

#### IV. Selected Policies and Procedures Affecting Academic Employment\*

##### A. Notification of Non-Renewal of Appointment: Non-Tenured Faculty Appointments

Part-time, visiting, or temporary short-term appointments with explicit terminal dates of one year or less terminate at the expiration of the term without notice.

For those employed year-to-year on a fiscal or academic year basis, notification of non-renewal of appointment at the end of the first year of service shall be given no later than March 1 if the appointment expires at the end of that year or three months in advance if the one-year appointment terminates during the academic year. Notification of non-renewal of appointment at the end of the second year of service shall be given no later than December 15 if the appointment expires at the end of the year or six months in advance if the appointment expires during the year. Notification of non-renewal of appointment after more than two years of service shall be given at least 12 months before expiration of the appointment. Any such notification of non-renewal of appointment shall be made in writing by the dean.

It is University policy not to provide written reasons in cases of non-renewal of appointment. However, upon the faculty member's request, the dean of the college may meet with the faculty member and discuss informally the circumstances surrounding the non-renewal. If the faculty member is not satisfied with this conference, a related conference with the Senior Vice President and Chancellor of the Medical Center or the Provost may be requested.

Any related appeal(s) to the Senior Vice President and Chancellor of the Medical Center or the Provost concerning procedural matters or privilege and/or to the University Senate Advisory Committee on Privilege and Tenure concerning procedural matters, privilege, or allegations of violation of academic freedom must be initiated in writing by the concerned faculty member within 60 days after being notified in writing by the dean of non-renewal of appointment. When such an appeal to the University Senate Advisory Committee on Privilege and Tenure has been initiated in writing by a faculty member, the chairperson of the Committee shall inform the appropriate dean and Provost of the development.

##### B. Termination of Appointment

###### 1. Reasons for Termination

Except in cases of financial emergency, the termination of a tenured appointment or the dismissal of a person prior to the expiration of a non-tenured appointment shall be, in accordance with KRS 164.230, only for reasons of incompetence, neglect of or refusal to perform duties, or for immoral conduct.

\*For purposes of this Regulation, appeals concerning faculty non-renewal in the Colleges of Nursing, Allied Health, Medicine, Dentistry, and Pharmacy and the Graduate Centers of Toxicology, Biomedical Engineering, and Nutritional Science are considered by the Senior Vice President and Chancellor of the Medical Center. The Provost considers all other faculty appeals, including those of librarians.

In a case of termination because of a financial emergency, the faculty member may have the issues reviewed by the University Senate Advisory Committee on Privilege and Tenure with the right of appeal to the President and the Board of Trustees. The faculty member shall be given notice as soon as possible and never less than 12 months' notice. The released faculty member's position shall not be filled by a replacement within a period of two years unless the released faculty member has been offered reappointment and given a reasonable time within which to accept or decline it.

## 2. Procedure

Dismissal of a faculty member with tenure or of a non-tenured faculty member before the end of a specified term of appointment shall be preceded by discussions between the faculty member and the appropriate administrative officer or officers looking toward a mutual settlement. In the event of failure to agree upon a settlement, the Provost shall be responsible for the preparation of a reasonably particularized statement of charges which shall be furnished to the faculty member and the University Senate Advisory Committee on Privilege and Tenure. The committee shall make an informal investigation for the purpose of attempting to effect an adjustment and, in the case of failure, shall recommend to the President whether, in its opinion, dismissal proceedings should be undertaken. Its opinion shall not be binding upon the President.

If the President initiates dismissal proceedings, the concerned individual shall have the right to be heard initially by the University Senate Hearing Committee (Privilege and Tenure).

The faculty member shall be informed in writing by the President regarding specific charges at least 20 days prior to the hearing. At least seven days prior to the hearing, the faculty member shall answer the charges in writing. The faculty member may waive the hearing. If the faculty member waives the hearing but denies the charges or asserts that the charges do not support a finding of adequate cause, the Hearing Committee shall evaluate all available evidence and base its recommendation upon the evidence in the record.

The Hearing Committee, in consultation with the President and the faculty member, shall exercise its judgment as to whether the hearing shall be public or private. During the proceedings the faculty member shall be permitted to have an academic advisor and a counsel of personal choice. At the request of either party or the Hearing Committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer. A full stenographic record of the hearing or hearings shall be taken and made available to the parties concerned. The burden of proof that adequate cause for dismissal exists shall rest with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole. If the faculty member's competence is in question, the testimony should include that of qualified faculty members from this and/or other institutions of higher education.

Upon the conclusion of the hearing, the Hearing Committee shall report to the President that adequate cause for dismissal has or has not been established by the evidence in the record. It may, in addition, recommend that, although adequate cause for dismissal has been established, an academic penalty less than dismissal would be more appropriate, giving supporting reasons for the recommendation. If the President rejects the report, the President shall provide reasons in writing to the Hearing Committee and to the faculty member and provide an opportunity for response before transmitting the case to the Board of Trustees.

A decision adverse to the faculty member may be made only after an opportunity has been given for an additional hearing before the Board of Trustees as required by KRS 164.230. The Board shall either sustain the recommendations of the Hearing Committee and the President or return the proceedings to the President and the Hearing Committee with specific objections. The Hearing Committee then shall reconsider, taking into account the stated objections and receiving new evidence if necessary. The Board of Trustees shall make a final decision after a study of the Hearing Committee's reconsideration.

### 3. Suspension

Until the final decision on termination of an appointment has been reached, the faculty member shall be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Before suspending a faculty member, pending an ultimate determination of the individual's status through the hearing procedure, the President shall consult with the University Senate Advisory Committee on Privilege and Tenure. Salary shall be continued during the period of suspension.

#### C. Academic Freedom of Non-Tenured Faculty

If faculty members on non-tenured appointments or faculty members on post-retirement appointments allege that decisions not to reappoint them were caused by considerations violative of academic freedom, or that they were given less advance notice than specified in these regulations, they shall present their allegations in writing to the University Senate Advisory Committee on Privilege and Tenure within 60 days after being notified in writing by their respective deans of the decisions not to reappoint. Allegations so presented shall be given preliminary consideration by the Advisory Committee on Privilege and Tenure, which shall attempt to settle the matter by informal methods. The faculty members' allegations shall be accompanied by statements that they agree to the presentation, for the consideration of the committee, of such reasons and evidence as the University may allege in support of its decisions. If the difficulty is unresolved at this stage and if the committee so recommends, the procedures set forth in PART X.B.5.b of the Governing Regulations shall be applied, except that the faculty members making the complaints are responsible for stating the grounds upon which they base their allegations, and the burden of proof shall rest upon them. If prima facie cases are established via these procedures in favor of the faculty members, it becomes incumbent upon the

persons who made the decisions not to reappoint to present evidence in support of those decisions.

D. Resignation

Notice of resignation should be given early enough to obviate serious inconvenience to the University. If faculty members desire to terminate existing appointments or to decline renewals in the absence of notices of non-renewal, they shall give written notice of no less than three months if their rank is instructor or assistant professor, and no less than four months if their rank is higher, before the end of their duties during the academic year (exclusive of a summer session) or thirty days after receiving notification of the terms of their appointments for the coming year, whichever date occurs later. However, they may properly request a waiver of this requirement in cases of hardship or in situations where they would otherwise be denied substantial professional advancement.

E. Administrative Personnel

Administrative personnel who hold academic rank are subject to the foregoing regulations in their capacity as faculty members. Administrators who allege that considerations violative of academic freedom significantly contributed to decisions to terminate their appointments to administrative posts or not to reappoint them shall be entitled to the same procedures as those for non-tenured faculty who allege violation of academic freedom.

F. Graduate Student Academic Staff

In no case shall an appointment of a graduate or teaching assistant be terminated before the end of the period of appointment without the individual's being provided with an opportunity to be heard before the University Senate Advisory Committee on Privilege and Tenure.

A graduate or teaching assistant, who has established a prima facie case to the satisfaction of the committee that a consideration violative of academic freedom significantly contributed to the individual's non-reappointment, shall be given a statement of reasons by those responsible for the non-reappointment and an opportunity to be heard by a University Senate Hearing Committee (Privilege and Tenure).

G. Opportunities for Hearings

In no case shall a member of an academic staff, who is not otherwise protected by the preceding regulations which relate to dismissal proceedings, be dismissed (termination before the end of a period of appointment) without having been provided with a statement of reasons and an opportunity to be heard before the University Senate Advisory Committee on Privilege and Tenure.

A member of an academic staff who establishes a prima facie case to the satisfaction of the committee that a consideration violative of academic freedom significantly contributed to the member's non-reappointment shall be given a statement of reasons by those responsible for the non-reappointment and an opportunity to be heard by the University Senate Hearing Committee (Privilege and Tenure).

H. Change of Assignment

When it is in the best interests of the institution, and if the professional status of an individual is not seriously jeopardized thereby, a change in the duties assigned to an individual may be made without such change of assignment being regarded as a violation of the individual's privilege or tenure rights.