

UB-VI-10.1, Policy on Faculty Retrenchment

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I. General Principles

- A. The term "retrenchment" means the termination of a faculty appointment as authorized in the November 29, 1990, University System of Maryland (USM) Board of Regents Policy on Faculty Retrenchment (II-8.00).

These retrenchment procedures are applicable only to all persons appointed to a rank identified or permitted under the USM Policy on the Appointment, Rank and Tenure of Faculty (II-1.00) of the USM By-Laws, Policies and Procedures of the Board of Regents.

The USM Retrenchment Policy and these retrenchment procedures are in addition to and not in limitation of other USM and University of Baltimore policies and procedures concerning faculty appointments nor are they in limitation of any USM or University of Baltimore policies on academic program review.

- B. Procedures at the University of Baltimore (hereinafter referred to as "University") shall be implemented in accordance with the following provisions of the USM Policy on Appointment, Rank, and Tenure of Faculty approved April 5, 1989:
- a) Section I.C.9. - "The institution may terminate any appointment because of the discontinuance of the department, program, school or unit in which the appointment was made; or because of the lack of appropriations or other funds with which to support the appointment. Such decisions must be made in accordance with standards and procedures set forth in written institutional policies. The chief executive officer of the institution shall give a full-time appointee holding tenure notice of such termination at least one year before the date on which the appointment is terminated."
 - b) Section I.C.10. - "Notwithstanding any other provisions to the contrary, the appointment of any non-tenured faculty member 50% or more of whose compensation is derived from research contracts, service contracts, gifts or grants, shall be subject to termination upon expiration of the research funds service contract income, gifts or grants from which the compensation is payable."
 - c) Section I.C.13. - "No person, after seven or more years of continuous service to the institution, commencing July 1, 1984, as a full-time instructor or lecturer, shall be dismissed for cause during the term of appointment, or non-renewed for other than programmatic reasons, without being accorded all rights of due process normally reserved for tenured faculty members. An appointment shall presumptively be considered non-renewed for other than programmatic reasons if the incumbent is replaced, without an interruption in full-time service, by a new appointee whose duties are substantially identical to the incumbent's."

- d) Section I.C.17. - "The appointee shall be subject to all applicable policies and procedures duly adopted or amended from time to time by the institution or the University System, including but not limited to, policies, and procedures regarding annual leave; sick leave; sabbatical leave; leave of absence; outside employment; patents and copyrights; scholarly and professional misconduct; retirement; reduction, consolidation, or discontinuation of programs; and criteria on teaching, scholarship and service."
- C. When faced with the prospect of faculty retrenchment, it is the policy of the University that retrenchment shall be considered and implemented on a coherent, University-wide basis, and it shall be the goal to avoid the termination of full-time faculty and to fulfill the educational mission of the University. To this end, the University shall consider such alternatives to retrenchment such as, but not limited to, leaving unfilled positions vacant, allowing for normal attrition, reducing part-time and temporary faculty positions, and encouraging voluntary early retirement for those eligible.
- D. These Procedures apply to all persons whose ranks are identified as faculty pursuant to the University System of Maryland Policy on Appointment, Rank and Tenure whose term of appointment exceeds one year and who are eligible for employee benefits.
- E. Retrenchment Units. The following Retrenchment Units shall exist at the University of Baltimore:
 - a) The School of Law
 - b) The Merrick School of Business
 - c) The Yale Gordon College of Arts and Sciences
 - d) The College of Public Affairs

When making the list of faculty appointments within a particular retrenchment unit, the only faculty members to be included are those whose appointments are made within the department or school in which the retrenchment unit is located. The list shall not include faculty members assigned to the retrenchment unit but whose appointment is in another school or department.

II. Initiation of Retrenchment

- A. The President has the sole authority within University of Baltimore, subject to the authority of the Board of Regents, to initiate retrenchment. The President shall initiate retrenchment when the President determines that retrenchment is necessary, consistent with the USM and University of Baltimore policies on Appointment, Rank and Tenure. Before determining that a fiscal crisis necessitates retrenchment, the President shall consult with the Chancellor and the Board of Regents. The board may request relevant information from the President and may consider comments from representatives of campus and faculty governance bodies and other interested persons.

Program review is a part of routine institution planning. While such reviews may be motivated in part by broad financial considerations, they normally occur as part of the ongoing management of the institution. Resulting program eliminations provide a basis for faculty terminations without the necessity of showing a lack of appropriations. Where the lack of

appropriation is the basis for faculty retrenchment, the retrenchment plan may take into consideration such non-financial factors as institutional mission, long-range educational planning, and may call for program reductions and/or program eliminations.

A lack of appropriations exists when, in the president's judgment, there is a fiscal crisis that threatens or endangers the institution's ability to carry out its mission as defined in the most recent mission statement approved by the Board of Regents, and the termination of tenured or tenure-track faculty appointments will be substantially less detrimental to the institution's ability to fulfill its mission than other forms of budgetary curtailments available to the institution.

The President has final authority over any decision or determination under these retrenchment procedures. In addition to the advice of the committees established under retrenchment procedures, the President may seek the advice of any individual, group, or office within University of Baltimore or outside the institution. The President may adopt recommendations from any committee identified in the retrenchment procedures, adopt them with modifications, or reject them and make substitutions for them.

The President shall have the right to adjust any schedule referenced in the retrenchment procedures except for those pertaining to the notice for termination and to the appeal process. An effort will be made to give advance notice of any such adjustment. Failure to comply with such schedules, however, shall not be grounds for appeal under these retrenchment procedures.

- B. When retrenchment is initiated, the President, after consultation with the Provost's Council, shall issue a Proposed Retrenchment Report. This report shall identify any retrenchment units which are to be affected by the loss of faculty positions and the number of such positions for each retrenchment unit, the reasons for the decision to retrench, and the steps taken pursuant to Section I. C. of these Procedures to avoid retrenchment.
- C. The Proposed Retrenchment Report shall be transmitted by the President to the Deans of the four schools, who shall distribute it no later than three working days after receipt, to all members of their respective faculty senate/councils. The Dean of each school shall convene a meeting of that school's faculty senate/council no later than three working days after sending the Proposed Retrenchment Report to the faculty, in order to discuss and comment upon the Proposed Retrenchment Report. Each faculty senate/council, or any member of such may, within seven calendar days of the meeting concerning the Report, send to the President any comments, suggestions or questions about the Proposed Retrenchment Report.

- D. After considering any comments or suggestions received from the faculty senate/councils, or any members of such, about the Proposed Retrenchment Report, the President shall issue a Final Retrenchment Report to the appropriate committees and the institution.

III. Identification of Positions to be Eliminated

- A. School Retrenchment Committee. Upon receipt of the Proposed Retrenchment Report, each school shall form a Retrenchment Committee composed of the Dean and two tenured faculty members, one elected by the school's faculty senate/council and one appointed by the President. The Committee shall be chaired by the Dean who shall be a voting member. If the faculty decline to elect faculty member(s) in a timely manner or if the faculty decline to serve, the President shall appoint the required number of committee members to serve on the committees.
- B. The School Retrenchment Committee shall have the responsibility for implementing the Final Retrenchment Report, by issuing a School Report within seven calendar days of receipt of the Final Retrenchment Report, identifying those faculty to be terminated. In identifying such faculty, the Committee shall follow the guidelines for Order of Termination in Section IV of these Retrenchment Procedures. The Dean shall be charged with obtaining an accurate list of faculty by date of appointment and rank, and such list shall be attached to the School Report. If there is a deviation from the usual order of termination pursuant to Section IV.B., the rationale for such deviation shall be specified in the report.
- C. Consistent with applicable law, deliberations about specific personnel decisions of any committee shall be confidential.
- D. The School Report shall be transmitted by the Dean to the Provost, who shall send the report to the President for final approval.

IV. Order of Termination

- A. The usual order of termination for faculty covered by these Procedures (see Section I.D.) shall be as follows:
 - 1. Untenured faculty members, by reverse order of rank, and within rank by reverse order of seniority since obtaining that rank at the University of Baltimore; thereafter,
 - 2. Tenured faculty members by reverse order of rank, and within rank by reverse order of seniority since obtaining that rank at the University of Baltimore.
- B. Deviations from the order of termination may be made only when the termination of the appointment of the faculty member would significantly impede the ability of the institution or retrenchment unit affected by retrenchment to fulfill its mission and goals, including the commitment to affirmative action, as articulated in its mission statement, or to fulfill commitments under grants and contracts. These deviations from the usual order of termination may be made by the School Retrenchment Committee, after consultation with the Provost. The reason and basis for making a decision to deviate from the order of termination shall be adequately documented.

V. Notice of Termination

- A. Period of Notice Required. For the purpose of these retrenchment procedures, the applicable termination notice period is determined by the status of the faculty at the time the notice of termination is given.

Non-tenure track faculty, as defined in the University System of Maryland Policy on Appointment, Rank, and Tenure of Faculty, shall be given written notice of up to one year but not less than 30 days prior to the date of termination of appointment.

Non-tenured, tenure-track faculty shall be given written notice of termination not less than one year prior to the date of termination of appointment.

Full-time instructors or lecturers, with seven or more years of continuous service to the institution, commencing July 1, 1984, shall be given written notice of termination of at least one year prior to the date of termination of appointment.

Tenured faculty members shall be given written notice as set forth in University System of Maryland Policy on Appointment, Rank and Tenure of Faculty, Section I.C.9. or corresponding sections of earlier faculty appointment agreements still in effect, as applicable.

- B. Termination Letter. The President shall give a written notice of termination to each faculty member whose appointment is to be terminated pursuant to these retrenchment procedures. The termination notice shall include:
1. notification that the appointment is being terminated pursuant to these retrenchment procedures;
 2. a statement that his/her termination does not imply a negative judgement about the faculty member's performance but was caused by retrenchment;
 3. the applicable notice period;
 4. the effective date of termination;
 5. a statement that System Administration shall send, for a period of one year, written notice of faculty openings within the System to the last address that the faculty member has on record with the institution;
 6. notification of the right of the faculty member to appeal the termination of appointment and a copy of these retrenchment procedures; and
 7. if applicable, a statement that deviation was made from the order of termination and the circumstances of the deviation.
- C. Date of notice. Notice of termination shall be effective on the date the notice is mailed by U.S. certified or registered mail, return receipt requested to the last address that the terminated faculty member has on record with University of Baltimore.

VI. Appeals Process

- A. University Retrenchment Appeals Committee. The University Retrenchment Appeals Committee shall consist of two faculty members from each school or college, one tenured and one untenured. One of the faculty members from each school or college shall be elected by

the faculty senate/council and the other shall be appointed by the President. The Committee shall be chaired by the Provost, who shall be a voting member. No faculty member serving on a School Retrenchment Committee is eligible to serve on the University Retrenchment Appeals Committee. If the faculty decline to elect faculty member(s) in a timely manner or if the faculty decline to serve, the President shall appoint the required number of committee members to serve on the committees.

- B. Right to an Appeal. The President shall establish a retrenchment appeals committee pursuant to USM BOR Policy on Faculty Retrenchment (November 29, 1990, II-8.00). A faculty member whose appointment is terminated under these retrenchment procedures shall have a right to appeal in accordance only with these procedures. No other appeal procedures within University of Baltimore are applicable.

The faculty member must include all grounds for appeal in the written request for appeal.

The filing or consideration of a request for appeal will not alter the effective date of termination of the appointment.

- C. Grounds for Appeal. The grounds for appeal shall be limited to:
1. error in the application of the order of termination of appointment;
 2. procedural error;
 3. insufficiency of notice of termination;
 4. whether any deviation from the order of termination was made without reasonable grounds; and
 5. the termination was otherwise unlawful.
- D. Appeals Schedule.
1. A request for appeal must be filed with the President within 10 working days after the effective mailing date of the notice of termination.
 2. The committee shall inform the faculty member of the date, time, and place of the hearing no later than 10 working days after the President's receipt of the request for appeal. The committee must schedule the hearing to occur within 30-45 calendar days after the President's receipt of the appeal.
 3. The faculty member must provide to the committee a statement of facts on which the appeal is based and a list of witnesses and documents to be introduced at the hearing no later than five working days prior to the date of the hearing.
 4. The committee shall send its recommendation to the President no later than 10 working days after the date of the conclusion of the hearing.
 5. Within 10 working days after receipt of the committee's recommendation, the President shall issue a final decision and mail a copy to the faculty member by U.S. certified or registered mail, return, receipt requested.

- E. Conduct of the Hearing
- The Institution will be represented by the Office of the Attorney General or its designee.

The faculty member may be represented by legal counsel throughout the appeal proceedings at

the faculty member's expense.

The hearing shall be audiotaped, and a copy of the tape shall be made available if requested by the faculty member.

The faculty member and the institution each may call witnesses and present documentary evidence at the hearing. Each member of the committee may call and question witnesses and request the presentation of documentary evidence.

The formal rules of evidence and of judicial procedure shall not apply to the appeal hearing; however, the committee may exclude irrelevant or repetitious testimony.

The faculty member's failure to appear at the hearing shall be deemed a voluntary dismissal of the appeal.

The appeal committee must make the decision based on the record.

Postponement of the hearing may be granted at the discretion of the committee upon the written request of the faculty member.

VII. Right of Tenured Faculty Members to Rehire

An institution shall offer within three years to a tenured or tenure-track faculty member whose appointment was terminated pursuant to these retrenchment procedures any new positions with equivalent duties and responsibilities within the retrenchment unit prior to hiring any other person.