

MEMORANDUM

TO: David Turnbull, Chair, Faculty Senate

FROM: Faculty Affairs Committee

DATE: September 30, 2011

SUBJECT: Appeals Procedure

Faculty Affairs spent most of last year working on the Appeals Procedure that follows Discontinuation of a Program in the Faculty Manual Section III.F. The committee met with the AG twice and with the Provost to make sure the language would be acceptable to the Regents. The committee also talked with members of the Faculty Status Committee to better understand what problems have been evident in the process. The Faculty Affairs Committee voted unanimously September 28 to forward to the Senate. At this time Senate approval is recommended.

Section III.F.3.

c. Placement in Another Unit

(Before an appointment is terminated because of discontinuance of a program of instruction, research, or service, the institution will make reasonable and good faith efforts to transfer the affected faculty member to a suitable position for which he or she is qualified. [this was moved cannot be changed]) If relevant qualifications are equal, priority will be given to tenured faculty according to higher rank. Terms of the new position will be negotiated with the faculty member.

The University's obligation under this section shall not cease until the end of the faculty member's notice period, unless a reasonable offer of employment was made and rejected.

d. Reappointment After Termination

If an appointment is terminated before the end of the period of appointment because of financial exigency or because of discontinuance of a department or program of instruction, research or service the released faculty member's appointed position will not be filled by a replacement within a period of three years, unless the released faculty member is offered suitable reappointment and thirty (30) calendar days to accept or decline reappointment. ~~a reasonable time within which to accept or decline the reappointment.~~

e. Notice Period

Termination may be effective for all faculty, including those on academic-year appointments, on any day of the calendar year. Tenured faculty members holding annual (twelve-month) appointments shall be entitled to receive at least twelve calendar months' notice in advance of termination for reasons of financial exigency or discontinuance of a department or program of instruction, research or service ~~elimination of function.~~ Tenured faculty members holding academic-year (nine-month) appointments shall be entitled to at least nine calendar months' notice in advance of termination for reasons of financial exigency or discontinuance of a department or program of instruction, research or service ~~elimination of function~~, provided that the three summer months, not part of the usual academic year (May 16 to August 15 under the current academic calendar) shall not be included when computing notice requirements. Nontenured faculty members shall be entitled to minimum advance notice of termination of services for reasons of financial exigency or discontinuance of a department or program of instruction, research or service ~~elimination of function~~ in accordance with the following:

<u>Type of Appointment</u>	<u>Year of Employment</u>	<u>Minimum Advance Notice in Calendar Months</u>
Annual (twelve-month)	1	3
Annual (twelve-month)	2	6
Annual (twelve-month)	3 or more	12
Academic (nine-month)	1	3*
Academic (nine-month)	2	6*
Academic (nine-month)	3 or more	9*

*Excluding three summer months

Where less than the required notice is given prior to termination, the faculty member shall be entitled to receive at the time of termination one-twelfth of his or her current annual salary, on an annual appointment, or the faculty on an academic year appointment shall be entitled to one-ninth his or her current annual salary for each month less the required notice. The University may, at its option, make regular monthly severance pay payments from the date of termination until the expiration of the appropriate notice period, commencing the date notice of termination is given, unless there is an agreed settlement on or before the termination date of the total amount of severance pay to be paid to the faculty member.

In the event that a faculty member who has received notice of termination for reasons of financial exigency or discontinuance of a department or program of instruction, research or service ~~elimination of function~~ secures new employment prior to the effective date of the termination, he or she shall provide the University with immediate notice, including the effective date of new employment. In these cases, the University shall waive the requirements for resignation notice that would otherwise apply.

f. Appeal Procedures

1. Each faculty member notified of termination for reason of program discontinuance or financial exigency shall have the right to appeal to the Faculty Status Committee(FSC) regarding whether the financial exigency or program discontinuance is bona fide or the faculty member was properly identified as a member of the eliminated program; and the university's efforts to place the faculty member in another suitable position for which he/she is qualified. An appeal regarding the determination of exigency or program discontinuance, or identification of a faculty member within a program must be filed within 30 calendar days of the date on the faculty member's notice of termination. An appeal regarding efforts to place the faculty member in a suitable position must be filed within 30 calendar days of the action on which the appeal is based until final day of employment. Grounds for all appeals include substantial procedural irregularity, inadequate consideration, and/or violation of the faculty member's academic freedom.
2. If an appeal is filed with the Faculty Status Committee, the committee shall determine its own procedures for reviewing the matter, in a manner consistent with state and federal law, shall conduct its review as expeditiously as possible, and shall report its findings and recommendations to the President, or designee, and to the faculty member appealing, within 120 calendar days after the appeal is made. The committee may elect to count only days of the academic year in the 120 day period as long as the President's decision can be rendered before the termination date of the faculty member. Following the faculty member's receipt of the FSC report he/she shall have 15 calendar days to provide the President with a written response to the report. The President shall consider both the FSC report and the faculty member's response, if any, in making a final decision and shall notify the faculty member of that decision within 30 calendar days after receiving the FSC report. See the table below.

Faculty Status Committee Investigation:	120 Calendar Days
Faculty Members Written Response:	15 Calendar Days
President's Final Decision:	30 Calendar Days

~~This termination under extraordinary circumstances is not a dismissal, but a faculty member shall have the right to have these issues reviewed by the Faculty Status Committee where he or she believes that bona fide financial exigency or elimination of function is in question if the faculty member requests such review within thirty days after receipt of notice of termination. If a review by the Faculty Status Committee is requested, the Committee shall determine its own procedures for hearing the matter, in a manner consistent with state and federal law, shall conduct its review as expeditiously as possible, and shall report its findings to the President, or designee, and to each faculty member requesting Faculty Status Committee review within ninety calendar days after the request is made. The Committee may elect to count only days of the academic year in the ninety day period. The President shall notify each faculty member requesting the review of the President's decision within thirty days after receiving the report of findings.~~