

1 **UNITED ACADEMICS PROPOSAL**

2 9-6-13

3 **ARTICLE 25**

4 **TERMINATION WITHOUT CAUSE**

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7 **Section 1.** A termination of a bargaining unit faculty member may occur only for cause
8 (pursuant to the provisions of Article 18, Discipline and Termination) or without cause
9 under this Article as a result of financial exigency or formal discontinuance of a program,
10 department, or unit.
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12 **Financial Exigency**

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14 **Section 2.** Before the appointment of a bargaining unit faculty member can be terminated
15 for financial exigency, a determination must be made by the University Administration
16 that a demonstrably bona fide financial exigency exists. Financial exigency is a severe
17 financial crisis that threatens the academic mission of the university as a whole and
18 cannot be alleviated by less drastic means.
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20 In order to determine that a bona fide financial exigency exists the University
21 Administration must follow the procedures described in sections below.
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23 **Section 3.** If available information leads the University Administration to believe that a
24 bona fide financial exigency may exist or may be imminent, the University
25 Administration shall immediately notify the Union and any potentially affected faculty
26 members. The notice shall include an explanation of the reason for the proposed
27 terminations and shall identify all faculty members who potentially may be terminated.
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29 **Section 4.** In order to evaluate the claims of exigency and to make informed proposals
30 about the impact, the Union shall have access to all information necessary to evaluate the
31 university's financial situation, including the following:
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- 33 a. at least five years of audited financial statements;
34 b. budgets for the current and the following year;
35 c. detailed cash flow estimates for future years;
36 d. detailed program, department, and administrative unit budgets;
37 e. enrollment projections.

38 **Section 5.** The Union shall issue a written response within a reasonable amount of time,
39 but in no case less than 90 days from the notification required in Section 3. Upon the
40 request of either party, the University Administration and the Union will meet and confer.

1 **Section 6.** Should the University Administration decide, after the procedures outlined in
2 Section 4, to proceed to issue a declaration of financial exigency and notices of
3 termination, written notification will be provided to the Union and to all affected
4 bargaining unit faculty members. Tenured and tenure track bargaining unit faculty
5 members will be provided at least one year's notice and NTTF bargaining unit faculty
6 members shall be given advance notice of at least one-year or the duration remaining of
7 their contract, whichever is shorter. Bargaining unit faculty members scheduled for
8 termination will receive written notice to their university email address or by US mail
9 should the faculty member not have a university email address. The notice will include
10 the effective date of termination; the reason for the termination; and a statement of recall
11 rights.

12 **Section 7.** The University Administration will determine which bargaining unit faculty
13 members will be terminated based on the following considerations:

- 14 a. The University Administration will retain bargaining unit faculty members
15 who have the best skills and abilities to accomplish future work. In making
16 such judgment, the University Administration will consider all appropriate
17 factors, including but not limited to: capacity to meet the needs of the
18 university in the future; performance evaluation history; academic training;
19 professional reputation; teaching effectiveness, research record or quality of
20 scholarly or creative activity; and service to the profession, the university and
21 the community.
- 22 b. In identifying bargaining unit members for termination, the university will
23 consider its commitment to promote diversity and its legal obligations
24 regarding affirmative action.
- 25 c. The University Administration will report to the Union which bargaining unit
26 faculty members are targeted for termination and a detailed rationale for their
27 selections.

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29 **Section 8.** Within 30 days of the declaration of financial exigency, the Union and the
30 bargaining unit faculty members shall be provided the opportunity to make a public
31 presentation to the President and the Board of Trustees. The issues to be addressed may
32 include:

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34 a. The existence and extent of the condition of financial exigency.
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36 b. The validity of the academic judgments and the criteria for identification of
37 faculty members for termination.
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39 c. Whether the criteria are being properly applied in each individual case.

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2 **Academic Reasons**
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4 **Section 9.** Before the appointment of any bargaining unit faculty member can be
5 terminated for academic reasons, a determination must be made by the University
6 Administration that a demonstrably bona fide academic need for formal discontinuance
7 of a program, department, or unit exists.
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9 This determination must be made pursuant to university procedures providing for faculty
10 and other appropriate input and be based on academic considerations that reflect long-
11 range judgments about the academic mission of the university. Legitimate academic
12 considerations allowing termination do not include cyclical or temporary variations in
13 enrollment.
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15 **Section 10.** If available information leads the University Administration to believe that a
16 demonstrably bona fide academic need for formal discontinuance of a program,
17 department, or unit may exist, the University Administration shall immediately notify the
18 Union and any potentially affected faculty members. The notice shall include an
19 explanation of the reason for the proposed terminations and shall identify all faculty
20 members who potentially may be terminated.
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22 **Section 11.** In order to evaluate the bona fide academic need and to make informed
23 proposals about the impact, the Union shall have access to all information necessary to
24 evaluate the decision, including all relevant financial and academic / programmatic
25 information.
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27 **Section 12.** The Union shall issue a written response within a reasonable amount of time,
28 but in no case less than 90 days from the notification required in Section 8. Upon the
29 request of either party, a meet and confer process will take place.
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31 **Section 13.** Within 30 days of the Union's written response, the Union and the bargaining
32 unit faculty members shall be provided the opportunity to make a public presentation to
33 the President and the Board of Trustees. The issues to be addressed may include:
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- 35 a. The University Administration's adherence to the standards and procedures
36 set forth above.
37 b. The validity of the determination that a program, department, or unit is to be
38 discontinued.
39 c. Whether the proper procedures are being applied correctly in individual cases.
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1 **Section 14.** Should the University Administration proceed to discontinue the program,
2 department, or unit and to issue notices of termination, written notification will be
3 provided to the Union and to all affected bargaining unit faculty members. Tenured and
4 tenure track bargaining unit faculty members will be provided at least one year's notice
5 and NTTF bargaining unit faculty members shall be given advance notice of at least one
6 year or the duration remaining of their contract, whichever is shorter. Bargaining unit
7 faculty members scheduled for termination will receive written notice to their university
8 email address or US mail if the faculty member does not have a university email. The
9 notice will include the effective date of termination; the reason for the termination; and a
10 statement of recall rights.

11 **General Provisions**

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14 **Section 15.** Before terminating a bargaining unit faculty member pursuant to a
15 determination made under the provisions of this Article, the University Administration
16 will make a reasonable, good faith effort to place the bargaining unit faculty member
17 concerned in another suitable position at the same classification and rank. A bargaining
18 unit faculty member's refusal of such offer of reassignment will not affect his or her
19 reemployment rights under this Article.

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21 **Section 16.** If a bargaining unit faculty member's appointment is terminated under the
22 provisions of this Article, the University will not at the same time make any new faculty
23 appointments in that program, department, or unit, except where a serious distortion in
24 the academic program, department, or unit would otherwise result.

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26 **Section 17.** If a bargaining unit faculty member's appointment is terminated under the
27 provisions of this Article, the work of the faculty member concerned will not be
28 performed by any replacements within a period of three years, unless the released faculty
29 member has been offered reinstatement and at least thirty days in which to accept or
30 decline it. It is the bargaining unit faculty member's responsibility to keep the university
31 advised of his or her current email address for receipt of such offers. If a bargaining unit
32 faculty member refuses an offer of reemployment under this Section, his or her right to
33 reemployment is extinguished.