

Procedures Relating to Faculty Layoff and Termination due to Financial Emergency or Program Discontinuance

(Formerly FAC 8.A.)

Faculty Senate Approval: May 12, 2020
Original Issuance Date: July 22, 2020
Last Revision Date: Not applicable
Next Review Date: July 22, 2023

Purpose

The purpose of this policy is to establish institution-level principles, guidelines and procedures for the implementation of system policy in the event of financial emergency or program discontinuance that requires faculty layoffs.

Tenure is the keystone for academic freedom and excellence and is awarded for academic and professional merit. Tenure is an essential part of the guarantee of academic freedom that is necessary for university-based intellectual life to flourish. Faculty layoff will be invoked only in extraordinary circumstances and after all feasible alternatives have been considered.

Responsible Officer

Provost and Vice Chancellor for Academic Affairs

Scope

This policy applies to tenured and tenure-track UWO faculty members.

Definitions

- **Program discontinuance** means formal program elimination or closure (Wis. Stat. ss. 36.21 and 36.22)
- **Financial emergency** is defined, and may be declared, as described in UWS 5.02 of the Wisconsin Administrative Code.
- **Educational considerations** may include strategic institutional planning considerations such as long-term student and market demand and societal needs. Educational considerations shall not include cyclical or temporary variations in enrollment. Educational considerations must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by a program's discontinuance (RPD 20-24).

- **Layoff** is the indefinite suspension or involuntary reduction in services and compensation of a faculty member's employment by the University of Wisconsin System (Wis. Stat. s. 36.22(1)(a)). A laid-off faculty member retains the rights specified in Wis. Stat. s. 36.22(11) to 36.22(15).
- **Termination** is the permanent elimination of a faculty member's employment by the University of Wisconsin System (Wis. Stat. s. 36.22(1)(c)). A faculty member whose position has been terminated retains the rights specified in Wis. Stat. s. 36.22(13) and (14).

Policy Statement

1. Faculty layoff shall not be based on conduct, expressions, or beliefs on the faculty member's part that are constitutionally protected or protected by the principles of academic freedom.
2. As provided in Wis. Stat. s. 36.21 and Wis. Stat. s. 36.22, and Chapter UWS 5 of the Wisconsin Administrative Code, the Board of Regents of the University of Wisconsin System (Board) has authority, with appropriate notice, to terminate through layoff a faculty appointment when necessary in the event of (1) a financial emergency or (2) a program discontinuance due to valid educational considerations.
3. Faculty Layoff for Reasons of Financial Emergency

Notwithstanding Regent Policy Document 20-23 (Faculty Tenure), a tenured faculty member, or a probationary faculty member prior to the end of their current appointment, may be laid off in the event of a financial emergency. Layoff for reasons of financial emergency may occur only in accordance with UWS 5.01 through UWS 5.07 of Chapter UWS 5 of the Wisconsin Administrative Code, and Wis. Stat. s. 36.22, the procedures outlined in Regent Policy Document 20-24 (Procedures Relating to Financial Emergency or Program Discontinuance Requiring Faculty Layoff and Termination), and this policy. A nonrenewal, regardless of reasons, is not a layoff or termination under this policy.

 - a. It is the responsibility of the Chancellor to recommend to the Board of Regents that a financial emergency be declared for UW Oshkosh.
 - b. A decision to recommend a financial emergency shall be made in accordance with the best interests of students and the overall ability of the institution to fulfill its mission.
 - c. In the event that a declaration of financial emergency is contemplated, the Chancellor must consult with and seek advice from a faculty committee as provided for in s. [UWS 5.04](#) at least 3 months before the matter is taken to the board.
 - d. The UW Oshkosh Faculty Consultative Committee required in UWS 5.04 shall be the Faculty Senate Executive Committee and the Budget Process Committee, acting jointly. The President of the Faculty Senate shall chair the Faculty Consultative Committee.
 - e. The Chancellor shall provide the Faculty Consultative Committee with access to information and data relevant to the proposed declaration of financial emergency.

- f. The Faculty Consultative Committee will prepare a report regarding the proposed declaration of financial emergency. In this report, the Faculty Consultative Committee will:
 - i. Consider identifiable alternative methods of budget reduction;
 - ii. Determine whether reductions in faculty positions under the provisions of this chapter can be made with less detriment to the institution's ability to fulfill its mission than would follow from reasonable alternative courses of action;
 - iii. Determine from which colleges, schools, departments, or programs faculty positions should be eliminated, using the criteria in Section 3(b).
 - iv. State whether it agrees that a financial emergency should be declared at UW Oshkosh
 - v. Recommend to the Chancellor and Board of Regents those areas where layoffs should occur within the overall academic program.

The report will be shared with the Faculty Senate, the Chancellor the UW System President, the Board of Regents, as described in s. UWS 5.05(1m), and to all UW Oshkosh faculty.

- g. To prepare its report, the Faculty Consultative Committee shall consult with leadership of the Academic Staff Senate and University Staff Senate, as well as those other individuals and groups who may be able to provide valuable advice, including faculty, staff, and students potentially affected by the changes at each campus before it prepares its report.
- h. The Faculty Senate will consider the Consultative Committee Report and make a recommendation to the Chancellor.
- i. If the Chancellor decides to recommend that the Board declare a financial emergency for the Chancellor's institution, as described in s. UWS 5.06, the Chancellor shall provide their recommendation to the System president and the Board, accompanied by:
 - i. a report that shall include data demonstrating the need to declare a financial emergency;
 - ii. identification of the programs in which faculty reductions will be made, with data supporting those choices;
 - iii. the report created by the Faculty Consultative Committee;
 - iv. the Faculty Senate recommendation (3.h) and a report of any subsequent action taken by the Faculty Senate on the matter.
- j. It is the right and responsibility of the Faculty Consultative 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 UWS 5.05, 5.06 and RPD 20-24 are followed.

4. Faculty Layoff for Reasons of Program Discontinuance

Notwithstanding Regent Policy Document 20-23 (Faculty Tenure), a tenured faculty member, or a probationary faculty member prior to the end of their current appointment,

may be laid off if educational considerations relating to a program require program discontinuance. Layoff for reasons of program discontinuance may be made only in accordance with Wis. Stat. s. 36.22, the procedures outlined in Regent Policy Document 20-24 (Procedures Relating to Financial Emergency or Program Discontinuance Requiring Faculty Layoff and Termination), and this policy.

- a. A proposal to discontinue a program due to educational considerations that will result in faculty layoff may be initiated by faculty in the program, faculty in the college or school that contains the program, the faculty senate, the dean, the provost, or the chancellor.
- b. The proposal shall be in writing and shall contain appropriate information and analysis regarding the educational considerations, including programmatic and financial considerations, supporting the proposed program discontinuance.
- c. The proposal shall be provided for review to the faculty in the affected program, to the faculty senate, to the academic staff shared-governance body, to the university staff shared-governance body, and other governance bodies at the institution, and to the chancellor.
- d. Upon receipt of the proposal, the Faculty Senate will charge the Academic Policies Committee (APC) to review and evaluate any proposal to discontinue a program that may lead to faculty layoff.

The APC's review and evaluation will be based on the following considerations, as relevant:

- i. The centrality of the program to the UWO's mission;
 - ii. The academic strength and quality of the program, and of its faculty in terms of national ratings if applicable;
 - iii. Whether the work done in the program complements that done in another essential program;
 - iv. Whether the work done in the program duplicates academic instruction and course content delivered in other programs at the institution;
 - v. Student and market demand and projected enrollment in the subject matter taught in the program;
 - vi. Current and predicted comparative cost analysis/effectiveness of the program; and
 - vii. Other relevant factors that the committee deems appropriate.
- e. APC shall request and review comments and recommendations on the proposed program discontinuance from faculty and academic and university staff in the program, faculty and academic and university staff in the affected college or school, students in the program, and other appropriate institutional bodies or individuals.
 - f. APC shall prepare a recommendation and report regarding the proposed program discontinuation to be shared with the faculty in the program, the faculty senate, the college dean, the provost and the chancellor within three months of the date of the faculty senate's receipt of the program discontinuance proposal.

- g. The Faculty Senate will consider the Report of the APC and make a recommendation to the Chancellor.
- h. The Chancellor shall consult with the APC and the Faculty Senate before making any recommendation to the Board.
- i. If the Chancellor decides to recommend that the Board approve discontinuance of a program that will result in the layoff of faculty, the Chancellor shall provide their recommendation to the System president and the Board within four months of the date of the Faculty Senate's receipt of the program discontinuance proposal.

The Chancellor's recommendation must be accompanied by a report that includes:

- i. information demonstrating the educational considerations supporting program discontinuance,
- ii. the recommendation and report created by the APC, and
- iii. The Faculty Senate recommendation (4.g) and a report of any subsequent action taken by the Faculty Senate on the matter.

5. Notification

- a. A faculty member whose position is recommended for layoff shall receive the notification provided in Wis. Stat. s. 36.22(4) and shall be notified at least 12 months in advance of the effective date as provided in Wis. Stat. s. 36.22(5).
- b. Before the chancellor issues notice to a faculty member of an intention to terminate an appointment because of discontinuance of a program, the university will devote its best efforts to place the faculty member concerned in another suitable faculty position and provide financial assistance for re-adaptation as feasible and provided in Wis. Stat. 36.22(12).
- c. At the discretion of the Chancellor or designee, in consultation with the faculty member, the faculty member may be granted up to twelve months' salary as severance pay in lieu of part or all of the statutory notice period.

6. Seniority

- a. If the Board declares a financial emergency or approves discontinuance of a program resulting in faculty layoffs, the tenured faculty in the affected departments and programs shall have responsibility for recommending which faculty will be laid off. These recommendations shall follow seniority unless a convincing case is made that program or budget needs dictate other considerations (Wis. Stat. s. 36.22(3)).
- b. Seniority is defined as years of continuous service at University of Wisconsin Oshkosh, without regard to rank. If no breaks in service have occurred, time served as an academic staff member shall count towards seniority, as shall time served in a limited appointment if the faculty member had a faculty or academic staff appointment prior to accepting the limited appointment. Leaves of absence shall count toward seniority. In the event two or more members of a unit have the same seniority, the date the original contract (of continuous service) was signed by the appointee shall be used to determine seniority. In the event the appointee did not sign a contract, the date to be used will be the date a University of Wisconsin

Oshkosh administrator signed the contract. Part-time appointment dates shall be used only if the appointment date moved the individual toward tenure.

7. Right to Hearing

- a. A faculty member who has been notified of layoff is entitled to a hearing as to the appropriateness of the decision to lay off that individual. The budget or program decisions made to discontinue, curtail, modify, or redirect a program are not subject to review in the hearing.
- b. The Faculty Hearing Committee required by Wis. Stat. s. 36.22(6) shall be a subcommittee of the Faculty Senate Hearing Committee. This hearing subcommittee shall conduct the hearing, make a verbatim record of the hearing, prepare a summary of the evidence, and transmit the record and summary along with its recommended findings of law and decision to the Board. The hearing subcommittee will act as the impartial hearing officer as required by Wis. Stat. 36.115 (4) and SYS 1233.
- c. Procedures will follow those outlined by Wis. Stat. s. 36.22(7)(8)(9)(10).

8. Reappointment Rights

- a. A faculty member who is in layoff status is entitled to the reappointment rights and other protections in Wis. Stat. s. 36.22(13)(14).
- b. Within a three-year period from the date of separation, UW Oshkosh shall not employ another person to perform duties reasonably comparable to those of a faculty member laid off or terminated under this policy without first offering the laid-off or terminated faculty member reappointment without loss of tenure, seniority and other rights. The three-year period shall be computed from the effective date of layoff as specified in the original notice.

9. Rights of Faculty Members on Layoff

- a. A faculty member who is in layoff status is entitled to the rights and other protections in Wis. Stat. s. 36.22(15).
- b. A University of Wisconsin Oshkosh faculty member on layoff status defined by 36.22(11) shall be entitled to such participation in fringe benefit programs as is allowed by state regulations governing rights of laid-off state employees; office space and secretarial assistance from the department or college whenever available; and governance rights provided by the Faculty Constitution.

10. Safeguards for Students

UWO will make every effort to accommodate students adversely affected by discontinuance of an academic program for reasons of financial emergency or because of educational considerations. Discontinuance of a program should be phased in over a reasonable time period to provide students with the opportunity to complete the program or transfer to another program. Completion of a program or transfer to another program cannot be guaranteed by the university.

Oversight, Roles, and Responsibilities

Faculty have the primary responsibility for academic and educational activities and faculty personnel matters. The Faculty Senate shall assure faculty participation in all stages of policy development in areas of faculty concern.

The Faculty Senate Executive Committee (FSEC) shall conduct a review of this policy at least once every three years. It may do so more frequently if governing policies change or at the request of 25% of sitting Senators. If the FSEC deems any changes to be necessary, it shall recommend those changes to the Faculty Senate.

The Faculty Senate can approve changes to this policy by majority vote.

Related Policy Documents and Applicable Laws

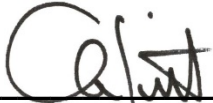
Chapters UWS 3 and 5, Wis. Admin. Code

[Regent Policy Document 20-24: Procedures Relating to Financial Emergency or Program Discontinuance Requiring Faculty Layoff and Termination](#)

[Regent Policy Document 20-23: Tenure](#)

[Chapter 36.22, Wis. Stats: Layoff or termination of faculty member due to certain budget or program changes](#)

Approval



Chancellor's Signature

July 22, 2020

Date