

# Academic Staff Personnel Rules

## Chapter Eight – Appeal of Nonrenewal

### ACS 8.1. Nonrenewal Rights

- (1) All academic staff members are eligible:
  - (a) to request and receive the reasons for the nonrenewal; and/or
  - (b) to request and receive reconsideration of the renewal decision.
- (2) Those academic staff members in at least the fifth year of service are also eligible to appeal the decision under procedures described in this section.

### ACS 8.2. Reasons.

Within 14 calendar days of receipt of the nonrenewal notice, the academic staff member may request, in writing, reasons for nonrenewal from the Chancellor. The Chancellor shall respond in writing within 14 calendar days of the request. The reasons shall then become part of the academic staff member's personnel file. The reasons are a matter of management judgment. The Chancellor bears no burden of proof of evidentiary support for these reasons.

### ACS 8.3. Reconsideration.

Within 21 calendar days of the receipt of notice of nonrenewal or within 14 calendar days of receipt of reasons from the Chancellor (if requested) the non-renewed academic staff member may file a written request for reconsideration of the decision to be accomplished through an informal conference with the supervisor who first recommended nonrenewal. The request should be filed with the supervisor, with a copy provided to the Chancellor. Additionally, if the academic staff member previously requested the reasons for the nonrenewal decision from the Chancellor, the request for reconsideration shall also include a written response to the reasons supplied by the Chancellor.

- (1) The supervisor who first recommended nonrenewal shall notify the academic staff member in writing of the reconsideration meeting at least five calendar days prior to the reconsideration meeting.
- (2) The reconsideration meeting shall be an informal discussion to review the original nonrenewal decision and to consider whether there is any basis for a change in this decision. During the course of this meeting, and any subsequent appeal, the individual requesting the review shall be afforded the opportunity to be advised by another party.
- (3) The supervisor shall prepare a written summary of the reconsideration meeting along with his/her recommendation to the next level of review within 21 calendar days of request for the meeting, unless there is mutual agreement to extend this period. This report shall be simultaneously sent to the academic staff member and to the next level of review. Levels of review follow lines of reportage.
  - (a) If the supervisor recommends rescission of the nonrenewal, that recommendation shall be presented to the next reviewing level along with a copy of the report from the reconsideration meeting. In this instance, the supervisor receiving that report will then hold a reconsideration meeting with the academic staff member, following the same time schedule and procedure as outlined above. Levels of review follow lines of reportage.
  - (b) There are two possible outcomes of the reconsideration process:
    1. Rescission of the Decision: if the Chancellor concurs with a unanimous recommendation to rescind the nonrenewal (from all levels or review); or
    2. Affirmation of the Nonrenewal: if any reviewing level affirms the original nonrenewal decision and the Chancellor does not choose to review.
  - (c) Summaries from all supervisors shall be sent to the Chancellor, who shall maintain the official file during the pendency of the review, until it is transferred to the Human Resources Office for final storage.

### ACS 8.4. Appeal Procedures.

1 The appeal procedures provide an opportunity for an academic staff member with a fixed-term appoint-  
2 ment in at least the fifth year of service, to have a nonrenewal decision reviewed by an academic staff  
3 hearing committee. If the results of the reconsideration meeting are not satisfactory to the concerned aca-  
4 demic staff member the following apply.

- 5 (1) The academic staff member may appeal the decision within 21 calendar days from the date any  
6 reviewing level involved in the reconsideration meeting reaffirms in writing the original nonrenewal  
7 decision.
- 8 (2) The request must be in writing and filed with the Chancellor.
- 9 (3) The burden of persuasion in such a review shall be on the non-renewed person.
- 10 (4) The scope of the review (as well as the evidence to be presented and considered) shall be limited  
11 to the question of whether the decision was based in any significant degree upon one or more of  
12 the following factors, with material prejudice to the individual:
  - 13 (a) Conduct, expressions, or beliefs which are Constitutionally protected, or actions which are  
14 consistent with an appropriate professional code of ethics;
  - 15 (b) Employment practices proscribed by applicable state or federal law; or
  - 16 (c) Improper consideration of qualifications for reappointment or renewal. For purposes of this  
17 section, "improper consideration" shall be deemed to have been given to the qualifications of  
18 a staff member in question if material prejudice resulted because of any of the following:
    - 19 1. The procedures required by the Chancellor or Board of Regents were not followed; or
    - 20 2. Available data bearing materially on the quality of performance were not considered; or
    - 21 3. Unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct.
- 22 (5) The request must identify the exact basis for appeal from the list found above and must also in-  
23 clude a response to the reasons for nonrenewal given by the Chancellor if they have been re-  
24 quested and received.
- 25 (6) Within 14 calendar days the Chancellor shall forward the request for review, as well as any doc-  
26 uments generated concerning the appellant under ACS 8.1-8.4, to the President of the Senate of  
27 Academic Staff. From there the appeal is sent, copying the parties involved, to an academic staff  
28 hearing committee (formed under Gov. 4.3.C) within 14 calendar days. Any party wishing to refer  
29 materials to the Committee must do so within 10 business days after the President of the Senate  
30 of Academic Staff forwards the appeal to the Committee.
- 31 (7) The academic staff hearing committee shall conduct an initial review of the appeal, including any  
32 materials referred to the committee. On the basis of this initial review, the committee shall decide  
33 upon one of the following two courses of action.
  - 34 (a) If the committee finds the appeal is without merit, using criteria presented above, the commit-  
35 tee chairperson shall so inform the academic staff member in writing with copies provided to  
36 the President of the Senate of Academic Staff, each supervisor participating in the renew-  
37 al/nonrenewal decision, the Associate Vice Chancellor, and the Chancellor. Once this notice  
38 has been provided, the procedure shall end.
  - 39 (b) If the committee finds that a hearing is warranted, the committee chairperson shall so inform  
40 the academic staff member in writing with copies provided to the President of the Senate of  
41 Academic Staff, each supervisor participating in the renewal/nonrenewal decision, the Asso-  
42 ciate Vice Chancellor, and the Chancellor.
    - 43 1. The hearing shall begin no later than ten calendar days from the date of the committee's  
44 completion of the initial review of the appeal. This time limit may be extended by mutual  
45 consent of the parties or by order of the hearing committee.
    - 46 2. The evidence presented at the hearing is limited to a review of the factors identified in the  
47 section above in subsections (4)(a) to (c), including sub-subsections 1 to 3}.
    - 48 3. The committee will invite the individual presenting the appeal and the supervisor(s) to  
49 appear at the hearing. They will answer questions and present information relating to the

1 nature of the nonrenewal review and the reasons for the recommendations or decision.  
2 The parties to the proceeding may also identify other individuals with information perti-  
3 nent to the scope of the nonrenewal review.

4 4. At the conclusion of the hearing, the committee will deliberate on the appeal prior to mak-  
5 ing a recommendation that will include one of the following three options.

6 a. Option One. A determination that the appeal is without merit and that it should be  
7 dismissed from further consideration on the basis of that finding. The committee will  
8 forward this recommendation to the Chancellor.

9 b. Option Two. A determination that certain aspects of the review process were flawed  
10 and a recommendation for the process to be followed to address that deficiency. For  
11 example, the committee may remand the case for reconsideration, with specific in-  
12 structions, to the supervisor or committee making the initial recommendation for non-  
13 renewal.

14 (i) The hearing committee shall retain jurisdiction during the period of any reconsi-  
15 deration.

16 (ii) If the committee determines that such remand would serve no useful purpose, it  
17 may present the matter to the next level of review (which may include the Chan-  
18 cellor) for further review as specified by the committee.

19 (iii) If such remand results in a written recommendation to the hearing committee  
20 that the nonrenewal be rescinded, all information shall be remanded to the next  
21 level recommending nonrenewal via the academic staff hearing committee.

22 (iv) This procedure will continue unless or until one level of review affirms the origi-  
23 nal decision. All parties are informed, and the process ends. The Chancellor's  
24 decision is final.

25 c. Option Three. A determination that the nonrenewal be rescinded. In this instance, the  
26 committee shall file its report and recommendation with the Chancellor. Once these  
27 materials are received, the Chancellor shall review all documents and materials as-  
28 sociated with the committee's action. At the conclusion of that review, which shall not  
29 exceed 14 calendar days after receipt of the committee's report, the Chancellor shall  
30 inform all parties (academic staff member, supervisor, President of the Senate of  
31 Academic Staff, members of the hearing committee, and the Human Resources Di-  
32 rector.

33 d. The University shall establish and maintain a file for all actions relating to the appeal.  
34 All appeals files shall be stored separately from the regular personnel files.

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