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has been incorrectly imposed under this paragraph may petition the Committee on Faculty Grievances for such action as may be appropriate.

*b. Terminal Salary or Notice*

If the appointment is terminated, the faculty member will receive salary or notice in accordance with the following schedule: at least three months, if the final decision is reached by January 31 (or three months prior to the expiration) of the first year of probationary service; at least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of probationary service; at least one year, if the decision is reached after eighteen months of probationary service or if the faculty member has tenure. This provision for terminal notice or salary need not apply in the event that there has been a finding that the conduct justifying dismissal involved conviction of a felony.

22. Termination for Reasons of Financial Exigency

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 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.

If after consultation with the president and 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 Executive Committee and the Finance Committee of the University Senate the financial and programmatic information on which the determination was based. The Executive Committee and the Finance Committee 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 Executive Committee and the Finance Committee, and if the provost's recommendation is at variance with the recommendation of the

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Executive Committee and the Finance Committee of the Senate, the reasons therefor.

If it appears to the provost that the financial exigency will have an impact upon the Washington College of Law, provisions will be made to include a faculty member of the Washington College of Law in the deliberations of the Executive, Faculty Relations, and Finance Committees of the University Senate.

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 Executive Committee and Finance Committee when recommending 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 Rank and Tenure, 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 11 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.

With faculty participation, the University 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.

Final determination of these matters shall rest with the Board of Trustees.

*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 will have the right to a formal hearing, provided s/he 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 19 of this *Manual*, a notice of proposed

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termination with supportive documentation for formal hearing.

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

The panel chair will 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 will 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:

- i. 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.
- ii. 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.
- iii. 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 will 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 no more than ten days following the conclusion of the

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hearing, the committee will prepare findings and a 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, will 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 therefor.

*c. Appeal*

A faculty member with tenure whose appointment is terminated for reasons of financial exigency may, within ten days of issuance of the statement of the provost, appeal that action to a panel of the Executive Committee of the Board of Trustees, to be appointed by the chair of the board, such panel to consist of from three to five members. The panel's review will be based on the record considered as a whole, and it will provide opportunity for oral and written argument by the parties or their representatives. The decision of the faculty hearing panel will either be sustained or the proceeding remanded to the hearing panel with specific instructions. Within twenty days of such remand, the faculty hearing panel will then reconsider, taking into account the stated objection and receiving new evidence if necessary. The Executive Committee panel will make a final decision only after study of the hearing panel's reconsideration.

*d. Terminal Salary or Notice*

If the appointment is terminated, the faculty member with tenure will receive salary or notice of at least one year.

*e. Reinstatement Rights*

In all cases of termination of an appointment with tenure because of financial exigency, the position of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has been offered reinstatement and a reasonable time in which to accept or decline it.

23. Professional Standards

*a. Employment of Relatives*

The policy of the University is that all personnel decisions should be made on their merits, uninfluenced by personal relationships. As a general principle, individuals who are relatives or who have a personal living relationship should not participate in the decision of any matter which may affect directly the appointment, tenure, promotion, salary, or other employment status or interest of a close relative or of someone with whom the faculty member has a personal living relationship.