

Master Agreement 2015-2017

ARTICLE 23 Retrenchment

Section A. Retrenchment.

Subd. 1. Defined. A retrenchment is the layoff of tenured or probationary faculty members due to System or university budget reductions, budget reallocations, expenditure freezes, or unfunded increases in operating costs, resulting from action by either the Legislature, the Governor, or MnSCU, or program changes, or enrollment shifts, or legislative mandate.

Subd. 2. When retrenchment is first discussed within the Administration, the President shall discuss the topic with the Association at the next meet and confer, in accordance with Article 6. In connection with such duty to meet and confer, the President shall give the reason(s) for considering retrenchment and shall provide information of anticipated attrition, and statistics and financial data having a bearing on any such retrenchment. The President shall consult with the Chancellor before the issuance of layoff notices.

Section B. Procedure.

Subd. 1. Attrition. Whenever possible, attrition due to retirement, resignation, early separation, or death should be used to avoid the necessity for layoff.

Subd. 2. Retraining. Retraining of present faculty shall be considered by the President to avoid the necessity for layoff.

Subd. 3. Order of Personnel Reductions and Layoff. Upon determination by the President that attrition and retraining will not accomplish the reduction, then layoffs may be instituted. After meeting and conferring with the Association pursuant to Section A above, the President shall determine the particular department or program in which personnel reductions ought to be made. Such reductions shall then be accomplished in the following order.

- a. Adjunct, community faculty, and fixed term, without priority, based upon programmatic needs.
- b. Probationary
- c. Tenured and non-tenure track faculty in the affected department shall be laid off in inverse order as described in Article 29. However, in departments or programs where positions are financed by monies from an outside jurisdiction or agency and are occupied by fixed-term or probationary faculty, such faculty may continue to hold such positions in reduced departments or programs unless there are tenured faculty members qualified to fill such positions as determined by the President.

A tenured faculty member who has at least twenty (20) FTE years of service within the Minnesota State Universities, shall remain available for assignment and shall not

be laid off. For purposes of reaching the twenty (20) FTE years of service threshold, service through the date on which the faculty member's lay-off would otherwise be effective, shall be considered. For those tenured faculty with at least twenty (20) years of service who have received notice that their position is being eliminated, the following options will be provided.

1. The President/designee may reassign the faculty member to other appropriate duties within the university.
 2. If the President/designee determines reassignment is not available without retraining, within six months of initial notice, the faculty member and the President/designee shall develop a mutually agreed upon retraining program, to be paid by the university, which meets the programmatic needs of the university. The completed plan will include timelines for completion of retraining. The President will review the approved plan with the receiving department, and in accordance with Article 20, the department's role is limited to that of providing recommendations only.
 3. If the President/designee and the faculty member cannot develop a mutually agreeable retraining plan, the faculty member's employment will terminate three (3) years from the date initial notice. During this period, appropriate duties will be assigned by the Employer. At the end of this period, the faculty member will receive the maximum benefits contained in Article 16, Section D, Subd. 3 if not otherwise qualified. With this option, there shall be no layoff or recall rights.
- d. If two (2) or more faculty members have equal seniority, then those with greater length of tenured service shall have priority for retention. Should faculty members still be equal in seniority, then those with greater length of total service in the university shall have priority in retention. Beyond this, the decision of which person to retain will be made on the basis of programmatic needs of the university as determined by the President.

Subd. 4. Advanced Notice. Faculty members to be laid off under the provisions of this article shall be provided notice of layoff no later than the fifteenth (15th) class day of the fall term to be effective on the last day of the next spring term or the last day of the faculty member's nine-month appointment year, whichever is later. To the extent that the Administration has not previously identified the particular departments or programs in which layoffs will occur and the anticipated number of layoffs, it shall provide such information to the Association at least 15 days prior to the date notice of layoff will be provided to the affected faculty members. After providing this information, the Administration will, upon request, meet and confer to discuss layoffs prior to the date of the layoff notice.

Subd. 5. Out of Order Layoff. At any time following the notice described in Subdivision 4 of this Section, a tenured or NTT faculty member not identified for layoff may propose to the President/designee that the proposing faculty member be laid-off without regard to the provisions of Subdivision 3 of this Section. Within fifteen (15) days of receiving such a

proposal, the President/designee will in writing decline or agree to the proposal. Once timely accepted by the President/designee, such proposals become effective as notices of retrenchment and may not be rescinded except upon written notice from the President. Provided that the faculty member otherwise satisfies the eligibility criteria, a faculty member who is laid off by operation of this subdivision shall be deemed to have been laid-off and have provided timely notice of separation for purposes of the benefits described in Article 11, Section C, Article 14, Section C, Subd. 3, and Article 16. Faculty laid off by operation of this subdivision shall not be afforded the rights and benefits described in Sections C-F of this Article, but shall be allowed to continue insurance as provided in Section F, Subd. 2.

In circumstances where the President determines that the originally noticed layoff would have been rescinded, the President/designee shall so notify the relevant proposing faculty member. The proposing faculty member shall have ten (10) days to notify the President in writing the proposal is rescinded.

Subd. 6. Sabbatical Leave. If a faculty member had been scheduled for a sabbatical leave he/she shall not be deprived of his/her sabbatical leave because he/she is subject to being laid off.

Subd. 7. Retraining.

- a. The President will consider and may approve a training leave, in accordance with Article 17, Section G, for a faculty member who has received a notice of layoff. The retraining leave would occur during the faculty member's terminal year and provide the faculty member with an opportunity to become qualified for a position in a related or allied discipline. The President's decision shall not be grievable.
- b. As an alternative, but not in addition to the retraining leave, the President may offer a sabbatical leave to a faculty member for the purpose of retraining in a field for which employment is available at the faculty member's university. This sabbatical would occur during the faculty member's terminal year. The President's decision to offer or not to offer the sabbatical leave shall not be grievable.

Section C. Claiming and Recall Rights. Tenured faculty members laid off in accordance with this article shall have claiming and recall rights as described in this article for three (3) years following the effective date of their layoff.

Subd. 1. Notices of Vacancies. All tenured faculty members who have received a notice of retrenchment shall be provided notices of all faculty vacancies in the state university system during the three year claiming period. Such notices shall be sent no later than the time such notices are published. Such notices may be sent electronically, unless the faculty member requests notices by U.S. Mail. Affected faculty members shall provide the university human resources with an e-mail address or other acceptable electronic contact information, or mailing address, to facilitate the provision of such notices.

Subd. 2 Designation of Academic Areas. Tenured faculty members who have received a notice of retrenchment shall notify the System office of up to three academic areas in which the faculty member wishes to exercise claiming rights. The choice of academic areas shall be from the list contained in Appendix B of this Agreement. The designation of academic areas can be updated annually within fifteen (15) days of the anniversary of the faculty member's layoff date. The faculty member may designate one additional academic area during the update period.

Subd. 3. Advanced Notice of Vacancies in Designated Academic Areas. Vacancy notices for probationary positions in chosen academic areas shall be sent at least three (3) weeks prior to disseminating them within MnSCU or in local or national publications. The initial vacancy notice to a retrenched faculty member for a position in a designated academic area will include a letter describing the claiming and recall process.

Subd. 4. Retrenchment List. A current list of tenured faculty members who have been laid-off and possess claiming or recall rights as described in this Article will be maintained by the MnSCU System Office. The list will indicate the academic areas designated by each faculty member on this list. Each university will notify the System Office whenever a tenured faculty member is given notice of retrenchment. The System Office will update the list to reflect current information and make it available to each of the universities.

Section D. Claiming. Tenured faculty members notified of layoff in accordance with this article may exercise claiming rights within the Minnesota State Universities in the designated academic areas indicated on the retrenchment list as follows:

Subd. 1. The faculty member shall have three (3) calendar weeks from the date the notice of vacancy was sent to the faculty member to contact the university and indicate his/her interest in the position and to forward the application materials requested in the notice to the Academic Vice President or designee of the university involved.

Subd. 2. When the credentials of a claiming faculty member have been received by a hiring university, the Vice President or designee shall meet with the relevant department to ensure that it is aware of and understands all the provisions of this section prior to considering a claiming request. The department involved shall make telephone contact with the claiming faculty member and invite him/her to visit the campus for an informational interview. At the time of the visit, he/she shall also be afforded an interview with the President or appropriate Vice President. The department shall make a written recommendation to the President concerning the credentials of the claiming faculty member. If the recommendation from the department is negative, the faculty member shall be afforded a telephone call with the President before the President determines whether he/she is qualified to fill the vacancy.

The university shall be responsible for travel and related expenses from the faculty member's place of residence if it is within the State of Minnesota or within fifty (50) miles of the Minnesota border. The faculty member will be responsible for travel and related expenses from a place of residence beyond fifty (50) miles from the Minnesota border.

Subd. 3. After consulting with the department, the President shall determine whether the claiming faculty member is qualified to fill the vacant position. In evaluating the faculty member, neither the President nor the department will compare him/her with any actual, hypothetical, or ideal applicant, and will take no notice of applications and credentials of other candidates until a decision has been reached regarding the faculty member seeking reassignment.

The faculty member must be awarded the position if he/she has sufficient ability, i.e., is competent to perform the duties of the position as described in the notice of vacancy.

Subd. 4. If the President determines that a faculty member seeking to claim a vacant position does not possess sufficient ability to fill the position, he/she shall send the faculty member a written statement identifying the qualifications stated in the notice of vacancy that he/she does not possess. The System office shall be informed so that the notice of vacancy can be mailed and the search resumed in accordance with the procedures of Article 21, Section A.

Subd. 5. If two (2) or more faculty members are deemed qualified to claim a vacant position as described in this section, the position shall be awarded to the faculty member with greater seniority. If two (2) or more faculty members have equal seniority, the vacant position will be awarded to the one with the greater length of tenured service in the Minnesota State Universities. If two (2) or more faculty members have equal seniority and tenured service, the vacant position will be awarded to the one with greater length of total service in the Minnesota State Universities. If two (2) or more faculty members have equal seniority and equal length of tenured and total service, the President shall determine which faculty member shall be awarded the vacant position.

Subd. 6. If no faculty member on the retrenchment list responds to the notice of vacancy during the three (3) week open period, the university may resume the search in accordance with the procedures of Article 21, Section A.

Subd. 7. Persons offered reemployment must accept such offer within fifteen (15) calendar days, and such acceptance to take effect on a date specified by the President which will not require a faculty member to be at work earlier than the beginning of the academic semester, following the date such offer was made or thirty (30) days, whichever is later. Such a faculty member shall retain all accrued seniority in the Minnesota State Universities, including credit for time in layoff status, if he/she is reemployed at the same university from which the faculty member was laid off. However, faculty who are reemployed at another Minnesota State University shall begin a new accumulation of seniority within their new department or program at their new Minnesota State University.

Subd. 8. Persons who decline such offers of reemployment waive all claiming rights as established in this Article and shall have their names removed from the retrenchment list. If the vacant position is temporary or less than full-time, the qualified faculty member may accept or refuse the position without in any way altering or affecting his/her rights as established in this article.

Subd. 9. All claiming rights established herein shall expire at the conclusion of three (3) years (thirty-six (36) months) from the effective date of the faculty member's layoff or upon reassignment to a full-time tenured position in the bargaining unit.

Section E. Recall. Tenured faculty members laid-off in accordance with this article shall be eligible for recall to the same or substantially equivalent vacant position in the same university from which the faculty member was laid off for three (3) years following the effective date of their layoff. The following provisions shall apply.

Subd. 1. When a vacant position is to be filled, laid-off faculty members who are eligible for the position shall be offered reemployment in inverse order of their layoff from the System. In the event that two (2) or more faculty members were laid off at the same time, then that person with the greater seniority shall have priority for recall. If the vacant position is temporary or less than full-time, the laid-off faculty who are eligible shall be offered the position, but their accepting or declining the offer shall not jeopardize their recall rights as established in this article.

Subd. 2. Persons offered reemployment pursuant to this section must accept such offer within fifteen (15) days after such offer, such acceptance to take effect on a date specified by the President which will not require a faculty member to be at work earlier than the beginning of the academic semester, following the date such offer was made or thirty (30) days, whichever is later.

Subd. 3. Persons who decline such offers of reemployment waive all rights of recall as established in this article and shall have their names removed from the retrenchment list. If the vacant position is temporary or less than full-time, the qualified faculty member may accept or refuse the position without in any way altering or affecting his/her rights as established in this article.

Subd. 4. All recall rights established herein shall expire at the conclusion of three (3) years (thirty-six (36) months) from the effective date of the faculty member's layoff.

Section F. Recalled Faculty/Successful Claimers.

Subd. 1. Faculty members who are recalled or successfully claim a vacant position in accordance with this article and return to employment in the System shall be reemployed at their former academic rank with no reduction in their former salary schedule position.

In addition, they shall retain all unused sick leave accumulation not used in the calculation of severance pay at the time of their layoff as well as their previously earned tenure rights and sabbatical leave rights. If the position to which a faculty member is recalled is within the same seniority unit from which he/she was laid-off, then all previous seniority credit will be restored.

Subd. 2. Laid-off faculty shall be considered to be in an unrequested leave category. After twelve (12) months of Employer paid insurance benefits expire (Article 35, Section C, Subd.

3.a), the laid-off employee shall have the right to continue at his/her own expense his/her full insurance benefits at the group rate for an additional thirty (30) months.

Section G. Outplacement Service. MnSCU, after consulting with the IFO, shall select an out placement consultant and provide such services to faculty members who are given notice of layoff and who request the service.

Section H. Grievance Procedure. A layoff due to retrenchment shall not be considered a non-renewal of appointment or a dismissal for cause, and the President's decision to retrench shall not be subject to the grievance procedure.