

John Carroll University
Board of Directors

Faculty Handbook – Proposed Amendments

Financial Exigency: It is proposed by the Board of Directors that the Faculty Handbook: i) Part Four: Personnel Policies, Section V. Termination of Contract, ii) Part Four: Personnel Policies, Subsection V.F Termination of Contract because of Financial Exigency to add Budgetary Hardship section, and iii) for clean-up purposes, Part Three: Rights and Responsibilities of the Faculty, Section IV. Tenure, G, be amended as presented below.

**PART FOUR
PERSONNEL POLICIES**

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V. TERMINATION OF CONTRACT

The contract of a Faculty member is terminated either by retirement or by separation from the Faculty position. Such separation occurs only by 1) resignation, 2) by mutual agreement, 3) by nonreappointment, 4) because of the discontinuance of a department or program, (as listed on the University's Programs webpage, and updated from time to time, including without limitation: majors, minors, concentrations, specializations, etc.), 5) because of financial exigency, or budgetary hardship, 6) for inability to return from leave for a serious health condition following a Family and Medical Leave Act (FMLA) leave and/or any leave made as a disability accommodation, or 7) by dismissal for cause.

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F. Termination of Contract because of Financial Exigency or Budgetary Hardship

The termination of an appointment with continuous tenure or of a term appointment before the end of the specified term may occur 1) because of a publicly demonstrated bona fide financial exigency as declared by the Board of Directors, or 2) the Board of Directors' determination of budgetary hardship.

i. FINANCIAL EXIGENCY

Financial exigency is defined as an imminent financial crisis which, in the opinion of the Board of Directors, based upon reliable projections of the University's financial officers, threatens the survival of the University as a whole ~~and which cannot be alleviated by less drastic means than the termination of contracts of tenured Faculty members.~~

. Financial exigency involves an immediate fiscal emergency that has two characteristics: 1) being long-term in nature, promising to persist by all reasonable projections into the foreseeable future; and 2) threatens its very survival. Financial exigency requires the University to provide notice to the U.S. Department of Education and University accreditors, and to develop a teach-out plan for affected students. The Board would declare financial exigency only when it is determined

that the University is unlikely to survive and in such instance, if closure is deemed avoidable, certain University academic programs would need to wind down and then cease. To represent and protect the interests of the Faculty, the following procedures shall be carried out:

- ~~1. The Vice President for Finance reports annually in writing and in person to the~~Designated Faculty concerning the present and projected financial health of the University.
- ~~2. Faculty, other than officers of the administration are actively involved in the planning process of the University as representatives of the Faculty.~~
1. Faculty other than officers of the administration, serve as representatives of the Faculty on ~~any group~~University established committees/task forces (i.e. University Committee on Resource Allocation or University Budget Committee) which ~~assumes~~assume the responsibility for recommending that the President announce that financial exigency either exists or is imminent. In any such announcement, the President shall report the recommendations of ~~this group, his own~~such committees/tasks forces, the administration's, attempts to pursue all feasible alternatives (for example, less radical retrenchments), as well as relevant supporting evidence of the exigency which is at least imminent.
2. Once financial exigency is declared by the Board of Directors, the judgments determining where within the overall academic program termination of appointments ~~may~~should occur ~~should~~will be ~~primarily the responsibility of~~initially recommended by the Faculty through a cross-departmental committee elected, within 3 business days of financial exigency determination, by the Faculty Council for this purpose.
3. The designated Faculty ~~or an appropriate Faculty body should~~committee also ~~will exercise primary responsibility in determining~~recommend the criteria for identifying ~~the individuals~~the individuals whose appointments are to be terminated. Factors to be considered in determining these criteria should include such items as tenure, rank, years of service ~~to the University~~, and unique contributions to the University's programs.
4. The Provost & Academic Vice President has the responsibility for identifying the individuals whose appointments are to be terminated. Such employment decisions will not be subject to appeal.
- ~~3. A Faculty member whose appointment is to be terminated may appeal the decision of the Academic Vice President with respect to the application of the criteria by requesting that a Faculty Grievance Committee review the decision.~~
5. Notice of termination of appointment of a Faculty member because of financial exigency shall be as indicated in the following schedule:
 - a. prior to or during the ~~first~~second full Academic Year of appointment, no later than three months before termination
 - ~~during~~b. after completion of the second full Academic Year of appointment, no later than six months before termination.
 - a. ~~after the second Academic Year of appointment, no later~~

~~than twelve months before termination.~~

Any portion of the period of notice of termination may be replaced by payment of the normal salary with applicable fringe benefits for that portion.

ii. ~~In all cases of termination of appointment because of financial exigency, the place of the Faculty member concerned will not be filled by a~~ **BUDGETARY HARDSHIP**

1. The Board of Directors may adopt a resolution to address budgetary hardship in cases where operating losses and financial instability exist and the Board determines, following consultation with the Vice President of Finance & Administration, that action is needed and in the best interests of the University to restore financial stability and implement the University strategic plan. Such demonstrated budgetary hardship includes, but is not limited to, (1) conditions in which the University experiences and/or forecasts a continuing operational budget shortfall without extraordinary cost-cutting measures and/or windfalls for a period of two (2) or more years, (2) situations in which a) restructuring, b) salary reductions and/or c) discontinuing or reducing the size or breadth of program(s) or department(s) is/are determined necessary to restore the University's or a department's or program's financial stability (for example, due to ongoing declining enrollments or excessive financial drain caused by certain program(s)/department(s)), (3) the financial situation has or will result in a significant negative impact on University financial ratings, and/or (4) external factors beyond the reasonable control of the University exist that may place the University in a position of not being able to meet financial standards mandated by the U.S. Department of Education or the University's regional accreditor.

2. Upon a Board determination of budgetary hardship, the Provost & Academic Vice President will consult with Faculty Council and, whenever possible, a committee of Faculty members to identify options to address the budgetary hardship outside of the University's standard program review and assessment processes. This consultation may occur outside the Academic Year, as defined in this Handbook. Following this consultation, the Provost and Academic Vice President will review identified options and make recommendations regarding academic departments/programs and employment of Faculty members to the President, who will make a determination of final recommendations. The final recommendations will be presented by the President and/or Provost & Academic Vice President to the Board for approval, disapproval or revision within 30 days of the Board's determination of budgetary hardship. The Board will make determinations on the recommendations at its next meeting or a special meeting called for this purpose. Following the Board's decision-making regarding the recommendations, the President and Provost & Academic Vice President, to the extent reasonably practicable, will provide notice to Faculty members in a manner that will allow them to plan for future academic and employment decisions, as set forth below.

While circumstances at hand will dictate the chosen course of action, where appropriate and as determined by the President, Faculty members with tenure,

rank, years of service, unique contributions to the University's programs, or other factors determined relevant within the discretion of the President will be given consideration, and the University will make a good-faith attempt to relocate an affected Faculty member in another suitable position within the University where a need exists and for which the Faculty member is qualified. Such employment decisions will not be subject to appeal.

Notice of termination of appointment of a Faculty member because of budgetary hardship shall be as indicated in the following schedule:

- a. prior to or during the second full Academic Year of appointment, no later than six months before termination
- b. after completion of the second full Academic Year of appointment, no later than twelve months before termination.

Any portion of the period of notice of termination may be replaced by payment of the normal salary with applicable fringe benefits for that portion.

ii.iii. A tenured Faculty member whose appointment is terminated for reasons of financial exigency or budgetary hardship will not have such terminated position filled by a full-time replacement within a period of three years, unless the released Faculty member has been offered reinstatement and a reasonable time in which to accept or decline it; or has otherwise been employed by the University in a full-time capacity prior to the expiration of the three-year period.

iii.iv. A tenured Faculty member whose appointment is terminated for reasons of financial exigency or budgetary hardship is provided with the following privileges and benefits for until the earlier of the 12-month anniversary of termination or the time interval between termination and obtaining full-time employment at the University or an outside employer:

- a. tuition benefits of the Faculty
- b. purchase of hospitalization and medical insurance at the University's group rate, but at the full expense of the terminated Faculty member, plus any administration fees, unless age sixty-five or older. If age sixty-five or older, then, upon enrollment in Medicare Parts A and B, terminated Faculty members may elect University-sponsored ~~group supplemental medical and prescription~~ group supplemental medical and prescription drug insurance at the University's group supplemental rate, but at the full expense of the terminated Faculty member, plus any administration fees. This benefit may run concurrently or consecutively with rights the Faculty member may have to continuation of medical coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

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~~drug insurance at the University's group supplemental rate, but at the expense of the terminated Faculty member³⁰~~

~~d.c.~~ discount purchasing at the bookstore and on orders placed through the Purchasing Office

~~e.d.~~ use of the library

~~e. upon request, and~~ subject to availability, ~~an~~periodic and temporary office; ~~or~~ research space, ~~and other resources normally made available to.~~

~~iv.v.~~ Following a declaration by the active and visiting members Board of financial exigency or a Board determination of budgetary hardship, any steps in the terminated Amendment Procedures section – including Faculty member's department involvement in the process - may occur outside of the Academic Year.

Additionally, as a result of the above amendments, Part III, Rights and Responsibilities of the Faculty, Section IV. Tenure G requires amendments as follows:

- G. Tenure ceases for one of the following reasons: (1) active status is relinquished due to retirement, resignation, or mutual agreement, or (2) termination occurs because of discontinuance of a department or program; (as defined below); because of financial exigency; or budgetary hardship; or for inability to return from leave for a serious health condition following a Family and Medical Leave Act (FMLA) leave and/or any leave made as a disability accommodation or by dismissal for cause.