

Low Performance and Dismissal for Cause **DRAFT**

(To Senate from Fac. Affairs comm. 2.28.19; approved by Faculty Senate as amended 3.25.19)

Throughout the year, Committee motions for changes in policy and/or stances on issues, if any, shall take the following written form:

b) Rationale for the motion.

To provide consistency and clarity related to policy 4.22 Performance related Dismissal, 4.23 Faculty evaluation and chronic low performance, 4.15 Post-Tenure Review for Faculty. To maintain within the policy faculty reviews and actions related to those reviews a process that is fair, unbiased, non-retaliatory and non-discriminatory.

Issue – 4.23 Faculty Evaluation is more about the process of how the faculty are evaluated and then at the end is added a section on Chronic low Performance – recommend that the content of this part of the policy be modified and moved to 4.22 and modify title to Low Performance and Dismissal for cause (consider renumbering so this comes after the faculty evaluation process)

Issues – there is not clarity on the number of members of the Review Committee in 4.23; not all the options for recommendations by this committee are clear; The process for the hearing as provided is confusing for the faculty member, committee and Provost.

c) Committee name, date and authors: c) Faculty Affairs committee, 2.28.19

The motion **DRAFT RECOMMENDATION**

1. Delete the policy CHRONIC LOW PERFORMANCE, under 4.22 Faculty Evaluation
2. Modify 4.23 as noted below:

4.23 / Low Performance and Dismissal for Cause

Purpose:

This statement is intended to establish a specific and clear procedure for identifying and addressing instances of a Tenured Faculty Member failing to meet the minimum level of performance or expectations of professional fitness and guidelines for remediation where appropriate. When a Tenured faculty member, who does not meet the minimum acceptable level of performance or when reason to question a Tenured faculty's professional fitness is documented, the process outlined below is provided to allow a fair, unbiased, non-retaliatory and non-discriminatory remediation and/or dismissal for cause. Faculty members who are not tenured and whose term of appointment has not expired, would follow applicable University policies in chapter 3.

Definitions:

Chair: denotes the administrator of the Unit (i.e. Director or other title of educational unit: Department, School, Center, etc.).

Tenured Faculty Member: anyone who is classified within the eclass or egroup of Tenured Faculty in the WSU system of record "Banner"

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Low Performance: the “overall” performance category (as indicated on the FAR form) where a Tenured Faculty Member does not meet the minimum level of performance.

Faculty Member Rights: Faculty Member has ten (10) business days to contest the decision in writing and request a formal review to the Provost.

Professional Fitness*: three (3) Annual Low Performance Ratings in any five (5) year period, or improper behavior that demonstrates: incompetence or dishonesty in teaching or research; dereliction of essential duties and responsibilities; or personal conduct which substantially impairs the individual’s fulfillment of their essential institutional responsibilities.

*Allegations of gender-based harassment, discrimination, sexual misconduct and protected class discrimination will be investigated pursuant to the specific university policy.

Performance Evaluation Forms (FAR) Review Committee (or similar committee such as T&P committee): made up of Tenured Faculty Members from the department (or an ad-hoc committee in place for faculty reviews within the department).

College Faculty Review Committee: made up of three (3) Tenured Faculty Members from the college reviewing the Tenured Faculty Member’s performance, jointly named by the faculty and chair.

University Review Committee: made up of Tenured Faculty Members (not less than 3), jointly named by the president of the Faculty Senate and the University president.

Policy:

Each University department/unit shall use established criteria for minimum acceptable levels of performance that have been communicated to the members within the department/unit as the basis for annual evaluations.

The chair and the Performance Evaluation Forms (FAR) Review Committee (or similar committee) shall determine if the “overall” performance (as indicated on the FAR form) of a Tenured Faculty Member in their department falls below the minimum level of role expectations. If there is no FAR Review Committee, the decision is based on the chair’s statement. If there is disagreement between the chair and the FAR Review Committee, the decision to enact the procedures for low performance review will be decided by the college Dean.

It is highly recommended that the Chair and/or Dean utilize the expertise and experience of the Human Resources Department in working with issues of Low Performance and/or Dismissal for Cause.

Faculty Senate Ombudspersons are available to provide assistance to faculty.

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Procedures for Low Performance:

A: First Annual Low Performance rating:

1. The chair shall discuss with the Tenured faculty member the specific area(s) of responsibility with low performance related to their role statement/job description and mutually develop a plan of action to improve performance and/or remediation. A summary of this discussion, that includes the plan of action, will be added to the annual evaluation documents and a copy provided to the Tenured Faculty Member.
2. If the Tenured Faculty Member disagrees (rejects) the finding of a first low performance rating, they may submit a written rebuttal with justification/documentation within five (5) business days. The dean will then review the low performance judgement and make a final decision within ten (10) business days.

B. Second Annual Low Performance rating in the last four-year period:

1. A Tenured Faculty Member receives a second annual evaluation which reflects a finding in that department/unit that they have failed to meet the minimum level of performance.
2. The chair shall meet with the Tenured Faculty Member to clearly document areas of low performance that need to improve and develop a plan for remediation.
 - a. Remediation may include appropriate provisions for faculty development, such as coaching, leave of absence, or a change in teaching assignments. Other remediation steps may be offered, subject to review by the Dean or the Provost. Remediation should begin as soon as possible and will be funded by the University. The Tenured Faculty Member's annual review document for the subsequent year should reflect the method of remediation and document its level of success.
 - b. A summary of this meeting, that includes the plan for remediation, will be added to the annual evaluation documents and a copy provided to the Tenured Faculty Member.
3. If the Tenured Faculty Member disagrees (rejects) the finding of a second low performance rating or cannot reach agreement with the chair on a plan for remediation, a college faculty review committee will be selected (as explained in item b in this section) to review the Tenured Faculty Member's annual evaluations and other relevant documents.
 - a. Members: Three Tenured Faculty Members from outside that department/unit but within the same college; two members must be in the same teaching category as the Tenured Faculty being evaluated.
 - b. The Tenured Faculty Member and the chair shall each select one reviewer, and they shall jointly select the third person (if there is no agreement to the third person, the Dean will select the third person). The committee will elect their chairperson.
 - c. The review committee shall meet separately with the Tenured Faculty Member and department chair, review the details, and provide a report to the college dean within one month from the time the committee is selected. The meetings are convened by the committee chair.
 - d. The reviewers shall submit a written report to the Tenured Faculty Member, the chair, and the dean stating that by majority vote concluded either that (a) there is sufficient evidence of low performance and remediation is necessary; or (b) there is insufficient evidence of low performance. The dean will then make the final decision regarding

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chronic low performance after meeting with the Tenured Faculty Member and the chair.

C. Dismissal for Cause- Recommendation by Chair and Dean to the Provost

- 1) Chronic Low Performance -Three Annual Low Performance Ratings in any consecutive five-year time period. OR
- 2) Documented behavior that questions the professional fitness of the Tenured Faculty Member.

Faculty Member's Response

- a) Accept the Decision of Dismissal
- b) Disagrees with Decision of Dismissal
 - 1) The Tenured Faculty Member will be informed that they have ten (10) business days to contest the decision in writing and request a formal review.

If the Tenured Faculty Member does not request for formal review within ten (10) business days, then she/he is separated from employment.

If the Tenured Faculty Member disagrees with (rejects) the finding of Dismissal for Cause, a University Review Committee is formed. The Tenured Faculty Member may be placed on Administrative Leave with Pay until the conclusion of the review meeting.

- 1) Membership of the University Review Committee:
 - a) Tenured Faculty Members (not less than 3) will be jointly named by the president of the Faculty Senate and the University president (or designee) within ten (10) business days) after the Tenured Faculty member contests the decision in writing and requests a formal review.
 - b) The members of the review committee will be chosen on the basis of their objectivity and competence.
 - c) The committee will elect its own chairperson.
- 2) Committee Charge
 - a) To evaluate annual reviews or documentation of low performance or professional fitness.
 - b) Set a hearing date in collaboration with the Provost to review Dismissal for Cause Recommendation.
 - c) Notify Tenured Faculty Member when the review meeting will take place.
 - (1) The Tenured faculty member will have at least 20 business days to prepare a defense at the review meeting.
- 3) Review Meeting:
 - a) Tenured Faculty Member may have an advisor of their own choosing who may act as counsel during the review. The advisor or the Tenured Faculty Member will present verbally why the dismissal for cause should not happen.
 - b) The Provost should designate a representative to present verbally why the dismissal for cause should happen.
 - c) There shall be a full record of the hearing available to the parties concerned.

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4. Review Conclusion:

University Review Committee will make one of the following recommendations within one month after the review meeting(s), which includes rationale, to the Tenured Faculty Member, the Provost, and the president of the University:

- (i) Recommends dismissal for cause.
- (ii) Does not recommend dismissal for cause.

University President's (or designee) Decision:

After reviewing the recommendation of the University Review Committee, the president of the University will determine whether the case for dismissal should proceed. Communication from the President addressed to the Tenured Faculty Member in writing will inform them of the President's decision.

- 1. If the decision is to dismiss the Tenured Faculty Member for cause, the letter will state the grounds for dismissal, and indicate the effective date of the end of the Tenured Faculty Member's employment and any specific arrangements to be made regarding separation salary or other relevant matters.
- 2. If the decision is to retain the Tenured Faculty Member, the letter will state that they will be reinstated with the effective date to return to the University.

Implementation:

This policy shall be included in the *WSU Policies and Procedures Manual* and shared with appropriate constituencies of the University.

The Provost shall have primary responsibility for publication, dissemination and implementation of this University policy.

Revision Date:

November 1, 1998

August 18, 2000

August 2017

DATE