

SECTION: PERSONNEL

SUBJECT: FINANCIAL EXIGENCY POLICY AND STAFF REDUCTION PROCEDURES

Background: The purpose of this policy is to give a guideline if an institution is confronted with a condition of financial exigency. This policy works in conjunction with the Idaho State Board Policy found at <https://boardofed.idaho.gov/board-policies-rules/board-policies/human-resources-policies-section-ii/staff-reduction-procedures-all-employees-ii-n>

Point of Contact: Administrative Services

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: President and Provost Offices

Date of approval by LCSC authority: 03/2009

Date of State Board Approval: August 2002

Date of Most Recent Review: November 1983; August 2002; March, 2009

Summary of Major Changes incorporated in this revision to the policy: No substantial changes have been made to this policy.

Policy: A. Financial Exigency Policy

Section II, Subsection N. of the Idaho State Board of Education Governing Policies and Procedures (“Subsection N”), adopted by the Board on June 11, 2002, contains comprehensive policies and procedures to be applied by the Idaho State Board of Education and by each of the Institutions governed by the State Board of Education if an Institution is confronted with a condition of financial exigency. The State Board of Education resolution adopting Subsection N revoked LCSC’s prior financial exigency policies and procedures. LCSC hereby expressly adopts Subsection N, as the same may be amended from time to time by the State Board of Education, as LCSC’s own Staff Reduction Procedures. The additional LCSC procedures which follow are intended to supplement Subsection N. In the event of any conflict between these additional LCSC procedures and Subsection N on any issue, Subsection N is paramount and shall govern the issue.

B. Composition of Institutional Advisory Committee.

In the event a condition of financial exigency is declared by the State Board of Education at LCSC, the President shall establish and chair a committee consisting of the Provost, the Vice President for Finance and Administration, and one representative each from the Faculty Association, the Professional Staff Organization, the Classified Staff Organization and the Student Body. Representatives of the constituency groups will be appointed by the leadership of those groups at the invitation of the President and shall be responsible for representing the interests of their groups in the Advisory Committee and communicating the activities of the Committee back to their constituency groups. The Advisory Committee may

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involve additional individuals, including community members, in its deliberations at the invitation of the President. The Advisory Committee shall advise the President in the development of a plan to respond to the State Board of Education declaration of financial exigency at LCSC and, in the Committee's deliberations, it shall explore with the President reasonable alternatives to the termination of appointments and layoffs. Efforts will be made to develop a plan that protects LCSC's role and mission.

C. Layoff Criteria.

High priority will be given to providing one year notice to tenured faculty who will be laid off. If circumstances do not permit such notice, priority will be given to allowing any tenured faculty member identified for layoff to complete the contract which is in effect at the time the financial exigency is declared. To the extent consistent with Subsection N, priority will also be given to tenure and seniority and consideration will be made to reassignment of faculty with tenure and all other employees with seniority to other available positions for which they are qualified.

D. Hearing Procedures - Non-Classified Employees.

The following supplemental procedures will apply to pre-layoff hearings held under Paragraph 5 c.(4) Subsection N for non-classified employees and, except as otherwise provided in the LCSC Financial Exigency Plan adopted by the Board, the hearing held for non-classified employees affected by employment actions other than layoff under Paragraph 7.a. of Subsection N.

1. Request for Hearing. Any employee entitled to a hearing under Subsection N, must file a written request for that hearing with the Human Resource Office no later than fifteen (15) calendar days after the date on which the employee receives written notice that the employee will be laid off or that the employee will be affected by a financial exigency employment action other than a layoff. The written request should briefly state the reasons why the employee contends the proposed action is improper. If the employee fails to file the written request for hearing with the Human Resources Office within such fifteen (15) day period, the employee shall be deemed to have irrevocably waived his or her right to a hearing.
2. Staff Reduction Hearing Panel. Each timely request for hearing shall be heard by a hearing panel. The hearing panel shall be composed of three members - one member drawn from the Faculty Grievance Board, one member from the Professional Staff Grievance Board and one member who is an Administrator. Faculty Administrators are those faculty members holding the positions of Division Chair or above, and Professional Staff Administrators are those professional staff members holding positions of Director or above. The panel members shall be selected by the President after consultation with the leadership of the faculty and professional staff organizations. The Administrator

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selected to serve on the hearing panel shall be from the same constituency (i.e. - either Faculty or Professional Staff) as the person requesting the hearing. Separate panels may be appointed to hear different matters and any panel may hear more than one matter. No member of a panel may have a direct interest in the outcome of the matter under consideration by that panel and no administrator whose recommendation is being challenged in the matter being heard by the panel may serve on that panel. The panel which will hear the matter shall be selected as soon as is reasonably practical after a written request for hearing on the matter has been filed. One member of each panel shall be selected by the members of that panel to serve as the chairman of that panel. The chairman of the panel shall be responsible for scheduling the hearing and shall preside at the hearing. A member of the Human Resources Staff shall monitor the proceedings as an observer but shall have no vote on any matter which comes before the panel.

3. Scheduling of Hearing. The hearing shall be scheduled as soon as is reasonably practical after the selection of the hearing panel, provided, however, that the employee shall be entitled to at least five (5) calendar days written notice of the time, date and place of the hearing.
4. Conduct of Hearings. The hearing shall be conducted informally. The employee shall be given a fair opportunity to explain the relevant reasons why the proposed employment action is improper and to present relevant information which supports those reasons. The Provost (or an LCSC employee appointed by the Provost to represent his or her position) may discuss the relevant reasons why the proposed employment action is proper and present relevant information in support of those reasons. The panel members may question the employee, the Provost or any other person presenting arguments or information to the hearing. However, neither the employee nor the Provost shall have the right to examine or cross-examine any person.
5. Representative. The employee may be accompanied to the hearing by a representative who may be an attorney. The employee may consult with his or her representative during the hearing but the representative may not address the panel, question any person offering information to the panel, or otherwise participate in the conduct of the hearing unless the panel determines that, because of physical or mental impairment, inability to communicate effectively in the English language or other objective disability, the employee is unable to effectively participate in the hearing.
6. Written Recommendation. As soon as is reasonably practical after the completion of the presentation of information and arguments, the hearing panel shall make its written recommendation to the President, which recommendation shall state and the reasons for that recommendation. The recommendation of two of the three panel members shall be the recommendation of the hearing panel.

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7. Final Decision of President and Reconsideration. As soon as is reasonably practical after receipt of the hearing panel's recommendation, the President shall review that recommendation and make a final decision. The President may meet, but is not required to meet, with the employee before making the final decision. If a timely request for reconsideration of the President's final decision is received by the President, the President shall review that request and thereafter, as soon as reasonably practical, the President shall issue his or her written decision on the request for reconsideration. The President's final decision and any decision on a request for reconsideration shall state the reasons for the President's decision.
8. Reasonably Practical Times. Any action which must be taken or decision which must be issued as soon as "reasonably practical" after an event shall be conclusively presumed to have been taken or issued as soon as is reasonably practical if it is taken or issued within ten (10) calendar days of the event.
9. Exclusivity. The procedures set out in Subchapter N and this Section C (except as modified in the case of an employment action other than layoff by the LCSC Financial Exigency Plan) are the exclusive procedures applicable to a hearing with respect to an employment action taken with respect to a non-classified employee in response to a declaration of financial exigency at LCSC. No other LCSC hearing procedures or grievance procedures shall apply to such a hearing.

D. Classified Employees.

Criteria, hearing procedures and other matters pertaining to financial exigency personnel actions affecting classified employees are governed by the statutes and rules pertaining to the Idaho Personnel System and not by these supplemental procedures.