

# Faculty Chapter Eight Employment Separation

## Part A. Faculty Layoff.

### FAC 8.A.1. UWS 5 {Layoff and Termination for Reasons of Financial Emergency} of the *Wisconsin Administrative Code*, Rules of the Board of Regents.

#### UWS 5.01 General.

Notwithstanding s. 36.13 Stats., the board may lay off or terminate a tenured faculty member, or lay off or terminate a probationary faculty member prior to the end of his or her appointment, in the event of a financial emergency. Such layoffs or terminations may be made only in accord with the provisions of this chapter, and imply the retention of rights indicated herein. A nonrenewal, regardless of reasons, is not a layoff or termination under this section.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### UWS 5.02 Financial emergency.

(1) For the purposes of this chapter, "financial emergency" is a state which may be declared by the board to exist for an institution if and only if the board finds that the following conditions exist:

(a) The total general program operations (GPR/fee) budget of the institution, excluding adjustments for salary/wage increases and for inflationary impact on non-salary budgets, has been reduced;

(b) Institutional operation within this reduced budget requires a reduction in the number of faculty positions such that tenured faculty must be laid off, or probationary faculty must be laid off prior to the end of their respective appointments. Such a reduction in faculty positions shall be deemed required only if in the board's judgment it will have an effect substantially less detrimental to the institution's ability to fulfill its mission than would other forms of budgetary curtailment available to the institution; and

(c) The procedures described in ss. US 5.05 and 5.06 have been followed.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### UWS 5.03 Layoff and termination.

For the purposes of this chapter "layoff" is the indefinite suspension or an involuntary reduction in services and compensation of a faculty member's employment by the University of Wisconsin System. A laid off faculty member retains the rights specified in ss. UWS 5.16 through 5.21, inclusive. For the purposes of this chapter, "termination" is the permanent elimination of a faculty member's employment by the University of Wisconsin System. A terminated faculty member retains rights specified in ss. UWS 5.18 and 5.19.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### UWS 5.04 Faculty consultative committee.

The faculty of each institution shall, promptly after February 1, 1975, designate or create a standing faculty committee to consult with the Chancellor if at any time a declaration of financial emergency is to be considered. The committee shall consist of faculty members of the institution chosen by the faculty in a manner to be determined by the faculty. It is the right and responsibility of this committee to represent the faculty before the board if a declaration of a state of financial emergency for the institution is being considered, and to assure that the procedures of ss. UWS 5.05 and 5.06 are followed.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### UWS 5.05 Consultation.

(1) In the event that a declaration of financial emergency is contemplated, the Chancellor of the affected institution shall consult with and seek advice from the faculty committee provided for in s. UWS 5.04 at least 3 months before the matter is taken to the board. The Chancellor and committee shall:

- 1 (a) Consider identifiable alternative methods of budget reduction;
- 2 (b) Determine whether reductions in faculty positions under the provisions of this chapter can be  
3 made with less detriment to the institution's (sic) ability to fulfill its mission than would follow  
4 from reasonable alternative courses of action;
- 5 (c) Determine from which colleges, schools, departments, or programs faculty positions should  
6 be eliminated;
- 7 (d) Consult with faculties of colleges, schools, departments and programs potentially involved;  
8 and
- 9 (e) Consult with such other individuals and groups as they feel may be able to provide valuable  
10 advice.
- 11 (2) The committee shall prepare a report, with supporting documents, for submission to the Chancel-  
12 lor, the faculty senate, or institutional equivalent, and the board.
- 13 (3) It shall be the primary responsibility of the faculty of the institution to establish criteria to be used  
14 by the Chancellor and committee for academic program evaluations and priorities. A decision to  
15 curtail or discontinue an academic program for reasons of financial emergency shall be made in  
16 accordance with the best interests of students and the overall ability of the institution to fulfill it  
17 mission.

18 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

19 **UWS 5.06 Recommendation to the system president and the board.**

- 20 (1) If the Chancellor decides to recommend that the board declare a state of financial emergency for  
21 the Chancellor's institution, the recommendation to the system president and the board shall be  
22 accompanied by a report which shall include the following:
- 23 (a) A statement of the procedures followed in arriving at the recommendation, showing com-  
24 pliance with s. UWS 5.05;
- 25 (b) Data clearly demonstrating the need for a reduction of faculty positions in accord with the  
26 provisions of this chapter;
- 27 (c) An identification of the colleges, schools, departments or program areas in which reductions  
28 will be made, with data indicating the appropriateness of such choices;
- 29 (d) The report of the faculty committee, expressing its views on these matters; and
- 30 (e) A report of any action of the faculty senate or institutional equivalent on this matter.
- 31 (2) The Chancellor and the chairman of the faculty committee, or their designees, and representa-  
32 tives of affected colleges, schools, departments and programs, may appear before the board at  
33 the time the recommendation is considered. Other interested parties may submit in writing alter-  
34 native recommendations or challenges to any part of the report.

35 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

36 **UWS 5.07 Individual designations.**

37 Once the board has declared a state of financial emergency it shall be the primary responsibility of the  
38 tenured members of the affected department(s) to recommend which individuals are to be laid off. These  
39 recommendations shall follow seniority, as provided in s. UWS 5.08, unless a clear and convincing case is  
40 made that program needs dictate other considerations, e.g., the need to maintain diversity of specializa-  
41 tions within a department. The department may seek the advice of other groups or individuals in formulat-  
42 ing its recommendations. The departmental recommendation shall be forwarded to the Chancellor, and  
43 the Chancellor shall prepare recommendations for the system president and the board, as provided in s.  
44 UWS 5.14.

45 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

46 **UWS 5.08 Seniority.**

1 The faculty of each institution shall promptly after February 1, 1975, determine the form of seniority that is  
2 to be considered. Such a determination shall be effective uniformly throughout the institution. Seniority  
3 may be, but is not limited to, the following definitions:

- 4 (1) Without regard to rank, with seniority established by total years of service in the institution;
- 5 (2) By rank, and within rank according to total years of service in the institution; or
- 6 (3) By rank, and within rank, according to length of service in the institution at that rank.

7 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### 8 **UWS 5.09 Notification.**

9 Each faculty member whose position is recommended for elimination shall receive prompt written notifica-  
10 tion from the Chancellor. This statement of notification shall include:

- 11 (1) A summary of the reasons and evidence supporting the declaration of a state of financial emer-  
12 gency and of the reasons and data leading to the choice of the colleges, schools, departments or  
13 programs in which reductions are to be made;
- 14 (2) A statement of the basis on which the individual position was selected for elimination (if on the  
15 basis of seniority, the criterion used and data supporting the choice; if on another basis, the data  
16 and reasons supporting that choice);
- 17 (3) A statement of the date on which the layoff is to be effective (this must be consistent with the pro-  
18 visions of s. UWS 5.10); and
- 19 (4) A copy of these rules and such other information or procedural regulations as the Chancellor or  
20 faculty hearing committee shall deem appropriate.

21 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### 22 **UWS 5.10 Notification period.**

- 23 (1) For an academic year appointment the effective date of layoff must coincide with the end of an  
24 academic year. For an annual appointment it shall be June 30. In either case notification must be  
25 given at least 12 months in advance of the effective date. The notification referred to here is that  
26 specified in s. UWS 5.09 informing the faculty member that his or her position has been recom-  
27 mended for elimination.
- 28 (2) During this period, and prior to entering layoff status (see s. UWS 5.16), the Chancellor may offer  
29 as appropriate, and the faculty member may accept:
  - 30 (a) Terminal leave and early retirement
  - 31 (b) Relocation leave accompanied by resignation
- 32 (3) Acceptance of either of these options will terminate the faculty members association with the Uni-  
33 versity of Wisconsin System at the end of the leave period.

34 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### 35 **UWS 5.11 Faculty hearing committee.**

36 The faculty of each institution shall, promptly after February 1, 1975, establish a committee or designate  
37 an existing committee to serve as a hearing committee for the purposes of this chapter. The committee  
38 shall consist of faculty members of the institution chosen by the faculty in a manner to be determined by  
39 the faculty. This standing faculty committee shall operate as the hearing agent for the board pursuant to s.  
40 227.12, Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the  
41 evidence and transmit such record and summary along with its recommended findings of law and decision  
42 to the board according to s. UWS 5.14

43 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

#### 44 **UWS 5.12 Review hearing.**

- 1 (1) A faculty member whose position is recommended for elimination is entitled to a hearing before  
2 the faculty hearing committee as to the appropriateness of the decision to lay off that particular  
3 individual. The existence of a state of financial emergency and the designation of the colleges,  
4 schools, departments or programs in which faculty positions are to be eliminated are not subject  
5 to review in the hearing.
- 6 (2) A hearing must be requested within 20 days of the receipt by the faculty member of notification of  
7 recommended layoff. The request shall state with particularity the grounds to be relied upon in es-  
8 tablishing the impropriety of the decision. Relevant information supplementary to that contained in  
9 the notification statement may be requested. The question to be considered in the review is  
10 whether one or more of the following improper factors entered into the decision to lay off:
- 11 (a) Conduct, expressions, or beliefs on the faculty member's part which are constitutionally pro-  
12 tected, or protected by the principles of academic freedom; or
- 13 (b) Factors proscribed by applicable state or federal law regarding fair employment practices; or
- 14 (c) Improper selection of the individual to be laid off. For the purposes of this section, "improper  
15 selection" occurs if material prejudice resulted from any of the following:
- 16 1. The procedures required by rules of the faculty or board were not followed; or
- 17 2. Available data bearing materially on the role of the faculty member in the institution were  
18 not considered; or
- 19 3. Unfounded or arbitrary assumptions of fact were made; or
- 20 4. Immaterial or improper factors other than those specified above entered into the decision.
- 21 (3) The faculty member shall present evidence on whether one or more of the improper factors speci-  
22 fied above entered into the decision to lay off. The committee shall then consider whether the evi-  
23 dence presented establishes a prima facie case that such factor or factors did enter significantly  
24 into the layoff decision. If the committee finds that a prima facie case has not been established,  
25 the layoff decision shall be found to have been proper and the hearing shall be ended. The com-  
26 mittee shall report this finding to the Chancellor and faculty member.
- 27 (4) If the committee finds that a prima facie case has been established, the Chancellor or designee  
28 shall be entitled to present evidence to support the layoff decision, and, thereafter, the faculty  
29 member may present evidence in rebuttal. On the basis of all the evidence presented, the com-  
30 mittee shall make its determination as follows:
- 31 (a) The committee shall first consider whether one or more of the above specified improper fac-  
32 tors entered significantly into the decision to lay off. Unless the committee is convinced that  
33 such factors did significantly enter into that decision, the committee shall find the decision to  
34 have been proper.
- 35 (b) If the committee believes that improper factors may have entered into the decision, but is  
36 convinced that the same decision would have been reached had the error(s) not occurred, it  
37 shall find the decision to have been proper.
- 38 (c) If the committee is convinced that improper factors entered significantly into and affected the  
39 decision, it shall be found to be improper.
- 40 (5) The committee shall report its findings and recommendations to the Chancellor and the faculty  
41 member.

42 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

43 **UWS 5.13 Hearing procedure.**

- 44 (1) If the faculty hearing committee requests, the Chancellor shall provide legal counsel to the com-  
45 mittee. The hearing shall be closed unless the faculty member whose position has been recom-  
46 mended for elimination requests an open hearing, in which case it shall be open (see s. 66.77,  
47 Stats., Open Meeting Law).
- 48 (2) The faculty hearing committee may, on motion of either party, disqualify any one of its members  
49 for cause by a majority vote. If one or more of the faculty hearing committee members disqualify

1 themselves or are disqualified, the remaining members may select a number of other members of  
2 the faculty equal to the number who have been disqualified to serve, except that alternative meth-  
3 ods of replacement may be specified in the rules and procedures adopted by the faculty estab-  
4 lishing the standing committee under s. UWS 5.11. No faculty member who participated in the de-  
5 cision to lay off or who is a material witness may sit in on the hearing committee.

6 (3) The faculty member shall be given at least 10 days notice of the hearing; such hearing shall be  
7 held not later than 20 days after the request except that this time limit may be extended by mutual  
8 consent of the parties or by order of the hearing committee.

9 (4) The faculty member shall have access to the evidence on which the administration intends to rely  
10 to support the decision to lay off, and shall be guaranteed the following minimal procedural safe-  
11 guards at the hearing:

12 (a) A right to be heard in his or her own behalf;

13 (b) A right to counsel and/or other representatives, and to offer witnesses;

14 (c) A right to confront and cross-examine adverse witnesses;

15 (d) A verbatim record of the hearing, which might be a sound recording, provided at no cost;

16 (e) Written findings of fact and decision based on the hearing record; and

17 (f) Admissibility of evidence governed by s. 227.10, Stats.

18 (5) Adjournments shall be granted to enable either party to investigate evidence as to which a valid  
19 claim of surprise is made.

20 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

21 **UWS 5.14 Recommendations and review by the board.**

22 The recommendations of the Chancellor and the recommendations, if any, of the faculty hearing commit-  
23 tee, shall be transmitted to the president of the University of Wisconsin System and to the board and acted  
24 upon as follows:

25 (1) If the faculty member has not requested a hearing before the faculty hearing committee, the rec-  
26 ommendation shall be deemed proper and shall be reported for information to the system presi-  
27 dent and the board.

28 (2) If the faculty member has requested a hearing and the faculty hearing committee has found the  
29 decision to be proper, the report of the faculty hearing committee shall be forwarded to the system  
30 president and board by the Chancellor with a recommendation (sic). The faculty member may re-  
31 quest a review by the board, and the board review panel may at its option grant a review. Unless  
32 the board review panel grants the request for review, the recommended findings of fact and deci-  
33 sion of the standing faculty committee shall be the final decision of the board of regents.

34 (3) If after a hearing, the faculty hearing committee's recommended findings of fact and decision are  
35 that the initial decision was improper, the Chancellor shall review the matter and give careful con-  
36 sideration to the committee's finding. If the Chancellor accepts the committee's findings the  
37 Chancellor's decision shall be final. If the Chancellor contests the recommended findings that the  
38 decision was improper, the verbatim record, a summary of the evidence and the recommended  
39 findings of law and decision shall be forwarded to the board review panel (see s. UWS 5.15). The  
40 Chancellor and the faculty member shall be furnished with copies of this material and shall have a  
41 reasonable opportunity to file written exceptions to such summary and proposed findings and de-  
42 cision and to argue with respect to them orally and in writing before the board review panel. The  
43 board review panel shall hear and decide the case in accordance with s. 227.12, Stats. The deci-  
44 sion of the board review panel shall be final.

45 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

46 **UWS 5.15 Board review.**

47 A review panel shall be appointed by the president of the board of regents, and shall include 3 members  
48 of the board, and 2 nonvoting staff members from the academic affairs office of the university system. The  
49 panel shall review the criteria and reasoning of the Chancellor and the findings and recommendations of

1 the faculty hearing committee in each case forwarded for its review, and shall reach a decision on the rec-  
2 ommendation to be approved. The decision shall be final and binding upon the Chancellor and the faculty  
3 member affected unless one or more of the regent members of the review panel request that the decision  
4 be reviewed by the full board of regents, in which case the record shall be reviewed and a decision  
5 reached by the full board.

6 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

7 **UWS 5.16 Layoff status.**

8 (1) A faculty member whose position has been eliminated or reduced in accordance with the provi-  
9 sions of this chapter shall, at the end of the appropriate notice period, be placed on layoff status,  
10 unless the layoff notice has been rescinded prior to that time.

11 (2) The faculty member whose notice period has expired, and who is placed on layoff status shall  
12 remain on layoff status until:

13 (a) For probationary faculty, the probationary appointment would have expired under its own  
14 terms;

15 (b) For tenured faculty, one of the following occurs:

16 1. Reappointment to the position from which laid off. Failure to accept such reappointment  
17 would terminate the faculty member's association with the University of Wisconsin Sys-  
18 tem.

19 2. Acceptance of an alternative continuing position in the University of Wisconsin System.  
20 Failure to accept an alternate appointment would not terminate the faculty member's as-  
21 sociation with the University of Wisconsin System.

22 3. Resignation.

23 4. Failure by the affected faculty member to notify the Chancellor not later than December  
24 1, of each year while on layoff status as to his/her location, employment status, and de-  
25 sire to remain on layoff status. Failure to provide such notice of desire to remain on layoff  
26 status shall terminate the faculty member's association with the University of Wisconsin  
27 System.

28 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

29 **UWS 5.17 Alternative employment.**

30 Each institution shall devote its best efforts to securing alternative appointments within the institution in  
31 positions for which faculty laid off under this chapter are qualified under existing criteria. In addition, the  
32 University of Wisconsin System shall provide financial assistance for one year for faculty who are desig-  
33 nated for layoff to readapt within the department or within another department of the institution, where  
34 such readaptation is feasible. Further, the University of Wisconsin System shall devote its best efforts to  
35 ensure that faculty members laid off or terminated in any institution shall be made aware of openings with-  
36 in the system.

37 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

38 **UWS 5.18 Reappointment rights.**

39 Each institution shall establish administrative procedures and policies to ensure that where layoff or termi-  
40 nations occur for reasons of financial emergency, no person may be employed at that institution within 3  
41 years to perform reasonably comparable duties to those of the faculty member laid off or terminated with-  
42 out first offering the laid off or terminated faculty member reappointment without loss of tenure, seniority  
43 and other rights. The 3 year period shall be computed from the effective date of layoff as specified in the  
44 original notice.

45 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

46 **UWS 5.19 Retention of rank and salary.**

47 Any faculty member reappointed within 3 years after layoff or termination shall be reappointed with a rank  
48 and salary at least equivalent to the rank and salary when laid off or terminated, together with such other

1 rights and privileges which may have accrued at that time; any faculty member relocated within an institu-  
2 tion or within the University of Wisconsin System shall not have either rank or salary adversely affected  
3 except by consent at the time of relocation.

4 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

5 **UWS 5.20 Rights of faculty members on layoff.**

6 A faculty member on layoff status in accord with the provisions of this chapter has the reemployment  
7 rights guaranteed by ss. UWS 5.18 and 5.19, and has the following minimal rights:

- 8 (1) Such participation in fringe benefit programs as is allowed by state regulations governing rights of  
9 laid off state employees;
- 10 (2) Such continued use of campus facilities as is allowed by policies and procedures established by  
11 the department and institution; and
- 12 (3) Such participation in departmental and institutional activities as is allowed by guidelines estab-  
13 lished by the department and institution.

14 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

15 **UWS 5.21 Systemwide tenure.**

16 The commitment to Systemwide tenure within the former chapter 37 institutions shall be honored by those  
17 institutions for those eligible under s. 36.13 (4), Stats., 1973 in the event of layoff or termination under the  
18 provisions of this chapter.

19 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

20 **UWS 5.22 Lack of faculty action.**

21 If the faculty of an institution is given due notice of its rights and responsibilities under this chapter, and  
22 does not act, the Chancellor may act as follows in lieu of the faculty action:

- 23 (1) If a faculty committee provided for in s. UWS 5.04 is not established, the Chancellor may consult  
24 those members or representatives of the faculty he considers appropriate to satisfy the intent of s.  
25 UWS 5.05. All departments potentially involved shall be consulted and representatives of the fa-  
26 culty may dispute the Chancellor's recommendation for a state of financial emergency before the  
27 board.
- 28 (2) If the faculty does not act to determine the form of seniority to be followed, the Chancellor may  
29 designate the form. Such designation shall be effective campus-wide and shall be made prior to  
30 the declaration by the board of a state of financial emergency.
- 31 (3) If an affected department or program does not recommend individuals for layoff or termination fol-  
32 lowing declaration of a state of financial emergency, the Chancellor shall determine the individu-  
33 als to be affected, using such advice as is deemed of value.
- 34 (4) If a faculty hearing committee provided for in s. UWS 5.11 is not established by the faculty, the  
35 Chancellor may appoint a committee of faculty members to provide this function.

36 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

37 **FAC 8.A.2. Faculty Consultative Committee.**

38 The Faculty Consultative Committee required in UWS 5.04 shall be the Executive Committee and the  
39 Budget Committee of the Faculty Senate, acting jointly, with the President of the Faculty Senate as chair-  
40 person. The Chancellor shall consult with this committee if at any time a declaration of financial emergen-  
41 cy is to be considered. It is the right and responsibility of this committee to represent the faculty before the  
42 Board if a declaration of a state of financial emergency for the institution is being considered, and to as-  
43 sure that the procedures of UWS 5.05 and 5.06 are followed.

44 **FAC 8.A.3. Seniority.**

45 The definition of seniority required by UWS 5.08, to be effective uniformly throughout the institution, shall  
46 be the years of continuous service at University of Wisconsin Oshkosh, without regard to rank. If no  
47 breaks in service have occurred, time served as an academic staff member shall count towards seniority,

1 as shall time served in a limited appointment if the faculty member had a faculty or academic staff ap-  
2 pointment prior to accepting the limited appointment. Leaves of absence shall count toward seniority. In  
3 the event two or more members of a unit have the same seniority, the date the original contract (of conti-  
4 nuous service) was signed by the appointee shall be used to determine seniority. In the event the appoin-  
5 tee did not sign a contract, the date to be used will be the date a University of Wisconsin Oshkosh admin-  
6 istrator signed the contract. Part-time appointment dates shall be used only if the appointment date moved  
7 the individual toward tenure.

8 **FAC 8.A.4. Faculty Hearing Committee.**

9 The Faculty Hearing Committee required by UWS 5.11 shall be a subcommittee of the Faculty Senate  
10 Hearing Committee and shall operate under its established procedures, except that the procedures of  
11 UWS 5.12 and 5.13 shall apply and take precedence in any instance where they may be in conflict. This  
12 standing faculty committee shall operate as the hearing agent for the Board pursuant to Chapter 227, Wis.  
13 Stats., and conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evi-  
14 dence and transmit such record and summary along with its recommended findings of law and decision to  
15 the Board according to section UWS 5.14.

16 **FAC 8.A.5. Hearing Procedures.**

17 The Chancellor shall take formal action on the committee report described in UWS 5.12 (5) within twenty  
18 calendar days of receiving the report.

19 **FAC 8.A.6. Reappointment Rights.**

20 University of Wisconsin Oshkosh shall not employ another person, within a three-year period, to perform  
21 duties reasonably comparable to those of a faculty member laid off or terminated under the provisions of  
22 the chapter titled "Employment Separation" without first offering the laid off or terminated faculty member  
23 reappointment without loss of tenure, seniority and other rights. The three-year period shall be computed  
24 from the effective date of layoff as specified in the original notice.

25 **FAC 8.A.7. Rights of Faculty Members on Layoff.**

26 A faculty member on layoff status shall be entitled to: such participation in fringe benefit programs as is  
27 allowed by state regulations governing rights of laid off state employees; office space and secretarial as-  
28 sistance from the department or college whenever available; and governance rights provided by the Facul-  
29 ty Constitution.

1 **Part B. Faculty Dismissal.**

2 **FAC 8.B.1. UWS 4 {Procedures for Dismissal} of the *Wisconsin Administrative Code*, Rules of the**  
3 **Board of Regents.**

4 **UWS 4.01 Dismissal for cause.**

- 5 (1) Any faculty member having tenure may be dismissed only by the board and only for just cause  
6 and only after due notice and hearing. Any faculty member having a probationary appointment  
7 may be dismissed prior to the end of his/her term of appointment only by the board and only for  
8 just cause and only after due notice and hearing. A decision not to renew a probationary appoint-  
9 ment or not to grant tenure does not constitute a dismissal.
- 10 (2) A faculty member is entitled to enjoy and exercise all the rights and privileges of a United States  
11 citizen, and the rights and privileges of academic freedom as they are generally understood in the  
12 academic community. This policy shall be observed in determining whether or not just cause for  
13 dismissal exists. The burden of proof of the existence of just cause for a dismissal is on the ad-  
14 ministration.

15 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

16 **UWS 4.02 Responsibility for charges.**

- 17 (1) Whenever the Chancellor of an institution within the University of Wisconsin System receives a  
18 complaint against a faculty member which he/she deems substantial and which, if true, might lead  
19 to dismissal under s. UWS 4.01, the Chancellor shall within a reasonable time initiate an investi-  
20 gation and shall, prior to reaching a decision on filing charges, offer to discuss the matter infor-  
21 mally with the faculty member. A faculty member may be dismissed only after receipt of a written  
22 statement of specific charges from the Chancellor as the chief administrative officer of the institu-  
23 tion and, if a hearing is requested by the faculty member, in accordance with the provisions of this  
24 chapter. If the faculty member does not request a hearing, action shall proceed along normal ad-  
25 ministrative lines but the provisions of ss. UWS 4.02, 4.09, and 4.10 shall still apply.
- 26 (2) Any formal statement of specific charges for dismissal sent to a faculty member shall be accom-  
27 panied by a statement of the appeal procedures available to the faculty member.
- 28 (3) The statement of charges shall be served personally or by certified mail, return receipt requested.  
29 If such service cannot be made within 20 days, service shall be accomplished by first class mail  
30 and by publication as if the statement of charges were a summons and the provisions of s. 262.06  
31 (1) (c), Stats., were applicable. Such service by mailing and publication shall be effective as of the  
32 first insertion of the notice of statement of charges in the newspaper.

33 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

34 **UWS 4.03 Standing faculty committee.**

35 The faculty of each institution shall provide a standing committee charged with hearing dismissal cases  
36 and making recommendations under this chapter. This standing faculty committee shall operate as the  
37 hearing agent for the board pursuant to s. 227.12, Stats., and conduct the hearing, make a verbatim  
38 record of the hearing, prepare a summary of the evidence and transmit such record and summary along  
39 with its recommended findings of law and decision to the board according to s. UWS 4.07.

40 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

41 **UWS 4.04 Hearing.**

42 If the faculty member requests a hearing within 20 days of notice of the statement of charges (25 days if  
43 notice is by first class mail and publication), such a hearing shall be held not later than 20 days after the  
44 request except that this time limit may be enlarged by mutual written consent of the parties, or by order of  
45 the hearing committee. The request for a hearing shall be addressed in writing to the chairperson of the  
46 standing faculty committee created under s. UWS 4.03.

47 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

48 **UWS 4.05 Adequate due process.**

1 (1) A fair hearing for a faculty member whose dismissal is sought under s. UWS 4.01 shall include  
2 the following:

- 3 (a) Service of written notice of hearing on the specific charges at least 10 days prior to the hear-  
4 ing;
- 5 (b) A right to the names of witnesses and of access to documentary evidence upon the basis of  
6 which dismissal is sought;
- 7 (c) A right to be heard in his/her defense;
- 8 (d) A right to counsel and/or other representatives, and to offer witnesses;
- 9 (e) A right to confront and cross-examine adverse witnesses;
- 10 (f) A verbatim record of all hearings, which might be a sound recording, provided at no cost;
- 11 (g) Written findings of fact and decision based on the hearing record;
- 12 (h) Admissibility of evidence governed by s. 227.10, Stats.

13 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

14 **UWS 4.06 Procedural guarantees.**

15 (1) Any hearing held shall comply with the requirements set forth in s. UWS 4.05. The following re-  
16 quirements shall also be observed:

- 17 (a) The burden of proof of the existence of just cause is on the administration or its representa-  
18 tives;
- 19 (b) No faculty member who participated in the investigation of allegations leading to the filing of a  
20 statement of charges, or in the filing of a statement of charges, or who is a material witness  
21 shall be qualified to sit on the committee in that case;
- 22 (c) The hearing shall be closed unless the faculty member under charges requests an open  
23 hearing, in which case it shall be open (see s. 66.77, Stats., Open Meeting Law);
- 24 (d) The faculty hearing committee may, on motion of either party, disqualify any one of its mem-  
25 bers for cause by a majority vote. If one or more of the faculty hearing committee members  
26 disqualify themselves or are disqualified, the remaining members may select a number of  
27 other members of the faculty equal to the number who have been disqualified to serve, ex-  
28 cept that alternative methods of replacement may be specified in the rules and procedures  
29 adopted by the faculty establishing the standing committee under s. UWS 4.03;
- 30 (e) The faculty hearing committee shall not be bound by common law or statutory rules of evi-  
31 dence and may admit evidence having reasonable probative value but shall exclude immat-  
32 terial, irrelevant (sic), or unduly repetitious testimony, and shall give effect to recognized legal  
33 privileges;
- 34 (f) If the faculty hearing committee requests, the Chancellor shall provide legal counsel after  
35 consulting with the committee concerning its wishes in this regard. The function of legal  
36 counsel shall be to advise the committee, consult with them on legal matters, and such other  
37 responsibilities as shall be determined by the committee within the provisions of the rules and  
38 procedures adopted by the faculty of the institution in establishing the standing faculty com-  
39 mittee under s. UWS 4.03;
- 40 (g) If a proceeding on charges against a faculty member not holding tenure is not concluded be-  
41 fore the faculty member's appointment would expire, he/she may elect that such proceeding  
42 be carried to a final decision. Unless he/she so elects in writing, the proceeding shall be dis-  
43 continued at the expiration of the appointment;
- 44 (h) If a faculty member whose dismissal is sought has requested a hearing, discontinuance of the  
45 proceeding by the institution is deemed a withdrawal of charges and a finding that the  
46 charges were without merit;

- 1 (i) Nothing in par. (h) shall prevent the settlement of cases by mutual agreement between the  
2 administration and the faculty member, with board approval, at any time prior to a final deci-  
3 sion by the board;
- 4 (j) Adjournment shall be granted to enable either party to investigate evidence as to which a va-  
5 lid claim of surprise is made.

6 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

7 **UWS 4.07 Recommendations: to the chancellor: to the regents.**

- 8 (1) The faculty hearing committee shall send to the Chancellor and to the faculty member concerned,  
9 as soon as practicable after conclusion of the hearing, a verbatim record of the testimony and a  
10 copy of its report, findings, and recommendations. The committee may determine that while ade-  
11 quate cause for discipline exists, some sanction less severe than dismissal is more appropriate.  
12 Within 20 days after receipt of this material the Chancellor shall review it and afford the faculty  
13 member an opportunity to discuss it. The Chancellor shall prepare a written recommendation  
14 within 20 days following the meeting with the faculty member, unless his/her proposed recom-  
15 mendation differs substantially from that of the committee. If the Chancellor's proposed recom-  
16 mendations differ substantially from those of the faculty hearing committee, the Chancellor shall  
17 promptly consult the faculty hearing committee and provide the committee with a reasonable op-  
18 portunity for a written response prior to forwarding his/her recommendation. If the recommenda-  
19 tion is for dismissal, the recommendation shall be submitted through the president of the system  
20 to the board. A copy of the faculty hearing committee's report and recommendations shall be for-  
21 forwarded through the president of the system to the board along with the Chancellor's recommen-  
22 dation. A copy of the Chancellor's recommendation shall also be sent to the faculty member con-  
23 cerned and to the faculty committee.
- 24 (2) Disciplinary action other than dismissal may be taken by the Chancellor, after affording the faculty  
25 member an opportunity to be heard on the record, except that, upon written request by the faculty  
26 member, such action shall be submitted as a recommendation through the president to the board  
27 together with a copy of the faculty hearing committee's report and recommendation.

28 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

29 **UWS 4.08 Board review.**

- 30 (1) If the Chancellor recommends dismissal, the board shall review the record before the faculty  
31 hearing committee and provide an opportunity for filing exceptions to the recommendations of the  
32 hearing committee or Chancellor, and for oral arguments, unless the board decides to drop the  
33 charges against the faculty member without a hearing or the faculty member elects to waive a  
34 hearing. This hearing shall be closed unless the faculty member requests an open hearing (see s.  
35 66.77, Stats., Open Meeting Law).
- 36 (2) If, after the hearing, the board decides to take action different from the recommendation of the fa-  
37 culty hearing committee and/or the Chancellor, then before taking final action the board shall con-  
38 sult with the faculty hearing committee and/or the Chancellor, as appropriate.
- 39 (3) If a faculty member whose dismissal is sought does not request a hearing pursuant to s. UWS  
40 4.04 the board shall take appropriate action upon receipt of the statement of charges and the rec-  
41 ommendation of the Chancellor.

42 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

43 **UWS 4.09 Suspension from duties.**

44 Pending the final decision as to his/her dismissal, the faculty member shall not normally be relieved of du-  
45 ties; but if, after consultation with appropriate faculty committees the Chancellor finds that substantial  
46 harm to the institution may result if the faculty member is continued in his/her position, the faculty member  
47 may be relieved immediately of his/her duties, but his/her salary shall continue until the board makes its  
48 decision as to dismissal.

49 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

50 **UWS 4.10 Date of dismissal.**

1 A decision by the board ordering dismissal shall specify the effective date of the dismissal.

2 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

3 **FAC 8.B.2. Standing Faculty Committee.**

4 A subcommittee of the Faculty Senate Hearing Committee will be charged with hearing dismissal cases  
5 and making recommendations according to the provisions of UWS 4.03. This subcommittee shall operate  
6 as the hearing agent for the Board pursuant to Chapter 227, Wis. Stats., and conduct the hearing, make a  
7 verbatim record of the hearing, prepare a summary of the evidence and transmit such record and sum-  
8 mary along with its recommended findings of law and decision to the Board according to UWS 4.07.

## 1 **Part C. Dismissal of Faculty in Special Cases**

### 2 **FAC 8.C.1. UWS 7 {Procedures for Dismissal of Faculty in Special Cases} of the Wisconsin Admin-** 3 **istrative Code, Rules of the Board of Regents.**

#### 4 **UWS 7.01 Declaration of policy.**

5 University faculty members are responsible for advancing the university's missions of teaching, research  
6 and public service. The fulfillment of these missions requires public trust in the integrity of the institution  
7 and in all members of the university community. The university's effectiveness, credibility, and ability to  
8 maintain public trust are undermined by criminal activity that poses a substantial risk to the safety of oth-  
9 ers, that seriously impairs the university's ability to fulfill its missions, or that seriously impairs the faculty  
10 member's fitness or ability to fulfill his or her duties. Situations involving such serious criminal misconduct  
11 by faculty members must be addressed and resolved promptly to ensure that public trust is maintained  
12 and that the university is able to advance its missions. The board of regents therefore adopts the proce-  
13 dures in this chapter for identifying and responding to those instances in which a faculty member has en-  
14 gaged in serious criminal misconduct.

15 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

#### 16 **UWS 7.02 Serious criminal misconduct.**

17 (1) In this chapter, "serious criminal misconduct" means:

18 (a) Pleading guilty or no contest to, or being convicted of a felony, in state or federal court, where  
19 one or more of the conditions in par. (b), (c), (d) or (e) are present, and the felony involves  
20 any of the following:

- 21 1. Causing serious physical injury to another person.
- 22 2. Creating a serious danger to the personal safety of another person.
- 23 3. Sexual assault.
- 24 4. Theft, fraud or embezzlement.
- 25 5. Criminal damage to property.
- 26 6. Stalking or harassment.

27 (b) A substantial risk to the safety of members of the university community or others is posed.

28 (c) The university's ability, or the ability of the faculty member's colleagues, to fulfill teaching, re-  
29 search or public service missions is seriously impaired.

30 (d) The faculty member's fitness or ability to fulfill the duties of his or her position is seriously im-  
31 paired.

32 (e) The opportunity of students to learn, do research, or engage in public service is seriously im-  
33 paired.

34 (2) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the prin-  
35 ciples of academic freedom, shall not constitute serious criminal misconduct.

36 (3) Except as otherwise expressly provided, a faculty member who has engaged in serious criminal  
37 misconduct shall be subject to the procedures set forth in ss. UWS 7.03 to 7.06.

38 (4) Any act required or permitted by ss. UWS 7.03 to 7.06 be done by the chancellor may be dele-  
39 gated to the provost another designee pursuant to institutional policies approved the board of re-  
40 gents under s. UWS 2.02.

41 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

#### 42 **UWS 7.025 Definition.**

43 In this chapter, "consulting" means thoroughly reviewing and discussing the relevant facts and discre-  
44 tionary issues.

45 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

1 **UWS 7.03 Dismissal for cause.**

- 2 (1) Any faculty member having tenure may be dismissed only by the board and only for just cause  
3 and only after due notice and hearing. Any faculty member having a probationary appointment  
4 may be dismissed prior to the end of his or her term of appointment only by the board and only for  
5 just cause and only after due notice and hearing.
- 6 (2) Just cause for dismissal includes, but is not limited to, serious criminal misconduct, as defined in  
7 s. UWS 7.02.

8 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

9 **UWS 7.04 Reporting responsibility.**

10 Any faculty member who is charged with, pleads guilty or no contest to, or is convicted of a felony of a  
11 type listed in s. UWS 7.02 (1) (a), in state or federal court, shall immediately report that fact to the  
12 chancellor.

13 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

14 **UWS 7.05 Expedited process.**

- 15 (1) Whenever the chancellor of an institution within the University of Wisconsin System receives a  
16 report under s. UWS 7.04 or other credible information that a faculty member has pleaded guilty  
17 or no contest to, or has been convicted of a felony of a type listed in s. UWS 7.02 (1) (a), in state  
18 or federal court, the chancellor shall:
- 19 (a) Within 3 working days of receipt of the report or information, inform the faculty member of its  
20 receipt and, after consulting with appropriate institutional governance representatives, appoint  
21 an investigator to investigate the report or information and to advise the chancellor as to  
22 whether to proceed under this section or ch. UWS 4.
- 23 (b) Upon appointing an investigator and notifying the faculty member, afford the faculty member  
24 3 working days in which to request that the investigator be disqualified on grounds of lack of  
25 impartiality or other cause. In the event that the chancellor determines that a request for dis-  
26 qualification should be granted, the chancellor shall, within 2 working days of the determina-  
27 tion, appoint a different investigator. The faculty member shall have the opportunity to request  
28 that any second or subsequent investigators be disqualified on grounds of lack of impartiality  
29 or other cause.
- 30 (2) The investigator shall complete and file a report with the chancellor not later than 10 working days  
31 following the investigator's appointment.
- 32 (3) Within 3 working days of receipt of the investigator's report, the chancellor shall consult with ap-  
33 propriate institutional governance representatives and decide whether to seek dismissal of the fa-  
34 culty member pursuant to this chapter, to seek dismissal of the faculty member pursuant to ch.  
35 UWS 4, to seek an alternative disciplinary sanction, or to discontinue the proceedings. The  
36 charges shall be served on the faculty member in the manner specified in s. UWS 4.02 (3).
- 37 (a) If the chancellor decides to seek dismissal of the faculty member pursuant to this chapter, the  
38 chancellor shall file charges within 2 working days of reaching the decision.
- 39 (b) If the chancellor decides to seek dismissal of the faculty member pursuant to ch. UWS 4, the  
40 chancellor shall file charges and proceed in accordance with the provisions of that chapter  
41 and implementing institutional policies. If, during the course of such proceedings under ch.  
42 UWS 4, the chancellor receives a report under s. UWS 7.04 or other credible information that  
43 the faculty member has pleaded guilty or no contest to or has been convicted of a felony of a  
44 type listed in s. UWS 7.02 (1) (a), and one or more of the conditions listed in s. UWS 7.02 (1)  
45 (b) through (e) are present, the chancellor may, at that point, elect to follow the procedures  
46 for dismissal pursuant to this chapter.
- 47 (c) If the chancellor decides to seek an alternative disciplinary sanction, the procedures under  
48 ch. UWS 6, and implementing institutional policies, shall be followed.
- 49 (4) If charges seeking dismissal are filed under sub. (3) (a), the faculty member shall be afforded a  
50 hearing before the institutional standing committee charged with hearing dismissal cases and

1 making recommendations under s. UWS 4.03. The hearing shall provide the procedural guaran-  
2 tees enumerated under ss. UWS 4.05 to 4.06, except that the hearing shall be concluded, and  
3 written findings and a recommendation to the chancellor shall be prepared, within 15 working  
4 days of the filing of charges.

5 (5) (a) Within 3 working days of receipt of the findings and recommendation of the committee under  
6 sub. (4), the chancellor shall prepare a written recommendation on the matter.

7 (b) If the recommendation is for dismissal, the chancellor shall transmit it to the board for review.

8 (c) Disciplinary action other than dismissal may be taken by the chancellor, whose decision shall  
9 be final, unless the board at its option grants a review on the record at the request of the fa-  
10 culty member.

11 (6) Upon receipt of the chancellor's recommendation, the full board shall review the record before the  
12 institutional hearing committee, and shall offer an opportunity for filing exceptions to the recom-  
13 mendation, and for oral argument. The full board shall issue its decision on the matter within 15  
14 working days of receipt of the chancellor's recommendation.

15 (7) If a faculty member whose dismissal is sought under sub. (3) (a) does not proceed with the hear-  
16 ing before the institutional hearing committee as provided in sub. (4), the board shall take appro-  
17 priate action within 10 working days of receipt of the statement of charges and the recommenda-  
18 tion of the chancellor.

19 (8) The burden of proving just cause in this chapter shall be clear and convincing evidence.

20 (9) The chair of the faculty hearing body, subject to the approval of the chancellor, may extend the  
21 time limits set forth in this section if the parties are unable to obtain, in a timely manner, relevant  
22 and material testimony, physical evidence or records, or where due process otherwise requires.

23 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

24 **UWS 7.06 Temporary suspension without pay.**

25 (1) The chancellor, after consulting with appropriate faculty governance representatives, may sus-  
26 pend a faculty member from duties without pay pending the final decision as to his or her dismis-  
27 sal where:

28 (a) The faculty member has been charged with a felony of a type listed in s. UWS 7.02 (1) (a)  
29 and the chancellor, after following the provisions of s. UWS 7.05 (1) through (3), finds, in ad-  
30 dition, that there is a substantial likelihood 1) that one or more of the conditions listed in s.  
31 UWS 7.02 (1) (b) through (e) are present, and 2) that the faculty member has engaged in the  
32 conduct as alleged; or

33 (b) The faculty member is unable to report for work due to incarceration, conditions of bail or sim-  
34 ilar cause; or

35 (c) The faculty member has pleaded guilty or no contest to or been convicted of a felony of a  
36 type listed in s. UWS 7.02 (1) (a) and one or more of the conditions listed in s. UWS 7.02 (1)  
37 (b) through (e) are present.

38 (2) If the chancellor finds that the conditions in sub. (1) are present, he or she shall immediately notify  
39 the faculty member, in writing, of the intent to impose a suspension without pay, and shall, within  
40 2 working days, provide the faculty member with an opportunity to be heard with regard to the  
41 matter. The faculty member may be represented by counsel or another at this meeting.

42 (3) If, after affording the faculty member the opportunity to be heard, the chancellor determines to  
43 suspend without pay, the chancellor shall inform the faculty member of the suspension, in writing.  
44 The chancellor's decision to suspend without pay under this section shall be final, except that:

45 (a) If the chancellor later determines that the faculty member should not be dismissed, the chan-  
46 cellor may discontinue the proceedings, or may recommend a lesser penalty to the board,  
47 and, except as provided in par. (c), shall order the payment of back pay for any period of the  
48 suspension for which the faculty member was willing and able to report for work.

- 1 (b) If the board later determines that the faculty member should not be dismissed, the board may  
2 order a lesser penalty and shall order the payment of back pay for any period of the suspen-  
3 sion for which the faculty member was willing and able to report for work.
- 4 (c) If the chancellor or board later determines, under par. (a) or (b), to recommend or impose as  
5 a lesser penalty the suspension of the faculty member without pay, then any period of sus-  
6 pension without pay so recommended or ordered shall be offset by the period of any suspen-  
7 sion without pay actually served by the faculty member.
- 8 (4) If, after affording the faculty member the opportunity to be heard, the chancellor determines that  
9 the conditions in sub. (1) are not present or that a suspension without pay is otherwise not war-  
10 ranted, the provisions of s. UWS 4.09 shall apply.

11 History: CR 06-078: cr. Register May 2007 No. 617, eff. 6-1-07.

1 **Part D. Other Separations.**

2 **FAC 8.D.1. Resignations.**

3 Unclassified employees intending to resign from the University should address a letter of resignation to the  
4 Provost and Vice Chancellor, and forward it via each supervisor. The letter should include the effective  
5 date of the resignation and each supervisor should initial the letter and comment, if desired. A Personnel  
6 Transaction Form (PTF) shall be completed by the supervisor and forwarded along with the resignation  
7 letter to the Associate Vice Chancellor. The Provost and Vice Chancellor will issue the official response for  
8 the University to the individual.

9 It is expected letters of resignation will be filed as far in advance as possible of the planned termination  
10 date so that the University can meet its professional commitments and provide for the educational needs  
11 of students.

12 **FAC 8.D.2. Retirement.**

13 Participation in the Wisconsin Retirement System is mandatory for all persons in an ongoing posi-  
14 tion except those on leave from out-of-state universities who are visiting the University for one  
15 year or less or citizens of foreign countries who have an "F" or "J" visa. Employee contribution to  
16 the Wisconsin Retirement System is five percent of gross salary. A matching employer contribu-  
17 tion is made by the university. Employees are immediately vested in the Wisconsin Retirement  
18 System. Separation benefits of employee contribution are available to those who leave state em-  
19 ployment prior to age 55. Retirement benefits are available to those who leave state employment  
20 at age 55 or later. Details are available in the Human Resources Office.