Recommendation of the University Committee to substitute for current Sections 5.18 - 5.183 in UWM Policies and Procedures a single Section 5.18

OLD

5.18 Appeals: Non-Renewal Decision

Provisions of 5.18 through 5.183 apply in all situations where non-renewal decisions have been rendered.

5.181 Appeals on Procedural Issues

Appeals on procedural and non-academic issues may be brought to the Faculty Appeals Committee at any time during or after any of the above proceedings. The Faculty Appeals Committee may suspend reconsideration proceedings pending a ruling on appeal. The burden of proof in such appeal shall be on the faculty member.

5.182 Scope of Review

The scope of review on procedural issues shall be limited to whether the decision was based, with material prejudice to the individual, on one or more of the following:

(1) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, or

(2) factors proscribed by applicable state or federal law regarding fair employment practices, or

(3) improper considerations of qualifications for reappointment or renewal as defined below. For the purpose of this section, "improper consideration" shall be deemed to have been given to the qualifications of a faculty member in question if material prejudice resulted because of any of the following:

(a) The procedures requested by rules of the faculty or Board of Regents were not followed, or

(b) available data bearing materially on the quality of performance were not considered, or

(c) unfounded or arbitrary assumptions of fact were made about work or conduct.
5.183 Appeals on Academic Issues

Normally the decisions of a departmental executive committee or a divisional executive committee are conclusive on academic issues. The Faculty Appeals Committee, if it judges the circumstances to be unique, may consider academic appeals. Therefore, the burden of proof is on the faculty member to demonstrate to the Faculty Appeals Committee that unique circumstances exist which clearly indicate an abuse of professional discretionary judgment by departmental or divisional executive committees. After its investigation the Faculty Appeals Committee will make a report and recommendation to the faculty member and appropriate officials.

NEW

5.18 Appeals: Non-Renewal Decisions

(1) Within twenty (20) days of notice that the reconsideration has affirmed the non-renewal recommendation or decision (25 days if notice is by first class mail and publication), written appeal may be made. Such appeals are filed with the University Committee for referral to the Faculty Appeals Committee. The Faculty Appeals Committee reviews the case not later than twenty (20) days after it receives the request, except that the time limit can be enlarged by mutual consent of the parties or by order of the Faculty Appeals Committee.

The faculty member shall be given at least ten (10) days notice of the review. The burden of proof in such an appeal shall be on the faculty member, and the scope of the review shall be limited to the question of whether the decision was based in any significant degree upon one or more of the following factors, with material prejudice to the individual.

(a) Conduct, expressions, or beliefs which are constitutionally protected, or protected by the principles of academic freedom, or

(b) Factors proscribed by applicable state or federal law regarding fair employment practices, or

(c) Improper consideration of qualifications for reappointment or renewal. For purposes of this section, "improper consideration" shall be deemed to have been given to the qualifications of a faculty member in question if material prejudice resulted because of any of the following:

1. The procedures required by rules of the faculty or board were not followed, or
2. Available data bearing materially on the quality of performance were not considered, or

3. Unfounded, arbitrary or irrelevant assumptions of fact were made about work or conduct.

(2) The Faculty Appeals Committee reports its findings to the individual filing the appeal, the University Committee, the body or official making the non-renewal recommendation or decision, the appropriate dean, and the Chancellor.

(3) Such a report may include remedies which may, without limitation because of enumeration, take the form of a reconsideration of the recommendation or decision, reconsideration under instructions from the Committee, or a recommendation to the next higher-level authority. Cases shall be remanded unless the Faculty Appeals Committee specifically finds that such a remand would serve no useful purpose. The Faculty Appeals Committee shall retain jurisdiction during the pendency of any reconsideration. The decision of the Chancellor will be final on such matters.

If the recommended changes are made, then the following editorial changes must be made:

3.19 Procedures of reconsideration of negative advice and appeal are specified in Sections 5.177 and 5.18, respectively.

A1.3911 Faculty Appeals Committee

2. Functions . . . . . . . pursuant to the provisions in Wisconsin Administrative Code, UWS 6.02 or 3.08 (UWM Policies and Procedures, 5.18), as appropriate.

RATIONALE

The University Committee agrees that the time limits now provided in 5.181 for filing an appeal are unnecessarily broad; it was further agreed that accepted practice permits time limits to be enlarged by consent of both parties, so it is not necessary to state the possibility of such exception explicitly.

The proposed revisions also incorporate the provisions of UWS 3.08 into the UWM Policies and Procedures. Although the legality of UWS 3.08 has been challenged in the recent Trojan case decision, efforts will soon be made to amend Chapter 36 to correct the situation. When that happens, it will be important to have this revision of 5.18 accepted as part of our policies and procedures.
University Committee
Barbara Borowiecki
Frank Cassell (Chair)
Robert Ingle
Fred Landis
Moises Levy
Erika Sander
Jack Waldheim

Satisfies the Codification Committee's criteria of clarity, internal consistency, and relationship to other policies and procedures governing UWM.