

## **Article 26**

### **RESIGNATION, RETIREMENT, TRANSFER AND LAYOFF**

#### **RESIGNATION**

- 26.01 ASMs shall give notice as early as possible of their intention to resign. In order to facilitate adequate planning, ASMs shall use their best efforts to provide at least six (6) months notice.
- 26.02 Notice of intention to resign shall be made in writing to the President, with copies to the applicable Vice-President and the Administrative Head.
- 26.03 Normally, resignation will occur at the end of a semester (December 31, April 30 or August 31). Resignation on a date other than the end of a semester shall require the written agreement of the President.

#### **RETIREMENT**

- 26.04 ASMs who are members of the Memorial University Pension Plan shall retire with pension and other benefits as provided in the Memorial University Pension Plan. ASMs who are retiring shall give notice of their intention to retire subject to the provisions of Clauses 26.06, and 26.07.
- 26.05 Retirement shall take effect on a date agreed to in writing by the ASM and the President. Normally, retirement will occur at the end of a semester (December 31, April 30 or August 31). Retirement on a date other than the end of a semester shall require the written agreement of the President.
- 26.06 ASMs shall give notice as early as possible of their intention to retire. In order to facilitate adequate planning, ASMs shall use their best efforts to provide at least six (6) months notice.
- 26.07 Notice of intention to retire shall be made in writing to the President, with copies to the applicable Vice-President and the Administrative Head.
- 26.08 An ASM who has retired from the University may apply to the appropriate officer(s) of the University for continued access to secretarial and technical services, and office or laboratory space for a specified period. University services and space shall be used only for academic purposes. Considering the needs of the University from time to time, the University shall not unreasonably withhold such access.
- 26.09 An ASM who has retired shall retain the following privileges:
- (a) full library privileges including short courses on electronic access;
  - (b) computing accounts and related services subject to the same costs as those applying for ASMs who have not retired, and subject to restrictions that the Director of Information Technology Services may, in the future, place on off-campus access;
  - (c) access to credit courses on the same basis as ASMs who have not retired;
  - (d) free non-credit courses to a limit of one (1) per semester with additional courses subject to space availability;
  - (e) access to Physical Education facilities at one-half the rate charged to ASMs who have not retired.
- 26.10 An ASM who has retired may elect to continue to participate in University employee benefit plans under the terms of those plans.
- 26.11 When an ASM continues to be employed by the University after normal retirement age, both the ASM and the University shall contribute to the Pension Plan according to the provisions of the Plan. The ASM may elect to continue to participate in University employee benefit plans under the terms of those plans.
- 26.12 The University and individual ASMs may negotiate early retirement severance pay or early retirement agreements. In all such cases, the University shall inform the Association of the name of the ASM and the provisions of the early retirement agreement. The agreement shall not become final for ten (10) days after the

Association has been informed during which time the ASM may consult with the Association and, at the option of the ASM, revoke or seek to re-negotiate the agreement with the University.

### **TRANSFER**

- 26.13 An ASM may be transferred to an Academic Unit of the University other than the one to which they were originally appointed, subject to the consent of the ASM and on the recommendation of the Administrative Head of the Academic Unit from which the ASM is transferring and the recommendation of the Administrative Head of the Academic Unit to which the ASM is transferring, in consultation with the ASMs in the Academic Unit to which the ASM is transferring. An ASM shall not unreasonably withhold their consent to be transferred.
- 26.14 Transfers may be either temporary or permanent. An ASM shall be informed in writing whether a transfer is temporary or permanent. A temporary transfer may be converted into a permanent transfer with the consent of the ASM, the Administrative Head of the Academic Unit from which the ASM is transferring and the Administrative Head of the Academic Unit to which the ASM is transferring, in consultation with the ASMs in the Academic Unit to which the ASM is transferring.
- 26.15 ASMs who are transferred shall suffer no loss in rank, salary, benefits or seniority.
- 26.16 In the event that a transfer requires household relocation, the University shall be responsible for the associated travel and moving expenses of the ASM and their family, as specified in Clauses 32.52 to 32.54. If the transfer is initiated by the University, the University shall pay one hundred (100) percent of costs of moving their household and professional goods by surface freight. All movement of households shall be in accordance with the University's practices on household removal as set out in the University's Travel-Relocation and Removal Policy in effect 11 December 2008, except that if the transfer is initiated by the University, the cost of moving all scholarly and technical books, and technical equipment relevant to the ASM's scholarly activity, shall be reimbursed. Signed authorization from the Provost & Vice-President (Academic), or for ASMs at Grenfell Campus, the Vice-President (Grenfell Campus), for the moving of any technical equipment shall be secured before the move is authorized. Should the University adopt practices on household removal more advantageous to the ASM than those in effect on 11 December 2008, the more favourable practices shall apply.

### **LAYOFF OF ASMS FOR REASONS OF FINANCIAL EXIGENCY**

- 26.17 A state of financial exigency is defined as a situation in which the University faces a substantial and potentially chronic accounting deficit which threatens the overall functioning of the University. The declaration of a state of financial exigency shall require prior consultation between the Association and the University.
- 26.18 No ASM shall be laid off following a declaration of financial exigency except in accordance with this Article. A declaration of financial exigency shall only be made once with regard to any fiscal year and shall not be made more than one (1) year in advance of that fiscal year. A state of financial exigency shall terminate at the end of the fiscal year for which it is declared. Layoffs owing to financial exigency shall only be used as a last resort after all reasonable measures to avoid layoffs, which do not threaten the core functioning of the University, and which are consistent with Clause 26.20, have been seriously considered. Any such layoff shall not be treated as, or substituted for, a suspension, dismissal for cause, or other disciplinary measure.
- 26.19 If the President has good and sufficient reason to believe that a state of financial exigency will exist during a fiscal year, they shall declare a state of anticipated financial exigency for that fiscal year, and they shall notify the Board, Senate, and the Association. This day shall be referred to as "AFE1".
- 26.20 After making a declaration of anticipated financial exigency, the President shall immediately impose all reasonable economies in the running of the University which do not threaten the core functioning of the University. These shall include but not be limited to:
- (a) effective from the date the anticipated financial exigency is announced to the end of the fiscal year for which the financial exigency is anticipated, a moratorium on new appointments both within and outside the bargaining unit, with the following exceptions:
    - (i) Positions funded entirely from external sources;

- (ii) No more than five (5) tenure-track or tenured positions provided they are not replacing positions lost through layoffs;
  - (iii) The number of courses taught in any Academic Unit by per-course appointees shall not exceed the number of courses taught by per-course appointees during the 1995-96 Academic Year, but in Academic Units where there is a reduction in the number of ASMs, the 1995-96 number of courses taught by per-course appointees for that Academic Unit shall be reduced by the same proportion as is required by Clause 26.32;
  - (iv) If the financial exigency is not declared by the Board, the moratorium on new appointments both within and outside the bargaining unit will expire.
- (b) adjustments to the University budget;
  - (c) initiating, through the Senate and its committees, adjustments to academic programmes and course offerings, provided such shall not have a major adverse effect on students;
  - (d) with the consent of the ASMs concerned, use of sabbatical or other leaves, and normal or early retirements;
  - (e) consideration for re-training at the option of the University. All such re-training shall be undertaken with the ASM's consent. An ASM selected for re-training shall be allowed leave for up to two (2) years and shall receive a salary and/or research grants, stipends, fellowships, et cetera, equivalent to one-hundred (100) percent of the ASM's Basic Annual Salary for such year(s) of leave. An ASM selected for re-training must undertake to return to employment at the University for a period equivalent to the period of re-training leave.

26.21 Exceptions to the moratorium on new academic appointments referenced in Clause 26.20(a) shall not be allowed if the individual being considered for appointment has resigned from an academic position at Memorial University within the preceding twelve (12) months.

26.22 Within five (5) days of AFE1, the President, together with representatives of the Vice-Presidents Council, shall meet with the Executive of the Association. The date on which this meeting is held shall be referred to as "AFE2".

26.23 Within five (5) days of AFE2, the President shall establish a Budget Advisory Committee. The composition of this Committee shall be as follows:

- (a) the Chair, who shall be an employee of Memorial University nominated and elected by ASMs. Nominations shall be solicited by the Secretary of the University Senate and the Senate Committee on Elections both of whom shall also oversee the election process;
- (b) two (2) ASMs appointed by the Association;
- (c) two (2) persons appointed by the University who shall be employees of the University;
- (d) the Director of Budgeting shall be a non-voting member and shall serve as Executive Secretary to the Committee, providing secretarial support to the Committee through the Office of Budgets and Audits.

The date on which the Budget Advisory Committee is established shall be referred to as "AFE3".

26.24 Within five (5) days of AFE3, the President shall send to the Budget Advisory Committee and to the Association, the information used by the President in reaching their conclusion that there is a state of anticipated financial exigency. The date on which this information is sent shall be referred to as "AFE4".

26.25 The University shall cooperate with the Budget Advisory Committee in an iterative process of clarifying and augmenting this information. This shall include financial information sufficiently detailed that, by usual

accounting methods, the case for a given amount of expenditure reduction in salary and benefits to ASMs may be evaluated.

- 26.26 Within thirty (30) days of AFE4, the Budget Advisory Committee shall send its Report to the Board, the Senate, the President and the Association. The date on which this information is sent shall be referred to as "AFE5".
- 26.27 The President shall make recommendations to the Board, and at the same time shall send a copy of these recommendations to the Association and to the Senate. The Board shall consider whether to declare a state of financial exigency at its next meeting provided it is not less than ten (10) days following AFE5. The Budget Advisory Committee shall make a presentation to the Board and discuss its Report with the Board. In making its decision, the Board shall give substantive and serious consideration to both the recommendations of the President and the Report of the Budget Advisory Committee.
- 26.28 If the Board decides that a state of financial exigency exists, the Board shall issue a declaration of financial exigency. The Board shall decide whether layoff of ASMs is necessary. If so, the Board shall specify the amount of money to be recovered from a reduction in salary and benefits, and the number of ASMs to be laid off. All notices of layoff following from a declaration of financial exigency shall be issued within ten (10) days of the Board's decision on layoffs.
- 26.29 If financial exigency has been declared, and the layoff of ASMs is necessary, ASMs shall be terminated or shall be laid off from the bargaining unit as a whole in the following order:
- (a) those on term appointments who have twelve (12) months or less remaining in the term shall have their contracts continued to the termination date;
  - (b) those on term appointments who have more than twelve (12) months remaining in the term, shall receive six (6) months' notice of termination, or six (6) months' salary in lieu of notice;
  - (c) layoff of those on tenure-track appointments, with notice of layoff or salary in lieu of notice given to the ASM not less than nine (9) months prior to the layoff date;
  - (d) layoff of those on tenured appointments, with notice of layoff or salary in lieu of notice given to the ASM not less than nine (9) months prior to the layoff date.

Within categories (b), (c), and (d) of this Clause, the order of termination or layoff shall be based on reverse seniority except as modified by Clause 26.32.

- 26.30 An ASM holding an externally-funded named chair or a national/international award covering salary shall be exempt from layoff for reasons of financial exigency.
- 26.31 An ASM who re-enters the bargaining unit at any time during the duration of this Collective Agreement shall be subject to layoff according to Clauses 26.29 and 26.33 as if they were in the bargaining unit at the time financial exigency was declared.
- 26.32 Notwithstanding anything in this Article, the reduction to an Academic Unit through all losses at times of financial exigency shall not exceed one hundred fifty percent (150) of the proportional reduction to the bargaining unit itself through all losses. The number of ASMs in the bargaining unit and the initial Academic Unit size shall be those in effect on December 1, 1995. A Protocol for determining the maximum number of layoffs for an Academic Unit, including a definition of "losses", is contained in Appendix F.
- 26.33 For purposes of this Article, seniority shall be established by the date upon which employment commenced at the rank of Lecturer or above, or Librarian I or above, minus any period of time between a resignation and a re-hiring and minus any period of leave for which pension contributions were not allowed. Seniority shall not be affected by leave taken in accordance with this Collective Agreement or any previous Terms and Conditions of Employment under which an ASM was engaged. If two (2) or more ASMs have equal seniority, the order of seniority will be decided by lot, except if one (1) ASM has discontinuous service interrupted by the period of time between a resignation and a re-hiring. In such a case the ASM with continuous service shall be deemed to have the greater seniority.

- 26.34 An ASM who has been laid off as a consequence of financial exigency shall be entitled to retain the following privileges for up to three (3) years following the date of layoff:
- (a) full library privileges including short courses on electronic access;
  - (b) computing accounts and related services subject to the same costs as those applying for ASMs, and subject to restrictions that the Director of Computing and Communications may, in the future, place on off-campus access;
  - (c) access to credit courses on the same basis as ASMs;
  - (d) free non-credit courses to a limit of one (1) per semester with additional courses subject to space availability;
  - (e) access to Physical Education facilities at one-half the rate charged to ASMs.

**RECALL**

- 26.35 An ASM laid off as a consequence of financial exigency shall have the right to be recalled within three (3) years of the end of the Academic Year in which the exigency is declared. Recall of ASMs shall be in order of seniority of those who have been laid off within the Academic Unit to which the ASM is recalled. It shall be the responsibility of the laid off ASM to keep the University informed of their current address and telephone number.
- 26.36 In the event of recall the ASM shall receive the rank, salary, seniority, and all the entitlements held prior to layoff. In addition, should the activities of the ASM during the period of layoff be relevant to their University position, credit for an appropriate period shall be added to their entitlement.
- 26.37 No tenured or tenure-track position from which an ASM has been laid off shall be replaced by a term appointment for at least three (3) years from the end of the Academic Year in which the exigency is declared.
- 26.38 An ASM holding a tenure-track or tenured position who is notified of a layoff may, prior to the layoff date, resign their position and receive a special severance allowance of one (1) month of salary for each full year of service at Memorial University with a minimum of eight (8) months' salary and a maximum of twenty-four (24) months' salary. This salary shall be computed on the basis of the ASM's salary at the time the layoff notice was issued. Any resignation under this Clause shall be exempt from the provisions of Clause 26.01.

**LAYOFF OF ASMS FOR REASONS OF ACADEMIC PROGRAMME REDUNDANCY**

- 26.39 Layoffs of ASMs for other than financial reasons shall be for bona fide academic reasons only and the process shall be subject to the terms of this Article set out hereafter.
- 26.40 An academic programme is defined as a set of courses leading to a degree, certificate, or diploma approved by the Senate of Memorial University.
- 26.41 An academic programme redundancy is defined as a major change in academic programmes which can be expected to result in layoffs of ASMs. Such redundancy may result from significant changes in student enrolment or the merger, amalgamation or closure of Departments, Faculties, Schools or Libraries.
- 26.42 Layoffs of ASMs owing to an academic programme redundancy shall not be treated as, or substituted for a suspension, dismissal for cause, or other disciplinary measure.
- 26.43 The following measures shall be undertaken by the University before a decision is made to declare an academic programme redundancy:
- (a) moratorium on new appointments both within and outside the bargaining unit in the Academic Unit affected, and in cognate areas;
  - (b) transfer to other Academic Units in accordance with Clauses 26.13 to 26.16;

- (c) consideration for retraining at the option of the University. All such re-training shall be undertaken with the ASM's consent. An ASM selected for retraining shall be allowed leave for up to two (2) years and shall receive a salary and/or research grants, stipends, fellowships, et cetera, equivalent to one-hundred (100) percent of the ASM's Basic Annual Salary for such year(s) of leave. An ASM selected for retraining must undertake to return to employment at the University for a period equivalent to the period of retraining leave.
- 26.44 Where declining student enrolment is argued as a bona fide academic reason, the University shall demonstrate that a significant decline in enrolment has occurred which has resulted in low enrolments for at least three (3) consecutive years, and reasonable projections into the future indicate that a low level of enrolment will continue.
- 26.45 Any declaration of academic programme redundancy shall be initiated by the Provost & Vice-President (Academic).
- 26.46 When the Provost & Vice-President (Academic) plans to recommend to Senate that there be a declaration of academic programme redundancy, the Provost & Vice-President (Academic) shall inform in writing the appropriate Dean, Director, University Librarian, Associate Vice-President (Marine Institute) Academic and Student Affairs or Vice-President (Grenfell Campus), and the Association of their plan for redundancy along with the reasons and anticipated consequences.
- 26.47 The Dean, Director, University Librarian, or Associate Vice-President (Marine Institute) Academic and Student Affairs shall notify all ASMs of the affected Academic Unit in writing as well as the Faculty Council (or equivalent governing body) of the Academic Unit. The Vice-President (Grenfell Campus) shall notify Counselling Faculty Members at Grenfell Campus.
- 26.48 The Dean, Director, University Librarian, Vice-President (Grenfell Campus), or Associate Vice-President (Marine Institute) Academic and Student Affairs, the Faculty Council (or equivalent governing body), and the affected Academic Unit shall conduct separate reviews of the proposal of the Provost & Vice-President (Academic) and shall make recommendations to the Provost & Vice President (Academic) and the Vice-President (Grenfell Campus), as appropriate, within thirty (30) days.
- 26.49 Within a further thirty (30) days, the Provost & Vice-President (Academic) shall consider all advice and recommendations received and shall make a decision whether or not to recommend to Senate a declaration of an academic programme redundancy. They shall inform in writing the Senate, the affected Academic Unit and the Association concurrently of their decision.
- 26.50 If the Provost & Vice-President (Academic) recommends an academic programme redundancy which would lead to the layoff of ASMs, the Senate shall meet within twenty (20) days and have an additional thirty (30) days from the time of its meeting to review the recommendation of the Provost & Vice-President (Academic) along with all other written recommendations received by the Provost & Vice-President (Academic).
- 26.51 The Senate shall hear any representation from the Association and from the affected Academic Unit prior to making its decision on academic programme redundancy for the affected Academic Unit.
- 26.52 The Senate shall advise all interested parties of its decision. Senate's decision shall be submitted to the Board, whose decision shall be final.
- 26.53 Any layoff resulting from academic programme redundancy shall be effected using the processes of Clauses 26.29 to 26.31, and 26.33 to 26.38.