Financial Exigency Draft of Recommendation
As submitted April 1, 2010

I. Declaring a State of Financial Exigency

If the President of the University has reason to believe that a state of financial exigency that threatens the life of the institution exists or is clearly imminent, he or she will take the following steps before making a formal declaration to that effect:

1. The President will present to the Executive Committee of the Faculty Senate the information that compels such a conclusion.

2. The President will present the same or similar information to the Faculty Senate at an open meeting.

3. The President will present the same or similar information to the University Faculty.

The President may consult with other units or constituencies of the University as he or she believes is necessary or appropriate.

II. Stetson’s present policy on Termination of Employment (From Faculty Handbook)

3.3.13 Termination
Termination is a severance action by which the University terminates the services of a tenured faculty member. Prolonged mental or physical illness, financial exigency, or changes in the education program are the only causes for termination of tenured faculty.

b) Financial Exigency: In the event of financial exigency, the President and the Board of Trustees will officially announce that such a state exists. Should such an emergency arise, the President and the Board of Trustees will take such measures as are deemed necessary to cope with the crisis, after consultation with the proper Dean and faculty of the area concerned. In taking such measures, a primary concern will be the retention of viable academic programs. If faculty reductions are required, tenure rights will be protected in so far as possible.

III. Policy on Declaring Financial Exigency at American University, Washington DC.

The University reserves the right to terminate an appointment with continuous tenure when the Board of Trustees determines that there is financial exigency.

a. Procedures for Determination of Financial Exigency
Since it directly affects the educational policy of the institution and the status of members of the faculty, the decision that a state of financial exigency exists is of such consequence, since it directly affects the educational policy of the institution and the status of members of the faculty, that the broadest possible consideration of the matter within the University community is essential. Thus, the determination of bona fide financial exigency should be analyzed and discussed by the administration, faculty, and students of the University. After consultation by the provost and president with the Board of Trustees, a determination is made that a condition of financial exigency may exist, or is imminent, the provost shall submit to the Faculty Senate and the Committee on Instructional Budget and Benefits of the Faculty Senate the financial and programmatic information on which the determination was based. The Faculty Senate and the Committee on Instructional Budget and Benefits shall consider whether the condition of financial
exigency is supported by the material submitted by the provost and shall report to the provost, not later than forty-five calendar days from the date of the determination, their findings and recommendations. In making a final recommendation to the president and Board of Trustees, the provost shall take into consideration the findings and recommendations of the Faculty Senate and the Committee on Instructional Budget and Benefits, and if the provost recommendation is at variance with the recommendation of the Faculty Senate and the Committee on Instructional Budget and Benefits the reasons there for.

Once a final determination has been made by the Board of Trustees that a condition of financial exigency exists, the provost, within forty-five calendar days, shall seek and obtain the advice of the appropriate deans and the Faculty Senate and the Committee on Instructional Budget and Benefits to determine what course of action the University should pursue in response to the state of financial exigency. Consideration shall be given to what services, programs, or units will be affected, the need for faculty reduction or redistribution, and the future development of institutional policy. In particular, consideration will be given to what other measures short of terminating tenured faculty can be taken. Should termination of tenured faculty be required, the provost shall so notify the Committee on Faculty Relations, which shall have the responsibility for reviewing the identification of individual faculty members whose appointments are to be terminated in accordance with the provisions of Section 13 of this Manual, and which shall make its recommendation to the provost within thirty days. With respect to matters affecting faculty reduction or redistribution, consideration shall be given to academic criteria, affirmative action compliance requirements, and the length of service of the faculty member so affected.

The University, with faculty participation, will make every effort to place a faculty member who has been recommended for termination in another suitable position within the University. In the event of termination of a tenured member of the faculty, the University will not, at the same time, make a new appointment in such faculty member's department or unit except under extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure except under extraordinary circumstances where a serious distortion of the academic program would otherwise result.

b. Financial Exigency Termination Review Procedures

In the event that it becomes necessary for the University to terminate a tenured member of the faculty, the affected tenured faculty member shall have the right to a formal hearing, provided he/she submits a request in writing to the provost within thirty days of receipt of notice of proposed termination. Within ten days of receipt of such request, the provost shall submit to the University Faculty Hearing Committee as provided in Section 21 of this Manual a notice of proposed termination with supportive documentation for formal hearing.

A matter forwarded to the Faculty Hearing Committee for the formal hearing shall be heard within thirty days by a panel consisting of five members of the hearing committee selected at random by lot. The panel shall select one of its members to serve as chair. Members deeming themselves disqualified for bias or interest shall remove themselves from consideration of the matter, either at the request of the faculty member in question or on their own initiative.

The panel chair shall notify the provost and the faculty member of the time and place at which the hearing is to be held. Service of notice of the hearing shall be made at least ten days prior to
the date of the hearing. The faculty member may waive the hearing or submit a statement in writing at any time before the hearing.

The issues in his/her hearing may include:

13. The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.

14. The validity or the educational judgment and the criteria for identification for termination, but the recommendation of a faculty body on these matters will be considered presumptively valid.

15. Whether the criteria are being properly applied in the individual case. The panel may invite persons to give testimony relevant to the matter, and either the provost or the faculty member may request that the panel invite such persons. University personnel will make every effort to cooperate with the panel in securing witnesses and making available documentary and other evidence.

A tape recording will be made of the hearing and will be available, together with any documents introduced at the hearing, for copying at the requesting party’s cost. The faculty member shall have an opportunity at the conclusion of the hearing to file a written closing statement based on the record.

After an opportunity has been given to the faculty member to review the record of the hearing and to submit a closing statement, the committee, no more than ten days following the conclusion of the hearing, will prepare findings and recommendation which shall be reported to the provost with a copy furnished to the faculty member. The provost, within ten days of receipt and review of the report, shall issue a statement to the committee and the faculty member indicating the action which will be taken, and if such action is at variance with the recommendation of the committee, the reasons therefore.


IV. University of the Pacific’s Policy on Declaration of Financial Exigency

3.6 Policy on Declaring University Financial Exigency

The President may propose to the Board of Regents that it declare that a University financial exigency exists.

Before forwarding such proposal to the Board of Regents, the President will review its rationale and conclusions with a Select Committee consisting of the Provost, the dean of each school and college, one (1) tenured faculty member of each of the schools and three (3) tenured faculty members of the College of the Pacific, each of whom shall be selected by the Academic Council.

The President shall share all pertinent financial data including the relevant record of the Institutional Priorities Committee with this committee.

The Select Committee will issue a report and recommendation, which shall be submitted to the Board of Regents prior to the Board’s final determination.

If the Board of Regents declares a University financial exigency, the University will consider a range of appropriate operational and budgetary measures, which may include reduction of
expenses related to goods, services, staff and faculty.

In doing so, the University will first focus on those programs and services which are not central to its primary academic mission, vision and priorities.

If reductions in academic areas are not avoidable, the University may decline to renew faculty appointments including those which are renewable, to terminate probationary, special and regular faculty appointments prior to their scheduled expiration date, and/or to terminate appointments with tenure.

Terminations of appointments due to University financial exigency are governed by section 7.15 http://web.pacific.edu/x10994.xml

V. Policy on Declaring Financial Exigency at Centenary College, Shreveport, LA

Resolution of Centenary College of Louisiana Board of Trustees Regarding Financial Exigency Policy

WHEREAS the Board of Trustees is responsible in accord with the Charter and By-Laws of Centenary College of Louisiana (the "College") for assuring that the College meet its chartered mandate to "organize such departments, courses of instruction, and schools of learning within the College as may be necessary to effectuate its educational purposes"; being required therefore to exercise appropriate fiduciary judgment and to set general policies for the College aimed at securing that end; and

WHEREAS preservation of the financial and academic viability of the College requires that the responsibilities of the Board of Trustees be exercised in a cooperative manner with the Faculty, while recognizing that the Board of Trustees ultimately is responsible to exercise its fiduciary authority to act as necessary at its own initiative so as to assure preservation of the College's financial and academic viability;

BE IT THEREFORE RESOLVED that the Board of Trustees approves the following resolution regarding financial exigency, to be added as Article V of the By-Laws of the College.

ARTICLE V Financial Exigency

General Statement of Policy. Should a condition of financial exigency or the threat of it ever exist at the College, the Board of Trustees and its standing committees, the President of the College ("President"), the administrative officers, and the appropriate committees of the Faculty shall participate in a manner consistent with their duties and purviews as defined in the Charter and By-Laws of the College, the By-Laws of the Board of Trustees and the Faculty Handbook.

The Determination of Financial Exigency

Exigency. Financial Exigency is an imminent financial crisis that threatens the survival of the College as a whole and that cannot be alleviated by less drastic means than reductions in professional staff including the termination of appointments. ("Termination" refers to the release of personnel through means other than non-renewal of contract; e.g., the early ending of an unexpired contract in the case of untenured personnel or the release from contract of tenured faculty members).
Raising the Question. The President shall ask the faculty Economic Policy Committee (or its successor) and other sources within the College that the President deems appropriate to advise formally whether they believe a condition of Financial Exigency exists or is imminent, and that all feasible alternatives to termination of appointments have been pursued.

Recommendation. Recommendation to the Board of Trustees whether to declare Financial Exigency is the sole prerogative of the President. Having received advice as contemplated above, the President shall make a recommendation to the Board whether to declare financial exigency and shall report the full range of agreement or its absence provided by the Economic Policy Committee and other sources consulted.

Declaration. The Board of Trustees, alone, has the authority to declare a state of financial exigency.

Overcoming Financial Exigency

Finances. Development of a conceptual plan for overcoming financial exigency shall be undertaken by the Business Affairs Committee of the Board in conjunction with the Vice President for Finance and Administration of the College and at the request of the President. The Economic Policy Committee shall be consulted in developing this said plan. Final recommendation of said plan to the Board shall be the responsibility of the President. If a plan is approved by the Board of Trustees, it will then serve as the financial context for subsequent decisions.

Curricular Matters. In adjusting programs to meet financial exigency, faculty committee(s) shall develop with the Provost of the College proposals regarding program adjustments (including discontinuance of same) in accordance with the provisions of the Faculty Handbook, taking into account the limitations imposed by the financial conceptual plan, and shall advise the President regarding same. The President will make the final decision for or against discontinuance. The discontinuance of a department or program shall be accomplished in accordance with the Faculty Handbook.

Personnel Matters. In making personnel decisions regarding faculty in order to meet the constraints imposed by financial exigency, a proposal related to the termination of unexpired contracts of tenured and untenured faculty shall be developed by the Provost and Faculty committee(s) utilizing guidelines contained in the Faculty Handbook. The Provost shall make a recommendation to the President to terminate specific contract(s) in accordance with said proposal. The President shall have the authority to terminate contract(s). The procedures described in the Faculty Handbook for implementation shall be followed. Decisions related to the release of specific administrators will be made by the President in consultation with senior administrative officers and, where appropriate, with relevant college committees.

Approved by Board of Trustees May 9, 2009
http://www.centenary.edu/provost/handbook/exigency

VI. AAUP Guidelines on Declaration of Financial Exigency. Refer to Handout to be distributed Jan. 8 Meeting.