4. Have the retrenchment options been considered in sequential order of severity (Program Reduction, Program Elimination, Financial Exigency, Merger or Consolidation, Closure)?

5. Are there alternatives that allow meeting the retrenchment targets, short of staff and faculty terminations?

6. What are the institutional rules governing personnel reduction-in-force procedures?

7. What due process and contractual rights do faculty have in retrenchment terminations?

8. What are the institution's obligations to students?

The cases and trends discussed above clarify that retrenchment continues to be a major challenge for institutions of higher learning, as well as a major source of disruptive litigation. Most such litigation, though not all, can be avoided or reduced if institutions plan carefully for any proposed retrenchment and adhere to all applicable procedural and substantive protections due to the faculty. Courts still show admirable deference to legitimate academic decisions of institutions, but they have no patience for failure to adhere to clearly articulated procedure or well-established custom. Indeed, in some circumstances (such as in Mundelein), courts appear willing to apply a standard retrenchment procedure to an atypical circumstance that was unanticipated by the contracting parties-and to penalize the institution granting tenure for failing to anticipate the need to implement this procedure. This only underscores the need for institutions to anticipate future retrenchment possibilities. Before retrenchment is contemplated, institutions are well-advised to consider and adopt the rules and procedures that they want before courts impose procedural obligations upon them.