

**20 April 2009**

**To:** Administrations of Colorado Institutions of Higher Education

**From:** Executive Committee, Colorado Conference of the American Association of University Professors

**Re:** Financial Exigency

Higher Education, like other social institutions, is currently in financial crisis. In such a climate it is important for administrations and faculties to review the standards for “Financial Exigency” discussed in the American Association of University Professors’ *Recommended Institutional Regulations on Academic Freedom and Tenure*. These regulations derive from the 1940 *Statement of Principles on Academic Freedom and Tenure* jointly issued by the AAUP and the Association of American Colleges and Universities. Over 200 academic professional associations have endorsed the AAUP’s *Statement of Principles*. The *Regulations* prescribe an active role for faculty governing bodies in determining whether a state of financial exigency exists and how to handle it.<sup>1</sup> These regulations should guide any Colorado institution’s consideration of budget cuts that would affect the quality of instruction on its campus. Each institution should make sure that faculty are meaningfully included in all such deliberations.

“Financial exigency” is defined as “an imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated by less drastic means.” Representative faculty bodies should actively participate in the decision that a condition of financial exigency exists or is imminent, and should be included in deciding whether all feasible alternatives to termination of appointments have been pursued. Judgments determining where, within the overall academic program, termination of appointments may occur involve considerations of educational policy and thus should be the primary responsibility of the faculty or of an appropriate faculty body—not the administration. The faculty or an appropriate faculty body should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service for both tenured and non-tenured instructional staff and staff who support instruction, including advisors.<sup>2</sup> A faculty or instructional support staff member who has been notified of termination has the right to a full hearing before a faculty committee, and to appeal whether the criteria governing termination have been correctly applied.

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<sup>1</sup> The appropriate policy documents are contained in *AAUP Policy Documents and Reports* (10<sup>th</sup> ed.) under *Recommended Institutional Regulations on Academic Freedom and Tenure*, sections 4.c. and 4.d., pp. 24–25; and in section 8, p. 28 (available online at <http://www.aaup.org/AAUP/pubsres/policydocs/contents/RIR.htm>). See also *On Institutional Problems Resulting from Financial Exigency: Some Operating Guidelines*, pp. 147–148.

<sup>2</sup> For example, the services of tenured faculty should not be terminated in favor of untenured faculty; see *Some Operating Guidelines*, pp. 147–148.

Faculty who have been terminated because of financial exigency have protections. First, the administration may not, during a period of financial exigency, make new appointments. Second, the position of the faculty member who has been terminated because of financial exigency must not be filled by a replacement within a period of three years, unless the released faculty member has been offered reinstatement. Third, dollar compensation should be offered to the faculty member as required under Regulation 8 of the *Recommended Institutional Regulations*. Finally, before terminating a faculty member because of financial exigency the administration must make every effort to place that faculty member in another suitable position within the institution.

When financial exigency mandates discontinuation of a program or department these same standards apply. A decision to discontinue a program or department for financial reasons *absent* a declaration of financial exigency should be based on educational considerations as determined primarily by the faculty as a whole or an appropriate faculty body. These educational considerations must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance. The institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, the administration should provide financial support for such. If no alternative position is available with or without retraining, compensation must accompany termination, as per Regulation 8 of the *Recommended Institutional Regulations*. A faculty member may appeal a proposed relocation or termination resulting from a discontinuance and has a right to a full hearing before a faculty committee.