

RETRENCHMENT RIGHTS

Questions and Answers

Prepared by:

Mary Rita DuVall-Quinn
Head of Contract Department

1. Retrenchment can occur on what basis?

Reasons for retrenchment can include financial considerations, program curtailments, elimination of courses. (Article 29.B)

2. What is the State System/University obligated to do prior to announcing Retrenchment?

To call for a Meet/Discuss on *avoidance* of retrenchment prior to issuing retrenchment notices. Meet and Discuss on avoidance of retrenchment is to occur before retrenchment notices are issued. (Article 29)

3. To the extent practicable, the State System/University needs to allow *attrition* to be utilized to effect the required reduction of Faculty. (Article 29.B.1) If Retrenchment cannot be avoided totally by attrition and it becomes necessary to retrench, what is the Order of Retrenchment?

APSCUF and the Faculty Members in the department shall be notified prior to implementation in the following order:

- Temporary, part-time
- Temporary, full time
- Regular, part-time (non-tenure track faculty)
- Regular, part-time (grandfathered tenure or tenure track faculty.)
- Regular full-time

4. How is the "Order of Retrenchment" applied?

University seniority applied on a departmental basis.

Retrenchment of academic faculty members occurs within a department beginning with the least senior faculty member based on the length of service from most recent hire date at the university providing the remaining faculty members have the necessary qualification to teach the remaining courses or perform the remaining duties. (Article 29.C.1)

Retrenchment of administrative faculty members occurs 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 member have the necessary qualifications to perform the duties. (Article 29.C. 2.)

5. What is the timeline for notification to faculty members who will be retrenched?

First-year probationary non-tenured faculty members:	March 1
Second-year probationary non-tenured faculty member :	December 15
Probationary non-tenured faculty member beyond the second year:	December 1
Tenured faculty member:	October 30

Retrenchment is effective at the end of a contract year for a temporary faculty member or at the end of the academic year for tenured or tenure track faculty member.

6. What If the faculty member is not provided with a timely notice by the deadline dates as specified?

Failure to provide the required notice by the deadline date may result in reversing the decision to retrench. Contact APSCUF immediately.

7. Can a probationary faculty member who has secured positive recommendations for renewal from the department chairperson and department evaluation committee and is then retrenched grieve the retrenchment as an improper non-renewal?

Retrenchment is not 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. In addition, non-renewal cannot be used in place of retrenchment. (Article 29.F.1.)

8. What is the definition of seniority for retrenchment purposes?

Seniority for retrenchment is defined as the length of service from the most recent date of hire at the university. (Article 29.C. 1.)

9. What is an individual faculty member's responsibility in assuring the accuracy of his seniority ranking?

Seniority lists are posted on or before November 1 of each year in each department. Ranking of the seniority list are considered final unless a question is raised by an individual faculty member within 60 days from the date of delivery of the list to APSCUF. Please verify the accuracy of the posting on a yearly basis. (Article 29.M. *See also* Appendix A.)

10. If a faculty member only ever worked in the department to be retrenched, what rights does he/she have to other vacancies at the university?

The University must make a reasonable effort to place the faculty member in another existing or newly created vacant APSCUF bargaining unit position at the university, if the faculty member is deemed qualified for that vacancy. The vote of the receiving department is not necessary. (Article 29.D. 1.)

11. How will an acceptance of an intra-university position/rehire in the time of retrenchment impact a faculty member's status?

Intra-University placement (department to department) does not impact a faculty member's probationary or tenured status, seniority credit, rank, step or FTE. (Article 29.D.)

12. If a faculty member has been in his/her current department for less than 5 years and the current department is now undergoing retrenchment, but the faculty member was previously employed in another department, what rights does he/she have to return to another department?

If an academic faculty member has been a member of more than one department and he/she is retrenched from his/her current department with less than five years within the retrenched department, he/she may return to his/her former department. CBA does not require a vacancy. (Article 29. D.a.)

13. If a faculty member has been in his current department for more than 5 years and the current department is now undergoing retrenchment, but the faculty member was previously employed in another department, what rights does he/she have to return to another department?

If an academic faculty member has been a member of more than one department and he/she is retrenched from his/her current department with more than five years within the retrenched department, he/she may return to his or her department *if either the president or receiving department approves*. CBA does not require a vacancy. (Article 29 D.b.)

14. May a faculty member volunteer for retrenchment?

When a notice of retrenchment notice is issued to faculty members within a department, program or administrative unit, an agreement to volunteer for the retrenchment (amongst faculty members) may be reached within that department. (Article 29.E.)

15. How long does a department have to reach a voluntary retrenchment agreement?

The department has 60 days from the date that the first faculty member within the department receives notice of retrenchment to reach a voluntary agreement. (Article 29. E.)

16. When a voluntary agreement is reached, what date will be considered the date of retrenchment for the faculty members who volunteers for retrenchment?

When a voluntary agreement is reached, the date of the original notice of retrenchment to the faculty members shall be considered the date of notice to the faculty member who has voluntary agreed to be retrenched. (Article 29.E.)

17. May the University refuse to accept a faculty member's voluntary retrenchment?

Voluntary arrangements may not override the contractual requirements that the remaining faculty members within the department have the qualification to teach the remaining courses or perform the remaining duties. (Article 29.E.)

18. What is the difference between a preferential rehire list (recall) and a preferential hire list?

A preferential rehire (recall) list is a listing of faculty members who have been retrenched at a particular university and subject to recall by seniority to that particular university only. Each university undergoing retrenchment will have a separate recall list and faculty members will be recalled to the university in which they received their retrenchment notice based upon all vacancy availabilities, if deemed qualified. (Article 29.J.)

A preferential hiring list is a list of all retrenched faculty members across all universities to a right to vacancy throughout all PASSHE universities based on seniority, if deemed qualified. (Article 29.G.)

19. Does a probationary faculty member who is retrenched have preferential hiring and rehiring (recall) rights?

Yes. A probationary faculty member is entitled to certain benefits such as preferential hiring and rehiring (recall) that they are entitled to if deemed qualified for the position. (Article 29.G.,29.J.)

20. How long will a probationary faculty member who is retrenched have preferential recall/hiring rights, if deemed qualified?

The probationary faculty member shall be given preference for either the time equal to his/her length of service at the University, or three years from his/her date of retrenchment, whichever is LESS for recall/rehire. Date of retrenchment means date of loss of employment, not date of the retrenchment notice. (Article 29.G.1)

21. What rights to preferential hiring does a faculty member have if they received a notice of retrenchment but have not yet been retrenched?

If a faculty member receives a notice of retrenchment, the faculty member can apply for vacancies and shall get preferential hiring rights as if already retrenched. (Article 29.D.3)

22. When does a faculty member's preference right to rehire or recall end?

All preference rights for retrenchment purposes cease upon a faculty member accepting a regular full-time position or three (3) years or length of service, whichever is less. (Article 29 D. 1 Tenured and Tenure track faculty members, not RPT faculty (non-tenured).

23. How long does a faculty member's name remain on the preferential rehire/recall list for this particular university?

A faculty member will remain on the preferred rehiring list only during his/her furlough period or until the faculty member rejects or fails to respond to a second offered full-time position of one or more years (this includes temporary full-time positions) or is the faculty member is hired or rehired as regular faculty member. (Article 29.J.)

24. How will a faculty member be notified of an offer of vacancy under their rehire/recall rights at the particular university in which they were retrenched?

A vacancy offer for recall will be sent from the university in which the faculty member was retrenched via registered mail to the last known address of the most senior qualified faculty members and to APSCUF. (Article 29.J.) It is the faculty member's responsibility to keep the university and the Office of the Chancellor's office informed of current address.

25. When an offer of rehire/recall is given to a faculty member, how long does he /she have to respond?

The job offer shall remain open for 15 days. If the faculty member rejects the offer in writing, or if he/she does not respond his or her name will be passed over, but his or her name shall remain on the preferential rehire list. (Article 29.J.)

26. Do part-time faculty members have preferential rehire/recall rights?

Part-time faculty shall have recall rights to part-time positions but shall be considered for full-time positions as per contract Article 11.

27. Does the acceptance of a *temporary* full-time position extinguish the faculty member's preferred rehiring rights or preferred hiring rights?

No. Acceptance of a temporary full-time position of one or more years does not extinguish the faculty members preferred rehiring rights. (Article 29.D.2. and G, and Article 29.J.)

28. If a junior faculty member in the department is retrenched, if she/he is actually more qualified or more skilled than senior department faculty, can this faculty member avoid retrenchment?

Management is afforded no flexibility with the seniority lists: The burden of proof lies on the faculty member who is retrenched to show that the remaining senior faculty members in the department do not have the "necessary qualifications" to teach remaining courses or the performance of remaining duties. (Kasher Arbitration Ruling 2/22/90)

29. What entitlement rights does a retrenched faculty member have to a sabbatical?

A retrenched faculty member shall not be deprived of his/her scheduled sabbatical leave. (Article 29.F.)

30. A faculty member who is retrenched is entitled to what benefits upon separation?

Upon separation, a faculty member shall be provided with hospital and medical benefits, health and welfare benefits, and life insurance coverage for a period of (6) six months or until permanent employment begins, whichever is less. (Article 29.J.)

31. What benefits is a faculty entitled to upon rehire/recall to the university in which he was retrenched?

If rehired/ recalled a faculty member will receive the same rank and step as when retrenched and will retain sick leave accumulation, *credit for tenure*, and credits for sabbatical. The faculty member will not be considered a new hire for purposes of fringe benefits and may purchase retirement service credit pursuant to applicable SERS regulations. (Article 29.J.)

32. How will a faculty member be notified of any university-wide vacancies available to him/her under their preferential hiring rights?

A notice of vacancy (temporary and tenure track vacancies) will be posted at the university, sent to State APSCUF, sent to a designee at the Office of the Chancellor and sent to each faculty member who has received notice of retrenchment or who is within his/her furlough period. (Article 29.G.)

33. How long does the retrenched faculty member from have to respond to another university vacancy?

The retrenched faculty member has *30 calendar days* to respond to the university president expressing desire to exercise preferential hiring rights with a letter of application and other appropriate documentation. Letters received after the 30 days will be considered with all applicants for the vacancy (Article 29.G.)

34. Assuming more than one faculty member applies for a vacancy, what order of preference will be given to a retrenched faculty members?

The order of preference for a university-wide vacancy is as follows: First, qualified faculty members on the preferential *rehiring list* of the university at which the vacancy occurs (Article 29 J., recall); then, preference is given in the order of seniority to those faculty members with preferential hiring rights who are deemed qualified by the receiving department and by the university president.

35. At what step and rank may a faculty member be appointed when exercising his preferential hiring rights?

Retrenched faculty members may be appointed at any step within his/her rank at the time of retrenchment or at any step within the rank immediately below the rank at time of retrenchment. EX: An Associate Professor may be *preferential hired* at any step within the rank of Associate Professor or at any step within the rank of Assistant Professor. (Article 29.G)

36. At what step and rank may a faculty member be appointed when exercising preferential hiring rights in a *grant funded position*?

Retrenched faculty members appointed to positions funded by grant monies may be appointed at the rank stated in the notice of vacancy at a step as set by the president. (Article 29.G)

37. When does seniority begin for a retrenched faculty member who accepts a vacancy through preferential hiring rights at another university?

Seniority will begin immediately on the date of appointment for a faculty member who accepts a vacancy at another university by exercising preferential hiring rights. Faculty member will hold seniority over all new hires with the same date of appointment. (Article 29 H.)

38. If a retrenched faculty member is appointed to a position within his furlough period at another university by exercising preferential hiring rights, what benefits will she/he retain?

A faculty member who is appointed within his/her furlough period by exercising his preferential hiring rights at another university will retain all accumulated sick leave and sabbatical leave credits and all fringe benefits (length of service for annuitant care, re-enrollment in indemnity healthcare plan, right to repurchase SERS). (Article 29.H)

39. If a faculty member is tenured at the time of retrenchment, and accepts an appointment at another university by exercising his/her preferential hiring rights within the furlough period, what happens to his/her tenure status?

If tenured at the time of retrenchment and within his/her furlough period, a faculty member will be appointed with tenure if s/he receives a majority of regular full-time department faculty votes from the receiving department at the receiving university; and the approval of the university president, otherwise:

The faculty member will serve a one-year probationary period at the receiving university and apply for tenure pursuant to Article 15 Tenure. (Article 29.I.)

40. If a faculty member is not tenured at the time of retrenchment, and accepts an appointment at another university by exercising his/her preferential hiring rights within the furlough period, what happens to his/her tenure track status?

If a faculty member is not tenured at time of retrenchment or notice of retrenchment, provisions of Article 15 applies (five years of probationary status will be required unless university president gives credit). (Article 29.I.)