

EXECUTIVE SUMMARY

Item Name: Request for Two Year Exception to Board Policies 6-101 “Administrative Employees” and 6-301 “Professional Employees” to Authorize Releases Due to Severe Budget Constraints

Action Item Discussion Item Information Item

Issue: The Board is asked to approve a two year exception to Board Policies 6-101 and 6-301 to Authorize University Presidents and the Executive Director to respond to budget constraints by releasing administrative and certain professional employees upon 90 days notice on the conditions set forth below. The exceptions would become effective upon Board approval and be in effect through FY 11.

Background

- The universities and the Board anticipate that further legislative cuts may occur in the remainder of FY09, may occur in FY10 and perhaps even in FY11, making it increasingly difficult for the University System to deliver services.
- The Board recognizes that the University Presidents and the Executive Director may desire additional strategies to respond to severe budget constraints.
- The proposed exception continues to allow the Universities and the Central Office to appoint administrative and professional employees for periods of up to one fiscal year but would allow for releases for severe budget constraints as set forth below. Releases under this exception may be used only if the employee’s Notice of Appointment gives the employee specific notice of this exception.

Statutory/Policy Requirements

- Current Board Policies 6-101 and 6-301 provide for the appointment of administrative employees and professional employees for terms of up to one fiscal year. The proposed exception does not change this.
- The Board has the express authority to grant exceptions to Board policies under Board Policy 1-111.

Contact Information:

Nancy Tribbensee, ABOR 602-229-2510 trib@azregents.edu

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Discussion

- The proposed policy exception would apply to administrative and professional employees but would not apply to academic professional employees on multiple year, probationary or continuing status appointments.
- Under this exception, an administrative or professional employee (with exceptions noted above) may be released for severe budget constraints upon 90 days notice at any time in the appointment term as follows:
 - Release of an administrative or professional employee for severe budget constraints under this proposed exception shall only be available upon a written determination by the University President, or if so designated by the President a University Executive Vice President, following consultation with the University Chief Financial Officer and the University General Counsel, or the Executive Director following consultation with the University System General Counsel, that the release is necessitated by severe budget constraints.
 - The decision of the President, Executive Vice President or Executive Director regarding the need for release for severe budget constraints is final.
 - In order to release an employee under this exception, the notice of appointment for the employee must include specific notice that the appointment is subject to this exception authorizing release upon 90 days notice for severe budget constraints. Inclusion of the specific notice shall be done by employment category (e.g., administrators, professional staff or both) and not on an individual basis.
- Illustrative (but not exhaustive) examples of circumstances that may cause severe budget constraints that could be deemed to support release pursuant to this exception include: the subsequent adoption of the state budget, mid-year legislative funding cuts, substantial tuition shortfalls, significant reduction in private support or investment returns, public health emergencies, disasters or terrorism.
- The proposed exception is in addition to the provisions for non-renewal, termination and release currently in Board Policies 6-101 and 6-301 as they apply to administrative and professional employees.
- An employee who is released from his or her appointment under the provisions of this exception is not entitled to further review or hearing unless the employee asserts that his or her release was based on unlawful discrimination. An employee who believes the release was based on unlawful discrimination may,

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within fifteen working days of receipt of the notice of release, submit a written complaint to the university's affirmative action office for investigation and determination. The university's procedure for reviewing claims of unlawful discrimination will then be followed. The investigation and determination may be concluded subsequent to the effective date of the release.

- The University Presidents and the Executive Director will have the discretion to determine whether their institution's or office's circumstances require release, or whether their budget constraints may be addressed through other measures.
- A university that implements releases under this exception will provide a quarterly report to the Board's Human Resources Committee, through the Board's Executive Director. The quarterly report will provide summary data as to number of staff released, gender, race and age. Legal issues related to the releases, if any, will not be addressed in the report but will be disclosed to the General Counsel for the Arizona University System.
- The exception granted pursuant to Board approval of this request would run through the end of FY11 and then be discontinued unless renewed or extended by the Board.
- This authorization takes precedence over and constitutes an authorized departure from any Board or University-level policy or procedure with provisions contrary to the express terms of this Board exception.

Strategic Implications

By permitting each University President and the Executive Director the flexibility to release administrative and professional employees (with exceptions as noted above) as set forth in this executive summary, the Presidents and the Executive Director will be afforded one additional tool to manage budget reductions through FY11.

Committee Review and Recommendation

The Human Resources Committee reviewed these proposed policy exceptions at its February 24 meeting and recommends Board approval.

Recommendation to the Board

It is recommended that the Board authorize the University Presidents and the Board's Executive Director to respond to severe budget constraints if they deem necessary by releasing administrative or professional employees (with exceptions as noted above) upon 90 days notice on the conditions set forth in this executive summary. The exceptions would become effective upon Board approval and be in effect through FY11.