

Wayne State University Code Annotated

2.51.01 APPOINTMENTS, CONTINUING TENURE, TERMINATION AND DISMISSAL POLICIES AND PROCEDURES FOR FACULTY

2.51.01.010 Tenure - Faculty

Tenure is a means to certain ends; (1) Academic freedom and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. The Board of Governors recognizes that tenure is indispensable to the success of this institution in fulfilling its obligations to its students and to society. This statute shall be interpreted in light of these purposes.

2.51.01.020 Appointments for service with tenure in the University can be made only by specific action of the Board of Governors on recommendation of the President. Appointments for service with continuing tenure shall be made in the college(s) or school(s) or department(s) in which the individual concerned serves, or divisions or academic entities that are not attached to a college/school.

2.51.01.030 Effective August 1, 1983, appointments to the positions only of Instructor, Assistant Professor, Associate Professor, and Professor are tenure-track appointments. The President may establish other positions, not on the tenure track, and may establish definitions for those positions.

2.51.01.040 Tenure may be terminated by the University only for one of the following reasons: (a) adequate cause after opportunity for a fair hearing as provided in section 2.51.01.190 titled Dismissal Proceedings - Faculty with Tenure; (b) failure of the individual to return from a leave within the period specified in the rules and regulations of the University; (c) job abandonment; (d) reaching the age now or hereafter established by this Board as the age for mandatory retirement; (e) the substantial curtailment or discontinuance of a program which removes any reasonable opportunity for using a faculty member's services; (f) extraordinary financial exigencies. One year's notice of proposed termination will be given except in a termination for cause based on moral turpitude, failure to return from a leave, job abandonment, or upon retirement.

2.51.01.050 Administrative assignments do not carry tenure, nor may a person earn tenure in any administrative position. Continuing tenure once given will not be invalidated by accepting an administrative assignment, or by promotion to another rank.

2.51.01.060 Persons simultaneously holding administrative positions and tenure-track appointments may, at the discretion of the President, be retained in their administrative positions without regard to their tenure status.

2.51.01.070 Term Appointments

A "term appointment" is an appointment made for a designated period of time. Term appointments at this University shall be limited to a total of seven years of full-time service in tenure-track positions. Appointments are made for the precise term stated in the notice of appointments; otherwise, the appointment is limited to a single term or semester.

2.51.01.080 Nothing in this policy statement shall imply that tenure may not be recommended to and granted by the Board of Governors at an earlier point in time.

2.51.01.090 The power to make term appointments is vested in the President, and inasmuch as the Board has reserved to itself the power to confer tenure, the appointee has an obligation

to inform the President by mail or in person when an appointment offered by the President would contravene these limitations; failure to do so will constitute an estoppel against any claim that such an appointment established any right or entitlement to tenure, and may be deemed cause for terminating the appointment. Acceptance of a term appointment is an acknowledgment of notice that service terminates at the end of the period for which appointed.

2.51.01.100 Appointments under this section shall be in writing and each such appointment shall contain the provisions of the appointment.

2.51.01.110 Appointments in the next three categories carry no implication of tenure, and are strictly limited to the periods and upon the conditions explicitly stated. Unless otherwise expressly agreed, they will not be counted in determining years of service referred to in the provisions for term appointments.

2.51.01.120 Term Conditioned on Subsidy

Appointments, whether in instruction, administration or research, which are expressly related to a subsidy of limited duration, terminate with the cessation of the subsidy. Tenure once given will not be invalidated solely because the incumbent thereafter receives a limited duration subsidy.

2.51.01.130 Part-Time

An appointment for part-time service is made for the precise term stated in the notice of appointment; otherwise, the appointment is limited to a single academic term or semester.

2.51.01.140 Temporary

Appointments in such capacities as teaching or research fellows, research assistants, research scientists or research associates, lecturers, and other non-tenure-track positions established by the President, or with the designation of acting, adjunct, clinical or visiting are made for the precise term stated in the notice of appointment; otherwise, the appointment is limited to a single academic term or semester.

2.51.01.150 Definitions of Terms

UNIT -- The college or school, or divisions or academic entities not attached to a college/school in which the individual concerned serves.

EXECUTIVE -- The administrative head of the Unit.

RESPONDENT -- The individual with reference to whom the proceedings are initiated.

UNIVERSITY COUNSEL -- The person representing the President of the University or the Executive in the conduct of any proceedings hereunder. It is his/her duty to present all available relevant evidence so that the Hearing Committee shall be fully informed of the facts.

HEARING COMMITTEE -- A committee comprised as provided in Section 2.51.01.220 authorized to review the grounds for the proposed dismissal and to make recommendations thereon.

EXECUTIVE SESSION -- A meeting of the Hearing Committee which is limited to

members of the Committee and its counsel.

JOB ABANDONMENT -- Job abandonment is conduct which demonstrates the relinquishment or surrender of an individual's employee status, but does not include absence from work due to circumstances beyond the individual's control (e.g., medical emergency, military service, etc.). An individual who is terminated for abandonment has the right to pursue a grievance. Such grievance will be limited to the sufficiency of the factual basis underlying the determination that job abandonment occurred as of the date on which the faculty member was given notice of termination. Termination shall be stayed during the pendency of such grievance.

2.51.01.160 Dismissal Proceedings -- Faculty on Term Appointment

Faculty appointed under an agreement for a fixed term may be dismissed prior to the termination of the term for adequate cause as follows: (a) for acts involving moral turpitude which bear adversely on the ability to perform responsibilities to the University; (b) serious misrepresentation of fact relied upon in making the term appointment; (c) for serious violation of academic standards and principles; (d) failure to perform academic assignments competently.

2.51.01.170 A fixed-term faculty member who is terminated for adequate cause will have access to the grievance procedures. If the arbitrator finds that the grievant (a) did not engage in acts involving moral turpitude which bear adversely on the ability to perform responsibilities to the University, or (b) did not engage in serious misrepresentation of fact relied upon in making the term appointment, or (c) did not engage in serious violation of academic standards and principles, or (d) did not fail to perform academic assignments competently, the arbitrator shall have the authority to rescind the dismissal or suspension, and to award reinstatement with back pay through the end of the contract term.

2.51.01.180 Termination of services because of financial exigencies or the substantial curtailment or termination of the program are not dismissal, and are dealt with elsewhere. Job abandonment and failure to return from a leave result in automatic termination, and are dealt with elsewhere. Incompetency arising from physical and/or mental illness or disability is treated under "sick leave" regulations.

2.51.01.190 Dismissal Proceedings -- Faculty with Tenure

Faculty with tenure may be dismissed for adequate cause as follows: (a) for acts involving moral turpitude which bear adversely on the ability to perform responsibilities to the University; (b) for serious violation of generally accepted academic standards and principles; (c) for failure to perform academic assignments competently. (Termination of services at mandatory retirement age, or because of financial exigencies, are dealt with elsewhere. Job abandonment and failure to return from a leave result in automatic termination, and are dealt with elsewhere. Incompetency arising from physical and/or mental illness or disability is treated under "sick leave" regulations.)

2.51.01.200 Initiation of Dismissal Proceedings for Faculty with Tenure

Dismissal proceedings may be instituted by the President on his/her own initiative or on the recommendation of the Executive. Under normal circumstances, the basis for the proposed dismissal shall be reviewed by the Executive with the Respondent before the formal recommendation is made.

2.51.01.210 Upon receiving the recommendation, the President may make such further investigation as he/she deems necessary, including a review of the matter with the Respondent. When convinced that reasonable grounds appear to exist for initiating proceedings, the President shall notify the Respondent in writing of the proposed dismissal and of the reasons therefore with sufficient particularity to give the Respondent an adequate opportunity to answer the charges and recommendation. The notice shall expressly state that Respondent has the right to a review of the matter before the Hearing Committee, if the Respondent makes such a request within ten days of mailing or delivery of the notice, and that the Respondent has the right at his/her own expense to be represented and assisted by both academic and legal counsel of his/her choosing.

2.51.01.220 Hearings

The Hearing Committee shall be composed of seven members selected as follows:

- Three members picked by lot from a twelve-member panel elected by the Academic Senate. The panel shall be chosen annually as a standing committee.
 - A 24-person slate shall be nominated by a ten-person nominating committee created in the following manner:
 - Every year, the faculty councils of the Colleges/Schools of Liberal Arts, Medicine, and Science shall each elect one representative to the nominating committee. Every year, members of the academic staff shall elect one representative to the nominating committee. In even-numbered years, faculty councils of the Colleges/Schools of Business Administration, Education; Fine, Performing and Communication Arts; Law; Pharmacy and Allied Health Professions, and the Graduate School shall each elect one representative to the nominating committee. In odd-numbered years, faculty councils of the Colleges/Schools of Engineering, Lifelong Learning, Nursing, Social Work; Urban, Labor, and Metropolitan Affairs; and Library Science shall each elect one representative to the nominating committee.
 - The 24-person slate shall be sent to the Academic Senate, which shall elect the twelve-member panel.
- Three members picked by lot from a six-member panel elected as a standing committee of the faculty of the Unit.
- The chair of the Hearing Committee shall be a retired federal, state, or administrative law judge who is mutually acceptable to the faculty member and the University. If the University and the faculty member cannot agree on a mutually acceptable chair, then they shall agree upon a neutral third party, who shall make the selection.

2.51.01.230 If a hearing is requested, the Respondent in person or through counsel shall meet with the University Counsel for the drawing of the members of the Hearing Committee. Members of the Academic Senate panel who are also members of the Respondent's Unit shall automatically be excluded from the drawing and from serving as the seventh member of Committee pursuant to the provisions above. Each side shall be entitled to one peremptory challenge from each panel, to be made before the drawing. At least a majority of the members whose names are drawn shall meet promptly on call of the President for the purpose of organization and to elect a chair. If any member whose name is drawn is unavailable or fails to attend, or is excluded by challenge, a replacement shall be drawn from the panels by the Hearing Committee. The Committee

shall then select the Committee Counsel and with the assistance of the latter arrange for conducting the hearings as expeditiously as circumstances and the reasonable necessities of the parties permit.

2.51.01.240 The proceedings shall be recorded by a stenographer, and shall be reasonably available to the parties as well as the Committee. So far as possible, testimony on disputed fact shall be given in person and subject to cross-examination. Subject to adequate safeguards, statements may when necessary be taken outside the hearing and reported to it. Respondent is entitled to assistance of the Committee in securing attendance of University witnesses in his/her behalf. In general, the accepted rules of evidence and judicial procedure in civil proceedings (or administrative tribunals) shall be a guide, but departures which would not seriously and adversely affect Respondent's opportunity to a fair hearing shall be in the Committee's discretion. Others may be invited to attend as observers with the consent of both parties and the Committee.

2.51.01.250 Report of the Committee

The committee may consider any matter in executive session and normally will prepare its draft report in executive session. The report shall be prepared as expeditiously as possible, and shall include specific and clear-cut findings on all factual issues using the standard of preponderance of the evidence. The report shall include a statement by the Committee on the sufficiency of the evidence in establishing that the Respondent engaged in the conduct alleged as grounds for dismissal.

2.51.01.260 The report shall be forwarded to the President of the University and to the Respondent. If the President on the basis of this report decides to discontinue the proceedings, a notice to this effect to the Respondent will conclude the matter. If the President decides to recommend to the Board of Governors the dismissal of the Respondent, notice to this effect shall be sent to the Respondent by registered mail or hand-delivered by courier to the official University home address of the Respondent; and Respondent shall be entitled to a review before the Board of Governors, if he/she makes such a request to the Secretary to the Board of Governors within ten business days of mailing or delivery by courier of this notice. Such review shall be limited to the matters presented to the Hearing Committee.

2.51.01.270 Review by the Board of Governors

In reviewing the case, the Board of Governors will refer the matter to a Special Committee consisting of members of the Board. The Special Committee will receive from the Respondent and/or his/her counsel and the University Counsel such oral or written statements or arguments deemed appropriate to a full understanding of the case, and it may meet with the Hearing Committee in executive session either before or after hearing from Respondent if it believes that this will help clarify any point in issue. The review will be limited to the record made before the Hearing Committee, including the Committee reports, and to the report and/or recommendation of the President.

2.51.01.280 The Special Committee shall report its recommendations to the Board. If the Board believes that further evidence is desirable, the matter will be referred back to the Hearing Committee or to a consultant appointed by the Special Committee for this purpose, and the Hearing Committee or consultant shall receive such evidence and report back any supplemental findings or modifications in the previous reports resulting therefrom. In the event that a consultant is used, the consultant's report shall be sent to the Hearing Committee for any comments that they wish to make to the Board regarding the consultant's report. The Hearing Committee shall provide to the Board

any comments they wish to make within ten business days and shall not undertake additional investigation during this time.

2.51.01.290 Upon concluding its review of the entire matter, the Special Committee shall report to the Board of Governors in executive session for such action as the Board deems justified and appropriate.

2.51.01.300 Emergency Suspension -- Faculty

Whenever the continued service of a member of the faculty would in the judgment of the President threaten grave and immediate injury to the University or to its students, faculty, or staff, the individual may be relieved of part or all of his/her University duties and privileges without prejudice to the final disposition of the matter. Such action may be taken by the President's designee, if the President is not available. Such suspension in and of itself shall not affect the individual's compensation; and it shall be reported to the Board of Governors promptly for such action as the Board may wish to take with reference thereto. Such emergency suspension shall be limited to a maximum of 120 days if no further action is taken in that time, and the individual shall return to his/her regular duties.

2.51.01.310 The President will designate a competent legal and/or other appropriate member of his/her staff to conduct an appropriate investigation to determine the necessity for the continuation of the suspension. The investigation must include an opportunity for the Respondent to testify unless this is not feasible for reasons of physical or mental health or of behavior nullifying the usefulness of such an opportunity. The Respondent has the right at his/her own expense to be represented and assisted by both academic and legal counsel of his/her choosing. A report of the investigator shall be sent to the President and to the Respondent.

2.51.01.320 Conforming Provision

Any existing statutory provisions or University policies and regulations which are contrary to or inconsistent with the provisions of this Statute are hereby modified to make them conform to the Statute.

Legislative History

Adopted 6-0; Official Proceedings 6:916 (31 January 1962)

Amended 4-0; Official Proceedings 8:1062 (16 January 1964)

Amended 7-0, with one abstention; Official Proceedings 27:3831 (15 July 1983)

Amended 7-0; Official Proceedings 33:4408 (9 December 1988)

Amended 6-0; Official Proceedings 39:5112 (2 December 1994)

Amended 5-0; Official Proceedings 40:5312 (20 September 1996)

Cross References

Sec. 2.50.03.020

Compiler's Notes

- (1) Added former Sec. 2.51.01.050 and republished, without change, former Sec. 2.51.01.070.
- (2) Amended former Secs. 2.51.01.030, 2.51.01.050, and 2.51.01.060; added former Secs. 2.51.01.110 and 2.51.01.440; made former Sec. 2.51.01.040 a separate paragraph from former Sec. 2.51.01.030, and divided former Secs. 2.51.01.080 and 2.51.01.090 into separate paragraphs.
- (3) Changes in the tenure statutes for faculty and academic staff were agreed to by the University administration and the AAUP during the 1988 negotiations, and it was recommended that the revised statutes be adopted by the Board (Official Proceedings 33:4408, 9 December 1988). Amended Sec. 2.51.01.010; repealed former Sec. 2.51.01.020; substituted Sec. 2.51.01.020 for former Secs. 2.51.01.030 and 2.51.01.040; amended Secs. 2.51.01.040 through 2.51.01.080; added Sec. 2.51.01.090, amended Secs. 2.51.01.120 through 2.51.01.170; amended Sec. 2.51.01.210; amended Secs. 2.51.01.230 through 2.51.01.250; amended Sec. 2.51.01.280; added Sec. 2.51.01.290; amended Secs. 2.51.01.300 through 2.51.01.370; added Sec. 2.51.01.380.
- (4) The faculty tenure statute was significantly revised and restated in accordance with the agreements made during the 1994 collective bargaining negotiations; specifically, the changes address provisions for and definitions of job abandonment and modification of the hearing process.
- (5) Section 2.51.01.220 was revised to change the procedure for appointing hearing panels, in accordance with the recently modified AAUP agreement.