

V:01:08 FINANCIAL EXIGENCY

It is the intent of the Volunteer State Community College to develop policies and operational practices designed to provide emergency procedures, including Reduction-In-Force (RIF), should it experience a condition of financial exigency. This policy is in compliance with all the provisions of Tennessee Board Policy 5:02:06:00. Those provisions are:

- A definition of financial exigency (included in Section 1, below),
- A process section describing actions required prior to the declaration of financial exigency (included in Section 2, below),
- A process section describing actions required subsequent to the declaration of financial exigency (included in Section 3, below), including the appointment and composition of a Financial Exigency Committee,
- A statement of procedures for termination of personnel under conditions of financial exigency (included in Section 4, below),
- A statement of continuing rights of persons terminated under conditions of financial exigency (included in Section 5, below),
- A description of procedures for terminating a declaration of financial exigency (included in Section 6, below), and
- A glossary of terms (included in Section 7, below).

Volunteer State Community College policies include specific plans and process sections which define anticipated operational practices in the event of financial exigency, and assure maximum protection for the academic programs of Volunteer State Community College and the educational needs of students.

1. DEFINITION OF FINANCIAL EXIGENCY

Financial Exigency is the formal declaration by Volunteer State Community College that it faces an imminent financial crisis, and that there is a current or projected absence of sufficient funds (appropriated or non-appropriated) for the campus as a whole to maintain current programs and activities at a level sufficient to fulfill its educational goals and priorities, and that the budget can only be balanced by extraordinary means which include the termination of existing and continuing academic and non-academic appointments.

2. ACTIONS REQUIRED PRIOR TO THE DECLARATION OF FINANCIAL EXIGENCY

Financial exigency results from an imminent fiscal crisis characterizing an entire institution; thus, the condition of financial exigency may not be declared at a level below that of the institution (i.e., it may not be declared at the level of an academic or administrative department). In light of the gravity of consequences resulting from a declaration of financial exigency, the process leading to Volunteer State Community College recommendation to the Tennessee Board of Regents that financial exigency be declared must be cautious, fair, well informed, and as responsive as possible to the interests of various segments of Volunteer State Community College.

A. The responsibility for initiating the proposal for declaration of financial exigency resides

with the President. Since recommending the declaration of financial exigency is an extreme measure, that responsibility requires the President to provide all appropriate assurances and documentation that available and reasonable procedures to reduce the expenditure levels of Volunteer State Community College are exhausted and that no efforts have been spared to enhance revenues.

- B. Prior to proposing the declaration of financial exigency, the President shall share with the entire faculty or its representative body and with representatives of other campus personnel constituencies all pertinent analysis and documentation that, in his or her opinion, demonstrate an imminent fiscal crisis for the entire Volunteer State Community College that would warrant a declaration of financial exigency. That analysis and documentation should be shared promptly and with sufficient notice to all personnel constituencies (including the representative faculty body); and opportunities should be provided for discussions with and advice from those bodies, answers to appropriate questions, and general deliberations befitting an educational institution.
- C. After discussion and review of any advice from various personnel constituencies, the President shall - if he or she remains convinced that conditions warrant a Recommendation for declaration of financial exigency - present the recommendation with full documentation to the Chancellor.
- D. If his or her review supports the conclusion that conditions warrant a declaration of financial exigency, the Chancellor shall so recommend to Tennessee Board of Regents. In addition to providing Tennessee Board of Regents with a recommendation to declare financial exigency, the Chancellor in consultation with the campus President shall also submit a statement of findings and conclusions which shall include at least the following:
 - 1) A description of the current fiscal condition of Volunteer State Community College, including the projected amount of deficit that would result from failure to declare financial exigency.
 - 2) A projection of the fiscal condition that would result, in the opinion of the President and the Chancellor, from general types of action anticipated to be taken subsequent to a declaration of financial exigency.
 - 3) An analysis of the reason for the current imminent fiscal crisis characterizing Volunteer State Community College, specifying with appropriate documentation those identifiable factors contributing to the crisis.
 - 4) A statement of assurance, with supporting evidence, that available and reasonable procedures to reduce expenditure levels of Volunteer State Community College are exhausted, that further retrenchment within existing policies is not compatible with the objective of assuring maximum protection for the academic programs of

Volunteer State Community College and the educational needs of students, and that efforts to enhance revenues have been carried out in a responsible manner.

- 5) A transmittal of any advice, alternatives, or information in writing by any Volunteer State Community College personnel constituencies (including the representative faculty body).

3. ACTIONS REQUIRED SUBSEQUENT TO THE DELCARATION OF FINANCIAL EXIGENCY

Should Tennessee Board of Regents formally declare a state of financial exigency at Volunteer State Community College, the President shall in a reasonable time and with appropriate documentation initiate a proposed plan to allocate necessary funding reductions among the primary budgetary divisions within Volunteer State Community College. The following procedures shall be followed:

- A. The President shall convene Volunteer State Community College's Financial Exigency Committee, the composition of which shall be broadly representative of all personnel constituencies (including the representative faculty body) and shall be defined in the institution's policy on Financial Exigency.
- B. The President's proposed plan for allocating necessary funding reductions to primary budgetary divisions shall be reviewed by the Financial Exigency Committee. The Committee shall review the amounts of proposed reductions, evaluate proposed reductions in the light of institutional priorities, and consider administrative organization and academic priorities. It shall also consider the magnitude of proposed reductions in each primary budgetary division in the light of factors prescribed by applicable state or federal laws regarding fair employment practices.

The Committee shall submit in writing within thirty (30) days to the President its response to the President's plan, which shall include either an endorsement or a recommendation of alternatives.

The President shall consider any alternatives recommended by the Committee and - within thirty days (30) - shall indicate to the Committee a final decision relative to the internal allocation of necessary funding reductions. This final plan should be communicated broadly to all personnel constituencies (including the representative faculty body).

- C. Heads of primary budgetary divisions, with broad and clearly defined faculty and staff consultation, shall recommend to the President plans for effecting their designated budget reductions. Those recommendations from heads of primary budgetary divisions shall include proposed reductions in programs or personnel, shall achieve the designated reductions, and shall respond to any inquiries the President or the Financial Exigency Committee may direct.

- D. As a primary component of his or her review of plans submitted by heads of primary budgetary divisions, the President shall - prior to accepting them - submit the plans for review by the Financial Exigency Committee.

Volunteer State Community College financial exigency policies shall indicate general principles that the Committee will consider in reviewing plans submitted by heads of primary budgetary divisions. While policies may include other principles, the Committee must consider at least the following general principles:

- 1) Retrenchment other than Reduction-In-Force should reflect as its major priority maximum protection for the academic programs of the institution and the educational needs of students.
- 2) When an academic or administrative department undergoes Reduction-In-Force, the principal consideration in determining which persons to retain and which to terminate should be the maintenance of viable academic or support programs within that department.
- 3) Personnel of affected academic or administrative departments should have clearly defined advisory involvement relative to determining specific persons and minimal personnel needs or areas of specialization essential to a department's viability.
- 4) To avoid the possibility of compromising the quality of highly productive programs within the institution and to recognize the best interests of continued academic excellence, Reduction-In-Force cannot normally be accomplished on a strictly across – the – board basis.
- 5) Affirmative Action plans should be carefully considered in all personnel decisions.
- 6) Unless an exception is made to maintain a viable academic or support program (see #2 above) or for reasons of Affirmative Action (see #5 above), decisions as to the order of personnel terminations in academic or administrative departments should be made in light of factors clearly defined in Volunteer State Community College policies.

Volunteer State Community College policy on financial exigency should specify clearly and in rank order the role of defined factors in determining order of personnel terminations in academic or administrative departments under conditions of financial exigency. Those factors shall include - but are not limited to - tenure status, rank, seniority within rank, local seniority within rank, length of service, performance evaluations.

The Financial Exigency Committee shall submit in writing to the President its response to the plans for recommended reductions submitted by heads of primary budgetary departments. That response shall include either an endorsement or a recommendation of alternatives.

- E. After appropriate review of response by the Financial Exigency Committee, the President shall indicate his or her acceptance, rejection, or amendments to reduction plans submitted by heads of primary budgetary departments.

The President shall communicate his or her composite plan for reducing expenditures to the entire campus community.

- F. The President shall submit for approval by the Chancellor his or her composite plan for effecting budgetary reductions as required by the fiscal condition of Volunteer State Community College. That transmittal must include the written response by the Financial Exigency Committee to both (1) the President's plan for allocating necessary funding reductions to primary budgetary departments and (2) plans for the primary budgetary departments for effecting their designated budget reductions.

If the Chancellor approves the plan for implementation, he or she shall submit it as information – together with any analysis he or she may deem appropriate – at the next meeting of the Tennessee Board of Regents.

4. PROCEDURES FOR TERMINATION OF PERSONNEL UNDER CONDITIONS OF FINANCIAL EXIGENCY

Following declaration by the Tennessee Board of Regents that a condition of financial exigency exists at one of Volunteer State Community College, the President of Volunteer State Community College - having complied with whose actions required subsequent to the declaration of financial exigency (see Section 6. above) - is authorized to carry out those actions, including reduction-in-force, which are included in the plan approved by the Chancellor. Reduction-in-force under this policy may include any personnel classification, including tenured faculty members or probationary faculty members prior to the end of their terms of appointment.

- A. The procedures for termination described in Section 5, of this policy are in force only during a period in which the Tennessee Board of Regents has declared that Volunteer State Community College is in a condition of financial exigency.
- B. An individual selected for termination shall receive prompt written notification from the President. That notification shall include the following:
- 1) A statement of the basis on which the individual was selected for termination (see Section 5, subdivisions 1, 2, 5 and 6-if one or more of the three is appropriate),

- 2) An indication of the data or reasons supporting the choice if it is not a clearly defined factor such as rank or tenure status,
- 3) A statement of the date on which the termination is to become effective,
- 4) A copy of the declaration of financial exigency adopted by the Tennessee Board of Regents, and
- 5) Such other information as the President may deem appropriate.

C. An individual who receives notice of termination as described in Section 2 above may appeal the decision under the conditions indicated in this section.

Volunteer State Community College shall provide in its policy on Financial Exigency procedural provisions for a Faculty Hearing Committee and for a Staff Hearing Committee. The Faculty Hearing Committee and the Staff Hearing Committee shall insure prompt hearings that are thorough and fair but need not be judicial in nature. Strict rules of procedure (e.g., confrontation, cross-examination, and formal rules of evidence) need not be required.

The following conditions constitute grounds for appeal by an individual of notice of termination:

- 1) Volunteer State Community College procedures or provisions of Tennessee Board Policy 5:02:06:00 were not followed.
- 2) That appropriate criteria were not applied, including but not limited to the allegation that his or her selection constituted a violation of the individual's academic freedom or that unfounded or arbitrary assumptions of fact were made.

The Hearing Committees shall not review the decision concerning the declaration of financial exigency or the President's plan for the amount of reduction to be assumed by each primary budgetary department.

A recommendation will be sent from the Faculty or Staff Hearing Committee to the President recommending that he or she uphold or reverse the action of termination, and the President will inform the appropriate Hearing Committee and the individual of his or her final decision.

The final decision of the President may be appealed to the Chancellor and, after he has made a decision, to the Tennessee Board of Regents.

7. Continuing Rights of Persons Terminated Under Conditions of Financial Exigency

No vacancy caused by a termination under conditions of financial exigency shall be filled for

a period of three (3) years from the time of notice of termination without first offering the position to the person terminated (academic or non-academic), provided that the person terminated keeps Volunteer State Community College informed of his or her current mailing address. If the person previously terminated is offered the position and accepts, he or she will be returned in the same rank and tenure status.

8. Termination of Declaration of Financial Exigency

If the financial health of Volunteer State Community College improves sufficiently, the President shall initiate a proposal for the termination of a declared state of financial exigency. The policies and procedures established by this policy shall continue in effect during the period of a state of financial exigency. At the termination of a declared state, that action by Tennessee Board of Regents shall cause all policies, procedures, and bodies created in this policy for the sole purpose of making and implementing exigency decisions to cease to exist.

9. Definitions

The following are general definitions of words and terms used in this policy which is not defined above. These words and terms are subject to further qualification and definition in the previous sections of this policy.

- A. Reduction-In-Force - the termination of employment of faculty or staff resulting from a budgetary crisis reflected in a declared state of financial exigency.
- B. Volunteer State Community College and the Tennessee Board of Regents System for which funds are separately appropriated by the Tennessee General Assembly.
- C. Academic or administrative department - an academic department or other similar account level unit.
- D. Representative faculty body - the major faculty organization devoted to governance (as implied in Tennessee Board of Regents Policy 1:03:10:00).
- E. Primary budgetary department - a major budgetary area of Volunteer State Community College (e.g., academic affairs, student affairs, fiscal affairs) usually headed by an administrator reporting directly to the President.

TBR Source: 1:03:10:00: TBR Meetings, June 20, 1975; September 30, 1983; June 19, 1998
5:02:06:00: SBR Meeting, September 30, 1983

VSCC Source: August 19, 1888, President; November 3, 1998, President; January 6, 2009, President's Cabinet