



Eastern Kentucky University

Policy and Regulation Library

University Policy: 4.6.16POL

Responsible Office(s): Office of the Provost

Effective:

Next Review Date: Spring 2030

University Policy: 4.6.16POL

Dismissal of Faculty

Statement

Eastern Kentucky University complies with Kentucky Revised Statute 164.360 regarding the dismissal of tenured faculty. As a matter of principle, absent a conflict with state statute, the University complies with the American Association of University Professors and the Association of American Colleges and Universities "1958 Statement on Procedural Standards in Faculty Dismissal Proceedings." The Kentucky statute and the AAUP statement address statutory and procedural expectations for the dismissal of faculty. With this in mind, ECU has established a process by which tenured faculty may be dismissed. Faculty members without tenure are classified as employees at will to serve at the discretion of the University.

This policy does not apply when tenured faculty are recommended for dismissal for violating Policy 1.4.1, Non-Discrimination and Harassment.

Entities Affected

- Faculty
- Departments
- Colleges
- University-level administrators

Procedures

I. Non-tenured Faculty

Faculty members without tenure are classified as employees at will to serve at the discretion of the University.

II. Tenured Faculty

Faculty members with tenure shall have a continuous appointment, except when that appointment is terminated:

- by retirement;
- by resignation and acceptance thereof;
- by a dismissal for cause;
- by a decision of the University, with approval of the Board of Regents, that dismissal is necessary because of financial exigencies of the institution; or
- by a decision of the University, with approval of the Board of Regents, that dismissal is necessary due to discontinuation of an academic program resulting in a situation in which there is no longer a teaching position available within the University for which the tenured faculty member is qualified.

III. Establishing The Faculty Committee on Dismissal

1. The Faculty Evaluation Appeals Committee (FEAC), as established in Policy 4.6.4, Promotion and Tenure, will serve as the Faculty Committee on Dismissal (FCD). When convened for the purpose of dismissal for financial exigency or program discontinuance, the FCD shall also include the Chair of Faculty Senate and the Chair of the Chairs Council as non-voting, ex officio members.
2. The chair of the FCD shall be elected from within the non-ex officio members.

IV. Dismissal of Tenured Faculty for Cause

Pursuant to KRS 164.360, a tenured faculty member may be dismissed for cause. Statutory “cause” sufficient to support dismissal includes “incompetency, neglect of or refusal to perform duties, immoral conduct, or failure to meet college or university performance and productivity requirements, as established by the Board of Regents.”

When there is an allegation of causes sufficient to warrant dismissal of a tenured faculty member, the following procedure shall apply.

1. Human Resources, with the inclusion of other academic or administrative officers as appropriate, will investigate the facts of the allegation. The investigation shall include a meeting with the tenured faculty member. The tenured faculty member may choose to bring one (1) silent advisor of their choice to the meeting. The silent advisor shall not be a participant in any aspect of the process and shall not be implicated in any of the facts under review. The tenured faculty member shall provide the name of the silent advisor to Human Resources at least three (3) Days in advance of the meeting.
2. The findings of the investigation shall be provided to the Provost, who shall provide a written notice of the charge(s) and the intent to dismiss to the tenured faculty member, with a copy to the Department Chair, the College Dean, and the President.
3. Suspension of the tenured faculty member during these procedures is justified if, in the opinion of the Provost, harm to the tenured faculty member or to others is

threatened by the faculty member's continuance. Any such suspension shall be with pay.

4. Within seven (7) Days of notification from the Provost of intent to dismiss, the tenured faculty member may request to the Provost in writing via the faculty member's official ECU employee email address—with a copy to the Department Chair, the College Dean, the President, and the Human Resources Director—an inquiry by the Faculty Committee on Dismissal (FCD). The written request may include a statement from the tenured faculty member regarding the allegations. If the tenured faculty member does not request a timely inquiry by the FCD, steps 5 and 6 of these procedures shall be skipped. The burden is on the faculty member to ensure the request was received.
5. The FCD shall begin the inquiry into the matter to determine if, in the FCD's opinion, the allegations, if true, meet the standard of "cause." The FCD does not reinvestigate the allegations and does not determine the truth of the allegations. The FCD does not elicit oral or written statements or testimony beyond the submission. The inquiry shall be based on the written record only. To the extent practical, the principle of confidentiality shall be observed. The FCD may make recommendations to the Provost and the tenured faculty member to resolve the matter through sanctions or other means; such recommendations are not binding. The FCD shall have fifteen (15) Days, unless otherwise agreed by the Provost and the tenured faculty member, to complete the inquiry and present its recommendation(s).
6. Any recommendation made by the FCD shall be communicated in writing to the Provost, the Department Chair, the College Dean, the President, and the tenured faculty member. The report shall contain a statement of the FCD's specific reasons in support of its recommendation.
7. The Provost shall make a final recommendation and shall notify the President. If the President concurs with the Provost's recommendation of action other than dismissal, the President shall notify the tenured faculty member. If the Provost's recommendation is dismissal, the President shall provide the tenured faculty member with thirty (30) Days' notice of dismissal, including written notification of charges.
8. Tenured faculty receiving such a notice from the President have the right to be heard in person or by counsel before the Board of Regents. Within seven (7) Days after receiving a notice of dismissal from the President, the tenured faculty member shall send a written request via the faculty member's official ECU employee email address for a hearing to the Secretary of the Board of Regents. The Board of Regents shall set the time of the hearing as soon as practicable. The Board shall adopt hearing procedures to govern the hearing.
9. If a hearing before the Board of Regents is requested, the Board of Regents shall render a final decision. The President or President's designee shall provide written notification to the tenured faculty member of the Board of Regents' decision via the faculty member's official ECU employee email address.

V. Dismissal of Tenured Faculty Due to Financial Exigency

The Board of Regents has a statutory duty to the people of Kentucky to maintain a quality educational program within available or projected financial resources. Pursuant to Policy 4.6.4, Tenure and Promotion, a tenured faculty member may be dismissed when a financial exigency exists. Because of the significance of dismissal decisions regarding tenured faculty, the Board shall ensure that such dismissal decisions occur only after a careful review of alternative measures determine that dismissals of tenured faculty are unavoidable. With regard to notification of dismissal of faculty, including tenured and non-tenured faculty, for financial exigency, Policy 4.6.16 supersedes other University policies.

If the Board determines that a financial exigency exists that will likely result in the dismissal of tenured faculty, the following procedures shall be followed. The Provost shall ensure that steps 1-8 do not exceed 90 Days. An extension of the timeline may be granted with the consent of the President, Faculty Senate, and the Board.

1. The Provost, the FCD, and the Deans shall meet to evaluate the necessity of eliminating faculty positions. If they conclude, based on available data, that faculty lines will need to be eliminated, they will prepare a report recommending the number of faculty lines to be eliminated, with justifications and supporting data for the recommendation.
2. The Chair of the Faculty Senate shall disseminate the report to the Senate at least seven (7) Days prior to a regularly scheduled or special session. It is the responsibility of the Faculty Senate to solicit input from faculty prior to the meeting.
3. The Faculty Senate shall consider the report and any feedback or additional data and shall prepare a response. The response shall be due to the Provost within seven (7) Days after the Senate's meeting.
4. The Provost, the FCD, and the Deans shall meet to review the Faculty Senate response and shall prepare a final recommendation to the President that shall include the number of faculty lines to be eliminated.
5. Upon approval by the President, the Provost and the Deans, in consultation with the Department Chairs, shall determine where faculty lines should be eliminated.
6. In making specific recommendations for elimination of individual tenured faculty appointments, the Dean, in consultation with the Department Chair, shall take into account the following equitable considerations.
 - a. If funded vacancies exist, reasonable effort will be made to offer the affected tenured faculty member another existing position within the institution for which the tenured faculty member is qualified by education and experience, per Policy 4.6.1, Determining Qualifications for Faculty Teaching Credit-Bearing Courses.
 - b. In instances when the sustainability of an academic program—that is, the ability to adequately provide its approved curriculum or meet its accreditation requirements—would be jeopardized by the elimination of a position, faculty members with an expertise needed by the University would have retention preference.
 - c. After instances described in (b) above are considered, the following conditions shall be applied in the following order when considering retention preferences:

- 1) Tenured faculty members will have preference of retention over non-tenured faculty members in the same department.
- 2) Tenured faculty of superior academic rank will have preference of retention over tenured faculty of lesser rank (see Policy 4.6.4, Tenure and Promotion).
- 3) A faculty member who had attained tenure prior to another faculty member of the same rank would have preference of retention over the latter faculty member.
- 4) If tenure and rank considerations are the same for two faculty members (i.e., they both were tenured on the same date and were promoted to the faculty member's current rank on the same date), the faculty member with the longer period of employment with ECU would have retention preference.
- d. Faculty members already on a terminal appointment are not eligible to be retained by the University even if they meet any of the above conditions.
7. The Dean shall submit recommendations for dismissal of specific faculty to the Provost, who shall make recommendations to the President.
8. The President shall send written notice to each faculty member recommended for dismissal, with copies to the Provost and the faculty member's Chair and Dean. The notice shall include:
 - a. A statement of the intent to dismiss and
 - b. A statement of the basis for the decision.
9. Tenured faculty receiving such a notice have the right to be heard in person or by counsel before the Board of Regents. Within seven (7) Days after receiving a notice of dismissal, the individual concerned shall send a written request for a hearing to the Secretary of the Board of Regents. The Board of Regents shall set the time of the hearing as soon as practicable. The Board shall adopt hearing procedures to govern the hearing.
10. The Board of Regents shall render a final decision. The President or his designee shall notify the tenured faculty member of the Board of Regents' decision.

VI. Dismissal of Tenured Faculty due to Academic Program Discontinuance

As in the case of the determination of the existence of financial exigency, the Board of Regents is also aware that discontinuance of an academic program requires deliberate and thoughtful planning and discussion. In the case of academic program discontinuance, the dismissal of tenured faculty members may take place only after sustained deliberations and discussions of the academic program discontinuation. In the event the discontinuance of an academic program is proposed, the Council on Academic Affairs and the Faculty Senate shall review the proposal and make recommendations to the Provost and President.

In making specific recommendations for elimination of individual tenured faculty positions required by the discontinuance of an academic program, the following process shall be used. The Provost shall ensure that steps 1-9 do not exceed 90 Days, unless otherwise extended by the President.

1. The Provost, the FCD, and the Deans shall meet to evaluate the necessity of eliminating tenured faculty positions. If they conclude, based on available data, that faculty lines will need to be eliminated, they will prepare a report recommending the number of faculty lines to be eliminated, with justifications and supporting data for the recommendation.
2. The Chair of the Faculty Senate shall disseminate the report to the Senate at least seven (7) Days prior to a regularly scheduled or special session. It is the responsibility of the Faculty Senate to solicit input from faculty prior to the meeting.
3. The Faculty Senate may consider the report and any feedback or additional data and may prepare a response. The response shall be due to the Provost within seven (7) Days after the Senate's meeting.
4. The Provost, the FCD, and the Deans shall meet to review the Faculty Senate response and shall prepare a final recommendation to the President that shall include the number of faculty lines to be eliminated.
5. Upon approval by the President, the Provost and the Deans, in consultation with the Department Chairs, if appropriate, shall determine where faculty lines should be eliminated.
6. The Dean, in consultation with the Department Chair, shall take into account the following equitable considerations.
 - a. If funded vacancies exist, reasonable effort will be made to offer the affected tenured faculty member another existing position within the institution for which the tenured faculty member is qualified by education and experience, per Policy 4.6.1, Determining Qualifications for Faculty Teaching Credit-Bearing Courses.
 - b. The following conditions shall be applied in the following order when considering retention preferences:
 - 1) Tenured faculty members with expertise needed by the University would have retention preference.
 - 2) Tenured faculty members will have preference of retention over non-tenured faculty members in the same department.
 - 3) Tenured faculty of superior academic rank will have preference of retention over tenured faculty of lesser rank (see Policy 4.6.4, Tenure and Promotion).
 - 4) A faculty member who had attained tenure prior to another faculty member of the same rank would have preference of retention over the latter faculty member.
 - 5) If tenure and rank considerations are the same for two faculty members (i.e., they both were tenured on the same date and were promoted to their current rank on the same date), the faculty member with the longer period of employment with ECU would have retention preference.
 - c. Faculty members already on a terminal appointment are not eligible to be retained by the University even if they meet any of the above conditions.
7. To accommodate the necessity to teach out discontinued academic programs, tenured faculty may be given twelve (12) months' notice prior to the end of the

approved teach-out plan, if the University chooses to staff a teach-out plan internally.

8. The Dean shall submit recommendations for dismissal of specific faculty to the Provost, who shall make recommendations to the President.
9. The President shall send written notice to each faculty member recommended for dismissal, with copies to the faculty member's Chair, Dean, and the Provost. The notice shall include:
 - A statement of the intent to dismiss and
 - A statement of the basis for the decision.
10. Tenured faculty receiving such a notice have the right to be heard in person or by counsel before the Board of Regents. Within seven (7) Days after receiving a notice of dismissal, the individual concerned shall send a written request for a hearing to the Secretary of the Board of Regents. The Board of Regents shall set the time of the hearing as soon as practicable after receiving the request. The Board shall adopt hearing procedures to govern the hearing.
11. The Board of Regents shall render a final decision. The President shall notify the tenured faculty member of the Board of Regents' decision.

Definitions

- **Academic Program:** Academic Program is a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines.
- **Day:** Day shall have the same meaning it has under Kentucky law, specifically KRS 446.030, where in computing any period of time, the day of the act or notification which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday, or a day on which the University is closed, in which event the period runs until the end of the next day which is not one (1) of the days just mentioned. This applies even if the period of time prescribed or allowed is less than seven (7) days.
- **Financial Exigency:** Financial exigency is as determined by the Board pursuant to KRS Chapter 164 and all applicable law.
- **Retention Preferences:** Retention preferences provide the determination of which faculty will be retained by the University.
- **Terminal Appointment:** A terminal appointment of a faculty member is a limited term that will end in termination of employment.

Responsibilities

- Board of Regents
 - The Board of Regents is responsible for:
 - hearing appeals of dismissal decisions of tenured faculty for cause, for financial exigency, or for discontinuance of an academic program

- rendering a final decision on appeal for tenured faculty members dismissed for cause, for financial exigency, or for discontinuance of an academic program.
- ensuring that dismissal decisions for financial exigency or discontinuance of an academic program occur only after a careful review of alternative measures determine that dismissals of tenured faculty are unavoidable.
- College Deans
 - The College Deans are responsible for:
 - meeting with the FCD and the Provost to evaluate the necessity of eliminating faculty positions due to financial exigency or academic program discontinuance.
 - preparing a report, with the FCD and the Provost, if faculty lines will need to be eliminated based on financial exigency or discontinuance of an academic program,
 - recommending the number of faculty lines to be eliminated, with justifications and supporting data for the recommendation
 - disseminating the report to the Chair of the Faculty Senate.
 - reviewing, with the FCD and the Provost, the Faculty Senate response to the report and preparing a final recommendation to the President.
 - determining, with the Provost and in consultation with Department Chairs, if appropriate, which faculty lines should be eliminated due to financial exigency and discontinuance of an academic program.
 - making recommendations, in consultation with Department Chairs, on the specific faculty to be eliminated in financial exigency or academic program discontinuance.
 - submitting recommendations to the Provost for dismissal of specific faculty due to financial exigency or academic program discontinuance.
- Department Chair
 - The Department Chair is responsible for:
 - making recommendations, in consultation with the College Dean, on the specific faculty to be dismissed due to financial exigency or academic program discontinuance, if input is sought and appropriate.
- Faculty Committee on Dismissal
 - The Faculty Committee on Dismissal is responsible for:
 - conducting inquiries at the request of the charged tenured faculty member of charges leading to an intent to dismiss for cause.
 - making non-binding recommendations to the Provost and the charged tenured faculty member to potentially resolve dismissal for cause matters through sanctions or other means.
 - communicating such recommendations in writing to the Provost, the Department Chair, the College Dean, the President, and the charged faculty member.

- meeting with the Provost and the Deans to evaluate the necessity of eliminating faculty appointments due to financial exigency or program discontinuance.
 - preparing a report, with the Deans and the Provost, if faculty lines will need to be eliminated based on financial exigency or discontinuance of an academic program,
 - recommending the number of faculty lines to be eliminated, with justifications and supporting data for the recommendation.
 - disseminating the report to the Chair of the Faculty Senate.
 - reviewing, with the Deans and the Provost, the Faculty Senate response to the report and assisting with preparing a final recommendation to the President.
- Faculty Senate

The Faculty Senate is responsible for:

 - soliciting input from faculty concerning the report on faculty dismissals due to financial exigency or program discontinuance.
 - preparing a response to the report and submitting the response to the Provost no later than two weeks after the Senate's meeting on this issue.
 - Faculty Senate Chair

The Faculty Senate Chair is responsible for:

 - disseminating the report on faculty dismissals due to financial exigency or program discontinuance to the Senate at least two weeks prior to a regularly scheduled or special session.
 - President

The President is responsible for:

 - notifying, in writing, a charged tenured faculty member of the decision regarding action, including dismissal.
 - sending written notice to each faculty member recommended for dismissal because of financial exigency or program discontinuance, with copies to the Provost and the faculty member's Chair and Dean.
 - notifying the tenured faculty member of the Board of Regents' decisions on appeal of a dismissal decision.
 - scheduling a hearing, at the request of a tenured faculty member dismissed for cause, with the Board of Regents.
 - Provost

The Provost is responsible for:

 - providing a written notice of charge(s) (for cause) and the intent to dismiss to the tenured faculty member, with a copy to the Department Chair, the College Dean, and the President.
 - making a final recommendation on dismissal for cause and notifying the President of such recommendation.

- meeting with the FCD and the Deans to evaluate the necessity of eliminating faculty appointments due to financial exigency or program discontinuance.
- preparing a report, with the FCD and the Provost, if faculty lines will need to be eliminated based on financial exigency or discontinuance of an academic program,
 - recommending the number of faculty lines to be eliminated, with justifications and supporting data for the recommendation.
 - disseminating the report to the Chair of the Faculty Senate.
 - reviewing, with the FCD and the Provost, the Faculty Senate response to the report and preparing a final recommendation to the President.
- Determining, with the Deans and in consultation with Department Chairs, if appropriate, which faculty lines should be eliminated due to financial exigency or program discontinuance.
- making final recommendations to the President of specific faculty to be dismissed due to financial exigency or program discontinuance.

Policy Adoption Review and Approval

Policy Revised

DATE

X
February 28, 2025
October 18, 2024

ENTITY

X
Provost
University Counsel

ACTION

X
Reviewed & Readopted
Editorial Revision

Policy Issued

DATE

October 19, 2015
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February 3, 2015

ENTITY

Board of Regents
President
Provost Council
Faculty Senate

ACTION

Adopted
Approved
Approved
Approved