

February 27, 1995

Report of the RIF DTF and Proposed Faculty RIF Policy

Faculty RIF DTF - Justino Balderrama, Ernestine Kimbro, Stephanie Kozick, Jackie McClure, John Perkins (Chair Substitute)

(With Acknowledgements to Thad Curtz, Chair, who has mercifully been able to be on his Professional Leave)

Based on the discussion at the Faculty Meeting on 15 February, plus subsequent comments given to us by several people, the DTF refined its proposal. You now have the option of approving it, with possible amendments, or asking that the matter be revisited, probably by another DTF.

Here are the results of the DTF's most recent discussions.

1. The straw vote on 15 February strongly supported a RIF policy based on rotating, involuntary furloughs. Therefore we kept this proposal centered on that scheme.

We reiterate here our main rationale for that decision: It is true that across-the-board paycuts distribute the burden of a budget cut more widely, and therefore more lightly. However, across-the-board paycuts mean that we continue to do exactly the same work for less, and a policy based on them allows the legislature to cut our salaries at no cost to anyone but us. What seems like a tolerable percentage cut for a year also represents a very large amount of money over a longer term, if the cuts are not restored. (We do think that this second objection might be dealt with through a provision that did not allow new hiring until salary cuts had been restored; a permanent reduction in our funding would thus shrink the faculty more slowly through attrition until salary levels had recovered rather than cutting the faculty's size immediately through a RIF.) However, the first objection has led us to endorsing furloughs.

2. Our discussions of what to say about the librarians with faculty status and Caryn Cline suggest that there is currently some ambiguity about whether they now have a legal right to continuing positions as full-time members of the teaching faculty if their jobs in the library cease to exist, or a right to continuing positions teaching one quarter out of every nine, or no rights to continuing faculty positions except as part of their positions in the library. We are also divided about whether they ought to have such a right if they do not now. We don't think that this policy is the appropriate place to address this issue, but we think that it needs to be settled, preferably as part of our reconsideration of the faculty re-appointment policy.

3. Similarly, after considerable discussion, we have decided that if the issue of whether or not adjunct faculty on whose teaching the college has steadily relied for a long time should receive some sort of ongoing commitment of stable employment in return is going to be

addressed, it should not be done in this policy. (Such a commitment seems to require the creation of a new category of faculty, with different expectations of employment, and of procedures for appointing adjunct faculty to that category. Proposing an amendment to the re-appointment policy seems the appropriate avenue for this.)

4. We were asked by the President and Provost to consider exempting the Budget Dean and the Curriculum Dean from the Involuntary Furlough Groups, for the duration of their service in that capacity. We concurred with that suggestion.

5. We were asked by several to include disciplinary backgrounds as part of the diversity that needed to be spread across the Involuntary Furlough Groups. We concurred with that suggestion.

6. Mike Beug asked us to reconsider the recommendation that 12% of the budget for faculty salaries and benefits be in categories of faculty other than regular [tenured] faculty. Our recommendation is to stay with the figure of 12%. In times of shrinking resources for higher education, we do not consider it excessive to aim for a cap of 88% of the faculty monies going to tenured faculty.

At the same time, Mike's request was eloquent on the problems such a number might cause for new hires in the science faculty. We agree that he pointed out a serious problem, but we believed that our DTF was not the place to solve that problem. Shortages of science faculty involve problems beyond just the stance of the RIF policy. We therefore recommend that the Deans and Provost turn to the question of how a tenure cap goal affects the different subject areas taught at the college. A new DTF is needed to work on a range of problems involved in those shortages.

7. Pete Sinclair asked us to reconsider the criteria by which the Deans judged the essentialness of adjunct and visiting faculty. We decided that the RIF policy was not the place to engage the problems raised by Pete. Therefore we let our proposal stand as it was on this point. Perhaps a new DTF is needed to address Pete's concerns.

8. A suggestion came that voluntary leaves taken in response to a call for them by the Deans ought to be credited should the person later be placed on involuntary furlough. The DTF concurred and placed appropriate language in the proposal.

9. A question was raised about whether a person placed on involuntary furlough might gain preference for summer teaching. The DTF recommends that the furloughed faculty member's plight be considered along with other factors by the Dean of the summer session.

10. A question was raised about whether we ought to protect new or young faculty from some of the policy's effects. The DTF felt that a faculty member who takes a position at Evergreen should be told the RIF policy during the hiring process but that once here the person shares equal vulnerability to the chance of RIF. Reasons exist to protect new faculty,

but comparable reasons exist to protect each of us. We could not find a compelling reason to protect the new hires.

11. A question was raised about the criteria for the Board declaring states of financial exigency. We revisited this issue at length, and we realized that we had inadvertently compressed what is now a two-step process into a one-step process. Upon reflection, we decided we liked the two-step process better, so we have reinserted the existing policy's Board process into the proposal. We now recommend that the Board declare "financial exigency" before eliminating visiting, adjunct, one-year convertible, and post-retirement re-employed faculty [and non-tenured regular faculty, if we create that category of faculty membership]. If that step proves inadequate, or if subsequent calls for more budget reductions come in, we ask that the Board declare a state of "extreme financial exigency" before it is possible to put regular faculty on involuntary furlough.

12. A suggestion was made that households with more than one regular faculty member should not receive special treatment in placement in Involuntary Furlough Groups. We concurred and removed that provision.

THE PROPOSAL (AS AMENDED)

Some comments to readers which are not intended as part of the final policy are included in this draft, *in italics*. Before reading what follows, you might want to consult the appendix, which gives the plan in a nutshell.

Prologue:

Using the state's resources wisely and efficiently to provide excellent educational opportunities is the prime responsibility of the Board of Trustees and all employees of the college. To this end, this policy for Faculty Reductions in Force intends to provide a procedure through which the Board, the academic administration, and the faculty may consult together if the State's allocation falls to such low levels that it seems that reducing the size of the faculty may be financially unavoidable. In keeping with the long-standing values and habits of the College, this policy calls for extensive consultation among the Board, administration and faculty before substantive decisions about faculty reductions in force are made by the Board. This policy indicates specific consultations that shall be taken before reduction in force decisions are made, but it encourages ongoing consultation among these parties throughout such a crisis, in addition to the conversations it specifies.

Section A: Declaration of Financial Exigency

The procedures for terminating other-than-regular-faculty contracts established by this policy may only be employed after the declaration of a state of "financial exigency" by the Board of Trustees. The Board may declare such a state and authorize the following process for laying-off faculty and terminating faculty contracts only if, in its judgement, the college's finances have reached a point at which other essential functions of the college should not be cut further.

Before such a decision is formally considered by the Board, the Deans shall contact all available faculty, urging people to notify them within a reasonable specified time if they are willing:

- a. to retire early,
- b. to teach part-time for some period in a way that, in the Deans' judgement, will fit satisfactorily with the curricular needs of the college, or
- c. to go on voluntary leave without pay.

Such voluntary adjustment should, of course, be used to reduce or alleviate the budget crisis before resorting to a declaration of financial exigency and involuntary reductions in force.

Before a decision to declare financial exigency is made by the Board, the President shall consult with at least the Faculty Agenda Committee (or representatives selected by that committee), the Deans, and the Provost and report to the Board on their views and ideas about what should be done to deal with the situation.

1. Step One - Termination of Adjunct, Visiting, One-Year Convertible and Post-Retirement Re-Employment Faculty Contracts

The Deans as a group shall rank adjunct, visiting, one-year convertible and re-employed post-retirement members of the faculty according to their best judgement of the degree to which the teaching that each of them is scheduled to do for the remainder of his or her contract will contribute to the college's overall future curricular needs. (This judgement is not to be made on the basis of the Deans' views about the quality of their teaching.) In making this decision, the Deans shall rely upon their collective judgement, considering any other factors which they judge to be relevant to preserving the coherence and quality of the college's curriculum, including the following:

1. The extent to which they think that the functioning of other continuing programs depends on the offerings that each of these faculty members is scheduled to teach during the remainder of his or her contract.
2. The extent to which they think that it is possible for regular faculty to assume the responsibility for each of these faculty members' scheduled teaching.
3. The extent to which the college has committed itself to providing some classes or programs taught by these faculty as continuing offerings through which matriculated students expect to be able to proceed sequentially, e.g. Evening and Weekend Studies, language courses, or graduate programs.

The contracts of people in this group shall be terminated at the end of the current quarter according to the Deans' ranking (beginning with those positions which the Deans judge to be

the least essential to preserving the overall future educational quality of the college) until the needed budget reductions have been achieved or all their contracts have been canceled.

After September 1, 1995, no one shall be offered a new regular faculty position unless at least 12% of the college's budget for faculty salaries and benefits is already being used for adjunct, visiting, one year convertible, and re-employed post-retirement faculty. [If the faculty votes to adopt the new tenure policy the phrase non-tenured regular faculty shall be added to this list.]

2. Step Two - [To be inserted in this policy if the faculty votes to adopt the new tenure policy proposed by the Faculty Re-Appointment DTF.]

Elimination of Non-tenured Regular Faculty

The Deans shall rank the non-tenured regular faculty according to the date of the Provost's letter that appointed each of them as regular faculty, and terminate the contracts of people in this group, beginning with the person who most recently signed his or her contract, until the remaining needed budget reductions have been made or all these positions are gone.

If, within three years of the date at which the college has terminated one or more regular faculty contracts, it once again has money to hire faculty, then no faculty new to the college shall be hired, and no adjunct or visiting faculty shall be re-hired, until each of the non-tenured faculty whose contracts have been terminated in this step has been offered a contract for the remaining term of his or her previous contract at the time of its termination. (If there is only enough money available at some point to offer someone a contract for part of the remaining term of his or her previous contract at the time of its termination, the college may offer that person a visiting contract for a shorter term. However, neither the offering or the acceptance of a shorter visiting contract in such a case shall reduce the person's right to the offer of a regular contract of the length specified, in addition to this shorter contract, should any further hiring be done within three years of the date of his or her original termination.) Offers to re-hire faculty shall be made in the inverse order of their termination, offering the first available position to the person terminated last, and so on. Faculty whose contracts have been terminated and who wish to receive such an offer if they become eligible for one are responsible for keeping the Deans informed of their current mailing address. Such offers shall be sent to the most recent address provided to the Deans by each such faculty member, and shall lapse if a written acceptance has not been received by the Deans within thirty days of the date on which the offer was mailed to the faculty member.

Section B: Declaration of Extreme Financial Exigency

The procedures for terminating regular faculty contracts established by this policy may only be employed after the declaration of a state of "extreme financial exigency" by the Board of Trustees. The Board may declare such a state and authorize the following process for laying-off faculty and terminating faculty contracts only if, in its judgement, the college's finances

have reached a point at which other essential functions of the college should not be cut further.

Before such a decision is formally considered by the Board, the Deans shall contact all available faculty, urging people to notify them within a reasonable specified time if they are willing:

- a. to retire early,
- b. to teach part-time for some period in a way that, in the Deans' judgement, will fit satisfactorily with the curricular needs of the college, or
- c. to go on voluntary leave without pay.

Such voluntary adjustment should, of course, be used to reduce or alleviate the budget crisis before resorting to a declaration of extreme financial exigency and involuntary reductions in force.

Before a decision to declare extreme financial exigency is made by the Board, the President shall consult with at least the Faculty Agenda Committee (or representatives selected by that committee), the Deans, and the Provost and report to the Board on their views and ideas about what should be done to deal with the situation. Should the Board entertain a motion to declare extreme financial exigency, they shall first hold a public hearing on its merits. If such a declaration is made, they shall make its rationale public.

If a state of extreme financial exigency has been declared, reductions in the size of the faculty shall be carried out as follows, proceeding step by step in sequence until the required savings have been obtained.

3. Step Three - Involuntary Furloughs for Regular Faculty on Three-Year and Eight-Year Contracts

If the faculty votes to adopt the new tenure policy proposed by the Faculty Re-Appointment DTF, the phrase "tenured regular faculty" should be substituted for the synonymous phrases "regular faculty" and "regular faculty on three-year and eight-year contracts" in this section.

On the adoption of this policy, the Deans shall randomly divide the regular faculty on three-year and eight-year contracts (including themselves, any other regular faculty temporarily serving in non-teaching capacities, and any regular faculty on paid or unpaid leave) into ten equal Involuntary Furlough Groups. The Deans shall distribute the faculty currently serving as Deans, faculty at different salary steps, and faculty with different disciplinary backgrounds as evenly as possible among these groups.

In order to help preserve the diversity of the faculty in the event of a RIF, the Deans shall provide a two week period before they set up the Involuntary Furlough Groups during which

any member of the faculty may establish a Diversity List for the purposes of this policy by naming the Diversity List and describing some sort of faculty diversity that the list is intended to help distribute across the Involuntary Furlough Groups. Descriptions of the resulting Diversity Lists shall be sent to the faculty by the Deans so that members of the faculty who wish to place themselves on one or more of these Diversity Lists may add their names to a list or lists of their choice. The Deans shall distribute the members of each of the resulting Diversity Lists as evenly as possible over the ten Involuntary Furlough Groups when they set them up.

Newly hired faculty [*Revise to "Newly tenured faculty," if the faculty adopts the proposed tenure policy*] shall be added to the Involuntary Furlough Group which is smallest at that time, or randomly to one of the smallest Involuntary Furlough Groups if more than one is equally small. If the selection of a new Dean results in a situation in which more than one of the Deans is in the same Involuntary Furlough Group, the newly selected Dean shall be permanently reassigned to the smallest of the Involuntary Furlough Groups without a Dean in it, or randomly to one of such groups if there is more than one.

Each of the ten Involuntary Furlough Groups shall be randomly assigned as the Designated Involuntary Furlough Group for one of the next ten academic years, beginning with the academic year running from September 1995 to June 1996. In addition, the members of each Involuntary Furlough Group shall be randomly ranked in relation to each other when the Groups are set up. New members of a Group shall be inserted randomly in the Group's current ranking. Step Three budget reductions shall be made by placing each member of the pool on involuntary furlough for one year, proceeding according to the current random ranking of the Group, until the necessary savings have been obtained, or everyone in this pool shall have been furloughed. If the college's financial position does not improve, Step Three budget reductions shall be made in the same way in subsequent years, distributing the required furloughs among the Designated Involuntary Furlough Group assigned for each subsequent year, while the previous year's Designated Involuntary Furlough Group returns to full-time work. (If this policy is still in effect at the end of ten years, the ten Involuntary Furlough Groups shall be assigned as Designated Involuntary Furlough Groups for each succeeding ten year period in the original sequence.)

The college is obligated to pay unemployment benefits to terminated and furloughed faculty; as we understand the current rules, the college will end up paying \$343 a week for thirty weeks (\$10,290) to each furloughed faculty member who applies for unemployment and uses his or her full benefits. This is about 25% of the average yearly regular faculty salary (\$42,080) or about 19.5% of the average regular faculty compensation including benefits (roughly 52,600). This obligation creates a complicated set of tradeoffs in designing this policy. (One based on across-the-board salary reductions, with a provision that no new hires shall be made until salaries are restored to previous levels, would be considerably more efficient in producing actual savings immediately, but has other drawbacks.) One might spread the burden of furloughs more widely by using shorter leaves and/or a smaller number of larger Involuntary Furlough Groups. However, the college saves more money from longer

furloughs (and thus fewer people need to be furloughed to produce a given budget reduction.)

For the first year, this policy saves the college just as much money as actually terminating regular faculty contracts would. However, if a cut is not restored (which seems likely) it costs the college, directly, more over time. Consider, as a simplified example, a ten percent reduction lasting for two years. If the college terminated enough faculty contracts to achieve this reduction in the first year, its obligations would be ten percent lower in the second year. Those faculty would no longer be employed, and they would no longer be drawing unemployment. Under this policy, a new Involuntary Furlough Group would be laid off in the second year, drawing new unemployment, so the college would be paying out about 20% of the cost of that group's full compensation package in each year, not just in the first one. However, we expect that should a situation of this sort ever actually arise, faculty will be retiring early and resigning from the college to pursue other opportunities at a higher rate than they have in the past ten years. (The large number of faculty fifty and older is very likely to produce a much higher retirement rate over the next ten years in any case.) These factors will achieve, somewhat more gradually, the same ten percent reduction in the size of the faculty and the college's obligations that an immediate RIF would produce in a standard policy. In comparison with an immediate RIF by seniority, this policy also spreads the burden over the whole salary scale, rather than RIFing everyone at the low end; and this means that fewer people need to be furloughed to achieve a given savings. Furthermore, we think that this process is considerably less likely to result in expensive and protracted lawsuits of the sort that have accompanied efforts to terminate regular faculty contracts at other institutions in the recent past.

Members of the faculty serving as the President, Provost, Curriculum Dean, or Budget Dean shall be exempt from Step Three involuntary furloughs during their terms of service.

Members of the faculty on sabbatical leave are subject to Step Three involuntary furloughs on the same basis as the other members of their involuntary furlough group. Should such a situation arise, such faculty members' sabbatical awards will be canceled; they will return to work, and the remainder of those sabbatical leaves will be awarded through a new round of applications to the applicant with the highest number of accumulated leave credits who meets the requirements set out in the handbook for receiving such awards. The furloughed faculty members shall regain leave credits in proportion to the percentage of their sabbaticals which have been canceled, and may apply for sabbatical again the next year, when they are no longer in the Designated Involuntary Furlough Group.

(In the event that the college anticipates budget reductions of such severity that it seems possible that Step Three reductions will be necessary, faculty teaching assignments and program planning should be arranged to reduce the disruption created by such leaves as much as possible.)

Faculty members in the Group affected by a Step Three reduction may have already volunteered to take a certain amount of leave without pay before extreme financial exigency was declared. If the length of their voluntary leave is already equal to or greater than the

Step Three reduction, their situation will remain unchanged, but if it is less than the Step Three reduction demands, they will have to go on leave for the same total length of time as the other members of their pool.

The Deans shall consider the income lost from a Step 3 furlough as one of several factors when reviewing proposals to teach in the summer quarter following the involuntary furlough.

4. Step Four: Reorganization of the College

If the preceding steps are not sufficient to produce the necessary budget cuts, the college will have reached the point at which it is incapable of continuing to function effectively with its present structures. The Board of Trustees shall suspend the regular academic operations of the college for one month, during which the faculty shall, in consultation with students and staff, prepare a new long-term curriculum plan, reorganizing the college's curriculum and other academic structures in a way which will make the college capable of functioning at such drastically reduced funding levels. The faculty shall also prepare and submit to the board a proposal for making the necessary further faculty reductions in force. If the Board does not wish to adopt the plan the faculty proposes, the additional cuts shall be made by seniority, applying the procedures described in Step Two above to the remaining faculty.

Section C: Appeals

A member of the faculty may appeal the termination of his or her contract, or his or her placement on involuntary furlough, only on grounds of a substantial violation of the procedures for a faculty reduction in force laid out in this policy. Any faculty member wishing to appeal a decision under this policy must send a certified letter to the Provost requesting an appeal of the college's decision within fifteen days of receiving written official notification of that decision from the college. Within thirty days of a faculty member's request for an appeal, or as soon after that as is reasonably possible, a formal hearing shall be conducted by an administrative law judge supplied by the state of Washington. The faculty member and provost may present whatever evidence and/or witnesses each pleases concerning whether or not there was a substantial violation of procedure in the termination of the contract or the decision to place the faculty member on furlough. Within one week of the hearing, the judge makes his or her decision, writes a letter to the faculty member and the provost stating the decision, and sends the letter to each of them by certified mail. If the judge decides that there was a substantial violation of procedure in the making of a decision to terminate a faculty contract or in the decision to place a member of the faculty on involuntary leave, the decision shall be immediately reviewed by the Deans, in proper accordance with the procedures established by this policy, and the previous decision as to which faculty contracts should be terminated or which faculty should be placed on involuntary furlough shall be appropriately adjusted.

Section D: Unforeseen issues

If employing this policy reveals that it fails to specify the procedures for carrying out some aspects of the faculty reduction in force that it envisions, the necessary additional procedures

shall be devised by the Deans in a way which conforms, as much as possible, to the general plan and the procedures already specified by the policy.

Appendix - Thumbnail Overview

In a nutshell, the sequence which we propose for a faculty RIF is:

Step 1. RIF adjuncts, visitors, faculty on one-year convertible contracts, and faculty on post-retirement contracts in whatever order the Deans judge does the least damage to the college's remaining curriculum.

Step 2. [If we have adopted the tenure policy that the Reappointment DTF is about to propose, then use seniority to RIF any regular faculty who are in the tenure track positions envisioned by that policy but do not yet have tenure.]

Step 3. Lay off up to a tenth of the faculty for a year, using a system that sets up ten faculty groups in advance and designates each of group as the one to be laid off in one of the following ten years.

Step 4. Rethink the college and start over with new structures which are designed to try to work with student-faculty ratios of the sort that we will be dealing with by this point. Have the faculty devise a plan for whatever further cuts have to be made at that point, and have the Board either accept that plan or RIF the remaining faculty by seniority.