

ARTICLE 27- FINANCIAL EXIGENCY

- VII.1.1 If the Board believes that a financial exigency, within the meaning of VII.2, exists, it shall give notice to the Association and the Senate of such belief. As of the date of such notice, the procedures specified in this chapter shall apply, and the Board shall not create any new academic or administrative positions prior to completion of the review and renegotiation process as provided under VII.3 and VII.4. Within two (2) days of giving notice of the belief that a financial exigency exists, the Board shall supply the Association with the information that convinced the Board of the existence of the exigency.
- VII.1.2 In its notification, the Board shall specify the reduction in expenses that it believes to be necessary to alleviate the financial exigency and the proportion of this reduction that it believes shall be applied to members' salaries and benefits.
- VII.2 Financial exigency is a situation in which the University has experienced sustained and substantial deficits which are reasonably projected to increase and the persistence of which would threaten the survival of the University.
- VII.3.1 Within five (5) days of the notice specified in VII.1.1, the parties shall each nominate a person to an Exigency Review Committee. The persons so named shall not have been employed by the University during the three (3) years immediately preceding such notification. They shall meet at the call of the President, but in any case within five (5) days of their being named, and shall choose a third (3rd) person to serve as Chair. If either party fails to name an appointee within the specified time, or if the two (2) appointees fail to agree upon a Chair within five (5) days of their first meeting, the appointment(s) may be made by the Chairman of the Canadian Human Rights Commission.
- VII.3.2 The Committee shall meet within ten (10) days of the selection of the Chair as specified in Article VII.3.1. It shall set its own rules of procedure, shall complete its hearings within thirty (30) days of its first meeting, and shall report its findings to the parties within sixty (60) days of its first meeting. The Committee shall have access to all information it deems pertinent to its task. Each party shall make a submission to it and shall have an opportunity to comment on the other's submission.

VII.3.3

The Committee's terms of reference shall be to verify whether a financial exigency as defined in VII.2 exists. To do so, it shall (a) verify whether the University has experienced sustained and substantial deficits; (b) verify whether the deficits are reasonably projected to increase; (c) verify whether the persistence of such deficits would threaten the survival of the University; (d) verify whether reasonable reductions have been made in all areas of the University's expenditures and whether in view of the

University's needs and its established academic goals layoffs of members constitute a necessary type of cost saving; and (e) verify whether the Board has made reasonable efforts to increase revenues to overcome the projected deficits.

- VII.3.4 The Committee shall also verify whether the reduction in expenses as specified by the Board under VII.1.2 is reasonable in the light of these deficits experienced and projected and whether the Board's statement of the proportion of this reduction that shall be applied to members' salaries and benefits is reasonable in the light of the University's needs and established academic goals. The Committee may recommend variations in these levels and proportions and it may recommend to the Board additional steps the Board might take to remedy the exigency.
- VII.3.5 If the Committee does not agree on a report, the report of the majority shall be deemed to be its report; if there is no majority, the Chair's decision shall be the decision of the Committee.
- VII.3.6 If the Committee finds that an exigency does not exist in the sense of VII.3.3, then the Board shall be precluded from invoking the provisions of this chapter for eighteen (18) months from the date of the report.
- VII.3.7 Costs of the Committee shall be borne by the Board.
- VII.3.8 Unless a state of financial exigency has been established in accordance with the provisions of VII.3.3, VII.3.4, and VII.3.5, no members shall be laid off or dismissed without cause.
- VII.3.9 When the report of an Exigency Review Committee verifying that a financial exigency exists is made known to the Association, the Association shall invite members to make available to it agreements to make use of voluntary designs bringing about savings in expenditures for members' salaries and benefits which are provided in accordance with Articles III.3.4.1, III.3.4.2, IV.2.3.1, IV.2.4, and IV.5.3 of this Agreement. All savings produced by such agreements shall be applied directly to the reductions verified by the Committee. The Association shall also invite departments and programs to make recommendations concerning any terms and conditions of employment which might be renegotiated in order to bring about savings in the expenditures allocated to members' salaries and benefits.

- VII.4 If the Committee verifies that a financial exigency exists, reductions in the budgetary allocation for salaries and benefits of members shall not exceed the amount required to reduce the total budget for such salaries and benefits to the level specified by the Board (under Article VII.1.2) and confirmed by the Committee (under Article VII.3.4). Further, a thirty-day period shall elapse before any procedures for layoffs are invoked. During that period, the parties shall meet and confer with respect to the implications of the financial exigency. It shall be open to them, notwithstanding any provisions to the contrary elsewhere in this Agreement, to renegotiate provisions of this Agreement bearing directly on salaries and benefits, or to reach other mutually acceptable emergency methods of reducing expenditures that could avert layoffs or decrease their number. All savings produced by such changes shall be applied directly to the reductions verified by the Committee.
- VII.5.1 If a requirement for layoffs cannot be eliminated in accordance with proceedings under Article VII.4, the parties shall establish an Academic Advisory Commission, which shall determine the ways in which layoffs are distributed among departments and programs.
- VII.5.2 The Academic Advisory Commission shall be composed as follows:
- (a) within five (5) days of the end of the thirty-day period specified in Article VII.4, the parties shall each name two (2) persons from outside the University as their appointees to the Commission;
 - (b) the four (4) persons so named shall meet at the call of the President, but in any case within five (5) days of their being named, and shall choose a fifth (5th) person to act as Chair; if they fail to agree within five (5) days of their first meeting, the Chair shall be appointed by the Chairman of the Ontario Arts Council. The Chair so named shall assume his duties within fifteen (15) days of being named.
- VII.5.3 Costs of the Commission shall be shared equally by the parties.
- VII.5.4 The Commission shall hold its first meeting within fifteen (15) days of the naming of its Chair, and shall be required to report within thirty (30) days of its first meeting. It shall follow its own rules of procedure and shall have access to all information it deems pertinent to its task.
- VII.6.1 The Commission shall distribute the reductions required by the Board in members' salaries and benefits so as to minimize the damage to the academic needs of the University, provided that no department or program shall have its

salary and benefits budget reduced by a percentage that is more than 1.5 times the percentage reduction in the budget for members' salaries and benefits, as verified under VII.3.4 and adjusted under VII.4.

VII.6.2 If the Commission does not report within the time limit specified in VII.5.4, cuts in budgets for members' salaries and benefits shall be made pro rata among all departments and programs according to the following formula:

$$\frac{\text{department's/program's salary and benefits budget for members}}{\text{total salary and benefits budget for members}} \times \frac{\text{total budget reduction required in members' salaries and benefits}}{\text{total budget}}$$

VII.6.3 The number of members to be laid off in a department or program shall be determined by dividing the reduction required in the department's or program's salaries and benefits budget (as determined under VII.6.1 or VII.6.2) by the average salary (including benefits) for all members in the University. The resulting figure shall be rounded to the nearest whole person.

VII.7.1 If, following the thirty-day period specified in VII.4, a need for layoffs remains, departments and programs shall be notified of that fact by the Dean. Within five (5) days of such notice, a Special Committee shall be established in each department and program, constituted as follows:

- (a) as Chair, a member of the department or program elected by a two-thirds (2/3) vote of members within the department or program; or, if the members cannot secure agreement upon a Chair within the five (5) days specified, a Chair designated by the Dean, such Chair to be a distinguished person from the same discipline but from outside the University;
- (b) the Dean, or designate; and,
- (c) a third (3rd) person chosen jointly by the other two (2), who shall be a member from a cognate discipline.

VII.7.2 The Special Committee may designate not more than twenty per cent (20%) of members in the department or program (rounded to the nearest whole person) as being exempted from layoff on grounds of academic contribution and promise. The Special Committee shall set its own procedures, shall have access to all information it deems relevant, and shall report its decisions, if any, in writing to the Dean and the parties within fifteen (15) days of its formation according to VII.7.1. If the Special Committee for a department or

program finds that it is unable to designate some or all of the twenty per cent (20%) of members it is empowered to designate under terms of this article, the procedures under VII.9 shall be implemented notwithstanding.

- VII.8 The following shall be exempt from layoff under the provisions of Chapter VII: professional librarian members; University professors who were appointed to their positions at least six (6) months prior to the notification of financial exigency under VII.1.1; Chairs of Special Committees under VII.7.1(a); and members who are listed as being exempted from layoff by a Special Committee under VII.7.2.
- VII.9 Following the decisions of the Academic Advisory Commission under VII.6.1 or the determination of reductions under VII.6.2, which shall be communicated to the parties, the departments or programs required to lay off members and the members thus affected shall be notified in writing of the fact and, subject to the provisions of VII.6, VII.7, and VII.8, of the names of those specific members who are to be laid off, according to length of service at the University so that those with least seniority within each affected department or program are laid off first. Length of service shall be reckoned from the date of tenure at the University, and, failing a distinction there, from the day of first regular appointment in the University, then first appointment in a regular academic position, then first appointment in any full-time academic position. Thereafter, still failing distinction, the distinction shall be achieved by lot. The Dean shall forward to the President the names of those recommended for layoff.
- VII.10 After the selection of members who are to be laid off, but prior to the implementation of such layoffs, such members shall be considered for retraining for or appointment to vacant positions in the University. If the retraining or appointment is to a vacant academic position, members shall retain their former academic status, including credits for sabbatical leaves, salaries and benefits. If the retraining is approved by the Board, the Board shall pay all reasonable costs relating to the plan of retraining.
- VII.11 The President shall recommend to the Board the layoff of those members whose names have been forwarded by the Dean and for whom alternatives to layoff have not been found under the provisions of Article VII.10. The President shall at the same time notify such members of their impending layoffs, stating in writing that the layoff is for reasons of financial exigency alone.
- VII.12 The Board shall provide each member who is selected for layoff with:

- (a) not less than twelve (12) months' written notice of the proposed date of layoff or salary in lieu thereof; and
- (b) one (1) month's salary for each year of service in the University in an academic rank, as well as a further six (6) months' salary for tenured academic staff provided that, in no case, shall the payment to the tenured members be less than twelve (12) months' salary or more than twenty-four (24) months' salary.

All payments under VII.12 shall be based on the individual's total salary including the employer's contributions to pension and other benefit plans for the member's final full academic year of service at the University. In no case shall the number of months' salary paid under this paragraph exceed the time remaining until the normal retirement age of the member.

VII.13 A member who is laid off shall enjoy access to library and computer services facilities (provided that costs of the latter are paid for by the member), and, if facilities are available, to office and laboratory space, until alternative employment is secured or recall rights expire, whichever occurs first.

VII.14 A member who has been laid off shall have preference for appointment over any other candidate if, within a period of four (4) years, a full-time appointment suitable to the laid-off member's professional qualifications becomes available within the University. A member shall be given one (1) month to decide whether to accept recall and, if so, the member shall be given a reasonable period of time, not to exceed an additional six (6) months, to complete existing employment obligations.

VII.15 Laid-off members who are recalled shall repay any portion of the allowances specified in paragraph VII.12 which exceed their entitlement had they continued to hold their former appointments.

VII.16 Layoffs under the provisions of Articles VII.1 through VII.15 shall be recorded and reported as being solely for reasons of financial exigency; such layoffs do not constitute dismissal for cause.

