

## RETRENCHMENT

When and if the institution faces the threat of a reduction in its professional staff because of constraints placed upon it that are beyond its control, careful planning and consideration will precede any retrenchment action. If such a procedure becomes necessary, Allegany College will follow the procedures of the Guidelines for Retrenchment as follows.

The Board of Trustees, the administrative staff, and faculty recognize that the primary mission of Allegany College is to provide quality higher education at a reasonable cost for the residents of the area. Its accessibility to the county's center of population permits students to live at home, thus saving a substantial part of the out-of-pocket costs for a college education.

Although heavy emphasis was placed on liberal arts transfer programs in the College's early development, in recent years the College has developed highly specialized curricula in the technological and pre-professional areas to satisfy identified needs of the region. Ever cognizant of its responsibility to an industrial area pocketed in Appalachian Western Maryland, Allegany College has accepted a mission to make tangible contributions through higher education to the economic and cultural growth of the area. Through its Board of Trustees, the College presents a dimension of learning that prepares men and women for the excitement and satisfaction of creative lives.

In order to reach the highest levels of achievement within the framework of the College's mission, teaching and support faculty, along with a responsive and responsible administrative staff, are absolutely essential, and every effort must be made to insure their continued professional competency, personal fulfillment, and employment security.

However, whenever the institution faces the threat of a reduction in its professional staff because of constraints placed upon the institution that are beyond its control, careful planning and consideration must precede such action. In order to accomplish this, and yet retain a moral and ethical posture, as well as a positive atmosphere within the College, these guidelines for retrenchment, that are objective and fair in their implementation and outcomes, will be reviewed with recommendations made by those whom these guidelines may affect.

Staff reduction is a harsh action for the College to implement; nonetheless, it must be anticipated and plans for such action must be written and approved. The ultimate purpose of such plans is to maintain the operation of educational programs and services within the institution and guarantee current and future students quality services in such programs. Therefore, the purpose of these guidelines is to establish a College-wide contingency plan when conditions would necessitate retrenchment.

The following guidelines are applicable only under conditions described herein, and these guidelines shall not be utilized in cases involving disciplinary action or contract nonrenewal at the conclusion of a specified contract period.

### Previously recognized legal grounds for reduction in staff, based on one or more of the following.

1. A declaration of financial exigency is necessary only in the event of a College-wide need to

retrench. Faculty and staff can be cut back by administrative action without the declaration of financial exigency in areas where the need for such staff no longer exists.

2. Serious decline in enrollment in a discipline of the College.
3. Action by a legal authority to reduce funding for a discipline, a function, or the College.
4. Natural catastrophe, such as a flood or fire.
5. Fiscal exigency within the entire College.

Fiscal exigency has been widely debated in both legal and academic settings, and because of the serious legal complications that can arise, prior financial planning should have occurred since fiscal exigency does not happen overnight. However, in the event the College's normal operation is jeopardized because of financial constraints, a declaration of fiscal exigency would be in order. The declaration that a state or condition of fiscal exigency exists at Allegany College shall rest with the Board of Trustees, and that the Board alone shall make such a declaration, which shall include the following rationale:

- a. Financial conditions are such that the survival of the College is threatened, and such a condition cannot be alleviated by less drastic measures.
- b. The nature and magnitude of such financial problems must be handled urgently by the Board in order to restore or preserve the financial stability of the College.

### **Responsibility for Determining Need for Reduction in Staff**

In order that the President and the Board of Trustees maintain the highest ethical standards in their task of ordering a staff reduction, they must scrutinize carefully all conditions present within the College that collectively have caused such an action. This shall include a review of the managerial policies and procedures, current and projected enrollment figures, sources of funding, or any additional factors that may influence such an action. If a formal declaration calling for a staff reduction is issued by the Board, and where such an action would include tenured faculty or other professional staff with reasonable expectation of continuous employment, the President shall officially notify such staff by restricted registered mail along with documented evidence showing cause for the reduction.

### **Managerial Actions That Shall Be Continually in Operation Preceding, During, and Following Staff Reduction**

- A. Faculty and other professional staff participation in and knowledge of College planning and budgeting shall continue.
- B. Statistical data on enrollments, which include data on individual disciplines, shall be collected and shared with faculty and other professional staff.
- C. Specific staff contracts shall be carefully defined along with the inclusion of current information in personnel files.

- D. Employment decisions shall be made in a legal and ethical manner by the President and the Board of Trustees in personnel matters in order to prevent the development of an atmosphere of distrust and fear on campus. During a state of fiscal exigency, such decisions shall only be made following consultation with the full membership of the Budget Development and Planning Committee.
- E. Regular information regarding the College's operations shall be provided faculty and professional staff through regular staff meetings.

### **Guidelines That Shall Assist The College in Planning and Implementing Discipline or Function Reductions**

- A. If a dissolution of a discipline or function is in order, the locus of a staff reduction shall occur within the dissolved discipline or function.
- B. If the cutback is not restricted to a specific discipline or function, the College shall determine the locus of the staff reduction. Criteria that shall be used are as follows:

- Enrollment data and trends within instructional disciplines;
- Anticipated demand, enrollment, and employment opportunities;
- Faculty or professional staff vacancies occurring through retirement or resignations;
- Costs per student within specific disciplines;
- External funding for specific disciplines or functions;
- Instructional discipline evaluations;
- Relevant faculty and professional staff data.

### **Some Specific Examples of Less Drastic Actions Demonstrating "Good Faith Efforts" (not listed in priority)**

- Implement new disciplines only after careful study and consideration;
- Reduce non-instructional programs, functions, or items;
- Reduce maintenance costs to the extent of not jeopardizing College physical facilities;
- Reduce utility costs where possible;
- Reduce expenditures for supplies, equipment, and travel to the extent of not jeopardizing instruction;
- Reduce funds for experimental instruction;
- Reduce extracurricular activities and events within the constraints of contractual arrangements;
- Reduce selected communications, cultural, and student services;
- Defer hiring of non-professional employees;
- Reduce number of non-professional employees.

### **Participation in Determining Procedures for a Professional Staff Reduction**

- A. Allegany College shall continue to have faculty and professional staff participation in planning and budget development through the Budget Development and Planning Committee. These professional staff members must understand and use appropriate data upon which to base important personnel reduction recommendations.
- B. As soon as the possibility of a staff reduction develops, the Budget Development and Planning Committee shall begin considering data and developing recommendations for action for the President's and Board's consideration. These recommendations shall be carefully reviewed for their effects upon the College.
- C. As soon as any recommendation(s) have been approved by the President and the Board of Trustees, professional staff members in the affected discipline(s) or function(s) shall be notified in writing by the President by restricted registered mail as early as possible, but no later than April 1 of that year.

### **The Order of a Professional Staff Reduction**

Assuming less drastic and "good faith efforts" have been taken by the College but failed to resolve the fiscal problems, the procedure by which professional staff is reduced in number should be in order of the following:

- A. Accept voluntary resignation and normal attrition.
- B. Accept voluntary early retirement with College benefits continued where possible.
- C. Attempt to relocate professional staff in vacant positions in the College or in other colleges within the state system.
- D. Reduce part-time and temporarily appointed professional staff before reduction of full-time staff in respective disciplines or functions.
- E. Reduce number of temporary, full-time professional staff with consideration given to length of service (seniority) within affected disciplines or functions.
- F. Reduce number of non-tenured, contractual, full-time professional staff with consideration given to length of service (seniority) within the affected disciplines or functions.
- G. Reduce number of tenured, full-time professional staff by length of service (seniority) within affected disciplines or functions. (Full procedural due process shall be applicable in such cases).

### **Adequate Time Notice**

- A. If a full-time professional staff member is either tenured or a contract has been signed, full procedural due process is required in implementing a retrenchment. Either one-year or two-year leaves-of-absence can be requested by faculty or professional staff affected by retrenchment. (See College policy on leave-of-absence).
- B. Affected faculty and professional staff shall be notified in writing by the President by restricted registered mail as soon as the planned reduction is known and a condition of fiscal exigency is declared by the Board, but no later than May 15 of the contract year.
- C. Due process requirements shall be followed where applicable.

### **Request for Hearing**

The College shall honor all requests from professional staff for a hearing. In a case involving a faculty member, the faculty member shall have the right to be heard initially by only the elected members of the Faculty Status Committee plus two additional members appointed by the President from the administrative staff. Such hearings shall follow the Due Process Proceedings as established by the Board of Trustees as College policy.

### **Hearing Schedule and Appeal**

Tenured faculty, other professional staff under contract, or professional staff with reasonable expectation of employment whose positions are terminated because of retrenchment can request a hearing within a 30-day period after notification of termination by the President. The hearing shall be conducted in accordance with the due Process Proceedings as adopted by the Board of Trustees of the College which would reduce the possibility of arbitrary and/or capricious actions and would require only one proof of either fiscal exigency or reduction or dissolution of a discipline or function. Any appeal of the decision of the Hearing Committee shall be made to the Board of Trustees within seven school days from the date of the Hearing Committee's initial recommendation in the case. The appeal shall follow the appeal procedures as defined in the Due Process Proceedings. Care shall be taken during such proceedings to protect such professional staff members against implication of professional incompetency.

### **Rights of Faculty and Professional Staff Affected by a Staff Reduction**

#### **A. Benefits**

One-year or two-year leaves of absence without pay could be granted by the Board of Trustees upon request by those faculty or professional staff members affected by retrenchment provided that in the succeeding year(s) the procedures set forth herein shall be applicable to such individuals if conditions at the College remain the same.

A retrenched faculty or professional staff member should be able to continue the health insurance benefits provided by the College for a maximum of two years at no cost to the College. Continuation of such insurance benefits is subject to limitations imposed by the carrier. Arrangements are to be made with the College for purchase of such insurance benefits on or before the date of the staff reduction. (This insurance benefit shall also be available to affected non-professional staff).

#### **B. Recall List**

A faculty or professional staff member who has been placed on leave-of-absence from the College or terminated following retrenchment shall be placed on a preferred rehiring list for a maximum period of two years and shall retain all prior rights and benefits accrued up to the date placed on such a list. A faculty or professional staff member while on the preferred rehiring list shall not be

entitled to any of the benefits available to employed faculty and staff.

**C. Vacancy Postings and Time Limits**

A faculty or professional staff member who has been placed on leave-of-absence or terminated as a result of retrenchment shall be notified of all vacancies that occur at the College during the two-year period. If the respective position is reinstated during the two-year period, the affected faculty or professional staff member shall be given the opportunity to be reinstated.

A faculty or professional staff member entitled to reinstatement shall be offered a letter of intent by the President and the Board of Trustees by registered mail with return receipt requested. The faculty or professional staff member shall accept or reject such a reinstatement in writing within fourteen days following receipt of the letter. If neither a response nor a rejection is received from the former staff member, the position shall be advertised outside the College.

**D. Reinstated Faculty or Professional Staff Rights and Benefits**

At the time of reinstatement, an affected faculty or professional staff member shall be entitled to those rights of status at the College that were continued in effect for unreleased colleagues of equal status, excluding the rank and tenure requirements of time and service necessary for advancement in rank and the granting of tenure.

Upon return such staff member shall retain all rights before retrenchment toward sabbatical leave, sick leave, and experience for salary purposes. Experience gained during the interim shall be evaluated for salary and rank purposes upon reinstatement.

If a faculty or professional staff member affected by retrenchment meets the minimum qualifications for a position comparable to that which he/she previously held and if such a position is open during the two-year period following the declaration of retrenchment, the professional staff member has the right to fill the opening before a new professional staff member is employed.

A faculty or professional staff member who returns during the one-year or two-year period following a leave-of-absence or retrenchment shall be placed on the salary schedule and the status classification in line with the position according to experience, credentials, and employment classification, but in no case lower than the salary of the position previously held.

No new appointments shall be made while there are available faculty or professional staff members on leaves-of-absence or on a retrenchment list who are qualified to fill such vacancies, unless such individuals refuse such appointments or do not respond to a letter of intent from the President.

**Important Areas of Concern During Retrenchment**

Constitutional and Procedural Due Process Rights--College and Judicial Title IX, Affirmative Action, Section 504 of the Rehabilitation Act, etc.

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Retrenchment

Increased Centralization of Planning and Decision Making  
External Funding - Federal, State, and County  
Professional Competency and Substantive Rights

This retrenchment plan is based upon valuable information provided the Faculty Senate of Allegany College by Dr. John Andes, West Virginia's College of Human Resources and Education.