



MIDWESTERN STATE UNIVERSITY

Operating Policies & Procedures Manual

University Operating Policy/Procedure (OP)

OP 06.26: Financial Exigency and Consequent Dismissal Of Tenured Faculty and/or Dismissal of Non-Tenured Faculty Without Full Period of Notice

Approval Authority:	President
Policy Type:	University Operating Policy and Procedure
Policy Owner:	Provost and Vice President for Academic Affairs
Responsible Office:	Provost and Vice President for Academic Affairs
Next Scheduled Review:	05/01/2022

A. General

Termination of an appointment with continuous tenure or termination of a non-tenured appointment on shorter notice than that specified in Policy 3.116 may occur because of a demonstrable financial exigency. A financial exigency is an imminent financial crisis affecting the university as a whole which cannot be alleviated by less drastic means than the termination of some appointments.

B. Determination That a Financial Exigency Exists or Is Imminent

1. When the President of the university has reason to believe that a financial exigency exists or is imminent, he/she will appoint, with the advice of the Executive Committee of the Faculty Senate, an ad hoc advisory committee composed of one tenured faculty member from each college. The committee shall report to the President whether in its judgment a financial exigency does exist or is imminent and whether all feasible alternatives to the termination of appointments have been pursued.
2. Upon receipt of the committee's report, the President will make a recommendation to the Board of Regents. If, however, the President recommends declaration of financial exigency without the concurrence of the committee, he will also present to the Board the committee's report. The Board of Regents of Midwestern State University shall then determine and declare whether a financial exigency exists or is imminent.

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3. If the dismissal of faculty members is found to be unavoidable, the university will not at the same time make new appointments except in extraordinary circumstances where a serious distortion in the academic program would otherwise result.

C. Identification of Disciplines to be Phased Out or Reduced in Work Force

1. When a financial exigency is declared, the administration shall use the following criteria in selecting disciplines and/or programs to be phased out or reduced in faculty. One criterion does not take priority over another.
 - a. Historical student demand in terms of enrollment.
 - b. Student/faculty ratios as compared to state and national norms, depending on the nature of the discipline.
 - c. Cost effectiveness of the program as determined by state formulas compared to the total operating cost of the program.
 - d. The university's mission, role, and scope.
2. The administration will present to the Academic Council and the Faculty Senate a list of programs affected and the effect of the reduction of the university's mission. The Academic Council and the Faculty Senate will be allowed to state recommendations and alternatives, and each body shall be allowed one week from the time of presentation to state such recommendation or alternatives in writing to the President.
3. After considering the recommendation of the President of the university the Board of Regents shall make a final determination of disciplines and/or programs to be phased out or reduced in faculty, consistent with the criteria stated above.

D. Specific Identification of Individuals Whose Appointments Are to Be Terminated

The President of the university, the Provost and Vice President for Academic Affairs, and the appropriate dean will have the responsibility of identifying individuals within each discipline for termination of appointment. In reaching their decisions, they will apply the following criteria, which are not necessarily in priority order.

1. The ability of a faculty member to teach courses within the discipline will be considered according to:
 - a. The need for such courses as those the faculty member is qualified to teach.
 - b. The number of courses for which the faculty member is qualified to teach.
 - c.

2. The current position and status of the faculty member with regard to:
 - a. **Longevity**
Faculty with longer service to the university have precedence for retention over those with shorter service.
 - b. **Tenure**
Faculty with tenure have precedence for retention over those without tenure.
 - c. **Academic Rank**
Faculty with higher academic rank have precedence for retention over those with lower academic rank.
 - d. **Academic Degree**
Faculty with higher academic degrees have precedence for retention over those with lower academic degrees.

E. Written Notice of Termination

The President will send written notification of termination to the individual faculty members selected for dismissal. The notification will provide the following assurances and provisions:

1. The faculty member will be given the opportunity for employment in a related area provided he/she is professionally qualified to teach in such an area and provided such a position is available.
2. If such employment cannot be provided or is not accepted, the university will state in writing that the faculty member is being dismissed because of financial exigency, not dissatisfaction with service.
3. The faculty member's position will not be filled by a replacement within a period of three (3) years from date of termination, unless the released faculty member has been offered reinstatement and a reasonable time in which to accept or decline it.
4. The faculty member will be employed for a minimum of two long semesters beyond the date of notification unless in the case of a non-tenured faculty member there is less than two long semesters remaining on the contract term. In such instances, the non-tenured faculty member will only be employed for the remainder of the contract.
5. The faculty member will be informed of his/her procedural right to a hearing. In order to receive a hearing by a Hearing Committee as defined in Policy 3.125 (OP 06.07, *Faculty Due Process*), the faculty member must first appear before the Faculty Due Process Hearing Committee Advisory as defined in Section 3.125 (OP 06.07) and successfully present *prima facie* evidence of improper application of this financial exigency and consequent dismissal policy.

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Responsible Office

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Revision History

11/07/2003 MSU Policy 3.126 (Financial Exigency and Consequent Dismissal of Tenured Faculty and/or Dismissal of Non-Tenured Faculty Without Full Period of Notice is adopted by the MSU Board of Regents as MSU Policy and Procedure. 3.126)

02/11/2000

11/13/1992 Adopted and approved by the MSU Board of Regents