Financial Exigency, Academic Governance, and Related Matters

The report that follows was prepared by a joint subcommittee of the Association's Committee A on Academic Freedom and Tenure and the Association's Committee on College and University Governance, and has been approved for publication by the two standing committees.

Every college and university experiences some form of financial hardship at one time or another. The financial problems plaguing local and state governments in recent years have been sufficient by themselves to create serious problems for institutions across the country. At the very least, an institution's financial difficulties can lead to the reallocation of resources; at the worst, they can threaten the institution's existence. Faculty travel budgets and money for new faculty appointments are often early casualties. In the more serious cases, faculty and staff appointments are terminated, and academic programs and departments are reduced or eliminated. Some institutions ultimately close their doors.

Because a college or university's financial problems and an administration's response to them can significantly affect faculty rights, faculty appointments, and the substance of academic programs, faculty have a keen interest in learning about these problems as soon as they start to emerge. Unfortunately, an institution's financial difficulties can catch members of the faculty by surprise, too late for them to participate meaningfully in decisions about how the institution should respond to these problems. An institution's declaration that it is in dire financial straits, like a declaration of war, often comes too late to avert disaster, if it comes at all.

Over the years, the American Association of University Professors has developed standards and procedures to enable colleges and universities to protect academic freedom and to ensure academic due process when they have to contend with serious financial problems. In addition, the AAUP, under the auspices of its Committee A on Academic Freedom and Tenure, has investigated and reported on numerous instances in which the termination of appointments of faculty members on stated grounds of financial exigency has been deeply flawed, both procedurally and substantively.

This report brings together the AAUP's recommended standards and procedures and its experience in working for their acceptance in the community of higher education. Part I summarizes AAUP policies concerning the role of the faculty in budgeting in general. These policies have a practical significance that should not be overlooked: the maintenance of sound academic practices in good times contributes to sound decision making in bad times. Part II summarizes policies that the AAUP believes should come into play when an institution must deal with a financial crisis.

Part III draws on the published reports of AAUP investigating committees and describes how the decision-making apparatus at some institutions showed signs of failure in times of financial difficulty. The AAUP is most likely to become involved in these matters when faculty members face termination of service—or, in fact, are released—because the administration believes this step is needed to help relieve the institution's financial burdens. Often, an aggravating circumstance in these layoff cases is either inadequate faculty involvement or no faculty involvement at all in decisions concerning an institution's financial problems. The AAUP's published case reports also discuss similar abuses of academic governance in which administrations, in addition to terminating faculty appointments, eliminate academic programs, create new ones, or insist upon other academic restructuring to alleviate financial stress or to generate new sources of income.

Part III continues with a recent example of effective collaboration among faculty, administrators, and governing board members to resolve an institution's financial problems. It concludes with examples of instances in which institutional reorganizations resulted in procedurally flawed administrative actions to terminate faculty appointments.

Part IV proposes recommendations to help improve an institution's ability to deal effectively and fairly with serious financial problems, and suggests specific steps to increase income and reduce expenses.

I. Faculty Role in Budgeting

A college or university budget is all of the following: a mechanism for setting institutional priorities; a plan of action for the institution; a summary of commitments made by those who have participated in the budgeting process; a mechanism for communicating to all members of the campus community the institution's objectives and the means to meet those objectives; and the outcome of negotiations over what activities should be funded and at what levels.[1] The allocation of financial resources among competing demands is plainly a complex and crucial task for any college or university. The AAUP has long held that the governing board, the president, and the faculty should participate in financial decisions according to their particular expertise and responsibilities. Specifically:

> The governing board is expected to husband the endowment and obtain capital and operating funds; the president is expected to maintain existing institutional resources and create new ones; the faculty is expected to establish faculty salary policies, and, in its primary responsibility for the educational function of the institution, to participate also in broader budgetary matters primarily as they impinge on that function.[2]
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> The faculty's role in budgetary decisions should therefore be well established before a financial storm engulfs the institution. Such a role is, in any case, consistent with, and helps advance, the principle of shared authority in institutions of higher education. In addition, the faculty are also more likely to support budgetary decisions when they have participated meaningfully in reaching those decisions, including decisions that may prevent bad financial problems from becoming worse. Moreover, an institution's administration and board of trustees are more likely to give serious attention to faculty views during a financial crisis if they have worked productively with the faculty on budgetary matters in better times.

At the same time, the faculty must be sensitive to concerns about the confidentiality of financial information. An administration contending with serious financial problems is likely to resist the wide circulation of budget figures. If bad news is lurking in the numbers, the institution's situation might get worse if information becomes widely known and affects enrollment decisions and alumni giving. An administration might therefore conclude that sharing financial information with faculty who are on a budget committee is reasonable, but that circulating it to the faculty as a whole is fraught with risk. Effective collaboration among the faculty, administration, and governing board during a financial crisis requires that the collaborators be able to draw on a reservoir of mutual trust that has been built up in better days.

Building a tradition of collaborative decision making takes time and continuous effort. Faculty, administrators, and trustees need to advance their points of view vigorously, but they must also be willing to accept compromise in the pursuit of common goals. That is no doubt easier said than done, but the end result—effective mechanisms for setting institutional budget priorities—yields immeasurable benefits for an academic institution, not the least of which are decisions seen as fair by all concerned.

The AAUP's 1972 statement *The Role of the Faculty in Budgetary and Salary Matters* draws on the principle of shared authority set forth in the 1966 *Statement on Government of Colleges and Universities* to identify the procedures for faculty participation in budgetary decisions.[3] The faculty should participate both in the preparation of the total institutional budget and . . . in decisions relevant to the further apportioning of its specific fiscal divisions." How should the faculty participate in these tasks? Through an institutional-level body that represents the entire faculty. Certain kinds of budgetary decisions—for example, those dealing with curriculum, faculty status, or department equipment—require decentralized decision making (in, say, departments, divisions, schools, or colleges). But in matters of concern to the entire university, such as desirable funding levels for the next fiscal period, recommendations should be made by an institution-wide faculty body in concert, of course, with the administration and governing board.

For the faculty to have a meaningful role in budgetary decisions it must have "access to all information that it requires to perform its tasks effectively," and the "opportunity to confer periodically with representatives of the administration and governing board." Without the former, the faculty's voice will have no credibility; without the latter its voice will not be heard. What is true of faculty participation in budgetary decisions when the institution's finances are in reasonably good shape is more compellingly true when the institution must deal with significant financial difficulties, especially when the possibility exists that faculty appointments may need to be terminated.

II. Termination of Faculty Appointments

Early in its history, the AAUP recognized that a college or university could legitimately terminate faculty appointments, including appointments with tenure, on grounds of financial exigency. In 1925, the AAUP joined in formulating the "American Council on Education Conference Statement on Academic Freedom and Tenure," which provided that

> Termination of permanent or long-term appointments because of financial exigency should be sought only as a last resort, after every effort has been made to meet the need in other ways and to find for the teacher other employment in the institution. Situations which make retrenchment of this sort necessary should preclude expansions of the staff at other points at the same time, except in extraordinary circumstances.[4]
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> The landmark 1940 *Statement of Principles on Academic Freedom and Tenure*, issued jointly by the AAUP and the Association of American Colleges (now the Association of American Colleges and Universities), was briefer than the 1925 statement on the subject

of financial exigency but more emphatic: "Termination of a continuous appointment because of financial exigency should be demonstrably bona fide." In addition, the *Statement on Government of Colleges and Universities* calls for faculty to have primary responsibility for decisions affecting academic programs and faculty status. From these two statements, the AAUP derived the provisions on financial exigency in its *Recommended Institutional Regulations on Academic Freedom and Tenure* (RIR). The Association's most complete official statement of the standards and procedures that it believes should govern the termination of faculty appointments for financial reasons appears in regulation 4(c) of the RIR.

Regulation 4(c) starts with a definition of financial exigency: it is an "imminent financial crisis which threatens the survival of the institution as a whole."[5] Worth emphasizing is that the survival of the institution in its entirety, not just a part of it, must be at stake. Moreover, the crisis must be one that "cannot be alleviated by less drastic means" than the termination of faculty appointments. The exigency must be genuine and so must the need to release tenured faculty members or other members of the faculty before the end of their specified terms.

The RIR continues with a description of the ways in which the faculty and the administration should share decision-making responsibilities in dealing with the institution's financial problems. First, a faculty body "should participate in the decision that a financial exigency exists or is imminent, and that all feasible alternatives to termination of appointments have been pursued." It should be noted that the text does not state that the faculty has "primary responsibility" with respect to these particular decisions. The regulation implicitly acknowledges that the administration and the board of trustees have major responsibilities for identifying serious problems that may imperil the institution's financial health, and that they, not the faculty, are primarily responsible for ensuring the continued solvency of the institution.

Second, the faculty should, however, have primary responsibility for "judgments determining where within the overall academic program termination of appointments may occur," because such judgments "involve considerations of educational policy, including affirmative action, as well as of faculty status."

Third, the faculty's primary responsibility also extends to "determining the criteria for identifying the individuals whose appointments are to be terminated." The RIR adds that these criteria "may appropriately include considerations of length of service."

Fourth, the RIR assigns to the faculty what might be called an indirect role in identifying the individuals "whose appointments are to be terminated." The responsibility for identification is in the hands of a "person or group designated or approved by the faculty."

Regulation 4(c) then turns to the right to a "full hearing before a faculty committee" of a faculty member who has been issued notice of termination because of financial exigency. The regulation declares that the "essentials of an on-the-record adjudicative hearing will be observed." Regulation 4(c) does not specify the "essentials," but they include the faculty member's right to present witnesses and evidence, to cross-examine all witnesses, and to be provided with a record of the hearing. The regulation goes on to identify the issues that may be raised in the hearing: the existence and extent of the condition of financial exigency, with the burden on the administration to prove that the exigent condition exists and that it threatens the entire institution; the validity of the educational judgments and criteria for identifying which faculty appointments will be terminated, but with the recognition that the recommendation of a faculty body concerning these matters will be considered presumptively valid; and the criteria that have been applied in the particular case.

Regulation 4(c) goes on to caution that the appointments of tenured faculty members should not be terminated because of financial exigency "in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result." In addition, before a faculty appointment is terminated for financial reasons, the institution, with faculty participation, is to "make every effort to place the faculty member concerned in another suitable position within the institution."

As for the faculty member whose appointment is actually terminated, the RIR calls for at least one year of notice or severance salary for the individual who has served at least eighteen months at the institution. In addition, released professors are granted recall rights. Their places will not be filled by a replacement for a period of three years, unless the affected individuals have been offered reinstatement and a reasonable time in which to accept or decline the offer.

III. Selected Case Studies

Colleges and universities react in different ways to serious budget shortfalls. On many campuses, the administration has worked effectively with the faculty to identify measures—such as cutting tuition and fees to increase enrollments, reducing programs in foreign countries, selling off local properties, or increasing alumni contributions—that are intended to help the institution survive and perhaps even prosper. Other institutions have reacted with what an outside observer might characterize as panic, with the administration and governing board making decisions precipitately with little or no regard for discussing proposed actions with the faculty. In these latter cases, the financial problems have been compounded by serious rifts between the faculty and administration; the resulting distrust has exacerbated the financial woes by further damaging the institution.

Because such a large proportion of a college or a university's operating expenses is linked to salaries and benefits, it is obvious why the payroll is often the first target for budget reductions. And because faculty salaries and benefits account for a significant portion of an institution's total payroll expenses, complaints from faculty about personnel decisions, especially decisions that result in the termination of faculty appointments, are the typical spurs for the AAUP to become involved in a campus case.

In its early years, the AAUP conducted a handful of investigations into cases in which serious reasons existed to doubt that an administration had considered alternatives short of terminating faculty appointments as a remedy for the institution's financial problems.6 But the AAUP's ongoing engagement with the termination of faculty appointments for financial reasons began in 1974. In the spring of that year, the Association published a report on Bloomfield College in New Jersey and began work on a revised and expanded text of the applicable provisions of the RIR (published in final form in 1976). As indicated above, the latter document has become the benchmark against which the AAUP has judged actions taken by administrations and governing boards to resolve their institutions' financial problems.

Beginning with the Bloomfield College report, the AAUP has published twenty-eight reports involving terminations of faculty appointments for financial reasons. They deal with a broad range of institutions in every region of the country and an equally broad range of departures from Association-supported standards and procedures.7 The comments that follow focus on three recurrent areas of concern: whether the financial condition of the institution necessitated the termination of faculty appointments; whether the institution's faculty had a meaningful opportunity to participate in the decisions leading to the terminations; and whether the individual faculty members facing termination of appointment were afforded a hearing before faculty peers on disputed issues.

1. Institutional Financial Conditions

To the question whether institutional finances have been truly exigent, the AAUP's published reports indicate that in most cases the answer was no. In only four of the twenty-eight reports—those dealing with the City University of New York, Westminster College of Salt Lake City, Saint Bonaventure University, and the University of the District of Columbia—did the investigating committee conclude that the financial condition of the institution was indeed exigent, although in each of these cases the termination of faculty appointments was marred by significant procedural flaws. With respect to the remaining reports, the investigating committees questioned whether the institutions were confronting such severe financial problems as to necessitate the termination of faculty appointments.

In the case at Eastern Oregon State College, the institution had a budget of just over $8 million and faced an initial budget shortfall of $58,000, which subsequently fell to approximately $12,000. This amount of money, the AAUP investigating committee observed, did not "approach the order of magnitude of a financial exigency as the term is generally understood." In the Sonoma State University case, the investigating committee found that during what the administration called a financial crisis the university president allocated more than $30,000 for a new presidential assistant. In addition, two new associate deanships were created, monies were added to the budget for intercollegiate athletics, and about a dozen new faculty members were appointed. Under the circumstances, the investigating committee concluded, the university's difficulties relating to funding and enrollment fell far short of a genuine financial exigency.

In the Morgan State University case, the investigating committee found that although student enrollment at the university had fallen sharply, state appropriations for fiscal 1985 per full-time-equivalent student were within the range of the allocations awarded to other public universities in Maryland. The committee also found that the proportion of state appropriations that accounted for the university's total revenues in the same fiscal year was similar to what it was at the state's other four-year colleges and universities, none of which experienced termination of appointments on financial grounds. The committee concluded that the administration terminated tenured faculty appointments in the absence of a demonstrated financial exigency.

In the North Greenville College case, the investigating committee questioned whether the institution was in a condition of financial exigency in spring 1992, when it terminated the services of a tenured faculty member. While the college had numerous financial problems, the committee reported that there were also signs of recovery, including a balanced budget, increased student enrollments, and a surplus in the college's bank account.

A similar pattern was identified in the Bennington College case. The investigating committee did not doubt that the college had dire budgetary problems, but also pointed to developments suggesting positive financial trends: plans to establish new academic programs, to add administrative positions, to purchase new administrative computing equipment, and to appoint new and replacement faculty.

2. Faculty Participation

In nearly all of the twenty-eight cases, AAUP investigating committees found that faculty involvement in decisions leading to terminations was either inadequate or nonexistent. In the University of Idaho case, the university's faculty council recognized that Idaho's system of higher education was in a financially perilous condition. The investigating committee found, however, that the faculty members most directly concerned in the decisions affecting faculty status, namely, the faculty in the College of Agriculture, did not at any point participate meaningfully in the decisions that resulted in the termination of tenured appointments. At Goucher College, the administration and the board of trustees declared a state of financial exigency and determined how to cope with it. No faculty body had significant opportunity to contribute to these decisions.

Many of the same issues arose at Essex Community College, where the faculty was not consulted about major decisions affecting academic programs and faculty appointments. In the Alaska Pacific case, the administration responded to a budget shortfall by proposing to eliminate all degree programs in two departments and combining the department into a single, smaller one. A "no-frills" budget was presented to a joint faculty-administration committee. No papers were distributed to the committee in advance of its meeting, note taking was prohibited during the meeting, and voluminous materials that included thirty-seven pages of tables could not be taken from the room.

The reasons the faculty's role in these cases was limited—sometimes to the vanishing point—are not the same for each institution. Yet several assumptions about the faculty were common to them: that the involvement of the faculty would have delayed decisions that needed to be made quickly; that faculty members, immersed in their academic specialties, did not have the broad perspective essential to seeing the institution as a whole; and that the faculty was essentially conservative and would thus reject anything new.

These perceptions about the faculty have a long lineage and no doubt will persist in some quarters well into the future. To note their durability, however, is not to concede their general validity. It is simply not true that due deliberation by the faculty is inconsistent with reaching timely decisions concerning an institution's financial health. Nor is it true that faculty members, focused on their teaching and research, are incapable of understanding and dealing with the larger world around them or less inclined to favor innovation than are administrations and boards of trustees. Were these perceptions accurate, the exercise of strong faculty authority would in all likelihood be unusual. But the opposite is often the case, especially at those institutions commonly viewed as among the best colleges and universities in the United States.

Remarks made more than forty years ago by a leading authority on academic government are still to the point: "In the very best colleges, the faculties generally have much authority; in the very worst colleges, virtually none. That much authority becomes lodged in the hands of faculty members in the best colleges is no accident . . . , but is an intrinsic part of the [institution's] achieving and maintaining a pre-eminent position."[8]

3. Hearing for Terminated Faculty

For most of the institutions that were the subject of an AAUP investigation, the individual faculty members facing termination of appointment did not receive a hearing before faculty peers on disputed issues. Before we look at some of the published case reports, it is worth emphasizing that the RIR asserts unambiguously that faculty members, before their appointments are terminated, "will have the right to a full hearing before a faculty committee." The termination of an appointment for financial reasons should not, unlike a dismissal for cause, present issues concerning a faculty member's fitness to serve, and therefore does not typically implicate the individual's professional reputation. Nevertheless, the impact of termination, even for financial reasons, on a professor's livelihood is likely to be grave.

The hearing is an opportunity for the concerned faculty member to raise issues that no one else may have raised, notably about why he or she has been singled out for release. Even when the faculty, through its designated bodies, has been significantly involved in decisions addressing the institution's financial condition, those decisions—no matter how reasonable they may seem to faculty and administrators alike—are not immune to questions and challenge. A hearing, if fairly conducted, can protect not only the career of the individual but also an institution against a false charge that it has acted in a hasty or unprincipled manner. A hearing can also play a vital role in a financial exigency case if an academic freedom issue surfaces. As a federal court explained: "The obvious danger remains that 'financial exigency' can become too easy an excuse for dismissing a teacher who is merely unpopular or controversial or misunderstood—a way for the university to rid itself of an unwanted teacher but without according him his important procedural rights."[9] In the University of Texas of the Permian Basin case, the two faculty members facing termination of appointment could appeal only to a committee appointed by the president, who had defined the procedure for appeal without faculty involvement or knowledge. Moreover, the two professors had to carry the burden of proving why the terminations were not necessary to relieve the institution's financial burden. At Sonoma State University, faculty members notified of layoff had the opportunity to file a grievance, and the faculty as a whole viewed the grievance procedure as generally fair. But the report of the AAUP investigating committee pointed out that the administration did not bear the burden of proof, and that the grievances could not "readily challenge" the administration's educational judgments and their application to individual cases.

The burden of proof was also shifted to the affected faculty members in the Bennington College case, an inappropriate condition that was compounded by the fact that the president appointed the faculty committee hearing the appeals. Additionally, the college administration barred the appeal committee from considering the bona fides of the financial exigency. In the Southern Nazarene University case, the dismissed professors were offered no opportunity for an appeal. At St. Bonaventure University, the opportunity for an appeal was offered, and accepted by some, but the investigating committee identified serious departures from Association-supported standards: there was not "even a pretense of an on-the-record adjudicative hearing"; the faculty members facing termination of appointment "were not permitted to challenge the existence and extent of the financial exigency"; the hearings "were limited to one hour"; the "burden of persuasion rested on the appellants"; and "presence of counsel was not allowed."

4. Effective Collaboration

This discussion of selected AAUP cases has focused on what might be described as the underside of the academic world: situations in which principles of tenure, academic due process, and academic governance have been sorely abused. The discussion has also indicated, albeit in a general way, that faculties, administrations, and governing boards can work well together to resolve an institution's financial problems.

A recent example of effective collaboration was the merger in 2002 of Marymount College, a Catholic women's institution in Tarrytown, New York, with Fordham University, a comprehensive Jesuit institution in New York City. The college's financial problems were deep and long-standing, and its prospects for independent survival were slim. Drawing on years of joint planning and effort with the faculty through its local AAUP collective bargaining representatives, college administrators met regularly with faculty leaders to provide updated information about the college's financial condition, student enrollments, alumnae services, facilities management, and institutional computing.

Initially, the administration offered no guarantee that college faculty appointments would be continued after the merger was completed. In the end, however, the memorandum of agreement approved by the Fordham University board of trustees and the Marymount College faculty, establishing Marymount College of Fordham University, recognized the tenure of the college's continuing tenured faculty members, and provided five-year appointments for the college's continuing nontenured faculty members.

With variations that do not alter the chief features of the case—other than that merger is not a typical solution for financially strapped institutions—this illustration could be reproduced for many campuses. A key point is that institutions that do not have policies and procedures for effective joint action on budgetary issues in normal times are unlikely to have them (or perhaps even want them) during a financial crisis.

Policies and procedures are not self-operating. They need to be interpreted and followed. Faculty members, administrators, and members of governing boards need to work conscientiously together to ensure that sound policies and procedures are not frustrated, ignored, or sabotaged. Having stated policies and procedures does not guarantee effective decision making on budgetary matters, but they are the indispensable basis for good practice when an institution is experiencing significant financial shortfalls. Of course, policies and procedures currently in effect should be regularly reviewed, and, as necessary, revised. Here, too, joint effort by the faculty, administration, and governing board best serves the institution.

5. Reorganization

While a college or university's financial problems can precipitate the termination of faculty appointments, terminations are sometimes carried out with a view to reorganization as well as to economy. Reorganization, whether the result is to reduce, discontinue, or merge academic programs or departments, is commonplace in higher education, and, indeed, can be a sign that an institution is striving to improve itself. An institution's financial hard times may be a genuine reason for reorganization. It may also be an excuse for it.

At times, reorganization is championed because change is seen as the desirable characteristic of institutional health. Drastic shifts in institutional structure have been justified on grounds that students, potential benefactors, and the public need to be shown that those in authority are in command and are taking fresh steps to infuse the institution with vitality. Such reorganizations Such reorganizations typically rely on business managerial techniques to reduce or close programs and departments, with scant respect for principles of tenure, academic due process, and academic governance.

In nine of the twenty-eight published AAUP case reports, reorganization in one form or another played a part in the administration's action to terminate faculty appointments.[10] In each of the nine cases, the part played was deeply flawed procedurally. At Alaska Pacific University, for example, the investigating committee found that although two academic departments were closed, a new department was established with several openings for which the faculty members who had been released were qualified, but, with one exception, were not engaged.

More broadly, a common procedural defect among the nine cases was the open-ended nature of the meaning of "reorganization." In the Bennington College case, a faculty position could be terminated, under the policies then in force at the college, if a "change in educational policy requires the elimination of that teaching position." The investigating committee pointed out that, under this flawed standard, the "mere assertion of a change in educational policy can provide the requisite rationale for the elimination of any faculty at any time."

Even more open-ended, and therefore posing an even greater threat to faculty rights, were the policies in effect at the University of Idaho in 1982, when the administration issued termination notices to faculty members on grounds of financial exigency. The governing regulations defined financial exigency as an "imminent financial crisis which threatens the viability of an agency, institution, office, or department as a whole, or one or more of its programs," including a "discipline, or specialty within a discipline." The standard was dangerously defective, because every faculty member at the University of Idaho specialized in a discipline or a subdiscipline, and therefore every faculty member was vulnerable to appointment termination if the discipline or subdiscipline could be declared no longer "viable." Financial exigency could thus join seamlessly with reorganization to become an everyday occurrence.

The AAUP has consistently held that an institution contending with a bona fide financial exigency can terminate faculty appointments as a result of selective reduction of departments and programs, subject to the safeguards of significant faculty involvement in the financial and personnel decisions and the opportunity for a full hearing. In addition, Regulation 4(d) of the AAUP's "Recommended Institutional Regulations" permits the termination of an appointment because of a formal discontinuance of a program or department of instruction based essentially on educational considerations.

A note in the regulation cautions that "educational considerations" do not "include cyclical or temporary variations in enrollment." Rather, something more lasting is anticipated: "long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance." Moreover, the regulation does not permit the termination of appointments because of an announced reduction or reorganization of a program as opposed to the program's discontinuance unless a financial exigency is demonstrated.

An obvious question arises: why, from the AAUP's perspective, is reorganizational pruning a permissible response to a demonstrably bona fide financial exigency, but not to the type of program discontinuance permitted under Regulation 4(d) of the RIR? The answer is succinctly given in the AAUP's report on Goucher College:

> Requiring the abolition of an entire program or department helps ensure that the discontinuance is not an impermissible substitute for a declaration of financial exigency, but is indeed based essentially upon educational considerations. This requirement also guards against the threat to academic freedom that arises when an institution's administration is allowed to pick and choose within programs and departments whose appointments it decides to terminate. Discontinuing an entire program or department provides good evidence that the decision was not a way for the administration to terminate the appointment of an unwanted tenured professor without affording the protections of due process inherent in a proceeding on dismissal for cause.[11]

IV. Next Steps

The desirable thing to do about financial exigency and governance issues is for colleges and universities, through joint action by the faculty, administration, and governing board, to ensure that sound standards and procedures exist to deal with budgetary problems in good times and bad, and to ensure that what is applied in actual practice matches the stated standards and procedures.

An institution can take additional steps to improve and strengthen joint decision making in budgetary matters. First, colleges and universities should adopt and distribute widely a formal statement of the respective roles and responsibilities of the governing board, administration, and faculty in decisions about the institution's budget. Without a carefully framed policy, an institution may be forced to rely on ad hoc responses to unanticipated problems.

Second, each institution should communicate key budget decisions to all members of the campus community. As this report has noted, faculty who serve on budget committees should have "access to all information" they require to carry out their tasks effectively. In addition, the large majority of faculty who do not serve on these committees need to be kept informed of the substance of budget decisions. Budget decisions, especially those addressing a financial crisis, should foster no suspicion that they are being made by members of a select group more concerned to protect their own academic interests than to safeguard the institution as a whole.

Third, institutions might prepare a roster of faculty members who are expert in various facets of budgeting. The roster could serve as a resource not only for the administration but also for other faculty members or college and university committees that want to learn about budgeting and institutional finances but do not know who can assist them. Such a roster prepared (and periodically updated) by faculty members would attest to their interest in, and concern for, the institution's financial well-being.

Fourth, institutions should develop ways to encourage faculty interest in serving on budget committees and to reward such service. This can involve giving serious weight in personnel decisions to responsible participation in institutional governance, and providing opportunities, through workshops and retreats, for faculty to keep abreast of new developments in budgeting, financing, auditing, and accounting.

Fifth, institutions should prepare regular reports on the effectiveness of their mechanisms for reaching budgetary decisions with the goal of improving them. Improvement could be facilitated by soliciting current and reliable information from comparable institutions—especially those that have dealt successfully with a fiscal crisis—about how budgetary decisions are made on their campuses.

These recommendations are aimed at improving an institution's ability to solve serious financial problems. The solutions each institution develops will reflect its own history and traditions, and the specific nature of the financial problems besetting it. Recognizing that each campus must determine how best to deal with its own difficulties, we list below some steps institutions have taken to increase income and reduce expenses short of terminating staff and faculty appointments.[12] Terminations usually reduce expenses (and can also reduce revenue), but a good deal can be done to preclude the necessity for that extreme step. What is determined to be feasible should, of course, result from the concurrent efforts of the faculty, administration, and governing board.

1. Steps to Increase Income

    1. Increase the number of programs and courses geared to the needs of business and government to increase enrollment and income. Increase enrollment, or create new programs, in continuing education courses and programs focused on non-traditional adult students.
    2. Institute new fees, such as laboratory fees in particular areas, to cover the costs of services provided. Increase existing fees. Reduce the number of credits covered by the flat tuition rate. Increase tuition or, alternatively, reduce it to increase enrollment.
    3. Shift the institution's investment portfolio from a focus on long-term growth to an emphasis on gaining greater income. Increase unrestricted gifts in fund-raising drives.Review overhead charges to grants and contracts to determine if rates can be revised upward.
    4. Review assets owned by the institution (for example, land and fine art) to determine if they can and should be sold or leased.
    5. Review use of campus buildings to determine if they can and should be better utilized by, for example, outside groups renting the institution's facilities.
    6. Review student scholarship and loan opportunities and other policies and programs to encourage increased enrollment or to maintain enrollment. Improve student recruitment and the admissions process. Improve student facilities. Improve public relations and develop a "good-place-to-enroll" image of the institution to increase enrollment and fund raising.
    7. Establish or improve services for alumni and encourage alumni to make financial support of the institution a top priority.

2. Steps to Reduce Expenses

    1. Identify potential energy cost savings throughout the institution (for example, the heating and cooling of buildings and the use of elevators). Identify cost savings in the use of supplies and paper and in telephone, mail, computer, and duplicating and printing services. Reduce advertising costs. Close individual buildings at specific times to save utility and maintenance costs.
    2. Defer major and minor repair and maintenance for as long as possible. Postpone major building projects.
    3. Negotiate with the local government for free services, or reduced costs for current services. Review auxiliary services to reduce costs. Reduce or eliminate external consultants.
    4. Reduce travel, entertainment, and conference expenditures. Reduce expenses for recruitment of staff and faculty. Reduce library and academic department subscriptions to newspapers, magazines, and journals.
    5. Reduce or eliminate expenditures for nonacademic functions, services, and activities that are not essential to the institution's academic mission. Reduce expenses for leases and contracts with outside vendors.
    6. Reduce the number of visiting scholars and lecturers. Reduce the number of graduate assistantships. Reduce over-time. Encourage early retirement for staff and faculty if, in the long run, these are programmatically desirable and cost effective. Encourage leave without pay. Delay filling staff and faculty positions.
    7. Reduce or close academic programs or departments and, as needed, transfer faculty appointments to other academic units. Review benefit plans and coverage. Consider freezes on salaries, furloughs of staff and faculty, and reductions of salaries.

V. Conclusion

These lists do not exhaust the possibilities for increasing income or reducing expenses. Reviewing the experience of a particular college or university in the budgeting process provides the clearest insight about what does and does not work. Still, this report and these measures point to ways for colleges and universities to deal with financial challenges. Neither these challenges nor the need for constant attention to them by faculty, administrations, and governing boards will likely diminish any time soon.

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End Notes

1. This description follows almost verbatim Richard J. Meisinger, Jr., and Leroy W. Dubeck, *College and University Budgeting: An Introduction for Faculty and Academic Administrators* (Washington, D.C.: National Association of College and University Business Officers, 1984), 4, 5. This handbook was sponsored by the AAUP and NACUBO. Back to text

2. "The Role of the Faculty in Budgetary and Salary Matters," in *Policy Documents and Reports*, 9th ed. (Washington, D.C.: American Association of University Professors, 2001), 232. Back to text

3. The full text of the 1966 *Statement,* jointly formulated by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges, appears on pages 217-23 of *Policy Documents and Reports*. Back to text

4. *Bulletin of the American Association of University Professors* 11 (1925), 101. Back to text

5. The 1940 *Statement* does not specifically define financial exigency. For a comprehensive analysis of the financial exigency provision in the RIR, see Ralph S. Brown, Jr., "Financial Exigency," *Bulletin of the American Association of University Professors* 62 (1976), 5-19. See also David Fellman, "The Association's Evolving Policy on Financial Exigency," *Academe: Bulletin of the AAUP* (May-June 1984), 14-22. Back to text

6. See, for example, the report on Adelphi College (New York) in *Bulletin of the American Association of University Professors*, 27 (1941), 494-517. Back to text

7. The published reports, with the issue of the AAUP's *Academe* (prior to 1979, the *AAUP Bulletin*) in parentheses, are as follows: Bloomfield College (spring 1974); City University of New York (April 1977); State University of New York (August 1977); University of Detroit (March 1978); University of Texas of the Permian Basin (May 1979); Harris-Stowe College (May 1981); Eastern Oregon State College (May-June 1982); University of Idaho (November-December 1982); Sonoma State University (May-June 1983); Goucher College (May-June 1983); Metropolitan Community Colleges (March-April 1984); University of Northern Colorado (May-June 1984); Westminster College of Salt Lake City (November-December 1984); Temple University (May-June 1985); Jackson State University (May-June 1986); Southern Nazarene University (November-December 1986); Morgan State University (May-June 1987); San Diego State University (March-April 1993); North Greenville College (May-June 1993); University of Bridgeport (November-December 1993); Benedict College (May-June 1994); Bennington College (March-April 1995); Alaska Pacific University (May–June 1995); Essex Community College (May–June 1995); St. Bonaventure University (July–August 1995); University of the District of Columbia (May–June 1998); MCP Hahnemann School of Medicine (May–June 2000); and University of Dubuque (September–October 2001). Back to text

8. Burton R. Clark, “Faculty Authority,” *Bulletin of the American Association of University Professors* 47 (1961), 299. Back to text

9. *Browzin v. Catholic University of America*, 527 F.2d 843 (D.C. Cir. 1975), cited in Ralph S. Brown, Jr., “Financial Exigency,” *Bulletin of the American Association of University Professors* 62 (1976), 9. The court’s observation was in the context of determining whether the university had properly applied its “suitable position” rule: “[a]n institution truly motivated only by financial considerations would not hesitate to place the tenured professor in another suitable position if one can be found, even if this means displacing a nontenured instructor.” Regulation 4(c)(4) of the AAUP’s *RIR* states that “[b]efore terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution.” Back to text

10. The nine reports are the City University of New York, the State University of New York, Eastern Oregon State College, the University of Idaho, Goucher College, San Diego State University, Bennington College, Alaska Pacific University, and Essex Community College. In one published report, the investigating committee dealt almost exclusively with the termination of tenured faculty appointments for reasons of program discontinuance. See “Academic Freedom and Tenure: Yeshiva University,” *Academe: Bulletin of the AAUP* (August 1981), 186–95. Back to text

11. *Academe: Bulletin of the AAUP* (May–June 1983), 21. Back to text

12. The lists are also drawn from Meisinger and Dubeck, College and University Budgeting, 318–24, which, in turn, relied on Samuel G. Ginsburg, “120 Ways to Increase Income and Decrease Expenses,” *Business Officer* (December 1982), 14–16. Back to text

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