

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