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## TERMINATION OF A FACULTY MEMBER DURING TERM OF APPOINTMENT

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### A. Purpose

The purpose of this policy is to provide the reasons and procedures for termination of the employment of a faculty member who has been granted tenure and of all other faculty members before the expiration of the stated period of appointment, except for termination as provided in Rule 31007, Section 5 of the *Rules and Regulations* of the Board of Regents of The University of Texas System (*Rules and Regulations*), HOP ADM 6-505, Faculty Tenure and Promotion, or Texas Education Code Section 51.943, or by resignation or retirement.

### B. Persons Affected

This policy applies to faculty of The University of Texas Rio Grande Valley (UTRGV).

### C. Policy

Termination by UTRGV of the employment of a faculty member who has been granted tenure and of all other faculty members before the expiration of the stated period of appointment, except as is otherwise provided for in Rule 31007, Section 5 of the *Rules and Regulations*, HOP ADM 6-505, Faculty Tenure and Promotion, and Texas Education Code Section 51.943, or by resignation or retirement, will be only for good cause shown. In each case the issue of good cause will be determined according to the equitable procedures provided in this policy and in accordance with Rule 31008 of the *Rules and Regulations*, Termination of a Faculty Member.

### D. Procedures

#### 1. *Review of Allegation:*

The President shall assure that all allegations against a faculty member that involve the potential for termination are reviewed under the direction of the appropriate Executive Vice President (EVP) unless another officer is designated by the President. The faculty member who is the subject of the allegations shall be given an opportunity to be interviewed and shall have the right to present a grievance, written or verbal, in person or through a representative, to the appropriate EVP on an issue or subject related to the allegations under review. The appropriate EVP, or another individual designated by the President if the allegations pertain to the appropriate EVP, shall take the grievance, if any, into consideration prior to making a determination whether the allegations are supported by evidence that justifies the initiation of termination procedures. Upon making that determination, the appropriate EVP or other appropriate designee will recommend to the President whether to proceed with charges for termination. Failure to present a grievance to the appropriate EVP or other appropriate designee prior to his or her recommendation shall not preclude the faculty member from presenting an issue or subject to the special hearing tribunal in defense of charges for termination that may result from the review. A tenured faculty member who is recommended

for termination on the basis of periodic evaluation must be given the opportunity for referral of the matter to nonbinding alternative dispute resolution, as required by Texas Education Code 51.942 and in compliance with applicable policies and procedures for alternative dispute resolution within The University of Texas System and UTRGV, prior to referral of the charges to a hearing tribunal.

2. *Response to Allegations:*

If the President determines that the allegations are supported by evidence that justifies the initiation of termination procedures, the President will meet with the faculty member, explain the allegations and supporting evidence, and give the faculty member a reasonable amount of time, as determined by the President, to respond either orally or in writing.

- a. The President may in the best interest of UTRGV suspend an accused faculty member with pay pending the completion of the hearing and a final decision as hereinafter provided.
- b. In cases of incompetence or gross immorality where the facts are admitted, or in cases of felony conviction, the hearing process in this policy does not apply and summary dismissal will follow.

3. *Hearing Tribunal:*

In cases where other offenses are charged, and in all cases where the facts are in dispute, the accused faculty member will be informed in writing of the charges. The charges will be heard by a special hearing tribunal comprised of at least three tenured faculty members whose academic rank is at least equal to that of the accused faculty member. The hearing tribunal members shall be appointed by the President from a standing pool of members of the faculty. At least fifty percent of the standing pool members shall be selected by a procedure established by the Faculty Senate; the remaining standing pool members shall be selected by the President. A minimum of one member of a hearing tribunal appointed by the President is to be from among panel members selected by the Faculty Senate.

- a. The accused faculty member will be notified of the names of the faculty members selected for the hearing tribunal, and the date, time and place for the hearing. Notice of such shall be provided at least eight business days prior to the hearing.
- b. In every such hearing the accused will have the right to appear in person and by counsel of choice and to confront and cross-examine witnesses who may appear. If counsel represents the accused faculty member, UTRGV is entitled to be represented by counsel from The University of Texas System Office of General Counsel.
- c. The accused faculty member shall have the right to testify, but may not be required to do so and may introduce on his or her behalf all evidence, written or oral, that may be relevant or material to the charges.

- d. A stenographic or electronic record of the proceedings will be taken and filed with the UT System Board of Regents, and such record shall be made accessible to the accused.
  - e. A representative of UTRGV may appear before the hearing tribunal to present witnesses and evidence in support of the charge against such faculty member, and such representative shall have the right to cross-examine the accused faculty member (if the faculty member testifies) and the witnesses offered on behalf of the faculty member. UTRGV has the burden to prove good cause for termination by the greater weight of the credible evidence.
  - f. The hearing tribunal shall not include any accuser of the faculty member. If the accused faculty member is not satisfied with the fairness or objectivity of any member or members of the hearing tribunal, he or she may challenge the alleged lack of fairness or objectivity, but any such challenge must be made in writing to the hearing tribunal at least three business days prior to the date for the hearing. The accused faculty member shall have no right to disqualify any member or members from serving on the tribunal. It shall be up to each such challenged member to determine whether he or she can serve with fairness and objectivity in the matter. In the event of voluntary disqualification, the President shall appoint a substitute member of the tribunal from the panel described in D.3.
  - g. The hearing tribunal, by a majority of the total membership, will make written findings on the material facts and will make a recommendation of the continuance or termination of the accused faculty member's employment. The hearing tribunal, by a majority of its total membership, may make any supplementary suggestions it deems proper concerning the disposal of the case. The original copy of such findings and the recommendation, with any supplementary suggestions, shall be delivered to the President with a copy thereof to the faculty member. If minority findings, recommendations, or suggestions are made, they shall be similarly treated. The original transcript of the testimony and the exhibits shall also be forwarded to the President.
4. *President's Report:*

Within fourteen business days after receipt of the findings and recommendations of the hearing tribunal, the President shall make one of the following decisions based solely on the evidence of record in the proceedings and report that decision in writing to the accused faculty member:

- a. The President may decide to dismiss the matter or impose sanctions short of termination. In this case, the President's decision is final and the UT System Board of Regents will not review the matter.
- b. If the allegations are supported by evidence that constitutes good cause for termination, the President may decide to recommend termination to the UT System Board of Regents. If so, the President shall forward the findings and recommendations of the hearing tribunal, the original transcript of the testimony and the exhibits to the UT System Board

of Regents for its review, along with the President's report. If the President's recommendation is not the same as the majority recommendation of the hearing tribunal, the President shall state the reasons for the President's decision to recommend termination in his or her report. The accused faculty member may, within seven business days after receiving the President's report, submit a written response to the UT System Board of Regents. The response must be based solely on the evidence of record in the proceeding.

5. *UT System Board of Regents:*

The UT System Board of Regents, by a majority of the total membership, will approve, reject, or amend such findings, recommendations, and suggestions, if any, or will recommit the report to the same tribunal for hearing additional evidence and reconsidering its findings, recommendations, and suggestions, if any. Reasons for approval, rejection, or amendment of such findings, recommendations, or suggestions will be stated in writing and communicated to the accused.

**E. Definitions**

1. *Business days* - Weekdays during which normal UTRGV business is conducted. This excludes weekends, holidays, and days on which UTRGV is closed except for essential services (skeleton days).
2. *College* – An academic unit organized within the university, which is usually comprised of many departments or provides programs in multiple academic specialties/professional instruction. This academic unit may be referred to as a college or school, and is led by a dean reporting to a designated EVP.
3. *Department* – An academic unit organized within a college, usually devoted to a particular academic discipline. This academic unit may be referred to as a department, school, or center, and the unit's head (usually a chair or director) reports to the dean of the college.
4. *Faculty member* - Any individual holding an academic title listed in Rule 31001, Section 2 of the *Rules and Regulations*.
5. *Tenure*- A status of continuing appointment as a member of the faculty at UTRGV.
6. *Tenure Titles* - Except for the titles Regental Professor and Regent's Research Scholar, the only titles to be used henceforth in which faculty members may hold tenure are as follows: (a) Professor; (b) Associate Professor; and Assistant Professor.

**F. Related Statutes or Regulations, Rules, Policies, or Standards**

UTRGV HOP ADM 6-505 Faculty Tenure and Promotion

Texas Education Code Section 51.942, Performance Evaluation of Tenured Faculty

Texas Education Code Section 51.943, Employment Contracts

[University of Texas System Board of Regents' Rules and Regulations Rule 31008](#), Termination of a Faculty Member

[University of Texas System Board of Regents' Rules and Regulation, Rule 31007](#), Tenure

**G. Dates Reviewed or Amended**

Amended on July 15, 2019