

5.02.06.00 Financial Exigency



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Policy/Guideline Area

Personnel Policies

Applicable Divisions

TCATs, Community Colleges

Purpose

The purpose of this policy is to establish the criteria and process regarding financial exigency at institutions governed by the Tennessee Board of Regents.

Definitions

- Financial Exigency - is the formal declaration by the Tennessee Board of Regents that one of its institutions faces an imminent financial crisis, that there is a current or projected absence of sufficient funds (appropriated or non-appropriated) for the campus as a whole to maintain current programs and activities at a level sufficient to fulfill its educational goals and priorities, and that the budget can only be balanced by extraordinary means which include the termination of existing and continuing academic and non-academic appointments.
- Reduction-in-force - the termination of employment of faculty or staff resulting from a budgetary crisis reflected in a declared state of financial exigency.
- Entire institution - any one of the institutions of the Tennessee Board of Regents System for which funds are separately appropriated by the Tennessee General Assembly.
- Academic or administrative unit - an academic department or other similar account-level unit.

- Representative faculty body - the major faculty organization devoted to governance (as implied in [1.03.10.00 Student & Faculty Participation in Development of Campus Policies & Programs](#)).
- Primary budgetary sub-unit - a major budgetary area of an institution (e.g., academic affairs, student affairs, fiscal affairs) usually headed by an administrator reporting directly to the president.

Policy/Guideline

Each institution in the System is required to develop policies and operational practices designed to provide emergency procedures, including reduction-in-force, should it experience a condition of financial exigency. As a minimum, institutional policies must cite, be in compliance with, and incorporate all the procedures outlined in of Board Policy 5.02.06.00. Once the institution has developed its policy, it must be forwarded to TBR for review and approval.

Procedures

- I. Minimum institutional policy requirements
 - A. As a minimum, institutional policies must cite, be in compliance with, and incorporate all the provisions of Board Policy 5.02.06.00.
 1. Those provisions are:
 - a. A definition of financial exigency (see Definitions);
 - b. A process section describing actions required prior to the declaration of financial exigency (included in Section II);
 - c. A process section describing actions required subsequent to the declaration of financial exigency (included in Section III.), including the appointment and composition of a Financial Exigency Committee;
 - d. A statement of procedures for termination of personnel under conditions of financial exigency (included in Section IV.);

- e. A statement of continuing rights of persons terminated under conditions of financial exigency (included in Section V.);
 - f. A description of procedures for terminating a declaration of financial exigency (included in Section VI.); and
 - g. A glossary of terms (included in Section VII.).
 - B. Institutional policies must include specific plans and process sections which define anticipated operational practices in the event of financial exigency, and they must assure maximum protection for the academic programs of the institutions and the educational needs of students.
 - C. Once the institution has developed its policy, it must be forwarded to TBR for review and approval.
- II. Actions Required Prior to the Declaration of Financial Exigency
- A. Financial exigency results from an imminent fiscal crisis characterizing an entire institution; thus, the condition of financial exigency may not be declared at a level below that of the institution (i.e., it may not be declared at the level of an academic or administrative unit such as a program, department, or similar account-level unit).
 - B. In light of the gravity of consequences resulting from a declaration of financial exigency, the process leading to an institutional recommendation to TBR that financial exigency be declared must be cautious, fair, well informed, and as responsive as possible to the interests of various segments of the institution.
 - 1. The responsibility for initiating the proposal for declaration of financial exigency resides with the president of the institution. Since recommending the declaration of financial exigency is an extreme measure, that responsibility requires the president to provide all appropriate assurances and documentation that available and reasonable procedures to reduce

the expenditure levels of the institution are exhausted and that no efforts have been spared to enhance revenues.

2. Prior to proposing the declaration of financial exigency, the president shall share with the entire faculty or its representative body and with representatives of other campus personnel constituencies all pertinent analysis and documentation that, demonstrate an imminent fiscal crisis for the entire institution that would warrant a declaration of financial exigency. That analysis and documentation should be shared promptly and with sufficient notice to all personnel constituencies (including the representative faculty body); and opportunities should be provided for discussions with and advice from those bodies, answers to appropriate questions, and general deliberations befitting an educational institution.
3. After discussion and review of any advice from various personnel constituencies, the president shall - if they remain convinced that conditions warrant a recommendation for declaration of financial exigency - present the recommendation with full documentation to the Chancellor.
4. If the president's review supports the conclusion that conditions warrant a declaration of financial exigency, the Chancellor shall so recommend to TBR. In addition to providing TBR with a recommendation to declare financial exigency, the Chancellor in consultation with the college president shall also submit a statement of findings and conclusions which shall include at least the following:
 - a. A description of the current fiscal condition of the institution, including the projected amount of deficit that would result from failure to declare financial exigency.
 - b. A projection of the fiscal condition that would result, in the opinion of the president and the Chancellor, from general types of action

anticipated to be taken subsequent to a declaration of financial exigency.

- c. An analysis of the reason for the current imminent fiscal crisis characterizing the entire institution, specifying with appropriate documentation those identifiable factors contributing to the crisis.
- d. A statement of assurance, with supporting evidence, that available and reasonable procedures to reduce expenditure levels of the institution are exhausted, that further retrenchment within existing policies is not compatible with the objective of assuring maximum protection for the academic programs of the institution and the educational needs of students, and that efforts to enhance revenues have been carried out in a responsible manner.
- e. A transmittal of any advice, alternatives, or information in writing by any institutional personnel constituencies (including the representative faculty body).

III. Actions Required Subsequent to the Declaration of Financial Exigency

- A. Should TBR formally declare a state of financial exigency at one of its institutions, the president shall in a reasonable time and with appropriate documentation initiate a proposed plan to allocate necessary funding reductions among the primary budgetary sub-units (e.g., academic affairs, student affairs, fiscal affairs, etc.) within the institution.
- B. The following procedures shall be followed:
 - 1. The president shall convene the institution's Financial Exigency Committee, the composition of which shall be broadly representative of all personnel constituencies (including the representative faculty body) and shall be defined in the institution's Policy on Financial Exigency.

2. The president's proposed plan for allocating necessary funding reductions to primary budgetary sub-units shall be reviewed by the Financial Exigency Committee.
 - a. The Committee shall review the amounts of proposed reductions, evaluate proposed reductions in the light of institutional priorities, and consider administrative organization and academic priorities.
 - b. It shall also consider the magnitude of proposed reductions in each primary budgetary sub-unit in the light of factors prescribed by applicable state or federal laws regarding fair employment practices.
 - c. The Committee shall submit in writing within thirty days to the president its response to the president's plan, which shall include either an endorsement or a recommendation of alternatives.
 - (1) The president shall consider any alternatives recommended by the Committee and - within thirty days - shall indicate to the Committee a final decision relative to the internal allocation of necessary funding reductions.
 - (2) This final plan shall be communicated broadly to all personnel constituencies (including the representative faculty body) as well as to the Chancellor.
3. Heads of primary budgetary sub-units, with broad and clearly defined faculty and staff consultation, shall recommend to the president plans for effecting their designated budget reductions. Those recommendations from heads of primary budgetary sub-units shall include proposed reductions in programs or personnel, shall achieve the designated reductions, and shall respond to any inquiries the president or the Financial Exigency Committee may direct.

4. As a primary component of his or her review of plans submitted by heads of primary budgetary sub-units, the president shall - prior to accepting them - submit the plans for review by the Financial Exigency Committee.
- C. Institutional financial exigency policies shall indicate general principles that the Committee will consider in reviewing plans submitted by heads of primary budgetary sub-units.
1. While policies may include other principles, the Committee must consider at least the following general principles:
 - a. Retrenchment other than reduction-in-force should reflect as its major priority maximum protection for the academic programs of the institution and the educational needs of students.
 - b. When an academic or administrative unit undergoes reduction-in-force, the principal consideration in determining which persons to retain and which to terminate should be the maintenance of viable academic or support programs within that unit.
 - c. Personnel of affected academic or administrative units should have clearly defined advisory involvement relative to determining specific persons and minimal personnel needs or areas of specialization essential to a unit's viability.
 - d. To avoid the possibility of compromising the quality of highly productive programs within the institution and to recognize the best interests of continued academic excellence, reduction-in-force cannot normally be accomplished on a strictly across-the-board basis.
 - e. Unless an exception is made to maintain a viable academic or support program (see b. above), decisions as to the order of personnel terminations in academic or administrative units should be made in light of factors clearly defined in institutional policies.

- f. Each institutional policy on financial exigency should specify clearly and in rank order the role of defined factors in determining order of personnel terminations in academic or administrative units under conditions of financial exigency.
 - (1) Those factors shall include - but are not limited to - tenure status, rank, seniority within rank, local seniority within rank, length of service, and performance evaluations.
- 2. The Financial Exigency Committee shall submit in writing to the president its response to the plans for recommended reductions submitted by heads of primary budgetary sub-units.
 - a. That response shall include either an endorsement or a recommendation of alternatives.
 - b. After appropriate review of response by the Financial Exigency Committee, the president shall indicate acceptance, rejection, or amendments to reduction plans submitted by heads of primary budgetary sub-units.
- 3. The president shall communicate the composite plan for reducing expenditures to the entire campus community.
- 4. The president shall submit for approval by the Chancellor, the composite plan for effecting budgetary reductions as required by the fiscal condition of the institution.
 - a. That transmittal must include the written response by the Financial Exigency Committee to both;
 - (1) The president's plan for allocating necessary funding reductions to primary budgetary sub-units; and
 - (2) Plans for the primary budgetary sub-units for effecting their designated budget reductions.

5. If the Chancellor approves the plan for implementation, they shall submit it as information - together with any analysis deemed appropriate - at the next meeting of the Board of Regents.

IV. Procedures for Termination of Personnel under Conditions of Financial Exigency

- A. Following declaration by TBR that a condition of financial exigency exists at one of its institutions, the president of that institution - having complied with those actions required subsequent to the declaration of financial exigency (see Section III. above) - is authorized to carry out those actions, including reduction-in-force, which are included in the plan approved by the Chancellor.
- B. Reduction-in-force under this policy may include any personnel classification, including tenured faculty members or probationary faculty members prior to the end of their terms of appointment.
- C. The procedures for termination described in Section IV. of this policy are in force only during a period in which TBR has declared that one of its institutions is in a condition of financial exigency.
- D. An individual selected for termination shall receive prompt written notification from the president. That notification shall include the following:
 1. A statement of the basis on which the individual was selected for termination (see Section III.C.1.b. and e. and f. - if one or more of the three is appropriate);
 2. An indication of the data or reasons supporting the choice if it is not a clearly defined factor such as rank or tenure status;
 3. A statement of the date on which the termination is to become effective;
 4. A copy of the declaration of financial exigency adopted by the Board; and
 5. Such other information as the president may deem appropriate.
- E. An individual who receives notice of termination, as described in Section b above, may appeal the decision under the conditions indicated in this section.

- F. Each institution shall provide in its policy on Financial Exigency procedural provisions for a Faculty Hearing Committee and for a Staff Hearing Committee. The Faculty Hearing Committee and the Staff Hearing Committee shall ensure prompt hearings that are thorough and fair but need not be judicial in nature. Strict rules of procedure (e.g., confrontation, cross-examination, and formal rules of evidence) need not be required.
- G. The following conditions constitute grounds for appeal by an individual of notice of termination:
 - 1. That established institutional procedures or provisions of Board Policy 5.02.06.00 were not followed.
 - 2. That appropriate criteria were not applied, including but not limited to the allegation that their selection constituted a violation of the individual's academic freedom or that unfounded or arbitrary assumptions of fact were made.
- H. The Hearing Committees shall not review the decision concerning the declaration of financial exigency or the president's plan for the amount of reduction to be assumed by each primary budgetary sub-unit.
- I. A recommendation will be sent from the Faculty or Staff Hearing Committee to the president recommending that they uphold or reverse the action of termination, and the president will inform the appropriate Hearing Committee and the individual of the final decision.
- J. The final decision of the president may be appealed to the Chancellor and, after the Chancellor has made a decision, to the Board.
- V. Continuing Rights of Persons Terminated Under Conditions of Financial Exigency
 - A. No vacancy caused by a termination under conditions of financial exigency shall be filled for a period of three years from the time of notice of termination without first offering the position to the person terminated (academic or non-academic),

provided that the person terminated keeps the institution informed of their current mailing address.

- B. If the person previously terminated is offered the position and accepts, they will be returned in the same rank and tenure status.

VI. Termination of Declaration of Financial Exigency

- A. If the financial health of the institution improves sufficiently, the president shall initiate a proposal for the termination of a declared state of financial exigency.
- B. The policies and procedures established by this policy shall continue in effect during the period of a state of financial exigency.
- C. At the termination of a declared state, that action by TBR shall cause all policies, procedures, and bodies created in this policy for the sole purpose of making and implementing exigency decisions to cease to exist.

Sources

Authority

T.C.A. § 49-8-203

History

TBR Meeting, September 30, 1983; Revised TBR Board Meeting September 19 & 20, 2019; Ministerial Changes February 14, 2025.