



Q & A

Job Security Rights Related to the SUNY Fiscal Crisis

UUP's statewide officers and Labor Relations Specialists are communicating with chapter presidents and vice presidents to assist them as they address member concerns and prepare for Labor-Management discussions about campus-specific issues related to the current economic uncertainty due to COVID-19.

Below are some definitions to help clarify terms associated with potential program and personnel cuts. They are followed by answers to common questions.

- **Layoff:** Generally associated with involuntary termination of employment with little or no advance notice. It is also a term applied to the New York State Civil Service Law process for separating other State employees (e.g. those represented by the Public Employees Federation, the Civil Service Employees Association and others) from service during a budgetary crisis. No UUP unit members are subject to layoff.
- **Furlough:** An unpaid leave for a limited time period imposed by an employer. A unilateral imposition of a furlough by SUNY of UUP unit members is illegal (violation of the Article 14 of state Civil Service Law, commonly known as the *Taylor Law*).
- **Retrenchment:** A negotiated process (UUP contract Article 35) defined as the termination of the employment of any academic or professional employee during any appointment as a result of financial exigency, reallocation of resources, reorganization of degree or curriculum offerings or requirements, reorganization of academic or administrative structures, programs or functions or curtailment of one or more programs or functions University-

wide or at such level of organization of the University as a college, department, unit, program or such other level of organization of the University as the chancellor, or designee, deems appropriate.

- Non-renewal of Appointment: Unit members appointed under time-limited 'term' appointments who do not yet hold permanent or continuing appointment (permanence/tenure) may be released from employment if their campus president chooses not to extend their appointment. Article 32 of the NYS-UUP contract provides for notice of non-renewal time periods which specify how much notice non-renewed unit members must be given before their employment will end. Appointment renewals and non-renewals are processes different and distinct from the retrenchment process.
- Deactivation: When a campus decides to temporarily bar new students from enrolling in a program, while maintaining the program with the New York State Department of Education's (NYSED) Inventory of Registered Programs. This may be done to restructure or reassess the need for the program. This action is internal to SUNY and limited in duration to no more than three years.
- Discontinuance: When a campus decides to stop offering a program and awards a credential for its completion. After SUNY's review and approval, the program is removed from NYSED's Inventory of Registered Programs after all continuing students have completed it in an organized teach-out.

Will there be layoffs or unilateral furloughs of UUP unit members?

No. It is illegal to impose unilateral furloughs on public employees in New York that are represented by a union. Instead of layoffs, UUP has negotiated an orderly process known as *retrenchment* with notice time limits to inform UUP unit employees in the event of job loss and an inverse seniority process to determine retrenchments.

What is the retrenchment process (Article 35 of the UUP contract)?

If a campus considers reducing the number of academic and/or professional employees through retrenchment, they must first create a pre-retrenchment plan which must be presented to and approved by SUNY. UUP would be provided with a briefing that includes the facts and rationale used for the retrenchments. The information must specify the level of the campus at which retrenchment will occur (e.g., campus-wide, division, department, unit, program). UUP will have an opportunity to discuss and dispute the facts or reasons given for retrenchment with a representative of the Governor's Office of Employee Relations. UUP reserves the right to grieve, or otherwise object, to any part of the retrenchment plan and/or process that we find in violation of our contract or law.

Retrenchment would occur among employees holding the positions subject to retrenchment at the organization level (campus-wide, division, department, program, unit, etc.) in inverse order of appointment (seniority) within each affected group of employees as follows:

Academic Employees:

- Academic employees holding temporary appointments before all part-time or full-time academic employees holding term appointments
- Part-time employees holding term appointments before full-time employees holding term appointments
- Full-time academic employees holding term appointments before academic employees holding continuing appointments (tenure)
- Part-time academic employees holding continuing appointments (tenure) before full-time academic employees holding continuing appointments

Professional Employees:

- Professional employees holding temporary appointments before all part-time or full-time employees holding term appointments
- Part-time professional employees holding term appointments before full-time employees holding term appointments
- Full-time professional employees holding term appointments before professional employees holding permanent appointments

- Part-time professional employees holding permanent appointments before full-time professional employees holding permanent appointments

Written retrenchment notice to affected employees:

The State will notify affected employees in writing as soon as practicable using these notification guidelines:

- Term appointment: at least 6 months written notice
- Continuing appointment: at least 1-year written notice
- Permanent appointment: at least 1-year written notice
(UUP contract Article 35.3(a))

The retrenchment process contains other terms and conditions that are detailed in Article 35 and Appendix A-6 of the UUP contract; please ask your chapter president for details.

SUNY Policy on Program Deactivation and Discontinuance:

https://www.suny.edu/sunypp/documents.cfm?doc_id=332

UUP Contract Article 35:

<https://uupinfo.org/contract/pdf/20162022NYSUUPAgreement.pdf>

What options are available if my position is retrenched?

- Retirement, if you are able. Contact your New York State Local Retirement System or Optional Retirement Plan (TIAA CREF, Met Life, Voya or Valic) representative for more information.
- Apply for a Chancellor's Discretionary Designated Leave, which can give the applicant a leave at reduced or full pay (UUP contract Article 35.3(e)). Such leaves are approved by your campus president. Ask your chapter president for details.
- Phased retirement, if available, in accordance with your campus eligibility standards.
- Alternative employment at your college.

If I am retrenched, is there a possibility of alternative employment on my campus or at another campus?

Yes. The retrenchment process contains provisions for potential re-employment on your current campus depending on qualifications, and the ability to apply for vacancies at other similar state-run campuses within SUNY.

If my position is retrenched, will I have health insurance and other health benefits afterward?

Yes, if you were benefits-eligible at the time of retrenchment. If you were, you will be covered by the New York State Health Insurance Program for a period not to exceed one year (UUP contract Article 35.8). The employer will continue to pay their share of the premium, and the retrenched employee will be billed directly for their share of health insurance costs. UUP dental and vision benefits will continue for one year at no additional cost.

UUP life insurance is covered during the first year after retrenchment, and the employee may convert to their own policy thereafter.

After one year, health insurance benefits extend 28 days after the last day of the last payroll period (one year after the effective date of retrenchment). Employees may elect COBRA benefits for up to 18 months at full cost, plus an administrative percentage. UUP vision and dental ends after a 28-day run-out period.

I hold a *temporary* appointment. What employment security do I have?

Unfortunately, employees holding *temporary* appointments may be released from employment at any time with little or no notice. There is no appeal or review process for this type of employment separation.

Should UUP Chapter representatives participate in or be part of college or university-sponsored committees to plan for program deactivation or position retrenchments?

UUP's 1975 "Founding Principles" state that:

- *UUP shall be to oppose all layoffs (retrenchments) from faculty and staff positions at the State University....*
- *UUP strongly recommends to members of the faculty and staff of the State University that they not participate in campus or statewide efforts to identify programs, departments, other units or individuals for retrenchment inasmuch as such efforts can only produce dissension and disunity among colleagues at the sacrifice of academic integrity; and,*
- *That UUP strongly urge the Chancellor's Commission on Priorities to devote its attention to identifying new and needed programs to serve the educationally by-passed groups in the State, to respond to the variety of unmet educational, cultural and social needs of the State, and to insure that the State maintain the invaluable resource of a highly-trained staff of professional resources; and,*
- *That UUP establish with the Chancellor or other appropriate authorities means to ensure that any shifting or cutting of resources not damage efforts to develop a meaningful affirmative action program; and,*
- *That UUP use every available means, within and outside the framework of the contract, to implement these policies, in particular, to join with student and community groups and organized labor in pursuing the objectives of this resolution.*

(Delegate Assembly: October 10, 1975)

UUP chapter representatives may choose to be non-voting members of such committees to gather facts about the college's or university's decision-making process. A word of caution: The presence of UUP representatives at such meetings cannot be construed as UUP agreement with the outcomes. Clarification of UUP

positions should take place through the Labor-Management process established through the UUP contract.

What could occur if I hold a term appointment?

The college president can non-renew an appointment for an academic or professional employee for many reasons, including financial exigencies. This means that your college could choose to non-renew your appointment at the end of the appointment term because of the financial conditions of your campus, instead of using the retrenchment process. There are minimum notices of non-renewal timelines (outlined in Article 32 of the UUP contract), which include:

- **45 calendar days** prior to the end of a part-time service term appointment.
- **Three (3) months** prior to the end of a term expiring at the end of an appointee's first year of uninterrupted service within the University. For such, employees serving on the basis of an academic year professional obligation and academic employees at the Empire State College whose terms end in June, July or August, notice shall be given no later than March 31.
- **Six (6) months** prior to the end of a term expiring after the completion of one, but not more than two years of an appointee's uninterrupted service within the University. For such employees serving on the basis of an academic year professional obligation and academic employees at the Empire State College whose terms end in June, July or August, notice shall be given no later than December 15th.
- **Twelve (12) months** prior to the expiration of a term after two or more years of uninterrupted service within the University.

More rights concerning the appointment renewal and recommendation process can be found in Article 31.1 and 31.6 of the UUP contract, or by asking your chapter president.

What resources are there to assist me if I am retrenched or my appointment is not renewed?

- **UUP:** Your union is ready and willing to assist, with statewide officers and staff, chapter leaders at your campus and Labor Relations Specialists to help answer your work-related questions. Find out more at: www.uupinfo.org.
- **UUP Benefit Trust Fund:** The BTF administers contractually based vision, dental and life insurance benefits, and a scholarship program. The UUP Member Services Trust provides many services and voluntary programs. Find out more at: <https://uupinfo.org/benefits/btf.php>.
- **Employee Assistance Program (EAP):** NYS EAP, funded through negotiated agreements between NYS, UUP, and other state employee unions, is a free, voluntary, and confidential service that offers help to employees and their family members who are experiencing personal or work-related problems. EAP coordinators are available to meet with employees in person or by phone to provide a confidential assessment and referrals to local resources if needed. To access EAP services 24 hours a day, seven days a week, call 1-800-822-0244 or email nyseap@eap.ny.gov.
- **New York State Health Insurance Program (NYSHIP):** For details on health insurance benefits, contact your campus health benefits associate, or see: <https://www.cs.ny.gov/employee-benefits/group/1/12/1/>.
- **Campus Human Resources Personnel:** Your campus HR staff can assist with payroll, retirement, phased-retirement, special leaves, health insurance and information for many other options that you may be facing to make important career decisions.
- **New York State Local Retirement System:** If you participate in the defined benefit retirement from the Employees' Retirement System or the Teachers' Retirement System, you may need more information to make decisions affecting your retirement. More information: <https://www.osc.state.ny.us/retire/planning/index.php>.
- **Optional Retirement Plan (ORP):** if you participate in the defined contribution program, information about these providers can be obtained from: <https://www.suny.edu/retirement/orp/>.
- **Retraining Fellowship Program:** This program provides financial support to employees who have been terminated due to retrenchment; who have been

notified of retrenchment or perceived to be at high risk of retrenchment; or whose retraining would accommodate shifting program needs. Funding is provided for employees to pursue an organized course of study to attain other employment opportunities or to maintain their current employment. If course work is pursued at an accredited institution other than a SUNY institution, the maximum amount reimbursed for tuition is at the SUNY rate in effect at the time. Program details are available at:

<https://goer.ny.gov/system/files/documents/2018/12/retraining-fellowship-program-guidelines.pdf>

https://goer.ny.gov/system/files/documents/2018/12/retraining-fellowship-program-application_0.pdf

Employment Coaching and Placement Program: Assists employees who are retrenched or who are perceived to be at high risk of retrenchment with resume preparation, testing, coaching and placement fees, and travel costs. More information can be found at:

<https://goer.ny.gov/system/files/documents/2018/12/employment-coaching-and-placement-program-guidelines.pdf>

https://goer.ny.gov/system/files/documents/2018/12/employment-coaching-application-12-2018_0.pdf

- **Empire Knowledgebank (EKB) eLearning Program:** This program allows UUP-represented employees access to eLearning products provided by Enterprise Training Solutions Inc. through the EKB license. Employees can access thousands of eLearning courses, eBooks and short course videos for opportunities to enhance their professional and career development, for certification preparation and continuing education in a variety of areas. The EKB license can be accessed anytime and anywhere with an internet connection and is provided at no expense to the campus or the employee. More information about the EKB can be found at:
https://goer.ny.gov/system/files/documents/2018/12/online-self-study-course-guidelines_0.pdf.

- **New York State Department of Labor:** This state department can assist in various ways to give information and assistance to displaced employees. For information on retraining information see: <https://labor.ny.gov/dews-index.shtm>, and for unemployment insurance information see: <https://labor.ny.gov/unemploymentassistance.shtm>.
- **Program for Tuition Assistance (UUP Contract Article 49):** UUP's contract offers an opportunity on a space-available basis for one course per semester or special session (e.g., winter, summer) tuition free while employed. More information can be obtained from your UUP chapter president or your campus human resources department.

For more information specific about retrenchment rights and the appointment renewal process please contact your chapter president:

<https://uupinfo.org/directory/chapters.php>