

**RECOMMENDED PROCEDURES FOR DEALING WITH FINANCIAL EXIGENCY  
LSU—BATON ROUGE**

**Submitted by the Faculty Senate Special Committee on Financial Exigency Procedures  
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**PREAMBLE**

All universities, especially public universities, face financial difficulty from time to time. Faculty and administrators at those institutions are well aware of the impact that fluctuations in support have for research and instructional budgets. Difficult decisions about faculty hires and support, as well as program development, are often required to survive the bleak years. Similarly, faculty and administrators know all too well of the devastating impact such decisions can have on faculty morale and on the mission of the university. When these financial difficulties reach crisis proportion, there is a temptation to call for a declaration of financial exigency. It is often argued that this gives universities the flexibility and immediacy necessary to make difficult, survival decisions. That may be the case; although the history of financial exigency declarations suggests that, more often than not, they are counterproductive, sometimes misguided, attempts to rescue universities from their financial problems. Declarations of financial exigency threaten the very fabric of the tenure process; in their application they inevitably endanger academic freedom; they may threaten the very existence of entire programs, particularly those not well situated to defend themselves; they always have a detrimental impact on the morale of faculty and students; and they have the capacity of compromising the research and teaching mission of the university to such a degree that the best faculty and students will search for opportunities elsewhere; and they will take with them the tale of a university that was unable to live up to its obligations to the very constituencies that sought to bring it value. Indeed, declarations of financial exigency cause serious harm to the reputation of the university. They signify to prospective faculty, professional staff, and students that the university has essentially failed and that any commitment it might make to either employee or student may not be fulfilled, an impression that can continue for many years. In short, a declaration of financial exigency is essentially a declaration of bankruptcy; and the impression it will leave is that the institution is not only bankrupt financially, but intellectually and morally as well. For all these reasons, it is clear that a declaration of financial exigency must be a matter of absolute, last resort; and that the decision to declare financial exigency ought to be made with considerable and thorough participation by faculty. Moreover, if such a declaration proves to be necessary, it must proceed with effective and clear policies and procedures that protect the integrity of the academic process and provide for equally effective and clear participation by faculty in whatever individual and/or

programmatic decisions must be made during the emergency.

## HISTORY

A policy concerning financial exigency was adopted by the LSU Board of Supervisors at their meeting October 30, 1992 . That policy explains that “exigency shall exist whenever the financial resources of a campus are not sufficient to support the existing programs and personnel of a campus without substantial impairment of the ability of the campus to maintain the quality of its programs and services.” Exigency at a particular campus within the LSU System may be declared by the governing board upon the recommendation of the Chancellor and with the approval of the President. A request for exigency may be made only “after consultation with representative faculty members.” The 1992 policy does not directly address article 1875 of Louisiana civil code, in which the abrogation of contracts such as those governing the employment of faculty members is associated with the unforeseen nature of “fortuitous” events, including those fortuitous events that are plausible justifications for financial exigency.

The purpose of this document is to outline the policy and procedures to be followed on the campus of Louisiana State University and Agricultural and Mechanical College and to render them consistent with the policies recommended by the American Association of University Professors (hereafter referred to as the “AAUP”), policies recognized throughout the academic profession as a “gold standard” for major research universities. Any restructuring or reallocation of University resources will normally follow only from careful and deliberate actions which are themselves consistent with the University’s mission and with the norms of the profession, as articulated in the AAUP recommendations. Historically, academic restructuring and reduction have been accomplished by attrition, non-renewal of appointments, and reassignment of duties. This document and its procedures are not meant to apply to normal restructuring, *except* in instances where cumulative or sudden extraordinary financial pressures necessitate the reduction and/or reallocation of University resources for academic programs.

Under a duly declared state of financial exigency, the University may seek to furlough, lay off, or terminate tenured faculty, non-tenured faculty, or other contract employees before the end of their contract term. While the primary concern in implementing such actions must be the present and future educational priorities of the University, all parties must recognize the value of tenure as the essential guarantee of academic freedom and must pay special heed to the importance, both on moral grounds and with respect to its national reputation and ability to recruit future faculty members, of setting an example of integrity and reliability even in dire circumstances. Therefore, even in a situation of financial exigency, the termination of tenured faculty should be allowed only for compelling reasons which do not violate the basic tenets of tenure. Given the admirable ambitions of the University to rise to a high level of national and international visibility, particular care should be given to safeguard the rights of those faculty members who are at risk owing to the exercise of academic freedom or who may appear tangential to current university interests or whose specialties may seem less popular than others at a particular time..

## RECOMMENDATIONS REGARDING DECLARATION OF FINANCIAL EXIGENCY

Financial exigency is an imminent, *bona fide* financial crisis that threatens the very nature and existence of the institution as a whole, that, in accord with Louisiana civil code, is “fortuitous” and not “foreseen,” and that is extreme enough to justify abrogation of the University’s contractual obligations to its faculty, staff, and students. Crises that result from foreseeable events lack the “fortuitous” character that leads to exigency situations.

### I. Steps in Advance of Declaration of Financial Exigency

1. If the Chancellor is considering a declaration of financial exigency, a Steering Committee (hereafter referred to as the SC) shall be convened by the Vice-Chancellor for Academic Affairs and Provost. The SC shall consist of the following personnel: four faculty members to be appointed by the Faculty Senate Executive Committee; the two elected faculty representatives on the University Budget Committee; two regular faculty members of the Graduate Council (to be named by the Provost after the members nominated by the Faculty Senate Executive Committee are named to the SC); the respective presidents of the staff senate and student government association; two deans to be named by the Vice-Chancellor for Academic Affairs; and the Vice-Chancellor for Research and Economic Development. One of the faculty members nominated by the Faculty Senate will chair the SC and participate in its deliberations. The Provost will not vote. The Vice-Chancellor for Business Affairs and the Director of Budget and Planning will also serve as non-voting *ex-officio* members of the SC.

2. After consultation with the SC, the Chancellor will decide whether to seek a declaration of financial exigency.

3. If the Chancellor decides to proceed to seek a declaration of exigency, then the Chancellor and the SC will provide written notification with a concise rationale for the decision to the faculty and staff at large. Planning data will be immediately provided to the SC by the Office of Budget and Planning and the Strategic Planning Committee. The Chancellor and his subordinates will make a good faith effort to provide a maximum amount of information to the faculty and will exercise great diligence to avoid either the fact or perception of secrecy in the financial exigency deliberations or preparations.

4. To insure that decisions will not be governed by haste, panic, “media frenzy,” or prejudice, an impartial consultant not previously connected to the University, to be mutually selected by the administration and the faculty Steering Committee, will be hired to assess the urgency of the financial situation and to make recommendations alternative to exigency. The resources of the LSU Center for Internal Auditing, which is recognized as a world leader in its field, should be used either to carry out an appropriate audit or to appoint a qualified auditor.

5. Within no less than five business days of the written notification stipulation in step 3, above, the Faculty Senate, the Colleges and Schools, and the University Budget Committee will

respond, and the Chancellor and the SC will review those responses, which must be submitted in writing.

A. Before responding, each Dean and Director will meet with the appropriate College/School Policy Committee to review the proposed request for a declaration of financial exigency (the Dean/Director should bring to the deliberations of the Policy Committee the responses of department heads, chairs, and directors of schools within colleges). The results of the various meetings with the College/School Policy Committees will be conveyed to the Faculty Senate Executive Committee through the Council of Policy Committees and directly by each Dean/Director, in writing, to the Chancellor and the SC.

B. The Faculty Senate Executive Committee will call one or more meetings of the Faculty Senate to review the proposed request for a declaration of financial exigency. The formal response of the Faculty Senate shall be conveyed in writing to the Chancellor and the SC.

C. The University Budget Committee will review the proposed declaration of financial exigency and respond in writing to the Chancellor and the SC.

6. After consultation with the SC, the chancellor will then reach a decision and if necessary recommend a declaration of financial exigency to the Board of Supervisors. The chancellor will recommend this declaration in writing to the Board of Supervisors and the Provost.

## **II. Steps After Declaration of Financial Exigency**

1. Upon receiving the declaration of financial exigency, the Provost will convene the SC to develop, in no less than three business days, a plan of action, including placement of all programs into one of three categories, as follows:

### **Category One**

This category comprises three co-equal classifications of programs:

- Programs essential to maintaining core undergraduate education in the liberal arts and sciences and in fields critical to the economic interests of the state
- Strong graduate and professional programs with national and international visibility (care should be taken not to confuse “visible” with “fashionable”)
- Programs essential to maintaining the University’s mission as a Land-Grant and Sea-Grant institution

### **Category Two**

This category consists of programs that fall outside of Category One but that are essential for the support of programs in Category One.

### **Category Three**

This category is comprised of all other programs, including:

- Programs with national reputations for excellence
- Programs that generate total revenues substantially in excess of total expenditures

- Programs that are unique in and to the state and region
- Other programs

2. The SC will distribute the plan and categorization to all program administrators, who will have no more than three business days in which to meet with their faculties to review and discuss the plans and develop written comments.

3. The SC will review all written comments as stipulated in step 2, above, and will finalize its categorization of programs in no more than three business days. The SC will immediately distribute the revised plan to all program administrators and to all faculty. The SC will also discuss the plan with the Faculty Senate Committee on Courses and Curricula, the Graduate Council, and other groups as appropriate.

4. All of the groups stipulated in step 3, above, will have no less than three business days in which to submit written comments to the SC.

5. The SC will consider all written comments and, within one business day, will distribute throughout the LSU community (i.e., to faculty, administrators, and staff) any further revisions to the SC recommendations or will inform the LSU community that the recommendations as distributed per step 3, above, stand unrevised.

6. The SC will hold open hearings on its recommendations for no more than three business days. The time allotted for addressing the hearings will be allocated so that an officially designated spokesperson for each affected unit of the University who wishes to be heard will have the opportunity to speak. All others wishing to be heard will be accommodated as time allows.

7. After the conclusion of the hearings, the SC will make its final recommendations to the Chancellor.

8. The Chancellor will present the final plan to the President and the Board of Supervisors and will distribute the final plan to the LSU community.

9. The decisions of the Board of Supervisors will be reported to the LSU community.

### **III. Safeguards**

1. The University will make good faith efforts to follow AAUP guidelines for defining and implementing financial exigency measures. Additionally, the University will take no action that is inconsistent with or contrary to the procedures recommended by the AAUP.

2. Nothing in this document will be construed as denying faculty members any protections afforded them by law or by the regulations of the Board of Supervisors. The

University should also arrange to offer reasonably-priced legal insurance as an optional benefit to faculty and staff members.

3. Any members of the faculty who are terminated with less than the period of notification to which they are normally entitled will be allowed to continue to participate in the University's group insurance program for up to three years after termination.

4. Tenure is only achieved after years of teaching, research, and service, and is only awarded to those faculty of the highest quality and most value to the university, as judged by their peers. The University will consider tenure and length of service as preeminent among reasons to retain rather than dismiss faculty members.

5. If a tenured faculty member's position is eliminated, the University will make a good faith effort to place the individual in another appropriate position, either at the University or in another comparable institution.

6. If a position vacated by a tenured faculty member is reopened within seven years after its closure, it will first be offered at the same rank and inflation-adjusted salary to the person who vacated it. The affected individual will be given thirty days from receipt of the offer to accept or decline the offer. The University may not attempt to evade this safeguard by re-defining positions so as to exclude their previous holders or by creating new positions while leaving old positions dormant. Nor may the University furlough, lay off, or dismiss tenured faculty while retaining or in order to retain untenured faculty (within a given program). The University must not hire or recruit new faculty until furloughed, laid off, or dismissed faculty have been restored to their positions (or until those faculty have declined such restoration).

7. An individual receiving notice of termination will be given twenty-one calendar days to request a hearing on the grounds of prejudice, violations of academic freedom, invalid application of the criteria or guidelines, unpopularity or prejudicial treatment within that individual's department, or violation of the procedures outlined in this document. A special committee, nominated by the Faculty Senate will function as a hearing committee for this purpose, will follow the procedures set forth in the *Faculty Handbook* in the section on Faculty Grievances, and will forward its report to the Chancellor, who is expected to follow the recommendations.

8. A declaration of financial exigency is in some measure an admission of failures in administrative planning. Moreover, the state of financial exigency should be characterized by shared sacrifice, including appropriate reductions in the administrative budget and cadre.

9. If an appointment is terminated, the faculty member will receive salary or notice in accordance with the following schedule: at least three months, if the final decision is reached by six months or less after hiring; at least six months, if the decision is after six months but before eighteen months of service; at least one year, if the decision is reached after eighteen months or more of service or if the faculty member has tenure. This provision for terminal notice or salary

need not apply in the event that there has been a finding that the conduct which justified dismissal involved moral turpitude. On the recommendation of the faculty hearing committee or the president, the governing board, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.

10. Should the Chancellor determine that, for reasons related to local, state, or federal law, the University cannot follow any particular guidelines stipulated in this document, such problems will be resolved through discussion with the Faculty Senate Executive Committee, which is charged with informing the faculty about the ongoing discussions.