

The Association reserves the right to revert to our supposal of 3/28/11, in whole or in part, if this supposal is not acceptable.

FA Supposal

Article xx

Reduction in Force

Section xx.01 Policy Statement. The Board and the Association agree that the first duty of the University is to ensure that its academic functioning remains paramount, particularly with regard to the quality of instruction, research, service, and the preservation of academic freedom. The declaration of financial exigency is the most drastic action the University can take to preserve its role, scope, and mission. Owing to the seriousness of financial exigency, the Faculty and administration must be involved jointly in the decisions to salvage the institution. This Article provides the definitions for *bona fide* financial exigency and the procedures under which a Faculty member may be laid off as a result of such financial exigency.

Section xx.02 Layoff for Financial Exigency.

- a. Faculty may be laid off only during a state of *bona fide* and legitimate financial exigency declared by the Board of Trustees in accordance with the terms of this Article. “*Bona fide*” means that the complete evidence required by this Article has been made available to the Parties to this Agreement and has been verified; “legitimate” means that the standards provided in this article have been met and the procedures set out have been followed;
- b. Faculty shall not be laid off until efforts have been exhausted to alleviate a financial crisis by economizing in all other segments of the budget and all reasonable means of improving the University’s revenues have been exhausted;
- c. All untenured Faculty members who have received notice of non-reappointment under Article 11.09 during the 12 months prior to the Chancellor’s notice under xx.03.02 below shall be counted toward the Reduction in Force.

Section xx.03. Definition A state of *bona fide* and legitimate financial exigency occurs only when (a) three (3) consecutive state audits demonstrate substantial and recurring financial deficits and a continuing crisis which threaten the survival of SIUC; and/or (b) a sudden, precipitous decline in the total state appropriation and income fund which threatens the survival of SIUC. The discretionary re-directing of resources away from SIUC to another part of the SIU system by the Board does not provide grounds for declaring financial exigency. A declaration of financial exigency also requires that substantial financial losses have been projected by mutually accepted accounting principles to persist for two (2) years and threaten the continued academic functioning of SIUC as a whole. Words like “crisis” and “survival” are used to make it clear that financial exigency must involve extremely serious financial problems and not merely temporary budget difficulties. The expectation of short-term deficits is not a state of financial exigency and can be dealt with by short-term deficit financing and/or the elimination of operations not

essential to the academic functioning of the University (e.g., the sale of real property, wheresoever situated, not essential to the academic functioning of the University, and/or the reduction of athletic programs or other operational expenses not essential to academic functioning). For the purposes of this Article, “academic functioning” shall be defined as expenditures related to the operations of the basic academic units.

Section xx.04 Notice to Association. When financial concerns at SIUC are severe enough that a state of financial exigency leading to layoff may exist, the Chancellor shall give simultaneous written notice thereof to the Association and the Board of Trustees. As of the date of such notice the procedures specified in this Article shall apply. Within five (5) working days from the date the Chancellor gives notice, the Chancellor shall forward to the Association the full and complete financial documentation upon which the Chancellor’s concerns are based, and which was presented to the Board for their consideration (including the three (3) years of audits and the two (2) years of detailed budgetary projections).

Section xx.05. Standards of Financial Exigency.

xx.05.01. The burden of proof shall be on the Board to establish that a state of *bona fide* financial exigency exists within the meaning of this Article. All discussions by the Board leading to Board action on the question of financial exigency must take place in public meetings. Any and all information used by the Board for determining that financial exigency exists shall be provided to the Association reasonably in advance of any Board action. The standards for declaring financial exigency include, but are not limited to:

- a. whether SIUC’s financial position (as evidenced from the audits and projections, treating the total SIUC budget and not just the academic or salary components thereof) constitutes a *bona fide* and legitimate case of financial exigency such that deficits projected by accepted accounting principles are expected to continue for at least two (2) fiscal years;
- b. whether all reasonable means of achieving cost-savings in non-academic areas of the SIUC budget (and including borrowing, deficit financing, and the sale of real property not essential to the academic functioning of SIUC) have been exhausted;
- c. whether budgets have been cut or activities eliminated that (1) are not self-supporting (e.g. grants and endowments), or (2) are not in direct support of basic academic units, or (3) are not essential for continued operations of basic academic units.
- d. whether all reasonable means of improving the SIUC’s revenue position have been explored and taken into account;
- e. whether every effort has been made to secure further assistance from the state and/or federal government;
- f. whether enrollment projections are realistic;

- g. whether all means of reducing the academic staff, including attrition, voluntary early retirement, retirement incentives, voluntary resignation, and other appropriate voluntary reductions, including buy-out options, have been offered and exhausted; and,
- h. whatever other matters the Association considers relevant and has requested to have addressed in writing.

xx.5.02. Prior to any Board of Trustees' declaration of financial exigency, the Board shall provide a written report to the Association containing answers to each of (a) through (g) above, as well as any other specific questions stipulated under (h) by the Association.

xx.5.03. All evidence in support of any financial exigency must be based upon at least three (3) consecutive years of explicit and detailed financial records, including but not limited to the planning documents currently in use (e.g., budget projections for the current fiscal year), and an up-to-date report on actual expenditures and current balances, including existing restricted and unrestricted funds and existing fund balances.

Section xx.06. Declaration of Financial Exigency. If the standards for a declaration of financial exigency specified in Section 5 above are met in the opinion of the Board, it may declare financial exigency. The Board shall notify the Association in writing of such declaration of financial exigency specifying the amount of the reductions required, if any, in the budgetary allocations to salary and benefits for Faculty. After receiving the written notice of declaration, the Association will have sixty (60) days to conduct its own inquiries and concur or not concur with the declaration of financial exigency. If the Association does not concur with the Board's declaration, it may directly refer the case to binding arbitration in accordance with Article 6.06 (Arbitration). No further action shall be taken by the Board until the Arbitrator renders a decision.

Section xx.07. Layoff Procedures. The Board shall carry out the actual layoffs of Faculty in accordance with the following minimum requirements.

xx.07.01. If financial exigency is determined to exist in accordance with sections 2-6 of this Article, the Board shall identify the programs from which layoffs are to be made. The programs selected for layoffs (in accordance with the procedures below) belong to "basic academic units" as defined in Article 9. For the purposes of this Article, the Library shall be regarded as a "basic academic unit." The basic academic units housing the programs selected for layoffs shall be notified in writing of their selection, and all the provisions of Article 9 shall apply in reviewing the selected programs.

xx.07.02. When the program review(s) has (have) been completed in accordance with Article 9, in order to preserve the academic mission of the University, the layoff of Faculty shall be the last action to satisfy the required cost-savings measures due to financial exigency.

- a. The layoffs within a basic academic unit shall proceed in the order listed below:
 - i. Untenured Faculty;
 - ii Tenured Faculty.
- b. If the program review in accordance with Article 9 has shown that Faculty lines may be reduced, but that the program as a whole is not to be abolished, the right to be retained within the basic academic unit shall be ranked from greatest right to least right, as follows:
 - ii. those with a greater length of full-time service at the University, including approved leaves;
 - ii. those with a greater length of full-time service in the department, including approved leaves;
 - iii. those with more extensive educational qualifications, professional training, and professional experience.
- c. If a program as a whole is abolished, but not all of its Faculty need to be laid off, the remaining Faculty shall be transferred to another bargaining unit position.

xx.07.03. No tenured Faculty member shall be laid off for the purpose of creating a vacancy to be filled by an administrator entering the bargaining unit.

xx.07.04. Notice of Layoff. Faculty shall be given employment for at least one academic year beyond the academic year in which she/he is given notice of layoff.

xx.07.05. Faculty who are selected for layoff may grieve their selection under the terms of this contract, on grounds including but not limited to (1) bias, (2) procedural error, (3) that the criteria for layoff have been applied in a manner that is arbitrary, capricious, in bad faith, or (4) contrary to this Article.

xx.07.06. Prior to the effective date of her/his layoff, a Faculty member given notice of layoff may request a meeting with the Dean to establish:

- a. the written description of the Faculty member's position at the time she/he was given notice of layoff;
- b. the areas of University employment for which the Faculty member is qualified on the basis of training or experience.

The written results of this meeting shall be provided by the Dean to the affected Faculty member and to the President of the Association.

Section xx.08. Options and Entitlements for Faculty Selected for Layoff.

xx.08.01. Faculty who are selected for layoff pursuant to this Article may choose either (a) Option 1, or (b) Option 2:

- a. Option 1. Layoff with Recall Rights. The Faculty member shall have recall rights as set out in Article xx.09.
- b. Option 2. Severance. In lieu of recall rights, the University shall pay the Faculty member severance pay at the rate of one (1) month's base salary and benefits (including medical and retirement) for each Academic Year of service in the University, subject to a minimum of twelve (12) months.

xx.08.02. Layoff or severance pursuant to this Article is not dismissal for cause or non-reappointment, and shall not be recorded or reported as such.

Section xx.09. Recall.

xx.09.01. Faculty members who are laid off and have selected Option 1 under Article xx.08.01.a. shall have, for a period of three (3) years from their last day of employment, a right of first refusal for any position or line in their former basic academic unit, according to the criteria in xx.07.02.b. The Faculty member shall be sent notice of such right of refusal at the Faculty member's last known address. It shall be the Faculty member's responsibility to keep the University informed of the Faculty member's current address.

xx.09.02. An offer made pursuant to section xx.09.01 must be accepted within thirty (30) calendar days, such acceptance to take effect not later than the beginning of the academic term specified in the offer.

xx.09.03. No non-bargaining unit faculty shall be hired to perform teaching, research, and/or service in basic academic units where Faculty have been laid off.

xx.09.04. A Faculty member who held a tenured position on the date of layoff shall resume tenure upon recall. For the purpose of tenure and promotion, the research/creative activities conducted during the recall period shall be credited in tenure and promotion applications if they so choose. The tenure clock will stop at the time of layoff and will resume upon recall.

xx.09.05. A Faculty member who has been laid off and who accepts re-employment in a bargaining unit position at the University shall, upon re-employment, be credited with any sick leave which the Faculty member had accrued as of the effective date of layoff, and with any vacation leave which the Faculty member had accrued as of the effective date of layoff and for which the Faculty member has not received payment. The salary of a laid-off Faculty member who resumes employment in a bargaining unit position at the University shall be adjusted to reflect non-discretionary increases to which the Faculty member would have been entitled if not laid off.

xx.09.06. Faculty members who selected Option 1 under Article xx.08.01.a. and are laid off shall enjoy full access to scholarly facilities, including office and, where appropriate, laboratory space, and library and computer services until their recall rights expire.

xx.09.07. A Faculty member who is laid off may continue to contribute toward and receive benefits of any state or Board insurance program and may continue to contribute toward and receive retirement credit in the State Universities Retirement System if the laws, rules, regulations, policies, and procedures governing the administration of such insurance programs State Universities Retirement System so permit.

Section xx.10. In the event of a conflict between the provisions of this Article and the provisions of any other Article of this Agreement, the provisions of this Article shall prevail; but nothing contained herein shall be construed as authorizing the amendment of this Agreement except by mutual consent of the parties.