

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.5**

3.5 Policies and Procedures on Termination of Employment

3.5.1 Retirement

Retirement is a voluntary termination of University rights and obligations by a faculty member after a career of academic service at Santa Clara University. A faculty member relinquishes tenure upon retirement.

A tenured faculty member or Senior Lecturer is ordinarily eligible to retire after 10 years of service at Santa Clara University and after reaching the age of 55.

A faculty member must ordinarily notify the department chair, dean, and Provost one full academic year before the academic year in which retirement is to begin.

3.5.1.1 Privileges of Retired Faculty

The privileges offered to retired faculty are not contractual and are subject to change by the University. Those offered to all retired faculty include:

1. A University identification (“Access”) card, thereby ensuring eligibility for
 - a. Library admission and borrowing privileges
 - b. Use of the Malley Fitness Center and swimming pool
 - c. Price reductions on lectures, theater, sporting, and other university events, and on purchases in the university Campus Store
2. Eligibility for a university email address and related privileges
3. Eligibility for complimentary parking permit
4. Eligibility for Adobe Lodge membership

Privileges extended to a Professor Emeritus or Emerita may also include:

5. Listing of name and title in school publications
6. Office space (as available)
7. Invitations to general University functions
8. Attendance at faculty meetings (without voting privileges)

9. Departmental mail box privileges

When considered necessary or beneficial, other privileges may be granted to a particular retired faculty member with the approval of the Provost.

3.5.1.2 Academic Service by Retired Faculty

A retired member of the faculty may be hired on an adjunct appointment or on a regular appointment not to exceed one year with the benefits that normally accrue to such appointments.

3.5.1.3 Phased Retirement

Phased retirement is a condition of employment under which a tenured faculty member or Senior Lecturer agrees to a reduction in University responsibilities with a corresponding decrease in salary. The agreement, which should be regarded by all parties as permanent and binding, shall specify a date for full retirement. The period of phased retirement will ordinarily not be longer than five years.

A tenured faculty member or Senior Lecturer is eligible to apply for phased retirement after seven years of service at Santa Clara University, but usually not earlier than age 55, under the conditions specified below.

Each agreement will be negotiated on an individual basis, taking into consideration teaching, scholarship, and service desiderata from the perspective of the individual faculty member and the University. Compensation will not be linked to any predetermined fraction of teaching load, but will be proportional to the level and distribution of responsibilities for teaching, scholarship, and service specified in the agreement.

The base salary used in the computation will be the salary of the academic year before phased retirement is to begin. The salary thus determined will be subject to increase during phased retirement according to the rate of increase determined by the administration from year to year for similar ranks and using the same performance evaluation criteria.

During phased retirement, the University will continue to provide the faculty member with office space and benefits as specified in 3.8.2.2. Phased retirement does not affect tenure, rank, membership in the Faculty Senate, or any faculty privileges.

A faculty member must apply to the department chair one full academic year before the phased retirement is to begin. The chair will forward the application together with a recommendation to the dean of the school or college. The dean will forward the application together with a recommendation to the Provost who will make the final

decision and inform the applicant within 60 days of receipt of the application by the Provost.

Revised by vote of the Faculty Senate in April 2002 and the Board of Trustees on May 9, 2002.

3.5.2 Resignation

A faculty member who decides to resign from the University for any reason or who concludes an agreement to accept an appointment elsewhere is obligated to notify the University immediately.

A faculty member who has signed and returned to the President the Letter of Appointment for the coming year shall be permitted to resign from the University, without obligation, within thirty days of signing; thereafter, the faculty member shall fulfill the agreement.

3.5.3 Non-Reappointment

3.5.3.1 Probationary Faculty Members

The University may elect at any time not to reappoint any probationary member of the faculty, provided written notice is given in accordance with following timetable:

1. Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination;
2. Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination;
3. After two or more years, not later than August 31 of the calendar year in which the final one-year appointment begins.

When a decision not to renew an appointment has been reached, the faculty member concerned will be informed of that decision in writing by the body or individual making that decision; the faculty member will be advised upon request of the reasons that contributed to the decision.

3.5.3.2 Senior Lecturers

The University may elect at any time not to reappoint a Senior Lecturer, provided written notice of the decision not to reappoint is given not later than August 31 of the calendar year in which the final one-year appointment begins.

When a decision not to renew an appointment has been reached, the faculty member concerned will be informed of that decision in writing by the body or individual making that decision; the faculty member will be advised upon request of the reasons that contributed to the decision.

3.5.3.3 Other Non-Tenure-Track Faculty

With the exception of Senior Lecturers as outlined in 3.5.3.2, the University may elect at any time not to reappoint non-tenure-track faculty as follows:

1. The University may elect not to reappoint a non-tenure-track faculty member who holds an appointment with a term of more than one year, even when that term includes one or more additional years beyond the effective date of non-reappointment, provided written notice of the decision not to reappoint is given at least three months before the end of the terminal academic year. Such decisions may be made based on performance, availability of funds, or programmatic need.
2. Non-tenure-track faculty appointments of one academic year or less are made with no expectation of reappointment. Thus no notice of non-reappointment is necessary.

3.5.4 Cancellation of a Letter of Appointment

On thirty (30) days notice, the University may cancel a letter of appointment currently in effect and be excused from further obligation under such a letter in the event of substantial damage to the University properties by reason of war or by reason of fire, flood, earthquake, or other act of God, or in the event of substantial and sudden decrease in student body at the University as a result of any of the foregoing described contingencies or of any other circumstances beyond the University's control.

3.5.5 Termination of Contract

In contrast to the situations mentioned in 3.5.4 in which the letter of appointment may be cancelled, the contract of faculty members may be terminated under certain conditions as outlined in the remainder of 3.5.5.

3.5.5.1 Financial Exigency

Termination of an appointment with tenure, or of probationary or special appointment before the end of the specified term, may occur because of a demonstrably *bona fide* financial exigency, that is, an imminent financial crisis that, in the judgment of the Board of Trustees, threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means without fundamental harm to the University.

Before any termination of tenured appointments pursuant to this section is implemented, the University should pursue all feasible alternatives. Such alternatives may include, but are not limited to, the following:

1. A temporary freeze on hiring administrators, faculty, and staff.
2. A temporary freeze on all administrative, faculty and staff salaries.
3. Reduction of administrative and service programs with corresponding reduction in personnel and services.
4. Encouragement of voluntary early retirement, including phased retirement, of faculty.
5. Encouragement of temporary change from full-time to part-time service for administrators, faculty, and staff.

3.5.5.2 Partial Exigency

Termination of an appointment with tenure, or of probationary or special appointment before the end of the specified term, may occur because of a state of partial exigency, that is, a significant drop in enrollment in a particular school or department, whether unprecedented or steady, or a loss of income from other sources, such that, in the judgment of the Board of Trustees, the loss of income should not be supported by other parts of the University as a matter of long-range policy.

Before any termination of tenured appointments pursuant to this section is implemented, the University should pursue all feasible alternatives within the affected school or department, and may also pursue other feasible alternatives. Such alternatives may include, but are not limited to, the following:

1. Encouragement of voluntary early retirement, including phased retirement, of faculty within the affected school or department.
2. Encouragement of temporary change from full-time to part-time service for administrators, faculty and staff within the affected school or department.

3.5.5.3 Policy Pertaining to Both Types of Exigency

In making decisions on whether teaching and research programs are to be curtailed, financial considerations should not be allowed to obscure the fact that instruction and research constitute the essential reason for the existence of the University. The faculty should participate at the department, college or school, and institution-wide levels, in key decisions as to the future of the institution and of specific academic programs within the institution.

In the proposals for implementation of a determination of financial exigency, the University shall make *bona fide* efforts to protect its program of affirmative action and shall give due regard to seniority.

In the event that the University is faced by financial problems that cannot be solved by the alternatives listed in 3.5.5.1 or 3.5.5.2, the University will ordinarily turn to the following remedies in the order listed:

1. non-reappointment of non-tenured faculty members;
2. termination of non-tenured faculty members effective during their period of appointment;
3. termination of tenured appointments.

Moreover, decisions regarding curtailment of programs and departments must always take into account the areas deemed central to the Jesuit nature of the University as determined by the Board of Trustees.

3.5.5.3.1 Non-Tenured Faculty Members

The non-reappointment of non-tenured faculty, to the extent possible, must comply with the procedures outlined in 3.5.3.1 and 3.5.3.2.

In the case of the termination of non-tenured faculty effective during the period of their appointment, the same procedures as for termination of tenured faculty must be followed.

In cases covered by the preceding two paragraphs, the place of the probationary faculty member or the Senior Lecturer concerned must not be filled by a replacement within a period of two years, unless the released faculty member has first been offered reinstatement and a reasonable time in which to accept or decline.

3.5.5.3.2 Termination of Tenured Faculty by Reason of Financial Exigency

Termination of an appointment with tenure may occur because of a demonstrably bona fide financial exigency as defined in 3.5.5.1 or 3.5.5.2.

Only the Board of Trustees can declare a state of financial exigency.

Procedures:

If the University administration believes that the financial situation is so serious as to suggest termination of tenured faculty, it shall take action through the following procedures:

The President of the University shall call into session a Financial Exigency Committee (FEC) which shall include, in addition to the President himself (as chair), the Provost, the

Vice President for Administration and Finance, the academic deans, the President of the Faculty Senate and six tenured faculty members with relevant competency selected by the University Coordinating Committee. The faculty members shall be selected as follows: one each from the School of Business, the School of Engineering, the School of Law, and the School of Education, Counseling Psychology and Pastoral Ministries, and two from the College of Arts and Sciences.

The Financial Exigency Committee shall promptly consider whether or not the financial situation warrants a declaration of Financial Exigency as defined in 3.5.5.1 or a declaration of Partial Exigency as defined in 3.5.5.2. This committee shall also consider possible means to alleviate the imminent crisis. The President shall convey the report (and any minority report) of the Financial Exigency Committee to the Board of Trustees.

The school and college representatives on the Financial Exigency Committee will also communicate the committee's deliberations to the Faculty Senate in appropriate detail.

After reviewing the report (or reports) and hearing from committee representatives, the Board shall make its determination after final discussion and voting in closed session.

The President will convey the determination of the Board through the dean to the chair of any affected department. If tenured faculty positions are to be eliminated, the chair will call a departmental meeting of all full-time tenured faculty members and will ask for recommendations by secret ballot of the faculty member(s) to be terminated. The ballots together with the recommendations of the chairs will be sent to the Provost. If tenured faculty positions are to be eliminated in the School of Law, its dean will follow procedures analogous to those just described.

The Provost will record the ballots in the presence of the President of the Faculty Senate. In consultation with the Provost, the President will make final decisions, after taking into account the results of the balloting and the needs of the University. Such decisions will be conveyed to the faculty member(s) by the dean of the respective school or college.

Safeguards:

The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in the extraordinary circumstances where a serious distortion of the academic program would otherwise result. In all cases of termination of a tenured appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has first been offered reinstatement and a reasonable time in which to accept or decline.

If the institution because of financial exigency terminates tenured appointments:

1. in the case of financial exigency of the University as a whole, it will not at the same time make any new appointments except where a serious distortion in the

academic program would otherwise result. Provision should be made for severance salary equitably adjusted to the faculty member's length of service.

2. in the case of partial exigency, before the administration issues notice to a faculty member of its intention to terminate an appointment, the institution must make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. Such financial arrangements will be negotiated by the faculty member and the Provost. If no position is available within the institution, with or without retraining, the faculty member's appointment may then be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of service.

A faculty member who has received notice of termination has a right to appropriate hearing by the Faculty Judicial Board according to 3.10.2 only as to whether the safeguards noted here have been followed.

3.5.5.4 Changes in the Educational Program

Termination of any appointment with continuous tenure, or of a probationary or other appointment before the end of its specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply:

1. The decision for formal discontinuance of a program or department of instruction will be based primarily upon educational considerations. The President and the Provost will make the decision after considering the recommendations of the Committee on Academic Affairs.
2. Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. Such arrangements will be negotiated by the faculty member and the Provost. If no position is available within the institution, with or without retraining, the faculty member's appointment may then be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of service.
3. In the case of formal discontinuance of a program or department of instruction, the place of the faculty member, should the program or department be restored within three years, will not be filled unless the released faculty member has first been offered reinstatement and a reasonable time in which to accept or decline.

4. A faculty member who has received notice of termination under this section has a right to appropriate hearing by the Faculty Judicial Board according to 3.10.2 only as to whether the safeguards noted here have been followed.