

UW-MADISON FACULTY POLICIES AND PROCEDURES RELATING TO FACULTY LAYOFF

BACKGROUND

On March 10, 2016, the UW System Board of Regents adopted a new Regent Policy Document 20-24 (RPD 20-24) called "Procedures Relating to Financial Emergency or Program Discontinuance Requiring Faculty Layoff and Termination." The full text of RPD 20-24 (along with the two other RPDs approved by the Board of Regents in March) is available at <https://www.wisconsin.edu/regents/tenure-policies/>.

All UW System Faculty Personnel Policies and embedded chapters contained in such policies relating to the three tenure-related policies adopted by the Board of Regents on March 10, 2016, are subject to review and approval by the Board of Regents.

Specifically, RPD 20-24 requires Board of Regents approval for any institutional policy related to "Procedures Relating to Financial Emergency or Program Discontinuance Requiring Faculty Layoff and Termination." The policy also states that the chancellor at each institution, with the advice and counsel of the faculty, is responsible for implementation of RPD 20-24. All institutional policies developed in relation to RPD 20-24 must be consistent with the Regent policy.

Further, UWS 2.02, Wis. Admin. Code ("Faculty Rules: Coverage and Delegation"), requires that rules, policies, and procedures developed by each institution in the UW System pursuant to Chapters UWS 3, 4, 5, 6 and 8 must be approved by the Board of Regents prior to taking effect.

On November 2, 2015 the UW-Madison Faculty Senate adopted a policy, entitled, "Revisions to Faculty Policies and Procedures on Layoff and Termination." The final version of this policy is dated December 7, 2015, and is recorded as Faculty Document 2569b. The original, pre-modified UW-Madison FPP Chapter 10, and the tracked changes version of Chapter 10 containing the UW-Madison Faculty Senate's edits, are available in Appendix A.

At its April, 2016 meeting the Education Committee is asked to approve the UW-Madison Faculty Policies and Procedures (FPP) on faculty layoff (adopted on December 7, 2015), as amended, so that it is in compliance with and consistent with RPD 20-24, adopted on March 10, 2016.

REQUESTED ACTION

Adoption of resolution I.1.1, approving the UW-Madison Faculty Policies and Procedures relating to faculty layoff, as amended.

DISCUSSION

Under the heading, "Oversight, Roles and Responsibilities," RPD 20-24 specifies that "UW System institutions shall submit to the Board of Regents for approval any institutional

policy developed in accordance with this Regent policy. The chancellor at each institution, with the advice and counsel of the faculty, shall be responsible for implementation of this Regent policy.”

After consulting with the UW-Madison University Committee regarding the amended language proposed to the UW-Madison Faculty Policies and Procedures on layoff or termination, on March 29, 2016, UW-Madison Chancellor Blank submitted to the President of the UW System the UW-Madison FPP on layoff of faculty, dated December 7, 2015, for consideration at the April 7, 2016, meeting of the Education Committee.

The UW-Madison University Committee indicated in a memo to the Chancellor dated March 28, 2016 that it understood that the Board would need to amend the FPP in order to make it consistent with RPD 20-24. (Appendix B contains the memo of the University Committee to the UW-Madison Chancellor and Appendix C contains the memo from Chancellor Blank).

Amendments to the UW-Madison FPP on faculty layoff, were then added to the document to ensure consistency and compliance with RPD 20-24.

Below, please find (1) the December 7, 2015 UW-Madison FPP on faculty layoff; (2) a tracked changes version containing amendments; and (3) a version of the document showing how the UW-Madison FPP on faculty layoff would look in final form, as amended.

1. UW-MADISON DECEMBER 7, 2015 VERSION OF THE FPP ON FACULTY LAYOFF (ORIGINAL, PRE-MODIFIED)



Faculty Document 2569b 7 December 2015

**Revisions to *Faculty Policies and Procedures on Layoff and Termination*
As Approved by the Faculty Senate on November 2, 2015**

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 that 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 DUE TO PROGRAM DISCONTINUANCE FOR REASONS OF FINANCIAL EMERGENCY OR EDUCATIONAL CONSIDERATIONS.

- 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 6.36.) 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:
 - 1. 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.
 - 2. 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.
 - 3. 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 UWS 5.14 and 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.

2. PROPOSED AMENDMENTS TO THE UW-MADISON FPP ON FACULTY LAYOFF

In the following, the use of colored strike-out font means that words and passages were deleted whereas underlining indicates that words and phrases were added.



Faculty
Document 2569b
7 December 2015

Revisions to *Faculty Policies and Procedures on Layoff and Termination*

As Approved by the Faculty Senate on November 2, 2015

CHAPTER 10: LAYOFF OR TERMINATION

10.1. 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 or similar administrative unit that offers majors 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” is defined and may be declared as described in s. UWS 5.02 of the Wisconsin Administrative Code, 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).

Commented [A1]: “Financial emergency” is defined in UWS 5.02, and the policy definition has been amended to conform with that legal definition.

Commented [A2]: References to sections of Chapter UWS 5 that have been superseded by Wis.Stat. s.36.22 have been removed throughout the document.

10.2. LAYOFF AND TERMINATION ~~DUE TO PROGRAM DISCONTINUANCE~~ FOR REASONS OF FINANCIAL EMERGENCY OR EDUCATIONAL CONSIDERATIONS.

- A. ~~Except as provided in subdivision B below, n~~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 emergency, exigency or ~~because of program discontinuance based on 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.

10.3. FINANCIAL EMERGENCY: CONSULTATION AND RECOMMENDATIONS.

- A. The chancellor shall consult with the Faculty Consultative Committee on Financial Emergency (FPP 6.36.) 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 ~~consider~~ ~~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~~ to declare a financial emergency ~~is~~ 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

Commented [A3]: The current language in this section is not consistent with AAUP guidelines on financial emergency, UWS Chapter 5 (faculty layoff for financial emergency), or with the newly enacted Regent policy on faculty layoff, none of which restrict layoffs in event of a financial emergency to situations of program discontinuance. Certain changes to this section reflect that, in a financial emergency, it is recognized by AAUP and other universities that the governing board and chancellor/president appropriately have the authority to reduce programs without discontinuing the entire program. These changes are consistent with the Board policy on faculty layoff.

Commented [A4]: This section addresses situations where layoff is not applicable, and therefore, the reference to Wis. Stat. 36.22 has been removed.

Commented [A5]: This language again is not consistent with UWS 5's definition of financial emergency, and conforming changes have been made.

Commented [A6]: See previous comment regarding program discontinuance and fiscal emergency.

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.

10.4. 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.

10.5. EDUCATIONAL CONSIDERATIONS.

- A. The ~~chancellor's~~ chancellor's recommendation to the Board 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 described in Regent Policy Document 20-24, Section II, Paragraphs A through G, as defined in FPP 5.02 is not applicable to program discontinuance based on educational considerations that may result in faculty layoff under this Chapter 10; however, the Chancellor shall consult the bodies listed in FPP 5.02 c(1-4).
- 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 ~~devote its~~ make every effort ~~best efforts~~ 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 where readaptation is feasible as provided in s.36.22(12). 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 layoff or 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.

Commented [A7]: The changes to this section are intended to ensure that all proposals to discontinue a program based on educational considerations will be presented to the chancellor for decision.

Commented [A8]: Wis. Stats., 36.22(12) (alternative employment) states, "Each institution shall devote its best efforts to securing alternative appointments within the institution in positions for which faculty laid offer under this section are qualified."

Commented [A9]: The new language is taken verbatim from Wis. Stats., s.36.22(12), which is entitled "alternative employment." Language is added to reflect the qualification in s.36.22(12) that retraining be offered only where "readaptation" to another position is "feasible."

10.6. 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.

10.7 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).

10.8 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 only include those described in Wis. Stat. 36.22(7)(b), ~~and the following:~~
 - ~~1. 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.~~
 - ~~2. The validity of the educational judgments and the criteria for identification for~~

Commented [A10]: The layoff statute (s.36.22 (7)(b)) specifically states that "the question to be considered in the review (the hearing) is whether one or more of the following improper factors entered into the decision to lay off" and then lists the factors, which are not the issues outlined in the Madison policy. The changes replace the Madison list of factors with a reference to s.36.22(7)(b) and its list of statutorily mandated factors.

With respect to A.1 below, s.36.22(7)(b) also specifically states that program or budget decisions are not subject to review in a faculty layoff review hearing, and this includes the decision to declare a financial emergency.

~~termination, but the recommendations of a faculty body on these matters will be considered presumptively valid.~~

~~3. 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.

10.9. 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 ~~UWS 5.14 and~~ 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)(~~ba~~)(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.~~

~~A faculty member who is to be laid off or terminated under this policy has a statutory right to at least twelve months' notice under Wis. Stat. 36.22(5)(a) at the faculty member's current salary. At the discretion of the chancellor or designee, in consultation with the faculty member, the faculty member may be granted up to twelve months' salary as severance pay in lieu of part or all of the statutory notice period.~~

3. DOCUMENT SHOWING HOW THE UW-MADISON FPP ON FACULTY LAYOFF WOULD LOOK IN FINAL FORM, AS AMENDED



Faculty Policies and Procedures on Layoff and Termination

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 or similar administrative unit that offers majors 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” is defined and may be declared as described in s. UWS 5.02 of the Wisconsin Administrative Code.
- 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 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 Wis. Stat. 36.22(13)-(14).

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

- A. Except as provided in subdivision B below, 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. 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 because of a financial emergency, or because of program discontinuance based on 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.

10.3 FINANCIAL EMERGENCY: CONSULTATION AND RECOMMENDATIONS.

- A. The chancellor shall consult with the Faculty Consultative Committee on Financial Emergency (FPP 6.36.) 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 consider 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 proposal to declare a financial emergency is 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.

10.4 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.

10.5 EDUCATIONAL CONSIDERATIONS.

- A. The chancellor's recommendation to the Board to discontinue formally a program will be based upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof, as described in Regent Policy Document 20-24, Section II, Paragraphs A through G. FPP 5.02 is not applicable to program discontinuance based on educational considerations that may result in faculty layoff under this Chapter 10; however, the Chancellor shall consult the bodies listed in FPP 5.02 c(1-4).
- 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, the institution will devote its best efforts to place the faculty member concerned in another suitable faculty position. 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 where readaptation is feasible as provided in s.36.22(12). 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 layoff or 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.

10.6 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.

10.7 NOTIFICATION

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

10.8 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 Wis. Stat. 36.22(8)(b). The issues in the hearing may only include those described in Wis. Stat. 36.22(7)(b).
- 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.

10.9 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 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 Wis. Stat. 36.22(11).
- B. A faculty member designated for layoff or on layoff status shall have the rights provided in 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 Wis. Stat. 36.22(11)(b)(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

A faculty member who is to be laid off or terminated under this policy has a statutory right to at least twelve months' notice under Wis. Stat. 36.22(5)(a) at the faculty member's current salary. At the discretion of the chancellor or designee, in consultation with the faculty member, the faculty member may be granted up to twelve months' salary as severance pay in lieu of part or all of the statutory notice period.

RELATED REGENT POLICIES AND APPLICABLE LAWS

Section 36, Wis. Stats.
Chapters UWS 3 and 5, Wis. Admin. Code
Regent Policy Document 20-23

UW-MADISON FACULTY POLICIES AND PROCEDURES ON LAYOFF AND TERMINATION *(March 2015, Pre-modified Version)*

**CHAPTER 10
LAYOFF DUE TO FINANCIAL EMERGENCY**

10.01. LAYOFF AND TERMINATION FOR REASONS OF FINANCIAL EMERGENCY: GENERAL. (See UWS 5.01-5.03.)

A. The board may lay off or terminate a tenure faculty member, or lay off or terminate a probationary faculty member prior to the end of his/her appointment, in the event of a financial emergency. Such layoffs or terminations may be made only in accordance with the provisions of UWS Chapter 5 and this chapter and imply the retention of rights indicated in these chapters. A nonrenewal, regardless of reasons, is not a layoff or termination under this section.

B. For the purposes of this chapter, “layoff” is the indefinite suspension or an involuntary reduction in services and compensation of a faculty member’s employment by the University of Wisconsin System. A laid off faculty member retains the rights specified in UWS 5.16 through 5.21, inclusive. For the purposes of this chapter, “termination” is the permanent elimination of a faculty member’s employment by the University of Wisconsin System. A faculty member whose position has been terminated retains rights specified in UWS 5.18 and 5.19.

10.02. CONSULTATION AND RECOMMENDATIONS. (See 5.04-5.06.)

A. The chancellor shall consult with the Faculty Consultative Committee on Financial Emergency 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 before the board if a declaration of a state of financial emergency for the university 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 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 consider identifiable alternative methods of budget reduction such as the voluntary reduction of full-time faculty members to part-time status, in accordance with 7.19.C. of Faculty Policies and Procedures and 36.13(2)(a) Wis. Stats.

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

E. 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.

10.03. INDIVIDUAL DESIGNATIONS. (See UWS 5.07.)

Once the board has declared 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.

10.04. SENIORITY. (See UWS 5.08.)

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 in 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 10.02.B., 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 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 the 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 10.04.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.

UW-MADISON FACULTY POLICIES AND PROCEDURES ON LAYOFF AND TERMINATION (*Changes Marked*)

CHAPTER 10
LAYOFF ~~DUE TO FINANCIAL EMERGENCY~~ 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 that 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).

~~10.01~~10.02. LAYOFF AND TERMINATION DUE TO PROGRAM DISCONTINUANCE FOR REASONS OF FINANCIAL EMERGENCY: ~~GENERAL. (See UWS 5.01-5.03.)~~ OR EDUCATIONAL CONSIDERATIONS.

- 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.

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

~~B-~~ For the purposes of this chapter, "layoff" is the indefinite suspension or an involuntary reduction in services and compensation of a faculty member's employment by the University of Wisconsin System. A laid off faculty member retains the rights specified in UWS 5.16 through 5.21, inclusive. For the purposes of this chapter, "termination" is the permanent elimination of a faculty member's employment by the University of Wisconsin System. A faculty member whose position has been terminated retains rights specified in UWS 5.18 and 5.19.

10.02-10.03. FINANCIAL EMERGENCY: CONSULTATION AND RECOMMENDATIONS.- (See UWS 5.04-5.06.)

- A. The chancellor shall consult with the Faculty Consultative Committee on Financial Emergency (FPP 6.36.) 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 ~~before the Board~~ if a declaration of a state of financial emergency for the university 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 ~~consider identifiable alternative methods~~pursue all feasible alternatives to termination of budget reduction appointments such as the voluntary reduction of full-time faculty members to part-time status, in accordance with 7.19.C. ~~of Faculty Policies and Procedures and 36.13(2)(a) Wis. Stats.~~ 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 ~~that the Board declare~~ declaration of a state of financial emergency for the university, his/her 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.

~~E.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.

~~10.03-~~10.04. FINANCIAL EMERGENCY: INDIVIDUAL DESIGNATIONS. ~~(See UWS 5.07.)~~

Once the board has ~~declared~~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.

~~10.04-~~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.

~~10.04~~10.06. SENIORITY. ~~(See UWS 5.08.)~~

- 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 ~~in~~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 ~~10.02.B~~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 ~~the~~ 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 ~~10.04~~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.

~~10.05-~~10.07. NOTIFICATION. ~~(See UWS 5.09-5.10.)~~

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

~~10.06. REVIEW OF HEARING. (See UWS 5.11-5.13.)~~

10.08. HEARING

~~A.~~ ~~ROLE OF COMMITTEE ON FACULTY RIGHTS AND RESPONSIBILITIES.~~ 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:

1. 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.
2. 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.
3. Whether the criteria are being properly applied in the individual case.

~~A.B.~~ The Committee on Faculty Rights and Responsibilities shall operate as the hearing agent for the board pursuant to ~~Section 227.12, Wis. Stats.,~~ 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.

~~B. HEARING. A faculty member whose position is recommended for elimination or reduction is entitled to a hearing before the committee as provided in UWS 5.12.~~
~~10.07.-10.09. RECOMMENDATIONS AND BOARD REVIEW. (See UWS 5.14-5.15.)~~

- 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 UWS 5.14: and 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).

~~10.08.-10.10. LAYOFF STATUS AND RETAINED RIGHTS. (See UWS 5.16-5.19.)~~

- A. A faculty member whose position has been eliminated or reduced in accordance with the ~~financial emergency~~ 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, ~~or~~ 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 ~~be offered~~accept an appointment at a greater fraction of full time as specified in UWS 5.16(2)(b)1 ~~and shall refuse such increased appointment~~, 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.



28 March 2016

To: Rebecca Blank, Chancellor

From: University Committee (Beth Meyerand, chair; Dorothy Farrar-Edwards; Tom Broman; Amy Wendt; Anja Wanner; Ruth Litovsky)

Cc: Sarah Mangelsdorf, Provost and Vice Chancellor for Academic Affairs
Ray Taffora, General Counsel and Vice Chancellor for Legal Affairs
Steven K. Smith, Secretary of the Faculty

Per UWS 2.02. ("Delegation"), all rules and procedures developed by the faculty of each institution related to faculty appointments are to be forwarded by the chancellor of the institution to the president and by the president to the board for its approval. The UW-Madison University Committee hereby submits for approval by the Board of Regents the proposed new language for UW-Madison's Faculty Policy and Procedures relating to faculty tenure and layoffs. These policies were approved by the UW-Madison Faculty Senate on 2 November 2015. We ask that you submit this to President Ray Cross per UWS 2.02. and we hope that the BOR will approve this addition to FPP at its April 2016 meeting.

We recognize that the UW System Board of Regents adopted a broad System-wide policy on faculty tenure and layoffs in March 2016 and that there will be a limited number of proposed amendments to our language that are required to make our FPP policy consistent with the new Board policy and State statutes.



WISCONSIN
UNIVERSITY OF WISCONSIN-MADISON

March 29, 2016

TO: Ray Cross
President, UW System

FROM: Rebecca Blank *Rebecca Blank*
Chancellor, UW-Madison

CC: Steve Smith
Secretary of the faculty

Beth Meyerand
Chair, University Committee

Per the attached memo dated March 28, 2016 and consistent with UWS 2.02, the University Committee has formally requested that I forward to you for consideration by the Board of Regents the proposed new language for UW-Madison's Faculty Policy and Procedures (FPP) on layoff or termination of tenured faculty. It is our hope that the Education Committee will consider this language for approval at its April meeting, and send it to the full Board for approval at the same meeting. We believe it is important to have UW-Madison's FPP approved at the April meeting so that faculty here, and those we are attempting to recruit, can see that this issue has been settled.

As the memo from the University Committee notes, we understand that the Board is likely to consider a limited number of amendments to the language to ensure that our FPP is consistent with the broad Board of Regents policy passed at their March meeting. Both I and the University Committee understand these amendments will leave our policy largely intact and consistent with the tenure policies of most of our peer schools. Once these changes to our FPP are approved by the Board I will communicate with our faculty to ensure they understand the protections that this policy provides to them.

Thank you for considering the proposed new FPP language for approval. Please let me know if you have any questions.

Attachment

Chancellor Rebecca M. Blank
Morgridge Friends Distinguished Chair of Leadership
Bascom Hall University of Wisconsin-Madison 500 Lincoln Drive Madison, Wisconsin 53706
608-262-8967 Fax: 608-262-8333 TTY 608-263-2473