

CHAPTER 10: LAYOFF OR TERMINATION

10.01. DEFINITIONS

- A. For the purposes of this chapter, “program” shall mean a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines. When feasible, the term shall designate a department, a department-like body or similar administrative unit and has been officially recognized by the University Academic Planning Council (UAPC). Academic programs cannot be defined ad hoc, at any size, but should be recognized academic units.
- B. For the purposes of this chapter, “program discontinuance” as described in Wis. Stat. 36.21-22 shall mean formal program elimination or closure.
- C. For the purposes of this chapter, “curtailment” as described in Wis. Stat. 36.21-22 shall mean a reduction in the size of a program.
- D. For the purposes of this chapter, “modification or redirection” as described in Wis. Stat. 36.21-22 shall mean “departmental restructuring” as described in FPP 5.02.
- E. For the purposes of this chapter, “financial emergency” refers to a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.
- F. For the purposes of this chapter, “educational considerations” shall not include cyclical or temporary variations in enrollment. Educational considerations must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by a program’s discontinuance.
- G. For the purposes of this chapter, “layoff” is the indefinite suspension or involuntary reduction in services and compensation of a faculty member’s employment by the University of Wisconsin System (Wis. Stat. 36.22(1)(a)). A laid off faculty member retains the rights specified in UWS 5.16 through 5.21 (inclusive) and Wis. Stat. 36.22(11)-36.22 (15).
- H. For the purposes of this chapter, “termination” is the permanent elimination of a faculty member’s employment by the University of Wisconsin System (Wis. Stat. 36.22(1)(c)). A faculty member whose position has been terminated retains the rights specified in UWS 5.18-5.19 and Wis. Stat. 36.22(13)-(14).

10.02. LAYOFF AND TERMINATION FOR REASONS OF FINANCIAL EMERGENCY OR EDUCATIONAL CONSIDERATIONS.

- A. A. No faculty member shall be laid off or terminated due to curtailment, modification, and/or redirection of a department. Faculty displaced due to restructuring of a program or discontinuance of a program for reasons other than financial emergency or educational considerations will be placed in another suitable position, at the same rank, that is acceptable to the faculty member, in accordance with Wis. Stat. 36.22(12). If placement in another position would be facilitated by a reasonable period of training, such retraining and relocation will be provided and the institution will bear the cost.

B. The chancellor may lay off or terminate a tenured faculty member, or lay off or terminate a probationary faculty member prior to the end of his/her appointment, under extraordinary circumstances that lead to program discontinuance because of a demonstrably bona fide financial exigency or for educational considerations. Such layoffs or terminations will be made in accordance with the provisions of UWS Chapter 5, Wis. Stat. 36.22, and this chapter and imply the retention of rights indicated therein. A nonrenewal under FPP 7.06., regardless of reasons, is not a layoff or termination under this section.

10.03. FINANCIAL EMERGENCY: CONSULTATION AND RECOMMENDATIONS.

A. The chancellor shall consult with the Faculty Consultative Committee on Financial Emergency (FPP) if at any time a declaration of financial emergency is to be considered. It is the right and responsibility of the Faculty Consultative Committee on Financial Emergency to represent the faculty if a declaration of a state of financial emergency for the campus is being considered and to assure that the procedures of UWS 5.05 and 5.06 are followed.

B. Consultation shall proceed in accordance with UWS 5.05 and shall include consultation with the Academic Staff Executive Committee and the University Staff Executive Committee, as well as those other individuals and groups who may be able to provide valuable advice (see UWS 5.05(1)(e)).

C. The chancellor and the Faculty Consultative Committee on Financial Emergency shall pursue all feasible alternatives to termination of appointments such as the voluntary reduction of full-time faculty members to part-time status, in accordance with FPP 7.19.C., expenditure of one-time money or reserves as bridge funding, furloughs, pay cuts, deferred compensation plans, early-retirement packages, deferral of nonessential capital expenditures, and cuts to non-educational programs and services, including expenses for administration.

D. If the chancellor decides to recommend the declaration of a state of financial emergency for the campus, that recommendation to the system president and the board shall be accompanied by a report which shall be in conformity with UWS 5.06(1).

E. Before any proposals for program discontinuance on grounds of financial emergency are made, the faculty or an appropriate elected faculty body will have opportunity to render an assessment in writing of the institution's financial condition. The faculty or an appropriate elected faculty body will have access to at least five years of audited financial statements, current and following-year budgets, and detailed cash-flow estimates for future years as well as detailed program, department, and administrative-unit budgets.

F. The chancellor and the chair of the Faculty Consultative Committee on Financial Emergency or their designees, and representatives of affected colleges, schools, departments, and programs may appear before the board at the time the recommendation is considered. Other interested parties may submit alternative recommendations or challenges to any part of the report in writing.

10.04. FINANCIAL EMERGENCY: INDIVIDUAL DESIGNATIONS.

Once the board has accepted the chancellor's declaration of a state of financial emergency, it shall be the primary responsibility of the executive committees of the affected department(s) to recommend

which individuals shall have their appointments reduced or terminated. Such recommendations shall be made in accordance with the provisions of UWS 5.07 and this chapter.

10.05. EDUCATIONAL CONSIDERATIONS.

A. The decision to discontinue formally a program or department of instruction will be based upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof, as defined in FPP 5.02.

B. Faculty members in a program being considered for discontinuance for educational considerations will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured and probationary faculty and academic staff will be invited to participate in these deliberations.

C. Before the chancellor issues notice to a faculty member of an intention to terminate an appointment because of discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable faculty position that is acceptable to the faculty member. If placement in another position would be facilitated by a reasonable period of training, such retraining and relocation will be provided and the institution will bear the cost. If no position is available within the institution, with or without retraining, the faculty member's appointment then may be terminated, but only with provision for severance as indicated in 10.11.

D. Faculty members may contest a proposed relocation under the hearing procedures described in section 10.08 below.

E. Faculty members recommended for termination due to discontinuance of a program for educational considerations shall have the same rights of notification, hearing, and review described in 10.07.-10.10. below.

10.06. SENIORITY.

A. For purposes of this chapter, seniority within a department or program shall be according to rank and within rank according to length of service at that rank. Length of service shall be calculated at the full-time rate for those faculty members whose status was reduced to part-time by mutual agreement because of an anticipated declaration of financial emergency.

B. Length of service shall be computed from the effective date of the appointment at the University of Wisconsin-Madison, except that in the case of an initial appointment with tenure the dean may, on the recommendation of the departmental executive committee, grant additional seniority by counting all or a portion of service elsewhere that is equivalent to service in the university at the rank granted. No initial appointment during a financial emergency shall include seniority for service elsewhere than at the University of Wisconsin-Madison. The letter of appointment shall indicate the nature of the seniority granted if it is other than from the effective date of the appointment.

- C. If two or more appointments at the same rank in the same department or program become effective at the same time, relative seniority among the individuals involved shall be determined by a random process prior to the effective date of the appointment. If two or more individuals currently have identical seniority, and one of them had voluntarily accepted a reduction in appointment in accordance with 10.03.C., then that individual shall have the greater seniority; otherwise a process of random selection will be employed to give each a unique seniority position. The process to be used shall be determined by the faculty senate.
- D. The period of an approved leave of absence is included in determining length of service.
- E. If a faculty member is reappointed as an instructor or assistant professor without a break in service, length of service shall be computed from the date of initial appointment at that rank.
- F. If a faculty member is reappointed after having left the university, the appointment shall be treated as an initial appointment and previous service in the university considered on the same basis as service elsewhere as provided in 10.06.B.
- G. Every effort, consistent with federal and state laws regarding fair employment practices, shall be made to ensure that the university's affirmative action programs are not impaired by the operation of this seniority system.

10.07. NOTIFICATION

Each faculty member whose position is recommended for layoff or termination shall be notified in accordance with UWS 5.09 and 5.10 and Wis. Stat. 36.22(4) and 36.22(5).

10.08. HEARING

- A. A faculty member whose position is recommended for layoff or termination is entitled to a full, on-the-record adjudicative hearing as provided in UWS 5.12 and Wis. Stat. 36.22(8)(b). The issues in the hearing may include the following:
 - i. The existence and extent of the condition of financial emergency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.
 - ii. The validity of the educational judgments and the criteria for identification for termination, but the recommendations of a faculty body on these matters will be considered presumptively valid.
 - iii. Whether the criteria are being properly applied in the individual case.
- B. The Committee on Faculty Rights and Responsibilities shall operate as the hearing agent for the board pursuant to Wis. Stat. 36.22(6), and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence, and transmit such record and summary along with its recommended findings of fact and decision to the board.

10.09. RECOMMENDATIONS AND BOARD REVIEW

- A. The recommendations of the chancellor and the recommendations, if any, of the Committee on Faculty Rights and Responsibilities shall be forwarded to the president and the board and acted upon by the board in accordance with Wis. Stat. 36.22(9).
- B. Review by the board is governed by UWS 5.14 and 5.15 and Wis. Stat. 36.22(9) and 36.22(10).

10.10. LAYOFF STATUS AND RETAINED RIGHTS

A. A faculty member whose position has been eliminated or reduced in accordance with the provisions of this chapter shall be placed on layoff status and shall so remain until removed according to UWS 5.16 and Wis. Stat. 36.22(11).

B. A faculty member designated for layoff or on layoff status shall have the rights provided in UWS 5.17, 5.18, and 5.19 and Wis. Stat. 36.22(12), 36.22(13), and 36.22(14), and, in addition, shall have the following rights: faculty on layoff status will be entitled to use university-wide facilities. Use of the facilities of a school, college, department, or program will be determined by the faculty thereof.

C. Faculty members on voluntary or compulsory reduction of appointment under this chapter retain full membership in the faculty regardless of the percent of appointment and continue to be governed by these Faculty Policies and Procedures; in addition, the annual notice required in UWS 5.16(2)(b)4 and in Wis. Stat. 36.22(11)(a)(5) shall be deemed to be given automatically by virtue of the continued part-time appointment. In the event that a faculty member on voluntary or compulsory reduction of appointment shall accept an appointment at a greater fraction of full time as specified in UWS 5.16(2)(b)1, then any subsequent claim to increased appointment shall be forfeited.

10.11. SEVERANCE

In the case of faculty termination, the institution will provide severance pay equitably adjusted to the faculty member's length of service, an amount which may well exceed but not be less than:

- i. six months salary if the final decision (including completion of the appeals process) is reached prior to the 18th month of probationary service, or
- ii. one year salary if the decision is reached after the 18th month of probationary service or if the faculty member has tenure.

In determining the amount of severance pay to be awarded, the faculty member's length and quality of service and considerations of equity will be taken into account.

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