

THE UNIVERSITY OF AKRON



OFFICE OF THE PRESIDENT

GARY L. MILLER
PRESIDENT

TO: John Wiencek, Executive Vice President & Provost
FROM: Gary L. Miller, President *Gary L. Miller*
RE: Commence Retrenchment Procedures
DATE: August 21, 2020

Since the arrival of the COVID-19 pandemic, The University of Akron acted as necessary to meet the catastrophic circumstances created by unforeseen impacts to its General Fund revenue streams and expenditures that could not be addressed within existing procedures. All actions taken were necessary, appropriate, and defensible.

Despite our best efforts, certain additional circumstances now exist that require planning contingencies. This letter memorializes only one such contingency plan. It should not be interpreted or construed otherwise.

Certain matters, outside the University's control, could significantly impact FY21 and FY22 and require additional actions be taken. Such matters include but are not limited to: Akron-AAUP's rejection of the July 13, 2020 tentative agreement (which included acceptance of the faculty layoffs implemented under Article 15, Section 12 of the Collective Bargaining Agreement between The University of Akron and The American Association of University Professors, The University of Akron Chapter, effective through December 31, 2020 ("CBA"); pending grievances, arbitrations, lawsuits and administrative actions challenging the Article 15, Section 12 layoffs; and direct and indirect consequences of the COVID-19 pandemic, which could result in further layoffs under Article 15, Section 12. Nothing herein suggests that Article 15, Section 12 should not have been invoked in May 2020. Nothing herein estops invocation of Article 15, Section 12 during FY21 or FY22, as may be necessary.

As detailed by Article 15, Section 3(A)-(B) of the CBA, you are directed to commence the procedures for considering, and possibly implementing, a retrenchment of the faculty.

Retrenchment may be necessary because the following circumstances exist at the University that are delineated in Article 15, Section 1 of the CBA:

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1. The following circumstances have occurred that have created financial problems so severe that they threaten the University's ability to maintain its operations at an acceptable level of quality:
 - a. adverse financial consequences from the response to the COVID-19 pandemic;
 - b. the rejection by the Akron-AAUP bargaining unit of the ratification of the July 13, 2020 tentative agreement, which would have included the Akron-AAUP's withdrawal of its grievance and arbitration demand challenging the University's faculty layoffs under Article 15, Section 12 of the CBA; and
 - c. the adverse financial consequences, including a rapid drain in the University's revenues and reserves, should the University not prevail in that arbitration and be forced to recall, with back pay, the faculty laid off under Article 15, Section 12 and continue their employment until layoffs under Article 15, Sections 3-7 could occur.
2. A significant reduction in the enrollment at the University that has continued for over five academic semesters, that has been exacerbated by the sudden and serious reduction in student enrollment during the Spring 2020 semester and the anticipated additional reduction in enrollment during the 2020-21 Academic Year from the response to the COVID-19 pandemic, and which is expected to persist in future years;
3. The decision by the Board of Trustees, per Resolution No. 5-1-20, to consolidate certain Colleges, Departments and Programs; and
4. The decision by the Ohio General Assembly to reduce significantly the State Share of Instruction ("SSI") funding for the 2020-21 Academic Year and possibly future academic years.

The Board of Trustees has determined that these circumstances exist.

The Board of Trustees also has satisfied the requirements of Article 15, Section 2 of the CBA, in that it has: (1) determined, via Resolution No. 7-7-20, that retrenchment is necessary; (2) attempted, via Resolution Nos. 6-4-17, 10-2-17, 12-19-17, 2-11-18, 3-1-19, to achieve the desired reduction in the number of faculty through attrition, including early retirement and participation in the Transition After Retirement Program; (3) attempted, via Resolution Nos. 5-2-20, 5-3-20, 5-4-20, 5-5-20, 5-6-20, 5-7-20, 6-14-20, 6-15-20, 7-1-20, 7-2-20, 7-3-20 and 7-6-20, to reduce further personnel costs via reductions in force, furlough days, temporary reductions in compensation, increases in employee contributions to health plan premiums, and elimination of retiree dependent health insurance benefits of employees other than AAUP faculty; and (4) determined, via Resolution No. 7-7-20, that retrenchment requires reductions in faculty beyond those conducted through attrition.

You are directed to provide the following notices to the following persons:

- Provide to the Akron-AAUP on behalf of the University, as required by Article 15, Section 3(A) of the CBA, evidence of: (1) the need for retrenchment, based upon the criteria listed in Section 1 of the CBA and listed above; (2) efforts to implement this retrenchment as detailed in Article 15, Section 2(A)-(B) of the CBA and listed above; (3) the insufficiency of these efforts; and (4) the necessity for a recommendation to release faculty; and
- At the same time, notify the Deans/Directors and the Akron-AAUP, as required by Article 15, Section 3(B) of the CBA, of the units or programs affected by the retrenchment that retrenchment may be needed, along with a written description and rationale for the proposed reductions.

You are also directed to ensure that the Deans/Directors of the affected units obtain the recommendations from the affected units' members on how best to carry out the proposed retrenchment, including any alternative proposals, within ten days after issuing the notice required by Article 15, Section 3(B) of the CBA

You are also directed, as detailed in Article 15, Section 4 of the CBA, to take the following actions:

- form within five days after sending the data and information required by Article 15, Section 3(A) of the CBA a Joint Committee on Retrenchment and to provide the Committee with the information identified in Article 15, Section 3(A)-(C) of the CBA and detailed above; I appoint the following persons to be members of this Committee: Dr. Susan Hanlon, Dr. Paul Levy, and Dr. Heather Walter;
- oversee the Committee's efforts to consider the factors listed in Article 15, Section 4(B) of the CBA as the Committee prepares its recommendations;
- forward to the Committee members the affected unit members' recommendations and alternative proposals required by Article 15, Section 3(C) of the CBA within ten days after the Deans/Directors of the affected units receive the notice required by Article 15, Section 3(B); and
- ensure, as required by Article 15, Section 4(C) of the CBA, that the Committee completes its efforts and submits to me within thirty days after sending the notice to the AAUP required by Article 15, Section 3(A) of the CBA the Committee's advisory recommendations, which may include ways to relieve the need for retrenchment by raising additional funds, by reallocating funds, or by cutting or eliminating specified activities.

After I receive the Committee's recommendations, I will forward them to the Board of Trustees so that they can consider them in making a final determination to implement retrenchment as required by Article 15, Section 5 of the CBA.

Please keep me apprised on an ongoing basis regarding the progress being made in working through these directions and responsibilities.