

Academic Staff Policies and Procedures

UWPA 8 DISMISSAL OF ACADEMIC STAFF FOR CAUSE

8.01 DISMISSAL FOR CAUSE -- INDEFINITE ACADEMIC STAFF APPOINTMENTS.

1. Academic staff holding an indefinite appointment may be dismissed only for just cause under UWPA 8.02 through UWPA 8.10 of this chapter or for reasons of budget or program under UWPA 9.
2. Members of the academic staff are entitled to enjoy and exercise all rights of United States citizens and to perform their duties in accordance with appropriate professional codes of ethics. This policy shall be observed in determining whether or not just cause for dismissal exists. The burden of proof of the existence of just cause for a dismissal is on the administration.

8.02 RESPONSIBILITY FOR CHARGES.

1. Whenever the chancellor receives an allegation which concerns an academic staff member holding an indefinite appointment which appears to be substantial and which, if true, might lead to dismissal under UWPA 8.01, the chancellor shall request within a reasonable time that the appropriate hiring authority investigate the allegation, offer to discuss it informally with the individual, and provide information of rights to which members of the academic staff are entitled under this chapter. If such an investigation and discussion does not result in a resolution of the allegation and if the allegation is deemed sufficiently serious to warrant dismissal, the appropriate hiring authority shall prepare a written statement of specific charges. A member of the academic staff may be dismissed only after receipt of such a statement of specific charges and, if a hearing is requested by the academic staff member, after a hearing held in accordance with the provisions of this chapter and the subsequently adopted procedures of the institution. If the staff member does not request a hearing, dismissal action shall proceed along normal administrative lines but the provisions of UWPA 8.02, 8.08, and 8.09 of this chapter shall apply. In those cases where the immediate supervisor of the academic staff member concerned is a dean or director, the chancellor shall, to avoid potential prejudice, designate an appropriate administrative officer to act for the dean or director under this section.
2. Any formal statement of specific charges shall be served personally or by certified mail, return receipt requested. If such service cannot be made within 20 working days, service shall be accomplished by first class mail and by publication as if the statement of charges were a summons and the provisions of Section 262.06 (1)(c), Wisconsin Statutes, were applicable. Such service by mailing and

publication shall be effective as of the first insertion of the notice of statement of charges in the daily newspapers in both Racine and Kenosha.

8.03 HEARING BODY. The hearing body charged with hearing dismissal cases and making a report and recommendations under this chapter shall be the Academic Staff Committee. Throughout this chapter, the term "hearing body" is used to indicate the Academic Staff Committee and it shall operate as the hearing agent for the chancellor pursuant to Section 227.09, Wisconsin Statutes, 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 chancellor according to UWPA 8.07.

8.04 HEARING. If the staff member requests a hearing within 20 working days from the service of the statement of charges (25 working days if notice is by first class mail and publication), such hearing shall be held not later than 20 working days after the request, except that this time limit may be extended by mutual consent of the parties or by order of the hearing body. The request for a hearing shall be addressed in writing to the hearing body established pursuant to UWPA 8.03. Service of written notice of the hearing on the specific charges shall be provided at least 10 working days prior to the hearing.

8.05 ADEQUATE DUE PROCESS. A fair hearing for an academic staff member whose dismissal is sought under UWPA 8.01 shall include the following:

1. A right to the names of witnesses and of access to documentary evidence upon the basis of which dismissal is sought.
2. A right to be heard in his/her defense.
3. A right to counsel and/or other representative, and to offer witnesses.
4. A right to confront and cross-examine witnesses.
5. A verbatim record of all hearings, which might be a sound recording, provided at no cost.
6. Written findings of fact and decision based on the hearing record.
7. Admissibility of evidence including but not limited to Section 227.08, Wisconsin Statutes. [See UWPA 8.06 (3)]

8.06 PROCEDURAL GUARANTEES. The following requirements shall also be observed:

1. Any person who participated in the investigation of allegations leading to the filing of a statement of charges, or in the filing of a statement of charges, or who is a material witness, shall not be qualified to participate as a member of the hearing body.
2. The hearing shall be closed unless the staff member under charges requests an open hearing, in which case it shall be open.

3. The hearing body shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges.
4. The burden of proof of the existence of just cause is on the administration or its representatives.
5. If a staff member whose dismissal is sought has requested a hearing, discontinuance of the proceeding by the institution is deemed a withdrawal of charges and a finding that the charges were without merit.
6. Nothing in Paragraph (5) shall prevent the settlement of cases by mutual agreement between the administration and the staff member, with the chancellor's approval, at any time prior to a final decision by the chancellor; or when appropriate, with the Board of Regents' approval prior to a final decision by the Board.
7. Adjournments shall be granted to enable either party to investigate evidence if a valid claim of new information is made.
8. The hearing body may, on motion of either party, disqualify any one of its members for cause by a majority vote. If one or more members of the hearing body disqualify themselves or are disqualified, the remaining members may select a number of replacements equal to the number who have been disqualified.
9. If the hearing body requests, the chancellor shall provide legal counsel after consulting with the hearing body concerning its wishes in this regard. The function of legal counsel shall be to advise the hearing body, consult with them on legal matters, and such other responsibilities as shall be determined by the hearing body.

8.07 RECOMMENDATIONS TO THE CHANCELLOR. The hearing body shall send to the chancellor and to the academic staff member concerned, as soon as practicable after conclusion of a hearing, a verbatim record of the testimony and a copy of its report, findings, and recommendations. After reviewing the matter on record and considering arguments if submitted by the parties, the chancellor shall issue a decision. In that decision, the chancellor may order dismissal of the staff member, may impose a lesser disciplinary action, or may find in favor of the staff member.

This decision shall be deemed final unless the Board of Regents, upon request of the academic staff member, grants review based on the record.

8.08 SUSPENSION FROM DUTIES. Pending the final decision as to dismissal, the academic staff member with an indefinite appointment shall not be relieved of duties, except where, after consultation with the appropriate hiring authority, the chancellor finds that substantial harm may result if the staff member is continued in his/her position. Where such determination is made, the staff member may be relieved of his/her position immediately or be assigned to another administrative unit, but his/her salary shall continue until the chancellor makes a decision as to dismissal.

8.09 DATE OF DISMISSAL. A decision by the chancellor ordering dismissal shall specify the effective date of the dismissal.

8.10 BOARD REVIEW. A member of the academic staff on indefinite appointment who has been dismissed for cause by the chancellor following a hearing may appeal this action to the Board of Regents. Any appeal must be made within 30 days of the date of the decision of the chancellor to dismiss. Upon receiving an appeal the Board shall review the case on the record. Following such review the Board may confirm the chancellor's decision, or direct a different decision, or approve a further hearing before the Board with an opportunity for filing exceptions to the hearing body's recommendations or the chancellor's decision and for oral argument on the record. If further review with opportunity for oral argument on the record is provided, this review shall be closed unless the staff member requests an open hearing. All decisions of the Board, whether after review on the record or after oral argument, shall be expressed in writing and shall indicate the basis for such decision.

8.11 DISMISSAL FOR CAUSE – FIXED-TERM OR PROBATIONARY ACADEMIC STAFF APPOINTMENTS. A member of the academic staff holding a probationary appointment and having completed the initial six month probationary period or a member of the academic staff holding a fixed term appointment may be dismissed prior to the end of the contract term only for just cause or for reasons of budget or program under UWPA 9. A non-renewal of such an appointment is not a dismissal under this section. A dismissal shall not become effective until the individual concerned has received a written notification of specific charges and has been offered an opportunity for a hearing before the appropriate hiring authority or his/her designee. If such hearing is requested, a determination of just cause and notification of dismissal shall be made by the appropriate hiring authority. If no hearing is requested, the dismissal is effected by the specifications in the original notification of charges. The hearing before the appropriate hiring authority shall provide the academic staff member with an opportunity to present evidence and argument concerning the allegations. Dismissal shall be effective immediately on receipt of written notification of the decision of the appropriate hiring authority unless a different dismissal date is specified by the appropriate authorized official. Dismissals for cause may be appealed by filing an appeal with the hearing body under UWPA 8.03. The

burden of proof as to the existence of just cause on appeal shall be on the administration or the hiring authority. The provisions of UWPA 8.04, procedural guarantees, contained in UWPA 8.05 and 8.06, and the review provisions of UWPA 8.07, shall be applicable to the appeal proceeding. In no event, however, shall a decision favorable to the appellant extend the term of original appointment. If a proceeding on appeal is not concluded before the appointment expiration date, the academic staff member concerned may elect that such proceeding be carried to a final decision. Unless such election is made in writing, the proceeding shall be discontinued at the expiration of the appointment. If the chancellor ultimately decides in favor of the appellant, salary lost during the interim period between the effective date of dismissal and the date of the chancellor's decision or the end of the contract period, whichever is earlier, shall be restored. In those cases where the immediate supervisor of the academic staff member concerned is a dean or director, the chancellor shall, to avoid potential prejudice, designate an appropriate administrative officer to act for the dean or director under this section.

8.12 DISMISSAL FOR CAUSE --TEACHING MEMBERS OF THE ACADEMIC STAFF

1. Dismissal for cause of a member of the academic staff having teaching responsibilities proceeds under UWPA 8.01 to 8.11.
2. With the concurrence of the faculty and Academic Staff Committee, the chancellor may provide that dismissal for cause of a member of the academic staff having teaching responsibilities be heard by the hearing body specified in UWS 4.03. If so provided, the hearing shall be held pursuant to the provisions of UWS 11.

Approved by the Academic Staff Committee, October 12, 1982, and Revised June 9, 1986, March 7, 1991, June 12, 2007, January 7, 2009.