DISMISSAL OF TEACHING FACULTY
POLICIES AND PROCEDURES

1.0 Application

The following procedures apply to the termination of a continuous appointment to the teaching faculty and to the dismissal of a member of the teaching faculty before the expiration of a probationary or term appointment. Faculty members may be so dismissed only for reasons of cause, financial exigency, curricular exigency, or medical condition, and only through the procedures described herein. The policies and procedures set forth below agree in principle with the “Statement on Procedural Standards in Faculty Dismissal Proceedings” of the American Association of University Professors (1993-94 Handbook, II.41).

The final authority to dismiss a faculty member during the course of a contract rests with the board of trustees.

2.0 Dismissal for Cause

A dismissal proceeding is a symptom of failure, and it is in the best interest of all parties, through the hiring process and the on-going monitoring of professional growth, to cultivate conditions in which dismissals will rarely if ever occur.

Should dismissal proceedings become necessary, the faculty will rule for or against a colleague on the basis of the evidence provided, and the president and the board of trustees will give the most serious consideration to the faculty's judgment in such rulings.

In dismissal proceedings and in judgments resulting from them, a demonstrable effort must be made to safeguard the civil liberties and academic freedoms of the faculty member concerned, and to temper justice with mercy.

2.1 Grounds for Dismissal for Cause

Dismissal for cause may occur only for reasons of incompetence, dereliction of duty, unethical professional behavior, or conviction of a serious crime. Dismissal is justified only when a problem is so grave or persistent that no other course of action remains. In a case of incompetence or dereliction of duty, there must be evidence of flagrant misconduct or of misconduct sustained despite the college's efforts to resolve the matter.

The phrase serious crime refers to criminal behavior that raises grave doubts about a faculty member's fitness for academic life. Mere suspicion or allegation of criminal activity is not enough to justify dismissal. When personal behavior impinges directly on professional ethics, it may be judged as a matter of professional ethics by the college. When the legality of behavior is in question, then on the principles articulated in 2.0 above, it must be left to the courts to determine the matter. In any dismissal proceeding where a criminal conviction is introduced as evidence, the college shall accept the verdict of the courts that criminal activity has occurred but shall decide for itself whether or not there is cause for dismissal.
2.2 Procedures

a. Any serious complaint about the fitness of a faculty member shall be communicated in writing to the Vice president for academic affairs and dean of the college. At this point, the dean may dismiss the complaint or may discuss the matter with the faculty member. If the matter cannot be resolved by mutual consent through discussion, the dean shall bring the matter to the attention of the president.

b. If the president judges the matter to be resolvable, the president shall recommend a course of action. If the president judges that further investigation is in order or that resolution is unlikely or impossible, the dean, as agent of the president, shall, in writing, direct the elected members of the Faculty Executive Committee, acting as a board of inquiry, to conduct an informal investigation, which shall be confidential except that the faculty member concerned shall be informed of its nature, and any other persons interviewed by the board of inquiry may be informed of its nature at the discretion of the board of inquiry. No legal counsel shall be present at this informal investigation. After hearing the allegations and studying the available evidence, this board, by majority vote, shall recommend to the president a course of action to resolve the matter or shall recommend proceeding toward a formal dismissal hearing. If, after studying this recommendation, the president decides that dismissal proceedings are in order, then the dean, in consultation with the board of inquiry, shall compose a statement giving specific grounds for such proceedings.

c. The dean shall notify the faculty member in writing of the decision to proceed, shall enclose a copy of the statement of grounds, and in the same letter shall inform the faculty member of the right to appear before a hearing. At the same time, the dean shall notify the Faculty Executive Committee of the decision to proceed and shall enclose a copy of the statement of grounds. If the faculty member intends to appear before the hearing, the faculty member must so inform the dean, in writing, within ten working days of receiving this notification.

d. Suspension of the faculty member is justified only if, in the president's judgment, the faculty member's continuance threatens harm to that person, to others, or to the college.

e. Formal dismissal proceedings shall be conducted by a five member ad hoc board of hearing selected as follows. The Faculty Executive Committee shall randomly assemble a list of fifteen full-time, tenured members of the teaching faculty, shall allow the self-disqualification of any person who feels bias or conflict of interest, and shall replace such a person with another, also chosen at random. Beginning with the dean, the dean and the faculty member concerned, in the presence of the chair of the Faculty Executive Committee, shall alternate in removing names from the list, one at a time, until only five names remain. This process shall be confidential, and the two parties shall not state reasons for their choices. These five faculty members shall act as the board of hearing and shall elect their own chair. The name of the chair shall be sent to the president, the dean, and the accused faculty member. The board of hearing shall specify the time and place of the hearing and shall inform all parties involved. In setting the date of the hearing, sufficient time should be allowed the faculty member to prepare a defense. The faculty member should be informed, in detail or by reference to published regulations, of the procedural rights that will be accorded. The faculty member should state in reply whether or not a hearing is desired, and if so, should answer in writing, not less than one week before the date set for the hearing, the statements in the dean’s letter. If the faculty member does not
request a hearing, the board of hearing shall not call one but shall decide the case on the basis of the available evidence.

f. The board of hearing shall determine the order of business at the hearing and shall take charge of the collection and presentation of evidence and of the securing and questioning of witnesses. A full transcript of the hearing shall be made available to the board of hearing, the accused faculty member, the dean, and the president, and to others at the discretion of the board of hearing. The Vice president for academic affairs and dean of the college is responsible for procuring the transcript, which shall be paid for by the college. The president may attend the hearing upon demand. Both the dean and the faculty member concerned may attend the hearing, may be represented by counsel, may address the hearing, either directly or through counsel, and may bring and question witnesses, either directly or through counsel. The burden of proof shall be borne by the dean.

g. The board of hearing shall reach its decision in conference, solely on the basis of evidence presented orally and in writing at the hearing. It may do so before a full transcript is available, if it is certain that a just decision may be reached in that way, or it may await a transcript. Its decision shall be conveyed in writing to the president and shall include specific findings on each matter investigated and a copy of the hearing transcript, including documentary evidence. A copy of the decision shall be sent to the faculty member concerned. The board of hearing may recommend that the faculty member be retained without penalty; it may recommend dismissal, or it may recommend a penalty short of dismissal (e.g., suspension or reprimand).

h. If the president rejects the recommendation of the board of hearing, the president shall state the reasons for doing so, in writing, to the board of hearing and to the faculty member and shall provide an opportunity for response before transmitting the case to the board of trustees.

i. The president shall transmit to the board of trustees the full report of the board of hearing. If the board of trustees chooses to review the case, its review will be based on the written record of the previous hearing. The board of trustees may also, at its discretion, solicit additional argument, oral or written or both, from the principals of the hearing or their representatives.

j. Materials used in a dismissal proceeding, and all written opinions resulting from the proceeding, shall be kept in the office of the dean, in a confidential file separate from the faculty member's personnel file. At the request of the faculty member, a copy of these materials may be added to the personnel file.

k. If an appointment is terminated for cause, the president, with the advice of the board of hearing, shall make a decision as to the awarding of notice or severance pay.

3.0 Dismissals for reasons of financial exigency.

Terminations may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, i.e., an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.

3.1 Determination of financial exigency
If the board of trustees believes that financial exigency is imminent, the board or a committee of the board shall meet with the Faculty Executive Committee to discuss the problem and to investigate possible solutions. Every attempt shall be made to identify new sources of revenue and to make better use of present resources. If the board of trustees decides that no other solution is possible, it shall make a formal, public declaration of financial exigency.

Because the academic program develops and evolves under the leadership of the faculty and the Vice president for academic affairs and dean of the college and is the heart of the college, its integrity must be respected in the consideration of changes in program and faculty pursuant to a declaration of financial exigency. A demonstrable effort must be made to effect other budgetary cuts before introducing changes that will have a direct negative effect on the integrity of the academic program.

3.2 Procedures for dismissal for financial exigency

a. Upon the declaration of a financial exigency, an ad hoc Financial Exigency Committee shall be constituted, composed of the president, the Vice president for academic affairs and dean of the college, and the chair and one other elected member of each of the following committees: the Faculty Executive Committee, the Curriculum Committee, and the RPT Committee. This ad hoc committee shall work out a plan for meeting the exigency, making a demonstrable attempt to avoid dismissals. Part-time status in the same position, voluntary retraining, and early retirement plans should be offered if possible. Before terminating an appointment for financial exigency, the college shall make good faith efforts to find a faculty member other suitable employment within the institution.

b. If dismissals are unavoidable, the Financial Exigency Committee shall work out criteria that take into account educational programs and policies of the college, including affirmative action and faculty seniority, rank, and tenure status. A plan based on these criteria shall be presented to the faculty for amendment and approval. A dismissal plan approved by a majority of the faculty shall stand as a recommendation to the president. A group designated by the faculty shall compose a list of positions to be terminated in accordance with the approved plan. If the faculty fails to recommend a plan within a reasonable period of time, the president shall proceed without faculty advice.

c. A faculty member chosen for dismissal shall have the right to a hearing before a committee composed of the regular and alternate members of the Grievance Committee. At such a hearing, the faculty member may contest the criteria for dismissal, the application of criteria, or the procedures followed. After weighing the evidence, the Grievance Committee shall communicate its decision as a recommendation to the president.

d. When appointments are terminated, the college, with the involvement of the Financial Exigency Committee, shall make a good faith effort to help affected faculty members find suitable employment elsewhere. Affected faculty members shall receive at least one year's notice or severance pay from the date of their notification by the president, with severance pay equitably adjusted to the length of past and potential service to the college. The college may not renew a position for three years without offering it first to the person displaced. This applies whether the person has been dismissed or relocated within the institution. The college may not add new positions or programs in other areas for three years without a hearing by the Financial Exigency Committee and the approval of the faculty.
4.0 Dismissal for reasons of curricular exigency

Terminations may occur under extraordinary circumstances as the result of the bona fide formal discontinuance of an official program or department of instruction, i.e., the elimination of a major structural element of the curriculum, based essentially on educational considerations, as determined by a majority vote of the faculty on the recommendation of a Curricular Exigency Committee (see 4.1). Such a discontinuance should not be based solely on enrollment patterns. It must reflect the judgment that the long-range educational goals of the college will be furthered by the discontinuance.

This process does not apply to any administrative reorganization of departments which do not involve the discontinuance of a program of instruction or the termination of faculty contracts.

4.1 Procedures for dismissal for curricular exigency

If the faculty, by majority vote, or the president sees a pressing need for terminations under the terms of 4.0 above, either party may convene an ad hoc Curricular Exigency Committee composed of the president, the Vice president for academic affairs and dean of the college, and the chair and one other elected member of each of the following committees: the Faculty Executive Committee, the Curriculum Committee, and the RPT Committee. This ad hoc committee shall study the college's curricular goals and faculty resources and shall report its findings to the faculty. If the committee finds that curricular exigency is present, it shall devise a plan of action, which shall include the name of the program or department recommended for discontinuance and a principled explanation in terms of the curricular goals of the college. This plan shall be presented to the teaching faculty for amendment and approval. A plan approved by a majority of the teaching faculty shall stand as a recommendation to the president. If the committee devises a plan of action and the faculty fails to approve this or an amended plan within ninety days during the school year, the committee’s original plan shall stand as a recommendation to the president.

4.2 A faculty member chosen for dismissal shall have the right to a hearing before a committee composed of the regular and alternate members of the Grievance Committee. At such a hearing, the faculty member may contest the exigency, the plan of action, or the procedures followed. After weighing the evidence, the hearing committee shall make recommendation to the Curricular Exigency Committee. On the basis of this recommendation, the Curricular Exigency Committee may present for faculty approval a modified plan of action.

4.3 Before appointments are terminated, the college, with the involvement of the Curricular Exigency Committee, shall make a demonstrable effort to offer affected faculty members other suitable positions within the college, the opportunity, where indicated, for retraining at college expense to qualify for other positions within the college, and, where applicable, early retirement.

4.4 When appointments must be terminated, the college, with the involvement of the Curricular Exigency Committee, shall make every effort to help affected faculty members find suitable positions elsewhere, and the college shall bear the cost of any reasonable retraining desired by faculty members affected. Faculty members affected shall receive at least one year’s notice from the date of their notification by the president. Severance pay may be equitably adjusted to the length of past and potential service to the college but will not be less than one year’s salary. The college may not renew a discontinued program or department for five years without offering renewed positions first to
displaced faculty members. This applies whether such persons have been dismissed or relocated within the institution.

5.0 Termination for medical reasons

Termination of an appointment for medical reasons must be based on clear and convincing medical evidence that the faculty member cannot continue to fulfill the terms and conditions of the appointment. Before resolving on a medical dismissal, the college should attempt to solve the problem by granting medical leave, extended as appropriate and with disability benefits granted where applicable, or, if appropriate, by offering early retirement.

5.1 Procedures for termination for medical reasons

a. The vice president for academic affairs and dean of the college shall convey the college's concern to the faculty member, or the faculty member's designated personal or legal representative, or, in the absence of a designated representative, the faculty member's next of kin. If the matter cannot be resolved in a mutually satisfactory way, or if it has financial implications for the college, the dean shall bring the matter to the attention of the president.

b. If the president believes that a dismissal hearing is in order, the president shall notify the faculty member, or member's representative or next of kin as in 5.1.1 above, in writing, of the intention to proceed, of the basis for the proposed action, and of the right to appear before a hearing. If the faculty member intends to appear before the hearing or to send a representative, the faculty member or representative must so inform the president, in writing, within ten working days of receiving this notification.

c. Formal termination proceedings shall be conducted in a manner parallel to that described in section 2.2 above.

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