

## CHAPTER 6 DISCIPLINE AND DISMISSAL

### 6.03. Dismissal

#### C. *Appeal Process for Dismissals of Fixed-Term, Probationary, and Indefinite Appointees*

1. *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 Secretary of the Academic Staff, which will forward the files to the Academic Staff Appeals Committee, the Academic Personnel Office, and the dean or director within five working days. The dean or director shall provide the employing department and employee's supervisor with a copy of the academic staff member's request for a hearing by the Academic Staff Appeals Committee. The Academic Staff Appeals Committee shall conduct a hearing in accordance with ASPP 9.
  - a. *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.
  - b. *Representation.* The presence of a representative or other third party designated by the employee is permitted at any stage during the appeal process.
  - c. *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.C.2 has been met.
2. *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.
  - a. *Notice.* Was the employee aware or should the employee have been aware of the possible or probable consequences of the employee conduct or performance?
  - b. *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?
  - c. *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?

- d. *Fair Investigation.* Was the employer's investigation conducted fairly and objectively?
  - e. *Proof.* At the investigation, did the employer obtain substantial evidence or proof that the employee did engage in the conduct or performance in question?
  - f. *Equal Treatment.* Has the employer applied the rules, orders and penalties evenhandedly?
  - g. *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?
3. *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 Secretary of the Academic Staff, dean or director, department chair or unit head, and employee. 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, department chair or unit head, dean or director, Secretary of the Academic Staff, and the Committee shall be notified of the 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, a~~ **An indefinite appointee may request a review by the Board of Regents under UWS 11.10 and a fixed-term or probationary appointee may request a review by the Board of Regents under Wisconsin State Statutes 36.115(4)(c).**
4. *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.

## **CHAPTER 9 ACADEMIC STAFF APPEALS COMMITTEE**

### **9.01. Purpose**

The Academic Staff Appeals Committee, **which serves as an impartial hearing body as required by Wis. Stat. 36.115(4)(b)**, 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.