

## VII. TERMINATION OF FACULTY

### VII.A. Procedures for Termination:

**VII.A.1. Faculty Without Tenure:** Faculty members without tenure are classified as employees at will to serve at the discretion of the University.

The term of a faculty appointment for one year may be terminated prior to the stated expiration date:

- By resignation and acceptance thereof, or
- By a dismissal for ~~cause~~unsatisfactory job performance or neglect of duties.

### VII.A.2. Non-tenured Faculty, Continuing Instructors, Clinical, and Research Faculty, and Temporary Instructors

a. Tenure-track faculty may not continue pursuant to Handbook Sections IV and V.

b. Continuing Instructor (~~continuing~~) contracts will be automatically extended each year, based on good performance, availability of funding, and need. Such appointments may be continued indefinitely but will not lead to tenure-eligible status. If a regular full-time Instructor contract is not to be renewed, the individual holding that appointment will be given advance notice by the university (March 1 during the first year of appointment and December 15 during subsequent appointment years) that the appointment will expire at the end of the current fiscal year. ~~However, c~~Continuing Instructors may be terminated prior to thea appointment expiration date ~~termination date~~ for unsatisfactory job performance or neglect of duties.

c. Temporary Instructors and Visiting Faculty may be terminated prior to the appointment ~~an expiration date~~ for unsatisfactory job performance or neglect of duties.

d. Non-renewal of a clinical, research, or instructor track may be addressed through the Faculty Grievance process outlined in Section VIII.

e. Research track faculty appointment may not continue if funding cannot be identified to maintain effort at or above 50%. However, the faculty member may continue to use the title and institutional affiliation for the purposes of apply for further funding if agreed upon at the time of appointment termination.

- i. In the event that a research-track faculty member is not the PI/PD of a funded extramural grant or contract, decision to terminate or not to reappoint may be taken by the dean.
- ii. In the event that a research-track faculty member is

currently the PI/PD of a funded extramural grant or contract, a recommendation to terminate or not to reappoint may be made by the dean, but the final decision to terminate or not to reappoint may be taken by the Provost working together with the Associate Provost for Research and Graduate Education.

- iii. In the event that the Provost working together with the Associate Provost for Research and Graduate Education cannot reach consensus as to the disposition of such a recommendation, the decision of the President shall be final.

**VII.A.3. Faculty With Tenure:** A tenured appointment of a faculty member results in a commitment to successively reappoint the faculty member, except that ~~that~~ tenured status of a faculty member may be terminated:

- By retirement;
- By resignation and acceptance thereof;
- By a dismissal for cause;
- By a decision of the Board of Regents that termination is necessary because of financial exigencies of the institution; or
- By a decision of the Board of Regents that termination is necessary due to changed academic program needs resulting in a situation so that there is no longer a teaching position available within the University for which the faculty member is qualified.

Causes for dismissal are specified in Kentucky Revised Statutes, Chapter 164 subsection 230, see: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=4223>.

a. Procedure for Dismissal for Cause:

1. Before dismissal for cause actions commence, every effort should be made to resolve the matter looking toward a mutual settlement. If no settlement is reached beforehand, negotiation for mutual settlement may occur at any time during the process.

~~1-2.~~ A faculty member who has tenure or an unexpired probationary appointment may be dismissed only for cause. Statutory cause sufficient to support dismissal consists of the following as identified in KRS 164.360: incompetence, neglect ~~or~~ refusal to perform duties, or immoral conduct. ~~The Board of Regents.~~ Proceedings for dismissal of a faculty member for cause can be initiated only upon written charges referred by the President and shall be decided upon in the manner provided therein.

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~~2.3.~~ In any case in which the President of the University has personal knowledge of information sufficient to make an informed judgment that a faculty member should be dismissed for cause, after informal notification of the faculty member involved, charges may be brought without further consultation as provided by KRS 164.360(3). In this situation, the President would submit the charges directly to the Ad Hoc Committee on Faculty Dismissal to initiate a hearing. (See paragraph nine (9) below).

~~Alternatively, Any member of the University community other than the President who desires to initiate charges in support of a proposed dismissal of a faculty member shall initiate the proposed dismissal with the department chair/director or office to which the faculty member is assigned. The proposed dismissal shall be in the form of a written signed statement of the facts relied upon to support one or more of the statutory grounds for the proposed dismissal.~~

4. ~~When the department chair/director receives a proposal for dismissal, they shall~~ When the department chair/director receives a proposal for dismissal, they shall ~~informally notify the faculty member in writing with a brief summary of the allegations in support of the proposal. within two business days of receiving it. Within two weeks of informal notification of the faculty member involved, the department chair/director shall evaluate the proposal and submit a written recommendation to the dean of the college which shall be copied to the faculty member. Within two weeks of receipt of the recommendation, the faculty member may submit a written response to the dean of the college. Within two weeks of the faculty member response or the deadline for the submission of the faculty member response, receiving the department chair/director's recommendation, the dean of the college shall make an independent evaluation of the proposal and submit a written recommendation to the Provost. Within two weeks of receiving the dean's recommendation, The Provost shall make an independent evaluation and submit to the President of the University a written recommendation together with all written recommendations and the faculty member response. the entire file. Note: if the department chair/director is the originator of the proposal, they should informally notify the faculty member when they submit the proposal/recommendation to the dean.~~ When the department chair/director receives a proposal for dismissal, they shall informally notify the faculty member in writing with a brief summary of the allegations in support of the proposal. within two business days of receiving it. Within two weeks of informal notification of the faculty member involved, the department chair/director shall evaluate the proposal and submit a written recommendation to the dean of the college which shall be copied to the faculty member. Within two weeks of receipt of the recommendation, the faculty member may submit a written response to the dean of the college. Within two weeks of the faculty member response or the deadline for the submission of the faculty member response, receiving the department chair/director's recommendation, the dean of the college shall make an independent evaluation of the proposal and submit a written recommendation to the Provost. Within two weeks of receiving the dean's recommendation, The Provost shall make an independent evaluation and submit to the President of the University a written recommendation together with all written recommendations and the faculty member response. the entire file. Note: if the department chair/director is the originator of the proposal, they should informally notify the faculty member when they submit the proposal/recommendation to the dean.

~~3.5.~~ If the President of the University determines that there is sufficient information to support that dismissal for cause, charges should be brought, within two weeks, charges shall be preferred initiated as provided herein within two weeks. The charges are sent, with all recommendations, to the Ad Hoc Committee on Dismissal to initiate a hearing. (See paragraph

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nine (9) below.)

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- 4-6. However, if the President of the University determines that additional information is needed in order to make an informed judgment as to whether or not to file charges, the file may be referred to the Advisory Committee on Faculty Continuance, Promotion and Tenure for preliminary inquiry, consultation, and its reasoned advice and recommendation. ~~The committee will be formed following follow the protocols and procedures as outlined in section V.C of the Faculty Handbook.~~
7. If referral is made to the Advisory Committee, they shall make a genuine effort. ~~A genuine effort will be made by the Advisory Committee~~ to resolve the entire matter by informal methods of preliminary inquiry, consultation, discussion, and confidential mediation. ~~The Advisory Committee shall:~~
- a) ~~Consult the Faculty Handbook and University Policies regarding Dismissal for Cause;~~
  - b) ~~Review the primary written complaint, response and all supporting documents; from both the Faculty member and their supervisor (Department Chair) (Or the initiating agent);~~
  - c) ~~Analyze the presented arguments and determine if any outstanding questions remain;~~
  - d) ~~Conduct informal interviews with the faculty member and the initiating agent as necessary with the aim of negotiating a mutually agreeable resolution; and/or~~
  - e) ~~Determine if further interviews or document analysis are needed.;~~  
~~Consider avenues for negotiating an agreement between parties such as xyz.~~
8. If the ~~matter difficulty~~ is unresolved informally within the three weeks after receipt of the ~~file charges, written recommendations and the faculty member's response~~, the ~~Advisory~~ Committee shall ~~vote to determine whether or not to recommend that the President initiate charges of dismissal. A valid Committee vote requires an agreement of the majority of the Committee sitting in review. The Advisory Committee shall~~ furnish the President with a written report containing its ~~advice and~~ recommendation ~~and vote~~ as to whether or not the President should ~~prefer initiate~~ charges of dismissal for cause. The report shall contain a statement of the Committee's specific reasons in support of its ~~advice and~~ recommendation.
- 5-9. In any case in which the President decides that procedures for dismissal for cause are appropriate, the President shall forward ~~to the Board of Regents~~ a written recommendation of dismissal ~~and all documents previously considered to an Ad Hoc Committee on Dismissal within two weeks. The Committee will be formed following the protocols~~

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used to form the Ad Hoc Committee on Continuance Tenure and Promotion described in Hanbook Section V.C.3. The President's ~~letter recommendation~~ to the ~~Board of Regents Ad Hoc Committee recommending dismissal is to~~ shall be accompanied by a formal written complaint setting forth specifically the nature of the factual information constituting grounds for dismissal. A copy of the complaint ~~will~~ shall be sent to the ~~the~~ faculty member being charged, and the President shall advise the faculty member of the following:

- ~~a)~~ That the attached charges have been initiated preferred against the faculty member to the Board of Regents Ad Hoc Committee on Dismissal;
- ~~b)~~ That a written answer to the charges is required to be filed with the Secretary of the Board of Regents President;
- ~~c)~~ That the faculty member's answer to the charges may be either an admission or a denial of the charges; and
  - ~~d)~~ That the faculty member has a right to be heard by the Board of Regents Ad Hoc Committee on Dismissal and to present testimony personally or through a representative, who may be an attorney, counsel.

10. If the charged faculty member fails or refuses to file the required written answer to the charge with the ~~Secretary of the Board of Regents President~~ within ten (10) days after receipt of notice of the charges, or if the faculty member's answer admits the charges, ~~the faculty member shall be terminated by letter of the President. proceedings will terminate and an order of dismissal will be entered.~~

—If a faculty member being charged files an answer denying the charges, a hearing by the ~~Board Ad Hoc Committee on Dismissal~~ will be set and heard at a designated place, time, and date, but not sooner than three weeks after written notice of the charges has been received by the faculty member.

11. Based on evidence presented at the hearing, the Ad Hoc Committee shall determine if adequate cause for dismissal exists and shall make a recommendation for sanctions to the President.

12. The following hearing protocols will be followed:

- a) The proceedings at the hearing shall be transcribed and permanent record kept of the charges, notices, and other actions.
- b) The Chief Human Resources Officer or their designee will

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- c) serve as the convener and moderator of the hearing. During the proceedings, the faculty member will be permitted to have a ~~n academic advisor current WKU colleague and- a representative counsel~~ of the faculty member's choice, who may be an attorney.
- d) At the request of either party or the Ad Hoc committee, a representative of a responsible educational association will be permitted to attend the proceedings as an observer.
- e) The hearing will be private unless a public hearing is required by law.
- f) The President will attend the hearing.
- g) The moderator/convener will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made as determined by ~~if~~ the Ad Hoc Committee ~~requests it~~.
- h) In the hearing of charges of ~~professional~~ incompetence, the testimony ~~will shall~~ include that of qualified faculty members from this or other institutions of higher education.
- i) The burden of proof that ~~adequate causes~~ for dismissal exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole.
- j) Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed.

13. The proceedings are not governed by formal, legal rules of procedure and evidence. The ~~Board~~ Ad Hoc Committee may consider any information of a kind that has a probative value. Furthermore,

- a) The ~~findings of fact and the~~ decision and vote will be based solely on the ~~hearing~~ evidentiary record.
- b) In order for the vote to be valid, a majority of the Committee members must agree. "Majority" is defined as a simple majority of the Committee members present at the hearing.
- c) The faculty member and the administration will have the right to confront and cross-examine all witnesses.
- d) Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and, if possible, provide for interrogatories.
- e) ~~In the hearing of charges of incompetence, the testimony may include that of qualified faculty members from this or other institutions of higher education.~~

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14. The following agenda will be maintained:

- Entry of appearances of the parties and witnesses;
- Statement of charges by counsel for the University;
- Entry of the faculty member's denial of the charges;
- Presentation of evidence by ~~the President~~General Counsel or a designated representative;
- Opportunity for the faculty member or counsel to present evidence refuting the charges;
- Summation or statement on behalf of the University by the ~~President~~General Counsel or a designated representative or counsel in cases of a conflict of interest with General Counsel's office; and
- Summation or statement by the charged faculty member or counsel;
- Decision and vote in ~~executive closed~~ session by ~~the Board of Regents~~Ad Hoc Committee on Dismissal;
  - ~~Exonerating faculty member, or~~
  - ~~Approving the President's recommendations to dismiss faculty member, or~~
  - ~~Other appropriate sanctions.~~

~~If the Board of Regents decides to apply sanctions, the President shall issue a formal letter of notification and shall advise the appropriate officials of the University.~~

15. The Ad Hoc Committee shall ~~will~~ report its decision and vote to the ~~President, whether or not adequate cause for dismissal has been established by the evidence in the record and whether or not they recommend dismissal.~~

a. If the Ad Hoc Committee reports that a majority of the committee finds that adequate cause for dismissal has been established, the Committee shall recommend to President one of two sanctions:

- i. ~~dismissal of the faculty member; or~~
- ii. ~~a sanction less than dismissal of the faculty member with reasons why dismissal would be inappropriate in this case.~~

b. If the Ad Hoc Committee reports that a majority of the committee does not find that adequate cause for dismissal has been established, the Committee shall recommend reinstatement of the faculty member.

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~~If the Ad Hoc committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons. If the Ad Hoc Committee believes there is not adequate cause for dismissal but that the faculty member's conduct is sufficiently grave to justify imposition of a severe sanction, they may so recommend to the President with supporting reasons.~~

16. The President may accept or reject the Ad Hoc Committee report.

a. If the President accepts the report and recommendation of the Ad Hoc Committee, the President shall make a final, written recommendation consistent with the report and transmit it with a copy of the evidentiary record to the governing board.

~~b. If the President rejects the Ad Hoc Committee report and/or the recommendation, the President will state the reasons for doing so, in writing, to the Ad Hoc committee and to the faculty member within one week. The and provide an opportunity for response by the Ad Hoc Committee and or faculty member may respond within one week of the receipt of the President's written notification. The President will have one week to consider the response(s) before notifying the committee and the faculty member of their final decision recommendation and transmitting it and the evidentiary record to the governing board.~~

17. The governing board may accept or reject the final recommendation of the President.

a. If the governing board accepts the recommendation of the President, it shall notify the President of its decision within one week and the President shall direct action consistent with the board's decision.

b. If the governing board rejects the recommendation, it shall notify the President within one week and the President shall direct action consistent with the board's decision.

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