**IV.h.2. *Termination of Faculty Members in Cases of Financial Exigency or Phasing Out of Program:***

1. Determination of Financial Exigency or Discontinuance of Academic Programs

This policy is to protect academic freedom and to ensure academic due process when Arkansas State University must contend with serious financial problems.

A financial exigency is a fiscal condition that requires and permits a reduction or elimination of a program or several programs even though it results in the termination or reassignment of tenured faculty. A discontinuance of an academic program permits the termination or reassignment of faculty in an academic program whether they be tenured or not. A decision to discontinue or phase out a program does not require a declaration that a condition of financial exigency exists, but such a decision must take due regard of annual contractual obligations to the faculty and the educational needs of the students.

2. Faculty Participation

Financial exigency is an imminent financial crisis which threatens the survival of the institution as a whole. Moreover, the crisis must be one that cannot be alleviated by less drastic means than the termination of faculty appointments. The exigency must be genuine and so must the need to release tenured faculty members or other members of the faculty before the end of their specified terms.

First, the faculty senate should participate in the decision that a financial exigency exists or is imminent, and that all feasible alternatives to termination of appointments have been pursued while it is not a primary faculty responsibility with respect to these particular decisions, the faculty should participate in the decision that a financial exigency exists and is imminent. This policy acknowledges that the administration and the board of trustees have the major responsibilities for identifying serious problems that may imperil the institution’s financial health, and that they, not the faculty, are primarily responsible for ensuring the continued solvency of the institution.

Second, the faculty should have the primary responsibility for judgments determining where within the overall academic program termination of appointments may occur, because such judgments involve considerations of educational policy, including affirmative action, as well as of faculty status.

Third, the faculty’s primary responsibility also extends to determining the criteria for identifying the individuals whose appointments are to be determined. These criteria may include length of service.

Fourth, this policy assigns to the faculty an indirect role in identifying the individuals whose appointments are to be terminated. The responsibility for identification is in the hands of a person or group designated or approved by the faculty.

3. Criteria for Identification of Faculty to be Terminated

a. Procedure

The President will determine whose appointments are to be terminated following the declaration of financial exigency or phasing out of program based on the criteria identified below.

b. Criteria

The criteria to be utilized by department chairs and deans in making specific recommendations regarding reductions in faculty in the event of a financial exigency declared by the Board of Trustees or phasing out of program shall be the following:

In the event of a reduction in the number of faculty within a given department, but not the elimination of that unit, the principal consideration in determining which faculty to retain and which to release should be the maintenance of viable and effective academic programs within that department. After faculty members, tenured and non-tenured, who are essential to a program's effective continuance have been identified, the remaining faculty within a department who can be retained, if any, should have priority in retention on the basis of the following criteria, stated in general order of importance:

(1.) *Tenure*

Tenure should be assigned major importance in retaining faculty within a department having both tenured and non-tenured faculty.

(2.) *Programmatic Needs of the University*

The overall programmatic needs of the university must be considered. An adequate curriculum must be retained, with the requisite courses for basic degree programs and major offerings. The deans, and department chairs will review faculty who are to continue and ensure that those who are to continue must be able to contribute significantly to the curriculum, to teach the necessary courses. The faculty members retained will possess the requisite qualifications to perform the work required.

(3.) *Rank*

Rank normally reflects the degree of teaching effectiveness and scholarly accomplishment by the faculty member, holding length of service constant.

(4.) *Length of Demonstrated Professional Excellence*

Extended service of high caliber is an important measure of the basic character and motivation of the faculty member and an indication as well of loyalty to the profession and institution, intellectual stamina, and general stability. Such assets, demonstrated over an extended time, will be given considerable attention and credit.

4. Procedure for Termination

1. The statement of financial exigency or the phasing out of an institutional program as the reason for dismissal of a faculty member should be supported in the notice of termination to the faculty member by a specific description of the financial exigency or the reason for phasing out of the institutional program involved. Such a statement shall be *prima facie* showing of good cause for the dismissal of the faculty member.
2. After the faculty member has received notice in writing of the reasons for dismissal, the appropriate administrative officer, at the request of the faculty member, will discuss the matter with the individual in a personal conference.

A faculty member who has been issued notice of termination because of

financial exigency has the right to a full hearing before a faculty committee.

This policy declares that an on-the-record adjudicative hearing will be

observed. The faculty member has a right to present witness and evidence, to cross-examine all witnesses, and to be provided with a record of the hearing. The issues that may be raised in the hearing include: the existence and extent of the condition of financial exigency, with the burden on the administration to prove that the exigent condition exists and that it threatens the entire institution; the validity of the educational judgments and criteria for identifying which faculty appointments will be terminated, but with the recognition that the recommendation of a faculty body concerning these matters will be considered presumptively valid; and the criteria that have been applied in the particular case.

1. If an understanding of the University's decision satisfactory to the faculty

member does not result, the faculty member should be advised of the right to file a grievance.