

UNIVERSITY OF AKRON PROPOSAL
October 28, 2020

ARTICLE 15
RETRENCHMENT

Section 1. Determining the Necessity for Retrenchment

A. Retrenchment may be necessary when a judgment, based upon evidence made available to the Akron-AAUP according to the schedules set forth in this Article, indicates one (1) of the ~~six (6)~~ circumstances listed in Section 1(A)(1) through 1(A)(4) exists at the University.

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1. ~~Lack of funds, defined as the University has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations, and does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding;~~

Deleted: Financial exigency, defined as financial problems so severe that they threaten the University's ability to maintain its operations at an acceptable level of quality

2. ~~Lack of work, defined as a current or projected decrease in workload that requires a reduction of current or projected staffing levels in the University's organization or structure;~~

3. ~~Abolishment of positions, defined as the deletion of a position or positions from the University's organization or structure as a result of a reorganization for the efficient operation of the University, for reasons of economy, or for lack of work;~~

4. ~~Reduction in enrollment of a college, department, or program and which is expected to persist;~~

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5. ~~Discontinuation, reduction or consolidation of a college, department or program;~~

6. ~~Action by the Ohio Board of Regents, the Ohio General Assembly, any State of Ohio Executive Branch Official having authority over the University, or any court order which requires the University to implement a retrenchment for the reasons listed in Section 1(A)(1) through 1(A)(5) or for any other legitimate reason.~~

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Section 2. Bargaining Unit Reductions through Attrition First

A. Normal attrition is the preferred approach to alleviating financial exigency or responding to enrollment patterns.

B. If the ~~President~~ determines, according to the criteria listed in Section 1 of this Article, that retrenchment is necessary and, further, that in implementing this retrenchment a reduction in bargaining unit faculty is necessary, the ~~University~~ shall ~~determine if it is reasonably possible~~, to achieve the desired result through attrition, including voluntary early retirement, ~~and if so, to seek implementation of~~

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a reduction in bargaining unit faculty through attrition. It is not necessary that reduction in attrition be attempted in every college, department or program where reductions in bargaining unit faculty by retrenchment may occur.

- C. If, after making this determination and completing this procedure, if any, the President makes the judgment that retrenchment requires reductions in bargaining unit faculty beyond those conducted through attrition, the following procedures establish the process for implementing any retrenchment.

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Section 3. Information

In this Article, "day" means any calendar day.

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- A. The Provost shall provide to the Akron-AAUP evidence of the need for retrenchment, based on the criteria listed in Section 1 of this Article, of efforts to implement this retrenchment as outlined in Sections 2(A) and 2(B) of this Article, evidence that these efforts, if any, remain insufficient, and evidence that documents the necessity for a recommendation to release bargaining unit faculty.
- B. At the same time, the Provost shall notify the dean/director of the affected unit(s) or program(s) that retrenchment may be required. Accompanying such notification shall be a written description and rationale for the proposed reductions, a copy of which is to be simultaneously forwarded to the Akron- AAUP.
- C. Upon receipt of the above-described notice of possible retrenchment, the dean/director of the affected unit(s) shall obtain the recommendations of the affected unit(s)'s members on how best to carry out the proposed retrenchment. The unit members' recommendations, including any alternative proposals, shall be submitted by the dean/director to the Provost and to the Joint Committee on Retrenchment (see Section 4 of this Article, below) within ten (10) days after receipt of the notification of possible retrenchment, unless otherwise mutually agreed in writing.
- D. The Akron-AAUP shall be provided access and the opportunity to inspect and/or copy any additional information relevant to the anticipated retrenchment within five (5) days after the delivery of a written request to the Provost.

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Section 4. Consultation

- A. Within five (5) days after the Akron-AAUP's receipt of the data and information in Section 3(A) a Joint Committee on Retrenchment, with three members appointed by the President and three (3) members appointed by the Akron-AAUP, shall be formed, members shall be provided the information regarding retrenchment identified in Section 3 of this Article, and this group shall hold its first meeting within five (5) days after the Joint Committee on Retrenchment is formed. The Provost, or designee, shall chair the committee in an ex- officio, non-voting capacity.

B. In the case of an anticipated retrenchment affecting a college, department, or program, the Joint Committee on Retrenchment's recommendations shall include, with respect to such college, department or program, consideration of:

1. Its historical role and contributions in the University's educational, scholarly and service mission, and those long-range circumstances which may have changed to alter that role and those contributions;
2. The dependence of other programs in the University on the college, department, or program;
3. Duplication elsewhere in the University of courses, research or services offered through the department, college or program, and possible organizational arrangements which might serve as alternatives to discontinuation;
4. Arrangements which can be made to allow students enrolled to satisfy degree or certificate requirements;
5. Stature of its faculty and alumni, and the possible consequences to the academic stature of the University through discontinuation;
6. The profile of ages, periods of service and tenure status of its bargaining unit faculty and an estimate of their possible usefulness elsewhere within the University;
7. Possible arrangements for planned phasing out of the college, department, or program as an alternative to abrupt discontinuation; and
8. Any other factors the Joint Committee on Retrenchment deems relevant.

C. Unless otherwise mutually agreed to in writing, within thirty (30) days after the receipt of the data and information in Section 3(C) this Joint Committee on Retrenchment will submit its advisory recommendations to the President. Such recommendations may include ways to relieve the need for retrenchment by raising additional funds, by reallocating funds, or by cutting or eliminating specified activities.

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D. The President shall forward these recommendations along with his or her own recommendations to the Board as soon thereafter as practicable. Other than as provided in Section 12 of this Article, the University agrees to take no action regarding retrenchment until the President and the Board have reviewed the recommendations from the Joint Committee on Retrenchment.

Section 5. After receiving and considering the recommendation(s) in Section 4, the Board will make the final determination to implement retrenchment.

Section 6. The Retrenchment Process

Once the final determination has been made that retrenchment is necessary, the following factors shall determine which bargaining unit faculty within the affected unit(s) will be released:

- A. In making the final determination as to whether or not an individual bargaining unit faculty member will be released, the following factors will be given full consideration:
1. The University's commitment to affirmative action and its policies adopted thereunder
 2. The quality of the bargaining unit member's service in the areas of teaching, research and publication and University and public service
 3. The impact on the academic program resulting from the release of the bargaining unit member
 4. The strategic importance of each academic program to the mission of the University
 5. The financial viability of each academic program
 6. The feasibility of other faculty performing the bargaining unit member's responsibilities in the areas of teaching, research and publication and University and public service
 7. The comparative cost savings of retrenching individual bargaining unit members
 8. Other factors deemed relevant by the University, including but not limited to disparate impact of tenured/tenure-track faculty in legally protected classifications.

The dean/director of the affected unit(s) after receiving the recommendation of the affected unit's members concerning the factors listed in this Section 6(A) will make final recommendations in accordance with these factors, to the Provost concerning the individual bargaining unit faculty to be released. Whenever bargaining unit faculty are considered approximately equivalent in the ratings on the factors set forth in this Subsection (A), then the following additional factors shall be the deciding factors in the following order of priority:

1. Tenure, Probationary Status
2. Distinguished Professor, Professor, Associate Professor, Assistant Professor, Instructor rank

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<#>Probationary faculty status
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<#>Tenured faculty status
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<#>Bargaining unit faculty, when within each of the categories listed in above Section 6(A), will then be placed in the appropriate subcategory listed below within each such major category:
<#>
<#>Instructor
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<#>Assistant Professor
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<#>Associate Professor
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<#>Professor
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<#>Distinguished Professor
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<#>Bargaining unit faculty will be recommended for release starting with the lowest numbered subcategory within the lowest numbered major category.

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3. Length of service with the University as a fulltime faculty member

- B. The Provost will then make the final decision for the University in accordance with Section 6(A) concerning the bargaining unit faculty member to be released and will notify each such bargaining unit faculty member in accordance with the time limitations set forth in the following Section 7. A copy of each such notification shall be sent to the Akron-AAUP.

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Section 7. Notice of Release

- A. The University will provide notice of release to affected members of the bargaining unit. The effective date of the release shall be no earlier than the end of the next academic semester (not including Summer) following the issuance of the notice of release.

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1.

Deleted: <#>For a bargaining unit faculty member holding a first (1st) or second (2nd) one (1) year contract expiring at the end of that academic year, not later than March 15; or if the one (1) year appointment terminates during an academic year, at least three (3) months in advance of its termination.¶

Section 8.

- A. The University will endeavor to place released bargaining unit faculty, if qualified, in other available teaching positions within the University. No tenured bargaining unit faculty member will be dismissed solely on the basis of discontinuance, reduction or consolidation of a program or department without the University making documented good-faith efforts to relocate the bargaining unit faculty member within the University. In addition to the foregoing, the University will endeavor to find other areas of employment within the University community for tenured bargaining unit faculty that are scheduled for release under this retrenchment Article.

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<#>For a bargaining unit faculty member holding more than a second (2nd) one (1) year contract expiring at the end of that academic year, not later than December 15; or if the one (1) year appointment terminates during an academic year, at least six (6) months in advance of its termination.

- B. Notwithstanding the foregoing, if there is a consolidation of programs or departments or colleges among any of the public institutions of higher education within Northeast Ohio, such that the University would lose an existing program or department or college, the University may, in lieu of its above obligations to bargaining unit faculty members in such program or department or college: (1) first (1st) place all such tenured bargaining unit faculty members in corresponding positions within that public institution of higher education for which they are qualified within the locus of tenure, at the same salary and in the same rank, as they had at the University at the time of release (and with the same benefits of other tenured faculty of such salary and rank at that other institution); and (2) also place all, or if unable to do so, less than all non-tenured bargaining unit faculty in corresponding positions within that public institution of higher education for which they are qualified within the locus of tenure, at the same salary and in the same rank, as they had at the University at the time of release (and with the same benefits of other non-tenured faculty of such salary and rank at that other institution). In the event any such released bargaining unit faculty member had obtained tenure at the time of release from the University, such placement with that other public higher education institution shall include placement with tenure.

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<#>For a tenured bargaining unit member, at least eighteen (18) months, spanning at least three (3) academic semesters, not including summers.¶

Section 9. During a period of three (3) academic years following release of a bargaining unit faculty member under this Article, such bargaining unit faculty member shall be offered reinstatement to the same or similar position if reauthorized. Released bargaining unit faculty who have been offered reinstatement will have a period of sixty days in which to accept or decline the offer of reinstatement. The released bargaining unit faculty member shall be able to complete the term of his or her current employment (up to one (1) year) before beginning the recalled position at the University. The University's offer to reinstate, if accepted, shall be at the same tenure level, rank and salary, adjusted to incorporate any general, non-performance based salary increases that were granted since the time the bargaining unit faculty member was released. If the bargaining unit faculty member declines the offer of reinstatement, all reemployment rights at the University shall be terminated and the position may be filled in accordance with regular employment policies and practices of the University. If the same or similar position is not reopened within the three (3) academic years referenced above, the bargaining unit member's employment rights at the University shall be terminated.

Section 10. In the event that a part-time teaching position becomes available in the program of a released bargaining unit faculty member and if the bargaining unit faculty member has the appropriate qualifications for the position, the bargaining unit faculty member will receive first (1st) consideration for the position. Acceptance or declination of such a part-time teaching position does not affect in any way the rights of a released bargaining unit faculty member to reemployment under Sections 8 or 9 of this Article.

Section 11. A bargaining unit faculty member who accepts reappointment shall be credited with rank and shall be reappointed with tenure if tenured at the time of release. A bargaining unit faculty member released due to financial exigency will receive from the University, to commence at the time of release, a one (1) year continuance of the University health insurance policy without charge. A terminated bargaining unit faculty member shall be eligible to continue coverage under the University's group rate benefit programs for health insurance benefits at his/her own expense as provided for under COBRA.

Section 12. The procedure for retrenchment set forth in this Article is designed to accommodate both the orderly change in the University and reductions that must accompany more abrupt changes in circumstances. The parties recognize that catastrophic circumstances, such as *force majeure*, could develop which are beyond the control of the University and would render impossible or unfeasible the implementation of procedures set forth in this Article. Therefore, this Section 12 shall not be used to accomplish retrenchment as set forth in this Article. If such unforeseen, uncontrolled and catastrophic circumstances should occur, then the University agrees that, before taking any action that could be interpreted as bypassing the retrenchment procedures, representatives of the University will meet with representatives of the Akron-AAUP to discuss and show evidence of the circumstances described above and that this evidence will at least satisfy the requirements outlined in Section 3(A) of this Article and to discuss the proposed course of action.