

## **12.0 Academic Administration Personnel Policies**

### **12.1 Evaluation of Academic Administrators**

All academic administrators will be evaluated annually. For this policy, academic administrators are the deans, the assistant dean, and the Vice Chancellor of Academic Affairs. Each evaluation will be conducted by the individual's immediate supervisor and will be based upon the particular responsibilities of the administrative assignment.

In all cases, reports from individuals who are supervised by the administrator being evaluated will be included in the review.

### **12.2 Recall of Academic Administrators**

Many academic administrators hold faculty rank and, in most instances, tenure. It is understood that no academic administrator holds tenure as an administrator; only as a faculty member does an administrator hold tenure.

Any administrator has the prerogative of initiating the replacement or recall of any subordinate administrator.

Any administrator or faculty member may petition an appropriate superior administrator for the replacement or recall of any other superior administrator.

A dean or a department head is in a unique administrative position in that he or she is selected by and is responsible to both a departmental faculty and other University administrators. Therefore, it is appropriate that the faculty should have access to a process for the recall of that chair/head.

Faculty members may petition the Vice Chancellor of Academic Affairs for the replacement or recall of their dean or department head. The dean has the option of trying to resolve the problems stated in the petition by meeting with the dean or department head and the involved faculty members. If the problems cannot be resolved and if, in the judgment of the dean, the concerns expressed in the petition are serious enough to warrant investigation, the dean will initiate an inquiry. The dean, department Head and all departmental faculty shall be informed of the petition and of the inquiry. After completion of the inquiry, the dean shall inform the dean or the department head, the departmental faculty and the chancellor of the findings and recommendations.

Final determination regarding the recall of any administrator rests with the chancellor. A recalled administrator may be reassigned duties for the remainder of his or her appointment term.

### **12.3 Retreat Rights of Administrators**

Any tenured faculty member who assumes an administrative position or a professional staff position has the right to return to the department of one's academic discipline whether or not a position is open. However, the service of that individual may be utilized outside the department through other assignments. In such a case that individual may be assigned other duties such as teaching, research, service and/or administrative responsibilities depending upon the needs of the University and the expertise of the faculty member, but his or her tenured status shall not be affected despite such assignments.

An administrator who has the academic credentials for faculty rank but who has not been awarded tenure or who has not gone through the selection process for departmental faculty does not have the right to assume a faculty position in a department unless the individual is endorsed by the departmental faculty and by the appropriate academic administrators.

#### **12.4 Absences of Department Heads, Deans and Deans**

When it is necessary for a dean or department head to be absent, he or she should notify the Vice Chancellor of Academic Affairs of the circumstances concerning the absence and the arrangements that have been made for the operations of the department.

The Vice Chancellor of Academic Affairs and the assistant dean are expected to notify the chancellor when it is necessary to be absent.

#### **12.5 Administrative Leave**

The Vice Chancellor of Academic Affairs, the assistant dean and the members of the administrative council are eligible to apply for administrative leaves. Applications must be made to the chancellor prior to November 1 of the year preceding the beginning of the period for which the leave is requested.

Administrative leave may be requested for any time in the year but ordinarily would be requested during the summer months, from mid-May to mid-August.

Initial eligibility for requesting an administrative leave is established upon completion of not less than three full calendar years of service with the University in an eligible administrative position, beginning with the effective date of appointment to the eligible administrative position and extending to the opening day of the proposed leave period.

The initial leave consists of not more than sixty consecutive days and is inclusive of regularly scheduled holidays and the annual vacation period for that year. The initial administrative leave, therefore, consists of not more than thirty calendar days of "leave" consecutively scheduled with thirty days of annual vacation time.

Eligible administrators may elect to request subsequent administrative leaves according to these options:

**Option 1:** For the third summer following the last leave taken, an administrative leave consisting of not more than sixty consecutive days inclusive of regularly scheduled holidays and the annual thirty-day vacation period for that year.

**Option 2:** For the fourth summer following the last leave taken, an administrative leave consisting of not more than ninety consecutive days inclusive of regularly scheduled holidays and the annual thirty-day vacation period for that year.

The administrative leave is not an automatic right; it must be applied for by the administrator. If the project the administrator wishes to pursue is approved, then he or she would be granted the administrative leave in accordance with the terms of the request. It is understood that the project must be something beneficial both to the person and to the University. Primarily the project would be for research or study in one's own academic or administrative field and may include travel if related to the research or study. Proposals to obtain an advanced degree would not be approved. A board of review will study the

proposed projects and advise the chancellor. The chancellor has sole discretion in approving or disapproving all applications for administrative leave.

The chancellor's decision to approve or disapprove the application will be guided by the recommendation of the board of review and by the chancellor's assessment of the ability of Missouri State University-West Plains to maintain its level of efficiency in the operation of functions for which the administrator is responsible.

When a change in salary status occurs for the administrator during the period of approved leave, the administrator will receive the benefit of leave pay commencing at the new rate on the day of the increase the same as if the leave had not been granted. Changes in salary will not be affected by administrative leave.

A requirement of the administrative leave is that the applicant commits himself to return to employment with Missouri State University-West Plains for a period of not less than one calendar year from the last day of the leave period. Following the administrative leave, the administrator will submit to the chancellor within thirty days a report of the activities of his or her leave.

## **12.6 Sabbatical Leave for Administrators**

An administrator covered by this leave policy and who is a member of the ranked faculty may choose not to apply for an administrative leave in favor of applying for a sabbatical leave. If he or she chooses to apply for a sabbatical leave, all policies and procedures established for sabbatical leaves shall apply, as described in section 7.2.1. A nine-month equivalent salary will be used for calculating salary during the leave period.

## **13.0 Academic Personnel Grievance Process (APGP)**

### **13.1 Grievance**

Where it is alleged that there has been a failure to follow procedures set forth in the Faculty Handbook, that constitutional rights, statutory rights or academic freedom have been abridged or that a sustained pattern of unfair treatment or a significant arbitrary and capricious action has occurred, a faculty member has a right to file a written grievance with the office of Academic Affairs who will then forward the written grievance to the Academic Personnel Review Commission (APRC).

A grievance based on discrimination or harassment based on protected status does not follow the procedure outlined in the remaining sections but instead must be submitted to the Title IX Office (in case of grievances based on sex, including marital status, family status, pregnancy, sexual orientation, and gender identify/expression, or the Office for Institutional Equity and Compliance (in the case of grievances based on race, age, religion, disability, or veteran's status). A grievance based on evaluation ratings/rankings or tenure and/or promotion recommendations must follow the procedures established in Section 4.4.4.

#### **13.1.1 Actions Prior to Initiating a Grievance**

Prior to invoking the Academic Personnel Grievance Process (APGP), the faculty member should demonstrate a reasonable attempt to resolve the dispute by him/herself. The use of mediators or alternative dispute resolution should be considered. The Vice Chancellor of Academic Affairs should be involved in the resolution attempts.

#### **13.1.2 Retaliation Prohibited**

In no way shall an employee's status with the university be adversely affected because he or she utilizes these procedures.

### **13.2 Academic Personnel Review Commission (APRC)**

The Academic Personnel Review Commission (APRC) shall serve as a neutral body to determine if a faculty member has made a prima facie case so that a grievance may proceed to the Faculty Hearing Panel (FHP) utilizing the APGP. The APCR may facilitate informal resolution of campus-related grievances and the APCR has authority to grant time extensions and determine whether procedures set forth in the Faculty Handbook have been violated. The APCR is responsible for empaneling a FHP and may dismiss a member or reconstitute a FHP when necessary to ensure fairness and due process. Decisions made by the APCR must be supported by a majority of the commissioners.

#### **13.2.1 APCR Composition**

The APCR shall be composed of three commissioners who serve 3-year staggered terms. One commissioner shall be appointed by the Vice Chancellor of Academic Affairs and shall be a tenured, ranked faculty member. One commissioner shall be selected by the Executive Committee of the Faculty Senate and shall be a tenured, ranked faculty member. The third commissioner shall be a tenured, ranked faculty member appointed by joint agreement of the Vice Chancellor of Academic Affairs and the Faculty Senate. The three APCR members shall elect their own chairperson.

Commissioners may be reappointed. They shall be afforded such relief from their other responsibilities as will enable them to discharge their duties as specified in the Faculty Handbook.

### **13.2.2 Recusal of Commissioner**

A commissioner shall recuse himself/herself if the commissioner had a decision-making role in the actions complained of or if the commissioner is a party against whom a grievance is brought or in other situations that could involve bias. A faculty member or administrator may request that a commissioner be recused from a specific case by petitioning the body that appointed the commissioner. The request should contain a compelling rationale for the recusal. A commissioner may recuse himself/herself for reasons of illness or other good causes. If an APRC commissioner is recused on a single case, a commissioner pro tem may be appointed to serve on this case; a faculty member commissioner shall be replaced with a faculty member chosen by the Faculty Senate and an academic administrator commissioner shall be replaced with an academic administrator selected by the Vice Chancellor of Academic Affairs.

### **13.2.3 APRC Annual Report to Faculty Senate**

The APRC shall make an annual report to Faculty Senate during the first fall meeting, specifying the total number of cases filed in the previous 12 months, the types of cases (e.g., termination of employment, denial of academic freedom of speech, etc.), whether or not there was a prima facie case and whether the grievance was resolved.

### **13.2.4 Confidentiality**

All commissioners shall maintain confidentiality throughout the APGP process. Commissioners may state whether there was a prima facie case and whether or not the grievance has been resolved and in whose favor, but should not discuss the details of the case with individuals who are not directly involved in the grievance or its resolution.

### **13.2.5 Determination of Prima Facie Case**

The APRC shall first decide whether the grievance establishes a prima facie case after receipt of the written grievance from the office of academic affairs. In making this determination, the APRC may interview the faculty member and other parties. Every effort should be made to determine whether a prima facie case exists within 14 days of such filing. If the APRC decides that there is no prima facie case and therefore there is an insufficient basis for the grievance, the APRC shall provide written notification to the faculty member. The faculty member may appeal to the chancellor, who will review the case. If the chancellor upholds the determination of no prima facie case, the grievance process is exhausted and the case is resolved.

### **13.2.6 Notification To Parties Involved**

If the APRC or the chancellor decides that the grievance establishes a prima facie case, the APRC shall provide written notification to the faculty member and the parties against whom the grievance was filed and provide them and the Vice Chancellor of Academic Affairs with a written copy of the grievance. The named

parties against whom the grievance is brought shall file written responses with supporting documentation at the office of academic affairs within 14 days.

### **13.2.7 Attempt To Resolve Case**

If the grievance is deemed to establish a prima facie case, the APRC shall meet one or more times with the faculty member and parties charged, separately or together, at the discretion of the APRC chairperson. The APRC shall attempt to resolve the dispute within 30 days, but may extend the time at its discretion if expedient to resolution. An internal or external mediator may be used if all parties agree as to the usefulness of that process. The University shall pay the cost to employ a mediator. If the parties reach a resolution through mediation, the case is resolved.

### **13.2.8 APRC Recommendations**

If the parties fail to reach a resolution, the APRC shall produce a report divided into findings of fact and recommendations with supporting reasons. This report is given to the faculty member and the party against whom the grievance has been alleged. The faculty member and APRC should be informed in writing within 7 days whether the party against whom the grievance has been alleged agrees to the recommendations. If the parties agree with the recommendations of the APRC, the case is resolved.

### **13.2.9 Right to Initiate Formal Review Process**

If the case is not resolved after the APRC report has been disseminated, the faculty member may initiate the formal review process for APGP by filing written notification with the APRC in the office of academic affairs and sending a copy to the chancellor. The notification must be filed within 14 days of the receipt of the APRC report or conclusion of mediation.

## **13.3 Formal Review (APGP)**

Within 21 days of receiving the faculty member's written notification, the APRC shall empanel a FHC to conduct a hearing.

### **13.3.1 Composition of Faculty Hearing Committee and Panel**

#### **13.3.1.1 Faculty Hearing Committee (FHC)**

All tenured, ranked faculty members serve on the Faculty Hearing Committee (FHC).

#### **13.3.1.2 Faculty Hearing Panel (FHP)**

The FHC will select five (5) of its members, including one representative from each division, to serve as a Faculty Hearing Panel (FHP). Faculty members cannot serve concurrently on both the APRC and the FHP.

Replacements, when necessary, shall be appointed by the Faculty Senate Executive Committee.

The faculty member and the administrator may request to replace up to two (2) of the selected panelists prior to the first meeting of the FHP.

An orientation of the FHP shall be conducted by the APRC and General Counsel when empaneled.

FHP decisions must be supported by a majority of the panelists.

### **13.3.2 Documentary Evidence**

All filings and all evidence collected by the APRC during its review shall be forwarded to the FHP for review. The administrator and faculty member may present any other written evidence to the FHP and supplement their filings. All such material shall also be presented to the other party.

### **13.3.3 Pre-Hearing Meetings**

At the first FHP meeting, the FHP shall select a chairperson, review the written material and review the procedures for conducting the hearing. The chairperson of the APRC shall attend this meeting. The FHP may also hold joint prehearing meetings with the parties in order to understand the basic underlying facts, simplify the issues, effect stipulations of fact, provide for the exchange of information or to achieve other prehearing objectives as will make the hearing fair, effective and expeditious. The FHP may not interview witnesses at any pre-hearing meetings. Any additional written material submitted to or requested by the FHP will be shared with the parties.

### **13.3.4 Hearings**

The formal hearing may involve one or more meetings at which witnesses may be examined. Each party shall provide the names of its witnesses to the other party and the FHP in advance of the hearing. The administration and the faculty member will each be allowed to present an opening statement without interruption and orally question the witnesses and parties. The FHP may also orally question the witnesses and parties. The administration and the faculty member may be represented by counsel, but counsel shall not be permitted to question the witnesses or parties. If the University is the only respondent, the chancellor will designate a representative who will be allowed to present an opening statement and question the witnesses and parties. The Missouri Rules of Evidence need not be followed, but the FHP will base its finding on only reliable evidence. A verbatim record of the hearing will be taken and made available to the parties at the University's cost.

### **13.3.5 Burden of Proof**

The faculty member must prove his or her case against the administration by a preponderance of the evidence.

### **13.3.6 Report**

The FHP shall prepare a written report divided into findings of fact and recommendations with supporting reasons which shall be presented to the Vice Chancellor of Academic Affairs and the faculty member within 7 days of the conclusion of the hearing. A minority report may also be prepared.

### **13.3.7 Time Period**

The time between the empaneling of the FHP and the preparation of the FHP report shall be no longer than 60 days unless there are exceptional circumstances. Extensions must be approved by the APRC.

#### **13.4 Post-Hearing Procedure**

##### **13.4.1 Vice Chancellor of Academic Affairs Review**

The Vice Chancellor of Academic Affairs shall accept the FHP findings of fact but is not required to accept the FHP recommendations of remedies. If the Vice Chancellor of Academic Affairs determines that different remedies other than those recommended by the FHP should be initiated, said remedies shall be set forth in writing and presented to the faculty member within 14 days of the date of the FHP report. If the Vice Chancellor of Academic Affairs is a party to the dispute, the chancellor will fulfill this function.

##### **13.4.2 Appeal Rights**

If the remedies recommended by the FHP are not implemented by the Vice Chancellor of Academic Affairs, the faculty member may prepare a written appeal to the chancellor within 14 days of receiving the decision of the Vice Chancellor of Academic Affairs. The chancellor will rule on the appeal within 30 days of its receipt and notify the faculty member of the results in writing.

##### **13.4.3 Right of Appeal to the Board of Governors**

When the FHP, Vice Chancellor of Academic Affairs and chancellor do not agree on the implementation of remedies, the faculty member shall have the right to appeal to the Board of Governors. The appeal must be filed within 14 days of the receipt of written notification regarding implementation of remedies from the chancellor.

##### **13.4.4 Information Provided to the Board of Governors**

The Board of Governors reviews the case, including all documentation, written findings and recommendations. The following reports must be forwarded to the Board of Governors for review:

1. Comments and Recommendations of the APRC
2. Findings of Fact and Recommendations of the FHP and
3. Recommendations of the Vice Chancellor of Academic Affairs and chancellor.

##### **13.4.5 Board of Governors is Final Authority**

The Board of Governors has discretion regarding hearings, presentations and review. The decision of the Board of Governors shall be final.

#### **13.5 Miscellaneous**

##### **13.5.1 APRC Authority**

The APRC shall be available to advise the FHP on procedural issues, to ensure that the APGP process is followed and to ensure that the parties receive due process. The FHP may receive legal advice from the office of general counsel.



### **13.5.2 Confidentiality**

To the extent practical, the work of the APGP shall be confidential. All proceedings of the FHP shall be conducted in private and the FHP report shall be available only to the parties.

## **14.0 Professional Practices Review Process (PPRP); Academic Personnel Grievance Policies**

### **14.1 Overview**

This section describes the Professional Practices Review Process (PPRP), the formal process for reviewing allegations of a faculty member's misconduct or unprofessional behavior, and the range of sanctions, up to and including dismissal, that may be imposed. Allegations of sexual harassment against a faculty member that meet both the definitional and jurisdictional of Title IX are not subject to the PPRP; rather, they are subject to the grievance procedure set forth in Op1.02-11 Title IX Sexual Harassment Grievance Procedure Policy. Processes to review grievances by faculty against administrators are described in Section 13.0. In all cases, efforts to reach a resolution should be made through informal negotiations, and the formal proceedings described here should only commence once those efforts have been exhausted.

### **14.2 Administrative Actions**

Prior to invoking the Professional Practices Review Procedure (PPRP), the administrator(s) should demonstrate reasonable attempts to resolve the complaint about the faculty member through informal negotiation. This could include counseling, career development activities, self-improvement workshops or conferences or mutually agreed upon periodic review and assessment periods. The use of mediators or alternative dispute resolution could also be considered, and the University will pay for the cost of the mediator. The Vice Chancellor of Academic Affairs should be involved in the resolution attempts.

A major sanction on a faculty member may be imposed only after the formal review process set forth in the Professional Practices Review Process (PPRP) has occurred or after consent of the faculty member is obtained. The PPRP process must be used regardless of whether sanctions are being considered for a single faculty member or a group of faculty members. If multiple faculty members are involved, a separate PPRP must be used for each individual faculty member unless all parties agree that one PPRP be conducted.

The imposition of minor sanctions may occur without use of the PPRP; however, a faculty member may utilize the Academic Personnel Grievance Process (section 13.0) to grieve the imposition of a minor sanction.

#### **14.2.1 Major Sanctions**

Major sanctions are adverse employment actions and include such things as dismissal, revocation of tenure, demotion of rank, involuntary reassignment to duties which substantially change the nature of the faculty member's responsibilities and suspension of employment without pay. Dismissal of a faculty member may only occur if the statutory reasons set forth in RSMo Section 174.150 are established (incompetence, neglect or refusal to perform duties, dishonesty, drunkenness or immoral conduct). Reassignment which occurs pursuant to Section 14.1.3 is not a University sanction.

#### **14.2.2 Minor Sanctions**

Minor sanctions are less serious actions and include such things as formal warnings, letters of reprimand and requests for formal written apologies. If the administration believes that the conduct of a faculty member justifies imposition of a minor sanction, it will notify the faculty member of the basis of the proposed sanction and provide the faculty member with an opportunity to persuade the administration that the proposed

minor sanction should not be imposed. A faculty member who believes that a major sanction has been imposed under this section or that a minor sanction has been unjustly imposed, may file a grievance with the APRC (section 13.0).

### **14.2.3 Reassignments**

A faculty member may be removed from classroom teaching or reassigned to other campus duties by the Vice Chancellor of Academic Affairs if he/she consents to the reassignment. Reassignment may be offered to a faculty member as an alternative remedy as part of the PPRP. A memorandum of understanding (MOU) regarding the reassignment shall be drafted by the Vice Chancellor of Academic Affairs and faculty member. The faculty member will have up to five business days to sign the MOU. Refusal to consent to a reassignment may not, in itself, be used as a condition or basis for sanctioning a faculty member.

A faculty member may be temporarily reassigned by the chancellor without his/her consent in exceptional circumstances for the good of the University for up to one academic year. The existence of the exceptional circumstances must be verified by the department head, dean and Vice Chancellor of Academic Affairs.

A faculty member who believes he/she has been removed from the classroom teaching or reassigned improperly and who is not involved in the PPRP, may file a grievance with the APRC (section 13.0).

### **14.2.4 Imminent Threat**

If a faculty member poses an imminent threat, major sanctions can be imposed before the internal University Informal and Formal Review processes have been initiated.

If there is probable cause to believe that the actions of a faculty member pose an imminent threat to the safety of a member of the University community or if the faculty member has threatened destruction of University property and there is probable cause to believe the threat will be carried out, the Vice Chancellor of Academic Affairs or chancellor has the authority to suspend the faculty member from his/her teaching or other assignments and/or ban the faculty member from using University property or services.

If a major sanction is imposed based on an imminent threat, the faculty member may initiate the Academic Personnel Grievance Process (section 13.0).

## **14.3 Origin of Allegations**

### **14.3.1 Allegations of Unprofessional Conduct**

The PPRP is initiated by a department head, dean, dean, chancellor or president if the conduct of a faculty member is considered sufficiently grave to justify imposition of major sanctions. After discussing the situation with the faculty member, the administrator institutes the PPRP by preparing a written complaint and providing it to the faculty member. Only the chancellor may institute the PPRP if a dismissal is a recommended sanction.

Exercising academic freedom of speech or political speech/ affiliation shall not be grounds for dismissal or imposition of major sanctions.

Although the PPRP may be initiated only by administrators, faculty or staff may present allegations of unprofessional conduct against another faculty member to the faculty member's department head who should investigate and proceed appropriately. If the department head is unable to resolve the complaint, the person alleging the impropriety may take the matter to the dean or the Vice Chancellor of Academic Affairs. If none of the three administrators chooses to initiate the PPRP, the matter is considered resolved.

#### **14.4 The Professional Practices Review Process**

##### **14.4.1 Informal Review**

Continued attempts for resolution can occur after a written complaint has been filed to initiate the PPRP. If the faculty member and administration can come to an agreement resolving the issues, the PPRP shall be rescinded.

##### **14.4.2 Formal Review**

If a mutually agreeable resolution of the dispute has not been reached through informal review, the formal review process may be instituted by the Vice Chancellor of Academic Affairs or chancellor through written notification of the faculty member and the Academic Personnel Review Commission (APRC). Within 21 days, the APRC shall empanel a Faculty Hearing Panel (FHP) as set forth in Section 13.3.1.2. The APRC shall be available to advise the FHP on procedural issues, to ensure that the PPRP process is followed and to ensure that the faculty member receives due process before sanctions are imposed. The FHP may receive legal advice from the office of general counsel. A faculty member can be removed from classroom teaching and/or reassigned to other campus duties while the PPRP process is proceeding if at least two of the following three administrators agree (department head/designee, dean and Vice Chancellor of Academic Affairs). The faculty member shall continue to receive his/her salary throughout the process and it shall not be reduced because of the reassignment.

##### **14.4.3 Documentary Evidence**

The formal charges and all evidence utilized during the informal review shall be forwarded to the FHP for review.

The administration and faculty member may present any other written evidence to the FHP, which shall also be presented to the other party.

##### **14.4.4 Prehearing Meetings**

At the first FHP meeting, the FHP shall select a chairperson, review the written material and review the procedures for conducting the hearing. The chairperson of the APRC shall attend this meeting. The FHP may also hold joint prehearing meetings with the parties in order to understand the simple underlying facts, simplify the issues, effect stipulations of fact, provide for the exchange of information or to achieve other prehearing objectives as will make the hearing fair, effective and expeditious. The FHP may not interview witnesses at any prehearing meetings. Any

additional written material submitted to or requested by the FHP will be shared with the parties.

#### **14.4.5 Hearing**

The formal hearing may involve one or more meetings at which witnesses may be examined. Each party shall provide the names of its witnesses to the other party and the FHP in advance of the hearing. The administrator initiating the PPRP and the faculty member will each be allowed to present an opening statement without interruption and orally question the witnesses and parties. The FHP may also orally question the witnesses and parties. The administrator and the faculty member may be represented by counsel, but counsel shall not be permitted to question the witnesses or parties. The Missouri Rules of Evidence need not be followed, but the FHP will base its finding on only reliable evidence. A verbatim record of the hearing will be taken and made available to the parties at the University's cost.

#### **14.4.6 Burden of Proof**

The administration must prove its case against the faculty member by a preponderance of the evidence.

#### **14.4.7 Confidentiality**

To the extent practical, the informal and formal PPRP shall be confidential. All proceedings of the FHP shall be conducted in private and the FHP report shall be available only to the parties to the grievance, those involved in the process and those acting on any appeal.

#### **14.4.8 Report**

The FHP shall prepare a written report divided into findings of fact and recommendations with supporting reasons which shall be presented to the Vice Chancellor of Academic Affairs and the faculty member within 7 days of the conclusion of the hearing. A minority report also may be prepared.

#### **14.4.9 Time Period**

The time between the empaneling of the FHP and the preparation of the FHP report shall be no longer than 60 days unless there are exceptional circumstances. Extensions must be approved by the APRC.

### **14.5 Post-Hearing Procedure**

#### **14.5.1 Vice Chancellor of Academic Affairs Review**

The Vice Chancellor of Academic Affairs shall accept the FHP findings of fact, but is not required to accept the FHP recommendations or sanctions. If the Vice Chancellor of Academic Affairs imposes different sanctions on a faculty member than recommended by the FHP, said sanctions shall be set forth in writing and presented to the faculty member within 14 days of the date of the FHP report. If the Vice Chancellor of Academic Affairs is a party to the dispute, the chancellor will fulfill this function.

#### **14.5.2 Appeal Rights**

If major sanctions are imposed by the Vice Chancellor of Academic Affairs on a faculty member, the faculty member may prepare a written appeal to the chancellor within 14 days of receiving the decision of the Vice Chancellor of Academic Affairs. The chancellor will rule on the appeal within 30 days of its receipt and notify the faculty member of the results in writing.

#### **14.5.3 Right to Appeal to the Board of Governors**

When the FHP, Vice Chancellor of Academic Affairs and chancellor do not agree on the sanctions, the faculty member shall have the right to appeal to the Board of Governors. If the sanction is dismissal, the decision may always be appealed to the Board of Governors. The appeal must be filed within 14 days of the receipt of written notification regarding implementation of sanctions from the chancellor.

#### **14.5.4 Information Provided to the Board of Governors**

The Board of Governors reviews the case, including all documentation, written findings and recommendations. The following reports must be forwarded to the Board of Governors for review:

1. Comments and Recommendations of the APRC
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3. Recommendations of the Vice Chancellor of Academic Affairs and chancellor.

#### **14.5.5 Board of Governors is Final Authority**

## **15.0 Separation from Employment**

### **15.1 Resignation**

Faculty members may terminate their appointments effective at the end of an academic year, provided that they give notice in writing at the earliest possible opportunity, but no later than May 15 or thirty days after receiving notification of the terms of appointment for the coming year, whichever date occurs later. Faculty members may properly request a waiver of this requirement of notice in case of hardship or in a situation where they would otherwise be denied substantial professional advancement or other opportunity.

### **15.2 Retirement**

The University complies with the Age Discrimination and Employment Act. Amendments to this federal law have removed mandatory retirement based on age.

Generally, there are two times during an academic year when faculty members can retire: (a) at the end of the spring semester, or (b) at the end of the fall semester. Academic administrators (i.e., deans, department heads, academic program directors, etc.) are on 12-month appointments which generally end each June 30th. Such administrators who decide to retire usually retire at the end of the 12-month appointment period, i.e., July 1st. However, there are other retirement date possibilities for academic administrators, and they should contact the Office of Human Resources as soon as possible after deciding to retire so that relevant information about retirement dates can be explained and discussed. Because academic administrators earn vacation and paid sick leave while serving in their 12-month positions, the procedures described for university employees governing payment of vacation and sick leave at retirement apply to academic administrators with some modifications. (Revised August 2023)

Please see the Human Resources (HR) web site and/or contact a representative from Human Resources for detailed information on the retirement process.

#### **15.2.1 Retirement Benefits**

All retired faculty members may have the following benefits: use of Magers Health and Wellness Center, faculty discount at the Drago College Store Bookstores, admission to convocations on campus, use of the facilities of the System Libraries, use of the Putnam Student Centers, enrollment in one course per semester free of required student fees, faculty privileges for admission to athletic activities and use of the West Plains Civic Center swimming pool during Missouri State University sessions.

Faculty members retired from Missouri State University are entitled to continue the same medical insurance coverage he or she had before retirement, including dependent coverage. The retiree must assume the cost, which will be at the group rate that is currently in effect. This eligibility continues until the retiree is eligible for Medicare. Although a retiree is no longer eligible for the group term life insurance plan provided by the University, the retiree is guaranteed the option to convert to ordinary life insurance with the same company but at a higher rate based upon individual policy rates and the retiree's age. The director of human resources can provide more specific information regarding retirement and insurance.

A retiree's eligible dependent children who enroll at Missouri State University are extended the same educational benefit available to the eligible dependent children of a full-time regular employee. Under no circumstances, however, can the retiree and the retiree's dependent children together receive a waiver of required student fees for more than a total of 15 credit hours per academic year (12-month period beginning with the fall intersession. This benefit is not applicable to out-of-state fees, book costs, or any special fee pertaining to a specific class or private instruction. The eligible dependent must pay the required student fees for all college-level courses taken over the 15 credit hours per academic year covered under this program. (Revised August 2023)

#### **15.2.2 Benefits Available to Emeritus Faculty**

See section 3.5.8 for more information about benefits available to Emeritus Faculty.

### **15.3 Teaching for Missouri State University-West Plains After Retirement**

From time to time, the University may offer individual retired faculty members the opportunity to teach one or more courses after retirement. For retired faculty members who have been granted emeritus status, the compensation for such teaching would be at the rate of 2.5 percent of the average annual salary per credit hour for the retiree's rank during his or her last year of employment at the University. If a retired emeritus faculty member wishes to teach a course that does not meet minimum enrollment guidelines, the administrator and faculty member may negotiate for a salary rate that is less than 2.5 percent of the average annual salary per credit hour for the retiree's rank during his or her last year of employment at the University. For retired faculty members who have not been granted emeritus status, compensation for teaching after retirement shall be at the regular per course rate.

A retired faculty member who teaches part-time for Missouri State University after retirement will continue to receive his or her retirement benefits. The retiree must not work more than the equivalent of half-time employment. The teaching load would ordinarily be up to six credit-hours per semester; special permission may be granted by the Vice Chancellor of Academic Affairs for a retired faculty member to teach more than six credit-hours during a given semester, but no more than 12 credit-hours during the academic year. The retiree should contact the Social Security Administration with any questions regarding earning limitations.

A retired faculty member or retired administrator with faculty status may be employed on a part-time, temporary, hourly basis for no more than 1,000 hours in a 12-month period. (Revised August 2023)

### **15.4 Notice of Non-Reappointment of Tenure Track Faculty**

Policies regarding notice of non-reappointment of ranked faculty during the probationary period may be found in Section 3.9.

### **15.5 Dismissal**



The following Missouri statutes provide the basis for the University's policy for dismissing tenured faculty members or for dismissing untenured faculty members prior to the expiration of a term appointment:

174.140.--Each Board of Governors may appoint and remove the president or any professor or teacher in any state college in its district; may fix the duration, terms and conditions of their offices and compensation; may enter into agreements for and make contributions to both voluntary and statutory retirement plans for the chancellor, professors and teachers and under rules adopted by the board may extend the provisions of the workmen's compensation law to all employees thereof.

(RSMo 1939 Sec. 10765, A.L. 1947 V.II p. 382, A.L. 1979 p. 288)

Prior revisions: 1929, Sec. 9608; 1919, Sec. 11503; 1909, Sec. 11074 174.150.--

1. No president, professor or teacher shall be removed except for incompetency, neglect or refusal to perform his duties, dishonesty, drunkenness or immoral conduct; nor shall such president, professor or teacher be removed until after ten days' notice, in writing, stating the nature and cause of removal and he shall have an opportunity to make a defense before the Board by counsel or otherwise and be allowed to introduce testimony which shall be heard and determined by the Board.
2. In every case of suspension or expulsion by the faculty the person suspended or expelled shall be allowed an appeal to the Board from the decision of the faculty and the Board shall prescribe the manner and mode of proceeding in the matter of such appeal; but the decision of the Board upon such appeal shall be final.

(RSMo 1939, Sec. 10766)

Prior revisions: 1929, Sec. 9609; 1919, Sec. 11504; 1909, Sec. 11075

When, in the view of the chancellor, there are substantive grounds under the law for the dismissal of a tenured faculty member or the dismissal of a faculty member previous to the expiration of a term appointment, the chancellor or his delegate will frame with reasonable particularity a statement of charges. This step will be taken only when less drastic courses of action do not produce or promise to produce, a remedy. Those less drastic courses of action may include but not be limited to the following: (1) discussions between the faculty member and appropriate administrative officers and (2) informal inquiry by the Academic Personnel Review Commission which may, failing to effect an adjustment, determine whether in its opinion dismissal proceedings should be undertaken, without its opinion being binding upon the chancellor (3) peer review process. Instigation of the peer review process is at the discretion of the chancellor.

### **15.5.1 Dismissal Procedures**

The chancellor will initiate formal dismissal proceedings by addressing a written communication to the faculty member informing him or her of the statement of charges and that he or she will be dismissed or suspended without pay as of a date specified in the written communication, but in no case less than thirty working days from the date of delivery of the communication. The faculty member will also be notified by the chancellor that he or she may file a formal grievance with the Academic Personnel Review Commission within thirty days from the date of the delivery of the communication. If a grievance is filed, the hearing officer will hear the case. If no grievance is filed, the dismissal or suspension will take effect as indicated in the written communication specified above.

Pending final decision, the faculty member will be suspended or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others, including students and the education process, is threatened by continuance. Before suspending a faculty member, pending an ultimate determination of the faculty member's status through the grievance process, the administration will consult with the Faculty Senate Executive Committee concerning the propriety, the length and the other conditions of the suspension. Salary will continue during the period of suspension. The faculty member may request review by the Board of Governors of the dismissal or suspension without pay, as provided in 174.150, R.S.Mo. The faculty member may agree to the review being on the record of the hearing before the hearing officer.

## **15.6 Check-Out Procedures for Faculty Members Leaving the Employ of the University**

All faculty members leaving the employ of the Missouri State University-West Plains must complete a property clearance form which is available from the business office. A copy of this form is required by the business office before final paychecks are issued.

## **15.7 Reduction in Force Due to Financial Exigency**

### **15.7.1 Preliminary Considerations**

Declaration of the existence of a financial exigency is the responsibility of the Board of Governors. This declaration will take place only if there is a financial crisis of such magnitude that all other reasonable measures have been taken and there is no alternative to the termination of University faculty who otherwise would have the expectation of continuing employment. The measures which precede this declaration of exigency and the process leading to its declaration are detailed in The Missouri State University-West Plains Financial Exigency Policy, included in the Faculty Handbook as Appendix B. This policy will be changed only through the procedures specified for amendment of the Faculty Handbook in Section 16.0. Actions taken will be in accordance with the principles stated below, subject to the condition that special care will be taken so that the burden of financial exigency does not fall disproportionately on those for whom affirmative action was taken:

1. The preservation of viable academic programs for the University shall be the primary goal.
2. The faculty must not bear an undue proportion of the budgetary cutbacks. Every reasonable effort will be made by the administration to reassign faculty members to other mutually acceptable professional work for which they are qualified at Missouri State University-West Plains, in order to prevent the termination of employment of faculty members.

### **15.7.2 Faculty Reductions**

If the financial exigency requires a reduction in the personnel services budget for academic affairs, faculty members' employment will be terminated according to the process detailed in The Missouri State University-West Plains Financial Exigency Policy (Appendix B) following these priorities:

1. **First:** Termination of part-time, unranked personnel in all departments to the degree that their duties could be absorbed by full-time faculty members and still retain student enrollments.

2. **Second:** Within academic divisions, full-time faculty members will be terminated according to the following priorities:
  - a. **First:** Termination of unranked faculty members to the degree that their duties could be absorbed by ranked faculty members.
  - b. **Second:** Termination of non-tenured ranked faculty members with six or fewer years of service to Missouri State University-West Plains to the degree that their duties could be absorbed by tenured faculty members.
  - c. **Third:** Termination of tenured faculty members with fewer than twelve years of service to Missouri State University-West Plains to the degree that their duties could be absorbed by other tenured faculty members.
  - d. **Fourth:** Termination of tenured faculty members with twelve or more years of service to Missouri State University-West Plains.

### 15.7.3 Program Reductions

If the crisis created by the financial exigency cannot be managed by distributed personnel reductions as detailed in The Missouri State University-West Plains Financial Exigency Policy (Appendix B), it may become necessary to eliminate one or more academic programs. Such program elimination shall be accomplished according to the process detailed in The Missouri State University-West Plains Financial Exigency Policy.

### 15.7.4 Rights of Terminated Faculty Members

At the termination of a faculty member due to financial exigency, Missouri State University-West Plains will provide the affected faculty member with a written notice of termination including a summary of the information and data used to make the termination decision as well as a description of the manner in which the decision was reached. This notice of termination must be provided according to the same requirements of timely notice of non-appointment of ranked faculty members during the probationary period, as prescribed in section 3.9 of this Handbook, except in the case of an extraordinary financial exigency which, as agreed to by the Faculty Senate and the chancellor, would make it impossible for Missouri State University-West Plains to give such notice. This notice of termination for tenured faculty must be provided at least 12 months before the effective termination date.

Faculty given notice of termination have the right to a full hearing before a faculty committee to assess the validity of the educational judgments and the criteria for identification for termination and to determine whether the criteria are being properly applied in the individual case. The faculty committee shall consist of five members, including the two members of the Academic Personnel Review Commission (APRC), plus one additional tenured faculty member selected by the Executive Committee of the Faculty Senate, one additional academic administrator selected by the chief academic officer and one additional tenured faculty member (not currently serving as an academic administrator) chosen by agreement of the Executive Committee of the Faculty Senate and the chief academic officer. A recording of the hearing will be made. The faculty member will be permitted to introduce documentation and testimony determined by the chair of the hearing committee to be relevant. The administration would be permitted to similarly respond. Both the faculty member and the administration may be represented by legal counsel. Any request for hearing must be made within five (5) calendar days of receipt of the notice of termination. The faculty committee must report its decision, the number of votes cast on each side (but not identifying the votes of the individual committee members) and a rationale for its decision within ten (10) calendar days of the hearing.

Either the faculty member or the administration may appeal the decision of the faculty committee to the Board of Governors. An appeal to the Board of Governors must be made in writing and must be filed with the chancellor within ten (10) calendar days following the decision of the faculty committee; otherwise, the opportunity for appeal will be lost. Upon receipt of the written appeal, which must state the basis for the appeal, the chancellor will notify the president of the Board of Governors. At the next regular Board meeting or as otherwise determined appropriate by the president of the Board, the Board will decide whether to hear the appeal. If the Board refuses to hear the appeal, the decision of the faculty committee is affirmed. If the Board agrees to hear the appeal, the hearing may be formal or informal and the time and place of such hearing will be communicated within a reasonable time to all parties involved. The Board or its designated committee shall have access to all facts and information it may feel are relevant and material to the issue. Parties to the appeal may be represented by legal counsel. The presiding officer selected by the Board of Governors will rule on all questions of evidence or procedure. Upon conclusion of such appeal, the Board or its designated committee, will render a finding in writing that will be final.

During the 12 months prior to effective termination, the faculty member will be permitted to continue in professional duties at Missouri State University-West Plains with full salary and benefits. Salary shall be paid monthly for the duration of the 12-month period or until the faculty member obtains full-time outside employment. If the faculty member obtains full-time outside employment at a pay rate and with benefits that are less than the Missouri State University-West Plains pay rate and benefits, then Missouri State University-West Plains shall pay the difference for the remainder of the 12-month period. If the faculty member chooses to leave Missouri State University-West Plains during this 12-month period for any reason other than to accept full-time outside employment, Missouri State University-West Plains' salary and benefit commitment will cease. The faculty member and Missouri State University-West Plains retain the option to negotiate individual alternative arrangements by mutual agreement between the parties.

Missouri State University-West Plains will provide reasonable assistance to faculty members who are terminated as a result of financial exigency in their search for other employment.

Faculty members terminated because of a financial exigency will have the following rights of recall and seniority, in reverse order of termination. A replacement for a faculty member's position shall not be appointed within three academic years after the effective date of the termination of said faculty member. During this three-academic-year period, prior to the appointment of any new faculty member in a terminated faculty member's position, Missouri State University-West Plains shall offer reappointment by registered mail to such terminated faculty member at his or her last known address. Said faculty member shall have 30 calendar days within which to accept or decline the offer in writing. Should said faculty member indicate in writing that he or she desires to accept reappointment at Missouri State University-West Plains, then such reappointments shall be held open by Missouri State University-West Plains for such a period of time as may be necessary for the faculty member to fulfill any commitment he or she may have made to the faculty member's then-current employer, provided that such commitment does not extend beyond the period of one academic year. A recalled faculty member shall be reinstated to those years of service credits that he or she had accrued at the time termination occurred.

**15.8 Reduction in Force Due to Elimination of Academic Programs for Reasons other than Financial Exigency**

### **15.8.1 Definition**

"Academic program" means any course of study approved through the curricular process of Missouri State University-West Plains and appearing in the curricular offerings of Missouri State University-West Plains listed in the Program Inventory for Public Institutions published by the Coordinating Board for Higher Education of the State of Missouri.

### **15.8.2 Procedures for Eliminating Academic Programs**

Except as provided in Section 15.7.3, an academic program will be considered for elimination only if the program is no longer viable for academic, enrollment or accreditation reasons. Any proposal to eliminate an academic program will be forwarded to the Vice Chancellor of Academic Affairs. If the dean concludes that the proposal has merit, she/he will forward it to the Faculty Senate for its action. The Faculty Senate will receive recommendations from the academic division(s) involved and the Budget Review Committee before taking action.

Reorganization of academic programs cannot result in the elimination of any academic program without utilization of the procedures required herein.

### **15.8.3 Rights of Faculty Members in Eliminated Programs**

Non-tenured ranked faculty members with teaching assignments in the academic program to be eliminated will be given notice of non-appointment as prescribed elsewhere in this Faculty Handbook. Tenured faculty members with teaching duties in the program to be eliminated will be assigned other available responsibilities for which they are qualified within the department. In those cases where there is no alternative assignment available within the department, at least one of the following courses of action shall be offered in good faith by the University in consultation with the tenured faculty member and the affected department(s):

1. Early retirement
2. Transfer of teaching duties to a different department
3. Transfer of assigned duties to another professional position within the University, without loss of tenure
4. Retraining for a position inside or outside the University

If none of the courses of action listed above is mutually agreeable, the tenured faculty member will be released from service to the University. The University will provide the affected faculty member with a written statement including the information and data used to make the termination decision as well as a description of the manner in which the decision was reached. This statement of notice of termination must be provided at least one full calendar year prior to the effective date of the termination.

The terminated tenured faculty member shall be given severance pay consisting of the continuation of his or her regular monthly salary (including fringe benefits) for a period of 12 months, plus an additional 30 calendar days' salary payment for each year of academic service to Missouri State University, to a maximum of 12 years of service. As an alternative and at the University's option, the terminated tenured faculty member shall be given extended notice, during which he or she will continue

in professional duties with full salary and benefits, equivalent to 12 months plus an additional 30 days' notice for each year of academic service to Missouri State University to a maximum of 12 years' service. Salary shall be paid monthly until the severance pay benefits or extended notice ends or until the faculty member is recalled by the University or until the faculty member obtains outside employment. If the faculty member obtains outside employment at a pay rate and with benefits that are less than the University pay rate and benefits, then the University shall pay the difference for the period of eligibility for severance pay.

When tenured faculty of eliminated academic programs and the administration have mutually agreed to retraining, the retraining will consist of the following components: (1) the retraining period of the affected tenured faculty member may be for as long as one academic year's duration whether the retraining is for a position with the University or for a position outside the University; (2) retraining may consist of course work or practical work completed on the Missouri State University campus or course work or practical work completed on another campus; (3) during the faculty retraining period, the tenured faculty member shall receive his/her salary and fringe benefits at the same level he/she would receive on sabbatical leave and (4) the University will, for a faculty member undergoing retraining on the Missouri State University campus, waive course fees to a total of 30 hours of credit. For a faculty member undergoing retraining on another campus, the University will pay the tuition or fees to a total of the cost of 30 hours of credit on the Missouri State University campus.

Faculty members who accept a retraining program for a position outside of the University are not eligible for additional severance benefits.

Faculty members terminated because of academic program elimination will have the following rights of recall and seniority. If the academic program or similar academic program is reinstated, a replacement shall not be appointed within 36 calendar months from the effective date of the termination of said faculty member. During this period, prior to the appointment of any new faculty member, the University shall offer reappointment by registered mail to all qualified terminated faculty members in inverse order of their termination at his/her last known address. Said faculty member(s) shall have 30 calendar days within which to accept or decline the offer in writing. Should a faculty member to whom an offer of recall is made indicate in writing that he/she desires to accept reappointment at the University, such appointment shall be held open by the University for such period of time as may be necessary for the faculty member to fulfill any commitment such member may have made to his/her then-current employer, provided that such commitment does not extend beyond a period of 365 calendar days from the date of offer.

A recalled faculty member shall be reinstated to all years of academic service to Missouri State University accrued at the time of termination.

## **16 Amendments**

### **16.1 Amendments to Part 1.0 of the Faculty Handbook**

All sections of Part 1.0 of this Handbook, with the following exceptions, may be amended by the Board of Governors upon the recommendation of the chancellor. The exceptions are as follows:

#### **16.1.1 Faculty Senate and Faculty Constitution (section 1.5.2)**

Amendments to the Faculty Constitution and changes in the function of the Faculty Senate may be made through Board-approved University governance processes.

### **16.2 Amendments to preamble, Section 1.5.2, and Parts 2.0 through 16.0 of the Faculty Handbook**

#### **16.2.1 Reserved Statutory Rights**

While the Board of Governors seeks to share the governance of the University with the faculty to the degree set forth in the policy statements of this Handbook, in so doing, the Governors do not abrogate their statutory duties required by Chapter 174, Missouri Revised Statutes, which include the right, if they deem it essential to the proper management of the University, to amend the provisions of this Handbook. If such amendment is deemed necessary, the Governors pledge that they will follow the procedures set forth herein in effecting such amendments.

#### **16.2.2 Amendment Process**

Proposed amendments to the Preamble, Section 1.5.2, and Parts 2.0 through 16.0 of the Faculty Handbook will be considered and acted upon pursuant to a procedure similar to that utilized in the creation and adoption of this Faculty Handbook, described as follows:

- a. The Executive Committee of the Faculty Senate shall appoint a Faculty Handbook Revision Committee, as a standing committee
- b. The Faculty Handbook Revision Committee shall consider any amendment proposed by the Board of Governors, the administration, or members or units of the faculty. Further, the Committee shall conduct a septennial review of the Faculty Handbook to consider whether additional amendments are needed. In all cases the Committee shall seek to reach a reasoned consensus. The Committee shall file a report with the Faculty Senate stating the Committee's recommended action
- c. The Faculty Senate shall consider the recommendations of the Faculty Handbook Revision Committee within thirty calendar days of the submission of the Committee's report, and shall file its recommended action with the Board of Governors and the administration
- d. The Board of Governors shall thereafter consider the report of the Faculty Handbook Revision Committee, the Faculty Senate, and recommendations made by the administration before taking action on the proposed changes.

- The Board shall also hold an open meeting to receive comments from interested parties on the proposed changes before taking final action.
- e. Under circumstances as certified by the chancellor for urgent reason, including change in law, where either the legislature or the Coordinating Board for Higher Education makes requirements which necessitate a change in any policy contained herein, the chancellor may forward directly to the Board of Governors the changes deemed immediately essential to meet the aforesaid requirements without the same having been first submitted to the Faculty Handbook Revision Committee, or the Faculty Senate, as required in items 2 and 3 above. In all such cases, before taking action, the Governors shall request the Faculty Handbook Revision Committee and the Faculty Senate to convene and consult with the administration concerning the proposed action. The failure of either body to convene and consult shall not prevent the Governors from proceeding after a reasonable period of time has been afforded.

### **16.3 Amendments to Take Effect**

Following final approval by the Board of Governors, the Faculty Handbook shall remain in effect until amended in accordance with the procedures set forth above. All Amendments, except those adopted pursuant to item.5, above, shall take effect at the commencement of the academic year following the adoption of the amendments by the Board of Governors. All amendments so adopted shall be incorporated into the Faculty Handbook as a permanent revision thereto.