



EAST TENNESSEE STATE
UNIVERSITY

Financial Exigency

Policy Name: Financial Exigency

Policy Purpose

This policy specifies the criteria and process for a Declaration of Financial Exigency.

Responsible Official, Office, and Interpretation

The Board of Trustees is responsible for the review and revision of this policy. For questions about this policy, please contact the Secretary of the Board of Trustees. The Board of Trustees, in consultation with the Office of University Counsel, has the final authority to interpret this policy.

Defined Terms

A defined term has a specific meaning within the context of this policy.

Academic Personnel

Members of the personnel of each Academic Unit who carry out one or more of the following primary functions of the university: academic instruction/librarianship; research, scholarly, and/or creative activities; clinical or professional practice; and service to the Academic Unit, college, university, profession and/or community; clinical or professional practice. Faculty members commit to continue their professional development and active involvement in the primary function(s) of their Appointment.

Declaration of Financial Exigency

The formal declaration by the Board of Trustees that East Tennessee State University faces a financial crisis, that there is a current or projected absence of sufficient funds for the campus as a whole to maintain its 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, but are not limited to the termination of academic units as well as academic and non-academic appointments across academic and administrative units.

Policy Name: Financial Exigency

Financial Exigency Plan

The plan to implement a reduction in faculty and or academic units developed by the President, in consultation with the Financial Exigency Committee, and approved by the Board of Trustees.

Policy Name: Financial Exigency

Policy

This policy pertains to the elimination of faculty positions and/or academic units and programs as a result of a financial crisis. Financial exigency is a state of financial crisis which affects the University as a whole, to the extent that it may become necessary to terminate tenured appointments or other appointments prior to their normal expiration, and a state in which the survival of programs deemed essential to the mission of the University is in doubt. In the event of financial exigency, it will be necessary for the University to examine its mission closely in order to determine those programs which are considered essential for maintaining a viable University. Considerations for retaining programs shall include compliance with statutory requirements, maintenance of academic excellence, and adherence to related employment policies such as the Reduction in Force policy for impacted staff positions.

In the state of financial exigency, programs may be discontinued or allocated reduced resources. Comprehensive study will be used to determine how required reductions are to be accomplished, including termination of appointments of faculty members, administrative and professional personnel, staff, and others as well as maintenance and operations funding.

1. Imminent Financial Crisis.

In the event financial projections for the University are so adverse that the University cannot remain viable, the President will assess all available information related to the imminent financial crisis and take immediate steps to reduce expenditure levels prior to requesting a Declaration of a Financial Exigency from the Board of Trustees. After notifying the Board of Trustees of the imminent financial crisis, the President shall release a formal written statement to the campus advising that there is an imminent financial crisis and that steps will be taken to reduce expenditures.

If such action to reduce expenditures does not result in an appropriate resolution, the University President will present a request for Declaration of Financial Exigency to the Board of Trustees.

2. Declaration of Financial Exigency.

The Board of Trustees holds the sole authority to issue a Declaration of Financial Exigency. Prior to a wholesale reduction-in-force or academic program elimination due to financial exigency, the Board of Trustees must vote to approve a Declaration of

Policy Name: Financial Exigency

Financial Exigency. If the Board of Trustees votes to approve a Declaration of Financial Exigency, the Board of Trustees will direct the President to prepare a Financial Exigency Plan. The University President, in consultation with the Financial Exigency Advisory Committee shall propose a plan to allocate necessary funding reductions among the academic departments, to reduce Academic Personnel, and/or to eliminate academic programs.

3. Financial Exigency Plan.

If the Board of Trustees approves a Declaration of Financial Exigency, the President shall: (1) form the Financial Exigency Advisory Committee; (2) communicate to University the nature of the financial exigency; and (3) prepare a Financial Exigency Plan.

3.1. Formation of the Financial Exigency Financial Exigency Advisory Committee. The Financial Exigency Advisory Committee shall consist of the following members:

3.1.1. Provost, Chief Academic Officer

3.1.2. Chief Financial Officer

3.1.3. Chief Operating Officer

3.1.4. Two Deans selected by the Deans' Council

3.1.5. Departmental Chair as selected by the Council of Chairs

3.1.6. Two members of the Faculty Senate Executive Committee selected by the Faculty Senate

3.1.7. President of the Staff Senate

3.1.8. President of the Student Body

The President shall designate the chair of the Committee.

3.2. Creation of Financial Exigency Plan.

The President will work with the Financial Exigency Advisory Committee to address the deficiency in resources for the current fiscal year and the next fiscal year or a longer period as required by the Board of Trustees. The President will submit the Financial Exigency Plan to the Board of Trustees for review.

3.3. Board of Trustees Review of Financial Exigency Plan.

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Policy Name: Financial Exigency

Based upon the Financial Exigency Plan submitted by the President and review of available information, the Trustees shall vote on the Financial Exigency Plan. The vote is limited to: (1) approve; or (2) reject with feedback to the President on the Financial Exigency Plan. If the Financial Exigency Plan is rejected, the President shall submit a new plan to the Board of Trustees at the next regularly scheduled full Board of Trustees meeting or earlier at the discretion of the Board of Trustees.

4. Academic Personnel.

4.1. Reductions due to Declaration of Financial Exigency.

Recommendations to eliminate positions or programs, or to curtail programs and services, shall not include termination of the appointment of a tenured faculty member in favor of retaining one without tenure in the same department, except in extraordinary circumstances. In some cases, an arrangement for early retirement of a tenured faculty may be worked out with the consent of the faculty member. In other cases, a change from full-time to part-time service may be a feature, though not a complete solution, of an acceptable settlement.

In those cases where there is no reasonable choice other than terminating the services of a tenured faculty member, appropriate notice must be given. In all cases of termination of appointment because of financial exigency, the position of the faculty member concerned shall not be filled by a permanent 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. If a tenured faculty member's position is eliminated due to Financial Exigency, the University may transfer the tenured faculty member to another open and funded position for which the tenured faculty member is qualified.

4.2. Notice and Opportunity to be Heard.

In the event that it is determined that the employment must be terminated due to Financial Exigency written notice of termination will be provided as soon as practicable.

When notice of termination of employment is received, a faculty member may appeal their specific termination; however, the faculty member has no appeal right related to the Declaration of Financial Exigency or to the decision to terminate an academic program due to financial exigency. The faculty member must submit a written statement of appeal within ten (10) business days of the notice of termination to the

Policy Name: Financial Exigency

Provost. The President shall review and determine whether to uphold the termination or overturn the termination within ten (10) business days. The decision of the President is final and cannot be appealed to the Board of Trustees.

Policy Name: Financial Exigency

Procedure

N/A

Authority and Revisions

Authority: T.C.A. §§ 49-8-203 et seq.; 49-7-187 et seq.

Previous Policy: N/A

The ETSU Board of Trustees is charged with policy-making pursuant to TCA § 49-8-203, et seq. This policy may only be revised by the Board of Trustees. Before a substantive change to the policy section may take effect, the requested changes must be: (1) presented to the Business and Finance Committee of the Board of Trustees for review and approval; and (2) if approved by the Business and Finance Committee, presented for a vote of the Board of Trustees and approved by a majority of the Board of Trustees. The Secretary of the Board will provide a notification to the Board of Trustees if a technical revision to this policy is implemented or a revision to the procedure section is implemented.