

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

SUBJECT: Financial Exigency

EFFECTIVE DATE: July 1, 2000

I. Introduction

Pursuant to Tennessee Board of Regents Policy No. 5:02:06:00, Southwest Tennessee Community College has developed policies and procedures to be followed in the event of financial exigency. These policies and procedures cover emergency steps, including reduction-in-force, and incorporate all the provisions of TBR Policy No. 5:02:06:00.

II. Definition of Financial Exigency

Financial Exigency is the formal declaration by the Tennessee Board of Regents that Southwest Tennessee Community College faces imminent financial crisis, that there is a current or projected absence of sufficient funds (appropriated or non-appropriated) for the college 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.

III. Actions Required Prior to Declaration of Financial Exigency

Financial exigency results from an imminent fiscal crisis characterizing the college. The condition of financial exigency may not be declared at a level below that of the entire college (i.e., it may not be declared at the level of an academic or administrative unit such as a division, department or program). In light of the gravity of consequences resulting

Responsible Administrator: V. P. of Bus. , Finance, & Information Systems

Source of Policy: Team V.B. **TBR Policy Reference:** 5:02:06:00

Related Policy: N/A **TBR Guideline Reference:** N/A

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from a declaration of financial exigency, the process leading to the recommendation to the Tennessee Board of Regents that financial exigency be declared will be cautious, fair, well informed, and as responsive as possible to the interests of various segments of the college.

- a. The president of the College is responsible for initiating a proposal of declaration of financial exigency. The President shall provide assurances and documentation that all available reductions in expenditures have occurred and that every effort has been made to enhance revenues.
- b. Prior to proposing the declaration of financial exigency, the President shall share all pertinent data pertaining to the college's financial problems with members of his/her immediate staff and the College Councils. The President shall request that these members actively pursue recommendations for solutions within the parameters of maintaining sound educational programs.
- c. The President shall review all proposed solutions and advice. If the President remains convinced that conditions warrant a recommendation for declaration of financial exigency, he/she shall present the recommendation and supporting documentation to the Chancellor.
- d. The supporting documentation will include:
 1. A description of the current fiscal condition of the college, including the projected amount of deficit that would result from failure to declare financial exigency.
 2. A projection of the fiscal condition that would result, in the opinion of the President, from general types of action anticipated to be taken subsequent to a declaration of financial exigency.
 3. An analysis of the reason for the current imminent fiscal crisis characterizing the entire college, specifying with appropriate documentation those identifiable factors contributing to the crisis.
 4. A statement of assurance, with supporting evidence, that available and reasonable procedures to reduce expenditure levels of the college are exhausted, that further retrenchment within existing policies is not compatible with the objective of assuring maximum protection for the academic programs of the college and the educational needs of students, and that efforts to enhance revenues have been carried out in a responsible manner.
 5. A transmittal of any advice, alternatives, or information in writing from the members of his/her immediate staff and the College Councils.

IV. Actions Required Subsequent to the Declaration of Financial Exigency

In the event the Tennessee Board of Regents declares that a condition of financial exigency exists at Southwest Tennessee Community College, the President shall, within a reasonable time, initiate a proposed plan allocating necessary funding reductions among the college's primary budgetary units.

The following procedures and activities will go into effect immediately after the President initiates the college's plan of allocating reductions.

- a. The President shall convene the college's Financial Exigency Committee. This Committee shall be composed of the members of the President's Staff and the Chairpersons of the college's Councils. The President may elect to appoint additional Committee members to represent the College's constituencies.
- b. The Financial Exigency Committee will review the President's proposed plan for allocating funding reductions. In its review, the Committee must consider the following factors:
 1. academic priorities,
 2. institutional priorities,
 3. administrative organization, and
 4. applicable state and/or federal laws regarding fair employment practices in light of the magnitude of proposed reductions in each primary budgetary unit.

Within thirty days, the Committee shall submit in writing its endorsement of the President's plan or a recommendation of alternatives. If alternatives are offered the President shall consider them and within thirty days indicate to the Committee and to all personnel constituencies final decision on allocation of funding reductions. These final plan should be communicated broadly to all employees.

- c. The heads of each college's budgetary unit will appoint and convene a Consultation Committee composed of faculty or staff from within that unit. The Committee composition must include a minimum of 25 percent below the rank of Director or Chairperson. The Consultation Committee will make recommendations to the head of their budgetary unit and will be guided by the same general principles (section d below) used by the Financial Exigency Committee. With input from their Consultation Committee, the heads of each unit will make recommendations that include proposed reductions in programs and/or personnel and that achieve the designated reductions. The head of each primary unit is to be responsive to any inquiry of the President or Financial Exigency Committee pertaining to their recommendations.

- d. Prior to the President's review of the plans recommended by the heads of budgetary units, the Financial Exigency Committee shall review the plans guided by the following general principles:
1. Retrenchment other than reduction-in-force should reflect as its major priority maximum protection for the academic programs of the college and the educational needs of students.
 2. 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.
 3. 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.
 4. To avoid the possibility of compromising the quality of highly productive programs within the college and to recognize the best interests of continued academic excellence, reduction-in-force cannot normally be accomplished on a strictly across-the-board basis.
 5. Affirmative action plans should be carefully considered in all personnel decisions.
 6. Unless an exception is made for maintaining a viable academic or support program (No. 2 above) or for reasons of affirmative action (No. 5 above), decisions as to the order of personnel terminations will be based upon the following ranked criteria.
 - tenure status
 - rank
 - seniority within rank
 - local seniority within rank
 - length of service
 - skill flexibility
 - performance evaluation

After its review, the Financial Exigency Committee will submit in writing to the President its findings on the plans and must include an endorsement and/or alternatives.

- e. The President shall review the responses of the Financial Exigency Committee and indicate his/her acceptance, rejection or amendments to the reduction plans submitted by heads of primary budgetary units. The President shall communicate his composite plan for reducing expenditures to the entire campus community.

- f. The President shall submit for approval by the Chancellor the college's plan for effecting budgetary reductions as required by the fiscal condition of the college. The President's submission shall include the written response by the Financial Exigency Committee to both (1) the President's plan for allocating necessary funding reductions to primary budgetary units and (2) plans for the primary budgetary units affecting their designated budget reductions.

V. Procedures for Termination of Personnel Under Conditions of Financial Exigency

Reduction-in-force under conditions of financial exigency include any personnel classification and will be conducted according to the following procedures:

- a. The procedures for termination described in Section V of the policy are in force only during a period in which the Tennessee Board of Regents has declared that Southwest Tennessee Community College is in a condition of financial exigency.
- b. 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 IV, d, 2 and 5 and 6),
 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 Tennessee Board of Regents, and
 5. such other information as the President may deem appropriate.
- c. An individual who receives notice of termination, as described in Section b above, may appeal the decision under the following conditions:
 1. that established institutional procedures or provisions of TBR Policy No. 5:02:06:00 were not followed, and
 2. that appropriate criteria were not applied, including but not limited to the allegation that his or her selection constituted a violation of the individual's academic freedom or that unfounded or arbitrary assumptions of fact were made.

In the event of an appeal, the President shall appoint whichever is appropriate—a Faculty Hearing Committee or Staff Hearing Committee.

The Hearing Committee(s) will be composed of five (5) employees from the appropriate area of faculty or staff. These individuals should be as far as possible removed from the effects of the financial exigency plans. The Faculty Hearing Committee and the Staff Hearing Committee shall insure prompt hearings that are thorough and fair but not necessarily judicial in nature. Strict rules of procedure (e.g., confrontation, cross-examination, and formal rules of evidence) are not required. The Hearing Committees shall not review the decision concerning the declaration of financial exigency or the President's plan for the amount of financial exigency or the President's plan for the amount of reduction to be assured by each primary budgetary unit.

A recommendation will be sent from the Faculty or Staff Hearing Committee to the President recommending that he/she uphold or reverse the action of termination, and the President will inform the appropriate Hearing Committee and the individual of his/her final decision.

The final decision of the President may be appealed to the Chancellor, and after the Chancellor has made a decision to the Tennessee Board of Regents.

VI. Continuing Rights of Persons Terminated Under Conditions of Financial Exigency

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 college informed of his or her current mailing address. If the person previously terminated is offered the position and accepts, he or she will be returned in the same rank and tenure status.

VII. Termination of Declaration of Financial Exigency

If the financial health of the college improves sufficiently, the President shall initiate a proposal for the termination of a declared state of financial exigency. The policies and procedures established by this policy shall continue in effect during the period of a state of financial exigency. At the termination of a declared state, that action by the Tennessee Board of Regents 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.

VIII. Definitions

The following are general definitions of words and terms used in this policy which are not defined above. These words and terms are subject to further qualification and definition in the previous sections of this policy.

- a. Reduction-in-force – the termination of employment of faculty or staff resulting from a budgetary crisis reflected in a declared state of financial exigency.

- b. Entire college – employees at all Southwest Tennessee Community College campuses.
- c. Academic or administrative unit – an academic department or other similar account-level unit.
- d. College Councils – the major college faculty and staff organizations devoted to governance.
- e. Primary budgetary unit – a major budgetary area of the college (e.g., academic affairs, student affairs, fiscal affairs) headed by an administrator reporting directly to the President.