



Reviewed and Endorsed by Regulation Committee 10-4-17
Campus feedback reviewed and modifications incorporated
CLEAN version 4-18-18

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 (see section VI). 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:

- A. Conduct, expressions or beliefs by the Complainant which are protected constitutionally or by the principles of academic freedom;
- B. Factors proscribed by applicable state or federal law regarding fair employment practices; or

C. Failure to follow procedures or criteria required by UW Regulation.

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 and Vice President for Academic Affairs or designee.

VI. HEARING OFFICERS

Each fiscal year, one or more individuals shall be nominated by the President after consultation with the Executive Committee of the Faculty Senate 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 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.

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.

C. Admissibility of Evidence

Formal rules of 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 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 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 recommend findings and conclusions as follows:

- A.** The Hearing Officer shall consider whether one or more of the improper factors listed in Section IV hereof entered significantly into the decision to terminate, 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 improper factors not occurred, the Hearing officer shall make a finding thereof.
- B.** Within twenty (20) calendar days following the conclusion of the hearing, the Hearing Officer shall forward his or her recommended findings and conclusions and the written report explaining the reasons for the recommendations to the Board of Trustees with copies to the Complainant, the Provost and Vice President for Academic Affairs, and the President of the University.

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XI. REVIEW BY THE BOARD OF TRUSTEES

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

If the tenured faculty member or extended term academic professional whose employment is recommended for termination does request a hearing pursuant to this Regulation, the Board of Trustees shall review the recommendations submitted by the Hearing Officer and within thirty (30) calendar days after receipt, issue a written order to either terminate or retain the employee. If the Board terminates the employee over a recommendation by the Hearing Officer for retention, the written order of the Board shall include a conclusion together with reasons supported by the record. A copy of the order shall be provided to the employee and a copy shall be entered into the University records pertaining to the employee. Any action by the Board pursuant to this section shall be approved by the majority of the members of the Board of Trustees.

Responsible Division/Unit: Office of Academic Affairs

Source: None.

Link: <http://www.uwyo.edu/generalcounsel/current-uw-regulations-and-presidential-directives/index.html>.

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

History:

Revisions adopted 11/15/13 Board of Trustees meeting