

# UW REGULATION 5-801

## Procedures for Dismissal of Faculty Members

### 1. PURPOSE.

To establish procedures for dismissal of faculty members for cause and for review of nonreappointments of probationary faculty members when violations of academic freedom are alleged.

### 2. DEFINITIONS.

(a) Faculty Member. An employee of the University appointed to and serving in a faculty position as defined in UW Regulation 1-1.

(b) Tenured Status. A faculty appointment which is considered permanent and not subject to termination or substantial reduction in status without adequate justification as outlined in UW Regulation 5-1.

(c) Non-Tenured Status. A probationary, supply, temporary, visiting or adjunct appointment to a position of academic rank.

(d) Contract Period. That period of time commencing on the date of appointment to a faculty position which ends on a predetermined date.

(e) Hearing Committee. Should there not be a Hearing Committee as a standing committee of the Faculty Senate, the Executive Committee of the Senate shall appoint an ad hoc Hearing Committee, whose membership will be subject to ratification by the full Senate, when the need arises and only for the duration of the case or cases at issue. The functions, powers and composition of the Committee shall be as follows:

1. Functions. The Committee shall conduct hearings, make findings and reports its conclusions and recommendations to the parties concerned whenever: (a) the dismissal of a tenured faculty member is at issue; (b) a nontenured faculty member alleges that considerations violative of academic freedom significantly contributed to a decision not to reappoint him.

2. Powers. The Committee is a fact-finding body and serves in an advisory capacity to the President of the University.

3. Composition. The Committee shall be composed of five members and seven alternates who shall be tenured members of the faculty. No department chairman, dean or administrative officer shall serve on the Committee. Not more than one member of any department shall serve as a regular member or alternate at the same time. The alternates shall

participate as Committee members only when regular committee members, for any reason, are unable to serve, and shall be selected for such serviced by lot. Five members shall comprise a quorum for conducting a hearing; three shall constitute a quorum for all other business of the Committee.

### **3. SENATE BILL 28, AS INCORPORATED INTO SENATE RESOLUTION 38:**

Section 1. Hearing Procedures. It is understood that a faculty member with tenure is deemed qualified to serve the University of Wyoming throughout his academic career unless that records affirmatively demonstrates his lack of qualifications. In the event that a tenured faculty member is to be dismissed involuntarily he shall have an opportunity to submit his case and the charges against him to a full review conducted by the following procedures:

It is also understood that a non-tenured faculty member appointed to and serving in a faculty position for a fixed contract period is deemed qualified to serve in such position until the expiration of his contract period unless the record affirmatively demonstrates otherwise. In the event that a non-tenured faculty member is to be dismissed involuntarily during his contract period he shall have an opportunity to submit his case and the charges against him to a full review conducted by the following procedures:

#### (a) Preliminary Proceedings.

(1) When a question arises within a department, college or other administrative unit, concerning the termination of the services of a faculty member who has tenure, or the termination of the services of a non-tenured faculty member during the contract period, the department head, the appropriate dean, or comparable administrative officer, hereinafter referred to as appropriate administrative officer, ordinarily shall first discuss the matter with the faculty member in personal conference. The matter may be concluded by mutual consent at this point.

(2) If the matter is not concluded, at the request of the appropriate administrative officer or the faculty member, the Faculty Rights and Responsibilities Committee may be asked to offer its confidential advice to the parties. At this time the President of the University will be apprised of the question. The Committee shall consult privately with the appropriate administrative officer, the faculty member, and others and shall proceed informally to effect a mutually acceptable adjustment if possible.

(3) If at any time during the preliminary proceedings the faculty member requests that the formal proceedings be held, these shall be initiated within one month or the matter shall be dropped.

(b) Statement of Charges

A formal dismissal proceeding shall be commenced by a written communication from the appropriate administrative officer appointed by the President to act as a charging authority to the faculty member and to the Chairman of the Hearing Committee containing:

- (1) A statement giving the grounds for dismissal with sufficient particularity of the underlying facts to inform the faculty member of the nature of the charges against him;
- (2) A statement that if the faculty member makes a written request to the Chairman of the Hearing Committee within 20 days of receipt of the charging authority's statement, he is entitled to a hearing before the Hearing Committee;
- (3) A copy of the UW Regulation covering Hearing Procedures; and
- (4) A first list of witnesses.

The statement of charges shall be sent to the faculty member by certified mail.

(c) Time and Place of Hearing; Faculty Member's Answer

- (1) If within 20 days of his receipt of the statement of charges the faculty member requests a hearing, the Chairman of the Hearing Committee, after consulting the charging authority and the faculty member, shall set the time and place of the hearing and notify the parties thereof, such time being set to afford the faculty member sufficient time to prepare his defense and in no event shall be less than 20 days after notice of the hearing date is received by the faculty member.
- (2) If the faculty member desires a hearing, he shall submit to the charging authority and to the Chairman of the Hearing Committee his written answer to the charges not less than one week before the date set for the hearing.
- (3) If the faculty member does not answer the charging authority's statement of charges, the Hearing Committee shall consider whether the stated grounds constitute adequate cause for removal. The Committee shall forward its written decision on this question, normally with reasons stated, to the faculty member, the charging authority, and the President.

(d) Committee Proceedings.

If the faculty member submits an answer, the following procedures shall be followed:

- (1) Neither a regular nor an alternate Committee member shall sit when the Committee is considering a matter directly involving a departmental colleague of such Committee member nor when he has reason to believe that some personal consideration might interfere with his reaching an unbiased conclusion; by preemptory challenge, not more than two members of the Hearing Committee may be disqualified on each side. Such challenges must be made in writing to the Chairman of the Hearing Committee at least three days before the hearing is scheduled to begin.
  - (2) The Committee, in consultation with the charging authority and the faculty member, will exercise its judgment as to whether the hearing should be public or private, but if the faculty member requests, the hearing shall be public. Such request must be made in writing at least three days before the hearing is scheduled to begin.
  - (3) The faculty member and the charging authority shall have the option of being represented by counsel, and academic advisor, or both. The Hearing Committee may also be represented by counsel.
  - (4) If the facts are in dispute, testimony of witnesses and other evidence relevant to the issues shall be received if offered. The hearing normally shall proceed as follows: (a) presentation of the evidence in support of the statement of grounds; (b) the faculty member's evidence in answer; (c) the rebuttal evidence; and (d) closing arguments.
- If the circumstances warrant, the Committee may vary the normal order of proceeding. The Committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.
- (5) The parties shall have the opportunity to be confronted by all witnesses who shall testify under oath or upon affirmation. The faculty member and the charging authority, their representatives, Committee members, and the Committee's counsel, if one is present, shall have the right to question all witnesses who testify orally. In the event witnesses cannot appear in person, depositions from these witnesses may be presented.
  - (6) The Committee, if it deems it desirable, may direct the parties to produce evidence on specific issues deemed significant by the Committee, and proceed on its own initiative to call witnesses to testify or introduce evidence on its own motion.

(7) All evidence shall be made part of the record, and all Committee decisions shall be based on the record. The burden of proof that adequate cause exists rests with the charging authority, and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

(8) If evidence is objected to at the hearing on the ground that it is not within the issues raised either by the statement of charges or by the answer, the Committee may allow either to be amended and shall do so freely when, in its view, the presentation of the substantive issues will be served thereby. Where appropriate, the Committee shall grant a continuance to give the objecting party reasonable time in which to meet the evidence.

(9) The administration of the University will, insofar as it is possible for it to do so, secure the cooperation of witnesses and make available necessary documents and other evidence within its control of the faculty member and to the charging authority.

(10) If the faculty member's academic competence is questioned, the proof before the Hearing Committee shall be insufficient unless it includes testimony or written reports of teachers or other scholars, either from the University or from other institutions.

(11) A verbatim record of the proceeding shall be kept. The cost of such record shall be borne by the University.

(12) The Hearing Committee shall notify the faculty member, the charging authority and the President of the decision in writing and shall provide each with a copy of the record of the hearing.

(e) Consideration of Matter by President and Trustees

(1) If the Hearing Committee concludes that adequate cause for dismissal has not been established by the evidenced in the record and the President rejects the report, he will state his reasons for doing so, in writing, to the Hearing Committee, the faculty member and the charging authority, and provide an opportunity for responses before transmitting the case to the Trustees.

(2) If the Hearing Committee recommend dismissal, the President will, on request of the faculty member, transmit to the Trustees the record of the case. In such case, the Trustees' review will be based on the record of the hearing, and it will provide opportunity for argument, oral or written or both, by the principals at the hearing or by their representatives.

(3) The decisions of the Hearing Committee will either be sustained by the Trustees, or the proceeding returned to the Committee with specific objections. If returned, the Committee will then reconsider, taking into account the stated objections and receiving new evidence if necessary. The Trustees will make a final decision only after study of the Committee's reconsideration.

(f) Performance of Duties Pending Proceedings

The faculty member may be relieved from such of his duties as the President may deem proper while proceedings are pending. In such event the President shall assign to the faculty member such duties as the President deems appropriate. The faculty member shall be continued on his regular salary while the proceedings are pending.

(g) Conditions of Termination

Following receipt of the Hearing Committee's recommendation, the President shall develop recommendations about conditions of termination, including the possibility of continued employment up to one year, which, with the Hearing Committee's review, shall be transmitted to the Trustees.

Section 2. Academic Freedom of Non-tenured Faculty. If a faculty member on probationary or other non-tenured appointment alleges that considerations violative of academic freedom significantly contributed to a decision not to reappoint him, his allegation will be given preliminary consideration by the Faculty Rights and Responsibilities Committee, which will seek to settle the matter by informal methods. His allegation shall be accompanied by a statement that he agrees to the presentation, for the consideration of the faculty committees, of such reasons and evidence as the University may allege in support of its decision. If the difficulty is unresolved at this stage, and if the Committee so recommends, the matter will be heard in the manner set forth in Section 1, except that the faculty member making the complaint is responsible for stating the grounds upon which he bases his allegations and the burden of proof shall rest upon him. If he succeeds in establishing a prima facie case, it is incumbent upon those who made the decision not to reappoint him to come forward with evidence in support of their decision.

Section 3. Modifications of Prior University Faculty Actions. To the extent that the provisions of this bill modify or supplement prior actions of the University faculty, including the functions of the faculty Tenure and Promotion Committee as stipulated in Article IV, Section 5, of the Bylaws of the University Faculty (1968), such prior actions are modified or supplemented accordingly.

Section 4. This Regulation supersedes all prior University Faculty action regarding procedures for dismissal of Faculty.

Source:

University Regulation 801, Revision 1 and Change 1; adopted 7/17/08 Board of Trustees meeting