

**UT/ UT-AAUP(COL) Negotiations – Article 19 UT Proposal – 12/10/21**

*Note: The University proposes Article 19 as below memorialized. For context, in 2020 the University realized that Article 19 was an unworkable restraint that severely impaired the University from addressing the unforeseen budgetary crisis imposed by the COVID-19 pandemic. A repeat of an immediate catastrophic circumstance in the upcoming years would cripple this University and potentially result in an irreparable situation – declaration of financial exigency thereby triggering acceleration of the University’s debt obligations, which would in turn compromise the University’s ability to make payroll, result in state takeover, and impact the University’s accreditation. In short, the University’s operational viability is at stake. The University also acknowledges that the American Association of University Professors report on Financial Exigency posted April 2004 states, “An institution’s declaration that it is in dire financial straits, like a declaration of war, often comes too late to avert disaster, if it comes at all.”*

*The University wants to share its intent in drafting the proposed Article 19 language. The University intends to:*

- a) At the outset, the University acknowledges it must first consider whether normal attrition or retirement incentives would address financial impacts of certain triggers that may necessitate a reduction in force at the College of Law. If attrition or retirement incentives would not address the required financial reduction, the University would use a layoff procedure that starts with Law Faculty who are not full-time and that lays off in reverse order of seniority, unless academic obligations or accreditation standards would be negatively impacted. The notice provisions in a normal layoff situation align with the main unit.*
- b) In the rare circumstance where an immediate financially catastrophic circumstance arises and the normal reduction in force timelines, notices, and order of a reduction of force are not practical or feasible based on the timeline within which the University must implement a budget reduction plan at the College of Law (again after attrition and retirement incentives are utilized), the normal layoff procedure would not apply and the University would need to discuss and show evidence to UT-AAUP(COL) of the immediate catastrophic financial circumstance(s) and to discuss the proposed reduction in force, before implementing a layoff outside of the normal reduction in force procedure.*
- c) Law Faculty do not bump into the UT main unit and laid off Law Faculty would have recall rights to new positions after a layoff are provided.*

**ARTICLE 19**  
**REDUCTION IN FORCE**

- 19.1 Where the University Provost determines, based on evidence, that one (1) of the following four (4) circumstances exists, a reduction in force of Law Faculty may be necessary:
  - 19.1.1. Significant reduction in the College of Law enrollment continuing over five (5) or more academic semesters (not including summer) and which is projected to persist;
  - 19.1.2. Modification, suspension, or elimination of courses or programs within the College of Law such that despite full course loads for Tenured, Tenure Track Faculty and Clinical and Legal

Writing Faculty, there remains more faculty time than available work, which supports a corresponding reduction of the number of Law Faculty;

- 19.1.3. Reorganization of the College of Law that reduces the need for the number of Law Faculty;
  - 19.1.4. Action by the Ohio General Assembly which requires the University to implement measures that lead to the University's determination of the need for a reduction in force of Law Faculty.
- 19.2 Normal attrition is the preferred approach to responding to the circumstances in 19.1 (19.1.1-19.1.4) or 19.9. The University will also consider whether retirement incentive benefits under 12.10 would achieve the desired financial reduction.
- 19.3 When the circumstances in 19.1 or 19.9 exists, the University Provost will consult with the College of Law Dean and Budget Manager to determine whether the desired financial reduction can be achieved through attrition before determining whether a reduction in force of Law Faculty is necessary.
- 19.4 Should attrition not achieve the desired financial reduction, the University Provost, after consultation with the College of Law Dean, will notify the UT-AAUP(COL) or its Designee in writing of the need for a reduction in force. The written notice will include:
- 19.4.1 The circumstance(s) under 19.1 or 19.9 that triggered the need for the reduction in force;
  - 19.4.2 The evidence relied upon in determining the circumstance(s) under 19.1 or 19.9 exists;
  - 19.4.3 How attrition impacted the required financial reduction amount; and
  - 19.4.4 The proposed reduction(s), with a written description and rationale for each position recommended for abolishment.
  - 19.4.5 All information used by the Provost, Dean, and Budget Manager in determining that a reduction in force is necessary will be provided to the UT-AAUP(COL) with the written notice. The UT-AAUP(COL) will not be entitled to any extensions of the time provided in 19.5 to make additional public or other records requests.
- 19.5 The College of Law Dean, after consultation with the UT-AAUP(COL) or its Designee, will present any alternative proposal to the University Provost for consideration within fourteen (14) calendar days of the notice in Section 19.4, unless the circumstance for the reduction in force is under Section 19.9, in which case the time period will be reduced to seven (7) calendar days.
- 19.6 The University Provost will decide whether to implement a reduction in force.
- 19.7 Once the University's Board of Trustees determines to implement a reduction in force under Section 19.1, the following steps will be taken in the order specified, provided academic obligations can be fulfilled:

- 19.7.1 Any category of Law Faculty other than full-time will be released first. Then, for Clinical and Legal Writing Faculty, proceed to (19.7.2); and for Tenured, Tenure-Track Faculty, proceed to (19.7.3).
- 19.7.2 The Clinical and Legal Writing Faculty will be laid off in reverse order of seniority. Where the length of full-time University service is equal, academic rank will be considered, with the person with lower rank preceding a person with higher rank in the order of layoff.
- 19.7.3 The Tenured, Tenure-Track Faculty will be laid off in reverse order of seniority. Where the length of full-time University service is equal, academic rank will be considered, with the person with lower rank preceding a person with higher rank in the order of layoff. In cases of a tie of seniority and academic rank, the order of layoff will be alphabetically by last name. If two or more people have the same last names, they will be ranked alphabetically by the first name.

Adjustments to the foregoing steps may occur solely to ensure the College of Law meets its accreditation standards. Should UT-AAUP(COL) believe that accreditation standards are placed at risk, it bears the burden of demonstrating that to the University, but the final decision on whether an adjustment is necessary rests with the University.

- 19.8 If a Law Faculty member is laid off under Section 19.7, the individual will receive notice, or salary in lieu thereof, in accordance with the following schedule:
  - 19.8.1 At least three (3) months if the final decision is reached by March 1 (or three (3) months prior to the expiration) of the first year of probationary service, if the Law Faculty member is not Tenured or Established;
  - 19.8.2 At least six (6) months, if the final decision is reached by December 15 of the second year (or after nine (9) months, but prior to eighteen (18) months) of probationary service, if the Law Faculty member is not Tenured or Established;
  - 19.8.3 At least one (1) year, if the decision is reached after eighteen (18) months of probationary service, if the Law Faculty member is not Tenured or Established;
  - 19.8.4 Completion of the current academic year plus one (1) year, if the Law Faculty member is Tenured or has Established status.
- 19.9 The reduction in force procedures arising from a circumstance(s) in Section 19.1 are designed to accommodate an orderly implementation where no immediate catastrophic financial circumstance exists. Where an immediate catastrophic financial circumstance(s) arises and adherence to the timelines, notices, and order of a reduction of force for a Section 19.1 reduction in force are not practical or feasible based on the timeline within which the University must implement a budget reduction plan, this Section 19.9 applies. Prior to implementing a reduction in force under this Section, the University will meet with UT-AAUP(COL) or its Designee to discuss and show evidence of the immediate catastrophic financial circumstance(s) and to discuss the proposed reduction in force. To foster transparency, the University may offer to provide confidential information that does not constitute a public record upon UT-AAUP(COL) executing a Non-Disclosure Agreement. A reduction in force under this Section need not adhere to the

requirements in Sections 19.1, 19.7, or 19.8. Once the University's Board of Trustees determines to implement a reduction in force under Section 19.9, the University will send the Law Faculty members, whose positions were abolished, written notification of the Board's action and effective date of the reduction in force. This written notice will be sent within three (3) business days of action by the Board of Trustees adopting the reduction in force.

- 19.10 If a Law Faculty member is laid off, the University may not fill a new position for which the Law Faculty member is qualified to teach that is in the same category at the College of Law (i.e. Clinical Faculty; Legal Writing Faculty; or Tenure, Tenure-Track Faculty) unless the released Law Faculty member has been offered the reappointment and has not accepted the position in writing within thirty (30) calendar days. This restriction on filling positions shall be in effect for one (1) year from the date of layoff for any Clinical Faculty or Legal Writing Faculty position and for a period of three (3) years from the date of layoff for any Tenure, Tenure-Track Faculty. A recalled Law Faculty Member will have his/her time restored for purposes of seniority, and, if allowed by law, retirement.