ARTICLE 22 FINANCIAL EXIGENCY

A. PREAMBLE

1. The University and the Association agree that the primary goals of the University are teaching, scholarship and research, and that the first duty of the University is to ensure that its academic priorities remain paramount, particularly with regard to the quality of instruction and research and the preservation of academic freedom. Any reduction of faculty members or Librarians for budgetary reasons shall occur only as a last resort during a state of financial exigency.

B. DEFINITION

1. The term financial exigency is defined as substantial and recurring financial deficits in the total University operating budget which have occurred and are reasonably projected to continue, thereby placing the solvency of the University, as a whole, in serious jeopardy.

2. This Article is invoked only in the event of a declaration of financial exigency in which the layoff of faculty members and/or Librarians is proposed as part of the resolution to the situation.

3. The expectation of short term deficits is not financial exigency.

4. The closure, cessation, merger or elimination, in full or in part, of an academic program, based on academic reasons, is not a financial exigency.

C. DECLARING A FINANCIAL EXIGENCY

1. In the event that the President decides that a financial exigency exists within the meaning of B.1. above, they shall forthwith give notice to the Association of such decision. At the date of such notice, a University wide hiring freeze shall be imposed and no new positions shall be created until the exigency has been resolved.

2. The President shall prepare a report specifying the precise nature of the problem facing the University. Such report shall contain the economies taken to date to support their conclusion, set out the reasons supporting the layoff of faculty members and/or Librarians and disclose the number of faculty and/or Librarian layoffs that are deemed necessary. The report shall also specify whether any program redundancies are being recommended as a solution to the problem.

3. A copy of this report shall be given, inter alia, to the Association.

4. The President shall, within ten days of giving notice to the Association, establish a Financial Exigency Committee to review all documentation which it deems relevant and decide whether or not a financial exigency exists.

D. THE FEC

1. The FEC shall be composed of five members who are independent of and external to the University. Two members shall be appointed by the University and two members shall be appointed by the Association. Together they shall attempt to agree on an independent Chair. If the other four members are unable to reach a majority decision on a Chair, the Chief Justice of Ontario shall be asked to make the appointment.

2. In the event program redundancies are proposed as part of the resolution of the financial exigency, there will be no separate Redundancy Committee created as contemplated in Article 23 as the FEC will undertake the review of the need for layoff of faculty members and/or Librarians generated by such program redundancies.

3. The FEC shall determine its own terms of reference and decision making procedures which shall be consistent with generally recognized principles of natural justice.

4. All reasonable expenses of the FEC established under this Article shall be borne by the University.

5. The University shall cooperate with the FEC in its deliberations. The onus shall be on the University to establish to the satisfaction of the FEC that a financial exigency exists within the meaning of B.1. It shall provide all information that is related to the claimed financial exigency and/or is deemed relevant by the FEC. The Association is entitled to receive a copy of the material provided to the FEC by the University.

6. The FEC may consult with any person or groups it chooses and may consider oral and/or written submissions on the University's financial condition. It will also consult with, receive and carefully consider any input which the Senate may choose to provide regarding the proposed program redundancies.

7. The FEC shall consider, inter alia, and shall respond to each of the following:

   a) Whether the University's financial position (as evidenced from the total operating budget and not just from the academic or salary components thereof) constitutes a bona fide budgetary crisis as contemplated in B.1;

b) Whether, in view of the primacy of academic goals in the University, the reduction of faculty members and/or Librarians is a reasonable and justifiable way to effect a cost saving;

c) Whether all reasonable means of achieving cost savings in all other areas of the University budget have been explored;

d) Whether all reasonable means have been taken to reduce costs by reducing the number of faculty members and/or Librarians by voluntary early retirement, voluntary resignation, voluntary transfers to reduced workload status and redeployment;

e) Whether all reasonable means of improving the University's revenue position, including efforts to secure further assistance from the provincial Government have been explored and taken into account;

f) Whether enrollment projections are consistent with the proposed reduction in the number of faculty and/or Librarians.

8. The FEC shall make its report within forty (40) days of its establishment. The report shall analyze both the extent and nature of the financial problems identified by the President, as well as the potential impact of the President's plan on the academic programs of the University. The Report shall also state whether the FEC finds that a state of financial exigency does or does not exist.

9. If the FEC finds that a state of financial exigency does not exist, no reductions of academic staff members for budgetary reasons may take place.

10. If the FEC finds that a state of financial exigency does exist, the FEC report shall recommend the amount of reduction required, if any, in the budgetary allocation to faculty members' and/or Librarians’ salaries and benefits.

11. The FEC Report shall also specify the number of faculty member and/or Librarian layoffs that may be required in order to address the financial exigency. If the number of layoffs specified by the FEC differs from the number proposed by the President, reasons for the difference will be provided.

E. BOARD OF GOVERNORS

1. The Board of Governors, through the President, has the responsibility for implementing Actions arising out of the FEC report.

2. It shall be open to both parties, notwithstanding any provisions to the contrary in the Agreement, to renegotiate provisions of this Agreement bearing directly on salaries and benefits or to reach other mutually acceptable emergency methods of reducing expenditures that could avert layoffs or decrease the number of layoffs.

3. If the parties do not reach agreement on measures to reduce salaries and benefits within seven (7) days of the FEC Report, the University may reduce the budgetary allocation for salaries and benefits for faculty members and/or Librarians as permitted in the FEC Report. In no case shall this amount exceed the amount the FEC stipulated in D.10. above.

4. Layoff is an exceptional action which shall be taken only after the University has exhausted all reasonable means to alleviate the financial exigency by applying rigorous economies in all areas of the University's present and projected expenditures, by using all reasonable means of improving its income and by using all other means of making the necessary reductions in the employee groups in a manner which best maintains the academic viability of the University.

5. When a declaration of financial exigency has been confirmed, and no satisfactory provision can be made by the University for the continued employment of all faculty members and Librarians, a plan for reduction in the number of faculty members and/or Librarians employed by the University shall be prepared by the President, the Provost and Vice-President, Academic and the Vice- Provost, Faculty Affairs, in consultation with the Deans, Chief Librarian and Association President. The plan shall be structured so that the University may continue to operate as far as possible in accordance with its mission, and may propose vertical cuts (involving full or partial program redundancies as defined in Article 23), across the board cuts, or some combination of vertical and across the board cuts.

6. Any layoffs under this Article shall occur only to the extent necessary to alleviate the financial exigency and shall not exceed the number which may be specified by the FEC.

F. TIME LIMITS

1. Any time limits under this Article may be extended by agreement, in writing, between the parties. Such agreement may not be unreasonably withheld.