

RECOMMENDED REVISED VERSION OF THE
REGULATIONS OF THE BOARD OF SUPERVISORS OF THE LSU SYSTEM
CONCERNING FINANCIAL EXIGENCY (SECTION 5-13)

Submitted by the Faculty Senate Special Committee on Financial Exigency Procedures
May 3, 2006

Anything in the Regulations of the Board of Supervisors to the contrary notwithstanding, if the Board of Supervisors finds upon certification from an impartial “outside” consultant or auditor that a condition of Financial Exigency exists at an institution, within an academic or other unit of an institution, or in the LSU System generally, then the furlough, layoff, or termination of tenured faculty, non-tenured faculty, or other contract employees before the end of their contract term will be handled in accordance with the Financial Exigency policy set forth below but in no event in any way contravening the recommendations of the American Association of University Professors (“AAUP”) regarding financial exigency. As used herein, the term “unit” means any identifiable component of the LSU System at any level of its organization which has an annual budget for the operation of such component.

A. Definition of Financial Exigency. A condition of financial exigency shall exist whenever, owing to unforeseen or fortuitous grave events such as natural disasters or acts of war, the financial resources of a campus are not sufficient to support the existing programs and personnel of the campus without substantial impairment of the ability of the campus to maintain the quality of its instructional programs and services. Financial exigency may also result from a sudden or unforeseen reduction in financial resources. Evidence of financial exigency may include, among other factors, unforeseeable or emergency reduction of state appropriations, sudden degradation of program or campus facilities owing to emergencies or disasters, and substantial threat of deterioration of facilities due to emergency-induced lack of resources for maintenance. Financial exigency results from an unexpected state of emergency and is not to be confused with judgments concerning the “quality” of a unit already existing within the LSU System. Financial exigency arises from a sudden and grave state of affairs and is not to be used as a device for planning, improving, enhancing, or otherwise revising System units and their programs.

B. Board of Supervisors Action. The Board of Supervisors, in the exercise of fiscal responsibility, may decide to declare financial exigency with respect to the System as a whole, to one or more institutions of the System, or to any unit of program within an institution. Reasonable efforts shall be made to insure that students affected will be allowed to complete their programs, within the limits of budgetary restraints, at the institution or by transfer to another institution.

A declaration of financial exigency shall represent a determination by the

Board of Supervisors, upon recommendation by the Chancellor and President and upon certification of exigency by an impartial, “outside” consultant or auditor, that the financial condition of a unit, institution, or system has reached a crisis in which the entity must carefully re-examine its priorities and reduce programs or personnel or both to effect a cost savings sufficient to alleviate the financial exigency.

The determination of financial exigency affecting the System or any other institution within an academic or other unit of an institution shall be the sole responsibility of the Board of Supervisors, but the Chancellor of an institution, after good-faith consultation with representative faculty members who are not serving as academic administrators and with the Faculty Senate, and with approval by the President, may request such a determination by the Board. A request for the declaration of a financial exigency at any level before the institution level must originate at the institution. When such determinations are made, this policy, along with implementing procedures that have been recommended by the Faculty Senate of the campus affected and that meet or exceed the level of protections recommended by the AAUP, will take precedence over those applicable Board procedures which govern normal operating procedures.

Implementation of a declaration by the Board of Supervisors of financial exigency shall be developed with the understanding that action taken will be consistent with the basic mission of the System to provide the best possible education, research, and public service. To this end, the Board will impose a state of financial exigency only under the most grave of unforeseen circumstances and will remain mindful of the possibility of an exigency declaration to damage the reputation and thereby research and educational potential of the System as a whole.

C. Implementation of Declaration of Financial Exigency. Upon a Declaration of financial exigency by the Board of Supervisors, the Chancellor at each institution, after consultation with faculty and staff, and approval by the President and Faculty Senate, shall determine whether furloughs, layoffs, or terminations are required and which employees will be affected. This determination shall be made in accordance with procedures established by the President, which will give primary consideration to retention of tenured faculty members as well as to the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution. In no case shall the implementation of the financial exigency procedures be used as a means to attain educational or research balance, quality, or any other goal not related to resolving the immediate financial difficulties of the exigent unit. Decisions concerning terminations shall be carried out in accordance with the procedures recommended by the Faculty Senate of the affected institution.

Faculty and other employees under contract who are furloughed, laid off, or terminated before the end of their contract terms for reasons of financial

exigency shall be notified of their impending furlough, layoff, or termination in advance of this event by a period at least equal to that specified in the AAUP guidelines. The notice of furlough, layoff, or termination shall be delivered personally or by certified mail, with return receipt requested. Notice shall be complete upon delivery or mailing. The notice shall include, in writing a statement of the conditions requiring furlough, layoff, or termination, a general description of procedures followed in making the decision, and a statement of the employee's right to respond orally and in writing to a designated official or committee of the institution and to review by the Chancellor within the time specified in the notice as to the reasons for the furlough, layoff, or termination. The employee(s) shall also have the right, upon written request within twenty (20) days from the date of notification of the final decision of the Chancellor, to apply in writing to the Office of the LSU System President for a review of the decision.

The term "furlough" as used in this policy, is defined as temporary leave without pay for any employee, including tenured faculty members or non-tenured faculty or other contracted employees, before the end of their contract term. The term "layoff," as used in this policy, is defined as the temporary dismissal of any employee, including tenured faculty members or non-tenured faculty or other contracted employees, before the end of their contract term. Layoffs may lead to eventual termination. Because layoffs or terminations are grievous measures undertaken only in times of verifiable financial emergency and because they may not be used for academic planning, development, or enhancement purposes, layoffs or terminations in some academic or other units may not occur with simultaneous authorizations of new positions for different duties in academic or other units, depending upon the needs of such units.

Because a state of financial exigency imposes a condition of shared sacrifice on all, furloughs, layoffs, and terminations among tenured, non-tenured, or other contracted employees should be balanced by a proportionate number of layoffs among administrative personnel. Additionally, administrative salaries should be reduced to the median professorial salary for the unit affected, with the resulting salary savings being used to resolve the financial emergency.

D. Approval Required. Anything in the regulations of the LSU Board of Supervisors to the contrary notwithstanding, if the Board of Supervisors declares financial exigency, either at any institution, within an academic or other unit of an institution, or in the System, as provided in section (b) above, program modifications or discontinuances recommended by the institution and approved by the President must be approved by the Board of Supervisors. With respect to the implementation of such program modifications or discontinuances upon a declaration of financial exigency, decisions with respect to furlough, layoff, or termination of any tenured faculty, non-tenured faculty, or other contract employee before the end of their contract term must be approved by the Chancellor and the President, and the decisions are final upon approval of the President. Review of such decisions by the Board of Supervisors is at its sole

discretion.

E. Termination of Financial Exigency. Financial Exigency shall terminate at the end of the fiscal year in which it was declared.