

RETRENCHMENT RIGHTS

Article 29

Questions and Answers

Part 1

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1. Retrenchment can occur on what basis?

Reasons for retrenchment can include financial considerations, program curtailments, elimination of courses or the elimination of duties or services provided by faculty whose basic responsibilities lie outside the classroom. (Article 29.B.)

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

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)

3. 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) See Article 44.J.
- Regular, part-time (grandfathered tenure or tenure track faculty.) See Article 44.N.
- Regular full-time

4. How is the “Order of Retrenchment” applied?

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 faculty members have the necessary qualifications to teach the remaining courses or perform the remaining duties. (Article 29.C.1)

Retrenchment of administrative faculty members 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 provided the remaining faculty members have the necessary qualifications to perform the remaining 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 members:	December 15
Probationary non-tenured faculty members beyond the second year:	December 1
Tenured faculty members:	October 30

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. (Article 29.F.1.)

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

Seniority for retrenchment purposes is defined as the length of service from the most recent date of employment at the University, within a department, providing the remaining faculty have the necessary qualifications to teach the remaining courses or perform the remaining duties. (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. Faculty members should verify the accuracy of the posting on a yearly basis. (Article 29.M.)

10. If a faculty member has 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 credits, 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 and was previously employed in another department, what rights does he/she have to return to another department?

If a 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 an existing or newly created vacancy if qualified. (Article 29.D.1.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 and was previously employed in another department, what rights does he/she have to return to another department?

If a 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 an existing or newly created vacancy if qualified *if either the president or receiving department approves.* (Article 29 D.1.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 member(s) who volunteers for retrenchment?

When a voluntary agreement is reached, the date of the original notice of retrenchment to the faculty member shall be considered the date of notice to the faculty member(s) who has voluntarily 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. Thus, the president in his or her discretion may refuse to accept the faculty member's voluntary retrenchment on this basis. (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 based on seniority at all universities, 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 preferential hiring and rehiring (recall) rights. (Article 29.G., 29.J.)

20. How long will a probationary faculty member who is retrenched have preferential hiring/rehiring rights (furlough period)?

The probationary faculty member's furlough period shall be the time equal to his/her length of service at the University, or three years from his/her date of retrenchment, whichever is LESS. (Article 29.G.1)

21. What rights to preferential hiring/rehiring 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/rehiring rights as if already retrenched. (Article 29.D.3)

22. When does a faculty member's preference rights end?

A faculty member's "furlough period" is a period of time equal to his/her length of service at that University, or three years from his/her date of retrenchment. (Article 29.G.)

All preference rights for retrenchment purposes cease upon a faculty member accepting a regular full-time position within the System. (Article 29.O.)

23. 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?

Faculty members who are placed on a rehire/recall list from the university from which they are retrenched will receive a job offer by registered mail to the last known address of the faculty member and to APSCUF. Faculty members are responsible for providing an updated address to administration. (Article 29.J.)

24. How will a faculty member be notified of an offer of a vacancy under their preferential rehire rights at another university within the System?

Notices containing vacancies at another university within the System shall be posted at that University and a copy of such notice will be sent by electronic mail to APSCUF headquarters in Harrisburg, Office of the Chancellor, and to each retrenched faculty member. (Article 29.G.1.)

25. When an offer of rehire to a university is given to a faculty member from which he or she is retrenched, how long does he/she have to respond?

The job rehire offer shall remain open for 15 calendar days at the university where the faculty member was retrenched and is offered a recall. If the faculty member rejects the offer in

writing, or if he/she does not respond within the 15 calendar days, his or her name will be passed over, but his or her name shall remain on the preferential rehire list. (Article 29.J.)

26. How long does a faculty member's name remain on the rehire/recall list for the university from which he or she is retrenched?

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

27. Do part-time faculty members have rehire rights at the university from which he or she was retrenched?

Part-time faculty shall have recall rights to part-time positions but shall be considered for full-time positions as per Article 11, Appointment of Faculty. (Article 29.J.)

28. How long does a retrenched faculty member have to respond to a vacancy at another University within the System?

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 where the vacancy exists within thirty (30) calendar days after the date the notice of the vacancy is posted ("Notice Period"). If there are fewer than ten (10) days between the date when the faculty member first receives his or her notice of retrenchment 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. (Article 29.G.)

29. Do preferential hiring rights and rehire/recall rights extend to all temporary part time positions?

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 credits per semester) of a regular full-time equivalent; (b) summer employment; or (c) winter sessions.

A retrenched faculty member shall have preferential rehire/recall rights to such *positions at the university from which he/she was retrenched*. (Article 29.J.)

30. Does the acceptance of a *temporary* full-time position of one or more years extinguish the faculty member's preferred hiring/rehiring rights?

No. Acceptance of a temporary full-time position of one or more years does not extinguish the faculty member's preference rights. (Article 29.D, Article 29.G, Article 29. J, Article 29.O.)

31. If a junior faculty member in the department is retrenched, and he/she 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 perform the remaining duties. (Kasher Arbitration Ruling 2/22/90)

32. 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.)

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

Upon separation from the University, the State System shall provide reimbursement of COBRA premiums paid by a retrenched faculty member for the Faculty Health and 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. 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. (Article 29.J.)

34. What benefits is a faculty member entitled to upon rehire to the university in which he/she was retrenched?

If rehired at the same university, a faculty member will receive the same rank and step as when retrenched and will retain all sick leave accumulations, credits for tenure or tenure status and credits for sabbatical leave. The faculty member will not be considered a new hire for purposes of fringe benefits and shall be entitled to repurchase past service credits for retirement in accordance with SERS regulations. (Article 29.K.)

35. Assuming more than one faculty member applies for a vacancy, what order of preference will be given to a retrenched faculty member at another university?

The order of preference for a vacancy is as follows: First, qualified faculty members on the preferential *rehiring list* of the University where the vacancy exists (Article 29.J.); then, preference is given in the order of seniority to those faculty members from other universities within the System with preferential hiring rights who are deemed qualified by the receiving department and by the University President. (Article 29.G.)

36. At what step and rank may a faculty member be appointed when exercising his preferential hiring rights at another university within the System?

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.)

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

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.)

38. 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 his/her furlough period, what happens to his/her tenure status?

If the retrenched faculty member has tenure at the University from which he/she was retrenched, then he/she will be granted tenure at the receiving University. (Article 29.I.)

39. 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?

A retrenched faculty member who did not have tenure at the University from which he/she was retrenched who receives an appointment at another University shall be required to comply fully with the provisions of Article 15, Tenure, at the receiving University as a new faculty member.

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

A faculty member who is appointed within his/her furlough period by exercising his/her preferential hiring rights at another university will retain accumulated sick leave and sabbatical leave credits and he/she shall not be considered a new employee for purposes of fringe benefits (length of service for annuitant care, re-enrollment in indemnity healthcare plan). If at the time of retrenchment he/she had been a participant in SERS 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. (Article 29.H.)

41. 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. The preferential faculty member would hold seniority over all new hires with the same date of appointment. (Article 29.H.)

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