

Policy Number/Title: 2.2.34 Termination of Faculty Appointment
Effective Since: 01/01/2024
Last Revision Approved: 01/01/2024
Responsible Office: Academic Affairs

1. Scope:

Faculty

2. Definitions:

This section was intentionally left blank.

3. Policy:

A faculty member who has tenure or whose appointment has not expired may be dismissed for adequate cause and after proceedings that guarantee the faculty member's right to due process. In dismissal proceedings, and when used in this document, "adequate cause" shall be restricted to violations of the General Conduct Policy and to demonstrated incompetence or dishonesty in teaching or research, substantial and manifest neglect of duty, moral turpitude, or physical or mental incapacity, which substantially impairs the individual's fulfillment of his/her institutional responsibilities. The prima facie burden of proof rests upon the institution.

4. Procedures:

When reason arises to question the fitness of a faculty member who has tenure or whose term of appointment has not expired, the appropriate administrative officer will ordinarily discuss the matter with him/her privately. At this point the matter may be adjusted by mutual consent. However, if agreement is not achieved, the case shall be presented by the administration to the Committee on Academic Freedom, Tenure, and Promotion (AFTP) for further action. (It is to be understood that the proceedings may be terminated at any subsequent stage if an agreement is reached between the faculty member and the administration. However, once the matter has been brought before the AFTP, both parties should submit written statements to the committee to the effect that a solution has been reached.)

The Committee on Academic Freedom, Tenure, and Promotion, immediately upon reviewing the case, shall request the Committee on Faculty Personnel to inquire informally into the situation and attempt to effect an adjustment. If an adjustment cannot be



effected, the Committee on Faculty Personnel shall then reach a determination of agreement or disagreement with the position of the administration in the case. If the Committee on Faculty Personnel and the administration agree that the case for dismissal should proceed, they shall jointly or separately prepare a written statement to contain in reasonable particularity the grounds for which dismissal is to be recommended. If the Committee on Faculty Personnel is not in agreement with the administration that the case for dismissal shall proceed, then the President of the University shall formulate a written statement. In either event, the statement shall be presented to both AFTP and the faculty member whose dismissal is under consideration.

Within a period of not more than four weeks from the receipt by the faculty member of the written statement of charges, formal proceedings shall be held before the AFTP under the procedures described in the AAUP 1990 Statement of Principles and Interpretive Comments: Academic Freedom and Tenure.

Upon conclusion of the proceedings, the AFTP shall submit its finding to the President and to the said faculty member. The President shall then reevaluate the case in light of the committee's finding and make a final decision. If the President decides for dismissal, the said faculty member may appeal the decision in accordance with the provisions of the "Policy and Procedure for Faculty Grievances and Appeals." (ref. Policy here) such an appeal must be filed in writing to the appropriate dean or department chair within 21 calendar days of the notification of the President.

Until the final decision upon termination of an appointment has been reached, the faculty member shall be suspended--without pay--only if the welfare of the institution or the individual is threatened by his/her continuance. There is no suspension with pay. If the appointment is terminated, compensation ceases as of the date of the final decision of the President.

Denial of Tenure

A tenure track faculty member who does not receive tenure may obtain a review of his/her case if he/she believes that the decision resulted from improper procedures. Any alleged improper procedure must have had a substantive impact on the outcome of the tenure denial decision. The faculty member shall address an appeal, in writing, to the AFTP, which shall then conduct an inquiry. Upon completion of the inquiry, the committee shall submit a report to the President and the faculty member. The President then makes a final decision. In a case of this nature, the prima facie burden of proof lies with the faculty member. According to the Board of Trustees Resolution (11/15/1996), in matters of faculty promotion and tenure, while the Winthrop Board of Trustees may choose to receive an appeal on the basis of improper procedure only, the Board affirms that substantive judgments reside and end with the President of the University.



Notification of Nonrenewal of Appointment

A faculty member who is employed either with tenure or in a tenure track position and whose appointment is not to be renewed shall be given written notice by certified mail postmarked not later than the following dates:

1. In the first academic year at Winthrop, March 1.
2. In the second academic year at Winthrop, December 15.
3. In subsequent academic years at Winthrop, at least twelve months prior to the expiration of the appointment.

If an appointment with continuous tenure is terminated because of financial exigency or change of institutional program, the released faculty member's place shall not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and has declined.

A faculty member who is employed in a non-tenure track position and whose appointment will not be renewed will be notified by the appropriate dean in writing by March 1. Copy of such notification will be sent to the Office of the Chief Academic Officer. (Revised 10/89; 8/04)

TERMINATION DUE TO FINANCIAL EXIGENCY

Financial exigency is a fiscal crisis, usually caused by a reduction in funding, which can only be alleviated by drastic measures which include a reduction in the number of faculty and/or staff members employed by the University.

Employees who are released because of financial exigency retain the right to reemployment at the same or a lower level, and with the same privileges and benefits as were held prior to separation, for one year from the date of separation. Reinstatement will be in inverse order to the order of layoffs. At the time of reinstatement, accumulated sick leave will be restored.

For one year following terminations caused by financial exigency, the dean of the college finding an appropriate teaching vacancy shall notify the laid-off employee in writing by certified mail. Failure of the former employee to accept the job offer within 15 working days following receipt of notice nullifies the former employee's right to reemployment.

Financial Exigency Committee. This committee was established as a standing committee of the faculty (See Faculty Conference Bylaws, Article XII, Committees of Faculty Conference, Section 8.)



If a financial exigency is deemed by the President of the University to be imminent or to exist, he or she shall notify the committee, which shall immediately convene and, through the process of advising and counseling, participate in the deliberations relative to the emergency which take place above the level of the major academic divisions, including those relating to how the academic programs and teaching service areas at Winthrop University will be affected. Major purposes of this participation are to help assure that a viable academic program is maintained and that the burdens of the exigency are distributed as equitably as possible throughout the University.

The committee shall be kept informed of actions taking place within the major academic divisions relative to financial exigency. The committee shall keep itself and the faculty informed as to what specific measures involving dismissal of faculty are being considered; and it shall inform the administration, the deans of major academic divisions, and the faculty if in the opinion of the committee, the measures being contemplated are not in line with the Winthrop University Policy for Reduction in Force.

The committee shall be kept informed as to what measures are being taken concerning the rehiring of dismissed personnel once a financial exigency has been declared ended by the President or is deemed by the committee to exist no longer; and it shall inform the administration, the deans of major academic divisions, and the faculty if in the opinion of the committee the measures taken are not in line with the Winthrop University Policy for Reduction in Force.

Release of Faculty. When the President of the University, having consulted with the committee, has declared that a financial exigency exists which will necessitate a reduction in the number of faculty, the President, with the advice and counsel of the committee, shall inform the deans of the major academic divisions of the amount of faculty reductions that must take place in their divisions.

If faculty are to be released, the following procedure is to be used:

1. A plan will be instituted by every major academic division setting program priorities that are to prevail in that unit. In formulating that plan, the dean is to consult fully with the faculty of the departments concerned, as well as with the division's curriculum committee, personnel advisory committee, and any other appropriate bodies. Personnel are to be released in accordance with the priorities established in that plan.

2. When a program or activity is terminated or reduced, the overall qualifications of affected faculty members will be considered in determining their continuing role in the institution. Faculty are to be released in the following order within program priorities:

- A. First, non-tenure track faculty according to the needs of the division;



B. Second, tenure-track faculty according to the needs of the division;

C. Third, tenured faculty according to the needs of the division;

D. In cases where faculty members have equal qualifications within class, precedence shall be determined by faculty ratings of the past five years. If clear precedence cannot be decided on that basis, then seniority in class shall be the determining factor.

3. Before any final action is taken, the list of employees slated to be laid off will be reviewed by the executive officers of the University. Adjustments may be made in the event this review indicates that any group would be disproportionately affected by a layoff as a result of conditions prohibited by state or federal law. This review shall include soliciting the advice and counsel of the committee.

Any tenured faculty member affected by a reduction in force will have the right to any position within the University for which such faculty member is qualified and which is occupied by a temporary, tenure track, or other non-permanent employee.

The respective personnel advisory committee and the Financial Exigency Committee shall be kept fully informed as decisions are made leading to dismissals.

Special Responsibilities of the University and Committee. The University will make every effort to reassign the faculty members subject to dismissal under financial exigency, or to assist the faculty member to gain new training to qualify for teaching in another area. Dismissed personnel shall be given preference in rehiring according to an inverse order of dismissal. The committee shall ascertain that a record of all faculty members dismissed because of financial exigency is maintained by the University. This record shall include the person's current address and employment status. It is the obligation of the dismissed faculty member to provide the information necessary to keep this record up to date.

Officers of the University and other administrative personnel shall be expected to bear a fair share of the burden posed by a financial exigency.

Communications. Before the layoffs occur, affected faculty members will be informed on several matters. The appropriate dean will meet with these employees and will provide the following information:

1. The reasons for the layoff, an adequate description of the manner in which the initial decision was made, and a fair disclosure of the information and data upon which the decisions were based;

2. The benefits to which the employee is entitled;



- 3. The effect upon state benefits, such as group insurance, retirement, etc.;
- 4. The employee s recall rights and how notification will be made when a job is available;
- 5. An estimate of how long the layoff will be and the chances of rehire;
- 6. The efforts which will be made to assist the faculty member in finding other work;
- 7. Official notice of the layoff, which shall be accomplished as follows:

Each faculty member to be dismissed shall be notified by the President in writing that he/she is to be laid off because of lack of funds.

The notice shall be either sent by certified mail, return receipt requested, to the employee s last known address, or delivered to the employee in person. The employee shall acknowledge receipt either by writing to the President or by returning a signed copy of the notice letter.

The notice shall specify the effective date of layoff.

The employee will be given 30 days notice whenever possible, and no less than 15 days notice, prior to the effective date of the layoff.

EXIT INTERVIEW FOR FACULTY MEMBERS TERMINATING EMPLOYMENT

When a faculty member resigns or is terminated, the department chair and/or academic dean will collect all keys and account for all equipment.

The faculty member is to vacate any assigned offices or rooms upon conclusion of the appointment. If summer school employment is involved, the office may be retained until the end of the summer school appointment.

5. Resources:

This section was intentionally left blank.

6. History of Revisions:

01/01/2024	Minor Revisions
04/19/2021	Minor Revisions
06/01/2020	Policy first established