

UW Colleges Constitution

Chapter 6 - Procedures for Faculty Reconsiderations, Appeals, and Grievances

Approved by the UW Board of Regents 9/10/93

Revision adopted by the Senate 10/17/08

6.00 Written Notice of Non-renewal

When the Provost notifies a faculty member that a decision has been reached not to renew a probationary faculty appointment, the faculty member shall have the right to request and receive written specific reasons for the decision if he/she makes the request within 10 days. Such reasons shall be provided within 10 days of the request and become a part of the personnel file of the individual.

6.01 Reconsideration of Non-renewal

The faculty member shall then have the right to a reconsideration of the non-renewal decision, provided that he/she request such reconsideration within 15 days of receipt of the reasons. There shall be an opportunity for a full and fair reconsideration to insure that all relevant material is considered. The faculty member shall be given 10 days notice of the time and place of the reconsideration. He/She shall also be given the opportunity to respond to the written reasons and to present any written and/or oral evidence and arguments relevant to the decision. The faculty member shall receive within 7 working days written notification of the decision resulting from the reconsideration from the Provost. Reconsideration is not a hearing or an appeal, and shall be non-adversary in nature. In the event that a reconsideration affirms a negative decision on a faculty member, he/she may appeal the decision.

6.02 Appeals Against Non-renewals

A faculty member informed that a reconsideration affirms the negative decision shall have 20 days to appeal the decision to the UW Colleges Appeals and Grievances Committee. The UW Colleges Appeals and Grievances Committee shall conduct a review not later than 20 days after the request, except that this time limit may be enlarged by mutual consent of the parties, or by order of the committee. The faculty member shall be given 10 days notice of such review. The burden of proof in such an appeal shall be on the faculty member and the scope of the review shall be limited to the question of whether the decision was based to any significant degree upon one or more of the following factors, with material prejudice to the individual:

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

C. "Improper consideration of qualifications . . ."
. . . for reappointment or renewal. For purposes of this section, "improper consideration" shall be deemed to have been given to the qualifications of a faculty member in question if material prejudice resulted because of any of the following:

1. The procedures required by rules of the faculty or board were not followed, or
2. Available data bearing materially on the quality of performance were not considered, or
3. Unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct.

The Appeals and Grievances Committee shall report on the validity of the appeal to the committee(s) making the non-renewal recommendation and to the appropriate campus dean and the chancellor.

Such a report may include remedies which may, without limitation because of enumeration, take the form of a reconsideration by the decision maker or recommending body, a reconsideration by the decision maker or recommending body under instructions from the committee, or a recommendation to the next higher appointing level. Cases shall be remanded for reconsideration by the recommending body or decision maker in all instances unless the Appeals and Grievances Committee specifically finds that such a remand would serve no useful purpose. The Appeals and Grievances Committee shall retain jurisdiction during the pendency of any reconsideration.

In cases where the Appeals and Grievances Committee finds that a tenure denial which results in a non-renewal decision was based in any significant degree upon impermissible factors (UWS 3.08), it may or may not remand the case to the body that recommended against tenure. In those cases where a reconsideration again results in a denial of tenure, the Appeals and Grievances Committee will examine the evidence for continued presence of impermissible factors. Whether the case was remanded or not, once impermissible factors are affirmed, the Vice Chancellor for Academic Affairs will appoint an ad-hoc review committee from a slate of tenured faculty members recommended by either the departmental chairs or the campus deans depending upon the origin of the tenure denial. These appointees may be from the UW Colleges or from another university. No person may be appointed to the committee unless the person is knowledgeable or experienced in the individual's academic field or in a substantially similar academic field. No member of the ad-hoc committee may be from the department or the campus that recommended against tenure. The committee may not base its tenure recommendation upon impermissible factors as defined by the Board of Rule. As closely as possible, the ad-hoc committee should replicate the committee that denied tenure and should use the tenure criteria and procedures of that committee. All procedures established for the tenure review process should be followed with the ad-hoc committee replacing the committee that recommended against tenure. In cases of non-renewal, the decision of the chancellor shall be final.

6.03 Procedural Guarantees

Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of his/her contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review. The decision not to renew a probationary appointment shall not be considered a dismissal, if appropriate notification of such decision is given.

6.04 Procedures for Dismissal

Whenever the chancellor receives a complaint against a faculty member which the chancellor deems substantial and which, if true, might lead to dismissal for cause under section UWS 4.01, Wis. Adm. Code, the chancellor shall within a reasonable time initiate an investigation and shall, prior to reaching a decision on filing charges, offer to discuss the matter informally with the faculty member. A faculty member may be dismissed only after receipt of a written statement of specific charges from the chancellor as the chief administrative officer of the UW Colleges and, if a hearing is requested by the faculty member, in accordance with the provisions of UWS 4, Wis. Adm. Code. The hearing shall be conducted by the UW Colleges Appeals and Grievances Committee.

6.05 Appeals Resulting from Financial Emergency

If, on the basis of a recommendation of the chancellor, the board declares a state of financial emergency in the UW Colleges and if subsequently the academic departments, after consultation with the campus committees and campus dean(s), recommend that specific individuals be laid off, a faculty member whose position is recommended for elimination is entitled to a hearing before the UW Colleges Appeals and Grievances Committee. The hearing will be conducted according to procedures in sections UWS 5.1 1-.15, Wis. Adm. Code.

6.06 Complaints

When complaints are made to a campus dean or the chancellor by any person or group concerning conduct by a faculty member which violate university rules or policies, or which adversely affects the faculty member's performance of his/her obligation to the university, but which allegations are not serious enough to warrant dismissal proceedings under UWS 4, Wis. Adm. Code, the chancellor may take administrative action, which may include dismissing the complaint or referring the complaint to the UW Colleges Appeals and Grievance Committee. Also, the chancellor may invoke disciplinary action, for example, a reprimand, a censure or a suspension (with or without pay). Should disciplinary action be invoked, the chancellor shall provide the affected faculty member notification of the complaint, the details of the disciplinary action, and the faculty member's right to request a hearing on the disciplinary action before the UW Colleges Appeals and Grievances Committee, on the condition that the request is initiated within 30 days of receipt of the written notification.

The committee shall establish rules and procedures for such hearings in accordance with UWS 6.01, Wis. Adm. Code. Following a hearing the committee shall submit its findings and

recommendations in writing to the chancellor, with a copy to the affected faculty member. The committee's recommendations may include rescission of the disciplinary action, modification of the action, or no change. The chancellor shall make a written response to the committee's recommendation within 30 days. The chancellor's decision shall be final, except that the board of regents at its option may grant a review on the record.

6.07 Grievances

A grievance is a personnel problem involving a faculty member's expressed feeling of unfair treatment or dissatisfaction with actions or conduct by administration, faculty, or academic staff, which disregard or violate University rules or policies and/or violate or adversely affect the working conditions or rights of a faculty member. Grievances shall be brought before a campus committee designated by the campus collegium to conduct hearings and fact-finding. This campus committee shall make recommendations to the campus dean, and when he/she does not concur, to the chancellor. When the grievance concerns the dean, the campus committee shall make its recommendation directly to the chancellor.

Grievances involving a department shall be brought before a department committee designated by the department to conduct hearings and fact-finding. This department committee shall make recommendations to the department chair, and the chair shall forward his/her recommendations to the chancellor. When the grievance concerns the department chair, the department committee shall make its recommendations directly to the chancellor.

Grievances involving other UW Colleges bodies or officials shall be brought before a subcommittee of three members of the UW Colleges Faculty Appeals and Grievances Committee, including its chairperson or his/her designee.

Also, if an aggrieved faculty member is not satisfied with the action taken by a campus or department grievance committee, he/she may request that the grievance be heard by a subcommittee of the UW Colleges Appeals and Grievances Committee, including its chairperson or his/her designee. This subcommittee shall recommend solutions to the chancellor. The chancellor shall act on the recommendations within 30 days. The decision of the chancellor is final except that the board of regents, upon petition of a grievant or the faculty body, may grant a review on the record.