

CHAPTER 4

NONRETENTION OF EMPLOYEES HOLDING PROBATIONARY APPOINTMENTS

This chapter applies only to probationary appointments, which lead to review for indefinite status. See 2.01.3 and 2.08. **This type of appointment is not used at UW-Madison.**

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. 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

- ~~A. *Review by the Dean or Director.* The academic staff member may, within 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, 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, the Secretary of the Academic Staff, and the Academic Personnel Office within 20 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 20 working days of the expiration of the designated period.

- B. *Review by the Academic Staff Appeals Committee.* Upon receipt of the dean or director's decision, the academic staff member shall have 20 working days to file an appeal with the office of 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 review by the Academic Staff Appeals Committee. The Academic Staff Appeals Committee shall conduct a review in accordance with ASPP 9.
- C. *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.
- D. *Burden.* The employee has the burden to show by a preponderance of the evidence that the nonretention is arbitrary, capricious, for reasons prohibited by law, as specified in UWS 10.04(1), or in violation of ASPP when the alleged violation influences the decision under review.
- E. *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, the Secretary of the Academic Staff, and the Academic Personnel Office. 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, the Secretary of the Academic Staff, and the Academic Personnel Office, 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.
- F. *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.
- G. *Representation.* The presence of a representative or other third party designated by the employee is permitted at any stage during the appeal process.

CHAPTER 5 LAYOFF FOR REASONS OF BUDGET OR PROGRAM

5.01 Layoff Defined

Layoff is the termination of an academic staff member's employment because of a *funding loss* or a *budget or program decision* (as defined in ASPP 1.03) either prior to the end of the appointment or when proper notice of nonrenewal under ASPP 3.05 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).

The provisions of this chapter do not apply to rehired annuitants. If it becomes necessary to terminate an appointment of this type prior to the end date of the appointment, prior approval by the dean, director, or designee is required, and a minimum of 2 weeks written notice must be provided.

CHAPTER 6 DISCIPLINE AND DISMISSAL

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.b) 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 Equity and Diversity Resource Center for disabilities or the Employee Assistance Office for personal problems before proceeding.

6.01 Grounds for Discipline and Dismissal

- A. *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 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).
- B. *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~~ **responsibilities** to the university **or that affects the ability of another individual to do the same** shall be subject to discipline or dismissal for misconduct.

CHAPTER 8 COMPLAINTS AGAINST ACADEMIC STAFF MEMBERS

Chapter 8 changes from this year's review.

8.01 Right to be Informed of Complaint

- Academic staff members have the right to be informed **in writing** of **written** complaints against them alleging facts which, if true, may constitute adequate cause for discipline or dismissal (ASPP 6), 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.~~ **This provision will be waived if it is determined that the anonymity of the complainant will substantially impede the investigation.**

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**), nonretention (**ASPP 4**), or nonrenewal (**ASPP 3**), where the specified grievance appeal process is followed.

CHAPTER 13 UNIVERSITY ACADEMIC STAFF ASSEMBLY

13.03. Meetings.

- A. **Meeting notification.** As specified by Wisconsin State Statutes, meeting notification and the agenda will be posted. Posting sites will include Bascom Hall and other locations as designated by the ASEC to ensure broad notification.
- B. **Regular meetings.** The Assembly will hold regular meetings at 3:30 p.m. on the second Monday of each month during the academic year. If the second Monday of the month falls on a legal holiday, the meeting is held on the first subsequent Monday that is not a legal holiday. The announced day, time and place of the meeting may be changed at the discretion of the ASEC with the consent of the chancellor or provost. Regular meetings may be canceled by the chancellor or provost with consent of the ASEC if there is no significant business to be transacted.
- C. **Place of meeting.** The Assembly shall meet in a room designated annually, unless some other place is specified in the notice of the meeting.
- D. **Special meetings.** Special meetings of the Assembly shall be held at the call of the chancellor or provost, or the ASEC, by written petition to the ASEC by 15 Assembly representatives, or upon written petition to the ASEC by at least 100 members of the academic staff holding a paid appointment at UW-Madison. Notice of a special meeting shall be sent to each representative so as to be received at her or his office at least 24 hours prior to the meeting.
- E. **Quorum.** A Quorum is a majority of the **voting** members of the Assembly as defined in ~~13.02.A~~ **13.02.B**.
- F. **Parliamentarian.** The Secretary of the Academic Staff will provide a parliamentarian for the Assembly.

CHAPTER 14 COMMITTEES OF THE UNIVERSITY

14.12. Committees of the Academic Staff

B. Committees of the Assembly

1. Other Committees.

- a. Area Review Committees. See ASPP 2.09.2.
- b. Academic Staff Appeals Committee. See ASPP 9.02.
- c. Distinguished Prefix Review Committee. See UW-Madison Unclassified Title Guideline, Distinguished Prefix Review Committee Policies and Procedures, Academic Staff Document ~~409~~ 473.

Proposed language for ASPP revision for new standing committee of the Assembly Added to ASPP Chapter 14. COMMITTEES OF THE UNIVERSITY under 14.12 Committees of the Academic Staff Assembly

3. Mentoring Committee.

Responsibilities. The Mentoring Committee Promotes professional and personal development among academic staff by:

- documenting and communicating campus mentoring programs, activities and resources for academic staff.
- working with current university resources to provide available mentors for incoming academic staff.
- developing and delivering campus presentations and workshops on mentoring.
- partnering with campus groups and committees, like CASIs, to develop mentoring opportunities for professions or title series.

a. *Committee Size.* The Mentoring Committee shall consist of nine members.

b. *Membership.*

i. *Eligibility.* Members of the academic staff holding a salaried appointment shall be eligible to serve on the Mentoring Committee providing they are not excluded under 14.12.B.3.c.ii.

ii. *Exclusions.* No more than two members may be from the same district or three members from the same school, college or division.

c. *Terms of Office.* Mentoring Committee members shall serve for three-year terms, beginning July 1. There is no limit to the number of terms a member may serve.

d. *Election Processes.*

i. One-third of the Mentoring Committee shall be elected each year.

ii. The Nominating Committee shall prepare a slate of nominees that exceeds the number of vacant seats assuring broad representation of academic staff regarding professional interests, employing unit, and funding source. .

iii. Nominees may be added to the slate by motion from the floor or by petition by ten academic staff members.

iv. Election will be in the spring by ballot to Assembly representatives following the meeting at which the slate is presented. Those candidates receiving the most votes from all the valid ballots cast will fill the vacant positions providing the provisions of 14.12.B.3.c.ii are met. If one of the top candidates is ineligible, the next eligible candidate with the most votes will be elected.

e. *Chair(s).* The chair (or co-Chairs if the Mentoring Committee so elects) will be elected by majority vote of the Committee at its first meeting each year. In the case of a tie vote, the ASEC chair will cast the deciding vote.

f. *Vacancies.* Vacancies will be filled by appointment by ASEC from a list of nominees supplied by the Nominating Committee. The appointed committee member will serve until the next regular election for that seat.

g. *Recall.* The Assembly may consider recalling a member of the Mentoring Committee on recommendation of a majority of the committee members. If there is a tie vote, the Academic Staff Executive Committee may appoint one or more members of the Assembly to consult with the Mentoring Committee and report back to the ASEC. If a recommendation to recall a committee member is made by committee vote or after a

recommendation from a consultant(s), the recall will require a majority vote by the Assembly. If a member of the Mentoring Committee is recalled, the procedures in 14.12.B.3.g. shall be followed to select a replacement.