

## **UW SYSTEM TENURE POLICY TASK FORCE**

**November 30, 2015, 2:00 p.m.**  
**1220 Linden Drive, 1820 Van Hise Hall**  
**Madison, Wisconsin**

### **Agenda**

- I. Welcome and Logistics – *Regent Chair John Behling*
- II. Review of Discussion/Minutes from Last Meeting – *Regent Chair John Behling*
- III. Discussion of UW-Oshkosh Resolution
- IV. Discussion of UW-Madison Draft Policies
- V. Discussion of Updated Draft Recommendations
  1. UW System Policy on Faculty Layoffs
  2. UW System Policy on Post Tenure Review
  3. Review of Existing Regent Policy on Faculty Tenure and Possible Changes
- VI. Meeting Summary
- VII. Upcoming Meeting(s)
- VIII. Adjourn

UW Oshkosh Faculty Senate Resolution on Tenure  
*Approved unanimously on October 13, 2016.*

*Whereas*, the State of Wisconsin 2015-17 biennium budget dramatically changed the position of faculty and tenure in relationship to the state and our institution; and

*Whereas*, tenure was removed from state statute 36.13; and

*Whereas*, the Board of Regents placed the previous language of the statute into policy at their June meeting and placed a sunset on it, which expires April 11, 2016; and

*Whereas*, the system-wide tenure policy task force is focusing on two items: when tenured faculty may be laid off as part of a program change and post-tenure review; and

*Whereas*, the principles of shared governance call upon us to make our position clear before any decisions are made.

*Now, Therefore*, the faculty senate at the University of Wisconsin Oshkosh do hereby resolve:

That these key principles must remain inviolable for tenure to retain its meaning:

- Academic freedom is essential to the purpose of our university and applies to teaching, research and service.
- Tenure is indispensable to the success of our institution in fulfilling its obligations to its students and to society.
- Program modification must be determined primarily by the faculty as a whole or an appropriate committee thereof.
- Every reasonable effort must be made to relocate tenured faculty in the event of program changes.
- Termination of tenured faculty must only be for cause.
- Post-tenure reviews should be rigorously defined by experts in the relevant field, be completed regularly, and carried out by faculty.
- Decisions about tenure and academic programs should be made primarily by faculty and on the home campus.

To call upon the chancellor at UW Oshkosh, the system president, and the University of Wisconsin Board of Regents act to ensure that these principles are reflected in policy and practice.

**DRAFT: FOR CONSIDERATION BY UW SYSTEM TENURE POLICY TASK FORCE**  
**AT ITS NOVEMBER 30, 2015, MEETING: DRAFT**

**Recommendations Relating to Regent Policy Document \_\_\_\_ : Faculty Layoff**

**Introduction**

Recommend including an introduction that contains the purpose and scope of the policy and that recognizes the importance of protecting academic freedom and the overall academic quality of the UW institutions. The introduction would include language stating the faculty layoff policy will be invoked only in extraordinary circumstances, and after other alternatives have been considered and found untenable. The section also would include specific language to the effect that no faculty member shall be laid off because of speech protected by the First Amendment or principles of academic freedom, and also would describe the legal sources of the Board's layoff authority.

**Definitions**

Recommend including definitions of key terms that are used in the policy, including definitions of "academic program," "department," "layoff," "termination," "discontinuance," "curtailment," "modification," "redirection," "educational considerations," and "financial emergency."

Recommend that these definitions be consistent with those used in applicable statutes and administrative code provisions.

**Layoff Due to Financial Emergency**

Recommend that this section of the policy reference and follow the procedures set forth in Chapter UWS 5 of the Wisconsin Administrative Code (Layoff and Termination for Reasons of Financial Emergency,) specifically UWS 5.01 through UWS 5.06, and the procedures set forth in Wis. Stats., Section 36.22.

This would include a description of the institution's procedures that could lead to a chancellor's recommendation to the Board that a financial emergency be declared by the Board for a specific institution, as well as the procedures and protections available to faculty who are laid off following a Board declaration of a financial emergency for an institution.

**Layoff Due to Budget or Program Decision Requiring Program Discontinuance, Curtailment, Modification, or Redirection**

Recommend that this section of the policy include the following elements:

1. A statement that a proposal to discontinue, curtail, modify, or redirect an academic program due to educational considerations that results in faculty layoff may be brought

forward by faculty in the affected department, faculty in the affected college, the dean, the provost, or the chancellor.

2. A statement that a proposal to discontinue, curtail, modify or redirect an academic program that will not result in faculty lay off will follow the academic program review process currently in place on each campus, and will not be required to follow the process outlined in this policy.
3. Criteria that will guide the determination of whether educational considerations require academic program discontinuance, curtailment, modification, or redirection that will result in faculty layoff. Examples of criteria may be found in the layoff policies of other universities, including the University of Michigan, University of Maryland, and University of Utah.
4. A description of the shared governance process that will be followed to review and arrive at a recommendation regarding a proposal that an academic program should be discontinued, curtailed, modified, or redirected, resulting in faculty layoff. The process shall include requirements regarding information that must be included with the initial proposal. The process also shall include review and recommendations from: (1) the faculty of the department in which layoffs are being considered; (2) faculty of the college that contains that department; (3) the faculty senate; (4) the students in the program or student governance; (5) the dean of the affected college; (6) the provost; (7) and other individuals or bodies as deemed appropriate by individual institutions. The process shall include written reports, holding of a public meeting(s), provision for receipt of written comments, the sharing of appropriate financial or programmatic information, consultation with the chancellor, and other means necessary to making a careful and deliberate recommendation to the chancellor on the proposal. The process shall include a statement that every effort shall be made to reach consensus on the matter.
5. A description of the process that a chancellor will follow if the chancellor decides to recommend to the Board of Regents a program change that will result in faculty layoff. The process will describe what information, in the form of a report to the Board, will accompany the chancellor's recommendation.
6. A statement that approval of the Board of Regents shall be required to discontinue, curtail, modify, or redirect an academic program if faculty layoff will result from those actions.
7. A reference to, and summary of, the due process procedures and other faculty rights set forth in Wis. Stats., Section 36.22 that apply to individual faculty facing layoff as the result of the Board's programmatic decision. This would include:
  - Establishing faculty seniority determinations for purposes of layoff
  - Describing layoff notice periods
  - Describing the due process, hearing and appeal rights available to faculty facing layoff
  - Describing faculty retraining and reappointment rights

- Describing the reasonable efforts that will be made to place faculty facing layoff in suitable positions at their institution and at other institutions within the UW System

### **Safeguards for Students**

Recommend that a section be included setting out certain procedures to protect and assist students impacted by a programmatic decision under this policy.

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**DRAFT: FOR CONSIDERATION BY UW SYSTEM TENURE POLICY TASK FORCE**  
**AT ITS NOVEMBER 30, 2015 MEETING: DRAFT**

**Recommendations Relating to Revised Regent Policy Document 20-9, Tenured Faculty  
Review and Development<sup>1</sup>**

**Introduction**

Recommend including an introduction stating that the purpose and scope of post-tenure review is to recognize and to reward a sustained level of solid performance, and to identify and to remedy deficiencies through a supportive and developmental process.

Recommend that the introduction state that tenured faculty currently are reviewed annually, that the annual review process will continue, and that post-tenure review may substitute for the annual review in the year a faculty member is up for post-tenure review.

Recommend that the introduction also specifically state that this policy is not intended to change the current rules addressing faculty termination for cause as set forth in Chapter UWS 4 of the Wisconsin Administrative Code, and that Chapter UWS 4 remains the exclusive procedure to effect for cause termination of faculty for performance reasons.

**Definitions**

Recommend including definitions of “post-tenure review,” “merit review,” and other applicable terms.

**Elements of the Review**

1. Recommend that post-tenure review be required at a set interval, and at least every five years after the granting of tenure, with exceptions for faculty undergoing evaluation for promotion that falls within the cycle. Post-tenure review may substitute for annual review.
2. Recommend that the criteria applied to conduct the review shall be teaching, research, and service. The relative importance of these criteria shall be established at the institutional level, and shall reflect the mission of the institution, as well as the mission of various units within an institution, such as departments, schools, and colleges. The criteria shall be sufficiently flexible to allow for shifts in the professional emphasis of faculty.
3. Recommend that the process for conducting the review be developed at each campus, and that the process shall describe how the review will be conducted, who will conduct the review, and what will constitute the review file.

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<sup>1</sup> Note that many of these recommendations already are reflected in part by language in the current RPD 20-9, and it is likely that much of that language, somewhat reworked, will remain in the RPD.

4. Recommend that the review shall include both peer and student evaluations, shall provide for review by the department and may provide for review by other appropriate groups.
5. Recommend that language be included stating that the review shall respect the First Amendment rights and academic freedom of tenured faculty.
6. Recommend that review designations of “unsatisfactory,” “satisfactory,” and “excellent” be used by the department and any other reviewing group.
7. Recommend that tenured faculty receiving “satisfactory” and “excellent” reviews from the department, and from any other reviewing group, be eligible for a merit reward that can include a base salary adjustment, a non-base (one time) pay adjustment, reassigned time for professional activities, provision of equipment or other tangible forms of support for professional activities, or a combination of the foregoing. The availability, magnitude, and distribution of merit awards may vary by institution as determined by the chancellor in consultation with faculty shared governance.
8. Recommend that tenured faculty receiving an “unsatisfactory” review from the department be provided an opportunity to file a written response to the review with the dean and be provided an opportunity for a meeting with the dean and a faculty member(s) representing the department to discuss any concerns the faculty member may have relating to the review.
9. Recommend that if the dean concurs with the department’s “unsatisfactory” review of the faculty member, the dean shall forward to the provost a recommendation to implement performance remediation to assist the faculty member to improve his or her performance. The provost (or designee) shall make the decision on whether to implement performance remediation for a tenured faculty member under this policy. This decision shall be final and not subject to institutional grievance processes.

### **Remediation/Development Process**

1. Recommend that a faculty member receiving an unsatisfactory review for whom performance remediation is to be implemented be informed in writing of the area(s) of underperformance and of performance expectations. In consultation with the department, the faculty member must develop a written remediation plan to address the area(s) of underperformance and submit that plan for approval by the department and the dean.
2. Recommend that performance remediation be a developmental process and that the faculty member receive appropriate support from the department, dean, and other university units to address area(s) of underperformance.
3. Recommend that the dean, in consultation with the department and the faculty member, review the written remediation plan and determine progress at least once each semester. The dean will document progress, or lack thereof, through a letter to be placed in the faculty member’s personnel file.

4. Recommend that a remediation plan must be successfully completed within a reasonable time as determined by the dean in consultation with the department or by institutional policy.
5. Recommend that if the dean, after consultation with the faculty member and the department, determines the faculty member has successfully completed the remediation plan, the faculty member shall be notified of this decision, and the remediation plan shall be considered concluded.
6. Recommend that a provision be included referencing appropriate disciplinary processes under Chapters UWS 4 and UWS 6 of the Wisconsin Administrative Code, and related campus policies, in the event that a tenured faculty member fails to improve his or her performance following an unsatisfactory review.

### **Recordkeeping and Accountability Measures**

1. Recommend that a written record be created containing the results of an individual faculty member's post-tenure review, and that the written record be provided to the dean and the provost.
2. Recommend that department chairs be required to report annually to the dean and provost to confirm that all tenured faculty in that annual cycle have been reviewed.



**SUGGESTED DEFINITIONS  
FOR CONSIDERATIONS BY UW SYSTEM TENURE POLICY TASK FORCE  
(DRAFT -- 11/13/2015)**

**I. DEFINITIONS CONTAINED IN STATE STATUTES, ADMINISTRATIVE RULES, BOARD OF REGENTS POLICIES, OR UW SYSTEM ADMINISTRATION POLICIES**

<b>TERM</b>	<b>DEFINITION</b>	<b>SOURCE</b>
Board of Regents	“Board of Regents” or “board” means the Board of Regents of the University of Wisconsin System.	Chapter UWS 1.02, Administrative Rules.
Consulting	“Consulting” means thoroughly reviewing and discussing the relevant facts and discretionary issues.	Chapter UWS 7.025, Administrative Rules.
Faculty	“Faculty” means persons who hold the rank of professor, associate professor, assistant professor, or instructor in an academic department or its functional equivalent in an institution. The appointment of a member of the academic staff may be converted to a faculty appointment in accordance with s. UWS 3.01 (1) (c).	Chapter UWS 1.04, Administrative Rules.
Financial Emergency	<p>“Financial emergency” is a state which may be declared by the board to exist for an institution if and only if the board finds that the following conditions exist:</p> <p>(a) The total general program operations (GPR/fee) budget of the institution, excluding adjustments for salary/wage increases and for inflationary impact on nonsalary budgets, has been reduced;</p> <p>(b) Institutional operation within this reduced budget requires a reduction in the number of faculty positions such that tenured faculty must be laid off, or probationary faculty must be laid off prior to the end of their respective appointments. Such a reduction in faculty positions shall be deemed required only if in the board’s judgment it will have an effect substantially less detrimental to the institution’s ability to fulfill its mission than would other forms of budgetary curtailment available to the institution; and</p> <p>(c) The procedures described in ss. UWS 5.05 and 5.06 have been followed.</p>	Chapter UWS 5.02, Administrative Rules.

TERM	DEFINITION	SOURCE
Just Cause	<p>“Just cause” for dismissal includes, but is not limited to, serious criminal misconduct, as defined in UWS 7.02.</p> <p><i>(See definition for “Serious Criminal Misconduct”.)</i></p>	Chapter UWS 7.03, Administrative Rules.
	<p>“Just cause” for dismissal includes, but is not limited to, serious criminal misconduct, as defined in s. UWS 11.102.</p> <p><i>(See definition for “Serious Criminal Misconduct” below).</i></p>	Chapter UWS 11.102, Administrative Rules.
Layoff	<p>“Lay off” means and indefinite suspension or involuntary reduction in services and in compensation of a faculty member’s employment by the system.</p>	s. 36.22 (1) (a), Wis. Stats.
	<p>“Layoff” is the indefinite suspension or an involuntary reduction in services and compensation of a faculty member’s employment by the university of Wisconsin system.</p>	Chapter UWS 5.03, Administrative Rules.
	<p>“Layoff” is the suspension of an academic staff member’s employment by the university of Wisconsin system during the appointment period, for reasons of budget or program.</p>	Chapter UWS 12.02, Administrative Rules.
Probationary Appointment	<p>“Probationary appointment” means an appointment by the board held by a faculty member during the period which may precede a decision on a tenure appointment.</p>	Former s. 36.13 (1) (a), Wis. Stats., and now RPD 20-23
	<p>“Probationary appointment” means an appointment by the board upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution and held by a faculty member during the period which may precede a decision on a tenure appointment.</p>	Chapter UWS 3.01 (b), Administrative Rules.
Program Change	<p>“Program change” means program discontinuance, curtailment, modification, or redirection.</p>	s. 36.22 (1) (b), Wis. Stats.
Program Suspension	<p><b><i>NOTE: UW System Academic Information Series (ACIS) 1.0 is undergoing revision. The proposed revision will include a section on suspending an academic degree program.</i></b></p> <p>“Program suspension” allows an institution to temporarily remove a program from the systemwide academic program array (systemwide array) and, if appropriate at a later date, reinstate the program when demand and resources justify the continued operation of the program.</p>	Proposed revision to UW System Academic Information Series (ACIS) 1.0.

TERM	DEFINITION	SOURCE
Redirection	<p><b>NOTE: UW System Academic Information Series (ACIS) 1.0 is undergoing revision. The proposed revision will include a section on redirecting an academic degree program.</b></p> <p>“Redirection” is defined as a change to the last four digits of the Classification of Instructional Program (CIP) code and/or a change in more than 30 percent of the core requirements for the program but no change in the major code.</p>	Proposed revision to UW System Academic Information Series (ACIS) 1.0.
Serious Criminal Misconduct	<p>“Serious criminal misconduct” means:</p> <p>(a) Pleading guilty or no contest to, or being convicted of a felony, in state or federal court, where one or more of the conditions in par. (b), (c), (d) or (e) are present, and the felony involves any of the following:</p> <ol style="list-style-type: none"> <li>1. Causing serious physical injury to another person.</li> <li>2. Creating a serious danger to the personal safety of another person.</li> <li>3. Sexual assault.</li> <li>4. Theft, fraud or embezzlement.</li> <li>5. Criminal damage to property.</li> <li>6. Stalking or harassment.</li> </ol> <p>(b) A substantial risk to the safety of members of the university community or others is posed.</p> <p>(c) The university’s ability, or the ability of the faculty member’s colleagues, to fulfill teaching, research or public service missions is seriously impaired.</p> <p>(d) The faculty member’s fitness or ability to fulfill the duties of his or her position is seriously impaired.</p> <p>(e) The opportunity of students to learn, do research, or engage in public service is seriously impaired.</p> <p><b>NOTE: The definition of serious misconduct in Chapter UWS 11.102 is identical to Chapter UWS 7.03, except the phrases “faculty” and “academic staff”.</b></p>	Chapter UWS 7.02, Administrative Rules.

TERM	DEFINITION	SOURCE
Tenure Appointment	“Tenure appointment” means an appointment for an unlimited period granted to a ranked faculty member by the board.	Former s. 36.13 (1) (b), Wis. Stats., and now RPD 20-23.
	“Tenure appointment” means an appointment for an unlimited period granted to a ranked faculty member by the board upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution via the president of the system.	Chapter UWS 3.01 (a), Administrative Rules.
Termination (Dismissal)	<b><i>NOTE: Chapters UWS 3.06, 4.01, and 7.03 use “dismissal for just cause.” AAUP RIR also uses “dismissal for cause.” Thus termination and dismissal are used interchangeably.</i></b>	
	“Termination” means the permanent elimination of a faculty member’s employment by the system.	s. 36.22 (1) (c), Wis. Stats.
	“Termination” is the permanent elimination of a faculty member’s employment by the University of Wisconsin System.	Chapter UWS 5.03, Administrative Rules.

**II. DEFINITIONS NOT CONTAINED IN STATE STATUTES, ADMINISTRATIVE RULES, BOARD OF REGENT POLICIES, OR UW SYSTEM ADMINISTRATION POLICIES, THAT WOULD NEED TO BE DEVELOPED; OR THAT COULD BE ADOPTED FROM UW INSTITUTIONAL POLICIES, OTHER UNIVERSITIES’ POLICIES, OR VARIOUS HIGHER EDUCATION ORGANIZATIONS WITH SOME MODIFICATIONS.**

TERM	DEFINITION	SOURCE
Annual Review	The “annual review” is intended to assist faculty on continuous appointment (tenured faculty) in achieving professional goals and maximizing contributions to the University throughout their professional careers.	University of Nebraska Board of Regents Policies, Chapter 4, RP-4.3.3, “Post-Tenure Review Policy,” <a href="http://nebraska.edu/docs/board/RegentPolicies.pdf">http://nebraska.edu/docs/board/RegentPolicies.pdf</a> .
Bona Fide Curricular Reasons	“Bona fide curricular reasons” may include, but are not limited to, low or declining student demand, changes in the mission of a system institution, or adverse financial conditions forcing a system institution to prioritize its projects, programs and curricula.	Nevada System of Higher Education Board of Regents Handbook, Chapter 5, “Personnel Policy for Faculty,” Section 5.4.7, <a href="http://system.nevada.edu/tasks/sites/Nshe/assets/File/BoardOfRegents/Handbook/T2CH05PersonnelPolicyforFaculty.pdf">http://system.nevada.edu/tasks/sites/Nshe/assets/File/BoardOfRegents/Handbook/T2CH05PersonnelPolicyforFaculty.pdf</a> .
Curtailment	“Curtailment” means a reduction in the size of a program.	UW-Madison’s Proposed Revisions to Faculty Policies and Procedures on Layoff and Termination.
Educational Considerations	“Educational considerations” do not include cyclical or temporary variations in enrollment. They must reflect long- range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.	American Association of University Professors (AAUP), “Recommended Institutional Regulations on Academic Freedom and Tenure,” Regulation 4d, <a href="http://www.aaup.org/file/RIR%202014.pdf">http://www.aaup.org/file/RIR%202014.pdf</a> .
	“Educational considerations” shall not include cyclical or temporary variations in enrollment. Educational considerations must reflect long-range judgments that the educational mission of the institution as whole will be enhanced by a program’s discontinuance.	UW-Madison’s Proposed Revisions to Faculty Policies and Procedures on Layoff and Termination.
Educational and Academic Considerations	“Educational and academic considerations” do not include cyclical or temporary variations in enrollment, but must reflect long-range judgments that the basic educational mission of the university will be strengthened by the discontinuance of the program, center, institute, department, school or college. This does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational considerations.	University of Utah Policy 6-313, “Terminations and Program Discontinuance,” Section 5.B.1, <a href="http://regulations.utah.edu/academics/6-313.php">http://regulations.utah.edu/academics/6-313.php</a> .

TERM	DEFINITION	SOURCE
Financial Exigency	“Financial exigency” is a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.	American Association of University Professors (AAUP), “Recommended Institutional Regulations on Academic Freedom and Tenure,” Regulation 4 c, <a href="http://www.aaup.org/file/RIR%202014.pdf">http://www.aaup.org/file/RIR%202014.pdf</a> .
Just (or Adequate) Cause	“Adequate cause” shall be related to the behavior and performance of the faculty in their professional capacity. This refers to such matters as unethical conduct, incompetence, failure to perform reasonable assignments, or for neglect of duty.	Southern Illinois University (Carbondale), “Tenure Policies and Procedures,” Section VI.B, <a href="http://policies.siu.edu/personnel_policies/chapter3/ch3-faps/tenure.html">http://policies.siu.edu/personnel_policies/chapter3/ch3-faps/tenure.html</a> .
	“Cause” shall include willful or intentional violation of the policies of the Board of Regents or the approved statutes of an institution.	University System of Georgia Board of Regents Policy 8.3, “Additional Policies for Faculty,” Section 8.3.9, <a href="http://www.usg.edu/policymanual/section8/C245/">http://www.usg.edu/policymanual/section8/C245/</a> .
	<p>A faculty member with tenure or a faculty member on a tenure-track appointment prior to the end of the term of appointment may be terminated for “adequate cause”, which includes the following:</p> <ol style="list-style-type: none"> <li>1. Incompetence or dishonesty in teaching or research.</li> <li>2. Willful failure to perform the duties and responsibilities for which the faculty member was employed or refusal or continued failure to comply with the policies of the Board, the university or the department, or to carry out specific assignments, when such policies or assignments are reasonable and non-discriminatory.</li> <li>3. Conviction of a felony or a crime involving moral turpitude.</li> <li>4. Improper use of narcotics or intoxicants, which substantially impairs the faculty member’s fulfillment of his/her departmental and university duties and responsibilities.</li> <li>5. Capricious disregard of accepted standards of professional conduct.</li> <li>6. Falsification of information on an employment application or other information concerning qualifications for a position.</li> <li>7. Failure to maintain the level of professional excellence and ability demonstrated by other members of the faculty in the department or academic program unit of the university.</li> </ol>	University of Tennessee Board of Regents Policy 5:02:03:06, “Academic Tenure for Universities,” Section IV.H, <a href="https://policies.tbr.edu/policies/academic-tenure-universities">https://policies.tbr.edu/policies/academic-tenure-universities</a> .

TERM	DEFINITION	SOURCE
	<p>“Just cause” shall include, but not be limited to, demonstrated incompetence or dishonesty in professional activities related to teaching, research, publication, other creative endeavors, or service to the university community; unsatisfactory performance over a specified period of time and a failure to improve that performance to a satisfactory level after being provided a reasonable opportunity to do so by the university, as neglect of or refusal to carry out properly assigned duties demonstrated through the board-approved post-tenure review process; substantial; personal conduct that substantially impairs the individual’s fulfillment of properly assigned duties and responsibilities; moral turpitude; misrepresentation in securing an appointment, promotion, or tenure at the university; or proven violation of Board or university rules and regulations (including the code of conduct or any other disciplinary rules, depending upon the gravity of the offense, its repetition, or its negative consequences upon others.</p>	<p>Arizona Board of Regents Policy #6-201, “Conditions of Faculty Service,” Section J.1.b, <a href="https://azregents.asu.edu/rrc/Policy%20Manual/6-201-Conditions%20of%20Faculty%20Service.pdf">https://azregents.asu.edu/rrc/Policy%20Manual/6-201-Conditions%20of%20Faculty%20Service.pdf</a>.</p>
Modification or Redirection	<p>“Modification or Redirection” means “departmental restructuring” as established in FPP 5.02.</p>	<p>UW-Madison’s Proposed Revisions to Faculty Policies and Procedures on Layoff and Termination.</p>
Periodic Review or Evaluation	<p>“Periodic evaluation” of tenured faculty is intended to enhance and protect the important guarantees of tenure and academic freedom. The purpose of periodic evaluation is to provide guidance for continuing and meaningful faculty development, to assist faculty to enhance professional skills and goals; to re-focus academic and professional efforts, when appropriate; and to assure that faculty members are meeting their responsibilities to the University and to the State of Texas. Periodic evaluation is distinct from annual review but may be done concurrently according to the policies and policies provided for below.</p>	<p>School of Allied Health Sciences, University of Texas Medical Branch, “Implementation Plan for Periodic Performance Evaluation of Tenure Faculty,” <a href="https://shp.utmb.edu/faculty_handbook/Tenure%20Review%20Doc%20rev%202005.pdf">https://shp.utmb.edu/faculty_handbook/Tenure%20Review%20Doc%20rev%202005.pdf</a>.</p>

TERM	DEFINITION	SOURCE
Post-Tenure Review	<p>“Post-tenure review” usually means a systematic, comprehensive process, separate from the annual review, aimed at assessing performance and/or nurturing faculty growth and development.</p>	<p>Licata, C. and Morreale, J. (1997). <i>Post-Tenure Review: Policies, Practice, Precautions</i>. Washington, DC: American Association for Higher Education,  <a href="http://people.umass.edu/jgk/PMYR/licata.pdf">http://people.umass.edu/jgk/PMYR/licata.pdf</a>.</p>
	<p>In cases where goals are not being met or contributions should be markedly improved, a “post-tenure review” under this policy will be conducted. This post-tenure review will emphasize the pattern of past performance, current interests of the faculty member, and the objectives for future contributions of the faculty member. The review will be based upon the principle of peer review and provide added assurance that faculty on continuous appointment are accountable for their performance.</p>	<p>University of Nebraska Board of Regents Policies, Chapter 4, RP-4.3.3, “Post-Tenure Review Policy,”  <a href="http://nebraska.edu/docs/board/RegentPolicies.pdf">http://nebraska.edu/docs/board/RegentPolicies.pdf</a>.</p>
	<p>“Post-Tenure Review” is not a retenuring process, but is a modification of the periodic review process with a component of faculty development.</p>	<p>6.10 Post-Tenure Review, UW-Parkside Faculty Handbook, Chapter 6.  <a href="http://www.uwp.edu/explore/offices/governance/uwpcfchapter6.cfm">http://www.uwp.edu/explore/offices/governance/uwpcfchapter6.cfm</a>.</p>
Program	<p>“Program” should designate a related cluster of creditbearing courses that constitute a coherent body of study within a discipline or set of related disciplines.</p>	<p>American Association of University Professors (AAUP), “Recommended Institutional Regulations on Academic Freedom and Tenure,” Regulation 4d,  <a href="http://www.aaup.org/file/RIR%202014.pdf">http://www.aaup.org/file/RIR%202014.pdf</a>.</p>
Program Discontinuance	<p>“Program discontinuance” is the formal termination of a degree program, department or division of instruction, school or college, or other program unit by the Board of Regents for educational reasons, strategic realignment, resource allocation, budget constraints, or combinations of educational strategies and financial reasons.</p>	<p>University of Colorado Board of Regents Policy 4-H, “Program Discontinuance,”  <a href="http://www.cu.edu/regents/policy-4h-program-discontinuance">http://www.cu.edu/regents/policy-4h-program-discontinuance</a>.</p>
	<p>“Program discontinuance” means the termination of a program, center, institute, department, school, or college for reasons based upon educational and academic considerations.</p> <p>For the purpose of this section, educational and academic considerations do not include cyclical or temporary variations in enrollment, but must reflect long-range judgments that the basic educational mission of the university will be strengthened by the discontinuance of the program, center, institute, department, school or college. This does not preclude the reallocation of resources to other academic programs with higher priority based on academic and educational considerations.</p>	<p>University of Utah Policy 6-313, “Terminations and Program Discontinuance,” Section 5.B.1,  <a href="http://regulations.utah.edu/academics/6-313.php">http://regulations.utah.edu/academics/6-313.php</a>.</p>



TERM	DEFINITION	SOURCE
	<i>(See definition for “educational and academic considerations”.)</i>	
Program Modification	“Modification” may result from a significant change of institutional mission or academic priorities that may be influenced by long-term declines in degree program productivity or financial exigency.	University System of Georgia Board of Regents Policy 8.3, “Additional Policies for Faculty,” Section 8.3.7.10, <a href="http://www.usg.edu/policymanual/section8/C245/">http://www.usg.edu/policymanual/section8/C245/</a> .
Renewal	“Renewal” means the process by which an appointment is extended for an additional period.	Arizona Board of Regents Policy #6-201, “Conditions of Faculty Service,” Section C.17, <a href="https://azregents.asu.edu/rrc/Policy%20Manual/6-201-Conditions%20of%20Faculty%20Service.pdf">https://azregents.asu.edu/rrc/Policy%20Manual/6-201-Conditions%20of%20Faculty%20Service.pdf</a> .
Retrenchment	A “retrenchment” is the layoff of tenured or probationary faculty members due to System or university budget reductions, budget reallocations, expenditure freezes, or unfunded increases in operating costs, resulting from action by either the Legislature, the Governor, or MnSCU, or program changes, or enrollment shifts, or legislative mandate.	Agreement between Minnesota State Colleges and Universities Board of Trustees and Inter Faculty Organization, Article 23, Section A, Subd. 1, <a href="http://ifo.org/index.php/download_file/view/1785/114/">http://ifo.org/index.php/download_file/view/1785/114/</a> .
	“Retrenchment” shall mean the discontinuance of a unit member with a tenured appointment or continuing contract from a position at any time or a probationary or fixed length appointment before the end of the specified term for bona fide financial or program reasons including temporary or permanent program suspension or elimination.	Agreement between University of Maine System and Associated Faculties of the University of Maine, Article 17, <a href="http://www.afum.org/documents/AFUM_K_2013-2015_Complete.pdf">http://www.afum.org/documents/AFUM_K_2013-2015_Complete.pdf</a> .
	“Retrenchment” is the termination of tenured faculty members for financial or programmatic reasons.	Agreement between the University of University of Montana University Faculty Association and the Montana University System, Section 18.500, <a href="https://mus.edu/hr/cba/002_CBA.pdf">https://mus.edu/hr/cba/002_CBA.pdf</a> .
	“Retrenchment” refers to the termination of the employment of any Faculty Member during any appointment as a result of lack of work or other legitimate reason in accordance with §89-9(d), H.R.S., such as fiscal exigency; reallocation of resources; reorganization of degree or curriculum requirements; reorganization of academic or administrative structures or programs; curtailment of one (1) or more programs.	Agreement between the Board of Regents of the University of Hawaii and the University of Hawaii Professional Assembly, Article XVI, Section A, <a href="http://1gyy0p31bywk3kl09732jggr.wpengine.n">http://1gyy0p31bywk3kl09732jggr.wpengine.n</a>

TERM	DEFINITION	SOURCE
		<a href="http://etdna-cdn.com/wp-content/uploads/legacy/uha-bor-contract/100129-2009-2015-agreement-for-website.pdf">etdna-cdn.com/wp-content/uploads/legacy/uha-bor-contract/100129-2009-2015-agreement-for-website.pdf</a> .
Substantive and Continued Reduction	<p>“Substantive and continued reduction of student enrollment in a field” means that over a period of at least three (3) years student enrollment in a field has decreased at a rate in considerable excess of that of the university as a whole and that such reduction has resulted in faculty-student ratios that, in the opinion of the president, cannot be warranted either by comparison with equivalent faculty load practices within the university or by comparisons with faculty loads in comparable departments or academic program units at similar universities which the president would deem to be appropriate for comparison.</p>	University of Tennessee Board of Regents Policy 5:02:03:06, “Academic Tenure for Universities,” Section IV.G.6.b, <a href="https://policies.tbr.edu/policies/academic-tenure-universities">https://policies.tbr.edu/policies/academic-tenure-universities</a> .

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ate notice, lay off or terminate any faculty member when such an action is deemed necessary due to a budget or program decision requiring a program change.

(b) Any layoff or termination of a faculty member under par. (a) may be made only in accordance with the provisions of this section and implies the retention of rights indicated in this section. A faculty member who is laid off retains the rights specified in subs. (11) to (16) and a faculty member who is terminated retains the rights specified in subs. (13) and (14).

(c) Nonrenewal of an appointment, regardless of the reason, is not a layoff or termination under this section.

**(3) SENIORITY.** (a) In the case of layoffs of faculty members due to a budget or program decision requiring a program change, layoffs shall follow seniority unless a clear and convincing case is made that program or budget needs dictate other considerations such as the need to maintain diversity of specializations within a department.

(b) The faculty of each institution shall determine the form of seniority that is to be considered. This determination shall be effective uniformly throughout the institution. Seniority may be defined in the following, or in other, ways:

1. Without regard to rank, with seniority established by total years of service in the institution.

2. By rank, and within rank according to total years of service in the institution.

3. By rank, and within rank, according to length of service in the institution at that rank.

**(4) NOTIFICATION.** (a) Each faculty member who is to be laid off shall receive prompt written notification from the chancellor. Prior to issuing a layoff notification, the chancellor shall offer to consult with, and seek advice from, a faculty committee designated or created by the faculty of the institution.

(b) The notification under par. (a) shall include all of the following:

1. A summary of the reasons supporting the need for the layoff.

2. A statement of the basis on which the individual position was selected for elimination and one of the following:

a. If the position was selected for elimination on the basis of seniority, the criterion used and data supporting the choice.

b. If the position was selected for elimination on a basis other than seniority, the data and reasons supporting that choice.

3. A statement of the date on which the layoff is to be effective.

4. A copy of the statutes regarding layoff of faculty due to a budget or program decision requiring a program change and such other information or procedural regulations as the chancellor deems appropriate.

**(5) NOTIFICATION PERIOD.** (a) In the case of the layoff of faculty due to a budget or program decision requiring a program change, notification must be given at least 12 months in advance of the effective date.

(b) During the 12-month period under par. (a), and prior to entering layoff status, the chancellor may offer as appropriate, and the faculty member may accept, any of the following:

1. Terminal leave and early retirement.

2. Relocation leave accompanied by resignation.

(c) Acceptance of either option under par. (b) terminates the faculty member's association with the system at the end of the leave period.

**(6) FACULTY HEARING COMMITTEE.** The faculty of each institution shall establish a committee or designate an existing committee to serve as a hearing committee for the purposes of this section. The committee shall consist of faculty members of the institution chosen by the faculty in a manner to be determined by the faculty. This standing faculty committee shall conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evi-

**36.21 Termination due to certain budget or program changes.** Notwithstanding s. 36.15, the board may, with appropriate notice, terminate any faculty or academic staff appointment when such an action is deemed necessary due to a budget or program decision requiring program discontinuance, curtailment, modification, or redirection. No person may be employed at the institution within 2 years to perform reasonably comparable duties to those of the person whose appointment was terminated without first offering such person a reappointment. The board, after consultation with the faculty and chancellor of each institution, shall adopt procedures to be followed in the event of termination of academic staff under this section and the board may adopt procedures, consistent with s. 36.22, to be followed in the event of termination of faculty under this section and s. 36.22.

**History:** 1973 c. 335; 2015 a. 55.

**36.22 Layoff or termination of faculty member due to certain budget or program changes. (1) DEFINITIONS.** In this section:

(a) "Layoff" means an indefinite suspension or involuntary reduction in services and compensation of a faculty member's employment by the system.

(b) "Program change" means program discontinuance, curtailment, modification, or redirection.

(c) "Termination" means the permanent elimination of a faculty member's employment by the system.

**(2) LAYOFF OR TERMINATION DUE TO CERTAIN CIRCUMSTANCES.**

(a) The board may, under this section and s. 36.21, with appropri-

dence, and transmit the record and summary along with its recommended findings of law and decision to the board.

**NOTE:** Sub. (6) was created as sub. (6) (a) by 2015 Wis. Act 55 and renumbered to sub. (6) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

**(7) REVIEW HEARING.** (a) A faculty member who has been notified of layoff is entitled to a hearing before the faculty hearing committee as to the appropriateness of the decision to lay off that particular individual. The budget or program decisions made to discontinue, curtail, modify, or redirect a program are not subject to review in the hearing.

(b) A hearing must be requested within 20 days of the receipt by the faculty member of notification of layoff. The request shall state with particularity the grounds to be relied upon in establishing the impropriety of the decision. Relevant information supplementary to that contained in the notification statement may be requested. The question to be considered in the review is whether one or more of the following improper factors entered into the decision to lay off:

1. Conduct, expressions, or beliefs on the faculty member's part that are constitutionally protected, or protected by the principles of academic freedom.

2. Factors proscribed by applicable state or federal law regarding fair employment practices.

3. Improper selection of the individual to be laid off.

(c) For purposes of par. (b), "improper selection" has occurred if material prejudice resulted from any of the following:

1. The procedures required by the board were not followed.

2. Available data bearing materially on the role of the faculty member in the institution were not considered.

3. Unfounded or arbitrary assumptions of fact were made.

4. Immaterial or improper factors other than those specified in par. (b) entered into the decision.

(d) The committee shall determine whether one or more of the improper factors under par. (b) entered significantly into and affected the layoff decision on the basis of the evidence presented. If the committee believes that one or more improper factors may have entered into the layoff decision but is convinced that the same decision would have been reached had the error or errors not occurred, the committee shall find the layoff decision to have been proper. The committee shall report its findings and recommendations to the chancellor and the faculty member.

**(8) HEARING PROCEDURE.** (a) If the faculty hearing committee requests, the chancellor shall provide legal counsel to the committee for a hearing under sub. (7). The hearing shall be closed unless the faculty member who has been notified of layoff requests an open hearing, in which case it shall be open.

(b) The faculty hearing committee may, on motion of either party, disqualify any one of its members for cause by a majority vote. If one or more of the faculty hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of the faculty equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures adopted by the faculty establishing the hearing committee under sub. (6). No faculty member who participated in the decision to lay off or who is a material witness may sit in on the faculty hearing committee.

(c) The faculty member shall be given at least 10 days' notice of the hearing. The hearing shall be held not later than 20 days after the request for hearing except that this time limit may be extended by mutual consent of the parties or by order of the faculty hearing committee.

(d) The faculty member shall have access to the evidence on which the administration intends to rely to support the decision to lay off, and shall be guaranteed all of the following minimal procedural safeguards at the hearing:

1. A right to be heard on his or her own behalf.

2. A right to counsel or other representatives or both, and to offer witnesses.

3. A right to confront and cross-examine adverse witnesses.

4. A verbatim record of the hearing, which might be a sound recording, provided at no cost.

5. Written findings of fact and decision based on the hearing record.

6. Admissibility of evidence as described in s. 227.45 (1) to (4).

(e) Adjournments shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.

**(9) RECOMMENDATIONS AND REVIEW BY THE BOARD.** The layoff decision of the chancellor and the recommendations, if any, of the faculty hearing committee, shall be transmitted to the president and to the board and acted upon as follows:

(a) If the faculty member has not requested a hearing before the faculty hearing committee, the chancellor's decision shall be deemed proper and shall be reported for information to the president and the board.

(b) If the faculty member has requested a hearing and the faculty hearing committee has found the decision to be proper, the report of the faculty hearing committee shall be forwarded to the president and board by the chancellor with a recommendation. The faculty member may request a review by the board, and the board review panel may at its option grant a review. Unless the board review panel grants the request for review, the recommended findings of fact and decision of the faculty hearing committee shall be the final decision of the board.

(c) If after a hearing, the faculty hearing committee's recommended findings of fact and decision are that the initial decision was improper, the chancellor shall review the matter and give careful consideration to the committee's finding. If the chancellor accepts the committee's findings, the chancellor's decision shall be final. If the chancellor contests the recommended findings that the decision was improper, the verbatim record, a summary of the evidence, and the recommended findings of law and decision shall be forwarded to the board review panel. The chancellor and the faculty member shall be furnished with copies of this material and shall have a reasonable opportunity to file written exceptions to the summary and proposed findings and decision and to argue with respect to them orally and in writing before the board review panel. The board review panel shall hear and decide the case and the decision of the board review panel shall be final.

**(10) BOARD REVIEW.** A review panel shall be appointed by the president of the board, and shall include 3 members of the board, and 2 nonvoting staff members from the academic affairs office of the system. The panel shall review the criteria and reasoning of the chancellor and the findings and recommendations of the faculty hearing committee in each case forwarded for its review, and shall reach a decision on the recommendation to be approved. The decision shall be final and binding upon the chancellor and the faculty member affected unless one or more of the board members of the review panel request that the decision be reviewed by the full board, in which case the record shall be reviewed and a decision reached by the full board.

**(11) LAYOFF STATUS.** (a) A faculty member whose position has been eliminated or reduced in accordance with the provisions of this section shall, at the end of the appropriate notice period, be placed on layoff status, unless the layoff notice has been rescinded prior to that time.

(b) The faculty member whose notice period has expired, and who is placed on layoff status, shall remain on layoff status until any of the following occurs:

1. The period of the faculty member's appointment has expired under its own terms.

2. The faculty member is reappointed to the position from which he or she was laid off. Failure to accept a reappointment terminates the faculty member's association with the system.

3. The faculty member accepts an alternative continuing position in the system. Failure to accept an alternate appointment does not terminate the faculty member's association with the system.

4. The faculty member resigns.

5. The faculty member, while on layoff status, fails to notify the chancellor by December 1 of each year as to his or her location, employment status, and desire to remain on layoff status. Failure to provide this notice of desire to remain on layoff status terminates the faculty member's association with the system.

**(12) ALTERNATIVE EMPLOYMENT.** Each institution shall devote its best efforts to securing alternative appointments within the institution in positions for which faculty laid off under this section are qualified under existing criteria. In addition, the system shall provide financial assistance for one year for faculty who are designated for layoff to readapt within the department or within another department of the institution, where readaptation is feasible. Further, the system shall devote its best efforts to ensure that faculty members laid off or terminated in any institution are made aware of openings within the system.

**(13) REAPPOINTMENT RIGHTS.** Each institution shall establish administrative procedures and policies to ensure that where layoffs or terminations occur due to a budget or program decision requiring a program change, no person may be employed at that institution within 3 years to perform reasonably comparable duties to those of the faculty member laid off or terminated without first offering the laid off or terminated faculty member reappointment without loss of seniority and other rights. The 3-year period shall be computed from the effective date of layoff as specified in the original notice.

**(14) RETENTION OF RANK AND SALARY.** Any faculty member reappointed within 3 years after layoff or termination shall be reappointed with a rank and salary at least equivalent to the rank and salary when laid off or terminated, together with such other rights and privileges that may have accrued at that time. Any faculty member relocated within an institution or within the system shall not have either rank or salary adversely affected except by consent at the time of relocation.

**(15) RIGHTS OF FACULTY MEMBERS ON LAYOFF.** A faculty member on layoff status in accord with the provisions of this section has the reemployment rights guaranteed by subs. (13) and (14), and has all of the following minimal rights:

(a) The right to participate in fringe benefit programs as is allowed by state statutes and rules governing rights of laid off state employees.

(b) The right to continued use of campus facilities as is allowed by policies and procedures established by the department and institution.

(c) The right to participate in departmental and institutional activities as is allowed by guidelines established by the department and institution.

**(16) SYSTEMWIDE TENURE.** The commitment to systemwide tenure within the institutions formerly governed under ch. 37, 1971 stats., shall be honored by those institutions for those eligible under s. 36.13 (4), 1973 Stats., in the event of layoff or termination under the provisions of this section.

**(17) LACK OF FACULTY ACTION.** If the faculty of an institution is given due notice but does not establish or designate a hearing committee under sub. (6), the chancellor may appoint a committee of faculty members to provide this function.

**NOTE:** The cross-references to sub. (6) was changed from sub. (6) (a) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of s. 36.22 (6) (a), as created by 2015 Wis. Act 55.

**History:** 2015 a. 55; s. 13.92 (1) (bm) 2.

## Chapter UWS 1

### DEFINITIONS OF TERMS USED IN CHS. UWS 1 TO 6

UWS 1.01	Academic staff.	UWS 1.05	Faculty status.
UWS 1.02	Board of regents or board.	UWS 1.06	Institution.
UWS 1.03	Department.	UWS 1.07	University.
UWS 1.04	Faculty.	UWS 1.08	Notice periods.

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**UWS 1.01 Academic staff.** “Academic staff” means professional and administrative personnel, other than faculty and classified staff, with duties and types of appointments that are primarily associated with higher education institutions or their administration.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.02 Board of regents or board.** “Board of regents” or “board” means the board of regents of the university of Wisconsin system.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.03 Department.** “Department” means a group of faculty members recognized by the faculty and chancellor of the institution, and the board of regents, as dealing with a common field of knowledge or as having a common or closely related disciplinary or interdisciplinary interest.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.04 Faculty.** “Faculty” means persons who hold the rank of professor, associate professor, assistant professor, or instructor in an academic department or its functional equivalent in an institution. The appointment of a member of the academic staff may be converted to a faculty appointment in accordance with s. UWS 3.01 (1) (c).

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.05 Faculty status.** By action of the appropriate faculty body and chancellor of an institution, members of the academic staff may be designated as having “faculty status.” “Faculty status” means a right to participate in faculty governance of an institution in accordance with the rules of the institution. Faculty status does not confer rank or tenure, or convert an academic staff appointment into a faculty appointment.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.06 Institution.** “Institution” means any university, or an organizational equivalent designated by the board.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.07 University.** “University” means any baccalaureate or graduate degree granting institution.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 1.08 Notice periods. (1)** When an act is required by these rules to be done within a specified number of days:

- (a) Day shall mean calendar day,
- (b) The first day shall be the day after the event, such as receipt of a notice or conclusion of a hearing,
- (c) Each day after the first day shall be counted, except that a Sunday or legal holiday shall not be counted if it would be the final day of the period.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

## Chapter UWS 2

### FACULTY RULES; COVERAGE AND DELEGATION

UWS 2.01 Rules.

UWS 2.02 Delegation.

**UWS 2.01 Rules.** Rules in chs. [UWS 2](#) and [3](#) apply to all faculty appointments made on or after the effective date of these rules. Any person who holds a tenure appointment under former chs. [36](#) and [37](#), 1971 Stats. and related rules shall continue to hold tenure as defined under those chapters and related rules. Any person who holds a probationary appointment under former chs. [36](#) and [37](#), 1971 Stats. and related rules shall continue to enjoy the contractual rights and guarantees as defined under those chapters and related rules, and may elect to be considered for tenure according to the procedures existing under that appointment or under rules and procedures in effect at the time of consideration. The rules in chs. [UWS 4](#) to [8](#) apply to all appointments to faculty positions regardless of whether the appointment preceded the

adoption of these rules.

**History:** Cr. [Register, January, 1975, No. 229](#), eff. 2-1-75; am. [Register, January, 1986, No. 361](#), eff. 2-1-86.

**UWS 2.02 Delegation.** Rules and procedures developed pursuant to chs. [UWS 3](#), [4](#), [5](#), [6](#), [7](#), and [8](#) by the faculty of each institution shall be forwarded by the chancellor to the president and by the president to the board for its approval prior to their taking effect. Such policies and procedures, unless disapproved or altered by the regents, shall be in force and effect as rules of the regents.

**History:** [Register, January, 1975, No. 229](#), eff. 2-1-75; am. [Register, January, 1986, No. 361](#), eff. 2-1-86; **CR 06-078: am. Register May 2007 No. 617, eff. 6-1-07.**

## Chapter UWS 3

### FACULTY APPOINTMENTS

UWS 3.01	Types of appointments.	UWS 3.07	Nonrenewal of probationary appointments.
UWS 3.02	Recruiting.	UWS 3.08	Appeal of a nonrenewal decision.
UWS 3.03	Appointments—general.	UWS 3.09	Notice periods.
UWS 3.04	Probationary appointments.	UWS 3.10	Absence of proper notification.
UWS 3.05	Periodic review.	UWS 3.11	Limitation.
UWS 3.06	Renewal of appointments and granting of tenure.		

**UWS 3.01 Types of appointments.** (1) Appointments to the faculty are either tenure or probationary appointments. Faculty appointments carry the following titles: professor, associate professor, assistant professor, and instructor.

(a) “Tenure appointment” means an appointment for an unlimited period granted to a ranked faculty member by the board upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution via the president of the system.

(b) “Probationary appointment” means an appointment by the board upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution and held by a faculty member during the period which may precede a decision on a tenure appointment.

(c) In accordance with s. 36.05 (8), Stats., academic staff appointments may be converted to faculty appointments by the action of the board upon the recommendation of the appropriate faculty body and the chancellor of an institution. Such faculty appointees shall enjoy all the rights and privileges of faculty.

(d) In accordance with s. UWS 1.05 members of the academic staff may be given faculty status. Members of the academic staff who have been given faculty status have employment rights under the rules and policies concerning academic staff.

(e) A person holding a faculty appointment under ss. 36.13 and 36.15, Stats., shall not lose that appointment by accepting a limited appointment for a designated administrative position.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 3.02 Recruiting.** The faculty of each institution, after consultation with appropriate students and with the approval of the chancellor, shall develop procedures relating to recruitment of members of the faculty. The procedure shall be consistent with board policy and state and federal laws with respect to nondiscriminatory and affirmative action recruitment. The procedures shall allow maximum flexibility at the departmental, school and college levels to meet particular needs. In all instances the procedures shall provide for departmental peer review and judgment as the operative step in the recruiting process.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 3.03 Appointments—general.** The faculty of each institution, after consultation with appropriate students and with the approval of the chancellor, shall develop rules relating to faculty appointments. Each person to whom an appointment is offered must receive an appointment letter in which an authorized official of the institution details the terms and conditions of the appointment, including but not limited to, duration of the appointment, salary, starting date, ending date, general position responsibilities, probation, tenure status, and crediting of prior service. Accompanying this letter shall be an attachment detailing institutional and system rules and procedures relating to faculty appointments. If the appointment is subject to the advance approval of the board, a statement to this effect must be included in the letter.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 3.04 Probationary appointments.** (1) Each institution’s rules for faculty appointments shall provide for a maximum 7-year probationary period in a full-time position, and may provide for a longer maximum probationary period in a part-time position of at least half time. Such rules may permit appointments with shortened probationary periods or appointments to tenure without a probationary period. Provision shall be made for the appropriate counting of prior service at other institutions and at the institution. Tenure is not acquired solely because of years of service.

(2) A leave of absence, sabbatical or a teacher improvement assignment does not constitute a break in continuous service and shall not be included in the 7-year period under sub. (1).

(3) Circumstances in addition to those identified under sub. (2) that do not constitute a break in continuous service and that shall not be included in the 7-year period include responsibilities with respect to childbirth or adoption, significant responsibilities with respect to elder or dependent care obligations, disability or chronic illness, or circumstances beyond the control of the faculty member, when those circumstances significantly impede the faculty member’s progress toward achieving tenure. It shall be presumed that a request made under this section because of responsibilities with respect to childbirth or adoption shall be approved. A request shall be made before a tenure review commences under s. UWS 3.06 (1) (c). A request for additional time because of responsibilities with respect to childbirth or adoption shall be initiated in writing by the probationary faculty member concerned and shall be submitted to a designated administrative officer who shall be authorized to grant a request and who shall specify the length of time for which the request is granted. Except for a request because of responsibilities with respect to childbirth or adoption, a request made because of other circumstances under this section shall be submitted to a designated administrative officer who shall be authorized to grant a request in accordance with institutional policies. A denial of a request shall be in writing and shall be based upon clear and convincing reasons. More than one request may be granted because of responsibilities with respect to childbirth or adoption. More than one request may be granted to a probationary faculty member but the total, aggregate length of time of all requests, except for a request because of responsibilities with respect to childbirth or adoption, granted to one probationary faculty member ordinarily shall be no more than one year. Each institution shall develop procedures for reviewing the requests.

(4) If any faculty member has been in probationary status for more than 7 years because of one or more of the reasons set forth in sub. (2) or (3), the faculty member shall be evaluated as if he or she had been on probationary status for 7 years.

Example: A faculty member has been on probationary status for a total of 9 years because the faculty member was granted 2 requests under sub. (3) for one-year extensions because of the birth of 2 children. The faculty member’s teaching, research and professional and public service and contribution to the institution shall be evaluated as if the faculty member had only 7 years to work towards



achieving tenure, rather than as if the faculty member had been working towards achieving tenure for 9 years.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; renum. to be (1) and am., cr. (2) to (4), Register, February, 1994, No. 458, eff. 3-1-94.

**UWS 3.05 Periodic review.** The faculty and chancellor of each institution, after consultation with appropriate students, shall establish rules providing for periodic review of faculty performance.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 3.06 Renewal of appointments and granting of tenure. (1)** (a) *General.* Appointments may be granted only upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution. When specified by the board, the institutional recommendation shall be transmitted by the president of the system with a recommendation to the board for action. Tenure appointments may be granted to any ranked faculty member who holds or will hold a half-time appointment or more. The proportion of time provided for in the appointment may not be diminished or increased without the mutual consent of the faculty member and the institution, unless the faculty member is dismissed for just cause, pursuant to s. 36.13 (5), Stats., or is terminated or laid off pursuant to s. 36.21, Stats.

(b) *Criteria.* Decisions relating to renewal of appointments or recommending of tenure shall be made in accordance with institutional rules and procedures which shall require an evaluation of teaching, research, and professional and public service and contribution to the institution. The relative importance of these functions in the evaluation process shall be decided by departmental, school, college, and institutional faculties in accordance with the mission and needs of the particular institution and its component parts. Written criteria for these decisions shall be developed by the appropriate institutional faculty bodies. Written criteria shall provide that if any faculty member has been in probationary status for more than 7 years because of one or more of the reasons set forth in s. UWS 3.04 (2) or (3), the faculty member shall be evaluated as if he or she had been in probationary status for 7 years.

(c) *Procedures.* The faculty and chancellor of each institution, after consultation with appropriate students, shall establish rules governing the procedures for renewal or probationary appointments and for recommending tenure. These rules shall provide for written notice of the departmental review to the faculty member at least 20 days prior to the date of the departmental review, and an opportunity to present information on the faculty member's behalf. The probationary faculty member shall be notified in writing within 20 days after each decision at each reviewing level. In the event that a decision is made resulting in nonrenewal, the procedures specified in s. UWS 3.07 shall be followed.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; am. (1) (b), Register, February, 1994, No. 458, eff. 3-1-94; correction in (1) (a) made under s. 13.93 (2m) (b) 5., Stats., Register, February, 1994, No. 458.

**UWS 3.07 Nonrenewal of probationary appointments. (1)** (a) *Rules and procedures.* The faculty and chancellor of each institution, after consultation with appropriate students, shall establish rules and procedures for dealing with instances in which probationary faculty appointments are not renewed. These rules and procedures shall provide that, upon the timely written request of the faculty member concerned, the department or administrative officer making the decision shall, within a reasonable time, give him or her written reasons for nonrenewal. Such reasons shall become a part of the personnel file of the individual. Further, the rules and procedures shall provide for reconsideration of the initial nonrenewal decision upon timely written request.

(b) *Reconsideration.* The purpose of reconsideration of a nonrenewal decision shall be to provide an opportunity to a fair and full reconsideration of the nonrenewal decision, and to insure that all relevant material is considered.

1. Such reconsideration shall be undertaken by the individual or body making the nonrenewal decision and shall include, but not be limited to, adequate notice of the time of reconsideration of the decision, an opportunity to respond to the written reasons and to present any written or oral evidence or arguments relevant to the decision, and written notification of the decision resulting from the reconsideration.

2. Reconsideration is not a hearing or an appeal, and shall be nonadversary in nature.

3. In the event that a reconsideration affirms the nonrenewal decision, the procedures specified in s. UWS 3.08 shall be followed.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 3.08 Appeal of a nonrenewal decision. (1)** The faculty and chancellor of each institution, after consultation with appropriate students, shall establish rules and procedures for the appeal of a nonrenewal decision. Such rules and procedures shall provide for the review of a nonrenewal decision by an appropriate standing faculty committee upon written appeal by the faculty member concerned within 20 days of notice that the reconsideration has affirmed the nonrenewal decision (25 days if notice is by first class mail and publication). Such review shall be held not later than 20 days after the request, except that this time limit may be enlarged by mutual consent of the parties, or by order of the review committee. The faculty member shall be given at least 10 days notice of such review. The burden of proof in such an appeal shall be on the faculty member, and the scope of the review shall be limited to the question of whether the decision was based in any significant degree upon one or more of the following factors, with material prejudice to the individual:

(a) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, or

(b) Factors proscribed by applicable state or federal law regarding fair employment practices, or

(c) Improper consideration of qualifications for reappointment or renewal. For purposes of this section, "improper consideration" shall be deemed to have been given to the qualifications of a faculty member in question if material prejudice resulted because of any of the following:

1. The procedures required by rules of the faculty or board were not followed, or

2. Available data bearing materially on the quality of performance were not considered, or

3. Unfounded, arbitrary or irrelevant assumptions of fact were made about work or conduct.

(2) The appeals committee shall report on the validity of the appeal to the body or official making the nonrenewal decision and to the appropriate dean and the chancellor.

(3) Such a report may include remedies which may, without limitation because of enumeration, take the form of a reconsideration by the decision maker, a reconsideration by the decision maker under instructions from the committee, or a recommendation to the next higher appointing level. Cases shall be remanded for reconsideration by the decision maker in all instances unless the appeals committee specifically finds that such a remand would serve no useful purpose. The appeals committee shall retain jurisdiction during the pendency of any reconsideration. The decision of the chancellor will be final on such matters.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 3.09 Notice periods. (1)** A faculty member who is employed on probationary appointment pursuant to s. 36.13, Stats., shall be given written notice of reappointment or nonreappointment for another academic year in advance of the expiration of the current appointment as follows:

(a) When the appointment expires at the end of an academic year, not later than March 1 of the first academic year and not later

than December 15 of the second consecutive academic year of service;

(b) If the initial appointment expires during an academic year, at least 3 months prior to its expiration; if a second consecutive appointment terminates during the academic year, at least 6 months prior to its expiration;

(c) After 2 or more years of continuous service at an institution of the university of Wisconsin system, such notice shall be given at least 12 months before the expiration of the appointment.

**History:** Cr. [Register, January, 1975, No. 229](#), eff. 2-1-75.

**UWS 3.10 Absence of proper notification.** If proper notice is not given in accordance with s. [UWS 3.09](#), the aggrieved

faculty member shall be entitled to a one-year terminal appointment. Such appointments, however, shall not result in the achievement of tenure.

**History:** Cr. [Register, January, 1975, No. 229](#), eff. 2-1-75.

**UWS 3.11 Limitation.** Tenure and probationary appointments are in a particular institution; a tenure appointment is limited to the institution in which the appointment is held, unless another institution has, through normal procedures and explicit agreement, undertaken to share in the appointment. The explicit agreement shall specify both the tenure responsibility and the budget responsibility.

**History:** Cr. [Register, January, 1975, No. 229](#), eff. 2-1-75.

## Chapter UWS 4

### PROCEDURES FOR DISMISSAL

UWS 4.01	Dismissal for cause.
UWS 4.02	Responsibility for charges.
UWS 4.03	Standing faculty committee.
UWS 4.04	Hearing.
UWS 4.05	Adequate due process.

UWS 4.06	Procedural guarantees.
UWS 4.07	Recommendations: to the chancellor: to the regents.
UWS 4.08	Board review.
UWS 4.09	Suspension from duties.
UWS 4.10	Date of dismissal.

**UWS 4.01 Dismissal for cause. (1)** Any faculty member having tenure may be dismissed only by the board and only for just cause and only after due notice and hearing. Any faculty member having a probationary appointment may be dismissed prior to the end of his/her term of appointment only by the board and only for just cause and only after due notice and hearing. A decision not to renew a probationary appointment or not to grant tenure does not constitute a dismissal.

**(2)** A faculty member is entitled to enjoy and exercise all the rights and privileges of a United States citizen, and the rights and privileges of academic freedom as they are generally understood in the academic community. This policy shall be observed in determining whether or not just cause for dismissal exists. The burden of proof of the existence of just cause for a dismissal is on the administration.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 4.02 Responsibility for charges. (1)** Whenever the chancellor of an institution within the university of Wisconsin system receives a complaint against a faculty member which he/she deems substantial and which, if true, might lead to dismissal under s. UWS 4.01, the chancellor shall within a reasonable time initiate an investigation and shall, prior to reaching a decision on filing charges, offer to discuss the matter informally with the faculty member. A faculty member may be dismissed only after receipt of a written statement of specific charges from the chancellor as the chief administrative officer of the institution and, if a hearing is requested by the faculty member, in accordance with the provisions of this chapter. If the faculty member does not request a hearing, action shall proceed along normal administrative lines but the provisions of ss. UWS 4.02, 4.09, and 4.10 shall still apply.

**(2)** Any formal statement of specific charges for dismissal sent to a faculty member shall be accompanied by a statement of the appeal procedures available to the faculty member.

**(3)** The statement of charges shall be served personally or by certified mail, return receipt requested. If such service cannot be made within 20 days, service shall be accomplished by first class mail and by publication as if the statement of charges were a summons and the provisions of s. 801.11 (1) (c), Stats., were applicable. Such service by mailing and publication shall be effective as of the first insertion of the notice of statement of charges in the newspaper.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474.

**UWS 4.03 Standing faculty committee.** The faculty of each institution shall provide a standing committee charged with hearing dismissal cases and making recommendations under this chapter. This standing faculty committee shall operate as the hearing agent for the board pursuant to s. 227.46 (4), Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence and transmit such record and summary along with its recommended findings of law and decision to the board according to s. UWS 4.07.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474; correction made under s. 13.93 (2m) (b) 7., Stats., Register May 2007 No. 617.

**UWS 4.04 Hearing.** If the faculty member requests a hearing within 20 days of notice of the statement of charges (25 days if notice is by first class mail and publication), such a hearing shall be held not later than 20 days after the request except that this time limit may be enlarged by mutual written consent of the parties, or by order of the hearing committee. The request for a hearing shall be addressed in writing to the chairperson of the standing faculty committee created under s. UWS 4.03.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 4.05 Adequate due process. (1)** A fair hearing for a faculty member whose dismissal is sought under s. UWS 4.01 shall include the following:

- (a) Service of written notice of hearing on the specific charges at least 10 days prior to the hearing;
- (b) A right to the names of witnesses and of access to documentary evidence upon the basis of which dismissal is sought;
- (c) A right to be heard in his/her defense;
- (d) A right to counsel and/or other representatives, and to offer witnesses;
- (e) A right to confront and cross-examine adverse witnesses;
- (f) A verbatim record of all hearings, which might be a sound recording, provided at no cost;
- (g) Written findings of fact and decision based on the hearing record;
- (h) Admissibility of evidence governed by s. 227.45 (1) to (4), Stats.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction in (1) (h) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474; correction in (1) (h) made under s. 13.93 (2m) (b) 7., Stats., Register May 2007 No. 617.

**UWS 4.06 Procedural guarantees. (1)** Any hearing held shall comply with the requirements set forth in s. UWS 4.05. The following requirements shall also be observed:

- (a) The burden of proof of the existence of just cause is on the administration or its representatives;
- (b) No faculty member who participated in the investigation of allegations leading to the filing of a statement of charges, or in the filing of a statement of charges, or who is a material witness shall be qualified to sit on the committee in that case;
- (c) The hearing shall be closed unless the faculty member under charges requests an open hearing, in which case it shall be open (see subch. V of ch. 19, Stats., Open Meeting Law);
- (d) The faculty hearing committee may, on motion of either party, disqualify any one of its members for cause by a majority vote. If one or more of the faculty hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of the faculty equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures adopted by the faculty establishing the standing committee under s. UWS 4.03;
- (e) The faculty hearing committee shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial,

irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges;

(f) If the faculty hearing committee requests, the chancellor shall provide legal counsel after consulting with the committee concerning its wishes in this regard. The function of legal counsel shall be to advise the committee, consult with them on legal matters, and such other responsibilities as shall be determined by the committee within the provisions of the rules and procedures adopted by the faculty of the institution in establishing the standing faculty committee under s. [UWS 4.03](#);

(g) If a proceeding on charges against a faculty member not holding tenure is not concluded before the faculty member's appointment would expire, he/she may elect that such proceeding be carried to a final decision. Unless he/she so elects in writing, the proceeding shall be discontinued at the expiration of the appointment;

(h) If a faculty member whose dismissal is sought has requested a hearing, discontinuance of the proceeding by the institution is deemed a withdrawal of charges and a finding that the charges were without merit;

(i) Nothing in par. (h) shall prevent the settlement of cases by mutual agreement between the administration and the faculty member, with board approval, at any time prior to a final decision by the board;

(j) Adjournment shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction in (1) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2001, No. 544.

**UWS 4.07 Recommendations: to the chancellor: to the regents. (1)** The faculty hearing committee shall send to the chancellor and to the faculty member concerned, as soon as practicable after conclusion of the hearing, a verbatim record of the testimony and a copy of its report, findings, and recommendations. The committee may determine that while adequate cause for discipline exists, some sanction less severe than dismissal is more appropriate. Within 20 days after receipt of this material the chancellor shall review it and afford the faculty member an opportunity to discuss it. The chancellor shall prepare a written recommendation within 20 days following the meeting with the faculty member, unless his/her proposed recommendation differs substantially from that of the committee. If the chancellor's proposed recommendations differ substantially from those of the faculty hearing committee, the chancellor shall promptly consult the faculty hearing committee and provide the committee with a reasonable opportunity for a written response prior to forwarding his/her recommendation. If the recommendation is for dismissal, the recommendation shall be submitted through the president of the system to the board. A copy of the faculty hearing committee's re-

port and recommendations shall be forwarded through the president of the system to the board along with the chancellor's recommendation. A copy of the chancellor's recommendation shall also be sent to the faculty member concerned and to the faculty committee.

(2) Disciplinary action other than dismissal may be taken by the chancellor, after affording the faculty member an opportunity to be heard on the record, except that, upon written request by the faculty member, such action shall be submitted as a recommendation through the president to the board together with a copy of the faculty hearing committee's report and recommendation.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 4.08 Board review. (1)** If the chancellor recommends dismissal, the board shall review the record before the faculty hearing committee and provide an opportunity for filing exceptions to the recommendations of the hearing committee or chancellor, and for oral arguments, unless the board decides to drop the charges against the faculty member without a hearing or the faculty member elects to waive a hearing. This hearing shall be closed unless the faculty member requests an open hearing (see subch. V of ch. 19, Stats., Open Meeting Law).

(2) If, after the hearing, the board decides to take action different from the recommendation of the faculty hearing committee and/or the chancellor, then before taking final action the board shall consult with the faculty hearing committee and/or the chancellor, as appropriate.

(3) If a faculty member whose dismissal is sought does not request a hearing pursuant to s. [UWS 4.04](#) the board shall take appropriate action upon receipt of the statement of charges and the recommendation of the chancellor.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2001, No. 544.

**UWS 4.09 Suspension from duties.** Pending the final decision as to his/her dismissal, the faculty member shall not normally be relieved of duties; but if, after consultation with appropriate faculty committees the chancellor finds that substantial harm to the institution may result if the faculty member is continued in his/her position, the faculty member may be relieved immediately of his/her duties, but his/her pay shall continue until the board makes its decision as to dismissal, unless the chancellor also makes the determinations set forth in s. [UWS 7.06 \(1\)](#) in which case the suspension from duties may be without pay and the procedures set forth in s. [UWS 7.06](#) shall apply.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; [CR 06-078: am. Register May 2007 No. 617](#), eff. 7-1-07.

**UWS 4.10 Date of dismissal.** A decision by the board ordering dismissal shall specify the effective date of the dismissal.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

## Chapter UWS 5

### LAYOFF AND TERMINATION FOR REASONS OF FINANCIAL EMERGENCY

UWS 5.01	General.	UWS 5.12	Review hearing.
UWS 5.02	Financial emergency.	UWS 5.13	Hearing procedure.
UWS 5.03	Layoff and termination.	UWS 5.14	Recommendations and review by the board.
UWS 5.04	Faculty consultative committee.	UWS 5.15	Board review.
UWS 5.05	Consultation.	UWS 5.16	Layoff status.
UWS 5.06	Recommendation to the system president and the board.	UWS 5.17	Alternative employment.
UWS 5.07	Individual designations.	UWS 5.18	Reappointment rights.
UWS 5.08	Seniority.	UWS 5.19	Retention of rank and salary.
UWS 5.09	Notification.	UWS 5.20	Rights of faculty members on layoff.
UWS 5.10	Notification period.	UWS 5.21	Systemwide tenure.
UWS 5.11	Faculty hearing committee.	UWS 5.22	Lack of faculty action.

**UWS 5.01 General.** Notwithstanding s. 36.13, Stats., the board may lay off or terminate a tenured faculty member, or lay off or terminate a probationary faculty member prior to the end of his or her appointment, in the event of a financial emergency. Such layoffs or terminations may be made only in accord with the provisions of this chapter, and imply the retention of rights indicated herein. A nonrenewal, regardless of reasons, is not a layoff or termination under this section.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.02 Financial emergency. (1)** For the purposes of this chapter, “financial emergency” is a state which may be declared by the board to exist for an institution if and only if the board finds that the following conditions exist:

(a) The total general program operations (GPR/fee) budget of the institution, excluding adjustments for salary/wage increases and for inflationary impact on nonsalary budgets, has been reduced;

(b) Institutional operation within this reduced budget requires a reduction in the number of faculty positions such that tenured faculty must be laid off, or probationary faculty must be laid off prior to the end of their respective appointments. Such a reduction in faculty positions shall be deemed required only if in the board’s judgment it will have an effect substantially less detrimental to the institution’s ability to fulfill its mission than would other forms of budgetary curtailment available to the institution; and

(c) The procedures described in ss. UWS 5.05 and 5.06 have been followed.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.03 Layoff and termination.** For the purposes of this chapter “layoff” is the indefinite suspension or an involuntary reduction in services and compensation of a faculty member’s employment by the university of Wisconsin system. A laid off faculty member retains the rights specified in ss. UWS 5.16 through 5.21, inclusive. For the purposes of this chapter, “termination” is the permanent elimination of a faculty member’s employment by the university of Wisconsin system. A terminated faculty member retains rights specified in ss. UWS 5.18 and 5.19.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.04 Faculty consultative committee.** The faculty of each institution shall, promptly after February 1, 1975, designate or create a standing faculty committee to consult with the chancellor if at any time a declaration of financial emergency is to be considered. The committee shall consist of faculty members of the institution chosen by the faculty in a manner to be determined by the faculty. It is the right and responsibility of this committee to represent the faculty before the board if a declaration of a state of financial emergency for the institution is being consid-

ered, and to assure that the procedures of ss. UWS 5.05 and 5.06 are followed.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.05 Consultation. (1)** In the event that a declaration of financial emergency is contemplated, the chancellor of the affected institution shall consult with and seek advice from the faculty committee provided for in s. UWS 5.04 at least 3 months before the matter is taken to the board. The chancellor and committee shall:

(a) Consider identifiable alternative methods of budget reduction;

(b) Determine whether reductions in faculty positions under the provisions of this chapter can be made with less detriment to the institution’s ability to fulfill its mission than would follow from reasonable alternative courses of action;

(c) Determine from which colleges, schools, departments, or programs faculty positions should be eliminated;

(d) Consult with faculties of colleges, schools, departments and programs potentially involved; and

(e) Consult with such other individuals and groups as they feel may be able to provide valuable advice.

**(1m)** The committee shall prepare a report, with supporting documents, for submission to the chancellor, the faculty senate, or institutional equivalent, and the board.

**(2)** It shall be the primary responsibility of the faculty of the institution to establish criteria to be used by the chancellor and committee for academic program evaluations and priorities. A decision to curtail or discontinue an academic program for reasons of financial emergency shall be made in accordance with the best interests of students and the overall ability of the institution to fulfill its mission.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.06 Recommendation to the system president and the board. (1)** If the chancellor decides to recommend that the board declare a state of financial emergency for the chancellor’s institution, the recommendation to the system president and the board shall be accompanied by a report which shall include the following:

(a) A statement of the procedures followed in arriving at the recommendation, showing compliance with s. UWS 5.05;

(b) Data clearly demonstrating the need for a reduction of faculty positions in accord with the provisions of this chapter;

(c) An identification of the colleges, schools, departments or program areas in which reductions will be made, with data indicating the appropriateness of such choices;

(d) The report of the faculty committee, expressing its views on these matters; and

(e) A report of any action of the faculty senate or institutional equivalent on this matter.

(2) The chancellor and the chairperson of the faculty committee, or their designees, and representatives of affected colleges, schools, departments and programs, may appear before the board at the time the recommendation is considered. Other interested parties may submit in writing alternative recommendations or challenges to any part of the report.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction in (2) made under s. 13.93 (2m) (b) 5., Stats., Register, June, 1995, No. 474.

**UWS 5.07 Individual designations.** Once the board has declared a state of financial emergency it shall be the primary responsibility of the tenured members of the affected department(s) to recommend which individuals are to be laid off. These recommendations shall follow seniority, as provided in s. UWS 5.08, unless a clear and convincing case is made that program needs dictate other considerations, e.g., the need to maintain diversity of specializations within a department. The department may seek the advice of other groups or individuals in formulating its recommendations. The departmental recommendation shall be forwarded to the chancellor, and the chancellor shall prepare recommendations for the system president and the board, as provided in s. UWS 5.14.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.08 Seniority.** The faculty of each institution shall promptly after February 1, 1975, determine the form of seniority that is to be considered. Such a determination shall be effective uniformly throughout the institution. Seniority may be, but is not limited to, the following definitions:

(1) Without regard to rank, with seniority established by total years of service in the institution;

(2) By rank, and within rank according to total years of service in the institution; or

(3) By rank, and within rank, according to length of service in the institution at that rank.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.09 Notification.** Each faculty member whose position is recommended for elimination shall receive prompt written notification from the chancellor. This statement of notification shall include:

(1) A summary of the reasons and evidence supporting the declaration of a state of financial emergency and of the reasons and data leading to the choice of the colleges, schools, departments or programs in which reductions are to be made;

(2) A statement of the basis on which the individual position was selected for elimination (if on the basis of seniority, the criterion used and data supporting the choice; if on another basis, the data and reasons supporting that choice);

(3) A statement of the date on which the layoff is to be effective (this must be consistent with the provisions of s. UWS 5.10); and

(4) A copy of these rules and such other information or procedural regulations as the chancellor or faculty hearing committee shall deem appropriate.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.10 Notification period.** (1) For an academic year appointment the effective date of layoff must coincide with the end of an academic year. For an annual appointment it shall be June 30. In either case notification must be given at least 12 months in advance of the effective date. The notification referred to here is that specified in s. UWS 5.09 informing the faculty member that his or her position has been recommended for elimination.

(2) During this period, and prior to entering layoff status (see s. UWS 5.16), the chancellor may offer as appropriate, and the faculty member may accept:

(a) Terminal leave and early retirement

(b) Relocation leave accompanied by resignation

(3) Acceptance of either of these options will terminate the faculty members association with the university of Wisconsin system at the end of the leave period.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.11 Faculty hearing committee.** The faculty of each institution shall, promptly after February 1, 1975, establish a committee or designate an existing committee to serve as a hearing committee for the purposes of this chapter. The committee shall consist of faculty members of the institution chosen by the faculty in a manner to be determined by the faculty. This standing faculty committee shall operate as the hearing agent for the board pursuant to s. 227.46 (4), Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence and transmit such record and summary along with its recommended findings of law and decision to the board according to s. UWS 5.14

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474; correction made under s. 13.93 (2m) (b) 7., Stats., Register May 2007 No. 617.

**UWS 5.12 Review hearing.** (1) A faculty member whose position is recommended for elimination is entitled to a hearing before the faculty hearing committee as to the appropriateness of the decision to lay off that particular individual. The existence of a state of financial emergency and the designation of the colleges, schools, departments or programs in which faculty positions are to be eliminated are not subject to review in the hearing.

(2) A hearing must be requested within 20 days of the receipt by the faculty member of notification of recommended layoff. The request shall state with particularity the grounds to be relied upon in establishing the impropriety of the decision. Relevant information supplementary to that contained in the notification statement may be requested. The question to be considered in the review is whether one or more of the following improper factors entered into the decision to lay off:

(a) Conduct, expressions, or beliefs on the faculty member's part which are constitutionally protected, or protected by the principles of academic freedom; or

(b) Factors proscribed by applicable state or federal law regarding fair employment practices; or

(c) Improper selection of the individual to be laid off. For the purposes of this section, "improper selection" occurs if material prejudice resulted from any of the following:

1. The procedures required by rules of the faculty or board were not followed; or

2. Available data bearing materially on the role of the faculty member in the institution were not considered; or

3. Unfounded or arbitrary assumptions of fact were made; or

4. Immaterial or improper factors other than those specified above entered into the decision.

(3) The faculty member shall present evidence on whether one or more of the improper factors specified above entered into the decision to lay off. The committee shall then consider whether the evidence presented establishes a prima facie case that such factor or factors did enter significantly into the layoff decision. If the committee finds that a prima facie case has not been established, the layoff decision shall be found to have been proper and the hearing shall be ended. The committee shall report this finding to the chancellor and faculty member.

(4) If the committee finds that a prima facie case has been established, the chancellor or designee shall be entitled to present evidence to support the layoff decision, and, thereafter, the faculty

member may present evidence in rebuttal. On the basis of all the evidence presented, the committee shall make its determination as follows:

(a) The committee shall first consider whether one or more of the above specified improper factors entered significantly into the decision to lay off. Unless the committee is convinced that such factors did significantly enter into that decision, the committee shall find the decision to have been proper.

(b) If the committee believes that improper factors may have entered into the decision, but is convinced that the same decision would have been reached had the error(s) not occurred, it shall find the decision to have been proper.

(c) If the committee is convinced that improper factors entered significantly into and affected the decision, it shall be found to be improper.

(5) The committee shall report its findings and recommendations to the chancellor and the faculty member.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.13 Hearing procedure.** (1) If the faculty hearing committee requests, the chancellor shall provide legal counsel to the committee. The hearing shall be closed unless the faculty member whose position has been recommended for elimination requests an open hearing, in which case it shall be open (see subch. V of ch. 19, Stats., Open Meeting Law).

(2) The faculty hearing committee may, on motion of either party, disqualify any one of its members for cause by a majority vote. If one or more of the faculty hearing committee members disqualify themselves or are disqualified, the remaining members may select a number of other members of the faculty equal to the number who have been disqualified to serve, except that alternative methods of replacement may be specified in the rules and procedures adopted by the faculty establishing the standing committee under s. UWS 5.11. No faculty member who participated in the decision to lay off or who is a material witness may sit in on the hearing committee.

(3) The faculty member shall be given at least 10 days notice of the hearing; such hearing shall be held not later than 20 days after the request except that this time limit may be extended by mutual consent of the parties or by order of the hearing committee.

(4) The faculty member shall have access to the evidence on which the administration intends to rely to support the decision to lay off, and shall be guaranteed the following minimal procedural safeguards at the hearing:

- (a) A right to be heard in his or her own behalf;
- (b) A right to counsel and/or other representatives, and to offer witnesses;
- (c) A right to confront and cross-examine adverse witnesses;
- (d) A verbatim record of the hearing, which might be a sound recording, provided at no cost;
- (e) Written findings of fact and decision based on the hearing record; and
- (f) Admissibility of evidence governed by s. 227.45 (1) to (4), Stats.

(5) Adjournments shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75, correction in (4) (f) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2001, No. 544; correction in (4) (f) made under s. 13.93 (2m) (b) 7., Stats., Register May 2007 No. 617.

**UWS 5.14 Recommendations and review by the board.** The recommendations of the chancellor and the recommendations, if any, of the faculty hearing committee, shall be transmitted to the president of the university of Wisconsin system and to the board and acted upon as follows:

(1) If the faculty member has not requested a hearing before the faculty hearing committee, the recommendation shall be deemed proper and shall be reported for information to the system president and the board.

(2) If the faculty member has requested a hearing and the faculty hearing committee has found the decision to be proper, the report of the faculty hearing committee shall be forwarded to the system president and board by the chancellor with a recommendation. The faculty member may request a review by the board, and the board review panel may at its option grant a review. Unless the board review panel grants the request for review, the recommended findings of fact and decision of the standing faculty committee shall be the final decision of the board of regents.

(3) If after a hearing, the faculty hearing committee's recommended findings of fact and decision are that the initial decision was improper, the chancellor shall review the matter and give careful consideration to the committee's finding. If the chancellor accepts the committee's findings the chancellor's decision shall be final. If the chancellor contests the recommended findings that the decision was improper, the verbatim record, a summary of the evidence and the recommended findings of law and decision shall be forwarded to the board review panel (see s. UWS 5.15). The chancellor and the faculty member shall be furnished with copies of this material and shall have a reasonable opportunity to file written exceptions to such summary and proposed findings and decision and to argue with respect to them orally and in writing before the board review panel. The board review panel shall hear and decide the case in accordance with s. 227.46 (4), Stats. The decision of the board review panel shall be final.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75, correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1995, No. 474; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register May 2007 No. 617.

**UWS 5.15 Board review.** A review panel shall be appointed by the president of the board of regents, and shall include 3 members of the board, and 2 nonvoting staff members from the academic affairs office of the university system. The panel shall review the criteria and reasoning of the chancellor and the findings and recommendations of the faculty hearing committee in each case forwarded for its review, and shall reach a decision on the recommendation to be approved. The decision shall be final and binding upon the chancellor and the faculty member affected unless one or more of the regent members of the review panel request that the decision be reviewed by the full board of regents, in which case the record shall be reviewed and a decision reached by the full board.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.16 Layoff status.** (1) A faculty member whose position has been eliminated or reduced in accordance with the provisions of this chapter shall, at the end of the appropriate notice period, be placed on layoff status, unless the layoff notice has been rescinded prior to that time.

(2) The faculty member whose notice period has expired, and who is placed on layoff status shall remain on layoff status until:

- (a) For probationary faculty, the probationary appointment would have expired under its own terms;
- (b) For tenured faculty, one of the following occurs:
  1. Reappointment to the position from which laid off. Failure to accept such reappointment would terminate the faculty member's association with the university of Wisconsin system.
  2. Acceptance of an alternative continuing position in the university of Wisconsin system. Failure to accept an alternate appointment would not terminate the faculty member's association with the university of Wisconsin system.
  3. Resignation.
  4. Failure by the affected faculty member to notify the chancellor not later than December 1, of each year while on layoff sta-

tus as to his/her location, employment status, and desire to remain on layoff status. Failure to provide such notice of desire to remain on layoff status shall terminate the faculty member's association with the university of Wisconsin system.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.17 Alternative employment.** Each institution shall devote its best efforts to securing alternative appointments within the institution in positions for which faculty laid off under this chapter are qualified under existing criteria. In addition, the university of Wisconsin system shall provide financial assistance for one year for faculty who are designated for layoff to readapt within the department or within another department of the institution, where such readaptation is feasible. Further, the university of Wisconsin system shall devote its best efforts to insure that faculty members laid off or terminated in any institution shall be made aware of openings within the system.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.18 Reappointment rights.** Each institution shall establish administrative procedures and policies to insure that where layoff or terminations occur for reasons of financial emergency, no person may be employed at that institution within 3 years to perform reasonably comparable duties to those of the faculty member laid off or terminated without first offering the laid off or terminated faculty member reappointment without loss of tenure, seniority and other rights. The 3 year period shall be computed from the effective date of layoff as specified in the original notice.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.19 Retention of rank and salary.** Any faculty member reappointed within 3 years after layoff or termination shall be reappointed with a rank and salary at least equivalent to the rank and salary when laid off or terminated, together with such other rights and privileges which may have accrued at that time; any faculty member relocated within an institution or within the university of Wisconsin system shall not have either rank or salary adversely affected except by consent at the time of relocation.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.20 Rights of faculty members on layoff.** A faculty member on layoff status in accord with the provisions of

this chapter has the reemployment rights guaranteed by ss. [UWS 5.18](#) and [5.19](#), and has the following minimal rights:

(1) Such participation in fringe benefit programs as is allowed by state regulations governing rights of laid off state employees;

(2) Such continued use of campus facilities as is allowed by policies and procedures established by the department and institution; and

(3) Such participation in departmental and institutional activities as is allowed by guidelines established by the department and institution.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.21 Systemwide tenure.** The commitment to systemwide tenure within the former chapter 37 institutions shall be honored by those institutions for those eligible under s. [36.13 \(4\)](#), 1973 Stats., in the event of layoff or termination under the provisions of this chapter.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 5.22 Lack of faculty action.** If the faculty of an institution is given due notice of its rights and responsibilities under this chapter, and does not act, the chancellor may act as follows in lieu of the faculty action:

(1) If a faculty committee provided for in s. [UWS 5.04](#) is not established, the chancellor may consult those members or representatives of the faculty he or she considers appropriate to satisfy the intent of s. [UWS 5.05](#). All departments potentially involved shall be consulted and representatives of the faculty may dispute the chancellor's recommendation for a state of financial emergency before the board.

(2) If the faculty does not act to determine the form of seniority to be followed, the chancellor may designate the form. Such designation shall be effective campuswide and shall be made prior to the declaration by the board of a state of financial emergency.

(3) If an affected department or program does not recommend individuals for layoff or termination following declaration of a state of financial emergency, the chancellor shall determine the individuals to be affected, using such advice as is deemed of value.

(4) If a faculty hearing committee provided for in s. [UWS 5.11](#) is not established by the faculty, the chancellor may appoint a committee of faculty members to provide this function.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; correction in (1) made under s. 13.93 (2m) (b) 5., Stats., Register, June, 1995, No. 474.



## Chapter UWS 6

### COMPLAINTS AND GRIEVANCES

UWS 6.01 Complaints.

UWS 6.02 Grievances.

**UWS 6.01 Complaints.** The faculty of each institution, with the approval of the chancellor, shall establish rules and procedures to deal with allegations by the administration, students, academic staff members, other faculty members, classified staff members, or members of the public concerning conduct by a faculty member which violates university rules or policies, or which adversely affects the faculty member's performance of his/her obligation to the university but which allegations are not serious enough to warrant dismissal proceedings under ch. UWS 4. Such rules and procedures shall include, but not necessarily be limited to, the following:

(1) Review of and administrative action on the complaint by the chancellor. Administrative action may include dismissing the complaint, invoking an appropriate disciplinary action, or referring the complaint to the standing faculty committee created under sub. (2).

(2) Provision for a hearing before a standing faculty committee selected by the faculty of each institution in such manner as they shall determine. Such hearing shall be held at the request of the chancellor or, if the chancellor invokes a disciplinary action, at the request of the faculty member concerned.

(3) Guarantee of adequate due process to include, but not limited to, written notification of the complaint, fair and complete hearing procedures, written statement of findings, transmittal of findings to the faculty member involved and appropriate administrative officials within a reasonable period of time, and prohibition

of further jeopardy for the same alleged misconduct after a final decision.

(4) Delineation of the powers of the faculty committee to make recommendations to the chancellor concerning disciplinary action, to recommend dismissal of the complaint, or to recommend referral of the complaint to the appropriate department or administrative officer.

(5) The decision by the chancellor on the recommendations of the committee, or on the complaint in the absence of committee recommendation, shall be final except that the board at its option might grant a review on the record.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75.

**UWS 6.02 Grievances.** The faculty of each institution shall designate a committee or other appropriate faculty body to hear faculty grievances under rules and procedures established by the faculty of the institution in conjunction with the chancellor. The committee or faculty body shall have the power to conduct hearings and fact-finding related to the grievance and to recommend solutions to the grievance to the chancellor. If the committee or other body makes recommendations to the chancellor, the chancellor shall act on the recommendations within 30 days. The decision by the chancellor on the recommendation of the committee, or on the grievance in the absence of committee recommendation, shall be final except that the board, upon petition of a grievant or the committee or other faculty body, may grant a review on the record.

**History:** Cr. Register, January, 1975, No. 229, eff. 2-1-75; am. Register, April, 1989, No. 400, eff. 5-1-89.

## Chapter UWS 7

### DISMISSAL OF FACULTY IN SPECIAL CASES

UWS 7.01	Declaration of policy.
UWS 7.02	Serious criminal misconduct.
UWS 7.025	Definition.
UWS 7.03	Dismissal for cause.

UWS 7.04	Reporting responsibility.
UWS 7.05	Expedited process.
UWS 7.06	Temporary suspension without pay.

**UWS 7.01 Declaration of policy.** University faculty members are responsible for advancing the university's missions of teaching, research and public service. The fulfillment of these missions requires public trust in the integrity of the institution and in all members of the university community. The university's effectiveness, credibility, and ability to maintain public trust are undermined by criminal activity that poses a substantial risk to the safety of others, that seriously impairs the university's ability to fulfill its missions, or that seriously impairs the faculty member's fitness or ability to fulfill his or her duties. Situations involving such serious criminal misconduct by faculty members must be addressed and resolved promptly to ensure that public trust is maintained and that the university is able to advance its missions. The board of regents therefore adopts the procedures in this chapter for identifying and responding to those instances in which a faculty member has engaged in serious criminal misconduct.

**History:** CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

**UWS 7.02 Serious criminal misconduct. (1)** In this chapter, "serious criminal misconduct" means:

(a) Pleading guilty or no contest to, or being convicted of a felony, in state or federal court, where one or more of the conditions in par. (b), (c), (d) or (e) are present, and the felony involves any of the following:

1. Causing serious physical injury to another person.
2. Creating a serious danger to the personal safety of another person.
3. Sexual assault.
4. Theft, fraud or embezzlement.
5. Criminal damage to property.
6. Stalking or harassment.

(b) A substantial risk to the safety of members of the university community or others is posed.

(c) The university's ability, or the ability of the faculty member's colleagues, to fulfill teaching, research or public service missions is seriously impaired.

(d) The faculty member's fitness or ability to fulfill the duties of his or her position is seriously impaired.

(e) The opportunity of students to learn, do research, or engage in public service is seriously impaired.

**(2)** Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, shall not constitute serious criminal misconduct.

**(3)** Except as otherwise expressly provided, a faculty member who has engaged in serious criminal misconduct shall be subject to the procedures set forth in ss. UWS 7.03 to 7.06.

**(4)** Any act required or permitted by ss. UWS 7.03 to 7.06 to be done by the chancellor may be delegated to the provost or another designee pursuant to institutional policies approved by the board of regents under s. UWS 2.02.

**History:** CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

**UWS 7.025 Definition.** In this chapter, "consulting" means thoroughly reviewing and discussing the relevant facts and discretionary issues.

**History:** CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

**UWS 7.03 Dismissal for cause. (1)** Any faculty member having tenure may be dismissed only by the board and only for just cause and only after due notice and hearing. Any faculty member having a probationary appointment may be dismissed prior to the end of his or her term of appointment only by the board and only for just cause and only after due notice and hearing.

**(2)** Just cause for dismissal includes, but is not limited to, serious criminal misconduct, as defined in s. UWS 7.02.

**History:** CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

**UWS 7.04 Reporting responsibility.** Any faculty member who is charged with, pleads guilty or no contest to, or is convicted of a felony of a type listed in s. UWS 7.02 (1) (a), in state or federal court, shall immediately report that fact to the chancellor.

**History:** CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

**UWS 7.05 Expedited process. (1)** Whenever the chancellor of an institution within the University of Wisconsin System receives a report under s. UWS 7.04 or other credible information that a faculty member has pleaded guilty or no contest to, or has been convicted of a felony of a type listed in s. UWS 7.02 (1) (a), in state or federal court, the chancellor shall:

(a) Within 3 working days of receipt of the report or information, inform the faculty member of its receipt and, after consulting with appropriate institutional governance representatives, appoint an investigator to investigate the report or information and to advise the chancellor as to whether to proceed under this section or ch. UWS 4.

(b) Upon appointing an investigator and notifying the faculty member, afford the faculty member 3 working days in which to request that the investigator be disqualified on grounds of lack of impartiality or other cause. In the event that the chancellor determines that a request for disqualification should be granted, the chancellor shall, within 2 working days of the determination, appoint a different investigator. The faculty member shall have the opportunity to request that any second or subsequent investigators be disqualified on grounds of lack of impartiality or other cause.

**(2)** The investigator shall complete and file a report with the chancellor not later than 10 working days following the investigator's appointment.

**(3)** Within 3 working days of receipt of the investigator's report, the chancellor shall consult with appropriate institutional governance representatives and decide whether to seek dismissal of the faculty member pursuant to this chapter, to seek dismissal of the faculty member pursuant to ch. UWS 4, to seek an alternative disciplinary sanction, or to discontinue the proceedings. The

charges shall be served on the faculty member in the manner specified in s. [UWS 4.02 \(3\)](#).

(a) If the chancellor decides to seek dismissal of the faculty member pursuant to this chapter, the chancellor shall file charges within 2 working days of reaching the decision.

(b) If the chancellor decides to seek dismissal of the faculty member pursuant to ch. [UWS 4](#), the chancellor shall file charges and proceed in accordance with the provisions of that chapter and implementing institutional policies. If, during the course of such proceedings under ch. [UWS 4](#), the chancellor receives a report under s. [UWS 7.04](#) or other credible information that the faculty member has pleaded guilty or no contest to or has been convicted of a felony of a type listed in s. [UWS 7.02 \(1\) \(a\)](#), and one or more of the conditions listed in s. [UWS 7.02 \(1\) \(b\)](#) through [\(e\)](#) are present, the chancellor may, at that point, elect to follow the procedures for dismissal pursuant to this chapter.

(c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under ch. [UWS 6](#), and implementing institutional policies, shall be followed.

(4) If charges seeking dismissal are filed under sub. (3) (a), the faculty member shall be afforded a hearing before the institutional standing committee charged with hearing dismissal cases and making recommendations under s. [UWS 4.03](#). The hearing shall provide the procedural guarantees enumerated under ss. [UWS 4.05](#) to [4.06](#), except that the hearing shall be concluded, and written findings and a recommendation to the chancellor shall be prepared, within 15 working days of the filing of charges.

(5) (a) Within 3 working days of receipt of the findings and recommendation of the committee under sub. (4), the chancellor shall prepare a written recommendation on the matter.

(b) If the recommendation is for dismissal, the chancellor shall transmit it to the board for review.

(c) Disciplinary action other than dismissal may be taken by the chancellor, whose decision shall be final, unless the board at its option grants a review on the record at the request of the faculty member.

(6) Upon receipt of the chancellor's recommendation, the full board shall review the record before the institutional hearing committee, and shall offer an opportunity for filing exceptions to the recommendation, and for oral argument. The full board shall issue its decision on the matter within 15 working days of receipt of the chancellor's recommendation.

(7) If a faculty member whose dismissal is sought under sub. (3) (a) does not proceed with the hearing before the institutional hearing committee as provided in sub. (4), the board shall take appropriate action within 10 working days of receipt of the statement of charges and the recommendation of the chancellor.

(8) The burden of proving just cause in this chapter shall be clear and convincing evidence.

(9) The chair of the faculty hearing body, subject to the approval of the chancellor, may extend the time limits set forth in this section if the parties are unable to obtain, in a timely manner,

relevant and material testimony, physical evidence or records, or where due process otherwise requires.

History: [CR 06-078](#); cr. [Register May 2007 No. 617](#), eff. 6-1-07.

#### **UWS 7.06 Temporary suspension without pay.**

(1) The chancellor, after consulting with appropriate faculty governance representatives, may suspend a faculty member from duties without pay pending the final decision as to his or her dismissal where:

(a) The faculty member has been charged with a felony of a type listed in s. [UWS 7.02 \(1\) \(a\)](#) and the chancellor, after following the provisions of s. [UWS 7.05 \(1\)](#) through [\(3\)](#), finds, in addition, that there is a substantial likelihood 1) that one or more of the conditions listed in s. [UWS 7.02 \(1\) \(b\)](#) through [\(e\)](#) are present, and 2) that the faculty member has engaged in the conduct as alleged; or

(b) The faculty member is unable to report for work due to incarceration, conditions of bail or similar cause; or

(c) The faculty member has pleaded guilty or no contest to or been convicted of a felony of a type listed in s. [UWS 7.02 \(1\) \(a\)](#) and one or more of the conditions listed in s. [UWS 7.02 \(1\) \(b\)](#) through [\(e\)](#) are present.

(2) If the chancellor finds that the conditions in sub. (1) are present, he or she shall immediately notify the faculty member, in writing, of the intent to impose a suspension without pay, and shall, within 2 working days, provide the faculty member with an opportunity to be heard with regard to the matter. The faculty member may be represented by counsel or another at this meeting.

(3) If, after affording the faculty member the opportunity to be heard, the chancellor determines to suspend without pay, the chancellor shall inform the faculty member of the suspension, in writing. The chancellor's decision to suspend without pay under this section shall be final, except that:

(a) If the chancellor later determines that the faculty member should not be dismissed, the chancellor may discontinue the proceedings, or may recommend a lesser penalty to the board, and, except as provided in par. (c), shall order the payment of back pay for any period of the suspension for which the faculty member was willing and able to report for work.

(b) If the board later determines that the faculty member should not be dismissed, the board may order a lesser penalty and shall order the payment of back pay for any period of the suspension for which the faculty member was willing and able to report for work.

(c) If the chancellor or board later determines, under par. (a) or (b), to recommend or impose as a lesser penalty the suspension of the faculty member without pay, then any period of suspension without pay so recommended or ordered shall be offset by the period of any suspension without pay actually served by the faculty member.

(4) If, after affording the faculty member the opportunity to be heard, the chancellor determines that the conditions in sub. (1) are not present or that a suspension without pay is otherwise not warranted, the provisions of s. [UWS 4.09](#) shall apply.

History: [CR 06-078](#); cr. [Register May 2007 No. 617](#), eff. 6-1-07.