

## PROPOSED FACULTY POLICIES AND PROCEDURES CHAPTER 10

*The document below responds to recent legislative changes to tenure in the UW System as they affect the UW-Madison campus. Prior to Act 55, tenure was defined and protected in state statute and faculty could only be laid off or terminated for cause or due to financial emergency. Act 55 eliminated tenure from state statute, but the UW Board of Regents incorporated tenure protections directly into regent policy (in parallel with all other state universities). Act 55 also removed specific reference to “financial emergency” as a possibility for termination of faculty appointments and replaced it with “a budget or program decision requiring program discontinuance, curtailment, modification, or redirection.” The changes to tenure prompted the Board of Regents, via the UW System tenure task force, to solicit policy suggestions from the UW campuses regarding implementation of the new, post-Act 55 legislation. The UW-Madison chancellor specifically tasked the faculty with formulating an implementing policy that aligns with UW-Madison’s and UW System’s traditions of strong faculty governance and academic freedom, existing policies and procedures for implementation of program discontinuance and change on this campus, standards articulated by AAUP, practices that guide tenure policy at our peer institutions, and current Wisconsin statutes. Responding to the Chancellor’s mandate, the University Committee appointed an ad hoc committee to draft an implementation policy. The document below is the result of this committee’s efforts. At UW-Madison, [Chapter 10](#) of Faculty Policies and Procedures (FPP) governs faculty layoffs; thus, the present document is proposed and presented as a new version of that chapter.*

*The ad hoc committee identified several principles that guided the language in the new FPP Chapter 10. Perhaps most importantly, both state statute and regent policy are clear that the authority of the Board of Regents is to provide oversight of programs, with program changes being either approved by or reported to the Board. WI statutes and Regent policy also grant the chancellor the authority to establish employment policies and practices on the UW-Madison campus. In particular, WI state statute 36.09 (4) states that “The faculty of each institution shall have the right to determine their own faculty organizational structure.” That is, according to both WI statutes and Regent policy, the institution is the proper locus for program change. The committee also noted that post-Act 55 WI statutes, as well as Regent and AAUP policies, contain multiple protections and rights for faculty displaced by program changes, including, but not limited to, provisions for appeal, retraining, relocation, and severance pay.*

*The following serves as an annotated summary of the specific sub-sections in the proposed new FPP Chapter 10.*

- 1. Section 10.01 lays out the context for this policy and reasserts the faculty’s role in program changes. This is new policy language drafted in response to the legislative changes. It aligns directly with AAUP guidelines, which do not allow for tenured faculty to be dismissed except under very narrow circumstances.*
- 2. Sections 10.02 and 10.03, which also align with AAUP guidance, are the same as current policy on the Madison campus for program changes.*
- 3. Section 10.04 is largely drawn from current FPP chapter 10, with the addition of section A.1, which addresses the new allowance for program change created in Act 55. The language in 10.04.A.1 completely protects faculty in the event of program changes. Sections 10.04.A.2 and 10.04.B refer only to program discontinuance and are taken directly from existing UW-Madison policy, also consistent with AAUP guidelines.*

(continued)

4. Sections 10.05 through 10.08, which detail the process to be followed in the event of layoffs or termination, draw on existing FPP language and protections in both state statute and Regent policy.
5. Section 10.09 is drawn from changes in state statute in conjunction with AAUP guidelines and represents a new protection for faculty.

## **PROPOSED FACULTY POLICIES AND PROCEDURES CHAPTER 10** **“Program discontinuance, curtailment, modification, or redirection”**

*Approved by ad hoc committee on tenure and termination and University Committee for public comment*

### 10.01 Authority for Program Changes

The University of Wisconsin’s Board of Regents, as per its “Policy on Academic Program Planning, Review, and Approval in the University of Wisconsin System” ([Regent Policy Document 4.12](#)), provides oversight for the programs at each UW campus. Wisconsin State Statute [36.21](#), as amended by Act 55, provides that the Board of Regents may terminate any faculty appointment when it is deemed necessary “due to a budget or program decision requiring program discontinuance, curtailment, modification, or redirection.” The Regents’ “Academic Planning and Program Review” document ([ACIS 1.0, April 2010](#)) specifies that the discontinuance, curtailment, modification, or redirection of a program must be either approved by or reported to the Board, and notes that UW System Administration’s role is to coordinate the program initiatives of UW institutions (Section I, paragraph B.), including the introduction of new, or the elimination or modification of existing, programs. Further, WI State Statute [36.115](#) provides for the chancellor to establish employment relations policies and practices at the University of Wisconsin-Madison.

Therefore, the authority to make program changes at UW-Madison that involve discontinuance, curtailment, modification, or redirection for any reason is vested in the faculty of the institution (WI State Statute [36.09 \(4\)](#)). Such changes, whether for educational or financial reasons, will be made in accordance with FPP 10.02, and will be reported to UW System administration and the Board of Regents (whose approval will be sought, where specified).

### 10.02 Process for Program Modification or Discontinuance

Program changes will be considered by the faculty of the program, the relevant school/college APC, and the UAPC, as outlined in the UAPC’s “Policy and Guidelines for Suspending or Discontinuing Degree/Major Programs”:

<https://apir.wisc.edu/uapc/SuspendingDiscontinuingPrograms.V.May.17.2012.pdf>  
[\[relevant sections to be incorporated into FPP chapter 5\]](#)

The results of the program faculty, school/college APC, and UAPC discussions and votes will be reported to the provost and the chancellor, and the chancellor will report the results to UW System Administration, which will convey those results to the Board.

### 10.03 Displacement of Faculty

In the event that changes under FPP 10.02 involve the displacement of tenured or tenure-track faculty due to program change or closure, the placement of those employees will be determined by UW-Madison employee policies, and in particular will be guided by FPP 10.04.

#### 10.04 Consideration of Faculty Termination or Layoff due to Program Changes

A.1. In the event of curtailment, modification, or redirection of a program, the institution will ensure that any faculty members displaced by such program curtailments, modifications, or redirections are placed in another suitable position, in accordance with WI State Statute [36.22](#) (12). Such placement will be facilitated by the school(s)/college(s). If placement in another position would be facilitated by a reasonable period of training, such retraining and relocation will be provided and the institution will bear the cost of such retraining.

A.2. In the event that discontinuance of a program results in the need to consider layoff or termination of tenured or tenure-track faculty members, the institution will make every effort to place such faculty members in another suitable position, in accordance with WI State Statute [36.22](#) (12). Such placement will be facilitated by the school(s)/college(s). If placement in another position would be facilitated by a reasonable period of training, such retraining and relocation should be negotiated and the institution will bear the cost of such retraining.

B. If no alternative position can be found in the institution, with or without retraining, for tenured or tenure-track faculty displaced due to program discontinuance, the chancellor may lay off or terminate such faculty. Layoffs or terminations shall follow the provisions of this chapter and imply the retention of rights indicated in this chapter. A nonrenewal, regardless of reasons, is not a layoff or termination under this section.

C. For the purposes of this chapter, "layoff" is the indefinite suspension or an involuntary reduction in services and compensation of a faculty member's employment by the University of Wisconsin System. A laid off faculty member retains the rights specified in [UWS 5.16 through 5.21](#), and WI State Statute [36.22 \(11\) through 36.22 \(16\)](#), inclusive. For the purposes of this chapter, "termination" is the permanent elimination of a faculty member's employment by the University of Wisconsin System. A faculty member whose position has been terminated retains rights specified in [UWS 5.18 and 5.19](#) and WI State Statute [36.22 \(13\) and \(14\)](#).

#### 10.05 Notification

Each faculty member whose position is recommended for elimination or reduction shall be notified in accordance with [UWS 5.09 and 5.10](#) and [WI State Statute 36.22](#) (4) and (5).

#### 10.06 Hearing

A. A faculty member whose position is recommended for elimination or reduction is entitled to a hearing as provided in [UWS 5.12](#) and [Wisconsin State Statute 36.22 \(7\) and 36.22 \(8\)](#).

B. The Committee on Faculty Rights and Responsibilities shall operate as the hearing agent for the Board pursuant to [Wisconsin State Statute 36.22 \(6\)](#), and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence, and transmit such

record and summary along with its recommended findings of fact and decision to the Board.

#### 10.07 Recommendations and Board Review

A. The recommendations of the chancellor and the recommendations, if any, of the Committee on Faculty Rights and Responsibilities shall be forwarded to the president and the Board and acted upon by the Board in accordance with **UWS 5.14 and Wisconsin State Statute 36.22 (9)**.

B. Review by the Board is governed by **UWS 5.14 and 5.15 and Wisconsin State Statute 36.22 (9) and 36.22 (10)**.

#### 10.08 Layoff Status and Retained Rights

A. A faculty member whose position has been eliminated or reduced in accordance with the provisions of this chapter shall be placed on layoff status and shall so remain until removed according to **UWS 5.16 and WI State Statute 36.22 (11)**.

B. A faculty member designated for layoff or on layoff status shall have the rights provided in **UWS 5.17, 5.18, and 5.19** and WI State Statute 36.22 (12), 36.22 (13), and **36.22 (14)**, and, in addition, shall have the following rights: faculty on layoff status will be entitled to use university-wide facilities. Use of the facilities of a school, college, department, or program will be determined by the faculty thereof.

C. Faculty members on voluntary or compulsory reduction of appointment under this chapter retain full membership in the faculty regardless of the percent of appointment and continue to be governed by these Faculty Policies and Procedures; in addition, the annual notice required in **UWS 5.16(2)(b)4 and in WI State Statute 36.22(11)(a)(5)** shall be deemed to be given automatically by virtue of the continued part-time appointment. In the event that a faculty member on voluntary or compulsory reduction of appointment shall accept an appointment at a greater fraction of full time as specified in **UWS 5.16(2)(b)1**, then any subsequent claim to increased appointment shall be forfeited.

#### 10.09 Severance

In the case of faculty termination, the institution will provide severance pay of at least six months if the final decision (including completion of the appeals process) is reached prior to the 18<sup>th</sup> month of probationary service, or at least one year if the decision is reached after the 18<sup>th</sup> month of probationary service or if the faculty member has tenure. In determining the amount of severance pay to be awarded, the faculty member's length and quality of service and considerations of equity will be taken into account.