

THE UNIVERSITY OF WISCONSIN-MILWAUKEE

Policies and Procedures – July 2018

CHAPTER 5 FACULTY PERSONNEL

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5.00 General Purpose

The provisions of this chapter are specifically limited to individual faculty members as defined in 5.01 and do not apply to academic staff personnel. The dean or other appointing authority shall send to each member of the faculty, and to each new appointee to the faculty, a copy of Chapter 5, UWM Policies and Procedures and the University of Wisconsin System Faculty Personnel Rules, together with the written statements of criteria for renewal of appointment and promotion to tenure rank specified in 3.17 and 4.05(1). When a Department is a member of two (2) or more Divisions the criteria formulated by each Divisional Executive Committee are included.

(Document 990, 5/4/76; UWM Administration approval, 12/19/77; Regent approval, 7/14/78)

5.01 Faculty

Faculty means persons who hold the rank of professor, associate professor, assistant professor, or instructor in an academic department of its functional equivalent.

By action of the department or its functional equivalent, Faculty Senate, and the Chancellor, a full-time member of the instructional staff who has a probationary or indefinite appointment may be designated as having faculty status with the right to participate in faculty governance as specified in Chapter I. Faculty status does not confer rank or tenure or convert an academic staff appointment into a faculty appointment. The provisions of chapter 5 do not apply to academic staff granted faculty status.

(Document 1306, 4/22/82; UWM Administration approval, 4/29/82)
(Document 1618, 5/10/88; UWM Administration approval, 5/20/88
(Editorially Revised, 3/12/09)

Faculty Appointments

As used throughout these rules, an "appointment" (unmodified) is an agreement between an individual and a department, school, college, or other unit of the university. The elements of an appointment are (1) duties; (2) title; (3) percentage time commitment; (4) beginning and ending dates; (5) financial remuneration, if any; (6) departments or other units involved; and (7) governance rights.

Obligation to Faculty Members Following Appointment: Continuing Commitment

Both the appointing department(s) or equivalent unit(s) and the university incur a continuing commitment to honor the terms of the appointment of a probationary or tenured faculty member. For tenured members of the faculty, that continuing commitment extends for as long as the faculty member holds tenure. For probationary faculty members, the term of the continuing commitment coincides with the term of the probationary appointment (see UW Milwaukee Policies and Procedures 5.13 – 5.161)

1. In the case of an appointment that is less than full-time, the continuing commitment is for the same fraction as the appointment.
2. In the case of a joint appointment, the fraction of the continuing commitment assignable to each unit shall be specified. The total continuing commitment or its division among departments or units may be changed only by agreement among the individual, the Departmental Executive Committees, and the dean(s) involved (see FD 2218). One department must serve as an individual's tenure home.

3. By agreement of the faculty member, the Executive Committee(s), and the dean, the level of departmental activity of the individual may differ from the continuing commitment in any given year. Such an occasional deviation does not in itself alter the continuing commitment.
4. In the event of the dissolution of a department holding a continuing commitment to a faculty member, an effort shall be made to identify an alternative department which is mutually suitable and which will assume the continuing commitment of the former department. If no such department can be found, the continuing commitment will be assumed by the university (also see UW Milwaukee Policies and Procedures 5.60 – 5.63).

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

5.02 Granting of Faculty Appointments

Faculty appointments may be granted only upon affirmative recommendation of a Departmental Executive Committee(s) as provided in Chapter 4, except in the specific situation provided for under UWS 3.08(3).

1. An initial faculty appointment is an appointment granted to an individual who has not previously held a faculty appointment in the university. An initial appointment may be probationary or with tenure.
2. Faculty recruitment and the selection of individuals to whom appointments may be offered is the responsibility of the Departmental Executive Committee(s). The procedures shall be consistent with UWS 3.02.
3. Faculty appointments shall be offered only in accordance with the provisions of UWS 3.03 and these regulations and with appropriate administrative approval.

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

5.03 Types of Faculty Appointments

(1) Probationary Faculty Appointment

- a. A probationary appointment means an appointment preceding the granting of tenure. It is made by the Board of Regents upon the affirmative recommendation of the Executive Committee of the appropriate academic department, or its functional equivalent, the dean of the college or school, and the Chancellor.
- b. Although probationary appointments are ordinarily made at the rank of Instructor or Assistant Professor, in exceptional cases

persons from outside this University may be granted probationary appointments at the rank of Associate Professor or Professor.

(Document 1189, 2/21/80; UWM Administration approval, 2/27/80; Regent approval, 6/6/80)

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

(2) Tenure Faculty Appointment

Tenure faculty appointment means an appointment for an unlimited period granted to a ranked faculty member by the Board of Regents upon the affirmative recommendation of the appropriate academic executive committee or an ad hoc review committee (ref. 5.181 - 5.186), the dean of the college or school, and the Chancellor. Tenure appointment may be granted to any ranked faculty member who holds a half-time appointment or more. The proportion of time provided for in the appointment may not be diminished or increased without the mutual consent of the faculty member and the University unless the faculty member is dismissed for just cause pursuant to 36.13(5), Wis. Stats., or is terminated or laid off pursuant to 36.21, Wis. Stats. Tenure includes rights and privileges appropriate to the rank subject to the provisions of 4.04.

(Document 1809 (Revised), 11/19/92; UWM Administration approval, 11/30/92; Regent approval, 2/5/93)

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

(3) Joint Probationary or Joint Tenure Faculty Appointment

A "joint probationary faculty appointment" or "joint tenure faculty appointment" occurs when two or more departments and/or schools/colleges share a continuing obligation or commitment to a faculty member. The appointment must be at the same rank in each department.

Joint probationary or tenure faculty appointments require the written agreement by all participating departments and/or school/college. In cases of an initial faculty appointment (see 5.02) this agreement shall be included in the initial letter of offer. Copies are to be filed with each department chairperson and the school/college dean (or division head).

The written agreement shall specify:

- the percentage of the appointment in each department or school/colleges.
- one department as the principal sponsor or tenure home of the faculty member. The faculty member shall have an appointment in sponsoring or "tenure home" department.

- whether the percentages of appointments are to be or may be changed/reviewed at some future time.
- that in the event a request to change the percentage of a joint appointment is made, it shall only be granted by the mutual agreement among the appropriate Departmental Executive Committees and Joint Guidance Committee, dean(s), and the individual concerned.
- the start date of the joint appointment.
- whether the appointment is on an annual or academic year basis.
- the percentage of the faculty member's salary that is budgeted in each participating department and school/college.
- the department(s) that is(are) responsible for conducting annual reviews of the faculty member, as well as future merit salary considerations.
- for tenured or existing UW Milwaukee faculty, the faculty member's divisional affiliation.
- for incoming or initial faculty, the divisional affiliations that are available to the faculty member.
- for probationary appointments, there must be a specification of probationary prior service and the duration of initial appointment.

If the joint appointment involves more than one chancellor-headed unit of the UW System, the appropriate vice chancellor must be informed at the beginning of negotiations. [See S-33, Interinstitutional Recruiting.]

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

(4) Affiliate Faculty Appointment

An affiliate appointment is one that allows a faculty member to be associated with a department without a continuing obligation, commitment, tenure, governance rights or a continuing commitment by the department, school/college. Affiliations may be granted, by the departmental executive committee, only to probationary and tenured faculty and only for fixed terms. With the approval of the departmental executive committee, affiliate appointments may be extended beyond one term.

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

(5) Limited Administrative Appointment

A limited administrative appointment is to a specific administrative position and is at the pleasure of the appointing authority (e.g. Dean, Provost, and Chancellor). A person who has a faculty appointment does not lose it by appointment to an administrative position, but administrative officers do not have tenure in their administrative positions.

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

5.13 Calculating the Probationary Periods

(Document 2656, 3/12/09; UWM Administration approval, 4/6/09)

- (1) Previous full-time service in other accredited colleges or universities in a rank equivalent to assistant professor or above or previous full-time teaching service as a member of the academic staff at this University, is taken into account in computing a person's probationary service at this University, so that the probationary period shall not exceed seven (7) years in all. If a person receives a probationary appointment after service of more than three (3) years in one or more institutions, a person's probationary status in the University may extend for as long as four (4) years, even though the total probationary period is thereby extended beyond the normal maximum of seven (7) years. In the case of less than full-time appointments, the provisions of 5.13(3) apply. Prior probationary service must be established in writing at the time a faculty appointment is offered.

(Document 1090, 4/20/78, 5/11/78, 11/16/78; UWM Administration approval, 11/22/78; Regent approval, 6/6/80)

(Document 2784, 4/21/11; UWM Administration approval, 7/21/11; Regent approval, 10/6/11)

- (2) In cases of transfers from other institutions or from the teaching academic staff at this University, with the consent of the person concerned, the department and the dean, it may be agreed in writing at the time the appointment is made, that one whose previous full-time service was performed in those institutions before receiving the doctoral degree (or the degree typically considered terminal in a given discipline), and while a candidate for this degree, may be granted a maximum seven-year probationary period in the University.
- (3) The probationary period for assistant professors and instructors on at least one-half time but not more than three-fourths time appointment is counted as one-half year probationary service; service of greater than three-fourths time is counted as a full year. In no case shall the probationary period exceed fourteen (14) calendar years.

(Document 1189, 2/21/80; UWM Administration approval, 2/27/80;
Regent approval, 6/6/80)

- (4) The period of leave of absence is excluded in calculating the probationary period.

(Document 1484, 12/12/85; UWM Administration approval, 12/26/85;
Regent approval, 2/7/86)

5.131 Calculating the Probationary Period for Associate Professors and Professors on Probationary Appointments

- (1) The probationary period for associate professors and professors with probationary appointments of at least one-half time but not more than three-fourths time appointment is counted as one-half year probationary service; service of greater than three-fourths time is counted as a full year.
- (2) The period of leave of absence is excluded in calculating the probationary period.
- (3) Previous experience, scholarly accomplishments, scholarly publications and the like may be taken into account in calculating the probationary period of associate professors and professors on probationary appointments. Credit for previous experience will be agreed upon in writing at the time the appointment is made. In no case will the probationary period for associate professors and professors on probationary appointments exceed three (3) years.

(Document 1189, 2/21/80; UWM Administration approval, 2/27/80;
Regent approval, 6/6/80)

5.135 Extension of the Probationary Period

Certain circumstances may impede a faculty member's progress toward achieving tenure, including responsibilities with respect to childbirth/adoption, significant responsibilities with respect to elder/dependent care obligations, disability/chronic illness, or circumstances beyond the control of the faculty member. Written requests for extensions of the probationary period should be made in a timely manner, proximate to the events or circumstances which occasion the request, and include appropriate documentation. A request for extension of the probationary period with respect to childbirth and adoption responsibilities carries with it the presumption of approval. More than one request may be granted but the total time granted for extensions may not ordinarily exceed one year. Multiple extension requests granted for childbirth/adoption may exceed one year. Pursuant to UWS 3.04, Wis. Adm. Code, the procedures for requesting an extension are:

- (1) The faculty member provides a written request to the department executive committee, which forwards the request with its recommendation to the dean and Provost. In cases of childbirth and adoption as well as

requests that are related to disability or chronic illness, the faculty member provides a written request directly to the Provost.

- (2) Requests for probationary period extension may be approved by the Provost, after review by the executive committee and the dean and upon consultation with the University Committee. Requests in cases of childbirth/ adoption and those that are related to disability or chronic illness that are provided directly to the Provost shall be approved only after consultation with the University Committee and the department executive committee, as well as notification of the dean. Except to obtain necessary consultative assistance on medical or legal issues, only the Provost and the ADA Coordinator will have access to documentation pertaining to a request related to disability or chronic illness.

(Document 2430, 4/15/04; UWM Administration approval, 4/26/04)

- (3) All requests for probationary period extensions shall be made prior to commencing with a tenure or contract renewal review. With respect to contract renewals, it is presumed that executive committees will extend the contractual period for a minimum of the recommended and approved probationary period extension. With respect to requests related to disability or chronic illness, executive committees will extend the contractual period for a period of time that coincides with the approved probationary period extension.
- (4) If a probationary period extension is approved, a reduction in scholarly productivity during the period of time addressed in the request should not prejudice a subsequent renewal decision. Any faculty member in probationary status more than seven (7) years because of extensions shall be evaluated as if the faculty member had been on probationary status for seven (7) years.
- (5) A denial of a request shall be provided in writing to the faculty member, the department executive committee, and the dean, and shall be based upon clear and convincing reasons. If the request is related to disability or chronic illness and denied by the Provost, only the requesting faculty member will receive notification of the denial.
- (6) A faculty member who believes that a request has been denied unfairly may file an appeal with the University Committee for referral to the Faculty Appeals and Grievances Committee within 60 business days of the request being denied. [Section A2.3(3)]

(Document 1949, 10/20/94; UWM Administration approval, 11/14/94; Regent approval, 3/10/95)

(Document 2180, 2/18/99; UWM Administration approval, 4/12/99; Regent approval, 5/7/99)

(Document 2785, 4/21/11; UWM Administration approval, 7/21/11; Regent approval, 10/6/11)

5.136 Notification of Decision of Tenure by Executive Committee

- (1) A decision of tenure, favorable or unfavorable, must be made at least 12 months prior to the completion of the maximum probationary period (or equivalent), unless the right is waived, in writing, by the candidate. The Executive Committee must initiate the review process soon enough to allow for the required notification listed in 5.19 (3) to take place following a negative decision. If the decision is negative, and if the following year is the final year of the maximum probationary period, the appointment for the following year becomes a terminal one.

(Document 3048, 3/10/16; UWM Administration approval, 3/23/16)

- (2) After a negative decision, the faculty member may request, in writing, a tenure review during the terminal year. The executive committee may agree, but is not required, to conduct a tenure review and render a decision during the terminal year. A decision to conduct a tenure review in the terminal year will be communicated to the candidate in writing.

(Document 2786, 4/21/11; UWM Administration approval, 7/21/11;
Regent approval, 10/6/11)

(Document 3048, 3/10/16; UWM Administration approval, 3/23/16)

- (3) A faculty member who waives his/her right for tenure review or who submits their resignation, may serve out the terminal year without a tenure decision being rendered.
- (4) A faculty member who waives his/her right for a tenure review prior to the terminal year, may request, in writing, to be reviewed during their terminal year. The executive committee, at its discretion, may or may not agree to conduct a tenure review during the terminal year. Its decision will be communicated to the candidate in writing.

(Document 2553, 4/19/07; UWM Administration, 4/30/07)

5.14 Divisional Committees Must Advise on Certain Appointments

Before an appointment is made within a department included within a division to a position of permanent tenure, or to associate professor where tenure had been granted previously at a lower rank, the dean shall ask through the divisional chairperson the advice of the executive committee of the division.

5.15 Appointment, Reappointment, Tenure, Non-Retention and Notification of Probationary Instructors

An instructor is appointed for a probationary period of one (1) year and may be reappointed as instructor for not more than six (6) times, except as provided in 5.13 and later in this paragraph. After not more than seven (7) years of probationary service as an instructor at this University, whether continuous or not,

the faculty member, upon the recommendation of the appropriate academic executive committee or an ad hoc review committee (ref. 5.181 - 5.186), the dean of the college or school, and the Chancellor, shall be promoted to assistant professor with tenure or not retained, or, in exceptional cases, reappointed without promotion but with tenure. The instructor shall be informed in writing by the appropriate administrative officer of that decision before the close of the faculty member's sixth (6) year of service. These provisions do not imply any obligation of reappointment from year to year, nor do they preclude recommending an instructor for promotion at any time.

(Document 1809 (Revised), 11/19/92; UWM Administration approval, 11/30/92; Regent approval, 2/5/93)

5.16 Appointment, Reappointment, Tenure, Non-Retention and Notification of Assistant Professors

After not more than seven (7) years of probationary service as assistant professor, or instructor and assistant professor, except as provided in 5.13, the faculty member shall be promoted with tenure, not retained, or in exceptional cases, reappointed with tenure. The decision on which course to take is made on recommendation of the appropriate academic executive committee or an ad hoc review committee (ref. 5.181 - 5.186), the dean and the Chancellor to the Board of Regents. The faculty member shall be officially notified of the decision in writing by the appropriate administrative officer in accordance with the provisions of 5.19. If a faculty member is appointed assistant professor from outside the University of Wisconsin--Milwaukee, the appointment is normally for a term of two (2) years. These provisions do not imply any obligation of reappointment, nor do they preclude recommending an assistant professor for promotion or tenure after a period of service less than seven (7) years.

(Document 1809 (Revised), 11/19/92; UWM Administration approval, 11/30/92; Regent approval, 2/5/93)

5.161 Tenure, Non-Retention and Notification of Associate Professors and Professors on Probationary Appointments

After not more than three (3) years of probationary service as associate professor or professor without tenure except as provided in 5.131, the faculty member shall be granted tenure or not retained. The decision on which course to take is made on the recommendation of the appropriate academic executive committee or an ad hoc review committee (ref. 5.181 - 5.186), the dean and the Chancellor to the Board of Regents. The faculty member shall be officially notified of the decision in writing by the appropriate administrative officer in accordance with the provisions of 5.19.

(Document 1189, 2/21/80; UWM Administration approval, 2/27/80; Regent approval, 6/6/80)

(Document 1582A, 3/24/88; UWM Administration approval, 4/1/88; Regent approval, 6/10/88)

(Editorially revised, 9/27/88)
(Document 1809 (Revised), 11/19/92; UWM Administration approval, 11/30/92;
Regent approval, 2/5/93)

5.162 Departmental/School-College Executive Committee Vote on Tenure and Promotion

Departmental/School-College Executive Committee Vote on Tenure and Promotion

The departmental/school/college executive committee shall provide the appropriate notice for all tenure/promotion decisions (see 5.171).

Following deliberations on a tenure/promotion case, the executive committee shall vote by written ballot. This ballot shall contain the motion before the committee, the date of the meeting, the individual's vote (yes, no, abstain), and the signature of the individual voting. These ballots will be collected by the chair of the committee and retained in the confidential personnel files for the duration of the candidate's employment at UWM.

Members of the executive committee must be present in order to vote. Proxy votes are not allowed. In extraordinary circumstances, and with the permission of the executive committee members, a member of the executive committee may participate in the meeting by video or audio teleconferencing assuming they have access to all materials placed before the committee by the candidate.

The vote on a decision of tenure/promotion shall be recorded in the minutes of the executive committee.

In the event the executive committee requires a 2/3 majority for passage of a motion recommending tenure and/or promotion and the vote results in a majority vote that results in a fraction, that fraction will be rounded up to the next highest number.

(Document 2564, 3/15/07, UWM Administration approval, 3/27/07)

5.17 Consideration and Reconsideration on Reappointments of Non-Tenured Faculty

Provisions of 5.17 through 5.177 apply in all situations where a negative decision may lead to the non-retention of a non-tenured faculty member, except that provisions 5.172 through 5.174 do not apply to the ad hoc review committee permitted by s. 36.13 (2)(b) Wis. Stats., which is the subject of provisions 5.181 through 5.186. Unless otherwise specified, executive committee refers to the departmental executive committee or its functional equivalent.

(Document 1809 (Revised), 11/19/92; UWM Administration approval 11/30/92;
Regent approval, 2/5/93)

5.171 Notice of Consideration

The chairperson of the appropriate executive committee or its functional equivalent must notify a non-tenured faculty member in writing at least thirty (30) days prior to executive committee consideration of reappointment, promotion, or non-renewal of appointment. The notice invites the faculty member to review personal vita and supporting materials, and to submit additional written material the faculty member deems relevant. The notice shall inform the faculty member that the faculty member has the option of making a personal presentation to the executive committee at the meeting at which the faculty member is to be considered. The notice shall further inform the faculty member that the portion of the meeting during which the faculty member is to be considered may be closed or open as determined by the executive committee consistent with the Statutes pertaining thereto.

(Document 1063, 3/21/78; UWM Administration approval, 3/29/78; Regent approval, 7/14/78)

5.172 Commencement of Consideration Process

In making a personnel decision that may involve non-retention, the executive committee must start the process early enough to allow for a possible reconsideration and to meet the deadlines for notification of non-retention as stated in 5.19.

5.173 Statement of Reasons for Non-Retention

If the executive committee decides on non-retention, it must formulate written reasons for the negative recommendation before adjourning. These reasons will be considered binding on the executive committee. The reasons will not appear in the minutes of the meeting but shall be entrusted to the chairperson who must immediately inform the faculty member orally of the reasons. No decision shall be forwarded to the dean until the faculty member has been given the opportunity to request the written reasons and/or a reconsideration by the executive committee according to procedures outlined below. Failure by the faculty member to meet the deadlines for requesting written reasons and/or a reconsideration is considered a waiver of those procedures, and the executive committee shall forward its decision to the dean. The faculty member shall have the opportunity, within three (3) working days after notification by the chairperson, to request reasons in writing. The chairperson will inform the faculty member of the possible adverse consequences of the existence of written reasons. If the faculty member persists in the request, the chairperson will immediately provide a copy of the executive committee's statement of reasons.

(Editorially revised in accordance with Fac. Doc. No. 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

5.174 Reconsideration of Non-Retention

If the faculty member wishes a reconsideration of non-retention by the executive committee, the request must be made within five (5) working days of the receipt of the oral reasons or within two (2) working days of the receipt of the written reasons. The meeting for reconsideration shall be held within fifteen (15) working days of receipt of the request except that if the last day of this period does not coincide with a regular day of instruction of any academic semester or regular summer session, it shall convene no later than five (5) working days after the next regular day of instruction of any academic semester or regular summer session. Written notice of the meeting must be given to the faculty member at least seven (7) working days prior to such meeting. The reconsideration is not a hearing, nor an appeal, and shall be non- adversarial in nature. Its only purpose is to allow the faculty member an opportunity to persuade the executive committee to change its negative decision by challenging the stated reasons and/or by offering new evidence not available at the initial consideration. The burden of proof is on the person requesting the reconsideration. The reconsideration meeting shall be closed unless an open meeting is requested by the faculty member. At the reconsideration meeting, whether open or closed, the faculty member is entitled to make a personal presentation, to present witnesses, to have counsel present, and to be provided with an audio recording of both the evidentiary and the deliberation phases of the reconsideration meeting. Following reconsideration, the executive committee shall forward in writing its decision to the dean. If the executive committee decides to forward a negative decision, the reasons for the recommendation must be included.

(Document 1389, 2/23/84; UWM Administration approval, 3/1/84; Regent approval, 4/6/84)

(Document 1792, 10/17/91; UWM Administration approval, 10/31/91; Regent approval, 12/7/91)

(Editorially revised in accordance with Fac. Doc. No. 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

(Editorially revised, 08/25/15)

5.175 Dean's Action on Negative Decision by Department Executive Committee

If the department executive committee forwards a negative decision that will result in non-retention for a faculty member, the dean must accept that decision, subject to appeal procedures outlined below, and inform the faculty member of the date when the faculty member's appointment is terminated.

(Document 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

5.176 Dean's Action on Positive Recommendation

- (1) If the departmental executive committee forwards a positive recommendation for tenure, the dean shall forward that recommendation

to the appropriate divisional executive committee with a request for advice.

- (2) If the dean decides not to accept the divisional committee's advice, the dean shall notify the chairperson of the divisional executive committee, and the executive committee of the department, with a copy to the individual involved, of the decision within a reasonable time. If the faculty member, within twenty (20) working days, requests written reasons and/or reconsideration, the dean shall respond to the request using the same procedures outlined for the departmental executive committee within ten (10) working days.
- (3) All departmental executive committee positive recommendations received by the dean shall be forwarded to the Chancellor together with relevant documentation and the advice of the divisional executive committee and the dean.
- (4) If the Chancellor's decision concerning tenure is negative, a non-renewal notice is effective upon its issuance by the dean. The time limits, as stated in 5.19 for issuing a non-renewal notice, are not extended by subsequent hearing or subsequent appeals. The Chancellor shall supply a detailed statement of the reasons that ground the decision, if requested by the candidate.

(Document 1852, 2/25/93; UWM Administration approval, 3/9/93; Regent approval, 5/7/93)

(Editorially revised in accordance with Fac. Doc. No. 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

5.177 Divisional Committee Action on Recommendation

- (1) In the event that negative advice is rendered by a divisional executive committee which may result in a non-retention of a faculty member, the following shall occur within seven (7) working days of the formulation of the recommendation before transmittal of such information to the dean:
 - a) Notice shall be given to the chairperson of the departmental executive committee of the proposed negative advice. The department executive committee is required to meet to discuss a request for a reconsideration of the decision within the time period stated in 5.177(2). The executive committee is entitled but not required to request reconsideration.
 - b) Notice shall be given to the affected faculty member that the department has the right to request a reconsideration of the proposed negative advice by the divisional executive committee provided such request is made within the time period stated in 5.177(2). The affected faculty member has the right to request that

the departmental executive committee request reconsideration of the proposed negative advice.

(Editorially revised in accordance with Document 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)
(Document 2134, 3/19/98; UWM Administration approval, 4/9/88; Regent approval, 6/5/98)

- (2) A reconsideration may be requested under this section within ten (10) working days following receipt of notice per 5.177(1) except that if the last day of this ten (10) working day period does not coincide with a regular day of instruction of any academic semester or session, the request may then be given to the divisional executive committee no later than five (5) working days after the next regular day of instruction of any following academic semester or session.
- (3) In the event that a timely request for reconsideration is received by the divisional executive committee, it shall convene within fifteen (15) working days of receipt of such request except that if the last day of this period does not coincide with a regular day of instruction of any academic semester or regular summer session, it shall convene no later than five (5) working days after the next regular day of instruction of any academic semester or regular summer session. Written notice of the meeting must be given to the faculty member and the executive committee at least seven (7) working days prior to such meeting.
- (4) If no reconsideration request is timely submitted, the divisional executive committee shall forward its negative advice with a written statement of reasons to the dean immediately upon the expiration of the period provided in 5.177(2).

(Document 1296, 2/18/82; UWM Administration approval, 2/23/82)
(Document 1389, 2/23/84; UWM Administration approval, 3/1/84; Regent approval, 4/6/84)

- (5) Advice given by divisional executive committees is not appealable. Complaints alleging improper considerations as enumerated in 5.18(a)-(c) may be filed with the University Committee at any stage of consideration.

(Document 1968, 5/11/95; UWM Administration approval, 6/7/95);
Regent approval, 7/14/95)

5.18 Appeals: Non-Renewal Decisions

- (1) Written appeal may be made within twenty (20) working days of notice (25 days if notice is by first class mail and publication) of a decision that results in non-retention. Such appeals are filed with the University Committee for referral to the Faculty Appeals and Grievances Committee. The Faculty Appeals and Grievances Committee reviews the case not later

than twenty (20) working days after it receives the request, except that the time limit can be enlarged by mutual consent of the parties or by order of the Faculty Appeals and Grievances Committee.

The faculty member shall be given at least ten (10) working days notice of the review. The burden of proof in such an appeal shall be on the faculty member, and the scope of the review shall be limited to the question of whether the decision was based in any significant degree upon one or more of the following factors, with material prejudice to the individual.

- a) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, or
- b) Factors proscribed by applicable state or federal law regarding fair employment practices, or
- c) Improper consideration of qualifications. For purposes of this section, "improper consideration" shall be deemed to have been given to the qualifications of a faculty member in question if material prejudice resulted because of any of the following:
 1. The procedures required by rules of the faculty or board were not followed, or
 2. Available data bearing materially on the quality of performance were not considered, or
 3. Unfounded, arbitrary or irrelevant assumptions of fact were made about work or conduct.

(Document 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

- (2) The Faculty Appeals and Grievances Committee reports its findings to the individual filing the appeal, the University Committee, the body or official making the non-renewal recommendation or decision, the appropriate dean, and the Chancellor.
- (3) Such a report may include remedies which may, without limitation because of enumeration, take the form of a reconsideration of the decision, reconsideration under instructions from the Committee, or a recommendation to the next higher-level authority. Cases shall be remanded unless the Faculty Appeals and Grievances Committee specifically finds that such a remand would serve no useful purpose. If the Committee concludes that the decision by a departmental or non-departmentalized school or college executive committee was based on impermissible factors and that remand to the executive committee will not serve or has not served a useful purpose, then the Committee's report shall indicate that the appellant may request a de novo review by an ad hoc

committee in accordance with the provisions of s. 36.13 (2)(b) Wis. Stats. and 5.181 - 5.186, UWM Policies and Procedures. The Faculty Appeals and Grievances Committee shall retain jurisdiction during the pendency of any reconsideration, the University Committee shall retain jurisdiction during a de novo review by an ad hoc committee. The decision of the Chancellor will be final on such matters.

(Document 1057, 12/20/77; UWM Administration approval, 3/29/78; Regent approval, 7/14/78)

(Document 1519, 11/20/86; UWM Administration approval, 11/29/86; Regent approval, 4/10/87)

(Document 1809 (Revised); UWM Administration approval, 11/30/92; Regent approval, 2/5/93)

(Editorially revised in accordance with Document 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

5.181 Request for Tenure Review by ad hoc Committee

When a candidate for promotion or tenure receives notice from the Faculty Appeals and Grievances Committee that impermissible factors were used by the department or non-departmentalized school or college executive committee in making the decision and that remand has not or will not serve a useful purpose, the candidate may request a review by an ad hoc committee provided under s.36.13(a)(b), Wis. Stats. The request must be made to the University Committee within two weeks of the date on which the notice is received. Upon such request and as soon as practicable, an ad hoc committee shall be established by the University Committee for the purpose of providing a de novo review of the candidate's accomplishments and department criteria for tenure. The University Committee retains jurisdiction until the dean has concluded action concerning the candidate's appointment.

(Document 1809 (Revised), 11/19/92); UWM Administration approval, 11/27/92; Regent approval, 2/5/93)

(Document 2076, 12/19/96; UWM Administration approval, 1/6/97)

5.182 Composition of the ad hoc Review Committee

The ad hoc review committee shall be composed of no fewer than 3 and no more than 5 members, who are knowledgeable in the candidate's area of expertise, and impartial with respect to the outcome of the decision. Ad hoc review committee members are not restricted to UWM faculty. No member of the candidate's department may serve as a member of the ad hoc review committee.

(Document 1809 (Revised), 11/19/92; UWM Administration Approval, 11/27/92; Regent approval, 2/5/93)

5.183 Selection of Members of the ad hoc Review Committee

The selection and appointment of members to the ad hoc review committee shall be at the sole discretion of the University Committee. Both the departmental executive committee and the candidate may submit a list of individuals for the University Committee to consider for possible appointment to the ad hoc review committee. The University Committee may consult other sources, such as other faculty members in the UW system or at other universities, or professional or academic societies, in order to identify suitable individuals for possible appointment to the ad hoc review committee. The University Committee shall select the chairperson of the ad hoc review committee.

(Document 1809 (Revised), 11/19/92; UWM Administration approval, 11/27/92; Regent approval, 2/5/93)

(Document 2076, 12/19/96; UWM Administration approval, 1/6/97)

5.184 Procedures for ad hoc Review Committee

- (1) Any and all communication with the ad hoc review committee, or any of its individual members, shall be conducted exclusively by the University Committee, except as provided in 5.184(2), below.
- (2) The ad hoc review committee shall hold a meeting within six weeks of the date by which time all members have received the candidate's materials for review. The University Committee may extend this time period if fairness warrants an extension. The candidate shall be given notice of this meeting. The meeting may be held in closed session per s. 19.85, Wis. Stats., unless the candidate requests an open meeting, per s. 19.85(1)(b), Wis. Stats. The purpose of the meeting of the ad hoc review committee is two-fold:
 - a) to allow clarification concerning the candidate's record and the criteria for promotion or tenure in the department, for which purpose the ad hoc review committee may interview (a) the candidate, and (b) others as the Committee sees fit, provided the Committee has the explicit permission of the University Committee; and
 - b) to facilitate discussion among the committee members on the issue of the faculty member's qualifications for promotion or tenure, based on the record, for which purpose all members of the ad hoc review committee shall be present, either in person or via telephone, during all phases of the meeting.
- (3) Votes must be recorded, signed, and dated. Mailed ballots must be postmarked within two working days of adjournment, and mailed to the University Committee office. Other ballots must be hand-delivered to the University Committee office within two working days of adjournment. Ballots will be tallied by two members of the University Committee. A simple majority vote is required for a positive recommendation. The

University Committee reports the ad hoc review committee's recommendation to the dean, with copies to the appellant, the appellant's executive committee, and the Faculty Appeals and Grievances Committee.

- (4) Upon receipt of written notification of a negative decision by the ad hoc review committee, the faculty member may file a written appeal within two weeks to the University Committee for referral to the Faculty Appeals and Grievances Committee. Only impermissible factors listed in 5.18 (a-c) above may be cited in the written appeal.

(Document 1809 (Revised), 11/19/92; UWM Administration Approval, 11/27/92; Regent approval, 2/5/93)
(Editorially revised in accordance with Fac. Doc. No. 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)
(Document 2076, 12/19/96; UWM Administration approval, 1/6/97)

5.185 Dean's Action on Negative Decision

If the decision of the ad hoc review committee will result in non-retention, the dean must accept that decision and inform the faculty member of the date when the faculty member's appointment is terminated.

(Document 1809 (Revised), 11/19/92; UWM Administration Approval, 11/27/92; Regent approval, 2/5/93)
(Document 1968, 5/11/95; UWM Administration approval, 6/7/95; Regent approval, 7/14/95)

5.186 Dean's Action on Positive Recommendation

If the recommendation of the ad hoc review committee is positive, the provisions in 5.176, 5.177, and 5.18 or in 5.20 will apply.

(Document 1809 (Revised), 11/19/92; UWM Administration approval, 11/27/92; Regent approval, 2/5/93)
(Document 2076, 12/19/96; UWM Administration approval, 1/6/97)

5.19 Notice Periods

Written notice of reappointment or non-retention shall be given to probationary faculty as follows:

- (1) When the appointment expires at the end of an academic year, not later than March 1 of the first academic year and not later than December 15 of the second consecutive year of service;
- (2) if the initial appointment expires during an academic year, at least three (3) months prior to its expiration; if a second consecutive appointment terminates during the academic year, at least six (6) months prior to its expiration;

- (3) after two (2) or more years of continuous service at this University such notice shall be given at least twelve (12) months before expiration of the appointment;
- (4) if proper notice is not given as designated above, the faculty member shall be entitled to a one-year terminal appointment. Such appointments shall, however, not result in the achievement of tenure.

5.20 Procedures for Promotion to the Rank of Professor

Positive recommendations from the departmental executive committee are directed to the dean of the school or college. Upon receiving the recommendation and the accompanying documentation, the dean transmits the materials to the subcommittee of full professors of the appropriate Divisional Executive Committee for advice. If the subcommittee's advice is negative, the subcommittee chairperson notifies the Divisional Executive Committee Chairperson, the department chairperson and the faculty member concerned; provisions regarding reconsideration and written reasons as outlined in 5.177 will apply.

If the departmental executive committee makes a negative decision, provisions for written reasons (UWM Policies and Procedures 5.173); reconsideration (UWM Policies and Procedures 5.174) and appeals (UWM Policies and Procedures 5.18) apply.

If the advice of the subcommittee of full professors is positive, it is transmitted through the Divisional Executive Committee chairperson to the dean [3.14(2)]. If the dean does not accept the subcommittee's positive advice, the dean notifies the Divisional Executive Committee chairperson of the departmental executive committee, and the faculty member concerned; the faculty member may request written reasons and/or reconsideration as provided in 5.17(2). The dean transmits all actions to the chancellor with the dean's recommendation.

(Document 1061, 12/20/77; UWM Administration approval, 1/4/78; Regent approval, 7/14/78)

(Document 1629, 2/16/89; UWM Administration approval, 3/6/89; Regent approval, 5/5/89)

(Document 1976, 5/11/95; UWM Administration approval, 6/7/95)

5.21 Dismissal for Cause: Tenure Appointments

A faculty member who holds a tenure appointment as defined in 5.10 may be dismissed only by the Board of Regents and only for just cause and only after due notice and hearing.

5.22 Dismissal for Cause: Non-Tenure Appointments

- (1) A faculty member having a probationary appointment as defined in 5.12 may be dismissed prior to the end of the term of appointment only by the Board of Regents and only for just cause and only after due notice and hearing.
- (2) Non-renewal of a probationary appointment is not a dismissal for cause under the provisions of this section.

5.23 Dismissal for Cause Procedures

Dismissal proceedings are initiated by the Chancellor or his designated officer. Within a reasonable time after receipt by the Chancellor of a complaint against a faculty member, verified by the complainant, which the Chancellor deems substantial and which, if true, might lead to dismissal under 5.21 or 5.22, the Chancellor conducts an investigation. If the investigation appears to support the complaint, the Chancellor offers to discuss the matter informally with the faculty member. If the faculty member refuses to discuss the matter or it is not resolved by discussion, the Chancellor prepares written charges, and causes the same to be served upon the faculty member personally or by certified mail.

5.24 Just Cause

A faculty member is entitled to enjoy and exercise all rights and privileges of a United States citizen, and the rights and privileges of academic freedom as they are generally understood in the academic community. This policy shall be observed in determining whether just cause for dismissal exists. The burden of proof of the existence of just cause for dismissal is on the administration.

5.25 Fair Hearing

The faculty member addresses a written request for a hearing to the chairperson of the Dismissal Hearing Committee. A fair hearing includes:

- (1) Service of notice of hearing with a specific charge in writing at least twenty (20) working days prior to the hearing.
- (2) A right to the names of witnesses and of access to documentary evidence upon the basis on which dismissal is sought. Adjournments shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.
- (3) A right to be heard in his/her own defense by all bodies passing judgment.
- (4) A right to counsel or other representative and to offer witnesses.
- (5) A right to confront and cross-examine witnesses against a faculty member.

- (6) A verbatim record of all hearings, which might be a sound recording, provided at no cost.

(Document 3150, 5/10/18; UWM Administration approval, 6/18/18)

- (7) A finding of just cause based on clear preponderance of the evidence.
- (8) Findings of fact and a decision based on the hearing record.
- (9) The admissibility of evidence is governed by Wis. Stats. 227.45. The burden of proof of the existence of just cause for dismissal is on the administration.

5.26 Dismissal Hearing Committee

The Dismissal Hearing Committee conducts the hearing in compliance with 5.25. This hearing is a closed hearing unless the person concerned requests a public hearing. The Dismissal Hearing Committee consists of: The chairperson of each of the executive committees of the faculty divisional committees and the chairperson of the Codification Committee. Should any member of the Dismissal Hearing Committee be disqualified, the committee of which such person is chairperson shall designate from its membership a substitute, in consultation with the University Committee.

5.27 Recommendations: To the Chancellor: To the Board of Regents

- (1) The Dismissal Hearing Committee shall send to the Chancellor and to the faculty member concerned, as soon as practicable after conclusion of the hearing, a verbatim record of the testimony and a copy of its report, findings, and recommendations. The committee may determine that, while just cause for discipline exists, some sanction less severe than dismissal is more appropriate.
- (2) Within twenty (20) working days after receipt of this material, the Chancellor shall review it and afford the faculty member an opportunity to discuss it. The Chancellor shall prepare a written recommendation within twenty (20) working days following the meeting with the faculty member, unless the proposed recommendation differs substantially from that of the committee.
- (3) If the Chancellor's proposed recommendations differ substantially from those of the Dismissal Hearing Committee, the Chancellor shall promptly consult the Dismissal Hearing Committee and provide the committee with a reasonable opportunity for a written response prior to forwarding the recommendation.
- (4) If the recommendation is for dismissal, the recommendations shall be submitted through the President of the University of Wisconsin System to the Board of Regents.

- (5) A copy of the Dismissal Hearing Committee's report and the recommendations shall be forwarded through the President of the System to the Board of Regents along with the Chancellor's recommendation. A copy of the Chancellor's recommendation shall also be sent to the faculty member concerned and to the Dismissal Hearing Committee.
- (6) Disciplinary action other than dismissal may be taken by the Chancellor, after affording the faculty member opportunity to be heard on the record, except that, upon written request by the faculty member, such action shall be submitted as a recommendation through the President of the System to the Board of Regents, together with a copy of the Dismissal Hearing Committee's report and recommendation.

5.28 Board of Regents Review

- (1) If the Chancellor recommends dismissal, the Board of Regents shall review the record before the Dismissal Hearing Committee and provide an opportunity for filing exceptions to the recommendations of the Dismissal Hearing Committee or Chancellor, and for oral arguments, unless the Board of Regents decides to drop the charges against the faculty member without a hearing, or the faculty member elects to waive a hearing. This hearing shall be closed unless the faculty member requests an open hearing.
- (2) If, after the hearing, the Board of Regents decides to take action different from the recommendations of the Dismissal Hearing Committee and/or the Chancellor, then before taking final action, the Board of Regents shall consult with the Dismissal Hearing Committee and/or the Chancellor, as appropriate.
- (3) If the faculty member whose dismissal is sought does not request a hearing, the Board of Regents shall take appropriate action upon receipt of the statement of charges and recommendation of the Chancellor.

5.29 Suspension from Duties

Pending final decision as to dismissal, the faculty member shall not normally be relieved of duties; but if, after consultation with appropriate faculty committees, the Chancellor finds that substantial harm to the University may result if the faculty member continues in the position, the faculty member may be relieved immediately of duties, but on salary until the Board of Regents makes its decision as to dismissal. A decision by the Board of Regents ordering dismissal shall specify the effective date of dismissal.

5.30 Report of Substantial Outside Activities

- (1) A member of the faculty employed on a full time basis who engages in or plans to engage in activities of an extensive, recurring or continuous nature outside of the person's broad institutional responsibilities during any period of full time employment by the University, shall report in

writing the nature and scope of such activities to the chairperson of his/her department and to the appropriate dean or director. The appropriate dean or director will acknowledge receipt in writing, within ten (10) working days of receipt of the report.

- (2) A member of the faculty holding an appointment as Provost, Vice Chancellor, or Dean who engages or plans to engage in activities of an extensive, recurring or continuous nature outside the person's broad institutional responsibilities during any period of full-time employment by the University, shall report in writing the nature and scope of such activities to the Chancellor.

(Document 1194A, 1/22/81; UWM Administration approval, 4/11/81; Regent approval, 6/5/81)

(Editorially revised in accordance with Document 1458, 5/7/85)

(Document 2008, 9/21/95; UWM Administration approval, 9/29/95; Regent approval, 12/8/95)

5.31 Approval Assumed: Consultation with the Chancellor

Approval of such activities may be assumed unless the faculty member is advised of the contrary, in writing, within thirty (30) days by the dean or director. The dean or director should consult the Chancellor concerning all cases involving major sums of money, extensive time, or work which is related to matters of public policy and concern.

5.32 Right of Appeal

If the dean or director disapproves of such activities, the faculty member has the right of appeal to the Chancellor.

5.33 Use of University Facilities for Personal Purposes

University facilities, equipment and supplies shall not be used by the faculty for other purposes than carrying out their institutional responsibilities. If for any reason a faculty member deems it essential to use such facilities for personal activities, appropriate arrangements shall be made with the University authorities.

5.34 Use of University Facilities for Commercial Purpose

University facilities shall not be used by faculty members for outside activities of a commercial character without previous arrangements with the appropriate University authorities.

5.35 Absence from Regular Duties

Members of the faculty who expect to be absent from classes or other regular duties to fulfill outside engagements shall inform the appropriate dean or director.

Faculty members shall avoid a concentration of class hours detrimental to effective teaching.

5.36 Part-time Employment

A faculty member who is on a part-time basis shall be so designated in the budget. The arrangements made concerning his or her duties to the University shall be in writing.

5.37 Service as an Expert Witness

A faculty member who intends to serve as an expert witness in any civil or criminal case, within or without the state, shall promptly report the nature of the case to the dean or director, who shall transmit the information to the Chancellor.

5.38 Service with Agencies Granting Money

A faculty member who is asked to serve as adviser or consultant, or in any other capacity, with a public or private agency which grants money or decides policy for grants, shall ascertain if this participation will adversely affect the University's eligibility for funds from the agency involved, and shall report this information to the Chancellor through the dean or director.

5.39 Nepotism

- (1) No member of the unclassified staff may participate, formally or informally, in the decision to hire, retain, grant tenure to, promote or determine the salary of a member of his or her immediate family, including domestic partners or others living together as a family.
- (2) No member of the unclassified staff may give preferential or favored treatment in the supervision or management of a member of his or her immediate family, including domestic partners or others living together as a family.

(Document 2222, 11/18/99; UWM Administration approval, 12/3/99; UW System approval, 5/5/00)

5.40 Authorization of Faculty Rights and Responsibilities Committee

The faculty shall elect, in conformity with 5.44, a Faculty Rights and Responsibilities Committee.

5.41 Faculty Rights and Responsibilities

- (1) Members of the faculty as defined in 5.01 individually enjoy and exercise all rights secured to them by the Constitutions of the United States and the State of Wisconsin, and by the principles of academic freedom as they are generally understood in higher education, including professional behavior

standards and the expectation of academic due process and just cause, as well as rights specifically granted to them by: regent action, University of Wisconsin System rules, these policies and procedures, and relevant practices or established custom of their colleges or schools and departments.

- (2) University faculty members shall be subject to discipline only for conduct which: (a) Violates the UWM Regulations or (b) violates state or federal law which directly, substantially, and adversely affects the ability of a faculty member to perform the faculty member's responsibilities to the University.
- (3) University faculty are responsible for teaching, research and other scholarly activity appropriate to the discipline, and public service. Furthermore, every faculty member has an obligation to maintain professional honesty and integrity, to seek knowledge and to share that knowledge freely with others. It is the responsibility of faculty members to share in the governance of the institution as a whole.

(Document 2479, 05/17/05; UWM Administration, 08/16/05)

5.42 Disciplinary Procedure Exclusive

Discipline shall be imposed on any faculty member pursuant to the procedure hereinafter provided, except that dismissal charges are subject to the provisions of 5.21 through 5.28.

5.43 Discipline Defined

Discipline may include, but is not limited to, the following proposed actions by an appropriate official of the University. Such actions shall be commensurate with the nature of the complaint:

- (1) An oral reprimand;
- (2) A written reprimand;
- (3) Temporary reassignment or other restrictions on duties for a period to be determined;
- (4) Temporary or permanent restriction of access to university property or services;
- (5) Reimbursement for damages to, destruction, or misappropriation of university property or services;
- (6) Reduction in salary or reduction of an increase in salary recommended by the department, other than for budgetary reasons;
- (7) Suspension without pay for a specified period of time.

Counseling and/or other rehabilitative intervention may be considered as an alternative or supplement to discipline.

(Document 1950 (Amended), 12/15/94; UWM Administration approval, 12/28/94; Regent approval, 3/10/95)

5.44 Faculty Rights and Responsibilities Committee

(1) Membership

Seven (7) tenured members of the faculty, no more than two (2) of whom shall be from a single faculty division. No more than three (3) members shall be from a single school, college, or equivalent academic unit, and no more than one (1) member shall be from a single department in a departmentalized school or college. Members who have been elected to and have served a full three-year term are not eligible for re-election until two (2) years have elapsed. Members who are elected to a partial term are eligible for reelection.

(2) Nominations and Elections. Nominations for election to the committee shall be by the Nominations Committee and by the faculty in accordance with the regular procedures for elected faculty committees. Elections shall be conducted in the same manner as for other faculty committees.

(3) Chairperson

In the spring semester, the committee shall elect a chairperson for the following year from among its continuing members. The decision shall be communicated to the Secretary of the University by April 15. The duties of the new chairperson will commence on the first day of the fall semester, except that the new chairperson may serve over the summer by agreement of the committee in the event that the incumbent chairperson is unable to serve.

(4) Functions. Upon referral by the University Committee, pursuant to the provisions of s. UWS 6.01, Wis. Adm. Code, conducts fact-finding concerning allegations of misconduct, which may include alleged human rights violations, made against one or more faculty members or against a faculty body and makes recommendations to the Chancellor concerning disciplinary action or appropriate corrective non-disciplinary action. The Committee may consult informally with individuals concerning questions which may lead to allegations of misconduct prior to the filing of formal complaints with the University Committee.

(Document 1088, 4/20/78; UWM Administration approval, 4/26/78; Regent approval, 7/14/78)

(Document 1648, 1/26/89; UWM Administration approval, 2/11/89; Regent approval, 7/7/89)

(Document 1691, 12/21/89; UWM Administration approval, 2/8/90)

(5) Powers

- a) The committee may dismiss the complaint, or refer it to the department or other equivalent administrative unit, or to the faculty member for disposition if the committee does not judge the allegation to be serious enough to warrant its further action.
- b) Upon determination by the committee that misconduct of sufficient magnitude to warrant consideration of dismissal for cause might have occurred, the committee shall refer the matter without further consideration to the Chancellor.
- c) When the Chancellor has brought dismissal charges against a faculty member against whom a complaint has been filed under 5.23 above, the provisions of 5.21 through 5.29 supersede, and any proceedings under 5.40 through 5.46 shall be suspended immediately.

(Document 1433, 2/21/85; UWM Administration approval, 2/28/85)

(Document 1518, 11/20/86; UWM Administration approval, 11/24/86; Regent approval, 4/10/87)

5.45 Committee Procedures

(1) Notification

The committee shall examine all complaints to determine whether a prima facie case exists. When a written complaint is lodged with the committee, the faculty member involved shall be notified. If the committee decides on any action other than dismissal of the complaint, the faculty member concerned shall be informed at once.

(2) Legal Counsel

At the request of the committee the University shall provide it with legal counsel.

(3) Fair Hearing

Whenever it is decided to utilize formal fact-finding procedures, the concerned faculty member shall be assured of a fair hearing, including the right to present testimony or evidence in the faculty member's behalf, to cross-examine witnesses, and to be advised or supported by any person of the faculty member's choice. The departmental executive committee shall be consulted, and shall have an opportunity to present evidence through its

chairperson or other representative. The provisions for a fair hearing shall include:

- a) Service of notice of hearing with a specification of the complaint at least twenty (20) working days prior to the hearing.
- b) A right to the names of the parties bringing the complaints and of access to any documents which may be relevant to the complaint. Adjournments shall be granted to investigate evidence to which a valid claim of surprise is made.
- c) A right to be heard in his/her own defense by all bodies passing judgment.
- d) A right to counsel or other supporting individual and to offer witnesses.
- e) A right to confront and cross-examine witnesses against him/her.
- f) An audio recording shall be made of the hearing. A copy of the recording shall be made available without cost, upon request, to the concerned faculty member.

(Editorially revised, 08/25/15)

- g) The admissibility of evidence is governed by Wis. Stats. 227.45.
- h) A finding of misconduct must be based on a clear preponderance of the evidence.
- i) Findings of fact and recommendations based on the hearing record.
- j) The right to either a public or a closed hearing at the discretion of the faculty member concerned.
- k) The right to prompt consideration and deliberation by the committee.

(4) Findings

A finding of misconduct and recommendations for disciplinary action or a finding of no misconduct shall be reported only when at least five (5) members of the committee concur. When this condition is not met, no finding shall be reported. The vote shall be recorded in the minutes in any case. If a member is disqualified in a particular case, the University Committee shall name a replacement except when the disqualification occurs after the hearing has commenced.

(5) Transmittal of Findings

The committee shall transmit its findings and recommendations in writing to the Chancellor and the faculty member involved within ten (10) working days after the conclusion of its proceedings.

(6) Further Jeopardy Prohibited

Following the recommendations of the committee, the faculty member involved shall not be charged again for the same misconduct.

(Document 1518, 11/20/86; UWM Administration approval, 11/29/86; Regent approval, 4/10/87)

(Document 3145, 04/19/18, UWM Administration approval, 05/18/18)

5.46 Objection(s) and Decision

(1) Filing of Objections

Within ten (10) working days after receipt of the findings and recommendation of the committee, the faculty member or the complainant may file written objection(s) with the Chancellor.

(2) Objections Based on the Record

Any objection(s) must be based on the record as developed at the hearing before the committee.

(3) Chancellor's Decision

The Chancellor shall, as soon as practicable after the expiration of this 10-day period, render his/her decision and transmit such decision to the faculty member, the complainant and the committee.

5.47 Right of Appeal

The decision by the Chancellor on the committee recommendation or on the complaint in the absence of committee recommendation shall be final, except that the Board of Regents, at its option, may grant a review on the record.

5.48 Committee Reports to the Faculty

The committee shall report to the Senate at appropriate times, but at least annually.

5.50 Discontinuation of Probationary Faculty Employment for Reasons other than Cause or Individual Merit

Determinations to eliminate positions occupied by probationary faculty members that are based on programmatic or budgetary grounds constitute de facto personnel determinations of non-renewal. Such determinations may be made only if prior written notice has been given that such factors may be invoked in a subsequent reappointment or promotion review. Such determinations may be made by administrators or by departmental executive committees.

Determinations made by administrators require demonstration that they are warranted by extraordinary circumstances. Determinations made by departmental executive committees require demonstration of extraordinary circumstances only if the appointment of the affected probationary faculty member is in the year in which the initial tenure review must occur or in the year immediately preceding such mandatory review. The burden of proof for demonstrating that extraordinary circumstances exist shall rest with the faculty body or administrative officer invoking programmatic or budgetary considerations. In addition, in all such cases, advice must be sought from the appropriate faculty body before any determination is made. This faculty body is the Academic Planning Committee or equivalent of the school or college of the faculty member if the determination is made within that unit (cf. 2.03). If the action is taken at the campus level, the faculty body is the Academic Program and Curriculum Committee (Chapter 6, A1.2) and/or the Graduate Faculty Council, according to the role the position plays in undergraduate programs, graduate programs, or both.

- (1) The procedural rights of probationary faculty members are presumed to be equally applicable and inviolate under any financial, budgetary, and/or programmatic circumstances.
- (2) The provisions of 5.50-5.55 will apply only in cases affecting the reappointment, promotion or non-retention of probationary faculty members where budgetary or programmatic factors may be involved.

5.51 Notification

Each faculty member whose position is designated for elimination under 5.50 shall receive prompt written notification, which shall include at least the following:

- (1) A statement of the bases on which the individual position was selected for elimination, including criteria and supporting data and a description of what alternative actions were considered short of the non-retention of the faculty member, with the reasons that such alternatives were inappropriate.
- (2) A statement of the effective date of the proposed action.
- (3) A copy of 5.50-5.55 and such other information and/or procedural regulations as may be needed to comply with due process standards.

- (4) If applicable, a summary of the reasons and evidence supporting the declaration of extraordinary circumstances invoked in the determination to eliminate the position for programmatic and/or budgetary reasons.

5.52 Notification Period

Notice of the effective date referred to in 5.51(2) above must be in compliance with the notice periods as defined in 5.19. The effective date cannot occur before the end of the current term of appointment of the faculty member.

5.53 Reconsideration

Upon written notification of a determination for the elimination of a position occupied by a probationary faculty member, he/she may request a reconsideration. The faculty member must make such a request within twenty (20) working days of receipt of notification, and may present written statements and other data addressing the reasons, supporting data, and other issues included in the written notification.

Upon receipt of such request from the faculty member, the responsible faculty body or administrative officer making the determination to eliminate the position, having provided an opportunity for a conference with the faculty member involved, shall respond in writing within twenty (20) working days, addressing the issues and evidence presented by the faculty member, and shall state whether the original determination is to stand or is in some way to be changed.

5.54 Appeals: Faculty Appeals and Grievances Committee

At any time after notification to the faculty member of the intent to eliminate his/her position, but no later than twenty (20) working days after written notification of a determination to eliminate the position or, if reconsideration has been requested, no later than twenty (20) working days after notice that the reconsideration has affirmed the determination to eliminate the position, the faculty member may present an appeal to the University Committee for referral to the Faculty Appeals and Grievances Committee (Chapter 6, A2.3). The Faculty Appeals and Grievances Committee may recommend that any action affecting the faculty member be suspended pending a determination on the appeal.

- (1) The determination of the Faculty Appeals and Grievances Committee will be based on a Committee finding with respect to the criterion that extraordinary circumstances exist which warrant the elimination of the position, and/or with respect to an appeal by the faculty member concerned that improper factors were involved in the determination to eliminate the position. "Improper factors" in this section include:
 - a) Any of the "improper factors" as specified in 5.18(1) (except (c) (2)).
 - b) Available data bearing materially on the role of the faculty member in the institution were not considered.

- (2) The faculty member involved may present written evidence and data relevant to the case.
- (3) If the Faculty Appeals and Grievances Committee finds that the elimination of the position is not warranted, then its determination shall be that further action not to retain the faculty member under the provisions of 5.50 may not be taken.
- (4) If the Faculty Appeals and Grievances Committee finds that the elimination of the position is indeed warranted, then the procedural steps not to retain the faculty member may continue.
- (5) The Faculty Appeals and Grievances Committee shall communicate its findings and final determination in writing both to the faculty member concerned and to the faculty body or administrative officer making the original determinations.

5.55 If a position is eliminated for the reasons and following the procedures of 5.50-5.54, no person other than the person whose position has been eliminated shall be employed at this institution within three (3) years of the termination date of that position to perform duties reasonably comparable to those of the faculty member whose position has been eliminated and who has as a result been non-retained.

(Document 1321 revised, 5/7/85; UWM Administration approval, 6/6/85; Regent approval, 11/8/85)

5.60 Layoff and Termination for Reasons of Financial Emergency

Rules and procedures to be followed in a state of financial emergency are outlined in Wis. Adm. Code, UWS Chapter 5.

5.61 Seniority

Recommendations designating which individuals are to be laid off or terminated as a result of financial emergency are made by the executive committee of the affected department(s) under the provisions of Wis. Adm. Code, UWS 5.07 and 5.08. In the event of the declaration of a state of financial emergency the executive committee of each department or non-departmentalized school shall draw up a faculty seniority listing, with seniority determined as of the effective date of the declaration. For this purpose, seniority within a department or non-departmentalized school shall be determined according to the following criteria listed in order of decreasing seniority:

- (1) Tenured faculty by rank, beginning with professor, and within rank, according to length of service in the institution at that rank. If two or more individuals within the department or non-departmentalized school have identical seniority at that time, then the department executive committee shall give each a unique seniority placement based on projected program

needs at that time (e.g., the need to maintain diversity of specializations, preserve affirmative action, staff unique programs, etc.). Affected members of the executive committee shall not participate in any balloting that occurs. In the event this results in fewer than two members remaining, placement shall be made jointly with the appropriate dean. The executive committee may seek the advice of other groups or individuals in formulating its decision. Placement does not become official until approved by the appropriate dean.

- (2) Non-tenured faculty by rank, beginning with professor, and within rank according to length of service in the institution at that rank. If two or more individuals within the department or non-departmentalized school have identical seniority at that time, then the department executive committee shall give each a unique seniority placement based on projected program needs at that time (e.g., the need to maintain diversity of specializations, preserve affirmative action, staff unique programs, etc.). The executive committee may seek the advice of other groups or individuals in formulating its decision. Placement does not become official until approved by the appropriate dean.

(Document 1189, 2/21/80; UWM Administration approval, 2/27/80; Regent approval, 6/6/80)

(Document 1225, 11/20/80; UWM Administration approval; 12/1/80; Regent approval, 6/5/81)

(Document 1345, 4/21/83; UWM Administration approval, 5/3/83; Regent approval, 6/10/83)

(Editorially Revised, 3/12/09)

5.611 Computation of Length of Service

Length of service at the University of Wisconsin-Milwaukee shall be calculated from the first contractual day of service in the initial academic year semester following the faculty member's initial appointment to each rank, except that in the case of an initial appointment with tenure the dean may, on the recommendation of the departmental executive committee, grant additional seniority by counting all or a portion of service elsewhere at the rank granted. In such case, the letter of appointment shall indicate the terms of the seniority granted.

(Document 1226A, 11/20/81; UWM Administration approval, 12/2/80; Regent approval 6/5/81)

- (1) The period of an approved leave of absence is included in determining length of service.
- (2) If a faculty member is reappointed after having left the University, the reappointment shall be treated as an initial appointment and previous service in University considered on the same basis as service elsewhere as provided in 5.611.

5.62 Faculty Hearing Committee

In the event the Board declares a state of financial emergency, a faculty hearing committee shall be convened to serve for the duration of the emergency under the provisions of Wis. Adm. Code, UWS 5.11 through 5.13. Membership of this committee shall be constituted as follows:

- (1) The chairperson of each divisional executive committee.
- (2) One faculty member from each division appointed by the executive committee of that division; the term of appointment to be determined by such committee.
- (3) The chairperson of the University Committee.

5.63 Use of University Facilities by Faculty on Layoff Status

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.

(Documents 914 and 914A, 5/15/75 and 11/20/75; UWM Administration approval, 12/11/75; Regent approval, 3/76)

(Document 1021A, 5/12/77; UWM Administration approval, 6/6/77; Regent approval, 7/77)