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Proposed amendments to proposed revision of Governing Regulations

Page 59, B, 2 -- Insert after first sentence:

Except as provided in section X, C, 7, time spent on leave of absence shall count <sup>as</sup> ~~of~~ probationary period service unless the University in granting the leave and the individual in accepting it agree to the contrary.

Page 60 section 4 -- Add "part time" after temporary

*see page 1a*

Page 61 section 5 -- Replace second sentence :

In the instance of termination because of a financial emergency the faculty member may have the issues reviewed by the University Senate Committee on Privilege and Tenure <sup>with</sup> ~~and have~~ the right of appeal ~~of all administrative issues~~ to the President and Board of Trustees. In all instances the faculty member shall be given notice as soon as possible and never less than 12 months' notice. The released faculty member's place shall not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

Page 61 Change Headings:

5. Termination of Appointment

a. Reasons for Termination

b. Procedure

Dismissal of a faculty member with continuous tenure or of a nontenured member before the end of his specified term of appointment shall be preceded by discussions between the faculty member and an appropriate administrative officer or officers looking toward a mutual settlement. In the event of

#### 4. Notification of Termination: Non-Tenure Appointments

Temporary, part time, visiting or short-term appointments (one academic 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 termination of employment at the end of the first ~~academic~~ 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 termination of appointment at the end of the second year of service shall be given no later than Dec. 15 if the appointment expires at the end of that year or six months in advance if the appointment expires during the ~~academic~~ year. Notification of termination of appointment after more than two years of service shall be given at least 12 months before expiration of the appointment. Notice of termination of appointment of those on post-retirement appointment shall <sup>be no less</sup> ~~begin no later~~ than six months, ~~before~~ ~~the end of the terminal year.~~

failure to arrive at an agreed upon settlement the President shall be responsible for the preparation of a reasonably particularized statement of charges which shall be furnished to the faculty member and the University Senate Committee on Privilege and Tenure. The committee shall make an informal investigation for the purpose of attempting to effect an adjustment and, in the case of failure, to 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 individual concerned shall have the right to be heard initially by ~~the~~ a University Senate ad hoc Hearing Committee (Privilege and Tenure).

The faculty member shall be informed in writing by the President of specific the charges against him at least twenty days prior to the hearing. At least seven days prior to the hearing, the faculty member must answer the charges in writing. The faculty member may waive the hearing. If he waives the hearing, but denies the charges against him or asserts that the charges do not support a finding of adequate cause, the hearing tribunal shall evaluate all available evidence and rest its recommendation upon the evidence in the record.

The committee, in consultation with the President and the faculty member, will exercise its judgment as to whether the hearing should be public or private. During the proceedings the faculty member will be permitted to have an academic advisor and counsel of his 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



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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 <sup>U</sup>cause exists rests 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 conclusion of the hearing, the committee 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 rejects the report, he will state his reasons in writing to the 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 <sup>after</sup> only an opportunity for an additional hearing before the Board of Trustees as required by KRS 164.230. The Board will either sustain the recommendations of the committee and the President or return the proceedings to the President and the committee with specific objections. The committee will then reconsider, taking into account the stated objections and receiving new evidence if necessary. The Board of Trustees will make the final decision after a study of the committee's reconsideration.

c. Suspensions

Until the final decision upon termination of an appointment has been reached, the faculty member will be suspended, or assigned to

other duties in lieu of suspension, only if immediate harm to himself or others is threatened by his continuance. Before suspending a faculty member, pending an ultimate determination of his status through the hearing machinery, the President will consult with the University Senate ~~ad hoc Hearing Committee~~ <sup>Committee on</sup> Privilege and Tenure. ~~Salary~~ Salary will continue during the period of suspension.

#### 6. Academic Freedom of Nontenured Faculty

If a faculty member on a non-tenure appointment or a member <sup>on</sup> ~~of~~ post-retirement appointment alleges that a decision not to reappoint him was caused by considerations violative of academic freedom, or that he was given less advance notice than that specified in these regulations, his allegations shall be given preliminary consideration by the University Senate Committee on Privilege and Tenure, ~~if the committee concludes that~~ which will seek to settle the matter by informal methods. His statement shall be accompanied by a statement that he agrees to the presentation, for the consideration of the Senate committees, of such reasons and evidence as the University may allege in support of its decision. If the difficulty is unresolved at this stage, and if the committee so recommends, the procedures ~~for the~~ <sup>set forth in 5(b)</sup> ~~consideration of termination of appointment cases~~ shall be applied, except that the faculty member making the complaint is responsible for stating the grounds upon which he bases his allegations, and the burden of proof shall rest upon him. If he succeeds in establishing a prima facie case, it is incumbent upon those who made the decision not to reappoint him to come forward with evidence in support of their decision.



## 7. Resignation

No changes except typographical

## 8. Administrative Personnel

Administrative personnel who hold academic rank are subject to the foregoing regulations in their capacity as faculty members. Where an administrator alleges that a consideration violative of academic freedom significantly contributed to a decision to terminate his appointment to his administrative post, or not to reappoint him, he shall be entitled to the same procedures as nontenured faculty who have alleged violation of academic freedom.

## 10. 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 being provided with the opportunity to be heard before ~~the~~ <sup>the</sup> ~~University Committee on Privilege and Tenure~~ <sup>University Committee on Privilege and Tenure</sup>.  
~~constituted committee of the graduate school~~

Likewise a graduate or teaching assistant who~~h~~ has established a prima facie case to the satisfaction of the committee that a consideration violative of academic freedom significantly contributed to the nonreappointment shall be given a statement of reasons by those responsible for the nonreappointment and an opportunity to be heard by the committee.

## 11. Change of Assignment

The present section 10.

Page 73 - Last sentence

Substitute for "does not count as probationary service"

... will not count as probationary service unless otherwise agree<sup>d</sup> to.