty member refuses to assume a position deemed suitable by the Executive Vice President and Provost, the institution may dismiss him or her with proper notice in accordance with the provisions of this policy and of the *Rules and Regulations, Texas State University System*.

Faculty members with joint appointments shall be considered for removal only in their primary departments. In the event that a faculty member with a joint appointment is identified for removal in his or her primary department, the appointment in the secondary department shall also cease unless it is continued and funded by the secondary department.