

Article 29

RETRENCHMENT

- A.
1. Notice of the possibility of retrenchment will be sent electronically by the respective PASSHE State System University to the local APSCUF Chapter President with a copy to the State APSCUF President no later than ~~August 1~~February 15 for any notice(s) of retrenchment(s) that may occur effective ~~at the end of the subsequent the day before the start of the following~~ academic year.
 2. The STATE SYSTEM/UNIVERSITIES shall meet and discuss with APSCUF or its designee regarding changes in finances, program curtailment, elimination of courses, or the elimination of duties or services provided by FACULTY whose basic responsibilities lie outside the classroom, which may lead to retrenchment, and thereby impact wages, hours and terms and conditions of employment, as required by Section 702 of Act 195. In connection with such duty to meet and discuss, accurate information, statistics or financial data related to any such proposed change shall be made available to both State and Local APSCUF as well as to the affected University and the STATE SYSTEM, so that all parties are prepared to engage in a discussion of the relevant issues. This shall not be construed to require the STATE SYSTEM/UNIVERSITIES to compile such material in the form requested which is not already compiled in that form, unless mutually agreeable.
 3. Retrenchment shall not be used to evade the disciplinary provisions of this Agreement.
- B. Retrenchment because of changes in finances, program curtailment, elimination of courses or the elimination of duties or services provided by FACULTY whose basic responsibilities lie outside the classroom shall be applied as hereinafter set forth.
1. If and when retrenchment is to occur, the STATE SYSTEM/UNIVERSITIES shall, to the extent practicable, make plans to permit the process of attrition to be utilized to effect the required reduction of FACULTY.
 2. When in the opinion of the STATE SYSTEM/UNIVERSITIES retrenchment becomes necessary and it cannot be accomplished totally by attrition, APSCUF and the affected FACULTY MEMBERS shall be notified prior to implementation, in accordance with the schedule set forth in Section F. of this Article, and retrenchment shall be made as circumstances require, provided that the following order shall be utilized to the extent feasible in the department where retrenchment is occurring.
 - a. temporary, part-time
 - b. temporary, full-time
 - c. regular, part-time
 - d. regular, full-time

Commented [LS1]: Agreed to by the parties 9/18/16

- C. 1. With respect to the application of Section B.2. above, retrenchment shall be made in inverse order of length of service from the most recent date of employment at the University ("seniority"), within a department, provided the remaining ACADEMIC FACULTY MEMBERS have the necessary qualifications to teach the remaining courses or perform the remaining duties. ACADEMIC FACULTY MEMBERS shall be responsible for keeping their Academic Dean informed of all their qualifications.
2. With respect to the application of Section B.2. above, retrenchment shall be made within the affected administrative unit in inverse order of length of service from the most recent date of employment at the University ("seniority"), provided the remaining ADMINISTRATIVE FACULTY MEMBERS have the necessary qualifications to perform the remaining duties. ADMINISTRATIVE FACULTY MEMBERS shall be responsible for keeping their appropriate management supervisor informed of all their qualifications.
- D. 1. Before issuing a notice of retrenchment to ~~retrenching~~ an ACADEMIC FACULTY MEMBER pursuant to Section F.1. of this Article, the University shall make a reasonable effort to place him/her in another position within the APSCUF bargaining units through inter-departmental transfer pursuant to Article 7, Section B.6. of this agreement. When an ACADEMIC FACULTY MEMBER has been a member of more than one (1) department and he/she is retrenched from his/her current department, he/she shall have the right to return to a previous department as follows:
- a. If he/she left the previous department less than five (5) years prior to his/her retrenchment from his/her current department, he/she shall have the right to return, if qualified; and
- b. If he/she left five (5) or more years prior to his/her retrenchment, he/she shall have a right to return, if qualified, but only with the approval of the department or the President, or his/her designee.
2. Before issuing a notice of retrenchment to ~~retrenching~~ an ADMINISTRATIVE FACULTY MEMBER pursuant to Section F.1. of this Article, the University shall make a reasonable effort to place him/her in another position within the APSCUF bargaining units through inter-departmental transfer pursuant to Article 7, Section B.6. of this agreement. When an ADMINISTRATIVE FACULTY MEMBER has occupied a position in more than one administrative unit, he/she shall have the right to return to a previous administrative unit and displace an ADMINISTRATIVE FACULTY MEMBER with less seniority.
3. The qualifications for placement under Section D of this Article shall be the appropriate qualifications for the approved position as recommended by the department and approved by management and as documented in the position description.

4. Actions or inactions of bargaining unit members with regard to placement under Section D of this Article shall not be grievable.

5. A FACULTY MEMBER who has received a letter of retrenchment shall have the opportunity to apply for vacancies with the same hiring rights as stated in the preferential hiring rights and preferred rehiring provisions of Sections G. and J. of this Article.

E. The FACULTY MEMBERS in the department, program or administrative unit where retrenchment notices have been issued shall be given the opportunity to reach voluntary agreement among themselves as to the order of retrenchment, if the FACULTY MEMBERS who remain in the department, program or administrative unit have the qualifications as recommended by the department and approved by the dean to teach the remaining courses or perform the remaining duties. Where such voluntary agreements are made, the date of the original notice of retrenchment to the FACULTY MEMBERS in the department, program or administrative unit shall be considered the date of notice to the FACULTY MEMBER who has voluntarily agreed to be retrenched. The opportunity to reach voluntary agreement shall end sixty (60) days after notice is given. Those who are retrenched by voluntary agreement in accordance with the foregoing shall have the same rights as if involuntarily retrenched.

F. 1. The FACULTY MEMBERS to be retrenched shall be given notice by certified mail or hand delivered on or before May 1. in accordance with the following:

~~a. First year probationary non-tenured FACULTY MEMBER sent by certified mail or hand delivered on or before March 1;~~

~~b. Second year probationary non-tenured FACULTY MEMBER sent by certified mail or hand delivered on or before December 15;~~

~~a. Probationary non-tenured FACULTY MEMBERS beyond the second year sent by certified mail or hand delivered on or before December 1;~~

~~d. Tenured FACULTY MEMBERS sent by certified mail or hand delivered on or before October 30.~~

A retrenchment shall not be considered a non-renewal and a FACULTY MEMBER so retrenched shall not be permitted to grieve that action as if it were a non-renewal. If a FACULTY MEMBER had been scheduled for a sabbatical leave, he/she shall not be deprived of his/her sabbatical leave because he/she is subject to being retrenched.

2. The effective date of retrenchment shall be the day before the start of the following academic year pay cycle.

3. A retrenched FACULTY MEMBER shall be entitled to such unemployment compensation benefits as authorized by law.

G. 1. A FACULTY MEMBER retrenched from his/her University shall within a period of time equal to his/her length of service at that University, or three (3) years from his/her date of retrenchment ("furlough period"), whichever is less, be given preference with respect to a FACULTY vacancy which is covered by this Collective Bargaining Agreement for which he/she applies at another University, if deemed qualified by the receiving department. His/her name then shall be forwarded to the President of the receiving University, or his/her designee, who shall consider whether or not he/she is qualified. If the President of the receiving University, or his/her designee, determines such FACULTY MEMBER to be qualified, he/she shall be appointed. The FACULTY MEMBER shall be considered for appointment by the President of the receiving University, or his/her designee, before, and independent of, all other applicants; provided, however, that where there are FACULTY MEMBERS on a preferred rehiring list at the receiving University, the rehiring rights of those ~~faculty members~~ FACULTY MEMBERS shall take priority over the preferential hiring rights of retrenched FACULTY MEMBERS from another University. Notice concerning vacancies at a particular University shall be posted at that University and a copy of such notice shall be sent by electronic mail to APSCUF headquarters in Harrisburg, to the Office of the Chancellor, and to each retrenched FACULTY MEMBER. Retrenched FACULTY MEMBERS must indicate their interest in any such vacancy for which they feel they are qualified by sending a letter of application, together with other appropriate documentation, to the President of the University, or his/her designee, where the vacancy exists within thirty (30) calendar days after the date the notice of the vacancy is posted (referred to in this subsection as the "Notice Period"); provided that, if there are fewer than ten (10) days between the date when the FACULTY MEMBER first receives his or her notice of retrenchment in the academic year, pursuant to Section F.1. of this Article, and the end of the Notice Period, the Notice Period shall be extended for ten (10) additional days for any faculty member receiving a retrenchment notice within the extended notice period. Under no circumstances shall the Notice Period extend beyond 40 days from the original date of the posting. If more than one (1) retrenched FACULTY MEMBER applies to fill a vacancy at another University during this Notice Period, they shall be given the preferential consideration specified above, in order of seniority; provided, however, that the process of considering all such retrenchee applicants shall not exceed thirty (30) calendar days from the end of the Notice Period. Letters of application which are received after the end of the Notice Period shall receive no preferential rights with respect to the vacancy but shall be considered along with and in the same fashion as all other applicants for the vacancy.

Commented [LS2]: Tentative Agreement Reached

Preferential hiring rights at another University do not extend to: (a) temporary part-time faculty vacancies that are less than fifty percent (50%) (6 workload hours per semester) of a regular full-time equivalent (FTE); (b) summer employment; or (c) winter session. A retrenched FACULTY MEMBER shall have preferred rehiring rights to such positions at the University from which the FACULTY MEMBER was retrenched.

A retrenched FACULTY MEMBER appointed at another University in

accordance with the foregoing shall be appointed at any step of his or her rank at the time of retrenchment ~~or at any step of the rank immediately below~~; however, retrenched FACULTY MEMBERS appointed to positions funded with grant monies may be appointed at the rank stated in the notice of vacancy at whatever step the President, or his/her designee, deems appropriate.

2. When a retrenched FACULTY MEMBER applies for consideration for a vacancy at another University in accordance with Section G.1. above, the normal search and screen process shall not apply to retrenched applicants. The qualifications for preferential hire under Section G.1. above shall be the appropriate qualifications for the approved position as recommended by the department and approved by management and as documented in the position description.

H. Any retrenched FACULTY MEMBER who receives an appointment at another University shall have seniority at that other University beginning with the date of that appointment. Retrenched FACULTY preferentially hired on or after July 1, 1985 shall have seniority over all other new hires with the same date of appointment. If appointed within his/her furlough period, he/she shall retain accumulated sick leave and sabbatical leave credits and he/she shall not be considered a new employee for purposes of fringe benefits provided for FACULTY MEMBERS covered by this Agreement. If at the time of retrenchment, he/she had been a participant in the State Employees' Retirement Plan and thereafter withdrew his/her contributions, he/she shall have the right to repurchase his/her past service in accordance with the State Employees' Retirement Board regulations.

I. 1. A retrenched FACULTY MEMBER who receives an appointment at another University within his/her furlough period shall, if he/she did not have tenure at the University from which he/she was retrenched, be required to comply fully with the provisions of Article 15, TENURE, at the receiving University as a new FACULTY MEMBER. If he/she had tenure at the University from which he/she was retrenched, then he/she will be granted tenure at the receiving University.

2. A retrenched tenured FACULTY MEMBER who receives an appointment at another University within his/her furlough period will be evaluated, irrespective of his/her evaluation cycle at the University from which retrenched, in his/her third year of employment at the receiving University and thereafter will be evaluated pursuant to Article 12, PERFORMANCE REVIEW AND EVALUATION.

Example: Retrenched FACULTY MEMBER who has been granted tenure by the University from which retrenched is appointed with tenure at the receiving University effective fall 2015. This FACULTY MEMBER will be evaluated in accordance with Article 12 during academic year 2017-2018. The next fifth year evaluation will be conducted in academic year 2022-2023.

J. A FACULTY MEMBER who receives a notice of retrenchment from a University shall be placed on a preferred rehiring list. Each University shall have a separate rehiring list. The

State System Proposal
September 21, 2016 Revised October 11, 2016

Formatted: Indent: First line: 0"

Commented [LS3]: Incorporating existing side letter. Agreed to by the parties 8/26/16

least senior FACULTY MEMBER shall be the first name placed on such list. He/she shall be retained on the preferred rehiring list for a period equal to his/her furlough period. ~~Upon separation from the University, the STATE SYSTEM shall provide reimbursement of COBRA premiums paid by a retrenched FACULTY MEMBER for the Faculty Health & Welfare Plan and the State System Group Health Plan, less the applicable active employee premium contribution, for a period of six (6) months or until permanent employment begins, whichever comes first. In addition, the STATE SYSTEM shall continue group life insurance coverage for a retrenched FACULTY MEMBER for a period of six (6) months or until permanent employment begins, whichever comes first, if the group life insurance vendor agrees to make this coverage available for retrenched FACULTY MEMBERS at group rates; if the group life insurance vendor does not agree to this extension of coverage, the STATE SYSTEM shall not be required to provide this additional benefit to retrenched FACULTY MEMBERS.~~ At the University where retrenchment is occurring, no new FACULTY MEMBER will be hired to fill a vacancy for which a retrenched FACULTY MEMBER on the preferred rehiring list is qualified, as determined by the President of the University, ~~or his/her designee~~, in his/her sole discretion, based upon the appropriate qualifications for the approved position as recommended by the department and approved by management and as documented in the position description, unless the vacancy first is offered in writing to all such qualified FACULTY MEMBERS on that list, for recall in reverse order of placement. Such offer (which shall be made by registered mail to the last known address of the FACULTY MEMBER and to APSCUF) to qualified FACULTY MEMBERS shall remain open for a period of fifteen (15) calendar days. During the period that a FACULTY MEMBER is on a preferred rehiring list, he/she shall keep the University from which he/she was retrenched and the Chancellor informed of any permanent or temporary change in his/her address. In the event a FACULTY MEMBER rejects in writing an offered position in accordance with the foregoing, or in the event he/she does not respond in writing within said fifteen (15) calendar day period, his/her name shall be passed over, but he/she shall remain on the preferred rehiring list. If a FACULTY MEMBER either rejects in writing two (2) offered full-time positions of one (1) year or more or fails to respond in writing within the above stated time limits to two (2) offered full-time positions of one (1) year or more, his/her name shall be removed from the preferred rehiring list and all preference rights under this Article shall cease. Part-time FACULTY MEMBERS shall have recall rights only with respect to part-time positions but shall be considered for full-time positions in accordance with Article 11, APPOINTMENT OF FACULTY.

K. In the event a FACULTY MEMBER is recalled in accordance with the provisions of Section J. above, he/she shall receive the same rank and step which he/she had when he/she was retrenched. In addition, he/she shall retain all sick leave accumulations, credits for tenure or tenure status and credits for sabbatical leave, and shall be entitled to repurchase past service credits for retirement in accordance with COMMONWEALTH regulations. Furthermore, he/she shall not be considered a new employee for purposes of fringe benefits provided for FACULTY MEMBERS covered by this Agreement.

L. If a program at one (1) University is moved to another University, whether or not a similar program existed at that other University, FACULTY MEMBERS who receive appointments at the other University with respect to that program will be considered as having

been transferred and not retrenched. As such, the FACULTY MEMBERS affected shall be entitled to all rights and privileges of transferred employees, including transportation and moving expenses, subject to STATE SYSTEM/UNIVERSITIES rules and regulations pertaining thereto. Such transferred employees shall not be reduced in rank or step.

M. The University shall, on or before November 1 of each year, provide the local APSCUF President and state level APSCUF with a seniority list for each University. In addition, a copy of such list shall be sent to the department chairperson for posting in each department. All such lists shall reflect each FACULTY MEMBER'S most recent date of appointment at the University (first day on the payroll) and within his/her current department.

Positions on such list shall be considered final unless a question is raised with respect thereto by an individual FACULTY MEMBER within a period of sixty (60) days from the date of delivery of the list to APSCUF. The seniority list shall be compiled according to the seniority agreement between the STATE SYSTEM and APSCUF.

N. 1. Nothing contained within this Article shall be construed as requiring a University to retain more ACADEMIC FACULTY MEMBERS in a department or program or more ADMINISTRATIVE FACULTY MEMBERS in an administrative department or unit than the President, or his/her designee, deems to be needed in that department or unit.

2. Nothing contained in this Article shall prohibit ADMINISTRATIVE FACULTY MEMBERS from assuming full-time teaching positions in accordance with Article 7, PERFORMANCE OF BARGAINING UNIT WORK, of this Agreement.

O. All preference rights under this Article shall cease upon acceptance by a FACULTY MEMBER of a regular full-time position under the provisions of Sections D. or G. or J. of this Article.

P. The parties shall meet and discuss during the term of the Agreement aspects of this Article that are of mutual interest.

Q. The parties agree that any grievances relating to retrenchment issues will be handled in an expeditious fashion in the steps of the grievance procedure. The parties also agree that if APSCUF requests that any such grievances be submitted to arbitration, the parties will make a good faith effort to schedule the arbitration hearings during the academic year in which the notices of retrenchment are issued.

R. If an arbitrator should find that the meet and discuss requirements of this Article have been violated by management, the arbitrator's remedy shall be limited to ordering additional meet and discuss between the parties, and the arbitrator may not insert himself/herself into that process. If an arbitrator should find that a FACULTY MEMBER was improperly retrenched, the arbitrator's remedy shall be limited to determining whether or not reinstatement is appropriate and whether or not full or partial back pay, seniority and fringe benefits should be awarded.