

POLICY PROPOSAL – CODE/HANDBOOK
TITLE 2, CHAPTER 5, SECTION 5.4.5
Appointment and Termination – Financial Reasons for Termination

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Note: The purpose of this Code change is to clarify that pay reduction is one of the options following a declaration of financial exigency.

NSHE Code, Title 2, Chapter 5

5.4.5 Financial Reasons for Termination.

- (a) A faculty member may be furloughed, *have pay reduced*, or *be* laid off as an employee before the end of the contract term because of a financial exigency declared by the Board of Regents. For faculty members of the Desert Research Institute, however, refer to Section 5.8 of the Nevada System of Higher Education Code.
- (b) Faculty members may be furloughed, *have pay reduced*, or *be* laid off under this subsection for a financial exigency upon a declaration of the Board of Regents, after a recommendation for same by the chancellor and by the presidents of the System institutions to be affected by the proposed financial exigency, that a financial exigency exists in the System, a System institution, or an administrative unit of a System institution. Nothing in this provision shall prevent the layoff of a faculty member under this subsection without such a declaration of the Board of Regents when such faculty member's employment contract contains the specific provision that such faculty member's continued employment during the term of the contract is dependent on the availability of funds.
- (c) Before a recommendation is made to the Board of Regents by the chancellor and the president or presidents that a financial exigency should be declared:
 - 1. The chancellor and the president or presidents shall be satisfied that all available means to reduce the expenditure levels (i) are exhausted, (ii) would not be adequate, (iii) would not be feasible or (iv) would not be appropriate.
 - 2. The president or presidents shall seek the advice of the senates or senate representatives of System institutions to be affected by the proposed declared financial exigency concerning said

exigency and such advice shall be forwarded to the Board of Regents along with recommendations of the chancellor and the president or presidents.

- (d) After a financial exigency has been declared by the Board of Regents, depending upon the circumstances, the Board may choose to immediately implement a financial exigency or authorize the following provisions to be put into effect:
1. Each System institution affected shall select an ad hoc financial exigency committee to prepare recommendations for a plan to implement the discontinuance or reduction in size of administrative units, projects, programs or curricula, to include furloughs, **pay reductions** or faculty lay-offs if necessary, due to the financial exigency. Each such plan shall establish the criteria necessary for recommending and determining such actions.
 2. The president shall determine the number of persons to serve on the ad hoc financial exigency committee, shall choose the chair of the committee and, in addition, shall choose one half of the remaining membership of the committee. The senate shall elect one half of the membership of the committee. The chair shall vote only in case of a tie vote. The plan recommended by the committee must receive the approval of the president.
 3. The plan, as approved by the president, must be submitted to the chancellor within a time limit agreed to by the president and the chancellor. If the plan is not submitted within that time, the chancellor, at the chancellor's option, may extend the time for such submission or may prepare a plan for the System institution which fails to submit such plan within the time limit set or as may be extended.
 4. In the case of a System-wide financial exigency, all plans must be forwarded to the Council of Presidents for review and recommendations as to any necessary coordination between the System institutions in the implementation of the plans and to harmonize or eliminate any material conflicts in the plans.
 5. All plans must be reviewed by the chancellor and the president or presidents before being forwarded to the Board of Regents.
 6. All plans must be forwarded to the Board of Regents with the recommendations of the chancellor and the president or presidents and all plans must receive the approval of the Board, which shall be final. The Board may appoint an ad hoc financial

exigency committee composed of members of the Board to work with the System institutions in preparing and reviewing plans and to report to the Board concerning plans prior to their consideration by the full Board.

7. A plan shall take into consideration the affirmative action goals of the System, the responsibility of the System and the System institutions to continue to offer the appropriate ranges of programs or curricula to its enrolled students and the missions of the University of Nevada.
- (e) A financial exigency, once declared, may be reviewed every 180-calendar days or sooner if appropriate, by the Board of Regents on the issue of whether it should continue or be declared ended. Before making a recommendation to the Board of Regents on whether a state of financial exigency should be continued or be declared ended, the president or presidents shall seek the advice of the senates of the System institutions to be affected by the financial exigency and shall obtain their respective recommendations concerning whether the state of financial exigency should continue or be declared ended. The senate recommendations shall be forwarded to the Board of Regents along with the recommendations of the chancellor and the president or presidents.

POLICY PROPOSAL – CODE/HANDBOOK
TITLE 2, CHAPTER 5, SECTION 5.4.7
Appointment and Termination – Procedures for Furlough, Termination fo Employment
Due to Financial Exigency or Curricular Reasons

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

5.4.7 Procedures for Furlough, *Pay Reduction* or Termination of Employment Due to Financial Exigency or Curricular Reasons.

(a) If a faculty member is furloughed, ***pay is reduced*** or ***the faculty member*** is threatened with lay off or is laid off because of financial exigency or for curricular reasons as provided in this chapter, the provisions of this subsection shall be applicable.

(b) The faculty member shall be continued in employment, if possible and if such employment does not result in the termination of employment of another faculty member, in an appropriate qualified professional capacity within the System institution involved.

(c) If a faculty member is laid off for the above stated reasons, the faculty member's position will not be filled within a period of two years, unless a reasonable attempt to offer reappointment has been unsuccessful or reappointment has been offered in writing and the faculty member has not accepted the same in writing within 20 calendar days of the receipt of the offer. The reappointment referred to herein shall be at the faculty member's previous rank or salary level.

(d) If a faculty member is notified of a lay off for curricular reasons on or before December 1 of the faculty member's current contract year, the layoff shall not be in effect until the following June 30. If a faculty member is notified of a lay off for curricular reasons after December 1 of the faculty member's current contract year, the layoff shall not be in effect until the completion of the contract year immediately following the June 30 of the contract year of notice.

(e) A lay off for financial exigency shall require at least 60 calendar days notice, except that if a financial exigency is such that adequate funds do not exist to pay the salary of the faculty member being laid off for such period, the notice period of termination may be shortened to a period commensurate with the amount of funds reasonably available to make such payments. Notice of furlough ***or pay reduction*** for financial exigency shall require at least 15-calendar days notice.

(f) Notice of the furlough ***or pay reduction*** of faculty members for financial exigency or notice of a lay off for financial exigency or curricular reasons, except for notice of nonreappointment to employment of faculty members given under Subsections 5.4.2, 5.8.2, 5.9.1 or 5.9.2 of the Nevada System of Higher Education Code, shall be in writing and shall furnish the faculty member with a reasonably adequate statement of the basis for the decision to furlough, ***reduce pay*** or lay off the faculty member, a reasonably adequate description of the manner in which the decision was arrived at and a reasonably adequate disclosure of the information and data upon which the decision-maker or makers relied. The notice shall also inform the faculty member of the right to reconsideration, the procedures for reconsideration and the identity of the person or persons to whom a request for reconsideration should be directed.

(g) Within 15 calendar days after receipt of the notice of furlough, **pay reduction** or lay off, the faculty member may request reconsideration of the decision to furlough, **reduce pay** or to lay off at which time the following provisions and procedures are applicable:

1. The reconsideration process shall be limited in its scope to the issue of whether there is sufficient evidence to support the specific decision to furlough, **reduce pay** or to lay off the faculty member requesting the reconsideration or whether there has been material deviation from the procedures established on which such a specific furlough, **pay reduction** or lay off decision has been based, or both. There shall be no reconsideration of the policy decisions to declare a financial exigency, to discontinue or reduce in size an administrative unit, project, program or curriculum because of financial exigency or to discontinue, reduce in size or reorganize an administrative unit, project, program or curriculum because of curricular reasons.

2. In the event decisions are made to furlough, **reduce pay** or to lay off faculty members under this section because of financial exigency or because of curricular reasons, the president shall establish one or more employment review committees. The president shall determine the number of persons to serve on each committee, shall determine their terms of service, shall choose the chair of each committee and, in addition, shall choose one half of the remaining membership of each committee. The senate shall elect one half of the membership of each committee. A chair shall vote only in case of a tie vote. No one who took part in making the specific recommendation to the president to furlough, **reduce pay** or to lay off the faculty member requesting the reconsideration may be a member of an employment review committee.

3. The request for reconsideration shall be submitted in writing to the president, together with the reasons, arguments and documentation supporting the request for reconsideration. The president shall immediately send the request for reconsideration, together with a copy of the notice of furlough, **pay reduction** or lay off, to the employment review committee.

4. The employment review committee shall hold a hearing on the request for reconsideration within 15 calendar days of its receipt or, given the number of requests that may be received, as soon after that time limit as is reasonably feasible. The hearing shall be informal and nonadversarial in nature. The committee shall have the discretion to consolidate hearings.

5. The faculty member requesting reconsideration may have an advisor. Evidence presented must possess reasonably probative value, materiality and relevancy to the employment decision. The faculty member requesting reconsideration has the burden of showing that the decision to furlough, **reduce pay** or to lay off cannot be sustained.

6. The System institution in which the furlough, **pay reduction** or the layoff is due to take place shall have an opportunity through its representatives to respond to the contentions of the faculty member requesting reconsideration or to otherwise correct any erroneous or misleading information presented to the committee.

7. The employment review committee shall forward its written recommendation to the president on the issue or issues presented by the request for reconsideration within 10 calendar days after the conclusion of the hearing. The president shall make a decision within 5 calendar days after receipt of the recommendation. The president's decision shall be final and shall be sent, in writing, to the faculty member requesting reconsideration.

(h) The review provided by this subsection for furloughs, **pay reductions** or for lay-offs because of financial exigency or curricular reasons shall be the exclusive means of review of such decisions. However, such review shall not be applicable to the issuance of notices of nonreappointment to employment of faculty members as provided in Subsections 5.4.2, 5.8.2, 5.9.1 and 5.9.2 of the Nevada System of Higher Education Code.