

Changes to Section 3.4 of the Faculty Handbook

Approved by the Faculty Senate on May 4, 2010

3.4 Nonrenewal and Termination of Appointments

3.4.1 Nonrenewal and Termination of Term Appointments

3.4.1.1 Nonrenewal of Term Appointments of Lecturers/Senior Lecturers and Clinicians/Senior Clinicians

Appointments of Lecturers and Clinicians for periods of one semester to three years do not require a notice of intent not to renew. Lecturers and clinicians who have been employed continuously at one-half time or greater for three years or more must be given advance written notice of nonrenewal of his/her current contract at least one year before its expiration. In case notice is not given and a new contract has not been entered, the appointment automatically renews for a one-year terminal term for which no further notice of non-renewal is required.

Persons appointed as Senior Lecturer and Senior Clinician must receive notice by May 15 of the year proceeding the end of the term appointment (or at least 12 months in advance of the end of the term appointment when the appointment end date is not May 15) of intent to renew or not renew. In case notice is not given and a new contract has not been entered, the appointment automatically renews for a one-year terminal term for which no further notice of non-renewal is required.

3.4.1.2 Nonrenewal of Term Appointments of Term Adjunct Faculty

Written notice that a term appointment of a tenure-eligible or adjunct faculty member is not to be renewed shall be given to the faculty member in advance of the expiration of the appointment, according to the following minimum periods of notice:

- not later than March 1 of the first academic year of service at Iowa State, if the appointment expires at the end of that year; or if a one-year appointment terminates during an academic year, at least three months in advance of its termination
- not later than December 15 of the second academic year of service at Iowa State, if the appointment expires at the end of that year; or if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination

- at least twelve months before the expiration of an appointment after two or more years at this institution

Section 3.4.1.3 Nonrenewal of Appointments of Tenure-Eligible Faculty

Written notice that a tenure-eligible faculty member is not to be renewed shall be given to the faculty member in advance of the expiration of the appointment, according to the minimum periods of notice as described in 3.4.1.2. A tenure-eligible faculty member being considered for reappointment shall be given the opportunity, well in advance of the final decision, to present to the departmental committee charged with making the recommendation any evidence he or she believes may be relevant and helpful to his or her case.

A tenure-eligible faculty member who is not recommended for reappointment shall be given an explanation of the action in an informal conference with the department chair and, if he or she requests it, shall be given a statement of reasons in writing. A faculty member who is denied reappointment can secure a review of the decision either through administrative channels or the Faculty Senate Committee on Appeals if the faculty member believes that it results from improper procedure, or rests on grounds which violate academic freedom or constitutional rights, or is substantively arbitrary or capricious. In such appeal procedures, the burden of proof is on the faculty member.

Financial exigency or academic program elimination *per se* are not valid reasons for nonrenewal of tenure-eligible appointments. In case of academic program elimination or the declaration of financial exigency, the guidelines and procedures for the termination of tenure-eligible faculty appointments are described in Section 3.4.2.

3.4.1.4 Termination of Non-tenure Eligible Appointments Due to Elimination of Academic Programs and Financial Exigency

Termination means the ending of a term appointment before the expiration of the appointment term. Whenever Sections 3.4.2.2 Termination of Appointment Due to Elimination of Academic Programs or 3.4.2.3 Termination of Appointment Due to Financial Exigency are invoked, faculty on term appointments can be terminated for these same reasons upon the giving of the following advanced written notice:

- three months for faculty on one-year appointments;
- six months for faculty on two year appointments; and
- one year for faculty with appointments of more than two years.

During the period of appointment, faculty on term appointments will be given a written statement of reasons for termination and an opportunity to appeal involuntary termination using the procedures described in Section 9 of the Faculty Handbook.

3.4.2 Termination of Tenured Faculty, Tenure-Eligible, and Adjunct Faculty with Continuous Appointments

The appointment of a tenured faculty, tenure-eligible, and adjunct faculty with continuous appointments may be terminated for adequate cause, the elimination of an academic program, or financial exigency. Additional reasons for which adjunct faculty with continuous appointments may be terminated are found in Section 3.3.4. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances. The procedures governing any termination must conform in all respects to the requirements of due process.

3.4.2.1 Termination of Appointments Due to Adequate Cause

Chapter 7 provides a process for termination of faculty appointments for adequate cause.

3.4.2.2 Termination of Appointment Due to Elimination of Academic Programs

The rationale for the elimination of an academic program must be based primarily on academic or educational reasons (e.g., long-term decline in number of majors or graduates, loss of accreditation, centrality to mission of university) as determined primarily by the faculty or an appropriate committee thereof (see **Section 10.8** of the Faculty Handbook). Alternatives to eliminating academic programs should first be considered. These include (1) merging similar programs, (2) refocusing an existing program, and (3) reducing the size of the program.

The appointment of a tenured or continuous adjunct faculty member may be terminated as a result of elimination of programs for academic reasons, when such discontinuance has been approved by the Faculty Senate, the President of the University, and the Iowa Board of Regents (in accordance with the Board of Regents program discontinuance procedures). An academic program normally means an undergraduate or graduate major approved for a bachelor or graduate degree by the Faculty Senate, President, and Iowa Board of Regents (see **Section 10.8 Development of Courses and Curricula**).

After the Senate has voted to eliminate an academic program, an *ad hoc* committee will be formed for the discontinued program to determine which faculty are associated with it. This committee will consist of four faculty appointed by the President of the Faculty Senate in consultation with the Executive Board, as well as a representative of the Provost's office. At least two of the four faculty members must be sitting Faculty Senators, and no member may hold an appointment in the discontinued academic program or a department through which it was offered. If the majority of the faculty member's teaching duties are in an academic program, where teaching duties are defined as teaching undergraduate or graduate courses, serving as a major professor, and undergraduate advising, the faculty member will be considered to be associated with a given program. Faculty members who have teaching duties in two or more academic programs may be able to transfer to a continuing program if one of the programs with which they are associated is discontinued. For faculty who have continuous appointments that

are not associated with an academic program (e.g., in Extension), the elimination of their unit can result in the potential termination of their appointments, using the same process outlined in this policy.

After the discontinuance of an academic program has been approved by the Board of Regents, faculty members associated with it that hold continuous appointments will be given formal notice that their appointments may be terminated.

- If a department has more than one academic program, faculty associated with an eliminated program will be placed in another academic program in that department if that can reasonably be done. When transferred to another academic program within a department, the faculty member retains his/her rank, tenure status, and salary. If this is not reasonable, a good-faith effort must be made to place an affected faculty member in an academic program outside the department where his/her professional services can be used effectively.
- If placed in an academic program outside his/her department, his/her rank and tenure status will be retained and compensation provided commensurate with that placement. The duties of a faculty member placed in another academic program do not have to be identical to those in the eliminated program. Whenever such a placement is made, a new Position Responsibility Statement will need to be developed.

At a minimum, the following are required for a good-faith effort:

- The university and the faculty member must make a concerted effort to find a suitable position for the affected faculty member in academic program in the same or another department.
- If a move to another academic program would be facilitated by a reasonable period of retraining, university support would be provided.
- If no suitable position can be found, the faculty member will be given formal notice of a terminal one-year appointment, or a mutually agreeable severance package.
- If the same or equivalent position held by a faculty member whose appointment has been terminated is created in the next three years in any academic program or unit, the terminated faculty member will have the right of first refusal of this position.

A faculty member may appeal a proposed transfer or termination resulting from the elimination of an academic program; that is, has a right to an appeal as described in Section 9 of the Faculty Handbook. In such an appeal, the rationale for the elimination of an academic program cannot be considered or challenged. Appeals may be based on (1) how a determination was made that a faculty member's appointment was associated with the eliminated major; (2) whether the criteria for termination were properly applied in the individual case; and (3) the lack of the university's good faith effort to transfer the faculty member to another program.

3.4.2.3 Termination of Appointment Due to Financial Exigency

The appointment of a tenured, tenure-eligible, or continuous adjunct faculty member may be terminated in case of financial exigency that is demonstrable and bona fide and declared by the Iowa Board of Regents.

In any circumstance where the President recommends, or is asked to recommend, to the Board of Regents whether financial exigency should be declared, the President (prior to making the

recommendation) shall confer with the Faculty Senate and relevant administrative units on the questions: Does a financial exigency exist? Are there any the reasonable alternatives to declaring financial exigency? What will be the long term impact on the institution of such a declaration? If the Faculty Senate disagrees with the President's recommendation, the Faculty Senate's view shall be sent to the Board of Regents for timely consideration by the Regents.

Upon the declaration of financial exigency, if faculty positions will be affected, the Executive Vice President and Provost shall develop a process for involvement of the Faculty Senate and relevant administrative units in the development of a reduction plan. The Faculty Senate shall consider matters of educational policy, impact on the faculty and faculty status, and make timely recommendations to the Executive Vice President and Provost on reductions.

When the reduction plan has been adopted, faculty with tenured, tenure-eligible and continuous adjunct appointments that will be terminated shall receive notice not less than twelve months prior to the effective date of termination.

The university and faculty member are expected to make a reasonable effort to transfer each tenured, tenure-eligible or continuous adjunct faculty member whose position has been proposed for elimination to another college or department where his/her professional services may be used effectively. Reasonable efforts to identify alternative academic homes for potentially affected faculty will begin as part of the development of the reduction plan, and will continue for individual faculty members given notice of termination through the notice period. If the same or equivalent position held by a faculty member whose appointment has been terminated is created in the next three years in any academic program or unit, the faculty member affected will have the right of first refusal of this position.

Faculty members may appeal actions affecting their appointments for reasons of financial exigency as described in Chapter 9.

Appendix A. Conforming Amendments to Other Sections of the Faculty Handbook

Changes in Section 3.4 will require some minor changes in wording in other sections of the Faculty Handbook to make them consistent with Section 3.4. These proposed changes in wording are all given in bold.

3.3.4 Continuous Adjunct Appointments

The title continuous adjunct was employed in the past to extend certain adjunct appointments beyond seven years and subject to termination only for adequate cause (section 7.2), **elimination of academic programs (Section 3.4.2.2) or financial exigency (Section 3.4.2.3)**, lack of need for the role the person has been playing in the department, significant change in the nature of that role, or other circumstances related to the nature of the position within the department. No new appointments may be made using this title.

Salaries for continuous adjunct faculty should reflect equity with other faculty making similarly valuable contributions.

5.2.1 General Policies on Tenure

Academic freedom is the freedom to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression and to speak or write as a public citizen without institutional discipline or restraint. Academic responsibility implies the faithful performance of academic duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make it clear that the individual is not speaking for the institution in matters of public interest.

Tenure is the keystone for academic freedom; it is essential for safeguarding the right of free expression and for encouraging risk-taking inquiry at the frontiers of knowledge. Both tenure and academic freedom are part of an implicit social compact, which recognizes that tenure serves important public purposes and benefits society. The public is best served when faculty are free to teach, conduct research, provide extension/ professional practice services, and engage in institutional service without fear of reprisal or without compromising the pursuit of knowledge and/or the creative process.

In return, faculty have the responsibility of furthering high-quality programs of research, teaching, and extension/professional practice, and are fully accountable for his/her performance of these responsibilities. Additionally, a well-designed tenure system attracts capable and highly qualified individuals as faculty members, strengthens institutional stability by enhancing faculty members' institutional loyalty, and encourages academic excellence by retaining and rewarding the most meritorious people. Tenure and promotion imply selectivity and choice; they are granted for scholarly and professional merit. The length and intensity of the review leading to the granting of tenure ensures the retention of only productive faculty; periodic performance reviews ensure the continuance of a commitment to excellence.

The system of academic tenure at Iowa State University emphasizes (1) recruitment of the most highly qualified candidates available, (2) creation of an opportunity for scholarly performance in teaching, research/creative activity, and extension/professional practice, (3) continuing evaluation of performance on the basis of areas of responsibilities in the employment agreement, and (4) the positive evaluation of performance resulting in the award of tenure. The awarding of tenure requires an affirmative decision, based upon an explicit judgment of qualifications resulting from continuous evaluation of the faculty member during the probationary period in light of the applicable criteria.

After the award of tenure, faculty members undergo annual reviews and, as appropriate, reviews for promotion. A tenured faculty member may be dismissed only for adequate cause (section 7.2), **elimination of academic programs (Section 3.4.2.2) or financial exigency (Section 3.4.2.3)**. Denial of faculty appointment or reappointment, or removal or suspension from office, or censure, or other penalty must not be based upon any belief, expression, or conduct protected by law or by the principles of academic freedom.

Affirmative action and tenure are compatible concepts. Both seek to ensure the hiring and retention of those who are most qualified. In the appointment process, affirmative action operates to ensure that the most qualified available person is identified and is offered the opportunity to join the faculty. After the initial appointment, the affirmative action program ensures that irrelevant considerations, such as race and gender, play no role in tenure, promotion, and salary decisions.

5.2.1.1 Eligibility for Tenure.

All regular full-time continuous A- or B-base appointments to the rank of instructor or higher accrue rights to tenure. **Tenure is conferred by the Iowa Board of Regents and** is associated with the faculty appointment in an academic department. **The tenure process begins with a review by peers in the department(s) of appointment and continues through review by the college, the Executive Vice President and Provost, and the President.**

Tenure accompanies appointment to the rank of associate professor or professor unless a probationary period for the new appointee is clearly specified in advance, or unless it is indicated that the appointment does not carry tenure. The latter is used rarely and is limited to instances of term appointments of a special nature or character. For initial appointments at the rank of associate professor or professor without immediate tenure, the departmental recommendation as to tenure specifies the length of the probationary period.

After the awarding of tenure, the appointment is continuous. Except for resignation, retirement, or death of the faculty member, such appointments are terminable only for adequate cause **(Section 7.2), elimination of academic programs (Section 3.4.2.2) or financial exigency (Section 3.4.2.3).**

5.3.5 Post Tenure Review Policy

Faculty in each department are charged with developing and implementing a plan for review of each tenured faculty member in the unit. Such review should be done periodically, at least once every seven years, for faculty on full-time or part-time appointment. The review should address the quality of the faculty member's performance in the areas of teaching, research/creative activities, extension/professional practice, and institutional service, consistent with the faculty member's position responsibility statement. Ideally, the review shall result in recommendations for enhancing performance and provide a plan for future development. The review should also discuss the effectiveness of the part-time appointments.

This review does not change the university's commitment to academic freedom, nor the circumstances under which tenured faculty can be dismissed from the university. Grounds for dismissal for **adequate** cause remain those listed in the Faculty Handbook under 7. Faculty Conduct Policy.

The plan for review should designate the following:

- the review participants
- review procedures and timelines
- materials to be reviewed
- distribution and use of the results of the review including communication beyond the department
- mechanisms for the faculty member to respond

The departmental post-tenure review plan shall be reviewed, approved, and revised in accordance with the collegiate governance approval process that applies to departmental promotion and tenure documents.