



# Faculty Senate Archives

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Faculty Senate

Academic year 2018-2019

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## **Attachment 5 to Faculty Senate Meeting March 25, 2019**

### **Draft of Low Performance and Dismissal for Cause Policy with Track Changes**

Throughout the year, Committee motions for changes in policy and/or stances on issues, if any, shall take the following written form:

b) Rationale for the motion.

To provide consistency and clarity related to policy 4.22 Performance related Dismissal, 4.23 Faculty evaluation and chronic low performance, 4.15 Post-Tenure Review for Faculty. To maintain within the policy faculty reviews and actions related to those reviews a process that is fair, unbiased, non-retaliatory and non-discriminatory.

Issue – 4.23 Faculty Evaluation is more about the process of how the faculty are evaluated and then at the end is added a section on Chronic low Performance – recommend that the content of this part of the policy be modified and moved to 4.22 and modify title to Low Performance and Dismissal for cause (consider renumbering so this comes after the faculty evaluation process)

Issues – there is not clarity on the number of members of the Review Committee in 4.23; not all the options for recommendations by this committee are clear; The process for the hearing as provided is confusing for the faculty member, committee and Provost ~~and Senior Vice President.~~

c) Committee name, date and authors: [c\) Faculty Affairs committee, 2.28.19.](#)

→ The motion DRAFT RECOMMENDATION

1. Delete the policy CHRONIC LOW PERFORMANCE, under 4.22 Faculty Evaluation
2. Modify 4.23 as noted below:

## 4.23 / Low Performance and Dismissal for Cause

### **Policy Statement Purpose:**

This statement is intended to establish a specific and clear procedure for identifying and addressing instances of a Tenured faculty ~~Faculty member~~ Member failing to meet the minimum level of performance or expectations of professional fitness and guidelines for remediation where appropriate. When a Tenured faculty member ~~who has tenure at Wichita State University or whose term of appointment has not expired~~, who does not meet the minimum acceptable level of performance or when reason to question a Tenured faculty's professional fitness is documented, the process outlined below is provided to allow a fair, unbiased, non-retaliatory and non-discriminatory ~~for~~ remediation and/or dismissal for cause. Faculty members who are not tenured and whose term of appointment has not expired, would follow applicable University policies in chapter 3.

### **Definitions:**

**Chair:** denotes the administrator of the Unit (i.e. Director or other title of educational unit: Department, School, Center, etc.).

**Tenured Faculty Member:** anyone who is classified within the eclass or egroup of Tenured Faculty in the WSU system of record “Banner”

**Low Performance:** the “overall” performance category (as indicated on the FAR form) where a Tenured Faculty Member does not meet the minimum level of performance.

**Faculty Member Rights:** Faculty Member has ten (10) business days to contest the decision in writing and request a formal review to the Provost.

**Professional Fitness\*:** ~~three (3) Annual Low Performance Ratings in any five (5) year period or behavior that includes but is not limited to – professional incompetence (e.g. inability to execute ESSENTIAL duties and responsibilities related to teaching, research, or service), personal conduct (e.g. criminal conviction of a felony or any offense involving moral turpitude upon a plea or verdict of guilty or following a plea of nolo contendere, or other conduct which falls below minimum standard of professional integrity), and negligence (e.g. refusal to execute duties and responsibilities related to teaching, research, or service).~~

Professional Fitness\*: three (3) Annual Low Performance Ratings in any five (5) year period, or **improper** behavior of an egregious nature that demonstrates: incompetence or dishonesty in teaching or research; gross dereliction of essential duties and responsibilities; or personal conduct which substantially impairs the individual’s fulfillment of **their essential institutional responsibilities.**

**\*Allegations of gender-based harassment, discrimination, sexual misconduct and protected class discrimination will be investigated pursuant to the specific university policy.**

**Performance Evaluation Forms (FAR) Review Committee (or similar committee such as T&P committee):** made up of Tenured Faculty Members from the department (or an ad-hoc committee in place for faculty reviews within the department).

**College Faculty Review Committee:** made up of three (3) Tenured Faculty Members from the college reviewing the Tenured Faculty Member’s performance, jointly named by the faculty and chair.

**University Review Committee:** made up of Tenured Faculty Members (not less than 3), jointly named by the president of the Faculty Senate and the University president.

Low Performance Guidelines **Policy:**

Each University department/unit shall use established criteria for minimum acceptable levels of performance that have been communicated to the members within the department/unit as the basis for annual evaluations.

The chair\* and the ~~Faculty Activity Report~~ Performance Evaluation Forms (FAR) Review Committee (or similar committee) shall determine if the **“overall”** performance (as indicated on the FAR form) of a ~~Tenured faculty~~ Faculty member ~~Member~~ in their department falls below the minimum level of role expectations. If there is no ~~Faculty Activity Report~~ FAR Review Committee, the decision is based on the chair's statement. If there is disagreement between the chair and the ~~Faculty Activity Report~~ FAR Review Committee, the decision to enact the procedures for low performance review will be decided by the college Dean.

~~\* Chair denotes the administrator of the Unit (i.e. Director or other title of educational unit: Department, School, Center, etc.).~~

#### Procedures for Low Performance:

It is highly recommended that the Chair and/or Dean utilize the expertise and experience of the Human Resources Department in working with issues of Low Performance and/or Dismissal for Cause.

Faculty Senate Ombudspersons are available to provide assistance to faculty.

#### Procedures for Low Performance:

A: First Annual Low Performance rating ~~in the last four years:~~

1. The chair shall discuss with the Tenured faculty member the specific area(s) of responsibility with low performance related to their role statement/job description and mutually develop a plan of action to improve performance and/or remediation. A summary of this discussion, that includes the plan of action, will be added to the annual evaluation documents and a copy provided to the ~~Tenured faculty~~ Faculty member ~~Member~~.
2. If the ~~Tenured faculty~~ Faculty member ~~Member~~ disagrees (rejects) the finding of a first low performance rating, they may submit a written rebuttal with justification/documentation within five (5) business days. The dean will then review the low performance judgement and make a final decision within ten (10) business days.

B. Second Annual Low Performance ~~R~~atings in the last four-year period:

1. A ~~Tenured faculty~~ Faculty member ~~Member~~ receives a second annual evaluation which reflects a finding in that department/unit that they have failed to meet the minimum level of performance.

2. The chair shall meet with the ~~Tenured faculty~~ Faculty member ~~Member~~ to clearly document areas of low performance that need to improve and ~~provide~~ develop a plan for remediation.
  - a. Remediation may include appropriate provisions for faculty development, such as ~~counseling~~ coaching, leave of absence, or a change in teaching assignments. Other remediation steps may be offered, subject to review by the Dean or the Provost ~~and Senior Vice President~~. Remediation should begin as soon as possible and will be funded by the University. The ~~Tenured faculty~~ Faculty member's ~~Member's~~ annual review document for the subsequent year should reflect the method of remediation and document its level of success.
  - b. A summary of this meeting, that includes the plan for remediation, will be added to the annual evaluation documents and a copy provided to the ~~Tenured faculty~~ Faculty member ~~Member~~.
3. If the ~~Tenured faculty~~ Faculty member ~~Member~~ disagrees (rejects) the finding of a second low performance rating or cannot reach agreement with the chair on a plan for a remediation, a college faculty review committee will be ~~appointed~~ selected (as explained in item b in this section) to review the ~~Tenured faculty~~ Faculty member's ~~Member's~~ annual evaluations and other relevant documents.
  - a. Members: Three ~~Tenured faculty~~ Faculty members ~~Members~~ from outside that department/unit but within the same college; two members must be in the same teaching category as the ~~Tenured faculty~~ Faculty being evaluated. ~~(tenure track or teaching/non-tenure track)~~
  - b. The ~~Tenured faculty~~ Faculty member ~~Member~~ and the chair shall each select one reviewer, and they shall jointly select the third person (if there is no agreement to the third person, the Dean will select the third person). The committee will elect their chairperson.
  - ~~b.c.~~ The review committee shall meet separately with the Tenured Faculty Member and department chair, review the details, and provide a report to the college dean within one month from the time the committee is selected. The meetings are convened by the committee chair.
  - ~~e.d.~~ The reviewers shall submit a written report to the ~~Tenured faculty~~ Faculty member ~~Member~~, the chair, and the dean stating that by majority vote concluded either that (a) there is sufficient evidence of low performance and remediation is necessary; or (b) there is insufficient evidence of low performance. The dean will then make the final decision regarding chronic low performance after meeting with the ~~Tenured faculty~~ Faculty member ~~Member~~ and the chair.

C. Dismissal for Cause- Recommendation by Chair and Dean to the Provost ~~and Senior Vice President~~

- 1) Chronic Low Performance -Three Annual Low Performance Ratings in any consecutive five-year time period. OR
- 2) Documented behavior that questions the professional fitness ~~(may include but is not limited to: incompetence, personal conduct, and negligence)~~ of the ~~Tenured faculty~~ Faculty member ~~Member~~.

## Faculty Member's Response

- a) Accept the Decision of Dismissal
- b) Disagrees with Decision of Dismissal
  - 1) The ~~Tenured faculty~~ Faculty member ~~Member~~ will be informed that they have ten (10) business days to contest the decision in writing and request a formal review.

If the Tenured Faculty Member does not request for formal review within ten (10) business days, then she/he is separated from employment.

If the ~~Tenured faculty~~ Faculty member ~~Member~~ disagrees with (rejects) the finding of Dismissal for Cause, a University Review Committee is formed. The Tenured Faculty Member may be placed on Administrative Leave with Pay until the conclusion of the review meeting.

- 1) Membership of the University Review Committee:
  - a) Tenured Faculty ~~members~~ Members (not less than 3) will be jointly named by the president of the Faculty Senate and the University president (or designee) as soon as possible within ten (10) business days after the ~~Tenured faculty~~ Faculty member contests the decision in writing and requests a formal review.
  - b) The members of the review committee will be chosen on the basis of their objectivity and competence.
  - c) The committee will elect its own chairperson.
- 2) Committee Charge
  - a) To evaluate annual reviews or documentation of low performance or professional fitness.
  - b) Set a hearing date in collaboration with the Provost ~~and Senior Vice President~~ to review Dismissal for Cause Recommendation.
  - c) Notify Tenured Faculty Member when the review meeting will take place.
    - (1) The Tenured faculty member will have at least 20 business days to prepare a defense at the review meeting.

~~The published regulations applicable to the conduct of the formal committee's inquiry and to the rights of the faculty member are in the Kansas Board of Regents, Policy and Procedures Manual (1995 edition) item 8(4) on page 7F and are repeated as follows: "the accused teacher shall be informed before the hearing in writing of the charges against him and shall have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He may have with him an adviser of his own choosing who may act as counsel. There shall be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence, the testimony should include that of teachers and other scholars, either from his own or from other institutions." The hearing should give opportunity to the~~

~~faculty member or their counsel and the representative designated by the Provost and Senior Vice President to argue orally before it, regarding the Dismissal for Cause University Review Committee~~

3) Review Meeting:

- a) Tenured Faculty Member may have an advisor of their own choosing who may act as counsel during the review. The advisor or the Tenured Faculty Member will present verbally why the dismissal for cause should not happen.
- b) The Provost should designate a representative to present verbally why the dismissal for cause should happen.
- c) There shall be a full record of the hearing available to the parties concerned.

4. Review Conclusion:

University Review Committee will make one of the following recommendations within one month after the review meeting(s), which includes rationale, to the ~~Tenured faculty~~ Faculty member ~~Member~~, the Provost ~~and Senior Vice President~~, and the president of the University:

- (i) Recommends dismissal for cause.
- (ii) Does not recommend dismissal for cause.

University President's (or designee) Decision:

After reviewing the recommendation of the University Review Committee, the president of the University will determine whether the case for dismissal should proceed. Communication from the President addressed to the ~~Tenured faculty~~ Faculty member ~~Member~~ in writing will inform them of the President's decision.

1. If the decision is to dismiss the Tenured faculty ~~Faculty member~~ Member for cause, the letter will state the grounds for dismissal, and indicate the effective date of the end of the ~~Tenured faculty~~ Faculty member's ~~Member's~~ employment and any specific arrangements to be made regarding separation salary or other relevant matters.
- ~~2.~~ If the decision is to retain the Tenured Faculty Member, the letter will state that they will be reinstated with the effective date to return to the University.

**Implementation:**

This policy shall be included in the *WSU Policies and Procedures Manual* and shared with appropriate constituencies of the University.

The Provost ~~and Senior Vice President~~ shall have primary responsibility for publication, dissemination and implementation of this University policy.

**Revision Date:**

November 1, 1998

August 18, 2000

August 2017

DATE

DRAFT