

PART X

REGULATIONS AFFECTING ACADEMIC EMPLOYMENT

A. Merit As the Basis for Appointment

All appointments shall be made strictly on the basis of merit. An applicant for a position shall not be discriminated against because of sex, race, ethnic origin, national origin, sexual orientation, color, creed, religion, age, or political belief. Additionally, the University shall not discriminate against any applicant for employment because of Vietnam-era veteran status, disabled veteran status, or physical or mental handicap in regard to any position for which the applicant for employment is qualified.

Members of the Board of Trustees, except those elected to the Board as faculty, staff, or student representatives, and relatives of any member of the Board of Trustees are ineligible for employment at the University. "Relatives", as used above, include parents and children, husbands and wives, brothers and sisters, brothers- and sisters-in-law, mothers- and fathers-in-law, uncles, aunts, nieces and nephews, sons- and daughters-in-law, and step-relatives in the same relationships. Employment includes regular and temporary full- and part-time employment, including student work-study and graduate assistant programs.

No relative of the President shall be employed in a position at the University. Similarly, no relative of the Provost, or any Vice President, or any Associate Provost or Associate Vice President shall be employed in a position in that officer's administrative area. Waiver of the above regulation may be permitted by the Board of Trustees on a stated temporary basis, not to exceed two years, when it is otherwise impossible practicably to fill a position with a fully qualified person. The same individual shall not be eligible for reappointment under the terms of this exception unless approval is given by the Board of Trustees. No relative of any administrative officer of the University, or of any member of the University faculty, may be appointed to any position in the University over which the related officer or staff member exercises supervisory or line authority. Employment of relatives within the same department or division shall be approved specifically by the Provost or senior vice president, as appropriate. "Relatives," as used above, include parents and children, husbands and wives, brothers and sisters, brothers- and sisters-in-law, mothers- and fathers-in-law, uncles, aunts, nieces and nephews, sons- and daughters-in-law, and step-relatives in the same relationships. The employment of relatives of University employees, as described in this paragraph, whose relationship was not a violation of this section of the Governing Regulations prior to its amendment on April 10, 1984, does not constitute a violation of the amended policy provided the relatives are regular employees of the University and remain in the University employment positions which they held on April 10, 1984. However, the transfer of any such employees described in this paragraph (whose employment relationship was not a violation of policy prior to its amendment on April 10, 1984) to any other regular University position shall require approval of the President.

B. Tenure

1. Types of Appointment

Faculty appointments shall be of three basic types: (1) non-tenured appointments; (2) tenured appointments; and (3) post-retirement appointments.

There are two types of non-tenured appointments. One type of non-tenured appointment is that in which a faculty member is ineligible for tenure as a consequence of having been appointed: (1) in the research, clinical, adjunct, visiting, or voluntary series of academic ranks and titles; or (2) on a part-time or temporary basis. An appointment on a temporary basis involves an individual who has assigned duties and responsibilities which should be completed within one year or less.

A second type of non-tenured appointment is that in which a faculty member is appointed on a full-time, year-to-year basis in the regular, special title, extension, or librarian series of academic ranks and titles. In such an appointment, the faculty member does not have tenure but may be considered for tenure if recommended for such by the appropriate University administrators.

A tenured appointment is one in which a faculty member is on full-time continuous appointment.

The term "joint appointment" shall apply in any case in which an individual holds two or more intra-University faculty appointments. In such an instance, one of the appointments shall be designated as the primary appointment by the dean of the college if the individual's appointments are associated with educational units in the same college, by the Provost or Senior Vice President and Chancellor of the Medical Center, as appropriate, if the appointments are with educational units in different colleges. The constituent appointments relating to a joint appointment may be processed simultaneously or at different times; however, each appointment should be processed independently and considered on its own merits. An individual's academic rank, though usually the same, may differ in the constituent appointments. The possibility of tenure applies only to the primary appointment. In case of termination of the non-primary appointment(s) leaving only the primary appointment for a full-time faculty member, the individual's assignment associated with the primary appointment shall become full-time.

Post-retirement appointments are of two types. One type is that in which retired employees may be appointed to perform duties for which fee schedules have been established and approved by the Provost or Senior Vice President and Chancellor of the Medical Center.

A second type of post-retirement appointment may be used in a very limited number of cases, when it is essential to a University program or office or when it is otherwise impossible practicably to fill a position with a fully qualified person. Such a part-time or full-time appointment is restricted to former employees who have elected to retire, requires specific prior approval by the Board of Trustees, and is made for a period not to exceed one year.

More detailed information on the various types of appointments is provided in the Administrative Regulations (AR II-1.0-1, AR II-5.0-2, and AR II-1.6-1).

2. Probationary Periods

Probationary periods (or maximum non-tenure periods) are not applicable in cases where faculty members are appointed (1) in the research, clinical, adjunct, visiting, or voluntary series of academic ranks and titles, or (2) on a part-time or temporary basis. In all such appointments, faculty members are ineligible for tenure.

Probationary periods are applicable to non-tenured appointments of faculty members on a full-time year-to-year basis in the regular, special title, extension, or librarian series of academic ranks and titles. Such non-tenured appointments may be for one year or for other stated periods, subject to renewal. The total non-tenure period, however, shall not exceed seven years unless one of the following provisions applies: AR II-1.1-12 (Family Medical Leave); GR X.C.7. (leave for duration of an election or term of office); GR X.C.5.d. (educational leave); or for other leaves of absence where the University, in granting the leave, and the individual, in accepting it, agree that time spent on the leave of absence shall not count as probationary period service. Except as provided in Part X.C.5.d. and X.C.7., time spent on leave of absence shall count as probationary period service unless the University in granting the leave and the individual in accepting it agree to the contrary. An individual initially appointed to the rank of full professor may be given non-tenure status for a period not to exceed one year. An individual shall not remain at the rank of instructor in the University for more than three years. If after that period, promotion to a higher rank cannot be justified, the individual's appointment in the University System or the Community College System of the University of Kentucky shall not be renewed.

Following appropriate probationary periods not exceeding in duration those described above, all persons of associate professor or higher rank shall be given tenure or their appointments shall not be renewed; all persons of assistant professor rank (or equivalent as adjudged by the President) shall be promoted to associate professor with tenure or their appointments shall not be renewed. Established appointment, promotion, and review procedures shall be followed in making these decisions.

Existing tenure appointments are not affected by any of the foregoing regulations.

3. Appointment Record

The precise terms and conditions, excepting salary, covering each appointment shall be stated in writing on an official appointment record. Notice of reappointment shall be in the possession of the appropriate administrative officers and the appointee at least three months before the renewed appointment begins, when possible, or at the earliest date feasible in view of budget considerations. It shall be the responsibility of the Provost or Senior Vice President and Chancellor of the Medical Center to insure compliance with this regulation.

4. Notification of Non-Renewal of Appointment: Non-Tenured Appointments

Part-time, visiting, or temporary short-term appointments with explicit terminal dates of one year or less terminate at the expiration of the term without notice.

For those employed year-to-year on a fiscal or academic year basis, notification of non-renewal of appointment at the end of the first year of service shall be given not later than March 1 if the appointment expires at the end of that year or three months in advance if the one-year appointment terminates during the academic year. Notification of non-renewal of appointment at the end of the second year of service shall be given no later than December 15 if the appointment expires at the end of the year or six months in advance if the appointment expires during the year. Notification of non-renewal of appointment after more than two years of service shall be given at least 12 months before expiration of appointment.

Any related appeal(s) to the Provost or the Senior Vice President and Chancellor of the Medical Center, as appropriate, concerning procedural matters or privilege and/or to the Advisory Committee on Privilege and Tenure of the University Senate or the Senate of the Community College System concerning procedural matters, privilege, or allegations of violation of academic freedom must be initiated in writing by the concerned faculty member within 60 days after being notified in writing by the dean or president of the college about non-renewal of appointment.

5. Termination of Appointment

a. Reasons for Termination

Except in cases of financial emergency, the termination of a tenured appointment or the dismissal of a person prior to the expiration of a non-tenured appointment shall be, in accordance with KRS 164.230, only for reasons of incompetence, neglect of or refusal to perform duties, or for immoral conduct.

In a case of termination because of a financial emergency, the faculty member may have the issues reviewed by the Advisory Committee on Privilege and Tenure of the University Senate or the Senate of the Community College System with the right of appeal to the President and the Board of Trustees for the University System faculty member and to the President of the Kentucky Community and Technical College System for the University of Kentucky Community College System faculty member. The faculty member shall be given notice as soon as possible and never less than 12 months' notice. The released faculty member's position shall not be filled by a replacement within a period of two years unless the released faculty member has been offered reappointment and given a reasonable time within which to accept or decline it.

b. Procedure

Dismissal of a faculty member with tenure or of a non-tenured faculty member before the end of a specified term of appointment shall be preceded by discussions between the faculty member and the appropriate administrative officer or officers looking toward a mutual settlement. In the event of failure to agree upon settlement, the Provost shall be responsible for the preparation of a reasonably particularized statement of charges which shall be furnished to the faculty member and the Advisory Committee on Privilege and Tenure of the University Senate or the Senate of the Community College System. The committee shall make an informal investigation for the purpose of attempting to effect an adjustment and, in the case of failure, shall recommend to the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty whether, in its opinion, dismissal proceedings should be undertaken. Its opinion shall not be binding upon the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty.

If the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty initiates dismissal proceedings, the concerned individual shall have the right to be heard initially by the Hearing Committee (Privilege and Tenure) of the University Senate or the Senate of the Community College System.

The faculty member shall be informed in writing by the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty regarding specific charges at least 20 days prior to the hearing. At least seven days prior to the hearing, the faculty member shall answer the charges in writing. The faculty member may waive the hearing. If the faculty member waives the hearing but denies the charges or asserts that the charges do not support a finding of adequate cause, the Hearing Committee shall evaluate all available evidence and base its recommendation upon the evidence in the record.

The Hearing Committee, in consultation with the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty and the faculty member, shall exercise its judgment as to whether the hearing shall be public or private. During the proceedings the faculty member shall be permitted to have an academic advisor and a counsel of personal choice. At the request of either party or the Hearing Committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer. A full stenographic record of the hearing or hearings shall be taken and made available to the parties concerned. The burden of proof that adequate cause for dismissal shall rest with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole. If the faculty member's competence is in question, the testimony should include that of qualified faculty members from this and/or other institutions of higher education.

Upon the conclusion of the hearing, the Hearing Committee shall report to the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty that adequate cause for dismissal has or has not been established by the evidence in the record. It may, in addition, recommend that, although adequate cause for dismissal has been established, an academic penalty less than dismissal would be more appropriate, giving supporting reasons for the recommendation. If the President of the University of Kentucky for University System faculty or the President of the Kentucky Community and Technical College System for Community College faculty rejects the report, the President shall provide reasons in writing to the Hearing Committee and to the faculty member and provide an opportunity for response before transmitting the case to the Board of Trustees.

A decision adverse to the faculty member may be made only after an opportunity has been given for an additional hearing before the Board of Trustees as required by KRS 164.230. The Board shall either sustain the recommendations of the Hearing Committee and the President or return the proceedings to the President and the committee with specific objections. The Hearing Committee then shall reconsider, taking into account the stated objections and receiving new evidence if necessary. The Board of Trustees shall make the final decision after a study of the Hearing Committee's reconsideration.

c. Suspension

Until the final decision on termination of an appointment has been reached, the faculty member shall be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Before suspending a faculty member, pending an ultimate determination of the individual's status through the hearing procedure, the President shall consult with the Advisory Committee on Privilege and Tenure of the University Senate or the Senate of the Community College System. Salary shall be continued during the period of suspension.

6. Academic Freedom of Non-Tenured Faculty

If faculty members on non-tenured appointments or faculty members on post-retirement appointments allege that decisions not to reappoint them were caused by considerations violative of academic freedom, or that they were given less advance notice than specified in these regulations, they must present their allegations in writing to the Advisory Committee on Privilege and Tenure of the University Senate or the Senate of the Community College System within 60 days after being notified in writing by their respective deans or presidents of colleges of the decisions not to reappoint. Allegations so presented shall be given preliminary consideration by the appropriate Advisory Committee on Privilege and Tenure, which shall attempt to settle the matter by informal methods. The faculty members' allegations shall be accompanied by statements that they agree to the presentation, for the consideration of the committee, of such reasons and evidence as the University may allege in support of its decisions. If the difficulty is unresolved at this stage and if the committee so recommends, the procedures

set forth in 5-b shall be applied, except that the faculty members making the complaints are responsible for stating the grounds upon which they base their allegations, and the burden of proof shall rest upon them. If prima facie cases are established via these procedures in favor of the faculty members, it becomes incumbent upon the persons who made the decisions not to reappoint to present evidence in support of those decisions.

7. Resignation

Notice of resignation should be given early enough to obviate serious inconvenience to the University. If faculty members desire to terminate existing appointments or to decline renewals in the absence of notices of non-renewal, they shall give written notice of no less than three months if their rank is instructor or assistant professor, and no less than four months if their rank is higher, before the end of their duties during the academic year (exclusive of a summer session) or thirty days after receiving notification of the terms of their appointments for the coming year, whichever date occurs later. However, they may properly request a waiver of this requirement in cases of hardship or in situations where they would otherwise be denied substantial professional advancement.

8. Administrative Personnel

Administrative personnel who hold academic rank are subject to the foregoing regulations in their capacity as faculty members. Administrators who allege that considerations violative of academic freedom significantly contributed to decisions to terminate their appointments to administrative posts or not to reappoint them shall be entitled to the same procedures as those for non-tenured faculty who have alleged violation of academic freedom.

9. Graduate Student Academic Staff

In no case shall an appointment of a graduate or teaching assistant be terminated before the end of the period of appointment without the individual's being provided with an opportunity to be heard before the University Senate Advisory Committee on Privilege and Tenure.

A graduate or teaching assistant, who has established a prima facie case to the satisfaction of the committee that a consideration violative of academic freedom significantly contributed to the individual's non-reappointment, shall be given a statement of reasons by those responsible for the non-reappointment and an opportunity to be heard by a University Senate Hearing Committee (Privilege and Tenure).

10. Opportunities for Hearings

In no case shall a member of an academic staff, who is not otherwise protected by the preceding regulations which relate to dismissal proceedings, be dismissed (termination before the end of a period of appointment) without having been provided with a statement of reasons and an opportunity to be heard before the Advisory Committee on Privilege and Tenure of the University Senate or the Senate of the Community College System.

A member of an academic staff who establishes a prima facie case to the satisfaction of the committee that a consideration violative of academic freedom significantly contributed to the member's non-reappointment shall be given a statement of reasons by those responsible for the non-reappointment and an opportunity to be heard by the Hearing Committee (Privilege and Tenure) of the University Senate or the Senate of the Community College System.

11. Change of Assignment

When it is in the best interests of the institution, and if the professional status of an individual is not seriously jeopardized thereby, a change in the duties assigned to an individual may be made without such a change of assignment being regarded as a violation of the individual's tenure rights.

C. Conditions of Employment

1. Terms of Assignment

Academic assignments are made on academic year, ten-month, eleven-month, and twelve-month bases.

2. Vacation Leave

All full-time faculty members on a ten-month, eleven-month, or twelve-month assignment basis shall be entitled to 22 working days of vacation leave with pay per assignment period. With prior administrative approval, faculty members may take vacation leave at appropriate times during the period in which they are eligible to take such leave; however, each member of the teaching faculty shall be in actual attendance at least until after Commencement and until all reports have been made, and at least three days prior to the first day of registration for the fall semester, unless for special reasons leave is approved. Vacation leave normally cannot be accumulated from one assignment period to another, except that a faculty member on a twelve-month assignment basis may take vacation leave either during the assignment period in which the vacation leave is earned or during the subsequent assignment period. Under unusual circumstances, provided it is in the best interest of the University and has advance approval by the Provost or Senior Vice President and Chancellor of the Medical Center, a faculty member on a ten-month or an eleven-month assignment basis also may take unused vacation leave during the assignment period following that in which the vacation leave was earned. Pay for unused vacation leave shall be limited to a maximum of 22 days at the end of employment.

3. Professional Practices

a. General Policies

During their annual assignment period (whether academic year, ten months,