

**ACADEMIC STAFF POLICIES AND PROCEDURES**  
**UNIVERSITY OF WISCONSIN-MADISON**  
**(UW-MADISON ASPP)**

Submitted to the Academic Staff Assembly, April 1999



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SUBSTANTIVE CHANGES IN CHAPTERS 1-9  
April 1999

1. Throughout the document, we have added "or designee" after "Chancellor" because in reality the Provost handles many of these actions.
2. Page 11: Academic staff employees who accept limited appointments must be provided concurrent or back-up appointments. This is already the practice if not the rule.
3. Page 16: References to faculty serving as members of area review committees have been removed. They "may be appointed."
4. Page 19: Before a nonrenewal notice can be issued, the employing unit must get the approval of the dean or designee. This is currently true for layoffs.
5. Page 20 and elsewhere: Appeals can be based on "significant violations of ASPP" in addition to the current reasons. The basis for an appeal need not be a violation of law.
6. Page 21 and elsewhere: We have tried to protect academic staff members in cases where someone else's inaction could delay a process or a decision. For example, in nonrenewals, if a dean or director fails to respond to a request for review, the academic staff member can go straight to the Academic Staff Appeals Committee.
7. Page 21 and elsewhere: The Chancellor or designee has been given an additional 10 days to respond to a recommendation from the Appeals Committee. Without such a response the recommendation of the Appeals Committee becomes final.
8. Page 22 and elsewhere: We have added a paragraph allowing for an academic staff member to be accompanied by a representative at hearings, grievances, etc., though participation of such a representative is not guaranteed.
9. Page 23 and elsewhere: The new rules allow more time for an academic staff member to decide to file an appeal of a nonretention, a layoff or a dismissal.
10. Page 31: In case of layoff, the head of the operational level is responsible for identifying comparable positions and notifying laid-off staff members of their right to reappointment.
11. Page 32ff: The outline in Chapter 6 has been restructured for greater clarity.
12. Page 46: The terms of Appeals Committee members have been extended from two to three years.



## CHAPTER 1 DEFINITIONS AND COVERAGE AND DEFINITIONS

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Draft 4/99

### 1.01 Coverage

Pursuant to UWS 9.01, these policies and procedures apply to all academic staff appointments at the University of Wisconsin-Madison. Faculty status, as granted under Faculty Policies and Procedures, does not affect the holder's rights and privileges as an academic staff member.

### 1.02 Delegation

Pursuant to Wisconsin Statutes 36.09(4m), the Academic Staff Assembly through its Executive Committee and its ~~Standing Committee on~~ Personnel Policies and Procedures Committee makes recommendations to the University of Wisconsin-Madison Chancellor concerning policies and procedures for academic staff appointments as provided in UWS 8-13.

### 1.03 Definitions

*"Academic Staff"* means professional and administrative personnel other than faculty, classified staff, limited staff, student employees, or employees in training, with duties and types of appointments that are primarily associated with higher education institutions or their administration (UWS 1.01). Academic staff titles are identified in the UW-Madison unclassified title guideline.

*"Department"* is a group of faculty members recognized by the faculty and the Chancellor of the institution, and the Board of Regents, as dealing with a common field of knowledge or as having a common or closely related disciplinary or interdisciplinary interest (UWS 1.03).

*"Director,"* where the phrase "dean or director" is used, identifies the equivalent of a dean at the divisional or institutional level who typically reports to the Chancellor or a vice chancellor.

*"Discipline"* refers to any sanction short of dismissal imposed by the University against an academic staff member for unsatisfactory performance or misconduct, including but not limited to a ~~written letter~~ specifically identified as a reprimand, reduction in salary, change of appointment status or suspension ~~with or without pay~~. Activities such as performance reviews, letters of counseling, administrative leave with pay, and merit-pay determinations, and the like are not considered discipline.

*"Dismissal for Cause"* is the termination of an academic staff member's employment for just cause using procedures in ASPP 6.

*"Division"* is a major organizational element of the University headed by a dean or director who typically reports directly to the Chancellor or a vice chancellor.

*"Fixed-Term= Renewable Appointment"* is an appointment for a definite period of time specified in the letter of appointment and is renewable. Fixed-term= renewable appointments may be ended during the evaluation period (ASPP 2.04) or because of funding loss, a budget or program decision that requires a program to be discontinued, curtailed, modified, or redirected, unsatisfactory performance, or misconduct, according to procedures outlined in UW-Madison ASPP 3, 5 and 6.

*"Fixed-Term= Terminal Appointment"* is an appointment for a fixed term only, as specified in the letter of appointment, and is not renewable shall not be used repeatedly except as specified in ASPP 2.01.1.c.

*"Grievance"* is a written allegation filed by a member of the academic staff in regard to an employment problem that affects his or her conditions or circumstances of employment. A formal grievance is limited to a specific allegation of violation of rights of the employee which remains after informal efforts at resolution have failed.

*"Indefinite Appointment"* is an academic staff appointment having permanent status and for an unlimited term. The rights conferred by an indefinite appointment are limited to the operational area in which the appointment is made. Indefinite appointments are neither limited to nor specific to any academic staff position or title series.

*"Joinder"* is a term meaning formal joining together, for a single review or hearing and disposition, of appellants or grievants having the same or directly related set of facts and circumstances or legal situation.

*"Layoff"* is the termination of an academic staff member's employment because of funding loss or a budget or program decision either prior to the end of the appointment or when proper notice of nonrenewal under ASPP 3.04 cannot be given.

*"Limited Appointment"* is a special category of appointments to a designated administrative position made at the pleasure of the Board of Regents or the specified appointing authority (UWS 15.01) and is not an academic staff appointment. A limited appointee serves at the pleasure of the authorized official who made the appointment. Academic staff accepting limited appointments retain the rights outlined in ASPP 2.07.

*"Multiple-Year Appointment"* is a form of fixed-term renewable appointment with a term longer than one year.



"*Nonrenewal*" is the termination of an academic staff member's employment at the end of the appointment because of funding loss, a budget or program decision, or unsatisfactory performance, when proper notice of nonrenewal under ASPP 3.04 is given.

"*Operational Area*" is the organizational level, such as college, division, department or smaller unit, specified in the letter of appointment as having responsibility for supporting a position in cases of layoff or changes in indefinite appointments.

"*Pay Basis*" is the specification of whether an academic staff member's salary is paid on an annual (12 months), academic year (9 months), or other appropriate basis.

"*Program Discontinuance, Curtailment, Modification or Reduction*" is the reallocation or termination of resources by a university management decision that may result in staffing reductions in a program or operational area. This is distinct from funding loss, which is the result of a decision made beyond the control of management.

"*Probationary Appointment*" is an academic staff appointment leading to review and decision on indefinite appointment. ~~Neither probationary nor indefinite appointments are appropriate for positions whose duties approximate a tenure appointment; these may not be used to circumvent or evade normal tenure policies and procedures.~~

"*UWS 8-13; 15; 18, 19, and 21*" refer to the *Rules of the Board of Regents of the University of Wisconsin System, s. UWS 1-21, Wisconsin Administrative Code* including academic staff rules (Chapters 8-13); limited appointments (Chapter 15); conduct on university lands (Chapter 18); sick leave (Chapter 19); use of university facilities (Chapter 21).



## CHAPTER 2

### ACADEMIC STAFF APPOINTMENTS

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#### 2.01 Types of Appointment

Academic staff appointments are fixed term, probationary, or indefinite. Rights associated with an appointment are limited to the operational area specified in the letter of appointment.

1. *Fixed Term Appointments.* Fixed term appointments are renewable, rolling horizon, or terminal. An initial period of evaluation is required (2.04), during which an appointment may be ended without the right of appeal. Once an evaluation period has been successfully completed, the employment of an academic staff member holding a fixed term= renewable or fixed term= rolling horizon appointment may be ended only for reasons of (1) funding loss, (2) a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected, (3) unsatisfactory performance, or (4) misconduct, according to the procedures outlined in ASPP 3, 5 and 6. (See Note at end of chapter.)
  - a. *Fixed Term= Renewable Appointment.* The fixed term= renewable appointment is the most common appointment given to academic staff. This appointment is for the initial term specified in the letter of appointment and is renewable so long as the appointee renders satisfactory service, funds are available, and the directions or needs of the program do not change. Appointments may be for terms of longer than one year.

Appointments for terms up to and including one year renew for the same term unless the academic staff member receives a written notice to the contrary. If a nonrenewal notice is not issued under ASPP 3, the appointment shall be renewed for the same period of time as the immediately preceding appointment. A letter of reappointment is not required. If the term of appointment is increased, a letter of reappointment is required.

2.01.1 — NOTE: These policies and procedures represent efforts to strike a reasonable balance between employment security for academic staff, without intending to create an entitlement or property interest, and the responsibility of the university to manage its programs and resources. As a result, sections 3.06 and 3.07 have been revised to expand appeal rights and enhance the appeals process. The policies and procedures set forth in this and subsequent chapters implement job security and due process protections for academic staff that complement UWS 10.03.1. [Note moved to end of Chapter 2.]

Appointments for terms of longer than one year, including multiple-year appointments, do not require a letter of reappointment during the original term. To renew the appointment for more than one year requires a reappointment letter. If a reappointment letter or nonrenewal notice is not issued before the end of the original term, then the appointment becomes a one-year fixed-term renewable appointment.

- b. *Fixed-Term= Rolling-Horizon Appointment.* A rolling-horizon appointment is a form of fixed-term-renewable appointment that is extended daily for the term specified in the letter of appointment. The term may be for one or more years. For example, a three-year rolling-horizon appointment automatically renews every day and entitles the employee to a full three years notice of nonrenewal.

The term of a rolling-horizon appointment may be increased or decreased at any time. If the term is increased, the new term shall take effect upon written notification. If the term is reduced, written notification is required and shall include the reasons for the change, i.e., funding loss, program redirection, unsatisfactory performance, or misconduct. The new shorter term shall take effect when the time elapsed from the date of notification equals the difference between the old and new terms of appointment. The appointment will, in effect, cease rolling until the period being reduced has elapsed. For example, if a three-year rolling-horizon appointment is reduced to a two-year rolling-horizon, the appointment will cease rolling until one year has elapsed, then resume as a two-year rolling-horizon.

A rolling-horizon appointment may be changed to a different type of fixed-term-renewable appointment upon written notice to the employee with copies to the dean or director and the Academic Personnel Office. The notice shall include the reasons for the change, i.e., funding loss, program redirection, unsatisfactory performance, or misconduct. The initial length of the new fixed-term-renewable appointment shall equal the term of the former rolling-horizon appointment.

A decrease in the term of a rolling-horizon appointment or a change to a fixed-term renewable appointment may be grieved when the employee believes the action to be arbitrary, capricious, in significant violation of ASPP, or for reasons prohibited by law, in accordance with ASPP 7.

- c. *Fixed-Term= Terminal Appointment.* Fixed-term= terminal appointments are given to academic staff for appointments that carry made when there is no expectation of continuing employment. The appointment letter will specify the appointment termination date. The period of employment must be specified in the letter of appointment, which shall state that the appointment will not continue. Fixed-term= terminal appointments shall not be used repetitively repeatedly to avoid granting the increased job security protection provided by fixed-term= renewable and fixed-term= rolling-horizon appointments.

There are three types of fixed-term= terminal appointment:

- i. *Finite.* This type of appointment is used when the appointment is for a clearly limited period of two years or less with no anticipation of renewal. Fixed-term terminal appointments may be renewed extended, but the total period of appointment including renewals may not exceed two years. Continuation of the position beyond two years shall be as a fixed-term renewable appointment unless the Chancellor's designee determines that good cause exists to continue it as a fixed-term terminal appointment.
  - ii. *Instructional.* This type of fixed-term terminal appointment is limited to instructional academic staff and can be renewed offered repeatedly except as follows. When an instructional academic staff member has held an appointment in a given department for either or both semesters in each of the last three successive academic years, renewal reappointment shall be as a fixed-term renewable appointment on a similar basis, e.g., one-semester or two-semester appointment. In cases of uncertain enrollment or other exceptional circumstances, however, renewal of reappointment to a fixed-term terminal instructional appointment position beyond this period may be made with the approval of the Chancellor's designee. (See Note at the end of this chapter regarding employment security.)
  - iii. *Emeritus.* This type of fixed-term terminal appointment is limited to unclassified staff who have retired; it may be renewed at the option of the employer without limitation.
2. *Probationary Appointment.* A probationary appointment is an appointment with a probationary period of up to seven years leading to a review and decision on granting an indefinite appointment. Probationary academic staff not granted an indefinite appointment by the end of probation may not be reappointed to a fixed-term appointment within the same operational area. However, exceptions may be made by the Chancellor or designee after seeking advice from the appropriate academic staff area review committee and the dean or director.

Neither probationary nor indefinite appointments are appropriate for positions whose duties approximate a tenure appointment; these may not be used to circumvent or evade normal tenure policies and procedures.

A probationary appointment shall only be made in an operational area only when it is anticipated that the position will continue indefinitely. Probationary appointments within an academic department must be approved in advance by the executive committee of the department. In addition, all probationary appointments require the advance approval of the appropriate dean or director. For appointments in an administrative or service unit, approval must be received both from the immediate unit director and from the college-level dean or director, or from the Chancellor's Office if the appointee reports directly to the Chancellor's Office that office.

3. *Indefinite Appointment.* This appointment type is used to recognize academic staff for outstanding performance and importance to the continuing mission of the unit. This appointment type can be considered only when the dean or director can assure long-term funding. The indefinite appointment grants the appointee permanent employment status and can be ended only for cause under ASPP 6 or for reasons of budget or program under ASPP 5. The percentage of appointment provided for in the indefinite appointment cannot be changed without the mutual consent of the academic staff member and the institution unless the appointment is ended or diminished under ASPP 6 or ASPP 5.

An indefinite appointment is granted only upon the recommendation of the department or its functional equivalent, affirmative review by an academic staff area review committee, and approval by the appropriate dean or director and the Chancellor pursuant to the procedures described in 2.09.

## 2.02 Letters of Appointment

Each employee shall receive a letter of appointment signed by the individual making the appointment. Such a letter is required at the time of the initial appointment and whenever there is a change in the terms or conditions of the appointment. The initial appointment letter shall include at a minimum the following terms and conditions:

1. Official university title of the position and working title, if appropriate.
2. Type of appointment: fixed-term= renewable, fixed-term= rolling-horizon, fixed-term= terminal, probationary, or indefinite.
3. The operational area of the appointment.
4. Title and name of the person to whom the employee is immediately responsible.
5. A statement of initial salary level and pay basis, starting date, and date of next salary review.
6. Percentage of full-time employment.
7. Initial evaluation period, if applicable, and the unit's procedure for performance review (see ASPP 10).
8. General position responsibilities including any special requirements of the position, e.g., unusual hours, on-call expectations, flexible hours, or extensive travel.
9. Additional information required for specific types of appointment:

- a. Fixed-term renewable appointment letters shall specify the length of the initial term of the appointment.
- b. Fixed-term= rolling horizon appointment letters shall specify the length of the rolling term.
- ac. Fixed-term= terminal appointment letters shall specify the ending date for the appointment, ~~whether renewal is possible, and terms of such renewal.~~
- cd. Probationary appointment letters shall specify:
  - i. the amount of prior service to be counted toward the probationary period.
  - ii. the maximum probationary period for the appointment.
  - iii. the criteria for recommendation for indefinite status.
  - iv. the appropriate area review committee for consideration of indefinite status.

Upon initial appointment, each academic staff member shall be provided a printed copy of ~~and the Web address for~~ *University of Wisconsin-Madison Academic Staff Policies and Procedures* and the *Rules of the Board of Regents of the University of Wisconsin System, s. UWS 8-13, 15, 18, 19, and 21, Wisconsin Administrative Code.*

### 2.03 Annual Salary Notification Letters

Each academic staff member shall be notified annually of his or her salary for the next fiscal year.

### 2.04 Periods of Evaluation

Initial fixed-term appointments in an operational area shall include a *period of evaluation* period of evaluation of at least six months, but not more than 12 months (see exception in 2.04.56), during which the appointee may be dismissed at the discretion of the individual making the appointment and without right of appeal. ~~Notice of an evaluation period and its duration shall be included in the appointment letter. Absent such notice, the evaluation shall be for a period of six months, if, however, employment is terminated during this period, the employee shall be given 30 days notice. The employee shall be notified in writing of the successful completion of the evaluation period. If the evaluation period elapses without notice, the employee shall be considered to have successfully completed the evaluation.~~ The duration of the period of evaluation shall be specified in the appointment letter. If the appointment letter does not specify the period of evaluation, the evaluation shall be for a period of six months.



- ~~1. *Evaluation Period of Six Months.* These appointments may be ended at any time during the evaluation period without the right of appeal. Termination does not require review by the dean or director, and no notice period is necessary.~~

~~The evaluation period may be extended subject to approval by the dean, or director, or designee, but the total evaluation period may not exceed 12 months (see exception in 2.04.5). If the evaluation period is to be extended, a written statement of the duration and the reason for the extension shall be provided to the employee. If the evaluation period is extended beyond six months, the provision of 2.04.2 also applies.~~

1. *Extension of Six-Month Evaluation Period.* The evaluation period may be extended beyond six months, but the total evaluation period may not exceed 12 months (see exception in 2.04.6). If the evaluation period is to be extended, a written statement of the duration of and the reason for the extension shall be provided to the employee prior to the end of the original evaluation period. A written performance evaluation must be provided to the employee at the same time.
2. *Evaluation Period of More than Six Months.* If When the initial evaluation period of evaluation specified in the appointment letter is longer than six months, a written performance evaluation must be provided to the employee within 10 working days of the midpoint of the evaluation period upon completion of six months of employment.
3. *Completion of the Evaluation Period.* The employee shall be notified in writing of the successful completion of the evaluation period. If the evaluation period lapses without such notification, the employee shall be considered to have completed the evaluation period successfully.
34. *Early Completion of the Evaluation Period.* The evaluation period may be canceled concluded whenever the individual making the appointment determines that the employee's performance is satisfactory. The employee shall be notified in writing of the successful completion of the evaluation period.
45. *Termination During the Evaluation Period.* During the evaluation period, the appointee may be dismissed at any time at the discretion of the individual making the appointment. If employment is terminated during the period of evaluation, the academic staff member shall be informed in writing. Termination does not require review by the dean or director, and there is no right of appeal. No notice period prior to termination is necessary, as long as the period of evaluation is specified in the appointment letter; however, if the appointment letter does not specify the period of evaluation, the employee shall be given at least 10 working days notice. Termination during an evaluation period and the length of any notice of termination are is neither a nonrenewal nor a dismissal for cause and is not subject to the provisions of ASPP 3, ASPP 6, or UWS 11, and the employee has no right of appeal.
56. *Leaves of Absence During the Evaluation Period.* The evaluation period may be suspended by the supervisor during periods of leave without pay, use of sick leave, or



use of other ~~paid~~ leave for family and medical leave purposes. Employee requests for suspending the evaluation period must be made in writing to the supervisor prior to the end of the evaluation period. The academic staff member shall be informed in writing of the supervisor's decision.

## **2.05 Review of Appointment Status**

All fixed-term= renewable appointees shall be eligible for consideration for fixed-term= rolling-horizon or indefinite term appointments. No minimum period of appointment at UW-Madison is required.

Consideration of an academic staff member's appointment status can be initiated with a request by the academic staff member or by his or her unit at any time. Academic staff members of a unit shall have the right to participate in establishing or changing the procedures and criteria by which academic staff of the unit are considered for additional job security.

Academic staff with seven or more years of service at UW-Madison shall be reviewed annually to determine whether a rolling-horizon or indefinite appointment should be proposed. Deans and directors shall review these academic staff employees to identify individuals to be considered for increased job security when the following three conditions are met: 1) ~~3)~~ the quality of their performance warrants acknowledgment through increased job security, 2) ~~1)~~ their role is they are an integral part of their department's or program's continuing mission, and 3) ~~2)~~ a funding source can be identified that can permit rolling-horizon or indefinite appointments, ~~and 3)~~. No presumption is made that an individual must have had seven years of service before being considered for rolling-horizon or indefinite appointments. Individuals who currently hold rolling-horizon appointments shall be reviewed and a determination made about their eligibility for an indefinite appointment. Academic staff with seven years or more of service whose appointments do not provide at least two-year terms shall be given written reasons upon request.

## **2.06 Continuance of Employment Rights and Privileges**

Members of the academic staff who hold the employment rights and privileges provided by a rolling-horizon, multiple-year, or indefinite appointment may negotiate continuance of these rights and privileges when accepting another academic staff position or appointment. Such appointments, however, are granted at the discretion of the new employer.

## **2.07 Academic Staff ~~with~~ Who Accept Limited Appointments**

~~Staff on limited appointments serve at the pleasure of the authorized official who made the appointment (UWS 15.01). A limited appointment is not an academic staff appointment, but limited appointees who hold concurrent academic staff appointments are members of~~

~~the academic staff. A member of the academic staff accepting a limited appointment shall be provided a back-up academic staff appointment by the unit making the limited appointment. Coaches are excluded from this provision. In the event of termination of the limited appointment, assignment shall be to an academic staff position commensurate with the staff member's skills and experience and at a salary level not lower than the staff member might reasonably have expected if the previous academic staff position, if any, had continued without interruption.~~

~~When accepting a limited position in *another* unit, the academic staff member may either resign the current position or negotiate a leave of absence. If the leave of absence is granted, the academic staff member shall retain all existing employment rights in the unit granting the leave for the duration of the leave. If the leave of absence is not granted, is terminated, or is not renewed, existing employment rights and privileges such as an indefinite appointment or an extended notice period can be negotiated for the back-up appointment by the unit granting the limited appointment.~~

~~When accepting a limited position in the *same* unit, the academic staff member may either resign the current position or negotiate a leave of absence. If the leave of absence is granted, the academic staff member shall retain all existing employment rights to the academic staff position for the duration of the leave. If the leave of absence is not granted, is terminated, or is not renewed, existing employment rights and privileges such as an indefinite appointment or an extended notice period shall be attached to the back-up appointment.~~

A limited appointment is a special appointment to a designated administrative position and is not an academic staff appointment. A limited appointee serves at the pleasure of the authorized official who made the appointment (UWS 15.01). An academic staff member who accepts a limited appointment shall hold a concurrent academic staff appointment (also referred to as a "back-up appointment"). Rehired annuitants are excluded from this provision.

A limited appointee who does not already hold an academic staff appointment may be provided the concurrent academic staff appointment by the unit making the limited appointment.

An academic staff member who accepts a limited appointment *in another operational area* may either resign the current position or negotiate a leave of absence. If the leave of absence is granted, the academic staff member shall retain the current academic staff appointment in the unit granting the leave for the duration of the leave. If the academic staff member resigns the current position, or if the leave of absence is not granted, is terminated, or is not renewed, the academic staff member shall be provided the concurrent academic staff appointment by the unit making the limited appointment. The appointee may negotiate currently held employment rights and privileges such as an indefinite appointment or an extended notice period for the concurrent academic staff appointment with the unit granting the limited appointment.

An academic staff member who accepts a limited appointment *in the same operational area* may either resign the current position or negotiate a leave of absence. If the leave of absence is granted, the academic staff member shall retain the current academic staff appointment for the duration of the leave. If the academic staff member resigns the current position, or if the leave of absence is not granted, is terminated, or is not renewed, the unit shall provide the academic staff member with the concurrent academic staff appointment, to which currently held employment rights and privileges such as an indefinite appointment or an extended notice period shall be attached.

If the limited appointment is terminated or if the academic staff member resigns from the limited appointment, the concurrent academic staff appointment shall remain in effect. Assignment shall be to a position commensurate with the staff member's skills and experience and at a salary level not lower than the staff member might reasonably have expected if the previous academic staff position, if any, had continued without interruption.

## 2.08 Probationary Appointment

When a probationary appointment is made, the employee shall receive a letter of appointment stating the terms and conditions of the appointment, including and the criteria for recommendation to an indefinite appointment. ~~The appointee shall receive a copy, and a~~ A copy shall be placed in the personnel file. Changes in the criteria shall be made only by mutual consent of the appointing authority and appointee or in accordance with the initial letter of appointment.

1. *Probationary Period.* The probationary period shall be for not more than seven years except as prescribed in 2.08.2 below. Appointments with shortened probationary periods are permitted. The dean or director or designee may agree to count all or part of appropriate service at other institutions and the University of Wisconsin-Madison as part of the probationary period, and any agreement to this effect shall be specified in the initial letter of appointment. ~~This~~ The initial letter of appointment must clearly specify the maximum probationary period.
2. *Absences During the Probationary Period.* An academic staff member may request a break in the probationary period because of special circumstances. Such circumstances include, but are not limited to, leaves of absence, professional improvement assignments, responsibilities with respect to childbirth or adoption, significant responsibilities with respect to elder or dependent care, disability or chronic illness, or circumstances beyond the control of the academic staff member, when those circumstances significantly impede the academic staff member's progress toward achieving indefinite status. Such a request must be initiated by the academic staff member concerned, must be supported by credible justification, and must be made before an indefinite status review commences under 2.09. The request must be reviewed by the supervisor and dean or director ~~for recommendations~~ and forwarded to the Academic Staff Executive Committee for recommendation to the Chancellor. Requests made under this section because of responsibilities with respect to childbirth and

adoption shall be approved in accordance with applicable laws and university policies. A denial of a request must be based upon clear and convincing reasons that address the circumstances cited in the request. More than one request may be granted, but the aggregate length of time, except for a request because of responsibilities with respect to childbirth or adoption, ordinarily shall be no more than one year. Any academic staff member who has been in probationary status for more than seven years for one of the above reasons shall be evaluated as if he or she had been on probationary status for seven years.

3. *Area Review Committee.* The appropriate area review committee to review probationary employees for an indefinite appointment normally is identified by joint agreement of the employee and employer and shall be the committee appropriate to the area of employment. When an agreement cannot be reached, the Academic Staff Executive Committee, in consultation with the dean or director and the Academic Personnel Office, shall specify the appropriate area review committee.
4. *Procedural Steps for Recommending an Indefinite Appointment for a Probationary Appointee.* When a probationary appointment is made, the criteria for indefinite appointment will have been included in the terms and conditions of the appointment. ~~Periodic reviews of progress will normally occur, during which~~ During annual performance reviews, the supervisor shall note and document strengths, weaknesses, strengths, and contributions ~~are noted and documented.~~ Performance in areas previously listed as weaknesses are to be specifically commented upon during such the reviews.

~~At least 20 working days prior to recommending an indefinite appointment and termination of the probationary period, the person or body authorized to initiate the recommendation shall notify the appointee that review will take place. At that time, the appointee may review his or her official file and add to it any material he or she believes relevant to a proper review of past and potential performance. If the appointee so requests, he or she is entitled to appear personally before the person or body authorized to initiate the recommendation for indefinite appointment, with or without an advocate of his or her choice. The purpose of such an appearance is to provide opportunity for the appointee to become better known to the official or body and to explain anything that he or she believes should be known before a recommendation is forwarded.~~

The person or body in the employing unit authorized to recommend an indefinite appointment shall conduct a review that will be the basis for a decision as to whether or not the appointee will be put forward for an indefinite appointment. The appointee shall be given 20 working days notice that this review will take place. Before the review the appointee may examine any supporting documentation and add to it any material he or she believes is relevant to a proper review of past and potential performance. Upon request, the appointee is entitled to appear personally at the review, with or without an advocate. The purpose of such an appearance is to provide an opportunity for the appointee to explain anything that he or she believes should be



known before the decision regarding the recommendation for an indefinite appointment is made.

A recommendation for an indefinite appointment shall be sent to the dean or director who shall forward it with a letter to the appropriate area review committee for review and recommendation to indefinite status (see 2.09).

~~Written materials shall be permitted to be added to the file if considered appropriate by either the appointee or the initiating person or body. An unfavorable recommendation~~ A decision not to recommend an indefinite appointment shall be accompanied by an item-by-item evaluation of the appointee's performance with respect to the criteria for indefinite appointment established in the letter of appointment. The reasons shall be given to the employee in writing if he or she so requests requested. The decision may be appealed using ASPP 4.

~~A favorable recommendation to an indefinite appointment shall be sent to the dean or director who shall forward it with a letter to the appropriate area review committee for review and recommendation to indefinite status (see 2.09). A negative decision may be appealed using ASPP 4.~~

## 2.09 Indefinite Appointment

An indefinite appointment is an academic staff appointment with permanent status and for an unlimited term in an a specified operational area of departmental or higher level having permanent status and for an unlimited term. Indefinite appointments are neither limited to nor specific to any academic staff title series or position. The rights conferred by an indefinite appointment are limited to the operational area in which the appointment is made. However, if an individual's operational area moves to another unit, the indefinite appointment shall be retained.

1. *Procedure.* Each department or its functional equivalent, with the participation of its academic staff, shall develop appropriate procedures for initiating the review process.
  - a. *Eligibility.* Academic staff are eligible for recommendation for an indefinite appointment when 1) they have shown evidence of consistent excellence in performance and professional growth, 2) they are of significant current and continuing value to the mission of their department or program, and 3) fiscal resources are available to make the commitment.

An indefinite appointment, although normally made to an individual holding a fixed-term or probationary appointment at the University of Wisconsin-Madison, may be granted to a person not currently so employed. Such an appointment may be granted to a member of the academic staff who holds or will hold a half-time or greater appointment. An indefinite appointment is not acquired solely because of years of service.

b. *Area Review Committee.* The appropriate area review committee to review employees for an indefinite appointment normally is identified by joint agreement of the employee and employer and shall be the committee appropriate to the area of employment. When an agreement cannot be reached, the Academic Staff Executive Committee, in consultation with the dean or director and the Academic Personnel Office, shall specify the appropriate area review committee.

c. *Initial Review.* The review process can be initiated with a request by the academic staff member or a recommendation by his or her unit. ~~If the recommendation for review is initiated by a source other than~~ Recommendations for review must be considered by the departmental executive committee or its equivalent; ~~it must go from the originating source to the departmental executive committee or its equivalent.~~ If no such equivalent exists, ~~it~~ recommendations must go to the unit head or equivalent. The unit is encouraged to consult with the appropriate dean or director regarding continuing program need and availability of fiscal resources to support the recommendation.

The academic staff member to be reviewed shall be notified in writing at least 20 working days prior to the review. The employee may review his or her ~~personnel file (see ASPP 11)~~ supporting documents and may supplement the nomination with additional written material and may also make a personal presentation ~~at some time~~ prior to or during the review process.

When a meeting is held to decide whether to recommend an employee for an indefinite appointment, the employee may make a personal presentation, but shall be excused prior to committee deliberations. This meeting shall be closed unless an open meeting is requested in writing by the academic staff member. Upon affirmative review the recommendation shall be forwarded to the appropriate dean or director. The academic staff member shall be notified in writing of the recommendation within one week.

d. *Transmittal by the Dean or Director.* The dean or director must confirm that program need and available fiscal resources will support an indefinite appointment. Following that confirmation, the dean or director shall request the advice of the area review committee.

A dean or director who forwards an indefinite appointment nomination for review is prepared to make an ongoing commitment of funds ~~or management of fiscal resources such that the appointment is supported~~ for at least two years beyond the date of any loss of funding for the position. Such a commitment can be abrogated only where a state of financial emergency, as defined in UWS 5.02, is declared.

e. *Action by the Area Review Committee.* Each area review committee shall convene to review nominations for indefinite appointment status within its respective area. ~~The committee shall seek any additional information or expertise it needs to reach a decision.~~ All members of each committee have the right to vote on all candidates

~~under review by that committee.~~ The recommendation of the area review committee is advisory to the dean or director.

- f. *Action by the Dean or Director.* When the dean or director ~~affirmatively~~ recommends an indefinite appointment, the recommendation, including a copy of the area review committee report, shall be forwarded to the Chancellor. If the dean or director does not recommend an indefinite appointment, he or she shall notify the department and candidate of that fact. When the dean's or director's recommendation differs from that of the area review committee, the committee shall be informed of the reasons in writing.
- g. *Action by the Chancellor.* When ~~the Chancellor makes a decision to affirm or deny final action on a recommendation for indefinite status is completed,~~ the Chancellor shall notify the candidate of the decision.
- h. *Disapproval of Recommendation to Indefinite Appointment.* When an indefinite appointment is not granted to a fixed-term employee, he or she has the right to continue as a fixed-term employee.

## 2. *Composition of Area Review Committees.*

- a. *Composition.* There shall be four academic staff area review committees: Humanities/Social Sciences, Biological/Medical Sciences, Physical Sciences/Engineering and Administrative/Student Services/Library. Each committee shall consist of nine members. Insofar as possible, each committee shall consist of academic staff members having indefinite status and whose employment-related activities represent the diversity of academic staff ~~subject to review. To ensure appropriate peer review, faculty members may be appointed by the Chancellor or designee to serve on an area review committee. However, the number of faculty members on any committee shall not exceed two.~~

The academic staff members of the Administrative/Student Services/Library Area Review Committee shall include at least two from separate administrative areas, two from separate student services areas and two from separate library areas. The other three committees shall have academic staff members appointed to reflect the instructional, doctoral, and other backgrounds appropriate to academic staff within the area of review.

The ~~academic staff committee~~ members shall be appointed by the Chancellor or designee in consultation with the Academic Staff Executive Committee. Members will serve three-year terms with one-third of the committee appointed annually; members may be reappointed. Terms extend from July through June. Vacancies will be filled by appointment by the Academic Staff Executive Committee. The appointed committee members will serve the unexpired portion of that term. ~~All appointments shall be for three years and may be renewed. The faculty members~~

shall be appointed to the committee by the Chancellor or designee in consultation with the University Committee.

- b. *Operating Procedures.* The committee's operating procedures are subject to the approval of the Personnel Policies and Procedures Committee (PPPC) of the Academic Staff Assembly. Modifications shall be part of the annual report specified below.
- c. *Annual Report.* At the end of each fiscal year, each area review committee shall submit a report to the PPPC detailing the number of nominees reviewed, the committee's recommendations, and the number of indefinite appointments awarded as well as evaluating the effects of the *Academic Staff Policies and Procedures* and making appropriate policy recommendations.

**NOTE:**

These policies and procedures represent efforts to strike a reasonable balance between employment security for academic staff, without intending to create an entitlement or property interest, and the responsibility of the university to manage its programs and resources. As a result, sections 3.06 and 3.07 have been revised to expand appeal rights and enhance the appeals process. The policies and procedures set forth in this and subsequent chapters implement job security and due process protections for academic staff that complement UWS 10.03.1.



### 3.01 Grounds for Nonrenewal

A member of the academic staff holding a fixed-term renewable appointment may be nonrenewed at the end of the appointment because of

- a funding loss,
- a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected, or
- unsatisfactory performance.

Termination during an initial period of evaluation is not a nonrenewal and is not subject to the provisions of this chapter.

### 3.02 Employer's Responsibility in Cases of Nonrenewal for Funding Loss, Budget, or Program Need

Whenever a nonrenewal decision will result in reduction of the academic staff work force in an operational area, such nonrenewal should normally be implemented on the basis of years of service. The presumption in favor of years of service shall not apply in cases where program needs dictate other considerations such as the need to maintain specific expertise, responsibility levels, or productivity levels within a program or operational area. In addition, for purposes of maintaining diversity, an employee may be exempt from the strict application of years of service as a criterion to the extent allowed by law and subject to the approval of the Academic Personnel Office in consultation with the Office of Affirmative Action and Compliance Equity and Diversity Resource Center.

### 3.03 Employer's Responsibility in Cases of Nonrenewal for Performance

An employer (immediate supervisor, principal investigator, department chair or unit head) is responsible for clearly communicating to each employee under his or her supervision what the employee's duties are (see ASPP 2.02) and how the performance of those duties will be evaluated. Before ending an appointment for unsatisfactory performance, the employer must inform the employee in writing about areas of performance deficiency and must make efforts to work with the employee to improve performance to a satisfactory level (see ASPP 10, Performance Reviews). Some examples of unsatisfactory performance include insufficiently productive or timely output, insufficient creative effort, or failure to communicate effectively with individuals or groups important to the work processes.

Lapses in performance may also result from a disability or personal problem. If the employer knows, or has reason to know, that either of these is or could be a factor affecting the employee's work situation, the employer shall consult with the ~~Office of Affirmative Action and Compliance~~ Equity and Diversity Resource Center for disabilities or the Employee Assistance Office for personal problems before proceeding.

### 3.04 Notice

Prior to issuing a nonrenewal notice, the employing unit must obtain the approval of the dean, director, or designee. The employee shall be given a written notice of nonrenewal, including a statement of the reasons, notification of his or her right to appeal, and a copy of ASPP Chapter 3 and 9, in advance of the expiration of the current appointment in accordance with the table below. At the same time, copies of this nonrenewal notice shall be sent to the department chair or unit head, the dean or director, and the Academic Personnel Office. If proper notice in advance of the expiration date is not given, either the appointment shall be extended to provide the requisite nonrenewal notice or a layoff decision shall be made in accord with ASPP 5.

#### Minimum Notice Period for Nonrenewal of Fixed-Term Renewable Appointments

<u>Years of UW-Madison Academic Staff Service*</u>	<u>Minimum Notice Period in Months</u>
Fewer than 2	3
At least 2 but fewer than 6	6
At least 6 but fewer than 10	9
10 or more	12

NOTE: Rolling-horizon appointments may require additional action and may require additional notice (see ASPP 2.01.1.b).

\*Academic staff service is defined as continuous years of paid UW-Madison academic staff employment without regard to percent of appointment. A leave of absence of any length or a break in academic staff service of three years or less shall not result in loss of prior years' employment credit.

### 3.05 Referral Priority for Long-Term Staff

Referral priority entitles a nonrenewed academic staff member to be considered for academic staff positions for which he or she is qualified prior to open recruitment. Fixed-term academic staff members with six or more years of academic staff employment at the University of Wisconsin-Madison within the prior seven years and who are nonrenewed for funding loss, budget, or program reasons shall be eligible for referral priority from notification of nonrenewal until the end of the appointment. At the discretion of the department or unit responsible for the open position, an academic staff member with referral priority may be hired without open recruitment.

To initiate and maintain referral priority, the nonrenewed academic staff member must register with the Academic Personnel Office and notify that office of changes of address or employment status. Referral priority ends automatically when a staff member accepts an alternative appointment that is not intended to be temporary, fails to accept an appropriate alternative appointment with any employer, resigns, or fails to notify the Academic Personnel Office of changes of address or employment status. The primary test in the determination of appropriate alternative appointment is not salary level but the comparability of the qualifications necessary and skill level required.

### 3.06 Right of Appeal

Nonrenewal decisions may be appealed when nonrenewal is alleged to be arbitrary or capricious, in significant violation of ASPP, or for reasons prohibited by law. An arbitrary or capricious nonrenewal decision is one that was made without a basis in fact or for inconsequential or unsubstantial reasons when the needs of the program had not changed, funds for the position were available, and performance was satisfactory. In carrying out its mission and goals, the University retains the right to determine the direction and scope of its programs -- including the right to reduce staff levels through nonrenewal because of a funding loss or a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected.

The academic staff member has the right to appeal when the staff member believes that his or her performance was satisfactory or that the nonrenewal is not actually because of a budget or program decision or when he or she believes that another academic staff member should have been nonrenewed instead. An academic staff member does not otherwise have the right to appeal the substance of a budget or program decision. A pending appeal of the nonrenewal decision does not in and of itself extend the appointment.

### 3.07 Appeal Process

1. *Review by the Dean or Director.* To be entitled to a review, the academic staff member must submit a written request to the dean, director or designee within 20 working days of receipt of the nonrenewal notice. A written statement of facts and circumstances

supporting the appeal must be presented by the academic staff member as a part of the request for review. The academic staff member is entitled to request a meeting with the dean, director or designee, who shall meet with the academic staff member, if requested to do so, and shall conduct an objective review of all pertinent facts and circumstances. The academic staff member, the department or unit, and the Academic Personnel Office shall be notified of the decision in writing within 15 working days of receipt of the written request for review. If there is no response by the dean or director to the written request for a review within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.

2. *Review by the Academic Staff Appeals Committee.* The academic staff member shall have 10 working days from receipt of the dean or director's decision to file an appeal with the Academic Personnel Office, which ~~will shall ensure that documentation is complete and~~ forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a review in accordance with ASPP 9.
3. *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the nonrenewal decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a review.
4. *Burden.* The employee has the burden to show by a preponderance of the evidence that the nonrenewal is arbitrary, or capricious, in significant violation of ASPP, or for reasons prohibited by law.
5. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the employee, the department chair or unit head, the dean or director, and the Academic Personnel Office. Within ~~20~~ 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, the department chair or unit head, the dean or director, and the Committee shall be notified of the Chancellor's decision of the Chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final.
6. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step. If there is no response by the dean or director to the written request for a review within the

~~designated time period, the employee can appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.~~

7. *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon prior to any meeting.



## CHAPTER 4

### NONRETENTION OF PROBATIONARY EMPLOYEES

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Draft 4/99

#### 4.01 Statement of Reasons for Nonretention

The administrative head of the operational area shall notify the probationary academic staff member in writing at least 20 working days in advance of the date on which a renewal, nonretention, or promotion decision will be made. The employee shall have the right to present for consideration during this time any documentary material that may be relevant. If a nonretention decision is made, the employee shall receive notice at least three months before the end of the appointment in the first year, six months before the end of the appointment in the second year, and 12 months thereafter. Thus, notice of nonretention must be given no later than the end of the sixth year. At the time of notification of nonretention, the employee shall be informed of his or her rights to reconsideration under 4.02 below. The academic staff member shall be informed in writing of the reasons for the decision. The statement of written reasons will become part of the official personnel file. The notice shall include a statement of the reasons for nonretention, notification of reconsideration rights, and a copy of ASPP 4 and 9.

#### 4.02 Reconsideration of Nonretention Decision

An academic staff member seeking a reconsideration must submit a written request for a reconsideration meeting within five working days of receipt of the reasons for nonretention. The administrative head of the operational area shall convene the meeting for reconsideration within 10 working days of receipt of the request, and the academic staff member shall be notified a minimum of three working days prior to the meeting. The time limits may be extended by mutual consent of the parties. At the meeting for reconsideration, both parties are entitled to present information relevant to the decision and to have a representative present. The purpose of reconsideration is to allow the academic staff member an opportunity to persuade the administrative head of the operational area to change the recommendation of nonretention. The reconsideration is neither a hearing nor an appeal and shall be nonadversarial in nature.

Within 10 working days of the reconsideration meeting, the academic staff member shall be informed in writing of the decision, the reasons for the decision, and the right of appeal, if applicable. A copy shall be sent to the dean or director.

#### 4.03 Appeal of Nonretention

1. *Review by the Dean or Director.* The academic staff member may, within five 20 working days after receipt of notice of the decision in 4.02 above, submit a written appeal of the nonretention decision to the appropriate dean or director. Upon receipt of such an appeal, the dean, or director, or designee shall review the issue on the record

and shall provide a decision in writing to the academic staff member, the department chair or unit head, and the Academic Personnel Office: within 15 working days of receipt of the written request for review. If there is no response by the dean or director to the initial appeal within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.

2. *Review by the Academic Staff Appeals Committee.* Upon receipt of the dean or director's decision, the academic staff member shall have 10 working days to file an appeal with the Academic Personnel Office, which will ensure that documentation is complete and forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a review in accordance with ASPP 9.
3. *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the nonretention decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a review.
4. *Burden.* The employee has the burden to show by a preponderance of the evidence that the nonretention is arbitrary, or capricious, in significant violation of ASPP, or for reasons prohibited by law; refer to, as specified in UWS 10.04(1).
5. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the employee, the department chair or unit head, the dean or director, and the Academic Personnel Office. Upon Within 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, the department chair or unit head, the dean or director, and the Academic Personnel Office, and the Committee shall be notified of the Chancellor's decision of the Chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final.
6. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step. If there is no response by the dean or director to the initial appeal within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.



7. *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon prior to any meeting.



## CHAPTER 5

### LAYOFF FOR REASONS OF BUDGET OR PROGRAM

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#### 5.01 Layoff Defined

Layoff is defined as the termination of an academic staff member's employment because of a funding loss or a budget or program decision either prior to the end of the appointment or when proper notice of nonrenewal under ASPP 3.04 cannot be given. If proper notice of nonrenewal has been given, the provisions of this chapter do not apply. Layoff is neither dismissal for cause (ASPP 6) nor nonretention of a probationary appointee (ASPP 4).

#### 5.02 Considerations in Making a Layoff Decision

If a layoff will result in reduction of the academic staff work force in an operational area, it shall normally be implemented on the basis of years of service. The presumption in favor of years of service shall not apply when program needs dictate other considerations such as the need to maintain specific expertise, responsibility levels, or productivity levels within a program or operational area. In addition, for purposes of maintaining diversity, an employee may be exempt from the strict application of years of service as a criterion to the extent allowed by law and subject to the approval of the Academic Personnel Office in consultation with the Office of Affirmative Action and Compliance Equity and Diversity Resource Center. When layoffs occur within an operational area in which academic staff members do the same or similar work, employees holding fixed-term and probationary appointments shall be laid off before employees holding indefinite appointments. Years of service shall determine the order of layoff within each of these three groups.

#### 5.03 Approval of a Layoff Decision

The supervisor must prepare a written statement describing the facts and circumstances that may lead to the layoff of an employee in an operational area. This written justification must be approved by the employing unit appropriate department and dean, director, or designee in consultation with the Academic Personnel Office. Upon receipt of this approval, the employing unit shall notify prior to notifying any the employee in writing of the layoff (see 5.04.1).

When If a layoff decision is necessitated by is proposed based on a substantial redirection of program activity without significant funding loss, the Chancellor or designee may establish, as necessary, at his or her discretion, an ad hoc committee to review the layoff decision proposal. Affected employees will be notified of the pending review whether or not there will be a review. This ad hoc committee shall include academic staff employed within the program or activity that will be affected by the layoff decision. This committee will make a recommendation to the Chancellor or designee, who must approve the recommendation before any the layoff can be implemented notice can be issued.

#### 5.04 Notification

1. *Written Notice.* Any academic staff member with a fixed-term or probationary appointment shall be given written notice of layoff by the immediate supervisor, principal investigator, department chair or unit head only after approval from the dean or director. At the same time, copies of this notice shall be sent to the department chair or unit head, the dean or director, and the Academic Personnel Office. An academic staff member with an indefinite appointment shall be given written notice by the dean or director. The notification written notice shall include a statement inform the employee of the reasons for the layoff, and the effective date of the layoff, and shall inform the employee of his or her appeal rights, and shall include a copy of ASPP 5 and 9.
2. *Minimum Notice Period.* Academic staff with fixed-term or probationary appointments shall be given the standard notice periods specified in ASPP 3.04 unless there are compelling reasons to the contrary (e.g., almost immediate cutoff of funds). Even if these compelling reasons exist, employees shall be given at least the minimum layoff notice, depending upon the reason for the layoff.

[see next page]

Minimum Notice Period for Layoff  
of Fixed-Term and Probationary Appointees

<u>Years of Academic Staff Service*</u>	<u>Minimum Layoff Notice Period in Months for Funding Loss</u>	<u>Minimum Layoff Notice Period in Months for Program Redirection</u>
Fewer than 2	0	2
At least 2 but fewer than 6	1	3
At least 6 but fewer than 10	2	5
10 or more	3	6

\*Academic staff service is defined as continuous years of paid UW-Madison academic staff employment without regard to percent of appointment. A leave of absence of any length or a break in academic staff service of three years or less will not result in loss of prior years' employment credit.

Minimum Notice Period for Layoff  
of Rolling-Horizon and Indefinite Appointees

<u>Type of Appointment</u>	<u>Minimum Layoff Notice Period in Months for Funding Loss</u>	<u>Minimum Layoff Notice Period in Months for Program Redirection</u>
Rolling-Horizon	6	12
Indefinite	24	24

3. *Exception in the Case of a Declared Financial Emergency.* In the case of a financial emergency under Chapter UWS 5, which can be declared only by the Board of Regents, the minimum layoff notice period for indefinite appointees may be reduced to 12 months.

## 5.05 Appeal Process for Layoffs

1. *Basis of Appeal.* In carrying out its mission and goals, the University retains the right to determine the direction and scope of its programs -- including the right to reduce staff levels through layoff because of a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected. However, the academic staff member has the right to appeal when the staff member believes that the layoff is not actually a result of a budget or program decision or when he or she believes that another academic staff member should have been laid off instead. An academic staff member does not otherwise have the right to appeal the substance of a budget or program decision.
2. *Request for Review by the Dean or Director.* To be entitled to a review, the academic staff member must submit a written request to the dean or director within ~~15~~ 20 working days of receipt of the written notice of layoff.
3. *Review by the Dean or Director.* When a review is requested, the dean, director, or designee shall ~~provide~~ meet with the academic staff member, who shall have with an opportunity to present facts and circumstances concerning the layoff. The dean, director, or designee shall make an objective review of all pertinent facts and circumstances and inform the employee, the department chair or unit head, and the Academic Personnel Office of the decision in writing within 15 working days following the meeting. If there is no response by the dean or director to the written request for review within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.
4. *Hearing by the Academic Staff Appeals Committee.* The academic staff member shall have 15 working days from receipt of the dean or director's decision to file a written appeal with the Academic Personnel Office, which will ~~ensure that documentation is complete and~~ forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a hearing in accordance with ASPP 9.
5. *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the layoff decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a hearing. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a hearing.
6. *Burden.*
  - a. *Fixed-Term Appointments.* For layoffs of fixed-term appointees, the employer's burden shall be to show by a preponderance of the evidence that the layoff is in fact the result of a budget or program decision requiring program discontinuance,

curtailment, modification, or redirection and is not arbitrary, or capricious, in significant violation of ASPP, or for reasons prohibited by law.

- b. Indefinite Appointments. For layoffs of indefinite appointees, refer to UWS 12.05(5) for details about the requirement to establish a prima facie case.
7. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the Academic Personnel Office, dean or director, department chair or unit head, and employee. Within ~~20~~ 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, dean or director, Academic Personnel Office, and the Committee shall be notified of the Chancellor's decision of the Chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. As an exception, an indefinite appointee may request a review by the Board of Regents under UWS 12.05(8).
8. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.
9. *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon prior to any meeting.

## 5.06 Joinder of Layoff Appeals

If the layoff of two or more members of the academic staff arises from the same or similar fact situation in a single operational area, the academic staff members who appeal or the dean or director may request joinder of cases for hearing. The Academic Staff Appeals Committee shall consider joinder before taking up the merits of any case. In addition, the Academic Staff Appeals Committee may join the cases on its own motion.

## 5.07 Layoff Status Defined

Layoff status shall be defined as the three-year period starting with the effective date of layoff. To initiate layoff status, the staff member must register with the Academic Personnel Office. To maintain layoff status, the staff member shall notify that office at least quarterly regarding employment status, or whenever a change of address or employment status occurs. Layoff status ends automatically when a staff member accepts an alternative appointment that is not purely temporary, fails to accept an appropriate

alternative appointment, resigns, or fails to notify the Academic Personnel Office of changes of address or employment status. The primary test in the determination of appropriate alternative appointment is not salary level but comparability of the qualifications necessary and skill level required.

#### **5.08 Reappointment and Referral Rights**

Pursuant to Wis. Stats. 36.21 and UWS 12.09, 12.10 and 12.11, in an operational area where layoffs have occurred in the past three years, no person may be employed to perform reasonably comparable duties to those of the staff member laid off without first offering an appointment to the staff member on layoff status without loss of rights or status including salary rate. The head of each operational area is responsible for identifying any comparable positions and notifying laid-off academic staff members of their right to reappointment. To ensure compliance, a record of laid-off academic staff members by operational area shall be kept in the Academic Personnel Office.

The UW-Madison shall devote its best efforts to securing alternative appointments in positions for which staff laid off under this chapter are qualified. An academic staff member on layoff status may be hired without open recruitment into an academic staff position in another unit at the discretion of that department or unit. Units are encouraged to provide released time to academic staff members being laid off for such purposes as retraining, job interviews, career counseling, or job searches. Members of the academic staff on layoff status or on notice of layoff shall have the right of first referral to all academic staff vacancies for which they may reasonably qualify. Such referrals shall be made by the Academic Personnel Office prior to posting of position vacancies. Prospective employers must consider these persons before consideration of other referrals, if any, and before the commencement of open recruiting, and upon request must give written reasons to any referred academic staff member on layoff status to whom employment is refused.



## CHAPTER 6

### DISCIPLINE AND DISMISSAL

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This chapter describes policies and procedures for discipline and dismissal to be used in cases of unsatisfactory performance or misconduct. Just-cause standards (see 6.03.3.b8.2) apply to all disciplinary actions involving loss of pay and dismissal actions taken under the provisions of this chapter.

Lapses in performance or misconduct do not necessarily lead to discipline or dismissal. If performance reviews, counseling, or other communication between the employer and the employee alleviate the problem to the employer's satisfaction, there is no necessity to proceed to formal sanctions. However, if lapses in performance or misconduct continue, discipline or dismissal shall be considered. In egregious situations, the employer may proceed directly to discipline or dismissal.

Lapses in performance or misconduct may also result from a disability or personal problem. If the employer knows, or has reason to know, that either of these is or could be a factor affecting the employee's work situation, the employer shall consult with the ~~Office of Affirmative Action and Compliance~~ Equity and Diversity Resource Center for disabilities or the Employee Assistance Office for personal problems before proceeding.

#### 6.01 Grounds for Discipline and Dismissal

1. *Unsatisfactory Performance.* An academic staff employee shall be subject to discipline or dismissal for unsatisfactory performance. Insufficiently productive or timely output, insufficient creative effort, or failure to communicate effectively with individuals or groups important to the work processes are examples of unsatisfactory performance. An employer (immediate supervisor, principal investigator, department chair or unit head) is responsible for clearly communicating to each employee under his or her supervision what the employee's duties are (see ASPP 2.02) and how the performance of those duties will be evaluated (see ASPP 2.02). Before ending an appointment for unsatisfactory performance, the employer must inform the employee in writing about areas of performance deficiency and must make efforts to work with the employee to improve performance to a satisfactory level (see ASPP 10, Performance Reviews).
- 6.02 2. *Misconduct.* An academic staff employee who has violated a University rule or policy or has engaged in conduct that adversely affects the staff member's performance of his or her obligations to the University shall be subject to discipline or dismissal for misconduct.

## 6.023 Discipline

1. **Definition.** Discipline refers to any sanction short of dismissal imposed by the University against an academic staff member for unsatisfactory performance or misconduct, including but not limited to a written letter specifically identified as a reprimand, reduction in salary, change of appointment status, or suspension with or without pay. Activities such as performance reviews, letters of counseling, administrative leave with pay, and merit-pay determinations, and the like are not considered discipline. Such activities should normally precede any disciplinary actions by an employer, unless the unsatisfactory performance or misconduct is egregious or intolerable in the workplace.

### 6.03 2. Disciplinary Procedures

- ~~1. **Predisciplinary Meeting.** Prior to taking disciplinary action, the employer shall conduct a review, if necessary, to determine whether the allegations of inappropriate performance or conduct have substance. If so, the employer shall meet with the employee and provide the employee with notice of the allegations, the range of disciplinary actions possible, and an opportunity to respond.~~
- ~~2. **Notification.** When discipline is necessary, the employer, upon approval by the dean, director, or designee, shall inform the employee in writing. This letter shall clearly state that it is a letter of discipline, shall include a description of the employee's unsatisfactory performance or misconduct, shall state what discipline is imposed, and shall include employee appeal rights.~~
  - a. **Investigation.** Prior to taking disciplinary action, the employer shall conduct an investigation to determine whether the allegations of inappropriate performance or conduct have substance. The length and scope of the investigation shall be at the discretion of the employer. The employer may place the employee on administrative leave with pay during the investigation. Just-cause standards apply (see 6.03.3.b) for disciplinary actions involving loss of pay. The employer may meet with the employee to ask questions about the allegations as part of the investigation. If the employer concludes that there is no basis for disciplinary action, the employer shall inform the employee immediately.
  - b. **Predisciplinary Meeting.** If, after the investigation, the employer believes that grounds for discipline may exist, the employer shall meet with the employee. Prior to the meeting the employer shall provide the employee with notice in writing of the grounds for possible discipline, the range of discipline being considered, the time and place of the predisciplinary meeting, and the employee's right to respond to the allegations and possible disciplinary sanction at the meeting. After taking into account the employee's response at the predisciplinary meeting, the employer will determine whether to proceed with disciplinary action. The employer may conclude that discipline is warranted, that discipline is not warranted, or that further investigation is required (in which case, another predisciplinary meeting must be

held after completing the additional investigation if the employer believes discipline is appropriate).

- c. *Notification of Disciplinary Action.* When the employer determines that discipline is appropriate, the employer, upon approval by the dean, director, or designee, shall inform the employee in writing. This notification shall clearly state that it is a letter of discipline, shall include a description of the employee's unsatisfactory performance or misconduct, shall state what discipline is imposed, shall inform the employee of his or her appeal rights, and shall include a copy of ASPP 6, 7, and 9.

6.05 3. *Appeal Process for Disciplinary Actions.* Disciplinary actions may be grieved using the procedure described in ASPP 7. The Academic Staff Appeals Committee shall use the tests provided in 6.03.3.b8.2 to determine whether just cause exists in cases of disciplinary action involving loss of pay.

### 6.036 Dismissal

- 1. *Dismissal for Cause of Academic Staff with Fixed Term and Probationary Appointments* (see also UWS 11.11 and 11.12)

- a. *Grounds for Dismissal.* No academic staff member shall be subject to dismissal except for just cause based upon a determination that the academic staff member's conduct or performance affects adversely the ability to carry out satisfactorily his or her responsibilities to the University. Layoffs (ASPP 5) and nonrenewals (ASPP 3) are not dismissals for cause.

- ~~2. *Predismissal Meeting.* Prior to initiating a dismissal, the employer shall investigate the grounds for dismissal, provide the employee with notice in writing of the grounds, and inform the employee that dismissal is under consideration. The employer shall meet with the employee and provide the employee an opportunity to respond.~~

- b. *Investigation.* The employer shall conduct an investigation to determine whether allegations of unsatisfactory performance or misconduct have substance. The length and scope of the investigation shall be at the discretion of the employer. The employer may place the employee on administrative leave with pay during the investigation. Just-cause standards apply (see 6.03.3.b). The employer may meet with the employee to ask questions about the allegations as part of the investigation. If the employer concludes that there is no basis for dismissal, the employer shall inform the employee immediately.

- c. *Predismissal Meeting.* If, after the investigation, the employer believes that grounds for dismissal may exist, the employer shall meet with the employee. Prior to the meeting the employer shall provide the employee with notice in writing of the grounds for possible dismissal, the time and place of the predismissal meeting, and the employee's right to respond to the allegations and level of disciplinary sanction at the meeting. After taking into account the employee's response at the

predismissal meeting, the employer will determine whether to proceed with dismissal. The employer may conclude (1) that dismissal is warranted; (2) that dismissal is not warranted, but a disciplinary action is; (3) that neither dismissal nor discipline is warranted; or (4) that further investigation is required, in which case another predismissal or predisciplinary meeting must be held after completing the additional investigation if the employer believes grounds exist for either dismissal or discipline.

d3. *Notification.* When the employer immediate supervisor, principal investigator, department chair or unit head decides dismissal is necessary, he or she must obtain approval of the dean, director, or designee to proceed with the dismissal. If the dean, director, or designee approves the dismissal, the academic staff member shall be notified in writing of the effective date of the dismissal, with a copy to the department chair or unit head and the Academic Personnel Office. This notification shall include a statement of the grounds for dismissal, and inform the employee that he or she has the right to request a review by the dean, director, or designee, and include a copy of ASPP 6 and 9. Notification shall be served personally or by certified mail, return receipt requested. If service cannot be made within 15 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), Wis. Stats., were applicable. Dismissal may occur only after the academic staff member has received written notification.

e4. *Review by Dean or Director.* Upon receipt of dismissal notification the employee shall have ~~15~~ 20 working days to submit a written request ~~a review by~~ to the dean or director for a review, including a summary of the facts and circumstances concerning the allegations. ~~When a review is requested,~~ The academic staff member shall have the opportunity to make a personal presentation to the dean, director, or designee ~~shall provide the academic staff member with an opportunity to present evidence and arguments concerning the allegations.~~ The dean, director, or designee shall make a determination of just cause for dismissal and notify the employee of the decision in writing within 15 working days. If the dismissal is upheld by the dean, director, or designee, the notification shall inform the employee of his or her right to appeal to the Academic Staff Appeals Committee under 6.03.38. If there is no response by the dean or director to the written request for a review within the designated time period, the employee may appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.

f5. *Effective Date of Dismissal.* If the academic staff member does not submit an ~~appeal~~ a request for a review by the dean or director within ~~15~~ 20 working days, the dismissal shall be effective on the date specified in the original notification letter with no further appeal rights. If the academic staff member submits ~~an appeal~~ a request for review within ~~15~~ 20 working days and the dismissal is upheld, the dean, director, or designee shall determine the effective date of dismissal and inform the employee in writing of the date.



g. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step. If there is no response by the dean or director to the written request for a review within the designated time period, the employee may appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.

h6. *Suspension of Duties.* The dean, director, or designee may suspend an academic staff member with a fixed-term or probationary appointment with or without pay even if an appeal the review is in process.

6.07 2. Dismissal for Cause of Academic Staff with Indefinite Appointments (see also UWS 11.01-11.10)

a1. *Grounds for Dismissal.* No academic staff member holding an indefinite appointment shall be subject to dismissal except for just cause, based upon a determination that the academic staff member's conduct or performance directly and substantially affects adversely the ability to carry out satisfactorily his or her responsibilities to the University. Layoff (ASPP 5) is not dismissal for cause. In contrast to the procedure for fixed-term academic staff in 6.03.1, only the Chancellor, in consultation with the appropriate dean or director, has the authority to begin the dismissal process.

b. *Investigation.* When the Chancellor receives an allegation concerning an academic staff member holding an indefinite appointment which appears to be substantial and which, if true, might lead to dismissal, an investigation shall be conducted within a reasonable time by the appropriate dean or director or other Chancellor's designee. The employer may place the employee on administrative leave with pay during the investigation. Prior to initiating a dismissal, the dean or director, in consultation with the Chancellor, shall 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 and UWS 11. Just cause standards apply (see 6.03.3.b). 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.

c2. *Predismissal Meeting.* In contrast to the procedure for fixed term academic staff in 6.06, the Chancellor in consultation with the appropriate dean or director has the authority to begin the dismissal process. Prior to initiating a dismissal, the dean or director shall investigate the grounds for dismissal, provide the employee with notice in writing of the grounds, and inform the employee that dismissal is under consideration. The dean or director shall meet with the employee and provide the employee with an opportunity to respond. If, after the investigation, the dean or director believes that grounds for dismissal exist, the dean or director shall provide the employee with a written statement of the specific charges, the possibility of

dismissal, the time and place of the predissmissal meeting, and the employee's opportunity to respond to the allegations and possible disciplinary sanction at the meeting. After taking into account the employee's response at the predissmissal meeting, the dean or director will determine whether to proceed with dismissal. The dean or director may conclude (1) that dismissal is warranted; (2) that dismissal is not warranted, but a disciplinary action is; (3) that neither dismissal nor discipline is warranted; or (4) that further investigation is required, in which case another predissmissal or predisciplinary meeting must be held after completing the additional investigation if the dean or director believes grounds exist for either dismissal or discipline.

d3. *Notification.* When the dean or director decides dismissal is necessary warranted, he or she shall notify the academic staff member in writing of the effective date of the dismissal. ~~A~~ with a copy shall be sent to the department chair or unit head, the Academic Personnel Office, and the Chancellor. The notification shall include a statement of the grounds for dismissal, and inform the employee that he or she has 15 working days in which to request a hearing before the Academic Staff Appeals Committee, and include copies of ASPP 6 and 9. Notification shall be served personally or by certified mail, return receipt requested. If service cannot be made within 15 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), Wis. Stats., were applicable. Dismissal may occur only after the academic staff member has received written notification.

e4. *Effective Date of Dismissal.* If the academic staff member does not submit a timely appeal under 6.03.18, ~~the Chancellor will notify the employee of the effective date of dismissal~~ the dismissal shall be effective on the date specified in the original notification letter with no further right of appeal. If the academic staff member submits a timely appeal and the dismissal is upheld, the effective date of the dismissal will be determined by the Chancellor and shall be stated in his or her decision.

f5. *Suspension of Duties.* Pending the final decision as to dismissal, an academic staff member with an indefinite appointment shall not be relieved of duties unless the Chancellor determines that substantial harm may result if the staff member is continued in his or her position. If such determination is made, the staff member may be relieved of his or her duties immediately or be assigned to another administrative unit, but his or her salary shall continue until the Chancellor makes a decision as to dismissal.

### 6.08 3. Appeal Process for Dismissals of Fixed-Term, Probationary, and Indefinite Appointees

a1. *Hearing Before the Academic Staff Appeals Committee.* The academic staff member shall have 15 working days from receipt of the notification (20 working days if notice is by first-class mail and publication) to file an appeal with the Academic Personnel Office, which will review the documentation and forward the files to the Academic Staff Appeals Committee within five working days. The

Academic Staff Appeals Committee shall conduct a hearing in accordance with ASPP 9.

i. *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the dismissal decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a hearing. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a hearing.

ii. *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon prior to any meeting.

iii. *Burden.* The employer has the burden to show by a preponderance of the evidence that each of the seven tests of just cause listed below in 6.03.3.b8-2 has been met.

b2. *Tests of Just Cause.* For purposes of this chapter, there are seven tests of just cause to be considered by the Academic Staff Appeals Committee.

*Notice.* Was the employee aware or should the employee have been aware of the possible or probable consequences of the employee conduct or performance?

*Reasonable Rule or Expectation.* Were the employer's rules or expectations reasonably related to a) the orderly, efficient and safe operation of the work unit and b) the performance that the employer might properly expect of the employee?

*Investigation.* Did the employer, before taking disciplinary action or dismissing the employee, make an effort to discover whether the employee did in fact engage in the conduct or performance in question?

*Fair Investigation.* Was the employer's investigation conducted fairly and objectively?

*Proof.* At the investigation, did the employer obtain substantial evidence or proof that the employee did engage in the conduct or performance in question?

*Equal Treatment.* Has the employer applied the rules, orders and penalties evenhandedly?

*Penalty.* Was the employer's action reasonably related to a) the seriousness of the employee's proven conduct or performance deficiencies and b) the record of the employee during his or her service to the University?



- c3. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the Academic Personnel Office, dean or director, department chair or unit head, and employee. Within 20 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, dean or director, Academic Personnel Office, and the Committee shall be notified of the Chancellor's decision of the Chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. As an exception, an indefinite appointee may request a review by the Board of Regents under UWS 11.10.
- d. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.
4. *Board Review.* ~~An academic staff member with an indefinite appointment who has been dismissed for cause by the Chancellor following a hearing may appeal this action to the Board of Regents under UWS 11.10. For academic staff with fixed-term or probationary appointments, the Chancellor's decision is final.~~

## CHAPTER 7

### GRIEVANCES AND EMPLOYMENT PROBLEMS

#### EMPLOYMENT PROBLEMS: INFORMAL RESOLUTION AND GRIEVANCE PROCEDURES

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##### 7.01 Informal Resolution

An academic staff member who has an employment problem that may lead to the formal grievance procedure is first encouraged to attempt to resolve the matter informally. Establishing open lines of communication between the parties in a nonintimidating manner may be sufficient to resolve the problem.

1. An academic staff member is encouraged to seek advice and information from the following University offices if he or she believes he or she is being treated unfairly, but is reluctant to pursue the matter within the employing unit or needs information about the process to resolve employment problems. The academic staff member may seek advice and information without initiating formal or informal action.
  - a. The UW-Madison Academic Personnel Office can provide information and advice on employee rights and responsibilities and appropriate procedures for resolving a problem, either informally or through the formal grievance procedure.
  - b. The UW-Madison ~~Office of Affirmative Action and Compliance~~ **Equity and Diversity Resource Center** can provide information and assistance if the problem might involve discrimination or disability issues.
  - c. The UW-Madison Employee Assistance Office can provide information about resources for addressing employment problems and support to employees who are experiencing them.
  - d. Members of the Academic Staff Assembly ~~Standing Committee on Personnel Policies and Procedures~~ **Committee** or the Academic Staff Executive Committee are also available to assist individuals in determining where to go for help. For committee membership, contact the Secretary of the Academic Staff.
2. Informal resolution of a problem may be pursued through any or all of the following:
  - a. Discussion with the immediate supervisor, principal investigator, department chair or unit head;
  - b. Discussion with the dean, director or designee if:
    - i. discussion with the individual in 7.01.2.a. did not resolve the matter; or

- ii. the academic staff member prefers not to discuss the problem with the individual in 7.01.2.a.
  - c. A request for assistance from the Academic Personnel Office or, in cases of alleged discrimination, the ~~Office of Affirmative Action and Compliance~~ **Equity and Diversity Resource Center**. In response to a specific request for assistance in resolving an employment problem, these offices will initiate discussions with the academic staff member, supervisor, principal investigator, chair, director, dean, or other appropriate persons and recommend corrective action as needed. These discussions concerning the employment problem will be initiated only with the consent of the employee. Extreme cases may require notification of appropriate university officials without such consent.
3. If informal attempts at resolution are unsuccessful, or if the staff member believes that informal resolution would not be productive, ~~formal~~ grievance procedures are available in ~~Section 7.02~~. These procedures do not apply to nonrenewals, nonretentions, layoffs, and dismissals for cause, which are covered by ASPP 3, 4, 5, and 6, nor do they apply to grievances regarding disability accommodation requests. Information on the disability accommodation policy can be obtained from the Equity and Diversity Resource Center or found found on the Web at [www.wisc.edu](http://www.wisc.edu), ~~which are covered by the UW-Madison Academic Staff Disability Accommodation Policy, Academic Staff Document #108 (ASPP Appendix), nor do they apply to nonrenewals, nonretentions, dismissals for cause, and layoffs, which are covered by ASPP 3, 4, 5 and 6.~~

## 7.02 Formal Grievance Procedure

The ~~formal~~ grievance procedure is available to resolve employment problems that have not been satisfactorily resolved through the informal resolution process or where the staff member believes that informal resolution would not be productive. The ~~formal~~ grievance procedure is described in Steps 1 through 3 below. The grievant may be accompanied by another person ~~or persons~~ throughout the procedure. All time limits specified in 7.02 may be modified by mutual consent.

### 1. ~~Steps in the Procedure~~

#### ~~a.~~ *Step 1 -- Appeal to Department Chair, Unit Head, or Designee.*

- ~~ai.~~ *Initiation.* To initiate the ~~formal~~ grievance procedure, a written statement of grievance must be filed with the department chair or unit head with copies to the dean or director and the Academic Personnel Office. The statement shall specify the identity of the grievant, the facts and allegations relevant to the grievance and the relief sought. A ~~formal~~ grievance must be initiated no later than 20 working days from the time the academic staff member knew or could reasonably be expected to have known of the circumstances giving rise to the grievance. Initiation of the informal procedure described in 7.01 within the 20-working-day period will extend the deadline for initiating the ~~formal~~ grievance to 40 working days from the

time the academic staff member knew or could reasonably be expected to have known of the circumstances giving rise to the grievance.

A grievance filed by an employee who has changed operational areas or has left UW-Madison employment shall be referred, in writing with a copy to the employee, to the Academic Staff Appeals Committee ~~Standing Committee on Personnel Policies and Procedures of the Academic Staff Assembly~~ to decide if the grievance shall be processed. The Committee shall submit its findings in writing to the employee, the former employing department and its dean or director, and the Academic Personnel Office.

bii. *Initial Response.* Following receipt of the written statement of grievance, there shall be a period of 15 working days, unless modified by mutual agreement, during which attempts shall be made to resolve the matter. At the request of either party, a conference shall be held during this period. Following these initial resolution efforts, a written response to the grievance must be made by the department chair or unit head, or designee within 25 working days of receipt of written grievance. This response to the academic staff member must also notify the employee of his or her right of appeal under 7.02.1.b2.

2b. *Step 2 -- Appeal to Dean, Director, or Designee.* If the decision is not accepted by the employee, he or she shall have 10 working days to file an appeal with the dean or director or designee together with any additional information the employee deems appropriate. A copy shall be sent to the Academic Personnel Office. The dean, director, or designee shall render a written decision within 10 working days to the academic staff member. Copies shall be sent to the chair, director, or designee and the Academic Personnel Office. This decision must also include notice to the employee of his or her right of appeal under 7.02.1.c3. At the request of either party, a conference shall be held prior to the decision.

3c. *Step 3 -- Appeal to the Academic Staff Appeals Committee.* If the dean, director, or designee's decision is not accepted by the employee, he or she shall have 15 working days from receipt of the dean's decision to file an appeal with the Academic Personnel Office, which will review the documentation and forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a review or hearing in accord with ASPP 9.

2. *Access to the Evidence.* An academic staff member who appeals a grievance to the Academic Staff Appeals Committee shall have the right to review all evidence the employer used to make the decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review or hearing. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a review or hearing.

**43. Burden.**

- a. *Grievances Other Than Those Involving Discipline Resulting in a Loss of Pay.* The burden is on the employee to support the substance of the grievance by a preponderance of the evidence.
- b. *Grievances of Disciplinary Actions Resulting in the Loss of Pay.* The burden is on the employer to show the existence of just cause (see the seven tests of just cause stated in ASPP 6.03.3.b8.2).

**54. Notification and Disposition.** The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the Academic Personnel Office, the appropriate dean or director, department chair or unit head, and the grievant. Within ~~20~~ 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the grievant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, dean or director, Academic Personnel Office, and the Committee shall be notified of the Chancellor's decision of the Chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. The use of this grievance procedure shall not prevent the grievant from seeking redress through another administrative or legal process.

**65. Time Limits.** Steps in the ~~formal~~ grievance procedure must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the grievance procedure within the designated time period, the grievance will be considered resolved by the decision at the last completed step. If there is no response to a grievance within the designated time period at any step, the employee can proceed to the next step in the grievance process within 10 working days of the expiration of the designated period. In cases of an appeal of dismissal for cause under ASPP 6, grievances filed by the appellant may be held in abeyance pending the resolution of the appeal.

**76. Representation.** In the interest of fairness, both parties shall be given reasonable advance notice if any additional persons will be present at any grievance conference. The parameters for participation of any additional persons must be mutually agreed upon prior to any meeting. If, during the course of the conference, either party wishes to seek professional assistance, he or she may request a postponement without abrogating grievance rights at that stage. Such postponement may be for no longer than five working days, unless extended by mutual agreement.

### **7.03 Evaluations of Formal Grievances**

At the completion of a grievance in which redress is awarded following a review or hearing by the Academic Staff Appeals Committee, it is the responsibility of the Chancellor or designee, in the case of Step 3 grievances, shall to make a reasonable effort to evaluate

whether the specific redress awarded should be extended to other individuals in circumstances similar to those of the original grievant. A report of this evaluation and the action taken will be included in the quarterly report specified in ASPP 9.06.1.





## **CHAPTER 8**

### **COMPLAINTS AGAINST ACADEMIC STAFF MEMBERS**

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#### **8.01 Right to be Informed of Complaint**

Academic staff members have the right to be informed of complaints against them alleging facts which, if true, may constitute adequate cause for discipline or dismissal (ASPP 6), or nonretention (ASPP 4), or nonrenewal (ASPP 3). The identity of a complainant may be kept in confidence until a decision is made to take action against the academic staff member, unless it is determined that the anonymity of the complainant will substantially impede the investigation.

#### **8.02 Right to be Notified of Investigation and Right to Respond**

As soon as is reasonable, the academic staff member named in the complaint shall, except in a criminal investigation, be notified of the investigation. Before the investigation is concluded or a report prepared, the employee shall be given a written summary of the complaint and be offered an opportunity to respond to all allegations.

#### **8.03 Investigation and Notification**

The investigation shall be completed within a reasonable period of time. Upon completion of the investigation, the academic staff member shall be notified in writing of its outcome. If a decision is made to take action against the academic staff member, the staff member shall be notified in writing of his or her right of appeal under 8.04 and be given a copy of the ASPP chapter(s) pertaining to the action being taken.

#### **8.04 Right of Appeal**

The academic staff member may appeal the decision using the grievance procedure outlined in ASPP 7.02, except for discipline or dismissal (ASPP 6), or nonretention (ASPP 4), or nonrenewal (ASPP 3).



### **9.01 Purpose**

The Academic Staff Appeals Committee shall review or hear all appeals of nonrenewals (ASPP 3), nonretentions of probationary employees (ASPP 4), layoffs (ASPP 5), discipline and dismissals (ASPP 6), and grievances (ASPP 7) not resolved at a lower level and shall forward its findings of fact with a recommendation to the Chancellor or designee.

### **9.02 Composition and Procedures**

The Academic Staff Appeals Committee ~~shall~~ consists of nine members of the academic staff. The Committee ~~is shall be~~ appointed by the Chancellor or designee upon the recommendations made by the Academic Staff Executive Committee. ~~The term of office shall be two years, and~~ Members will serve three-year terms, with one-third of the Committee appointed annually; ~~Committee~~ members may be reappointed. The Committee shall elect its chair annually from among its members.

Vacancies will be filled by appointment by the Academic Staff Executive Committee. The appointed committee member will serve the unexpired portion of that term.

The Committee's ~~shall establish its~~ procedures for reviews and hearings are subject to the provisions of ASPP 3, 4, 5, 6, and 7. ~~Such procedures and all subsequent~~ Modifications shall be subject to the approval of the ~~Standing Committee on~~ Personnel Policies and Procedures Committee of the Academic Staff Assembly. Modifications shall be part of the annual report specified in 9.06.2.

### **9.03 Conduct of Reviews**

The Academic Staff Appeals Committee shall conduct reviews for nonrenewals (ASPP 3), nonretentions of probationary employees (ASPP 4), and grievances other than those involving discipline resulting in a loss of pay (ASPP 7) not resolved at a lower level. The Committee shall apply the required burden as described in ASPP 3, 4, and 7 and provide the procedural guarantees described in 9.05. The reviews shall be fair, impartial, and timely. The Committee shall review the written record and afford both the employee and employer an opportunity to submit additional written materials and to make a presentation to the Committee. The Committee shall seek any additional information it needs to reach a decision.

## 9.04 Conduct of Hearings

The Academic Staff Appeals Committee shall conduct hearings for appeals of layoffs (ASPP 5), dismissals for cause (ASPP 6) and grievances involving discipline resulting in a loss of pay (ASPP 7). The hearings shall be fair, impartial, and timely. The Committee shall apply the required burden as described in ASPP 5, 6, and 7 and provide the procedural guarantees described below in 9.05. 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. The Committee shall seek any additional information it needs to reach a decision.

As a preliminary step in ~~appeals of terminations and disciplinary grievances resulting in loss of pay~~, the Committee shall review all documentation provided by the parties and determine its relevance to the appeal. When the Committee determines that ~~even if everything the employee alleges, even if it is true, but is~~ irrelevant to the disciplinary action or termination, the Committee shall render a decision without considering the matter further.

## 9.05 Procedural Guarantees

1. A fair and impartial ~~review or hearing~~ *review or hearing* shall provide the appellant the following rights:
  - the right to be heard;
  - the right to counsel or other representation at the employee's expense; and
  - the right to the Committee's written findings of fact and the recommendation based on the record.
2. A fair and impartial ~~hearing~~ *hearing* shall provide the appellant the following additional rights:
  - within a reasonable time prior to the hearing, the right to the names of witnesses and access to any documents that form the basis of an action to impose discipline (ASPP 6.02.13) or terminate employment;
  - the right to offer witnesses;
  - the right to confront and question adverse witnesses; and
  - the right to a verbatim record of the hearing, such as a sound recording, provided at no cost.

3. Any member of the Academic Staff Appeals Committee who participated in the decision or action being appealed shall not sit as a member of the Committee for that case.
4. The review or hearing shall be closed unless the academic staff member requests an open hearing, ~~in which case it shall be open.~~
5. When a valid claim of material surprise is made, adjournments shall be granted to enable either party to investigate evidence.
6. Upon request, the Chancellor or designee shall provide legal counsel to the Academic Staff Appeals Committee. The legal counsel shall advise and consult with the Committee on legal matters.
7. Upon request of the Committee, the Chancellor or designee shall make available any other staff assistance necessary to conduct a fair and impartial hearing.

#### **9.06 Reports and Evaluations of Appeals**

1. The Chancellor or designee shall submit a quarterly report to the ~~Standing Committee on Personnel Policies and Procedures Committee~~ (SCPPP PPPC) of the Academic Staff Assembly within 20 working days of the end of each calendar quarter listing the status of all appeals under consideration or resolved during the quarter. The report shall provide sufficient information regarding the basis of each case that the SCPPP PPPC may be informed about areas of concern to the academic staff as implied by the substance of these appeals and make appropriate policy recommendations where necessary. Specific details of cases discussed by the SCPPP PPPC shall ~~be kept~~ remain confidential.
2. At the end of each fiscal year, the Academic Staff Appeals Committee shall submit an annual report to the SCPPP PPPC evaluating the effects of the *Academic Staff Policies and Procedures* and ~~making appropriate policy recommendations~~, if deemed appropriate, recommend changes to *ASPP*.

