

**CHAPTER 155. PERSONNEL****GENERAL PROVISIONS FOR RETRENCHMENT OF EMPLOYEES**

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**Authority**

The provisions of this Chapter 155 issued under section 2 of the act of February 17, 1970 (P. L. 24, No. 13) (24 P. S. § 20-2002) (Repealed), unless otherwise noted.

**Source**

The provisions of this Chapter 155 adopted June 12, 1975, 5 Pa.B. 1548, unless otherwise noted.

**GENERAL PROVISIONS FOR RETRENCHMENT OF EMPLOYEES****§ 155.1. Generally.**

(a) The costs of operating the Pennsylvania State Colleges are generated through essentially four sources: salaries paid and benefits provided for all state college employes; instructional and noninstructional supplies and materials; physical plant maintenance; and specialized auxiliary operations such as student residence halls and campus dining services. Within any stated time period, when these costs are greater than revenues received, the colleges are obligated to bring total expenditures and total revenues into balance.

(b) As of the present time, anticipated expenditures by the state colleges for fiscal years 1975-1976 and 1976-1977 will exceed their anticipated revenues from all sources. This judgment is based upon an extrapolation to 1976-1977 of

the current levels and probably rates of increase of costs of current services and supplies, together with a forecast of probable total revenues available through 1976-1977.

(c) The state colleges cannot risk a delay until next year to initiate a process that will more likely assure the achievement of a balance of revenues and expenses during 1976-1977. A college is a very complex institution to reorganize within a framework of declining capability to finance a group of services and programs. Such a reorganization is a particularly difficult challenge if the college attempts to retain its academic strength and guard its future while simultaneously "laying off" staff, reducing services, and "scrimping" on supplies. But this is the challenge for the state colleges.

(d) Because of the difficult decisions that must be made, and because of the state colleges' contractual obligations to inform employees by specified calendar dates of the termination of their services, the process of planning for retrenchment at the state colleges must begin immediately, and the decisions resulting from the planning process must be announced formally by September 8, 1975.

(e) For the past two years, the colleges have operated with austerity or semi-austerity budgets. They have sacrificed their supplies and materials inventories and deferred and cancelled physical plant maintenance to a point that neither of these two sources of expenditures represents a significant level of potential cost savings in future years. In fact, further attempts at major savings in these areas may extensively damage the physical and educational resources of the colleges. While a reduction in the auxiliary services offered by a college might result in cost savings, this, too, appears to be of very limited potential for achieving balanced budgets for fiscal years 1975-1976 and 1976-1977.

(f) These regulations are intended primarily to assist the president of each college in the process of determining which positions in the college should be abolished and how the decisions should be made about specific employees who are to be "laid off." There has already been significant experience at each college in reducing nonpersonnel associated costs. Employee layoff decisions are, unquestionably, the most difficult to make. These regulations, hopefully, will allow the appropriate retrenchment judgments to be made in a manner that reduces as much as possible the inevitably adverse effects of such decisions upon each college.

#### **§ 155.2. Retrenchment time table.**

(a) *Between April 28, 1975, and June 30, 1975.* Each college administration shall arrange for Meet and Discuss conferences with employee organization representatives to consider, in accordance with these Regulations, the elimination of the projected budget deficit of the college by reorganizing academic programs and by reducing the total number of currently occupied positions in the college.

(b) *By June 30, 1975.* Each president shall submit a detailed retrenchment plan to the Secretary of Education. The plan shall include the proposed academic program changes together with the name, class title, and annual salary of each

person whose employment will terminate at the end of the regular 1975-1976 academic year of the college.

(c) *Between June 30, 1975, and July 14, 1975.* Each college administration shall arrange for Meet and Discuss conferences with employe organization representatives to consider, in accordance with these Regulations, the validation of the 12-month retrenchment targets used in the retrenchment plan of the college and to consider recommendations for alternatives to the retrenchments specified in the June 30 plan.

(d) *By July 14, 1975.* Each president shall submit to the Secretary commentaries about the retrenchment targets issued by the Secretary. The president may include with these commentaries proposals for reducing the number of positions scheduled for retrenchment at the college or proposals for reducing the impact of the retrenchments upon students and their academic status. Such proposals shall be made in accordance with these Regulations, and they must not result in restoration of a budget deficit.

(e) *Between June 30, 1975, and August 10, 1975.* The Secretary shall arrange for a process of individual review of the retrenchment plans of each college. Each college shall learn of the results of these reviews in a very brief time after presentation of its plan so that appropriate revisions may be made prior to a final submission.

(f) *By August 25, 1975.* The Secretary shall give final approval to the retrenchment plans at each college and authorize their implementation.

(g) *On September 8, 1975.* The president of each college shall inform, by certified United States mail, each employe who is to be retrenched. This notification will also include the final date of employment.

#### PROCEDURES FOR MAKING RETRENCHMENT DECISIONS

##### § 155.11. The Secretary of Education.

(a) The Secretary shall establish a process for insuring continuous, timely communication concerning retrenchment planning between the department of education and the colleges, including refined interpretations of these regulations.

(b) The availability of convenient, rapid, and accurate telephone advice is anticipated for helping to solve a particular college problem. Written communications through which information will be shared among all of the colleges shall also be distributed.

##### § 155.12. The Budget.

(a) The Secretary shall provide each college with “retrenchment targets” to be used for retrenchment planning.

(b) The retrenchment targets shall relate to the anticipated costs and anticipated funding levels at each college during the 1975-1976 fiscal year. Current estimates indicate that each college will incur a deficit during that fiscal period.

It shall further be assumed that the deficit at each college will recur, at the same level, in fiscal year 1976-1977.

(c) Through the retrenchment planning process covered by the guidelines, each college shall insure that the expenditures throughout fiscal 1976-1977 will be at a level that will eliminate the deficit projected in the budget assumptions. Expenditures and revenues at each college shall be in full balance during 1976-1977.

(d) The assumptions upon which the 1975-1976 budget forecasts shall be based will include at least these elements: stable enrollments; a tuition increase in 1975-1976; no change in Federal funding; self-supporting food services; probable future levels of state appropriations, augmentations, and supplemental allocations; restoration of consumable inventories to minimally "safe" levels; the need for payment of unemployment compensation; an arbitrarily assigned percentage of salary increase projection (This percentage will merely "fill a gap" in the forecasts and shall not be considered in any manner as being Commonwealth policy. Should the Commonwealth actually pay a higher rate of salary than appears in these assumptions, then the level of proposed retrenchments will rise; if the actual rate of salary increase is lower than shown, then the expected level of retrenchments will be reduced). A 12-month base will be used for all forecasts. Retrenchment targets have been calculated on the proportion of college expenditures to the total expenditures of the system.

(e) The retrenchment targets will also honor the continuing commitment for additional resources to support the desegregation plan in the state college system.

(f) The fiscal condition of a college will determine the absolute number of positions to be retrenched at that college.

(g) Budget provisions must be made at each college for the payment of unemployment compensation which shall be a charge made directly against the college budget as long as such payments continue as a Commonwealth obligation.

### **§ 155.13. The college president.**

(a) The president shall arrange meet and discuss conferences directly with college representatives of APSCUF and, through the secretary of administration, with representatives of other state college employes in organizations having collective bargaining relationships with the Commonwealth.

(b) The initial discussions at the colleges will focus upon the preservation of the integrity of academic programs within the framework of declining fiscal resources. While employes other than faculty will be affected by these discussions at each college, the final decisions about these other positions to be retrenched at a college are substantially influenced by the academic program decisions. Thus, the very first discussions should take place only with APSCUF; then, as academic program decisions begin to be outlined, discussions should be arranged with other employe representatives.

**§ 155.14. Positions affected.**

(a) If positions must be retrenched at a college, the impact shall be distributed among all position classifications of employees specifications of employees specifically. This shall include positions classified as:

- (1) State college and university managers
- (2) Civil service managers
- (3) State college and university administrators
- (4) Association of Pennsylvania state college and university facilities, unit II

(5) American Federation of State of county, and municipal employees; Pennsylvania nurses association; United Plant Guard workers of America; Pennsylvania Association of state mental hospital physicians, and federation of state cultural and educational professional units.

(6) Association of Pennsylvania State College and university faculties, unit I

(b) However, the impact shall be equitably applied to each of these classifications in accordance with subsequent regulations.

(c) The established salary range of each position remaining after the implementation of retrenchments shall govern the salary to be paid to a person continuing to hold the position or to a person newly assigned to the position regardless of the salary paid in his former position.

(d) One major effect of any retrenchment decision shall be the reduction of the management structure of each college to the absolutely smallest number of positions required to maintain the programs and services retained in the approved retrenchment plan.

(e) Each college shall attempt to combine management functions and reduce management positions. This may be accomplished partially by collapsing equal level positions of a semi-similar nature into fewer positions.

(f) In each case where an "assistant" position, careful examination shall be made of the assistant position to see if it can be eliminated with the duties included within the "primary" position.

(g) Each college shall attempt to identify administrative positions which, while important to the college, are not central to the effective operation of the college operating under a condition of extreme fiscal crisis.

(h) As with management positions, each college shall attempt to reduce the number of positions within an administrative function by collapsing equal level positions and by eliminating "assistant" positions whenever feasible and necessary.

(i) The Secretary shall arrange through the Office of Administration for the publication and distribution of appropriate procedures to be used at the college

for notifying these employe organizations, under subsection (a)(5) of the planned termination of employes within these bargaining units.

**§ 155.15. Documentation.**

(a) All existing documents relevant for retrenchment discussions at each college shall be made available when needed for meet and discuss conferences or for related retrenchment planning.

(b) These documents shall include, but not be limited to:

- (1) Complete budget documents.
- (2) Organization charts and staffing records.
- (3) Faculty workload records.
- (4) Affirmative action records.
- (5) Class sizes listed by individual faculty name.
- (6) Enrollment data.
- (7) Employe seniority lists.
- (8) Academic program information.

(c) Such documents shall be used in the form in which they currently exist, unless the college and employe representatives mutually agree to organize the information in a different form.

**§ 155.16. Teaching faculty positions.**

(a) The retrenchment of teaching faculty positions shall be considered sequentially in accordance with the sub-steps of this regulation, recognizing, however, that each decision made at each step is a tentative one that may be reconsidered at any stage prior to the preparation of the final, proposed college plan. The final decisions with regard to the positions to be abolished and the specific employes to be terminated shall be made by the president who shall give careful consideration to the advice and recommendations made through meet and discuss conferences and other conferences during retrenchment planning. The impacts of retrenchment upon the academic status of students shall be reduced to the smallest levels possible.

(b) In considering retrenchment of teaching positions, to the greatest extent feasible the present comprehensive nature of the college shall be preserved; that is, a full spectrum of the arts, sciences, and humanities shall be available to the level of general education supportive of undergraduate degree programs.

(c) Two priority considerations, however, in the order stated here, shall have precedent value in the final establishment of the academic offerings available subsequent to retrenchment;

- (1) *First priority consideration.* Major new missions adopted by resolution of Board of State College and University Directors (January, 1975) shall be protected. Those disciplines which directly support new mission programs are

to be in a favored class. To be “favored” or to be “protected” means either to escape reductions or to be reduced at a lower rate than programs not so protected.

(2) *Second priority consideration.* Commitments to academic programs, student services, and affirmative action employment made under the Pennsylvania Department of Education Revised Plan for Equal Opportunity in the State Colleges and University (Pennsylvania Desegregation Plan) shall be honored.

(d) The relative size of departments and enrollments shall be considered, and every effort shall be made to maintain the size of departments at a level that will preserve the integrity of academic programs and sub-specialities. In general, departments with ten or more positions are best able to reorganize their resources to maintain academic programs after a reduction in the number of their positions, and, therefore, they should be reduced more readily than smaller departments. Departments with four or fewer positions should be reduced with caution if their programs are to be maintained.

(1) “Academic balance” in a field of study shall be maintained after retrenchment. (For example, retrenchment of history positions should not result in a department having offerings only in American history).

(2) The extent to which enrollments for a particular program make the program self-supporting shall be positively considered in retrenchment planning.

(3) To retain a subject matter in a viable program subsequent to retrenchment, the “critical mass” course needs of that subject matter shall be considered in determining the reduction of positions.

(e) Two colleges shall consider the concept of complementarity of academic programs within a given geographic area. A specialization offered only at one college in an area might be protected during retrenchment, while duplicate offerings in the colleges of a region might result in a higher rate of position retrenchment at one college than another. Complementarity considerations have already taken place within the frameworks of the long-range plans of the colleges, and these shall be used during the three conferences when presidents will meet by geographic area with the Department of Education to prepare specific college-by-college recommendations for the Secretary of Education. The Secretary of Education shall then distribute interpretations of Regulation 6C for use by each college during retrenchment planning.

(f) An entire organizational unit may be dropped by the college if any of the following conditions exist:

- (1) It is presently at an insufficient size to adequately serve its basic function.
- (2) If that function is not central to the nature of the college.
- (3) If it does not make a unique contribution in its own field.

**§ 155.17. Total positions to be retrenched.**

In the preparation for the final retrenchment plan, as it affects teaching faculty, the president shall after all discussions have been held and recommendations made, determine the following:

- (1) The net teaching faculty positions to be retrenched.
- (2) The departments or organizational units to be in relatively protected status, and those to be relatively open to reduction in positions.
- (3) The proportions of net retrenchment to be contributed by each department or organizational unit to achieve the targeted number of reductions.

**§ 155.18. Affirmative action.**

Pursuant to the Commonwealth's affirmative action program and related laws, orders, and rules, affirmative conditions of employment of women and minorities shall be maintained in determining which persons are assigned to the positions remaining after the retrenchment discussions and planning have resulted in a projection of reduced employment. The pre-retrenchment percentages of representation of white males, women, and minorities in each bargaining unit shall be maintained after the final layoff lists have been prepared (APSCUF unit I and unit II shall be considered separate bargaining units.)

**§ 155.19. Seniority.**

(a) Each president shall insure that the processes used to identify the persons to be laid off in APSCUF unit I are designed to give priority consideration in the following order: The commitment level of appointment (temporary employees should be considered first); seniority according to the requirements of appropriate organizational units; and the protection of sub-specialties within the organizational unit affected by retrenchment.

(b) Additional obligations concerning retrenched employees under the collective bargaining agreement—such as one requiring a “reasonable effort to place him/her in another suitable position if such is available”—shall be honored.

(c) The temporary appointments of persons 65 years of age or older should particularly be reviewed for retrenchment feasibility.

**§ 155.20. Support staff.**

(a) Each president shall insure that the processes used to identify the persons to be laid off in bargaining units other than APSCUF unit I are designed so that the needs of the college will be met effectively after retrenchment.

(b) Since many of the units other than APSCUF Unit I include positions that are in a contributory, supportive role to the academic programs, the effects on such positions of changes in the academic program resulting from retrenchment shall be considered in determining which employees are to be assigned to the positions available after retrenchment.



**§ 155.21. Status of retrenched personnel.**

(a) Each college shall maintain its personnel programs and practices in its usual manner subsequent to the notification of employees of layoff status on September 8, 1975.

(b) A particular faculty member, whose employment will be terminated as of May 31, 1976, or between May 31, 1976, and August 31, 1976, shall be eligible for full consideration in the college programs as professional development and evaluation; tenure reviews; promotions; and distinguished faculty awards.

(c) If no person who is to be retrenched at a college is qualified to fill a vacant position retained at that college after the implementation of its retrenchment plan, the college shall use its established recruitment program to fill a vacancy.

**§ 155.22. Alternative plans.**

(a) Within 2 weeks after the publication of this chapter. The Secretary of Education will distribute a statement concerning alternatives to retrenchment. The statement shall include specific suggestions for use by the colleges in their retrenchment planning.

(b) Throughout the period of retrenchment planning and during the first year of retrenchment notification—that is, between April 28, 1975 and August 31, 1976—colleges may search for alternatives to retrenchment that would meet both the expenditure targets and educational quality and service targets for fiscal 1976-1977.

(c) Proposed plans for alternatives to retrenchment may be presented by July 14, 1975. During the initial stage of the retrenchment planning process, however, each college shall plan with the assumption that no alternatives are likely to be implemented prior to September 8, 1975. Under these circumstances, it is inevitable that the retrenchment plans submitted on June 30, 1975, will, for each college, identify the employees who will receive termination notices immediately after September 8, 1975.

(d) If alternatives to retrenchment are approved by the Secretary of Education, he may authorize the rescinding of the appropriate number of layoff notices. The approval will not be granted, however, unless anticipated savings of expenditures or anticipated additional revenues from non-Commonwealth sources proposed as alternatives to the retrenchment plan of a college are officially and fully realized prior to the period of either layoff notification or termination.

(e) If gifts, grants or endowments are made to a college so that a position scheduled for retrenchment might be preserved, the amount of the gift, grant or endowment may not be subtracted from Commonwealth revenues received by the college, and the position may be restored for the period covered by the additional funds. The priority considerations of the college's new missions and academic balance shall still be applied as tests of the position, however.

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