

appointment expires at the end of that year or three (3) 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 (6) months in advance if the appointment expires during the year. Notification of non-renewal of appointment after more than two (2) years of service shall be given at least twelve (12) months before expiration of appointment. Non-renewal decisions concerning regular, full-time faculty members shall be reported to the Board of Trustees.

Any related appeal(s) to the Provost concerning procedural matters or privilege and/or to the University Senate Advisory Committee on Privilege and Tenure concerning procedural matters, privilege, or allegations of violation of academic freedom must be initiated in writing by the concerned faculty member within sixty (60) days after being notified in writing by the dean about non-renewal of appointment.

(e) Termination of Appointment

(i) 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 University Senate Advisory Committee on Privilege and Tenure with the right of appeal to the President and the Board of Trustees for the University faculty member. The faculty member shall be given notice as soon as possible and never less than twelve (12) months notice. The released faculty member's position shall not be filled by a replacement within a period of two (2) years unless the released faculty member has been offered reappointment and given a reasonable time within which to accept or decline it.

(ii) 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 detailed statement of charges which shall be furnished to the faculty member and the University Senate Advisory Committee on Privilege and Tenure. The committee shall make an informal investigation for the purpose of attempting to affect a resolution and, in the case of failure, shall recommend to the President whether, in its opinion, dismissal proceedings should be undertaken. Its opinion shall not be binding upon the President.

If the President initiates dismissal proceedings, the concerned individual shall have the right to be heard initially by the University Senate Hearing Panel (Privilege and Tenure).

The faculty member shall be informed in writing by the President regarding specific charges at least twenty (20) days prior to the hearing. At least seven (7) 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 Panel shall evaluate all available evidence and base its recommendation upon the evidence in the record.

The Hearing Panel, in consultation with the President 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 Panel, 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 Panel shall report to the President 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 accepts a report with a decision adverse to the faculty member, the President shall provide an opportunity for response by the faculty member before transmitting the case to the Board of Trustees and provide reasons in writing to the Hearing Panel and to the faculty member.

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 of Trustees shall either sustain the recommendations of the Hearing Panel and the President or return the proceedings to the President and the committee with specific objections. The Hearing Panel 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 Panel's reconsideration.

(iii) 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 University Senate Advisory Committee on Privilege and Tenure. Salary shall be continued during the period of suspension.