

Sent: Friday, June 12, 2009 12:27 PM
Subject: Declaration of Financial Emergency
Importance: High

Presidents and Chancellors,

Yesterday morning with a vote of 6 ayes, 0 nays, 1 abstention, and 2 absences, the State Board voted to declare a financial emergency under the authority of RCW 28B.50.873 (attached). Following public testimony at this meeting and the May meeting, the Board adopted a revised resolution (attached) that added two important elements:

- 1) The Board acknowledges the collaborative work on local campuses to address the impact of budget cuts on staff and faculty and encourages colleges to maintain those collaborative efforts; and
- 2) The Board asks that any college that terminates tenured or probationary faculty using the authority provided in this declaration shall report back to the State Board the results of actions taken.

With this action, local boards of trustees (as the official employer of faculty) are provided a tool for an expedited faculty layoff process should a local board decide to use it.

The Board was clear of its intent to maximize student access to college programs and protect, as much as possible, the full range of services for students. However, the Board understands that it may be very difficult on some campuses to meet budget reduction targets without the full complement of available budget tools. With that intent, they passed the financial emergency resolution and are asking you to keep us informed of actions you may take.

Please call me or send a note if you have any questions. Thank you.

Charlie

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STATE OF WASHINGTON

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

**RESOLUTION 09-06-10
(REVISED)**

A resolution relating to the declaration of a financial emergency throughout the community and technical college system.

WHEREAS, the State of Washington must operate with a balanced budget, with expenditures not exceeding revenues for the biennium; and

WHEREAS, a depressed state of the Washington economy has resulted in a substantial reduction in state resources for the 2009-11 fiscal period; and

WHEREAS, the Governor signed Engrossed Substitute House Bill 1244 on May 19, 2009, reducing the Community and Technical College system's biennial state appropriation from one biennium to the next as described in Attachment B; and

WHEREAS, the Board has expressed its intent to provide the policy tools needed by colleges to address budget reductions while minimizing impact to students; and

WHEREAS, colleges have engaged in collaborative processes to address the impact of budget cuts on staff and faculty and are encouraged to continue those efforts,

THEREFORE BE IT RESOLVED that the State Board for Community and Technical Colleges under the authority granted in RCW 28B.50.873 declares that a financial emergency exists for the community and technical college system for the 2009-11 biennium beginning July 1, 2009 and ending June 30, 2011;

BE IT FURTHER RESOLVED colleges that terminate tenured or probationary faculty due to a reduction in force based on this declaration of financial emergency shall report to the State Board the results of actions taken;

BE IT FURTHER RESOLVED that the State Board may take additional actions during the biennium to amend, restate, or remove this declaration subject to actions taken by the legislature or Governor between now and June 30, 2011.

APPROVED AND ADOPTED on June 11, 2009.

Erin Munding, Chair

ATTEST:

Charles N. Earl, Secretary

RCW 28B.50.873

Reduction in force of tenured or probationary faculty members due to financial emergency — Conditions — Procedure — Rights.

The college board may declare a financial emergency under the following conditions: (1) Reduction of allotments by the governor pursuant to *RCW [43.88.110](#)(2), or (2) reduction by the legislature from one biennium to the next or within a biennium of appropriated funds based on constant dollars using the implicit price deflator. When a district board of trustees determines that a reduction in force of tenured or probationary faculty members may be necessary due to financial emergency as declared by the state board, written notice of the reduction in force and separation from employment shall be given the faculty members so affected by the president or district president as the case may be. Said notice shall clearly indicate that separation is not due to the job performance of the employee and hence is without prejudice to such employee and need only state in addition the basis for the reduction in force as one or more of the reasons enumerated in subsections (1) and (2) of this section.

Said tenured or probationary faculty members will have a right to request a formal hearing when being dismissed pursuant to subsections (1) and (2) of this section. The only issue to be determined shall be whether under the applicable policies, rules or collective bargaining agreement the particular faculty member or members advised of severance are the proper ones to be terminated. Said hearing shall be initiated by filing a written request therefor with the president or district president, as the case may be, within ten days after issuance of such notice. At such formal hearing the tenure review committee provided for in RCW [28B.50.863](#) may observe the formal hearing procedure and after the conclusion of such hearing offer its recommended decision for consideration by the hearing officer. Failure to timely request such a hearing shall cause separation from service of such faculty members so notified on the effective date as stated in the notice, regardless of the duration of any individual employment contract.

The hearing required by this section shall be an adjudicative proceeding pursuant to chapter [34.05](#) RCW, the Administrative Procedure Act, conducted by a hearing officer appointed by the board of trustees and shall be concluded by the hearing officer within sixty days after written notice of the reduction in force has been issued. Ten days written notice of the formal hearing will be given to faculty members who have requested such a hearing by the president or district president as the case may be. The hearing officer within ten days after conclusion of such formal hearing shall prepare findings, conclusions of law and a recommended decision which shall be forwarded to the board of trustees for its final action thereon. Any such determination by the hearing officer under this section shall not be subject to further tenure review committee action as otherwise provided in this chapter.

Notwithstanding any other provision of this section, at the time of a faculty member or members request for formal hearing said faculty member or members may ask for participation in the choosing of the hearing officer in the manner provided in RCW [28A.405.310](#)(4), said employee therein being a faculty member for the purposes hereof and said board of directors therein being the board of trustees for the purposes hereof: PROVIDED, That where there is more than one faculty member affected by the board of trustees' reduction in force such faculty members requesting hearing must act collectively in making such request: PROVIDED FURTHER, That costs incurred for the services and expenses of such hearing officer shall be shared equally by the community or technical college and the faculty member or faculty members requesting hearing.

When more than one faculty member is notified of termination because of a reduction in force as provided in this section, hearings for all such faculty members requesting formal hearing shall be consolidated and only one such hearing for the affected faculty members shall be held, and such consolidated hearing shall be concluded within the time frame set forth herein.

Separation from service without prejudice after formal hearing under the provisions of this section shall become effective upon final action by the board of trustees.

It is the intent of the legislature by enactment of this section and in accordance with RCW [28B.52.035](#), to modify any collective bargaining agreements in effect, or any conflicting board policies or rules, so that any reductions in force which take place after December 21, 1981, whether in progress or to be initiated, will comply solely with the provisions of this section: PROVIDED, That any applicable policies, rules, or provisions contained in a collective bargaining agreement related to lay-off units, seniority and re-employment rights shall not be affected by the provisions of this paragraph.

Nothing in this section shall be construed to affect the right of the board of trustees or its designated appointing authority not to renew a probationary faculty appointment pursuant to RCW [28B.50.857](#).

[1991 c 238 § 72; 1990 c 33 § 559; 1989 c 175 § 81; 1981 2nd ex.s. c 13 § 1.]

Notes:

***Reviser's note:** RCW [43.88.110](#) was amended by 1991 c 358 § 2 changing subsection (2) to subsection (3).

Purpose -- Statutory references -- Severability -- 1990 c 33: See RCW [28A.900.100](#) through [28A.900.102](#).

Effective date -- 1989 c 175: See note following RCW [34.05.010](#).

Severability -- 1981 2nd ex.s. c 13: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 13 § 3.]