



Faculty Retrenchment Policy

(Approved by the President on August 5, 1997)

I. INTRODUCTION

The University of Maryland Biotechnology Institute ("UMBI") endeavors to make the most effective use of its resources. The faculty is the most essential component of the UMBI as related to its development and the achievement of its mission. Prior to initiating retrenchment, in order to sustain UMBI's mission and goals, the President shall first consider those alternatives that may be appropriate, such as leaving unfilled positions vacant or allowing for normal attrition. Changing circumstances, however, may require the President to terminate the positions of faculty members as contemplated in the University of Maryland System (UMS) Policy on Faculty Retrenchment (BOR II-8.00). That policy reads as follows:

"In fulfilling their educational roles and missions, the constituent institutions of the University of Maryland System must make optimal use of their faculty resources. Optimum utilization may call for a reduction in or a reallocation of faculty at various times and for various reasons; e.g. shifting enrollment patterns, changing program directions, restricted funding. If reassignment and/or reallocation is inadequate to effect such changes, an institution may find it necessary to terminate the appointment of tenure-track or tenured faculty members.

In order to insure the protection of rights of the faculty members, each institution will develop internal retrenchment procedures consistent with the institution's governance structure and with Sections I.C.9, I.C.10, I.C.13 and I.C.17 of the 1989 University System Policy on Appointment, Rank and Tenure of Faculty and corresponding sections of earlier faculty appointment agreements still in effect. As a part of those procedures, each institution will establish a retrenchment appeals committee. Following review for form and legal sufficiency by the Office of the Attorney General, these procedures must be submitted to the Chancellor for review and approval."

The UMBI has developed the following procedures that will govern the retrenchment of faculty members.

II. AUTHORITY

- A. These Faculty Retrenchment Procedures ("Procedures") are adopted pursuant to the UMS Policy on Faculty Retrenchment adopted by the BOR on November 29, 1990.
- B. These Procedures shall be construed and implemented to be consistent with Section I.C.9, I.C.10, and I.C.17 of the UMS Policy on Appointments, Rank and Tenure of Faculty.

III. GENERAL PRINCIPALS

- A. These Procedures apply to the termination of faculty positions in response to the reallocation of resources as a result of changing priorities, lack of funds, or legislative or University of Maryland System ("UMS") mandates. The term "retrenchment" means the termination of a faculty appointment as authorized in the November 29, 1990 University of Maryland System (UMS) Board of Regents Policy on Faculty Retrenchment (II-8.00).

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- B. These retrenchment procedures are applicable only to all persons appointed to a rank identified or permitted under the UMS Policy on Appointment, Rank and Tenure of Faculty (II-1.00) of the UMS By-laws, Policies and Procedures of the Board of Regents. These procedures apply to each faculty member regardless of the source of funding for that faculty member's salary or research support.
- C. For the purposes of these Procedures, the term "program" shall mean the following components within UMBI: Center of Marine Biotechnology, Center for Agricultural Biotechnology, Center for Advanced Research in Biotechnology, Medical Biotechnology Center, and the Center for Public Issues in Biotechnology. The programs or Centers of UMBI may be amended from time to time pursuant to the governance structure applicable to such a matter. After approval of these procedures, any new, renamed, or reorganized center, department, or program created within UMBI shall constitute a separate retrenchment unit. When making the list of faculty appointments within a particular program, the only faculty members to be included are those whose appointments are made within the program in which the retrenchment unit is located. The list shall not include faculty members assigned to the program but whose appointment is in another program.
- D. The UMS Retrenchment Policy and these retrenchment procedures are in addition to and not in limitation of other UMS and UMBI policies and procedures concerning faculty appointment, nor are they in limitation of any UMS or UMBI policies on academic program review.

IV. INITIATION OF RETRENCHMENT

- A. The President has the sole authority within UMBI, subject to the authority of the Board of Regents, to initiate retrenchment. The President shall initiate retrenchment when the President determines that retrenchment is necessary, consistent with the UMS and UMBI policies on Appointment, Rank and Tenure. Before determining that a fiscal crisis necessitates retrenchment, the President shall consult with the Chancellor and the Board of Regents. The Board may request relevant information from the President and may consider comments from representatives of campus and faculty governance bodies and other interested persons. The President shall consult with the President's Council and with any person she/he considers appropriate when making the determination to initiate retrenchment.

Program review is a part of routine institution planning. While such reviews may be motivated in part by broad financial considerations, they normally occur as part of the ongoing management of the institution. Resulting program eliminations provide a basis for faculty terminations without the necessity of showing a lack of appropriations. Where the lack of appropriation is the basis for faculty retrenchment, the retrenchment plan may take into consideration such non-financial factors as institutional mission, long-range educational planning, and may call for program reductions and/or program eliminations. A lack of appropriations exists when, in the President's judgment, there is a fiscal crisis that threatens or endangers the institution's ability to carry out its mission as defined in the most recent mission statement approved by the Board of Regents, and the termination of tenured or tenure-track faculty appointments will be substantially less detrimental to the institution's ability to fulfill its mission than other forms of budgetary curtailments available to the institution. A President's determination that a fiscal crisis exists is subject to review by the Board of Regents. In the event the Board elects to review such a determination, the President shall provide documentation to the Board in support of his/her action. The Board may receive comments from the President, representatives of campus and faculty governance bodies, and other interested persons.

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- B. The President shall initiate retrenchment by giving notice to that effect to the Vice President for Academic Affairs, the Vice President for Administration and Finance, and the Directors of the UMBI research centers ("Centers"). [\[2\]](#)
- C. The President's notice shall include the President's Retrenchment Report and other materials as she/he deems appropriate. The President's Retrenchment Report shall identify each program to be retrenched and the overall fiscal savings and mission priorities.
- D. The President shall transmit the President's Retrenchment Report to each member of the President's Council and to each member of the UMBI Senate.
- E. The Directors shall make a copy of the President's Retrenchment Report available for review and reasonable copying by each UMBI faculty member at the respective Director's Office.
- F. The Vice President for Academic Affairs shall convene the UMBI Senate within 5 working days of transmitting the President's Retrenchment Report to the Senate members, for the purpose of discussing and commenting upon the President's Retrenchment Report.
- G. The UMBI Senate and each UMBI faculty member may, within seven days after the UMBI Senate meeting, send to the President comments or suggestions about the President's Retrenchment Report.
- H. After considering the comments and suggestions received from the UMBI Senate and faculty members, the President shall issue the UMBI Retrenchment Plan, which shall identify for each program affected and, if reduced, the numbers of faculty positions to be terminated or the budget reductions to be achieved through the termination of faculty positions. The President has final authority over any decision or determination under these retrenchment procedures. In addition to the advice of the committees established under retrenchment procedures, the President may seek the advice of any individual, group, or office within UMBI or outside the institution. The President may adopt recommendations from any committee identified in the retrenchment procedures, adopt them with modifications, or reject them and make substitutions for them.
- I. The President shall have the right to adjust any schedule referenced in the retrenchment procedures except for those pertaining to the notice for termination and to the appeal process. An effort will be made to give advance notice of any such adjustment. Failure to comply with such schedules, however, shall not be grounds for appeal under these retrenchment procedures.

V. POSITIONS TO BE RETRENCHED

- A. Upon the issuance of the President's Retrenchment Plan, the Vice President for Academic Affairs shall convene an ad hoc committee ("Retrenchment Committee") composed of the Vice President for Academic Affairs, who shall be the chair, the Vice President for Administration and Finance, two Directors and two tenured faculty members selected by the President or designee, and three faculty members elected by the faculty. If the faculty declines to elect faculty member(s) in a timely manner or if the faculty members decline to serve, the President shall appoint the required number of committee members to serve on the committee.
- B. The Retrenchment Committee shall submit to the President its recommendation identifying the positions of those faculty members to be terminated ("Committee Position Termination List"). The Retrenchment Committee shall develop its recommendation

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solely by applying the provisions of Section V.

- C. The Retrenchment Committee shall establish a schedule ranking each faculty member in the programs affected by the UMBI Retrenchment Plan, according to the provisions of Section V.2. That schedule and information supporting that schedule shall be appended to the Committee Position Termination List.
- D. In the event that the Retrenchment Committee does not submit the Committee Position Termination List to the President by the deadline established by the President, the Vice President for Academic Affairs (in lieu of the Retrenchment Committee) shall have the responsibility of submitting the Committee Position Termination List.
- E. The President may approve the Committee Position Termination List as submitted or modify it. The approved or modified list shall be referred to as the "UMBI Faculty Position Termination List."
- F. In addition, the Committee, following the process set forth in this Section IV, shall make recommendations to the President in response to amendments to the UMBI Retrenchment Plan as contemplated in Section 3.8.
- G. Consistent with applicable law, deliberations about specific personnel decisions of any committee shall be confidential.

VI. RETRENCHMENT CRITERIA

- A. If a program is to be discontinued, all positions of faculty members in that program will be terminated.
- B. The order of termination ("Retrenchment Criteria") of faculty positions under these Procedures shall be as follows IN ORDER FOR TERMINATION:
 - 1. Non-tenure track faculty. [3]
 - 2. Non-tenured, tenure-track faculty who hold secondary joint appointments in UMBI. A "secondary joint appointment" shall mean a joint appointee who holds an academic appointment(s), as identified in either an appointment letter and/or faculty contract, of more than fifty (50%) in academic units other than the programs of UMBI.
 - 3. Non-tenured, tenure-track faculty who hold either 100% UMBI or UMBI primary appointments. A "primary appointment" shall mean an individual who holds an academic appointment, as identified in either an appointment letter and/or faculty contract, of more than fifty (50%) in a program of UMBI.
 - 4. Faculty holding tenure in UMBI.
- C. In each of the categories set forth in Section 5.2, rank (professor, associate professor, assistant professor, etc.) and then time in rank shall be used as further criteria to determine order for termination. Regarding rank and time in rank, if two faculty members are of the same rank, the one with a shorter time serving in that rank would be terminated first.
- D. Deviations from the order of termination may be made only when the termination of the appointment of the faculty member would significantly impede the ability of the institution or retrenchment unit affected by retrenchment to fulfill its mission and goals, or to fulfill

commitments under grants and contracts. The reason and basis for making a decision to deviate from the order of termination shall be adequately documented.

VII. NOTICE PERIOD FOR TERMINATION

- A. For the purpose of these retrenchment procedures, the applicable termination notice period is determined by the status of the faculty at the time the notice of termination is given.
 1. Non-tenure track faculty, as defined in the University of Maryland System Policy on Appointment, Rank and Tenure of Faculty, shall be given written notice of up to one year but not less than 30 days prior to the date of termination of appointment.
 2. Non-tenured, tenure-track faculty shall be give notice of termination not less than one year prior to the date of termination of appointment.
 3. Full-time instructors or lecturers, with seven or more years of continuous service to the institution, commencing July 1, 1984, shall be given written notice of termination of at least one year prior to the date of termination of appointment.
 4. Tenured faculty members shall be given notice as set forth in University of Maryland System Policy on Appointment, Rank and Tenure of Faculty, Section I.C.9 or corresponding sections of earlier faculty appointment agreements still in effect, as applicable.
- B. Notice of termination shall be effective on the date the notice is mailed by U.S. certified or registered mail, return receipt requested to the last address the terminated faculty member has on record with UMBI.
- C. An institution shall offer within three years to a faculty member whose appointment was terminated pursuant to these retrenchment procedures any new positions with equivalent duties and responsibilities within the retrenchment unit prior to hiring any other person.
- D. The President shall give a written notice of termination to each faculty member whose appointment is to be terminated pursuant to these retrenchment procedures. The termination notice shall include:
 1. notification that the appointment is being terminated pursuant to these retrenchment procedures;
 2. the applicable notice period;
 3. the effective date of termination;
 4. a statement that System Administration shall send, for a period of one year, written notice of faculty openings within the system to the last address that the faculty member has on record with the institution;
 5. notification of the right of the faculty member to appeal the termination of appointment and a copy of these retrenchment procedures;

6. if applicable, a statement that deviation was made from the order for termination and the circumstances of the deviation.

VIII. APPEAL PROCESS

- A. The President shall establish a retrenchment appeals committee pursuant to UMS BOR Policy on Faculty Retrenchment (November 29, 1990, II.8.00).
- B. Right to an Appeal

The President shall appoint two tenured UMBI faculty members to the retrenchment appeals committee and the UMBI faculty will elect three members. If the faculty decline to elect member (s) in a timely manner or if the faculty members decline to serve, the President shall appoint the required number of committee members to serve on the committee. No committee member shall be subject to termination under the UMBI Retrenchment Plan nor be serving on the Retrenchment Committee. Committee members may be drawn from the primary, secondary, affiliate or adjunct UMBI faculty appointees. The Vice President for Academic Affairs shall be a voting ex-officio member and the chair of the Committee.

- C. Appeals Schedule

A faculty member whose appointment is terminated under these retrenchment procedures shall have a right to appeal in accordance only with these procedures. No other appeal procedures within UMBI are applicable. The faculty member must include all grounds for appeal in the written request for appeal.

The filing or consideration of a request for appeal will not alter the effective date of termination of the appointment.

1. A request for appeal must be filed with the President within 10 working days [\[4\]](#) after the effective mailing date of the notice of termination.
2. The committee shall inform the faculty member of the date, time, and place of the hearing no later than 10 working days after the President's receipt of the request for appeal. The committee must schedule the hearing to occur within 30-45 calendar days after the President's receipt of the appeal.
3. The faculty member must provide to the committee a statement of facts on which the appeal is based and a list of witnesses and documents to be introduced at the hearing no later than five working days prior to the date of the hearing.
4. The committee shall send its recommendation to the President no later than 10 working days after the date of the conclusion of the hearing. The recommendation shall be made by secret ballot and the breakdown of the vote shall be reported to the President. The Vice President for Academic Affairs shall include a written statement of the Committee's reasoning and any material presented to the Committee at the hearing.
5. Within 10 working days after receipt of the committee's recommendation, the President shall issue a final decision and mail a copy to the faculty member by U.S. certified or registered mail, return receipt requested.

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6. In the event that a retrenchment decision is reversed on appeal and additional faculty members must be retrenched as a result, the President shall amend the UMBI Retrenchment Plan and submit the amendments to the Retrenchment Committee.

D. Grounds for Appeal

The grounds for appeal shall be limited to:

1. error in the application of the order for termination of appointment;
2. procedural error;
3. insufficiency of notice of termination;
4. whether any deviation from the order of termination was made without reasonable grounds; and
5. the termination was otherwise unlawful.

E. Conduct of the Hearing

1. The institution will be represented by the Office of the Attorney General or its designee.
2. The faculty member may be represented by legal counsel throughout the appeal proceedings at the faculty member's expense.
3. The hearing shall be audio taped and a copy of the tape shall be made available if requested by the faculty member.
4. The faculty member and the institution each may call witnesses and present documentary evidence at the hearing. Each member of the committee may call and question witnesses and request the presentation of documentary evidence.
5. The formal rules of evidence and of judicial procedure shall not apply to the appeal hearing; however, the committee may exclude irrelevant or repetitious testimony.
6. The faculty member's failure to appear at the hearing shall be deemed a voluntary dismissal of the appeal.
7. The appeal committee must make the decision based on the record.
8. Postponement of the hearing may be granted at the discretion of the committee upon the written request of the faculty member.

REVIEWED AND RECOMMENDED:

S. Gaylen Bradley, Ph.D.
Vice President Academic Affairs

APPROVED:

Rita R. Colwell, Ph.D., D.Sc.
President

Footnotes:

1 For the purposes of these procedures, "restricted funding" as used in the UMS policy on faculty retrenchment shall mean as applicable i) the lack of appropriations of other funds with which to support the appointment, as set forth in the University of Maryland system Policy on Appointment, Rank and Tenure of Faculty, section I.C.9 or ii) such other meaning set forth in corresponding sections of earlier faculty appointment agreements still in effect.

2 The Research Centers as of the date hereof are: i) Center of Marine Biotechnology, ii) Center for Agricultural Biotechnology, iii) Medical Biotechnology Center, iv) Center for Advanced Research in Biotechnology, and v) Center for Public Issues in Biotechnology.

3 The order for termination of non-tenure track faculty positions is as follows: Faculty Research Assistant, Research Associate, Research Assistant Professor, Research Associate Professor, and Research Professor.

4 Working days are defined as Monday through