TO: Academic Council*

COPY TO: David Daniel
Hobson Wildenthal
Andrew Blanchard
Calvin Jamison
John Wiorkowski
Sheila Amin Gutierrez de Piñeres
Austin Cunningham
George Fair
Serenity King
Abby Kratz
Dennis Kratz
James Marquart
Bert Moore
Hasan Pirkul
Myron Salamon
Mark Spong

FROM: Office of Academic Governance
Vicki Carlisle, Academic Governance Secretary

SUBJECT: Academic Council Meeting

The Academic Council will meet on Wednesday, September 1, 2010 at 2:00 p.m. in the Osborne Conference Room (ECS South 3.503). Please bring the agenda packet with you to the meeting. If you cannot attend, please notify me at vicki.carlisle@utdallas.edu or x6751.

Attachments

2010-2011 Academic Council

Cy Cantrell
R. Chandrasekaran
David Cordell**
Murray Leaf*
Dennis Miller
Tim Redman
Liz Salter
Richard Scotch

*Speaker
**Secretary
## AGENDA

**ACADEMIC COUNCIL MEETING**  
September 1, 2010

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UNAPPROVED ANDUNCORRECTED MINUTES

These minutes are disseminated to provide timely information to the Academic Council. They have not been approved by the body in question, and, therefore, they are not official minutes.

ACADEMIC COUNCIL MEETING
August 4, 2010

PRESENT: Cy Cantrell, David Cordell, Murray Leaf, Richard Scotch, Liz Salter
ABSENT: Dennis Miller, R. Chandrasakaren
VISITORS: Andrew Blanchard, Donna Riha, Serenity King, Grace Bielawski, Theresa Towner, Calvin Jamison

1. CALL TO ORDER, ANNOUNCEMENTS & QUESTIONS
   In the absence of both President Daniel and Provost Wildenthal, Speaker Murray Leaf called the meeting to order.

2. APPROVAL OF THE AGENDA
   Since Donna Riha, University Energy Conservation and Sustainability Director, is present to address this item, Speaker Leaf asked for a motion to move Item 15 – Charge for the Sustainability Committee - to the first item of business. Cy Cantrell made the motion. Richard Scotch seconded. The motion carried.

3. APPROVAL OF MINUTES
   Richard Scotch made a motion to approve the minutes as circulated. Cy Cantrell seconded the motion. The minutes were approved.

4. SPEAKER’S REPORT—MURRAY LEAF
   The most important matter not on the agenda is the ongoing discussion at the System level of criminal background check policy. A second draft of the proposed system policy has been circulated. I drafted a response for the FAC, which the FAC agreed with and sent back to V. C. Prior and Barry Burgdorf, the main attorney working on it.

   There are two main problems. First, it is too sweeping, possibly requiring checks on everyone the faculty at least every few years. Second, it would require each person subject to such a search to sign a release or be subject to dismissal. Mr. Burgdorf’s reason for insisting on such a release was explained to us in the meeting with the Chancellor as having to do with cost. Searches through the established agencies in the Texas Department of Public safety are low cost, but not thorough. System wants more thorough searches, which require private companies but cost more. To use a private company you have to have a release. Since court records are public documents, Speaker Leaf looked for the relevant law. The explanation seems to lie in the Right to Privacy Act of 1974. This provides a strong set of safeguards against drawing information from multiple federal agencies together into personal profiles that could allow either official or unofficial abuse. But these safeguards can be abrogated in what the law calls a “consumer record check,” also described as a “credit check” by a private company provided that the company doing the checking has the written permission of the person about whom the information is being sought. Essentially, once a
person signs such a release, they allow an open ended search for anything with their name on it from whatever federal agencies have such information and have posted the fact that they have it in the Federal Register. This has nothing to do with criminal records, in the sense of court records. Court records are public documents, and do not require a release.

Combining these two features, the predictable effect of the policy in its present form is that we would obtain large amounts of questionable information on almost every member of the faculty every few years. This is in addition to the very questionable practice of requiring faculty and potential faculty to sign away their legal rights to privacy as a condition of employment.

The system Provosts and Presidents have also seen the draft. Speaker Leaf has been told by the former chairs of the UTSC and UT Austin Senates that the administrative objections appear to be as strong as our own. To explore this, he has boiled his objections down to a single page of bullet points, which are attached to these minutes. This information has been emailed to the members of the FAC executive committee who participated in the initial meeting with the Chancellor and a few others. If they concur, it will be circulated to the rest of the FAC for discussion with their respective campus administrators. The first aim will be to see if we are in agreement on the objectionable points. If we are, the next step will be to try to formulate some common alternative.

Dr. Wildenthal has been working on his proposal for administrative salary supplements for the Speaker, Secretary, and Chairs of the CQ and CEP. We should be able to discuss them at the next meeting.

The Service Excellence Committee met with the full Council and others. There was substantial agreement and no real dissent. Speaker Leaf proposed some changes in language to their PowerPoint overview of the program, a bit in orientation and more in choice of terms. The main aim of the suggestions was to get away from the “customer” metaphor and describe the various kinds of relations we have with one another more literally. The upshot of the discussion was that the committee would still be primarily focused on staff; we would not try to generalize the ideas or program to include faculty. Faculty already has much the same concerns, and we are implementing them, but not the same way. The Committee will now discuss our suggestions and get back to us. If the problems in terminology can be removed, a charge can be drafted quickly.
wait until BBS names a replacement for Dr. Buhrmester to fill any other appointments. The Council agreed to this suggestion. After discussion it was decided to appoint Simeon Ntafos as Chair of the Committee on the Core Curriculum and leave Marilyn Kaplan as Vice Chair. It was suggested that Karen Prager be reappointed to fill the vacancy on the CEP Committee.

Speaker Leaf briefly discussed the appointment of Aria Nosratinia to another term on the CQ. The Committee on Committees feels that it would be beneficial for this committee to appoint a Chair who has served on the committee for two years.

Cy Cantrell made a motion to place the Committee of Committee recommendations as amended on the Senate agenda. Theresa Towner seconded the motion. The motion carried.

7. **CEP PROPOSALS**
   Cy Cantrell presented the proposed Lean Six Sigma for Healthcare Management Yellow Belt Certificate from the School of Management. This proposal has been reviewed and approved by the Committee on Educational Policy. This does not call for the creation of any new courses. Cy Cantrell moved to place this item on the Senate agenda. Theresa Towner seconded the motion. The motion carried.

   The next item was a set of changes to the catalog copy for the political science PhD curriculum. These are amendments to the catalog copy that was previously approved. Dr. Cantrell acknowledged that these changes will not show up in the fall 2010 catalog. The changes are largely editorial and have been reviewed and approved by the CEP. Cy Cantrell moved to place this item on the Senate agenda. Richard Scotch seconded. The motion carried.

8. **REVISED CHARGE FOR BIOSAFETY COMMITTEE**
   Speaker Leaf noted that the Biosafety Committee is mandated by NIH and the charge is worded accordingly. The change adds chemical safety to the charge of this committee. Cy Cantrell made a motion to place this item on the Senate agenda. Liz Salter seconded the motion. The motion carried.

9. **REVISIONS TO FACULTY MENTORING COMMITTEE**
   These changes were suggested by Rachel Croson, the present Chair of the committee. The revision drops two members from the initial number required and adds two members to be named by the Provost. These will be members of the working group on faculty mentoring from the Provost’s office. The working group members will bring with them a budget from the Provost’s office. The chair of the committee, with the agreement of a majority of the voting members of the committee, can add additional members if necessary. Richard Scotch made a motion to place this item on the Senate agenda. Cy Cantrell seconded. The motion carried.

10. **REVISIONS TO FINANCIAL EXIGENCY POLICY**
    Liz Salter made a motion to place this item on the Senate agenda. David Cordell seconded the motion. The motion carried.

11. **OGC REVISIONS TO FACULTY FITNESS FOR DUTY POLICY**
    Richard Scotch reported that the OGC has made revisions to the policy. They are not substantive but felt that the Senate should review and give final approval. Richard Scotch moved to place this item on the Senate agenda. Cy Cantrell seconded the motion. The motion carried.
12. AGENDA FOR AUGUST SENATE MEETING

The agenda for the August 18, 2010 Senate meeting is as follows:

1. Charge for the Sustainability Committee
2. Recommendations from the Committee on Committees
3. CEP Proposals:
   i) Lean Six Sigma for Healthcare Management Yellow Belt Certificate
   ii) Catalog Copy Change – PhD in Political Science
4. Revised Charge for Biosafety Committee
5. Revised Charge for the Faculty Mentoring Committee
6. OGC Revisions to Faculty Fitness for Duty Policy
7. Revisions to Financial Exigency Policy

Richard Scotch made a motion to approve the Senate agenda. Cy Cantrell seconded the motion. The agenda is approved.

There being no further business, Speaker Leaf asked for a motion to adjourn. Theresa Towner moved to adjourn. Cy Cantrell seconded. The motion carried and the meeting was adjourned.

APPROVED:______________________________  DATE:_____________________________

Murray J. Leaf
Speaker of the Senate
Key points regarding criminal records checks.

- Faculty are entitled to privacy rights as defined in the Privacy Act 1974, USC Section 552a as amended, and should not be required to give up those rights as a condition of gaining or continuing employment. Under this act, a written release is necessary to obtain information from federal "agencies." A release is not necessary to obtain information from courts.

- A potential faculty member should not be removed from consideration for employment because he or she refuses to sign a release that would give the university information that the university has no empirically or legally justified use for.

- Texas Education Code § S1.215(c) and Texas Government Code § 411.094(a) (2) require institutions to designate "security sensitive positions," which may require a "national" record check. Since the Texas Department of Public Safety now provides a secure site that can provide national information on criminal convictions, there should be no need for the person who is the subject of such a search to sign a release.

- Under these provisions, the criteria for a "security sensitive" position clearly focus on access to financial and personnel information. For a university, we can also legitimately add that this should entail access to student records. On health campuses, further considerations apply in accordance with additional applicable laws.

- Faculty would probably agree that a wider search would be justified by an especially sensitive position, such as top institutional officers or heads of sensitive facilities that are not governed by other relevant law. Such searches would require a release form. The positions should be very few and the release form should specify clearly what information is to be sought. The governance organization should approve both the form and the policy that governs its use.

- If a currently employed person is being considered for a position that requires a release form and refuses to sign the form, this refusal cannot be grounds for dismissal from the position he or she already holds.

- Once hired, there should just be two occasions for further background searches: if the person moves from a non-security-sensitive position to a security-sensitive position, and if information comes to the university administration such that the President considers a check to be warranted to assure that the individual has honored his or her obligation to disclose criminal charges or convictions.

- In all cases, if a records check produces adverse information, no action should be taken until the person is shown the material and has had an opportunity to respond.

- If a criminal records check reveals adverse information on a currently employed faculty member without tenure, and if the administration dismisses that person on the basis of that information, the dismissed faculty member should have the same access to grievance procedures as a non-tenured faculty member dismissed for any other reason. If the challenged person is tenured, the President should seek the advice of a faculty tribunal regarding the relevance of the information obtained.

M Leaf: 3 August 2010
I. PURPOSE

The purpose of this policy and related procedures is to promote campus safety and the security of personal or University property, consistent with the requirements of the law and prudent financial and programmatic practices.

II. POLICY

It is the policy of The University of Texas at Dallas:

A. To obtain criminal history record information on applicants who are under final consideration, following normal screening and selection processes, for a position that is designated as a security sensitive position;

B. To obtain criminal conviction record information on a current employee who is under consideration for a transfer, promotion or reclassification from a non-security sensitive position to a position designated as a security sensitive position; and

C. To obtain criminal conviction record information on a current employee who is under consideration for a transfer, promotion or reclassification from one security sensitive position to another security sensitive position and on whom the institution did not previously obtain either criminal history record information or criminal conviction record information.

D. To obtain criminal conviction information on current employees, students, and volunteers whose assignments involve contact with minors on a regular basis outside the scope of faculty/student instruction. Examples of types of activities involving minors that would require criminal background checks are summer camps, research involving human subjects, volunteer activities, etc.

E. To use such criminal history record or criminal conviction information for the purpose of evaluating applicants for employment in security sensitive positions. The information will not be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age or sexual orientation.

F. To regard such criminal history or criminal conviction information as confidential as required by law. Such information will not be made a part of the applicant’s file, or the employee’s personnel file, or communicated to any unauthorized person when prohibited by law. The release of such information must be authorized in writing by the Vice President for Business Affairs. The disclosure of criminal history record information to unauthorized persons is a criminal offense under Texas Government Code §411.085.

G. That nothing in this policy shall be construed to prevent a hiring official from discussing with the applicant or employee information from the criminal background or history check for purposes of verification or clarification.

III. DEFINITIONS

A. Applicant: An individual who applies for a position within The University of Texas System, whether the individual is an outside candidate or a current employee of The University of Texas System.

B. Controlled Substance: This term has the meaning assigned in Texas Health & Safety Code §481.002, as that section may be amended from time to time.

C. Criminal Conviction Record Information: Public information maintained by the Department of Public Safety, as provided in Texas Government Code §411.135.
D. **Criminal History Record Information**: Information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions, as more fully described in Texas Government Code §411.082.

E. **Hiring Official**: The Dean, in the Division of Academic Affairs, the Department Head, in other Divisions; or the equivalent administrative official responsible for the decision to offer employment to an applicant for, or to promote, transfer or reclassify an employee to, a security sensitive position; or the administrative position responsible for the decision to engage a student or volunteer in an assignment involving contact with minors on a regular basis.

F. **Position**: Both full-time and part-time positions, whether the position is filled or to be filled by a regular or a temporary worker or a volunteer, but not including a position filled by a temporary worker provided by a temporary employment agency; the employment agency should be expected to conduct and held responsible for conducting the criminal background check.

G. **Security Sensitive Position**: Security sensitive positions are those UTD positions described in Texas Education Code § 51.215 (c) and Texas Government Code § 411.094 (a) (2), as those sections may be amended from time to time. Security Sensitive Positions will include all senior level administrator positions; positions that have responsibility for providing patient care or for providing childcare in a childcare facility, as that term is defined in Texas Human Resources Code §42.002 (3), as it may be amended from time to time; positions that have contact with minors on a regular basis and positions that have direct access to, or responsibility for, pharmaceuticals, select agents, or controlled substances.

H. **Select Agent**: This term has the meaning assigned in 18 U.S.C. §175b, as that section may be amended from time to time.

I. **Minor**: A person under the age of 18 years.

J. **Contact with minors on a regular basis**: This term means having contact with minors for one hour or more in any 30-day period outside the scope of student instruction.

IV. **PROCEDURES**

A. The President has designated the Executive Vice President and Provost as the official responsible for designating which faculty positions or areas are security sensitive, and the Vice President for Business Affairs as the official responsible for designating which non-faculty positions or areas are security sensitive.

B. Security sensitive positions will be identified as such in job descriptions and vacancy advertisements.

C. Hiring officials are responsible for requesting that an applicant who is the finalist for a security sensitive position or other individuals for whom a criminal background check is required under this policy complete the appropriate UTD Criminal Background Check Form. The Forms are attached to this Policy and include the notice required by Texas Government Code § 559.003, as it may be amended from time to time. The hiring official will forward the completed form and, if applicable, a copy of the criminal convictions section of the finalist's employment application to the University Police Department. An individual who refuses to complete, sign and submit the form will be removed from further consideration for the position.
D. Only the Chief of Police is authorized to initiate requests for criminal history information or criminal conviction record information from the Texas Department of Public Safety or other law enforcement agencies.

E. Upon receipt of a signed UTD Criminal Background Check Form, the Chief of Police will promptly obtain and review the individual’s criminal history record information or the individual’s criminal conviction record information. The Chief will notify the hiring official of the results of the investigation and cause the UTD Police Department section of Criminal Background Check Form to be completed. No other notes are to be made on that form.

F. If the results of an applicant’s criminal background investigation indicate that the applicant may be a security risk, the hiring official may, at his or her discretion, consult with the Chief of Police, the Director of Human Resources, and/or the appropriate Vice President about the risk. However, it is the responsibility of the hiring official to evaluate the risk and make the final hiring decision. The evaluation should be based on such factors as the duties of the position, the nature and number of offenses, the dates of the offenses, employment and rehabilitation history, accuracy of the information on the employment application, and other job-related factors.

G. After the Chief of Police has notified the hiring official of the results of the investigation and completed the Criminal Background Check Form, the Chief will return the completed form to the hiring official. The hiring official must include the completed form with the other search and new hire documents sent to the Office of Human Resources, in the case of an employee; or the hiring official will maintain the form in the departmental office in the case of a student or a volunteer. After the expiration of the employee’s probation, the Chief will destroy all criminal history record information about the individual. If the position is one that does not have a probationary period, then the Chief will destroy the information 180 days after the position is filled.

H. Employment offers may not be made until the criminal background check process is completed.

I. In order to comply with the provisions of this policy, communication with applicants who are not hired should be limited to notification that a more qualified candidate was selected. Applicants with questions about their criminal history or criminal conviction information must be referred to the Texas Department of Public Safety or the equivalent law enforcement agency of another jurisdiction.

J. Questions regarding compliance and other issues related to security sensitive positions should be addressed to the Executive Vice President and Provost or to the Vice President for Business Affairs, as appropriate.

K. Those whose assignments require them to have contact with minors on a regular basis outside the scope of faculty/student instruction will be required by the department making the assignment to complete the “Contact with Minors Background Check Form” prior to the initial contact with minors, and on a biennial basis as directed by the Chief of Police.
**CRIMINAL BACKGROUND CHECKS**

L. For persons doing human subject research involving minors, the Institutional Review Board (IRB) will require that a criminal background check be conducted on the principle investigators (PI's) and any other persons having regular contact with minors as a part of the research project. After initial approval of the research project by the IRB, PI's are responsible for insuring that criminal background checks are conducted on students and others working on the research project and having regular contact with minors.

M. The Chief will conduct checks as authorized by law, and communicate findings as outlined in this procedure. The hiring official will be responsible for allowing the person to have contact with minors on a regular basis after considering the results of the affidavit and any background checks.

V. **AUTHORITY**


*Texas Government Code § 411.094* Access to Criminal History Record Information: Institution of Higher Education

*Texas Government Code § 411.135* Access to Certain Information by Public
PLEASE PRINT

Name: ____________________________

LAST   FIRST   MIDDLE

List any former names used: ___________________________________________

Driver’s License, State and #: _________________________________________

Date of Birth (MM/DD/YY): ___________________________

Out of State Address and Dates of Residency:
________________________________________________________________
________________________________________________________________

Race: __________ Gender: __________ Height: __________ Weight: __________

I hereby authorize any law enforcement agency to furnish The University of Texas at Dallas or its agent information related to my criminal history. I hereby release U. T. Dallas and all its agents and employees, the law enforcement agency and all employees of law enforcement agencies furnishing information, from all liability resulting from the furnishing of this information to U.T. Dallas. I certify that the statements made by me on this form are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that any false statements made herein will void my application and any actions based on it.

SIGNATURE ___________________________ DATE ________________________

Print all information requested. Falsification of any information on this form will void your Application for Employment or Application for Uncompensated Visitor Status and any actions based thereon. The information on your application, together with any attachments, is the property of The University of Texas at Dallas.

______________________________
This position has regular contact with minors Yes No (circle one)

Hiring Official: ____________________________ Hiring Official Phone: __________

Department: ____________________________ Date Sent to UPD: __________

Contact Information: Name: ____________ Mail Station: ____________ Phone: ____________ Fax: ____________

After completion by UPD, send to HR with hiring documents

______________________________
THIS SECTION TO BE COMPLETED BY UTD POLICE

Criminal Background Check completed by ____________________________ Date: ____________________________

Make no other marks on this page. Return form to Dept Contact.

______________________________
Notice About Information Laws and Practices

With few exceptions, you are entitled on your request to be informed about the information The University of Texas at Dallas collects about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you are entitled to receive and review the information. Under Section 559.004 of the Texas Government Code, you are entitled to have UTD correct information about you that is held by us and is incorrect, in accordance with the procedures set forth in The University of Texas System Business Procedures Memorandum 32. The information that UTD collects will be retained and maintained as required by Texas records retention laws (Section 441.180 et seq. of the Texas Government Code) and rules. Different types of information are kept for different periods of time.

______________________________
THE UNIVERSITY OF TEXAS AT DALLAS
Office of Human Resources Management
http://www.utdallas.edu/utdgeneral/business/hr
Revised 6/06
PREAMBLE

The enunciation of a policy in Rule 31003, Section 1, of the Regents' Rules and Regulations (http://www.utsystem.edu/bor/rules.htm#A4) establishes U T System policy concerning the Abandonment of Academic Positions or Programs. Section 1 calls for the President of the University to determine institutional procedures for an in-depth review to inform and guide decisions on these matters “with full and meaningful faculty input.” Section 2 concerns elimination for “Academic Reasons.” Section 3 concerns elimination due to institutional financial exigency. In accord with Rule 31003, this document establishes U. T. Dallas policy and procedures relating to Section 3 as follows.

GENERAL POLICY ON INTERPRETATION OF REGENT’S RULES

Regents Rule 31003, abandonment of academic positions or programs must be interpreted in the light of Rule 40101 which gives faculty a “major role” in regard to “general academic policies and welfare” and related matters and in the light of the further provisions that assign these faculty responsibilities to the faculty governance organization and require that the organization and procedures of the governance organization be set out in the university Handbook of Operating Procedures and subject to governance review and approval.

The University of Texas at Dallas recognizes the importance of tenure as a fundamental safeguard for academic freedom, an encouragement for faculty to engage in research at the growing edges of knowledge, and as the basis of a level of personal financial security sufficient to make faculty positions at U T Dallas attractive to creative scholars of national and international importance. The aim of this policy is to assure that the University’s response to an institutional financial exigency does everything possible to preserve this commitment to tenure while also providing the strongest possible foundation for rapid recovery and future growth.

In addition, the University accepts the recommendations regarding declarations of exigency in the American Association of University Professors “Recommended Institutional Regulations on Academic Freedom and Tenure

The term “faculty committee” as used in Regents Rules section 31003 shall be understood here as meaning the Academic Senate of the University of Texas at Dallas, the regular committees of the Senate, or the Exigency Committee and appeals committees to be established in accordance with this policy. or any ad hoc committee that the Senate may assign responsibilities to in order to respond to the exigency. It does not include committees that the Senate does not constitute or approve.

The term “faculty” as used in Regents Rules 31003 shall be understood here as meaning individuals holding tenure-track, tenured, and emeritus positions with the titles of Assistant Professor, Associate Professor, and Professor with primary assignments in teaching, research, and advising. It shall also include individuals holding yearly or longer-term renewable non-tenure track position with the titles of Senior Lecturer and Clinical Professor with primary
assignments in teaching, research and advising. It shall not include faculty holding administrative appointments at the level of dean or above. For purposes of this policy the position of Associate Provost shall be regarded as an administrative appointment at the level of dean or above.

INITIAL DECLARATION OF FINANCIAL EXIGENCY

Institutional financial exigency is a demonstrably bona fide financial crisis that adversely affects an institution as a whole and that, after considering other cost-reducing measures, including ways to cut faculty costs, requires consideration of terminating appointments held by tenured faculty. Whenever there is reason to anticipate that the University as a whole is sufficiently threatened by financial exigency, declines in enrollment, or changes in educational needs to endanger the continuance of the University's obligations to faculty members with tenure or on tenure-track appointments, the President at the earliest date possible shall inform the Faculty Senate and all potentially affected budgetary units of the problem.

The President shall consult with the Senate and the concerned budgetary units to determine the nature and seriousness of the problem, the most appropriate of the possible courses of action to be taken, and the means of safeguarding faculty rights and interests, including tenure rights. In solving such a problem, the University shall make every reasonable effort to reassign affected faculty members to other suitable work and to aid them in finding other employment.

On the basis of these deliberations, the President shall write an Initial Declaration of Financial Exigency, giving the extent and scope of the emergency and the general approach to be taken to respond to it.

CONCURRENCE ADVICE OF THE SENATE

The President shall submit the Initial Declaration of Financial Exigency to the Senate for advice and concurrence. Concurrence requires a majority vote of the Senate. This process may involve amendments, mutually agreed upon. Concurrence will and may, but need not, result in a joint Senate-presidential Exigency Plan. The Exigency Plan, whether joint with the Senate or not, may include a formula for the membership of the committee “composed of faculty and administrative personnel to make recommendations to the president as to which academic positions and/or academic programs should be eliminated as a result of the financial exigency” designated in accordance with -rule 3.1, as well as the general criteria the committee should apply in making its recommendations. This committee will be called hereafter the Exigency Committee.

The size and composition of the Exigency Committee shall be specified in the Exigency Plan, provided that it has at least seven members. At least one-half of these members shall be faculty as defined above, and at least one-half of the faculty members shall be appointed from nominations submitted by the Senate. The Senate procedure for making the Senate designated appointments on the Exigency Committee shall be that the Senate will nominate at least twice as many faculty members as there are openings consigned to it, and the President shall appoint the members from among them. For faculty appointed to other positions on the Exigency Committee,
no Senate nomination is necessary. At least a majority of the total number of faculty nominated by the Senate will be tenured. All faculty appointees should seek to represent the university as a whole, not just programs initially slated to be reduced or just those not so slated, and at least some of them will have served on the Committee for Qualifications of Academic Personnel.

PROCEDURE FOR ELIMINATING POSITIONS

The Exigency Committee shall develop and implement the Exigency Plan in two stages. First, it will assess current programs and recommend cuts or other actions as described in Rule 3103 Section 3.2. Second, upon receiving approval for this assessment or a modified version thereof, it will proceed to designate specific positions to be eliminated as described in Rule 3103 Section 3.3 to 3.5, provided that:

- For section 3.2, assessment of academic programs. The Exigency Committee will provide a written report of its analysis of programs, which shall be submitted to the President, who shall then consult with the Senate for review and response before recommendations are made for specific positions to be eliminated. As stated in the Rule, “The committee will review and assess the academic programs of the institution and identify those academic positions that may be eliminated with minimum effect upon the degree programs that should be continued and upon other critical components of the institution’s mission. The review will include, but not be limited to, as relevant: (a) an examination of the course offerings, degree programs, supporting degree programs, teaching specialties, and semester credit hour production; (b) an evaluation of the quality, centrality, and funding of research activities; and/or (c) an assessment of the productivity, community service, and quality of clinical services (in relation to teaching, healthcare delivery, and scholarly activity).” The Committee shall consider and may offer advice on all avenues by which terminations of faculty members can be avoided or minimized, and, as well, by which the negative effects of any necessary terminations can be mitigated. Unless an extension is approved by the President, the Committee shall submit its recommendations in writing in a period of time no longer than 60 days.

In section 3.3, Review Consideration. After the President approves the recommendations regarding programs to be cut, the Exigency Committee next recommends specific positions to be eliminated. These recommendations should also be contained in a written report. The recommendations should be related to the Exigency Committee’s assessment of programs. If other officers of the university, such as deans or program chairs, are involved in identifying individuals whose appointments are to terminated, the process for obtaining these recommendations should be described in the report. The Exigency Committee will have available the personnel records of those being considered including current curriculum vitae, annual reports, promotion committee reports and recommendations, and results of periodic performance reviews. It will have access to full personnel files. Faculty whose positions would be jeopardized by the proposed actions will be provided the opportunity to contribute meaningfully to the Committee's review process.
For section 3.4, Tenure Preference. The Exigency Committee should not apply an unduly narrow interpretation of the idea that two candidates should be “equally qualified” before preference is given to one with tenure over one without. Preference should be given to tenured faculty over non-tenured if they are have approximately the same qualifications and prospects, and **those with more years of service** more senior faculty over **those with fewer years** less senior, provided that their accomplishments are roughly proportional to their relative academic lifetimes. The decisions should be consistent with the general principle that greater contributions will gain greater recognition.

In section 3.5, Recommendation. According to the Rule, “upon completion of its review,” the Exigency Committee “shall promptly recommend in writing to the president those persons who may be terminated, ranked in order of priority, with the reasons for their selection. The president shall, with such consultation with institutional administrative officers as the president may deem appropriate, determine which academic positions are to be terminated because of the financial exigency and shall give the holders of these positions written notice of the decision.” The Exigency Committee’s recommendations to the President shall be made in writing. Unless an extension is approved by the President, the Committee shall complete its work in a period of time no longer than 60 days from the submission of the initial report, specified in section 3.2, identifying the programs to reduce or eliminate.

**PROCEDURE FOR NOTICE AND APPEAL**

A faculty member whose position has been eliminated is entitled to appeal the decision, subject to the requirements of Regents’ Rules 31003 sections 3.7 and 3.8.

The issues in this hearing may include:

(a) The existence and extent of the exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of other hearing involving the same issue may be introduced.

(b) The validity of the educational judgments and the criteria for identification for termination, although the panel should give presumptive weight to the previous judgments of the Senate and the exigency committee.

(c) Whether the criteria developed by the exigency committee are being properly applied in the individual case.

The burden shall be upon the appellant to show by a preponderance of the credible evidence that:

(1) Financial exigency was not in fact the reason for the initial decision to reduce academic positions; or
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(2) The decision to terminate the appellant as compared to another individual in the same discipline or teaching specialty was arbitrary and unreasonable based upon the evidence presented.

The hearing shall be held before a panel consisting of full-time faculty drawn from the list of faculty in the pool approved for service on hearing tribunals in accordance with the UTD Policy on Hearing Tribunal Selection Procedures, provided that such faculty are not in the academic programs affected by the decision. At least half of the membership of such panels shall be from faculty recommended by the Senate. The size of such appeals panels shall be determined as part of the Exigency Plan guidelines for the declaration of exigency. The Hearing Panel shall elect its own Chair. The hearing must be held no later than 30 days after a written request is submitted to the President's office.

The employment of a tenured faculty member who is to be terminated under this policy shall end no sooner than the end of the current academic term; faculty will be allowed reasonable time to close down laboratories, complete teaching assignments, and transfer their responsibilities. If an entire program or functionally distinct part of a program is cut, employment of all tenured faculty in that program will terminate when the program or part itself is terminated, and will not extend beyond the termination of the program. During this period of employment and for three additional years, the terminated faculty member shall have the right to first consideration among equally qualified candidates for any faculty position at U. T. Dallas for which a recruitment and hiring process is conducted and for which the faculty member in question formally applies. In addition, the considerations noted in Rule 31003, Section 2, Subsections 2.6 - 2.11 of the Regents’ Rules and Regulations will be extended to the faculty member to be terminated.

NO CONCURRENT REPLACEMENTS

If appointments are terminated, the University will not at the same time make new appointments into the same subject area or specialization -except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. That is, a tenured faculty member or a more senior faculty will not be terminated only in order for the University to replace him or her with a new person at lower pay.