

12.01.99.C0.06 Faculty Dismissals, Administrative Leave, Non-Reappointments, and Terminal Appointments



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Procedure Statement

This procedure should be read in conjunction with Texas A&M University System Policy 12.01 Academic Freedom, Responsibility and Tenure.

Reason for Procedure

This procedure supplements system policy on topics such as written terms of employment, administrative leave, faculty dismissals for cause, non-renewal of non-tenured tenure track faculty at the end of a term contract, financial exigency, and the phasing out of programs.

Procedures and Responsibilities

1. WRITTEN TERMS OF EMPLOYMENT

Section 3 of System Policy 12.01 Academic Freedom, Responsibility and Tenure addresses written terms of employment. See University Procedure 12.02.99.C0.01 Tenure, for additional information.

2. ADMINISTRATIVE LEAVE

Section 5 of System Policy 12.01 Academic Freedom, Responsibility and Tenure addresses administrative leave. A faculty member placed on administrative leave with pay may appeal the decision to the Provost by submitting an appeal in writing within five (5) business days of being notified of the leave. Appeals presented after the 5th business day shall be denied as untimely.

3. NOTICE OF NON-REAPPOINTMENT OR OF INTENTION NOT TO REAPPOINT

3.1 Notice of non-reappointment, or of intention not to reappoint a non-tenured tenure

track faculty member, will be given in writing in accordance with the standards prescribed in section 4.2 of System Policy 12.01 Academic Freedom, Responsibility and Tenure.

4. REVIEW BY FACULTY PEERS IN APPEALS OF ADMINISTRATIVE DECISIONS

- 4.1 As part of the regular committee appointment cycle, faculty members who have been successfully tenured and hold the rank of associate professor or higher will be added to the Faculty Hearing Committee/Advisory Committee Pool. From this pool, the Faculty Senate will randomly select a pool of 24 tenured faculty with representatives from each college. Should faculty need to serve on advisory or hiring committees referenced in this procedure, the Provost in consultation with Faculty Senate shall randomly select the appropriate number of faculty members from the Faculty Hearing Committee/Advisory Committee Pool to serve on those committees. The committee members will serve staggered terms so that six (6) members rotate off every year.
- 4.2 Any faculty member holding an administrative appointment of more than 49% will not be eligible to serve in the Faculty Hearing Committee/Advisory Committee Pool.
- 4.3 Being selected to be a part of this Hearing Committee/Advisory Committee Pool is part of faculty's professional responsibility and exemplifies the ideals of shared governance.

5. NON-RENEWAL OF NON-TENURED TENURE TRACK FACULTY AT END OF TERM CONTRACT

- 5.1 Section 7 of System Policy 12.01 Academic Freedom, Responsibility and Tenure addresses non-renewal of non-tenured tenure track faculty at the end of a term contract.
- 5.2 A faculty member has the right to present a grievance in writing to the Provost and Vice President for Academic Affairs on an issue related to the non-renewal or termination of the faculty member's employment at the institution. If a faculty member desires to present a grievance, the faculty member shall notify the Provost in writing not later than the 20th business day after the faculty member receives notice of the non-renewal or termination. Grievances presented after the 20th business day shall be denied as untimely.
- 5.3 A non-tenured tenure track faculty member may appeal a decision not to reappoint but only on the basis of an allegation that the decision was made: (1) in violation of the academic freedom of the individual; (2) for an illegal reason; or (3) for inadequate consideration of the record of professional achievement. For purposes of this section, an illegal reason is defined as a decision based on race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, genetic information, or veteran protected status, or disability unrelated to the performance of

duties; or made in retaliation for the faculty member's exercise of protected First Amendment rights. Such an appeal must be presented to the Provost in writing, pursuant to subsection 7.3 of System Policy 12.01 Academic Freedom, Responsibility and Tenure. At least one of these allegations must be made by the faculty member in order to initiate the appeal process. If a faculty member desires to appeal, the faculty member shall notify the Provost in writing not later than the 20th business day after the faculty member receives written notice of the decision not to reappoint. Appeals presented after the 20th business day shall be denied as untimely. Appeals on the basis of an illegal reason shall be referred for investigation and resolution in accordance with System Regulation 08.01.01 Civil Rights Compliance, and University Rule 08.01.01.C1 Civil Rights Compliance.

- 5.4 Upon receipt of an appeal from the faculty member, the Provost will select five (5) faculty members from the faculty pool referenced in Section 4 above to serve on an advisory (preliminary review) committee. Each member of the advisory committee shall be subject to challenge for cause by the faculty member and the administration. Each side shall be allowed a maximum of two challenges. The Speaker of the Faculty Senate will determine the validity of the challenges. The committee shall elect its own chairperson. The chairperson shall retain the right of discussion at all times and will vote only in the case of a tie. The advisory committee's proceedings may be informal and flexible.
- 5.5 The advisory committee will conduct a preliminary review of the allegations, pursuant to subsection 7.4 of System Policy 12.01 Academic Freedom, Responsibility and Tenure to determine whether the faculty member has established that a violation as defined in subsection 5.3 of this procedure may have occurred.
- 5.6 If the faculty advisory committee determines that the allegations establish a prima facie case and recommends a formal hearing, the Provost will proceed with arrangements for the hearing by the deadlines provided in subsection 7.5 of System Policy 12.01 Academic Freedom, Responsibility and Tenure. The University will provide staff support to schedule and hold a hearing. The Hearing Committee shall be composed of eight tenured faculty members selected by the Provost from the pool described in Section 4. The Hearing Committee will be a separate and distinct body from the advisory committee described above. Each member of the Hearing Committee shall be subject to challenge for cause by the faculty member and the administration. Each side shall be allowed a maximum of three challenges. The Speaker of the Faculty Senate will determine the validity of the challenges. The committee will select its own chairperson and other such officers as it deems necessary. The chair shall retain the right of discussion at all times and will vote only in the case of a tie. Control of the committee proceedings shall be retained by the chair.
- 5.7 Both the faculty member and the administration have the right of representation at the hearing; as well as the right to confront and question witnesses; and if a witness cannot appear, the right to the name of the witness and any written statements made

by the witness.

- 5.8 The hearing will be scheduled pursuant to System Policy 12.01 Academic Freedom, Responsibility and Tenure, subsection 7.5.
- 5.9 The faculty member shall present: (1) a written brief stating the specific basis for the allegations; (2) exhibits (documents) supporting the allegations; and (3) a list of witnesses, including a short written statement of the anticipated testimony of each witness, to the Chair of the Hearing Committee and to the administration's representative at least thirty (30) days before the date of the formal hearing.
- 5.10 The findings of the Hearing Committee shall be limited to determining whether the decision not to renew the appointment was made in violation of the faculty member's academic freedom, or for an illegal reason, as defined in subsection 7.3 of System Policy 12.01 Academic Freedom, Responsibility and Tenure, or without adequate consideration of the faculty member's record of professional achievement, depending on the basis of the faculty member's appeal. In addition, the Hearing Committee may make recommendations to the Provost regarding possible solutions.
- 5.11 In deliberating, the committee should allow oral arguments and/or written briefs by the dean or his or her representatives and by the faculty member or his or her designated representatives. The committee's findings and recommendation shall be conveyed in writing to the Provost and to the faculty member, pursuant to System Policy 12.01 Academic Freedom, Responsibility and Tenure, subsection 7.5.
- 5.12 The hearing shall be closed unless the affected faculty member requests that it be open.
- 5.13 The Provost will review the recommendations of the Hearing Committee and will make a decision. The Provost's decision is final.

6. DISMISSAL FOR CAUSE OF FACULTY WITH TENURE OR WITH UNEXPIRED TERM APPOINTMENTS

- 6.1 This procedure should be read in conjunction with University Procedure 12.02.99.C0.01 Tenure and System Policy 12.01 Academic Freedom, Responsibility and Tenure, System Regulation 08.01.01, Civil Rights Compliance. Good cause for dismissal is defined and addressed in subsections 4.3 and 4.4 of System Policy 12.01 Academic Freedom, Responsibility and Tenure.
- 6.2 A bona fide effort by appropriate administrative officers and/or committees should be made to achieve a satisfactory resolution of difficulties through preliminary inquiry, discussion, or confidential mediation.
- 6.3 Should these efforts fail to achieve a satisfactory resolution and should the

difficulties be considered by the administration to be serious enough to warrant dismissal, the faculty member should be afforded the opportunity for a hearing that meets the requirements set forth in section 7 of this procedure.

- 6.4 As provided in Section 51.942 of the Texas Education Code, a tenured faculty member subject to termination on the basis of a post-tenure review must be given the opportunity for referral of the matter to a nonbinding alternative dispute resolution process as described in Chapter 154, Civil Practice and Remedies Code. The Code describes various processes, including mediation facilitated by an impartial third party. The opportunity for referral of the matter to nonbinding alternative dispute resolution must be provided prior to referral of the charges to a hearing committee under section 7 of this procedure.
- 6.5 In any dismissal proceedings the faculty member and the administration shall have the right to representation.

7. DISMISSAL FOR CAUSE HEARINGS

- 7.1 In hearings regarding the dismissal of a tenured faculty member or the dismissal of a probationary faculty member whose term appointment has not expired at the time of dismissal, the burden of proof is on the institution to establish, by a preponderance of the evidence, the existence of good cause for dismissal. The President of Texas A&M University-Corpus Christi has delegated authority for oversight of the logistics of pre-termination hearings to the Provost. The following procedures apply to cases involving such faculty members.
- 7.2 The Provost shall notify the faculty member in writing of the charges constituting good cause for dismissal and the opportunity for a fair and impartial hearing by a faculty hearing committee. A tenured faculty member subject to termination on the basis of a post-tenure review shall also be notified of the opportunity for referral of the matter to a nonbinding alternative dispute resolution process, pursuant to subsection 6.4 of this procedure. If the faculty member desires to appeal the termination, the faculty member shall notify the Provost in writing not later than the 10th business day after the date the faculty member receives the notice of termination. A faculty member who notifies the Provost in writing within the time prescribed is entitled to a hearing as provided in this section. Appeals presented after the 10th business day shall be denied as untimely. If the faculty member does not present an appeal within the time prescribed, the administration shall take the appropriate action and notify the faculty member in writing. The Provost shall notify the hearing committee within five (5) business days of the date the appeal has been filed.
- 7.3 At the hearing, the faculty member shall have the right to: (1) be represented by a representative of the faculty member's choice; (2) hear the evidence on which the charges are based; (3) present evidence; and (4) cross-examine each adverse witness and if a witness cannot appear, the right to the name of the witness and any

written statements made by the witness. The administration shall also have the right to representation. A certified shorthand reporter shall record the hearing.

- 7.4 The Hearing Committee shall be composed of eight tenured faculty representatives selected by the President from the faculty pool described in section 4 of this procedure. Each member shall be subject to challenge for cause by the faculty member and the administration. Each side shall be allowed a maximum of three challenges. The Speaker of the Faculty Senate will determine the validity of the challenges. The committee shall elect its own chairperson and other such officers as it deems necessary, and the chairperson shall retain the right of discussion at all times and will vote only in the case of a tie. Control of committee proceedings shall be retained by the chair.
- 7.5 The Hearing Committee shall schedule a hearing pursuant to subsection 8.2.1 of System Policy 12.01 Academic Freedom, Responsibility and Tenure.
- 7.6 Subject to subsection 8.2.1 of System Policy 12.01 Academic Freedom, Responsibility and Tenure, the Hearing Committee shall set a time for the hearing that will allow the faculty member a reasonable time to prepare a defense to the charges made and shall notify the faculty member and the administration of the time and place of the hearing. The administration's witness list, including a short statement of the anticipated testimony of each witness, and a copy of the administration's exhibits shall be provided by the administration to the Hearing Committee and the faculty member at least fifteen (15) business days before the hearing. The faculty member's witness list, including a short statement of the anticipated testimony of each witness, and a copy of the faculty member's exhibits shall be provided by the faculty member to the Hearing Committee and the administration at least fifteen (15) business days before the hearing. Witnesses may be added at a later date for good cause as determined by the Hearing Committee.
- 7.7 A faculty member may be reassigned or suspended during the pendency of termination proceedings pursuant to subsection 6.3 of System Policy 12.01 Academic Freedom, Responsibility and Tenure.
- 7.8 The Hearing Committee shall formulate explicit findings and recommendations pursuant to subsection 8.2.1 and convey its findings and recommendations pursuant to subsection 8.2.2 of System Policy 12.01 Academic Freedom, Responsibility and Tenure.
- 7.9 The hearing shall be closed unless the affected faculty member requests that it be open.
- 7.10 If the President proposes termination of the faculty member's appointment, the process outlined in subsections 8.2.3 through 8.2.5 of System Policy 12.01 Academic Freedom, Responsibility and Tenure shall be followed.

8. TENURE, FINANCIAL EXIGENCY, AND PHASING OUT OF PROGRAMS

- 8.1 Cases of bona fide financial exigency or reduction or discontinuance of institutional programs based on educational considerations shall follow the definitions and procedures outlined in subsections 9.1 through 9.3 of System Policy 12.01 Academic Freedom, Responsibility and Tenure. When faculty dismissals are contemplated on grounds of financial exigency or program termination or reduction, the Provost and appropriate college dean should facilitate early, careful, and meaningful sharing of information and views with appropriate faculty representatives on the reasons indicating the need to terminate programs. Recommendations from such faculty representatives shall be sought on alternatives available to the institution to ensure continuation of a strong academic program and to minimize the losses sustained by affected students and faculty members.
- 8.2 A faculty member selected for termination shall be given an opportunity to respond in a hearing before a Faculty Hearing Committee. If the faculty member desires to request a hearing, the faculty member shall notify the Provost in writing within fifteen (15) business days of the date on which the faculty member was given a written notice of the decision to terminate on the basis of a bona fide financial exigency or the phasing out of an institutional program necessitating a reduction in staff. A faculty member who notifies the Provost in writing within the time prescribed is entitled to a hearing as provided in this section. Requests presented after the 15th business day shall be denied as untimely. If the faculty member does not request a hearing within the time prescribed, the administration shall take the appropriate action and notify the faculty member in writing.
- 8.3 The Faculty Hearing Committee shall be composed of eight tenured faculty members selected by the Provost from the faculty pool described in Section 4. Normally, the Faculty Hearing Committee should be designated no later than fifteen (15) business days after the Provost has received the request for a hearing. Each member will be subject to challenge for cause for a maximum of three challenges. The Speaker of the Faculty Senate will determine the validity of the challenges. The committee shall elect its own chairperson and other such officers as it deems necessary. The chairperson shall retain the right of discussion at all times and will vote only in the case of a tie. Control of committee proceedings shall be retained by the chair. Normally, the Hearing Committee should schedule a hearing within fifteen (15) business days after their appointment by the Provost.
- 8.4 After reviewing the Faculty Hearing Committee's findings, the President will make a decision about the termination.

Related Statutes, Policies, or Requirements

[Texas Civil Practice and Remedies Code, Title 7, Chapter 154](#)

[Texas Education Code, Title 3, Chapter 51](#)

System Policy [12.01 Academic Freedom, Responsibility and Tenure](#)

System Regulation [08.01.01 Civil Rights Compliance](#)

University Rule [08.01.01.C1 Civil Rights Compliance](#)

University Procedure [12.02.99.C0.01 Tenure](#)

University Procedure 32.01.01.C0.02 Faculty Ombuds

University Procedure [33.99.04.C0.02 Promotion of Tenured and Tenure-Track Faculty Members](#)

Contact Office

Contact for interpretation and clarification: Provost and Vice President for Academic Affairs
(361)825-2722