



Reviewed and Endorsed by Regulation Committee 10-4-17

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UNIVERSITY OF WYOMING REGULATIONS

Subject: Appeal Procedures – Financial Exigency and Academic Program ~~Reorganization, Consolidation, Reduction and~~ Discontinuance

Number: UW Regulation 6-44

I. PURPOSE

To provide a timely process for hearing the appeal of any tenured faculty member or extended term academic professional whose appointment is terminated pursuant to UW Regulation 6-41 (Financial Exigency) or UW Regulation 6-43 (Academic Program Reorganization, Consolidation, Reduction and Discontinuance).

II. RIGHT TO REVIEW AND HEARING

Any tenured faculty member or extended term academic professional whose employment is terminated pursuant to UW Regulation 6-41 or 6-43 shall have the right to a hearing before an independent Hearing Officer. This hearing is the exclusive remedy for a termination pursuant to UW Regulation 6-41 or 6-43.

III. NOTICE OF REQUEST FOR HEARING

A person who has a right under this Regulation to appeal termination of employment may appeal by delivering a written notice of request for hearing to the Office of Academic Affairs within ten (10) calendar days of receiving notice of termination of employment. The notice shall state ~~with particularity~~ the grounds to be relied upon by the Complainant. Filing a notice of request for hearing shall not act to delay the termination of employment.

IV. GROUNDS FOR APPEAL

Grounds for appeal shall be limited to ~~the following~~ claims that the termination:

- A. Is just a pretext to punish the Complainant for cConduct, expressions or beliefs by the Complainant which are protected constitutionally or by the principles of academic freedom;
- B. Is based on fFactors proscribed by applicable state or federal law regarding fair employment practices; ~~or~~

C. Failure—Failed to follow procedures or criteria required by UW Regulations~~s~~;~~or~~

D. Failed to consider available data relevant to the role of the Complainant in the University;

C.E. Is based on unfounded or arbitrary assumptions of fact.

V. PARTIES TO APPEAL

The Parties to appeal shall be as follows: (1) Complainant – the tenured faculty member or extended term academic professional who has received notice of termination of employment pursuant to UW Regulation 6-41 or 6-43; and (2) Respondent – the ~~Provost President and Vice President for Academic Affairs~~ or his or her designee.

VI. HEARING OFFICERS

The President shall nominate a standing Hearing Officer and an alternate who are experienced in higher education, labor and employment matters. The Faculty Senate may confirm or reject either or both nominees if the Faculty Senate believes that the Hearing Officer or alternate nominee lacks the requisite experience or is likely to be biased for or against either side of a potential dispute. The Hearing Officer and alternate shall serve for a term of two years, and may be reappointed to successive terms. The standing Hearing Officer will preside at any appeal brought under this Regulation unless the Hearing Officer recuses himself or herself due to potential bias, familiarity with the appellant, or other cause, in which case the alternate Hearing Officer will preside.

In the event a Hearing Office recuses himself or herself from a particular appeal, the Hearing Officer will remain in office and is qualified to hear other appeals for which no recusal is necessary.

~~Each fiscal year, one or more Hearing Officers shall be nominated by the General Counsel and appointed by the President to serve as Hearing Officers pursuant to this Regulation. Hearing Officers shall be appointed for a one year term and shall be impartial individuals who are experienced in higher education, labor and employment matters. No Hearing Officer shall be engaged who has not been appointed by the President.~~

VII. SCHEDULING AND NOTICE OF HEARING

The ~~Office of Academic Affairs~~President shall provide notice to the Hearing Officer of the request for a hearing within ten (10) calendar days of receiving notice of the Complainant’s written request. A hearing shall be scheduled by the Hearing Officer to commence not less than fifteen (15) calendar days nor more than sixty (60) calendar days following notice to the Hearing Officer. The parties shall be notified in writing of the time and place of the hearing not less than ten (10) calendar days prior to the hearing.

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VIII. PRE-HEARING CONFERENCE

The Hearing Officer shall convene a pre-hearing conference with the Parties not less than seven (7) calendar days preceding any scheduled hearing. The purpose of the pre-hearing conference shall be to exchange lists of witnesses to be called by either Party; to identify, examine or arrange for copying of any documentary or other real evidence; to make any requests for pre-hearing discovery which shall be ruled upon by the Hearing Officer and to receive any further instructions as determined by the Hearing Officer.

IX. HEARING

A. Rights of Parties

The Parties shall be guaranteed the following minimal procedural safeguards:

1. To be present in person at all phases of the hearing;
2. To be represented by counsel or other representatives;
3. To testify and to present witnesses and other relevant evidence on the Party's behalf;
4. To rely upon the administration of the University to secure the cooperation of witnesses, insofar as it is possible for it to do so,;
5. To confront and cross-examine witnesses brought by either Party and testifying in person;
6. To have access without charge to a verbatim record of the hearing, which may be an audio recording;
7. To record the hearing through a court reporter or other means, at the Party's own cost; and
8. To receive a written copy of the recommendations of the Hearing Officer.

B. Hearing Procedure

The order of proceedings at the hearing shall be:

1. Each Party may make a brief opening statement to the Hearing Officer setting forth the grounds for the appeal and summarizing the evidence that the Party intends to introduce.
2. The Complainant shall present witnesses and other evidence in support of the appeal.
3. The Respondent shall present witnesses and other evidence to support the recommended termination decision.
4. The Complainant may present evidence in rebuttal.
5. Each Party may make a brief closing statement.

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C. Admissibility of Evidence

Formal rules of ~~judicial~~ evidence shall not apply at the hearing. Reception of evidence shall be informal and all relevant and material evidence shall be received at the discretion of the Hearing Officer. Witnesses at the hearing shall testify under oath or affirmation. The Hearing Officer shall rule upon any objections to evidence.

D. Representation and Costs

The Complainant may represent himself or herself, or may be represented by legal counsel or any other advisor of Complainant's choice. The administration shall be ~~entitled to utilize represented by~~ the University's Office of General Counsel. Administrative costs of the hearing shall be borne by the University. Any cost incurred by the Complainant in preparing for the hearing or securing representation shall be borne by the Complainant.

E. Confidentiality

The Hearing Officer shall sequester witnesses unless ~~both the Complainant requests Parties agree~~ that the hearing shall be public.

X. DECISION

On the basis of all of the evidence received at the hearing, the Hearing Officer shall make recommendations as follows:

- A. The Hearing Officer shall consider whether one or more of the improper factors listed in Section IV hereof ~~entered significantly was the primary factor into~~ the decision to terminate. If the Hearing Office determines that the termination was based primarily on one or more improper factors, the Hearing Office shall recommend that the termination be overturned, and shall make a finding thereof. If the Hearing Officer finds that improper factors may have entered into the decision to terminate, but further finds that the same decision would have been reached had the ~~improprieties~~ improper factors not ~~occurred been considered~~, the Hearing officer shall recommend that the termination be affirmed. In either case, the Hearing Office shall make a written report explaining the reasons for his or her recommendation make a finding thereof.
- B. Within twenty (20) calendar days following the conclusion of the hearing, the Hearing Officer shall forward his or her recommendations and the written

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176 report explaining the reasons for the recommendation to the Board of
177 Trustees, with copies to the Complainant, the Provost and Vice President for
178 Academic Affairs, and the President of the University.

179 **XI. REVIEW BY THE BOARD OF TRUSTEES**

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181 If a tenured faculty member or extended term academic professional whose employment
182 is recommended for termination does not request a hearing, that termination shall be
183 deemed proper.

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185 If the tenured faculty member or extended term academic professional whose
186 employment is recommended for termination does request a hearing pursuant to this
187 Regulation, the Board of Trustees shall review the recommendations submitted by the
188 Hearing Officer and within thirty (30) calendar days after receipt, issue a written order to
189 either terminate or retain the employee. If the Board terminates the employee over a
190 recommendation by the Hearing Officer for retention, the written order of the Board shall
191 include a conclusion together with reasons supported by the record. A copy of the order
192 shall be provided to the employee and a copy shall be entered into the University records
193 pertaining to the employee. Any action by the Board pursuant to this section shall be
194 approved by the majority of the members of the Board of Trustees.
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196 **Responsible Division/Unit:** Office of Academic Affairs

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199 **Source:** None.

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201 **Link:** [http://www.uwyo.edu/generalcounsel/current-uw-regulations-and-presidential-
203 directives/index.html](http://www.uwyo.edu/generalcounsel/current-uw-regulations-and-presidential-
202 directives/index.html).

204 **Associated Regulations, Policies, and Forms:** UW Regulation 6-41 (Financial Exigency) and
205 UW Regulation 6-43 (Academic Program Reorganization, Consolidation, Reduction and
206 Discontinuance)

207
208 **History:**

209 Revisions adopted 11/15/13 Board of Trustees meeting