

Proposed Policy Changes from State Board of Education—September 24, 2009
Talking points from BSU Colleagues
This document has been approved for sharing with LCSC faculty/staff by Owen McDougal, BSU Faculty Representative

Section II: Human Resources Policies and Procedures

Subsection B. Appointment Authority and Procedures

Addition of two new paragraphs in this policy: b and c

b. Gives the President of the university the right to make the final decision on any personnel issue regarding a “reduction in force.” The State Board of Education cedes this right to the President unless the financial situation reaches a point where the board itself declares a financial exigency.

c. The board cedes the right to the President to make any decision necessary “to reduce expenditures to respond to financial challenges less severe than a declared financial exigency.”

The President under this policy has the right to reduce salary, work hour adjustments such as furloughs or other unpaid leave not tantamount to dismissals, benefit adjustments, and reduction in force.

Policy states that if these actions are taken, the President must provide 30 days written notice prior to the date of the action. The notice must include the effective date of the action, a statement of the basis of the action; and a description of the process to be heard. The process must be prompt, expeditious and fair as well as informal. (Grievance)

The employee can only contest the action on the basis of whether or not his/her constitutional or statutory rights have been violated. The employee cannot contest the action by challenging the President’s decision to implement a reduction in force.

These rules seem to abandon any pretense of faculty governance, the protection of employment implied by tenure, or the right to a thorough appeal before a panel of our peers.

If the SBOE is ceding decision-making power to the President, does that mean that the President can make decisions about the university budget not exclusively covered by the declaration of a fiscal exigency? Could this include a more equitable grievance policy and one that would include at will employees?

If the SBOE is not going to declare a fiscal exigency during this budget crisis, why have that designation? It is meaningless.

If constitutional and statutory rights include those of a “protected class,” who will monitor that impact and what provisions are in place for contesting the decision?

Section II: Human Resources Policies and Procedures
Subsection F: Policies Regarding Non-Classified Employees

Under b. Employment Contracts a new subsection 2

States that non-classified employees who serve under a contract are not guaranteed that salary in subsequent contracts and that if it is necessary to reduce budgetary expenditures, their current salary can be adjusted. (Repeated on line 2a. Compensation)

Section II. Human Resources Policies and Procedures (Institutional Faculty Only)

Under c. States that non-tenured and tenured faculty who serve under a contract or a letter of appointment containing a stated salary are not guaranteed that salary in subsequent contracts/letters and that their current salary can be adjusted. (Same as above)

How can an employee have a signed contract stipulating a salary for work that is then unilaterally amended? The employee must perform the work, but with less pay?

Tenure track faculty at BSU have not had a signed contract for a number of years. Does that mean that the contracts we signed once we attained tenure are in effect, or that we simply have no contract. A letter of agreement is one way, it is not signed by the employee.

How can the State of Idaho claim that they are employing people at a certain market rate when that rate is not fixed or guaranteed?

Will all state employees be working under these conditions, including administrators, or will these new rules only affect classified, professional and faculty employees?

Section II. Human Resources Policies and Procedures—All Employees
Subsection N: Financial Exigency Procedures—All Employees

A financial exigency occurs only when the SBOE declares one. Until that time all decisions regarding a reduction in force or reduction in work/salary are ceded to the university president. Subsection N does not apply to administrative actions designed to reorganize the institution.

1. Financial Exigency: separates the rules for financial exigency from the authority of the university president to take any employment actions. It also states that the board itself may take employment actions either independently or in conjunction with a declared fiscal exigency.

2. d. Removes previous policies of fiscal exigency and states that employees who are affected by employment action other than a layoff (furloughs, etc.) do not have layoff reinstatement rights.

Section 7 a. Removes language from the appeal procedure that allows the employee to “contest the action based on whether the agency, institution or school followed the appropriate policies and procedures and the terms of the Plan; whether the action was made for constitutionally impermissible reasons; or whether any other improper criteria were applied.” (The Plan is specified in 2a., that the Executive Officer, in consultation with faculty, professional staffs and classified personnel “must prepare a plan (the “Plan) in response to the declaration of financial exigency. When developing this Plan, consideration must be given to the necessity and manner of reducing the employment force, the appropriate units or subunits to be affected, and the criteria for identifying the employees who are affected by the Plan. Once completed, the Plan must be approved.....however...implementation of the Plan may begin prior to Board approval.”)

What can be put in the Plan? Can it include institutionally agreed upon exceptions, grievance procedures, penalties for improper dismissal, employee panels?

Can the Plan include a restructuring of financial resources at the university so that those with the highest salaries are asked to make the greatest sacrifices? Can the salary changes be indexed to the administrator or President’s salary?

In the section immediately above (Section 7a) the original language about appeal procedures indicates that the Board entertained appeals that would monitor the fairness and equity of their decision-making. Does the removal of this language indicate that the Board (and by extension the university) no longer considers itself accountable for these decisions in all cases?

Submitted by Robert McCarl, Faculty Senate Secretary.