

## **ARTICLE 28. DISCONTINUANCE OF MEMBERS' APPOINTMENTS**

### **28.1 General**

#### **28.1.1 The Association and the University:**

- i) recognize the importance of tenure as a protection of academic freedom and the long-term commitment made by Members to an academic career;
- ii) acknowledge the importance of long range academic planning;
- iii) recognize that to serve the goals of the University as a learning environment for staff and students, the University must maintain the flexibility to add to, delete from and change its academic programs and approaches to learning;
- iv) recognize that changes in academic programs are normally achieved through processes which do not adversely affect the employment status of Members;
- v) commit to the principles of openness, fairness and accountability in decisions or actions taken under this Article.

28.1.2 The University will endeavour to maintain the security of employment of Members affected by this Article wherever possible.

28.1.3 Appointments of Member with tenured and probationary appointments as defined in Article 19 can only be terminated by dismissal for cause or pursuant to this Article.

28.1.3.1 Discontinuance, pursuant to this Article, is not dismissal for cause and shall not be recorded or reported as such.

28.1.4 The discontinuance of appointments pursuant to this Article shall be for valid academic and/or financial reasons only.

28.1.5 In order to discontinue appointments in accordance with this Article, except for discontinuance for exclusively academic reasons, the Board of Governors ("the Board") must first declare that an extraordinary financial exigency exists.

28.1.6 For the purposes of Article 28, the parties agree that Extended Education and Student Services shall be treated as faculties/schools. The parties further agree that should any other unit require classification as either a faculty/school or program/department for the purposes of Article 28, the parties will meet to determine the appropriate classification. Should the parties not be able to reach an agreement, the issue shall be referred to expedited arbitration in accordance with the provisions of Article 28.

- 28.1.6.1 Where appointments of Members within such other units as specified in s. 28.1.6 may be affected under the terms of this Article, the procedures to be followed shall parallel those specified in this Article for faculties/schools or programs/departments, depending on the unit involved.
- 28.1.7 For the purposes of this Article, the academic salary budget is defined as the total salary and benefits cost of members of the bargaining unit.
- 28.1.8
- i) A closure is the elimination of a faculty/school, department or program containing Members, for valid academic or financial reasons.
  - ii) A program is defined as any recurring sequence of learning experiences which is offered through the University and for which a unique credential is awarded to students by the institution at its discretion. The term "program" also refers to one or more programs organized by an institution into a department, division, school or faculty; and includes majors/minors, honours and other disciplinary specializations, within degree or other programs, for which degree or other programs a unique credential is awarded.
  - iii) No academic unit smaller than a program or department can be closed. However, such smaller units may be closed as part of the bona fide closure or amalgamation of a program or department.
- 28.1.9 Where any person, committee or body fails to provide, within the appropriate time frames, a report or make recommendations or provide advice as provided for in this Article, the designated recipient of the report, recommendation or advice may proceed in accordance with the provisions of this Article as if the report, recommendation or advice had been provided.

## 28.2 **Discontinuance for Financial Reasons**

28.2.1 An extraordinary financial exigency exists when:

- i) there is an actual or projected deficiency in operating revenue relative to operating budget expenditures; and
- ii) such deficiency can reasonably be projected to extend beyond one year; and
- iii) the persistence of the deficiency will seriously inhibit the functioning of the existing academic units; and
- iv) the deficiency cannot be alleviated in a material way by such reasonable means as do not require the application of the Article.

### **Financial Verification Committee**

- 28.2.2 Upon passage of a resolution by the Board that an extraordinary financial exigency may exist, the Board shall refer the matter to the Financial Verification Committee ("FVC") which shall, within thirty (30) days of referral from the Board, report to the Board in writing on the following:
- i) the FVC shall verify if an extraordinary financial exigency exists, within the meaning of this Article;
  - ii) the FVC shall verify the quantum of the exigency, if any;
  - iii) the FVC shall have the right to make recommendations to the Board as to how to deal with the exigency as may be found to exist, including the size of the reduction required to the academic salary budget.
- 28.2.3 The FVC shall be comprised of the following voting Members:
- i) two individuals appointed by the Board;
  - ii) two individuals appointed by the Faculty Association;
  - iii) a Chairperson who shall be entitled to vote only in the event of a tie.
- 28.2.4 The FVC shall also have the following non-voting Members:
- i) two students appointed by University of Manitoba Students Union; and
  - ii) two representatives from the other bargaining units within the University chosen by the same method as the Support Staff Assessor on the Board is chosen; and
  - iii) one representative from the excluded employee groups.
- 28.2.5 The Chairperson of the FVC shall be selected by the remaining voting Members of the FVC. In the event that the voting Members of the FVC cannot agree on the appointment of the Chairperson, the Chairperson shall be appointed by the Chief Justice of Manitoba.
- 28.2.6 No employee or official of the Government of Manitoba shall be entitled to be a Member of the FVC.
- 28.2.7 The FVC shall have the right to receive and consider any such information as it in its own discretion deems relevant. The FVC shall have the opportunity to select a financial consultant of its choice to assist in its deliberations. The consultant shall report to the FVC and to the Board. Costs of the financial consultant shall be borne by the University.
- 28.2.8 The Board agrees to the full disclosure of all relevant information which is related to the extraordinary financial exigency.
- 28.2.9 The Board shall receive and give serious consideration to the report of the FVC, although the role of the FVC is advisory only.
- 28.2.10 Having received and considered the report of the FVC, the Board shall determine whether an extraordinary financial exigency exists.

- 28.2.11.1 If the Board determines not to adopt the recommendations of the FVC, either in whole or in part, it shall notify the FVC of its reasons for not adopting the recommendations of the FVC.
- 28.2.11.2 If the Board accepts the finding of the FVC that an extraordinary financial exigency exists, as of the date of the report, that finding shall be deemed final and conclusive and not subject to grievance.
- 28.2.12 The report of the FVC and all the submissions tendered to it shall be submitted simultaneously to the Board, the Association and Senate;
- 28.2.13 The report of the FVC shall be made public.

28.3 **Academic Budget Allocation Committee**

- 28.3.1 There shall be an Academic Budget Allocation Committee ("ABAC") which shall have the same composition as the Senate Planning and Priorities Committee as specified in the Senate Handbook as of November 9th, 1995, but any member of the ABAC who has previously voted in the budget verification process shall stand aside as a voting member and may be replaced by another representative chosen by them from their constituency. Any member who has stood aside may participate as a non-voting member.
- 28.3.2 Where the Board declares that an extraordinary financial exigency exists, it shall refer the matter to the ABAC, which shall recommend the proportional amount by which the budget of each faculty/school in the University is to be reduced. The primary concern of the ABAC shall be the academic needs and priorities of the University as a whole.
- 28.3.3 The report of the ABAC is advisory only.
- 28.3.4 The ABAC shall consult as widely as possible prior to arriving at its recommendation and the Board agrees to the full disclosure of all information which is relevant to the mandate of the ABAC, including, but not limited to, the Board's own provisional allocations of the proposed reductions.
- 28.3.5 The report and recommendations of the ABAC, and all submissions tendered to it, shall be submitted to the Board, with a copy to the Association, within thirty (30) working days of being established.
- 28.3.6 The report of the ABAC shall be made public.
- 28.3.7 The Board will give serious consideration to the report and recommendations of the ABAC, although the role of the ABAC is advisory only. Upon receipt of the report of the ABAC, the Board has the discretionary right to make the final determination as to whether to accept the recommendations of the ABAC. The

Board shall make the determination as to how to achieve and allocate the required reduction in the budget allocations to faculties and schools.

28.3.7.1 In the event that the Board determines not to accept the recommendations of the ABAC, either in whole or in part, it shall notify the ABAC of its reasons for not accepting the recommendations of the ABAC.

#### 28.4 **Other Consultation**

28.4.1 Once the Board has determined the allocation referred to in s. 28.3.7 and established the faculties/schools to be affected, the Board shall notify the Association and the Provost and Vice-President (Academic) ~~and Provost~~ in writing as to the determination, and the reasons therefor. The Association and the Provost and Vice-President (Academic) ~~and Provost~~ may provide advice to the Senate, and shall provide such advice within thirty (30) days of receiving the notification from the Board.

#### 28.5 **Faculty/School Councils**

28.5.1 Once the Board has made the determination referred to in s. 28.3.7, the Board shall forward the allocations to the affected faculty/school councils. The faculty/school councils shall recommend to the dean/director the proportion of the academic budget to be allocated to academic salaries.

28.5.2 The dean/director shall inform faculty/school council as to the amount of the budget to be allocated to items other than the academic salary budget and the reduction required to the academic salary budget.

28.5.3 The faculty/school council, shall consider the impact of the reduction in the faculty/school academic salary budget, and shall make recommendations to the Senate as to how to achieve the required reduction in the faculty/school academic salary budget. In particular, the faculty/school council:

- i) may recommend ways of reducing the academic salary budget of the faculty/school, including but not limited to, early retirements, reduced workloads, job-sharing arrangements, transfers, voluntary separation, discontinuance of Members' appointments and leaves;
- ii) may determine that the reduction in the academic salary budget can be alleviated by a reduction in Members' salaries across the faculty/school affected. If so, the issue shall be submitted to a vote of the faculty/school council. Only Members of the bargaining unit have the right to vote on this issue. If the faculty/school council approves the reduction in salaries, it shall recommend this approach to the Board and the Association. If accepted by the parties, the total savings generated by this reduction in salaries shall be applied to the reduction required from the faculty/school academic salary budget;

- iii) may recommend that the reduction in the academic salary budget can be achieved through the closure of a program or department and if the faculty/school council recommends such a closure, the faculty/school council:
  - a) may recommend that all or some of the components of the program or department recommended for closure be amalgamated with an existing program or department; or
  - b) may recommend that all or some of the components of the program or department recommended for closure be joined into a newly constituted program or department.
- iv) shall take in consideration the potential impact the implementation of the specific reduction in the academic salary budget would have on the operation of other programs or departments throughout the University.

28.5.4 Within thirty (30) days of receiving the allocation from the Board referred to in s. 28.3.7, the faculty/school council shall submit a report with recommendations to the Senate for consideration.

## 28.6 **Senate**

28.6.1 Following receipt and consideration of the recommendations from the affected faculty/school council, the Provost and Vice-President (Academic) ~~and Provost~~ and the Association, and no later than sixty (60) days following the receipt of the report of the faculty/school council, the Senate shall make a recommendation to the Board as to how to achieve the reduction in the academic salary budget. The Senate recommendation shall be consistent with the following criteria:

- i) the recommendation, if implemented, will allow the faculty/school to meet its academic salary budget reduction;
- ii) the recommendation, if implemented, will not contravene the University's legal, regulatory or contractual obligations;
- iii) the recommendation, if implemented, will not result in additional long-term costs to the University which would prevent it from achieving the required reduction; and
- iv) the recommendation, if implemented, will not jeopardize the accreditation of on-going faculties, schools or programs.

## 28.7 **Board of Governors**

28.7.1 The Board shall consider the recommendation of Senate and either accept it, or, if it does not accept the recommendation, it shall send the recommendation back to Senate for reconsideration. Senate shall make a second recommendation within

thirty (30) days of receiving the Board's advice that it does not accept the first recommendation.

28.7.2 The Board shall consider the second recommendation of Senate and shall accept it unless Senate has failed to meet the criteria set out in s. 28.6.1, and the Board rejects the recommendation by a two-thirds majority.

28.7.3 Where the Board accepts Senate's recommendation in accordance with s. 28.7.1 or s. 28.7.2 and the recommendation includes the closure of a program, department, school or faculty such that appointments of Members with tenured or probationary appointments are to be discontinued, the procedures in sections 28.10, 28.11, 28.12, 28.13 and 28.14 shall apply.

28.7.4 Where the Board rejects Senate's recommendation in accordance with s. 28.7.2, the Board shall determine how to achieve the required reduction in accordance with the criteria in Article 28.

28.7.5 Where at any time after the initial declaration of an extraordinary financial exigency, the Board is presented with reasonable means whereby it appears that it can in a material way reduce or eliminate the reduction in the academic salary budget (hereafter referred to as "subsequently acquired means"), the Board shall:

- i) determine the quantum or existence of the subsequently acquired means in like manner to the original verification of the financial exigency pursuant to s. 28.2, with the necessary changes;
- ii) give due consideration to the principle that a financial exigency must be alleviated by any subsequently acquired means;
- iii) if it is determined that subsequently acquired means exist, allocate such means directly to affected faculties/schools and used to modify or eliminate the required reductions in their academic salary budget;
- iv) have the discretion to determine whether or not to delay the process established by sections 28.2 through 28.10 ("the reduction process") by re-submitting all or part of the allocation to any of the steps which have been completed in the original reduction process before the verification of the subsequently acquired means;
- iv) if it chooses not to have any step in the original reduction process re-done, submit any allocation of subsequently acquired means directly to the Committee or Body then involved in a current stage of the original reduction process and any alleviation achieved thereby shall be considered thereafter as part of the original reduction process.

28.8 **Closure of Faculty/School For Financial Reasons**

- 28.8.1 The Board shall follow the procedures set out in sections 28.1 and 28.2 before recommending closure of a faculty/school for financial reasons.
- 28.8.2 Following a motion of the Board that it intends to recommend closure of a faculty/school, the Board shall refer the matter to Senate, which shall conduct whatever consultations it deems necessary, including consultation with the affected faculty/school. Senate shall have ninety (90) days to conduct its consultations, and shall make a written recommendation to the Board as to whether or not to proceed with the closure. The report shall be made public.
- 28.8.3 If the Board decides, after receiving the recommendation of Senate, that it wishes to proceed with the closure of the faculty/school, the Board shall inform Senate. The Board shall be entitled to make the final determination.
- 28.8.4 If, as a result of the closure of the faculty/school, the appointments of Members with tenured or probationary appointments may be or are to be discontinued, the procedures in sections 28.10, 28.11, 28.12 and 28.13 shall apply.

## 28.9 **Discontinuance for Academic Reasons**

### **Programs/Departments**

- 28.9.1 Where discontinuance is based on academic reasons, the program/department closure shall be for bona fide academic reasons only and the process shall be subject to the terms of s. 28.9 set out hereafter.
- 28.9.2 Where low student enrollment is argued as a bona fide academic reason, it must be demonstrable that a significant decline has occurred which has produced a condition of low enrollments for at least three (3) years, and reasonable projections into the future indicate that the low level of enrollment will continue.
- 28.9.3
- a) Where, for academic reasons only, a dean/director intends to initiate a recommendation that programs and/or departments be closed or amalgamated with the consequence that appointments of Members with tenure or with probationary appointments may be discontinued, the dean/director shall so advise the Provost and Vice-President (Academic) and Provost who in turn shall advise the Association.
  - b) The dean/director's recommendation to close or amalgamate programs or departments will follow the normal academic procedures involving consideration first by the faculty/school council and then Senate and the Board as provided for by the *University of Manitoba Act*.
- 28.9.4 Where Senate recommends to the Board the closure or amalgamation of programs or departments, as a consequence of which appointments of Members with tenure or with probationary appointments may be discontinued, the Board shall so advise the Association.

### **Faculties/Schools**



28.9.5 Before the Provost and Vice-President (Academic) ~~and Provost~~ recommends to Senate the closure of a faculty/school for academic reasons, as a consequence of which appointments of Members with tenured or probationary appointments may be discontinued, the Provost and Vice-President (Academic) ~~and Provost~~ shall forward a copy of his/her recommendation to the dean/director, the faculty/school council and the Association, and shall invite the dean/director and the faculty/school council to forward any advice that they wish to offer the Provost and Vice-President (Academic) ~~and Provost~~ within sixty (60) working days. The Provost and Vice-President (Academic) ~~and Provost~~ shall forward a copy of his/her recommendations and of the advice received from the dean/director and the faculty/school council to Senate, the Board and the Association.

28.9.6 Where Senate recommends to the Board the closure or amalgamation of faculties/schools, as a consequence of which appointments of Members with tenure or with probationary appointments are to be discontinued, the Board shall so advise the Association.

### **Board of Governors**

28.9.7.1 Where Senate makes a recommendation with respect to the closure or amalgamation of faculties/schools for academic reasons, the Board will give serious consideration to the recommendation from Senate and will accept its recommendation unless:

- i) Senate's recommendations are not based on bona fide academic reasons only and the recommendation of Senate is rejected by a two-thirds majority of the Board.

28.9.7.2 If the Board decides to close or amalgamate programs or departments of faculties/schools, as a consequence of which appointments of Members with tenured or probationary appointments are to be discontinued, it shall invite the Association to forward any advice it wishes to offer the Board within thirty (30) working days.

28.9.8 After consideration of all recommendations and advice pertaining to the closure or amalgamation of programs, departments or faculties/schools, the Board shall make its determination and shall inform Senate, the faculties/schools and the Association of that determination.

28.9.9 When, pursuant to the foregoing procedures, the Board decides to close or amalgamate programs, departments or faculties/schools, as a consequence of which appointments of Members with tenured or probationary appointments are to be reduced or discontinued, the procedures in sections 28.10, 28.11, 28.12 and 28.13 shall apply.

28.10 **Redeployment**

- 28.10.1
- i) Upon passage of a motion by the Board approving the closure of a program, department, school or faculty for academic and/or financial reasons in accordance with this Article, which may result in a change in or discontinuance of the appointment status of Members, the Board shall establish a Redeployment Committee to advise the Board on measures needed to deal with the closure;
  - ii) Where the recommendations of Senate approved by the Board in accordance with s. 28.8.2. include the identification of programs, departments, schools or faculties which are to be closed in order to achieve the aggregate savings that are required to meet the academic salary budget reductions, the list of the programs, departments, schools or faculties so affected shall be delivered to the Redeployment Committee and the Association by the Board.

28.10.2 The Redeployment Committee will consist of the following members of the University community:

- i) the Provost and Vice-President (Academic) ~~and Provost~~ who will serve as a non-voting Chair;
- ii) two Members elected by Senate from among those Members of Senate who are Members of the bargaining unit and who are from outside the faculty/school affected. Two alternate Members shall be selected to serve in the event that the original Member's faculty/school is affected;
- iii) three additional members on an ad hoc basis depending on the faculty/school affected, consisting of:
  - a) two members elected by the council of the faculty/school affected, and
  - b) the dean/director of the faculty/school affected.

The Association shall be entitled to a non-voting assessor who has the right to attend all meetings of the Committee.

- 28.10.3
- i) The University shall not discontinue the appointments of Members with tenured or probationary status pursuant to this Article without consulting with the Redeployment Committee.
  - ii) The University shall, where it is reasonable to do so, avoid hiring new persons for teaching positions, when Members have been identified or are clearly identifiable for discontinuance, at the time of the hiring, who are equally qualified to fill those vacant positions.

28.10.4 The Redeployment Committee shall accept the closures referred to it by the Board.

28.10.5 The Redeployment Committee shall identify the positions of Members which may have to be discontinued as a result of the closures. Where the recommendations of Senate in accordance with s. 28.8.2 are not sufficiently specific and comprehensive to permit identification of positions to be discontinued or such positions as can be identified do not result in aggregate savings that are sufficient to meet the required academic salary budget reduction, the deficiency in position identification shall be referred to the Redeployment Committee who shall identify and determine positions for discontinuance that are sufficient to eliminate the deficiency.

28.10.6 The Redeployment Committee shall consider methods of alleviating the effects of the closures. Such methods shall include, but not be limited to, transfers, early retirement, reduced work loads, job sharing, voluntary separation and the like. In particular, the Redeployment Committee shall make recommendations, including:

- i) where a vacancy exists, transferring a Member who would otherwise be discontinued to another department or faculty/school for which the Member is qualified or could be qualified with two years retraining;
- ii) providing the opportunity of voluntary early retirement if the Member is aged 55 years or more;
- iii) advising Members of any voluntary separation plan;
- iv) where reasonable to do so, offering reduced appointment as per Article 10, except that the Member does not require the permission of the President of the Board and the time frames for the notice as specified in Article 10 are waived;
- v) any other alternative which may be implemented with the consent of the Member.

28.10.7 The implementation of the above options must be done in accordance with this Agreement. If the Board cannot offer (i) and the Member does not wish to accept (ii), (iii), (iv) or (v), the Member shall be discontinued in accordance with the provisions of this Article.

28.10.8 Where two or more Members are equally qualified with respect to any position available for the redeployment of Members, the order of redeployment shall be:

- i) Members holding appointments with tenure, in order of the effective date of appointment with tenure;
- ii) Members holding probationary appointments in order of the effective date of appointment, which date is deemed to be the beginning of the maximum untenured period. In cases where two or more individuals are equal with respect to the academic needs and priorities of the faculty/school, the order of discontinuance shall be:

- a) First, Members holding probationary appointments in reverse order of effective date of appointment, which date is deemed to be the beginning of the maximum untenured period;
- b) Next, Members holding appointments with tenure in reverse order of the effective date of the appointment with tenure.

28.10.9 The Board shall not discontinue the appointment of Members with tenure or probationary status until the Redeployment Committee has reported to the Board.

28.10.10 The Redeployment Committee shall make recommendations with respect to actions pertaining to Members under this Article to the Board within thirty (30) working days of receiving its initial reference from the Board. The recommendation shall be provided to the Association.

28.10.11 Where the recommendations of the Redeployment Committee do not result in the required reduction in the academic salary budget, the Board shall request the Redeployment Committee to identify further positions to be discontinued in order to meet with the required reductions. Any such supplementary reports shall be provided within thirty (30) days by the Redeployment Committee to the Board.

28.10.12 Both parties recognize that due to the variability in Members' salaries and benefits mathematical precision in achieving the required reductions may not be possible.

28.11 **Voluntary Severance Package**

28.11.1 If the Board decides to reduce the academic salary budget in accordance with this Article, and after the Board has received the recommendations of Senate in accordance with s. 28.8.2 so as to permit the identification of affected programs, departments, faculties or schools, the Board shall inform members of the affected program, department, faculty or school of the existence of a Voluntary Severance Plan ("VSP").

28.11.2 Members shall have one month from the date of being informed of the voluntary severance plan to indicate in writing their intention to participate in the plan.

28.11.3 Within ten (10) days of receiving the written notice referred to above, the President shall make a determination as to whether the Member's voluntary separation will result in savings to the academic salary budget. The President will notify the Member in writing as to his/her determination and shall send a copy to the Redeployment Committee and the Association.

28.11.4 If the President determines that a Member's voluntary separation will result in savings to the academic salary budget and it appears that the Member cannot otherwise be redeployed in a fashion which will lead to greater financial or academic benefits for the University, the Member who applied for voluntary separation under this Article shall receive the notice period and the severance

settlement equal to the amount of severance and notice that Member would receive if that Member had been discontinued in accordance with this Article.

28.11.5 All savings to the academic salary budget which result from the VSP shall be applied to the total savings required from the academic salary budget as identified by the Board.

28.11.6 Any Member over the age of 55 who is a member of an affected program, department, faculty or school shall, under the provisions of this Article, have the right to take advantage of any early retirement incentives in effect at the time of the declaration of financial exigency.

## 28.12 **Notice and Severance**

28.12.1 The following provision shall apply to Members whose appointments are to be discontinued pursuant to this Article.

28.12.2 Members whose positions are to be discontinued pursuant to this Article shall receive notice in writing from their dean/director which indicates the reasons for the discontinuance.

28.12.3 Members whose appointments are to be discontinued pursuant to this Article shall receive twelve (12) months' written notice and a discontinuance allowance equal to one (1) month's salary for each year of service in the University subject to a minimum of twelve (12) months' salary and a maximum of eighteen (18) months' salary.

28.12.4 Subject to the requirements of Revenue Canada, severance may be paid in a lump sum or in a series of equal payments, as determined by the Member.

28.12.5 Pursuant to the above, all payments shall be based on the individual's nominal salary at the effective date of discontinuance.

28.12.6 For the purpose of scholarly activity, a discontinued faculty member who previously held a probationary or tenured academic appointment shall have, for a period of three (3) years from the date of his/her discontinuance, access to office and laboratory space and library and computer services to the same extent and in the same fashion as is enjoyed by faculty members who are employed.

28.12.7 A discontinued faculty member who previously held a probationary or tenured academic appointment may maintain, for a period of three (3) years from the date of his/her discontinuance, such University staff benefits as he/she chooses provided that he/she makes prior arrangements to pay the costs of such coverage.

## 28.13 **Retraining**

- 28.13.1 Where the University decides to offer retraining it shall inform the Members in writing and invite them to apply to the President for approval to engage in a retraining program.
- 28.13.2 Each applicant shall outline the retraining program he/she wishes to pursue.
- 28.13.3 If an approved retraining program requires that the Member register as a student at the University, such a course of study shall be free of tuition fees. If an approved retraining program requires the Member to attend another post-secondary institution, the University shall provide the Member with a contribution toward the tuition fees paid by that Member, to a maximum of fees paid to the nearest equivalent program at the University.
- 28.13.4 Upon successful completion of his/her retraining program, the Member shall have, for a period of two (2) years, the right of first refusal for the first available position in his/her new field provided he/she is qualified for the position. If an offer of employment is accepted by the Member, he/she shall have a reasonable period of time, not to exceed twelve (12) months, to complete existing employment obligations.
- 28.13.5 Upon being re-appointed by the University, the Member shall receive such appointment status as he/she had enjoyed at the time of the discontinuance. Salary shall be adjusted for the subsequent appointment by any applicable adjustments awarded to Members as provided for under Article 24 during the period of discontinuance.
- 28.13.6 If a Member fails to complete an approved retraining program, the University may at its discretion terminate the appointment of the Member. That Member shall receive the balance of the severance owing under s. 28.12.3.
- 28.14 **Recall**
- 28.14.1 In the event that a Member whose probationary or tenured appointment was discontinued pursuant to this Article is subsequently given a full-time academic appointment with the University, he/she shall receive such appointment status as he/she shall have enjoyed at the time of the discontinuance. Salary shall be adjusted for the subsequent appointment by any applicable adjustments awarded to Members as provided for under Article 24 during the period of discontinuance.
- 28.14.2 A Member whose probationary or tenured appointment has been discontinued pursuant to this Article shall have, for a period of three (3) years from the date of his/her discontinuance, the right of first refusal for the first available position in the bargaining unit for which the Member is qualified. Such positions shall be filled on a competitive basis where the competition would consist of a pool of all discontinued Members who previously held probationary and tenured appointments.
- 28.14.3 Discontinued Members who previously held tenured or probationary appointments shall, for a period of three (3) years from the date of their

discontinuance, be advised by the University, at their last known address, of any full time vacant position outside the bargaining unit prior to the external posting of such a vacancy. Subject to terms and conditions of employment as may be applicable to other University employees, an applicant who previously held a probationary or tenured appointment as a faculty member and whom the University considers is qualified for the available position, shall, for a period of three (3) years from the date of his/her discontinuance, have, prior to external posting, the right of first refusal for the position. Faculty Members who accept positions outside the bargaining unit shall forfeit their right of first refusal for positions within the bargaining unit as described in s. 28.13.2.

28.14.4 A Member whose probationary or tenured appointment has been discontinued and who accepts a transfer to another faculty position in the bargaining unit shall retain his/her appointment status including any necessary salary adjustment as provided in s. 28.14.1.

## 28.15 **Information**

28.15.1 Whenever, pursuant to the provisions of this Article, advice is to be sought, a recommendation is to be considered or a submission may be made, the Board shall consider any request for information that is required in order to provide the advice, consider the recommendation or make the submission. Such information shall not be unreasonably withheld. Requests for information shall not be frivolous or vexatious. Disputes arising from requests for, or withholding of, information shall be dealt with expeditiously by an arbitrator. The Board shall not provide personal information regarding staff and/or students at the University that is confidential in order to protect their personal privacy, a detailed breakdown of the reserve for negotiations with bargaining units or salary breakdowns leading to the calculation of the reserve allocations (although the total reserve shall be provided if requested) or any other strategy, advice or guidelines which would prejudice the University's bargaining positions with any bargaining unit.

## 28.16 **Grievances**

28.16.1 Grievance under this Article will begin at Stage 3 of Article 32.

28.16.2 If the grievance is not resolved at this stage, the matter may be referred to binding arbitration under the provisions of Article 32 by a single arbitrator selected from the panel named under s. 32.4.2.1 or from a separate list as established for the purposes of Article 28. This list shall be selected by the same procedures as s. 32.4.2.1. The arbitrator selected will be the first available in sequence within ten (10) working days after submission of the notice to arbitrate. The Arbitrator must file his/her decision within thirty (30) days of appointment.

28.16.3 Arbitrators adjudicating grievances pursuant to s. 28.16.2 shall not have the authority to extend the time limits specified in s. 28.16.2 unless the parties agree.