

1. Title

Abandonment of Academic Positions or Programs

2. Rule and Regulation

Sec. 1 President's Responsibility. The president of an institution of The University of Texas System is responsible for determining when to eliminate occupied academic positions, the titles of which are given in the Regents' *Rules and Regulations*, [Rule 31001](#), or abandon academic programs or both, subject to approval by the appropriate Executive Vice Chancellor. The decision of the president shall include full and meaningful faculty input as specified below and in the institution's *Handbook of Operating Procedures*, and the implementation of that decision shall be subject to the following minimum procedural requirements.

Sec. 2 Elimination for Academic Reasons. An academic program under consideration for abandonment or an academic position that is under consideration for elimination for bona fide academic reasons should be reviewed in depth through a procedure determined by the president that includes the elements specified below and in the institution's *Handbook of Operating Procedures*. Neither the procedures specified in [Rule 31008](#) of the Regents' *Rules and Regulations* concerning termination of a faculty member, the notice requirements of [Rule 31007](#), Section 5 concerning tenure, nor [Rule 31002](#), Sections 1 and 2, concerning notice of nonrenewal to nontenured faculty members, shall be applicable.

2.1 Notification. Tenured faculty in a program that is under consideration for abandonment or in an academic position that is under consideration for elimination will be notified and afforded an opportunity to contribute to the review process through a duly constituted committee consisting of faculty members and administrators and have those contributions fairly considered.

2.2 Supporting Rationale. Upon completion of the review process, a recommendation with supporting rationale should be submitted to the chief academic officer for review and recommendation to the president.

2.3 Review by Executive Vice Chancellor. If the president determines that an academic program should be

abandoned, a request for approval with supporting documentation should be forwarded to the appropriate Executive Vice Chancellor.

2.4 Appeal Procedures. The president of an institution shall appoint a hearing committee comprised of faculty members to consider any appeals for reconsideration of termination decisions. Within 30 days from the date of notice of termination, a faculty member shall have the right to appeal to the hearing committee for reconsideration of the termination decision. The appeal for reconsideration shall be in writing and addressed to the president of the institution. A faculty member who appeals to the hearing committee (the appellant) shall be given a reasonably adequate written statement of the basis for the initial decision to reduce academic positions and, upon request of the person, shall be given any written data or information relied upon in arriving at such decision. The hearing committee shall conduct the hearing in accordance with the following conditions and procedures:

- (a) The hearing committee shall set the date, time, and place for hearing the appeal for reconsideration. Such hearing shall be held within 30 days of the date of the written request unless the appellant waives such time requirement; however, such hearing shall be held within 90 days from the date of the request.
- (b) The hearing will be closed to the public unless requested to be open by the appellant.
- (c) The appellant may be represented by legal counsel at his or her expense.
- (d) The appellant and the institution may offer any written evidence or oral testimony that is material to the issues.
- (e) The burden shall be upon the appellant to show by a preponderance of the credible evidence that the decision to terminate the appellant as compared to another individual in the same discipline or teaching specialty was arbitrary and unreasonable based upon the evidence presented.

- (f) No other issues shall be heard or considered by the hearing committee.
- 2.5 Establishment of Date. The date for abandoning or phasing out an academic program should take into consideration the time required for anticipated completion by students currently enrolled or for facilitation of their placement in acceptable alternative programs.
- 2.6 Requests for Reassignment. The administration will notify tenured faculty in the program to be abandoned and ask each faculty member to inform the president or designee, in writing, of the faculty member's request for reassignment to other academic program(s) and to provide details of their qualifications for appointment to such academic program(s).
- 2.7 Employment Alternatives. The president or designee will meet individually with tenured faculty who respond to discuss possible employment alternatives to termination.
- 2.8 Non-retention. If the decision is not to retain, the president or designee will send a written response stating reasons for non-retention.
- 2.9 Displacement. If retention of a tenured faculty member results in displacement of a tenured faculty member in another program, the displaced faculty member is entitled to the above procedures.
- 2.10 Benefit Information. Any faculty member whose employment is terminated pursuant to this Subsection shall be informed of applicable benefits available upon termination, such as retirement, accrued leave, and opportunity to continue insurance coverage.
- 2.11 Employment Assistance. U. T. System institutions shall provide appropriate assistance to affected faculty members concerning available alternative employment opportunities.
- Sec. 3 Elimination Due to an Institutional Financial Exigency. When such reductions are necessary as a result of financial exigency, the procedure for the selection and notification of those

academic positions that are to be terminated shall be governed by this Section and the institution's *Handbook of Operating Procedures*. Neither the procedures specified in [Rule 31008](#) of the Regents' *Rules and Regulations* concerning termination of a faculty member, nor the notice requirements of [Rule 31007](#), Section 5 concerning tenure, or [Rule 31002](#), Sections 1 and 2, concerning notice of nonrenewal to nontenured faculty members, shall be applicable.

- 3.1 **Committee Recommendations.** Upon determining the existence of a financial exigency and the need to reduce academic positions or academic programs, or both, the president of an institution shall appoint a committee composed of faculty and administrative personnel to make recommendations to the president as to which academic positions and/or academic programs should be eliminated as a result of the financial exigency. At least one-half of the total committee membership shall be faculty members and at least one-half of the faculty members on the committee shall be appointed from recommendations submitted to the president from the institution's faculty governance body.
- 3.2 **Assessment of Academic Program.** The committee will review and assess the academic programs of the institution and identify those academic positions that may be eliminated with minimum effect upon the degree programs that should be continued and upon other critical components of the institution's mission. The review will include, but not be limited to, as relevant:
 - (a) an examination of the course offerings, degree programs, supporting degree programs, teaching specialties, and semester credit hour production;
 - (b) an evaluation of the quality, centrality, and funding of research activities; and/or
 - (c) an assessment of the productivity, community service, and quality of clinical services (in relation to teaching, health care delivery, and scholarly activity).
- 3.3 **Review Consideration.** Upon determining that one or more academic positions in a degree program or teaching specialty should be eliminated, the committee will recommend to the president, in writing, the particular position or positions to be terminated after reviewing the academic, research, and clinical qualifications and talents

of holders of all academic positions in those degree programs or clinical or academic teaching specialties, the needs of the program and the needs of the school or college they serve, past performance, and the potential for future contributions to the development of the institution. Tenure status of a faculty member shall not be a consideration in the determination of whether a particular position should be eliminated except as permitted in Section 3.4 below.

- 3.4 Tenure Preference. If, in the opinion of the committee, two or more faculty members are equally qualified and capable of performing the same teaching, research, and/or clinical role, the faculty member or members having tenure shall be given preference over nontenured faculty. However, if such faculty members have the same tenure status and equal qualifications, consideration will be given to other documented needs of the institution.
- 3.5 Recommendation. Upon completion of its review, the committee shall promptly recommend in writing to the president those persons who may be terminated, ranked in order of priority, with the reasons for their selection. The president shall, after consultation with institutional administrative officers as the president may deem appropriate, determine which academic positions are to be terminated because of the financial exigency and shall give the holders of these positions written notice of the decision.
- 3.6 Notification of Vacancies. Any person terminated due to financial exigency will be notified when a vacancy occurs in the same institution in their field of teaching within the next two academic years following the termination. If such person makes timely application and is qualified for the position to be filled, they shall be offered employment in that position. If the vacancy is in a field of teaching in which two or more persons have been terminated because of financial exigency, all will be notified of the vacancy and of those so notified and making timely application, employment will be offered to the person who is the better qualified for the position to be filled.
- 3.7 Hearing Committee. The president shall appoint a hearing committee comprised of faculty members to hear

any appeals for reconsideration of termination decisions based upon financial exigency. Within 30 days from the date of the notice of termination, a faculty member shall have the right to appeal to the hearing committee for reconsideration of the termination decision. The appeal for reconsideration shall be in writing and addressed to the president. A faculty member who appeals to the hearing committee (the appellant) shall be given a reasonably adequate written statement of the basis for the initial decision to reduce academic positions and, upon request of the person, shall be given all written data or information relied upon in arriving at such decision.

- 3.8 Appeal Procedures. The hearing committee shall set the date, time, and place for hearing the appeal for reconsideration. Such hearing shall be held within 30 days of the date of the written request unless the appellant waives such time requirement; however, such hearing shall be held within 90 days from the date of the request. The hearing committee shall conduct the hearing in accordance with the following conditions and procedures.
- (a) The hearing will be closed to the public unless requested to be open by the appellant.
 - (b) The appellant may be represented by legal counsel at his or her own expense.
 - (c) The appellant and the institution may offer any written evidence or oral testimony that is material to the issues.
 - (d) The burden shall be upon the appellant to show by a preponderance of the credible evidence that:
 - (1) Financial exigency was not in fact the reason for the initial decision to reduce academic positions; or
 - (2) The decision to terminate the appellant as compared to another individual in the same discipline or teaching specialty was arbitrary and unreasonable based upon the evidence presented.

- (e) No other issues shall be heard or considered by the hearing committee.
- (f) The hearing committee shall make written findings of fact and recommendations to the president of the institution as soon as practical following the hearing. The president shall have the final decision to either accept or reject the recommendation of the hearing committee.

Sec. 4 Institutional policies and procedures implementing this Rule shall be approved in accordance with applicable Regents' Rules (including [Rule 20201, Sec. 4.9](#)) and placed in each institution's *Handbook of Operating Procedures*.

3. Definitions

Financial exigency: a demonstrably bona fide financial crisis that adversely affects an institution as a whole and that, after considering other cost-reducing measures, including ways to cut faculty costs, requires consideration of terminating appointments held by tenured faculty.¹

Governance body: the elected body representative of the faculty and charged with developing academic policy in the areas designated in Regents' [Rule 40101](#).

4. Relevant Federal and State Statutes

None

5. Relevant System Policies, Procedures, and Forms

None

6. Who Should Know

Administrators
Faculty

7. System Administration Office(s) Responsible for Rule

¹ Includes faculty holding seven-year term appointments during the term of their appointments, (see Regents' [Rule 31007, Sec. 2](#)).

Office of Academic Affairs
Office of Health Affairs

8. Dates Approved or Amended

May 13, 2010
December 10, 2004

9. Contact Information

Questions or comments regarding this rule should be directed to:

- bor@utsystem.edu