

Utah Tech University Policy

371: Faculty Termination



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I. Scope

- 1.1 This policy covers the voluntary (resignation) and involuntary (dismissal) terminations of Utah Tech University (“the University”) faculty appointments.
- 1.2 This policy applies to tenured and non-probationary faculty.
- 1.3 This policy does not apply to the non-reappointment of probationary or term appointed faculty. See Policy 641.
- 1.4 In this policy, termination and dismissal includes substantial reduction in status.
- 1.5 This policy is based on Utah Board of Higher Education policies R481, Academic Freedom Professional Responsibility, and Tenure, and R482, Bona Fide Financial Exigency and Personnel Reduction, and shall always defer to those policies.

II. Resignations

- 2.1 A resignation is a voluntary termination of a faculty member’s employment. Letters of resignation must be in writing, must state the faculty member’s specific termination date, and should be sent to the faculty member’s supervisor with a copy sent to the Human Resources Director, the Vice President of Academic Affairs and Provost, and the appropriate dean. The University requests four (4) months’ notice before the date the resignation becomes effective.
- 2.2 Faculty compensation is calculated on a fiscal year basis. Therefore, faculty members’ professional responsibilities to the University require that once a faculty member begins employment and receives a salary

during a fiscal year (July 1), they are obligated to fulfill their responsibilities through the next June 30.

- 2.3 If a faculty member desires to terminate employment during the first 50% of the fiscal year (through December 31), the faculty member may be liable to the University for any compensation overpayment. Payment must be made within thirty (30) calendar days of termination date.
- 2.4 Retirement is a unique form of resignation covered in Policy 348, Policy 359, and Policy 637.

III. Termination of Appointment

- 3.1 There are three reasons for which a non-probationary or tenured faculty member can be dismissed:
 - 3.1.1 Cause
 - 3.1.2 Program Discontinuance
 - 3.1.3 Financial Exigency

IV. Dismissal of Faculty for Cause

- 4.1 Dismissal for cause may be imposed on a faculty member in the following circumstances:
 - 4.1.1 Professional incompetence as defined in Policy 633.
 - 4.1.2 Unwillingness or refusal to meet their responsibilities to the University.
 - 4.1.3 Serious misconduct or unethical behavior.
 - 4.1.4 Serious violation of University rules and regulations.
- 4.2 Procedures for Dismissal for Cause
 - 4.2.1 Dismissal means the termination of employment of a faculty member at any time other than in the case of non-reappointment.
 - 4.2.2 Until the final decision upon termination of an appointment has been reached, a faculty member may be suspended temporarily, or assigned to other duties in lieu of suspension, if immediate harm to the faculty member or others is threatened by their continuance. Compensation will continue during the period prior to final decision by the President.

- 4.2.3 Faculty members being dismissed for cause have the right to due process, including the right to contest the information before an impartial board of faculty peers.
- 4.2.4 Dismissal notices shall originate in the office of the Vice President Academic Affairs. Any such notice shall contain a statement of the cause(s) of the proposed dismissal with supporting detail, including the name(s) of the person or persons making the charge(s) and the nature of the factual information, as well as an outline of the procedures available to the faculty member if they wish to contest the information before a faculty Review Board.
- 4.2.5 If the faculty member chooses to appear before a Review Board to refute the causes stated in a notice of dismissal, written request for a Review Board must be received by the Human Resources Office not later than thirty (30) calendar days after the dismissal notice was sent.

4.3 Faculty Review Board

- 4.3.1 The Faculty Senate shall select three (3) tenured, full rank faculty members to serve as a pool of Faculty Review Board Chairpersons who will receive training in preparation for chairing the Faculty Review Board panels and serve staggered terms of six (6) years. One of the three (3) Review board chairpersons will be randomly selected as a chair of each Review Board.
- 4.3.2 No individual with more than 50% administrative duties may serve as a Review Board Chair or member.
- 4.3.3 The Faculty Review Board shall consist of five (5) tenured faculty members. The Vice President of Academic Affairs and the Faculty Senate will each select five (5) qualified faculty members to serve as a Faculty Review Board pool (total 10 faculty members). In addition, the two (2) Review Board Chairpersons not selected to chair a particular Review Board panel will be available to be selected as members of that Review panel. From the pool, a four (4) member Review Board panel will be selected in a neutral manner which also ensures impartiality of judgment as well as diversity in the academic expertise and experience of panel members.
- 4.3.4 All five (5) members of the Review Board, including the chair, shall have equal voting rights.
- 4.3.5 Any member of the Review Board pool may remove him/herself from

a particular panel if they deem themselves disqualified for bias or conflict of interest. The dismissed faculty member has a maximum of two challenges, with which they can request that a member of the panel be replaced by another individual from the Faculty Review Board pool. No reason or cause is needed for such a challenge.

4.4 Faculty Review Board Guidelines

- 4.4.1 The Faculty Review Board chair shall schedule a meeting not more than twenty (20) business days after the receipt of the request and send written notice to the dismissed faculty member. The notice shall include the names of the four faculty members selected as panel members.
- 4.4.2 The University's legal counsel shall serve as a resource to the Review Board and may be present at the meeting to provide guidance on substantive law and procedural matters.
- 4.4.3 The dismissed faculty member shall have a right to be accompanied by two persons as advisors, including legal counsel, who will be permitted to attend, but not directly participate, in the proceedings.
- 4.4.4 Review Board meetings will be held in accordance with generally accepted standards of procedural due process. Information of the sort upon which responsible persons are accustomed to rely on in the conduct of serious affairs may be considered, and is not restricted to information which would be admissible under the strict rules of evidence of a court of law.
- 4.4.5 The Review Board may consider any information which the panel believes is of value or import in determining the issues involved. Every possible effort will be made to obtain the most reliable information available. The Review Board panel shall make its findings and recommendations based only on the information presented by the parties at the reviews.
- 4.4.6 Review Board meetings shall be closed to the public.
- 4.4.7 Review Board meetings shall be recorded.
- 4.4.8 If the dismissed faculty member fails to attend the scheduled meeting without good cause, the meeting will be cancelled, and the notice of termination will be upheld.
- 4.4.9 The dismissed faculty member will be afforded an opportunity to present verbal statements from individuals whom they believe to

have information relevant to the stated cause(s) of dismissal. The dismissed faculty member may also present documentary or other information, and the administration will, insofar as it is possible for it to do so, make available necessary documents and other information within its control.

- 4.4.10 The dismissed faculty member and the administration will have the right to interview and question anyone presenting a verbal statement at a Review Board meeting.
- 4.4.11 Review Board members shall not conduct any separate investigations, rely on prior knowledge of the facts, or develop their own information regarding the review.
- 4.4.12 The burden of proof rests with the University, and shall be by a preponderance of information and satisfied only by information in the record considered as a whole.
- 4.4.13 Review Board deliberations and voting shall take place in closed session. The Review panel shall decide by majority vote. The Review Board chair shall report in writing the Review Board's findings, decision, and recommendations to the President within twenty (20) business days after the conclusion of the meeting.
- 4.4.14 Involved parties shall be notified of the Review Board's decision within twenty (20) business days after the conclusion of the meeting.

4.5 President's Review and Action

- 4.5.1 The President shall consider the record and the findings, conclusions, and recommendations of the Review Board. Based upon such review and without conducting a further hearing, the President shall, within ten (10) business days, do one of the following:
 - 4.5.1.1 Accept the recommendation of the Faculty Review Board.
 - 4.5.1.2 Request the Faculty Review Board reconvene, hold further proceedings, and issue a second recommendation.
 - 4.5.1.3 Reject the recommendation of the Faculty Review Board because the Board's findings were contrary to the information presented and either uphold the termination or order reinstatement. If the President rejects the recommendation, they will do so in writing, to the Faculty Review Board and to

the faculty member. The decision of the President shall be final.

4.6 Confidentiality

- 4.6.1 To the extent possible, administrators and Review Board members will maintain confidentiality with regard to any Review Board process or decision.

V. Termination of Faculty Due to Program Discontinuance

- 5.1 According to Utah Board of Higher Education Policy R481, “Bona fide program discontinuance” means the termination of a program ... for reasons based upon educational and academic considerations ... [and] must be based on evidence and reflect judgments that in the long term basic educational mission of the University will be strengthened by discontinuance of the program.
- 5.2 In the same policy, a “program” is defined as a unit within the University with an identifiable teaching, research, or other academic mission with an identifiable group of faculty and meets other specific criteria listed in the Utah Board of Higher Education Policy R481.
- 5.3 Bona fide program discontinuance requires the approval of the Board of Higher Education and shall include “teach out” provisions.
- 5.4 Before dismissing a tenured or non-probationary faculty member because of bona fide discontinuance of a program, the administration, with faculty participation, shall make a reasonable effort to place the affected faculty member in a suitable, vacant, existing position for which the faculty member is qualified within the University.
- 5.5 A tenured or non-probationary faculty member to be terminated for bona fide program discontinuance has no right to displace another faculty member or staff employee from a position in order to maintain employment.
- 5.6 Terminations of probationary (non-tenured) faculty due to program discontinuance shall be handled following the standards outlined for non-reappointment of probationary faculty in Policy 641.
- 5.7 The University shall give a tenured or non-probationary faculty member being terminated due to bona fide program discontinuance not less than six (6) months’ notice of non-continuance.

VI. Termination of Faculty Due to Financial Exigency

- 6.1 Bona fide financial exigency requires the approval of the Utah Board of Higher Education, and only under very unusual conditions after all other feasible alternatives have been explored.
- 6.2 In the case of a bona fide financial exigency, the University shall be governed by all standards and procedures outlined in Utah Board of Higher Education Policy R482, Bona Fide Financial Exigency and Personnel Reduction, including faculty terminations and reinstatement.

Policy Owner: Executive Director of Human Resources
Policy Steward: Vice President of Academic Affairs and Provost

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