

SUL ROSS STATE UNIVERSITY

A Member of the Texas State University System

SRSU Policy: Faculty Grievance Policy
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Policy Reviewed by: Executive Vice President and Provost
Approval Authority: President of the University
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Under specified conditions, faculty may aggrieve termination of employment or conditions of work under the following policies and procedures.

As with all policies and procedures in component institutions, this policy is superseded by the authority of the Rules and Regulations as established by the Texas State University System Board of Regents.

2.20.1 Termination of Faculty Member and Grievance Processes.

A. Faculty Member Defined.

"For purposes of this *Paragraph*, 'faculty member' means a person employed full-time by a System Component as a member of the faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. It does not include a person who holds faculty rank but spends the majority of his or her time engaged in managerial or supervisory activities, including a chancellor, president, provost, vice president, associate or assistant vice president, dean, associate or assistant dean" (*Rules and Regulations*, V.4.41).

B. Termination of Faculty Through Non-Renewal of Contract.

"A faculty member may present a grievance, in person, to the President of the University on an issue related to non-renewal or termination of the faculty member's employment at the end of his or her contract period" (*Rules and Regulations*, V.4.42).

1. Grievance Process for Non-Renewal of Contract.

"The faculty member shall file the grievance through the Director of Human Resources who shall transmit the grievance to the President of the University. "The president shall designate a member of his or her administration as a hearing officer to consider grievances under this *Chapter*" (*Rules and Regulations*, V.4.44).

- a. "No later than thirty (30) business days after the grievant learns (or in the exercise of reasonable care should have learned) of the action or condition giving rise to the grievance, he or she shall file

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the grievance on a form prescribed by the University, providing supporting documentation, if any" *Rules and Regulations*, V.4.441).

- b. "The hearing officer will meet with the grievant at a mutually convenient time to review any documentation or other evidence that the grievant may present in support of his or her position" (*Rules and Regulations*, V.4.442).
 - c. "The hearing officer may not recommend changing the administration's action regarding non-renewal or termination of employment unless the faculty member establishes a prima facie case—that is, presents evidence sufficient to establish a claim in the absence of rebuttal by the University—that he or she has been denied a right guaranteed by the constitutions or laws of the United States or of the State of Texas" (*Rules and Regulations*, V.4.443).
 - d. "If he or she finds that the grievant has established a prima facie case, the hearing officer shall determine whether the administration has stated a nondiscriminatory reason for its decision and so advise the president" (*Rules and Regulations*, V.4.444).
 - e. "The president shall make the final decision regarding the grievance" (*Rules and Regulations*, V.4.445).
 - f. "A grievance under this *Paragraph* is not a due process hearing" (*Rules and Regulations*, V.4.45).
- C. Termination of a tenured faculty member and of all other faculty members before the expiration of the stated period of their appointment, and Due Process Procedures.

A faculty member whose employment is terminated prior to the end of his or her contract period shall be entitled to invoke the full due process procedures provided to tenured faculty under the *Rules and Regulations of the Texas State University System*.

- 1. **Grounds.** "Termination by the University of the employment of a tenured faculty member and of all other faculty members before the expiration of the stated period of their appointment, except by resignation or retirement, will be only for good cause shown. Good cause includes but is not limited to the following:
 - a. "Failure to work efficiently or effectively;
 - b. "Insubordination;

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- c. "Serious professional or personal misconduct, examples of which include":
 - (1) "Commission of a misdemeanor involving moral turpitude, or a felony;
 - (2) "Failure to secure and maintain Federal, State, or local permits required in the discharge of teaching, research, or other professional duties, including failure to maintain appropriate documentation;
 - (3) "Willful destruction of Component property or violent disruption of the orderly operation of the campus;
 - (4) "Violation of the System's ethics policy (*Chapter VIII of the TSUS Rules and Regulations*), including acceptance or solicitation of gifts that might tend to influence the discharge of one's professional responsibilities;
 - (5) "Stealing and publishing as one's own the intellectual property of another;
 - (6) "Misuse or misappropriation of state property, resources, funds, including funds held by a faculty member as part of official duties;
 - (7) "Sexual harassment, as defined by Section 4.4 of Chapter VII of the Rules and Regulations of the Texas State University System; and,
 - (8) "Racial harassment as defined by Section 4.3 of Chapter VII of the Rules and Regulations of the Texas State University System.
- d. "Professional incompetence and/or neglect of professional duties;
- e. "Mental or physical disablement of a continuing nature adversely affecting to a material and substantial degree of the performance of duties or the meeting of responsibilities to the institution, or to students and associates;
- f. "Illegal use of drugs, narcotics, or controlled substances. A faculty member who, by a preponderance of the evidence, under . . . *Rules and Regulations*, is found to have illegally possessed, used, sold, or distributed any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus, shall be subject to termination, suspension or other discipline as determined by the President or the President's designee. That an employee is charged in a criminal case, or is found 'not guilty' therein, shall not be construed as prohibiting administrative enforcement of these *Rules and Regulations*. If, in the judgment of the President or the Board of Regents, the best interests of the students or the Component or the System so dictate, the employee may be

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immediately removed from contact with students and other employees, pending resolution of disciplinary proceedings; and,

g. "Intentionally or knowingly violating any Board or administrative order, rule, or regulation, including the provisions of *Chapter V, Section 2.144* of the *Rules and Regulations [of the Texas State University System]*. The employee is presumed to have knowledge of such Board or administrative order, rule, or regulation that is published in these *Rules and Regulations* or is a published policy of the University" (*Rules and Regulations, V.4.51*).

2. **Suspension.** "A President may, for good cause, suspend an accused faculty member pending immediate investigation or speedy hearing as hereinafter provided when the continuing presence of the faculty member poses a danger to persons or property or an ongoing threat of disrupting the academic process. An employee who is suspended or discharged from a particular duty or job at the Component may be suspended or discharged from all other duties or jobs in the Component for the same or other good cause. The President shall, as soon as possible, notify both the Chancellor and the Vice Chancellor and General Counsel of any such actions" (*Rules and Regulations, V.4.52*).
3. **Summary Dismissal.** "In cases of good cause where the facts are admitted by the faculty member, summary dismissal may follow" (*Rules and Regulations, V.4.53*).
4. **Hearing Tribunal.** "In all cases where the facts are in dispute, the accused faculty member shall be informed in writing of the charges which, on reasonable notice, will be heard by a special hearing tribunal whose membership, including its chair, shall be appointed by the President from members of the faculty whose academic rank is equal to or higher than that of the accused faculty member. At such a hearing:
 - a. "The hearing tribunal shall not include any accuser of the faculty member. The faculty member may challenge the alleged lack of fairness or objectivity of any tribunal member, provided such challenge is made prior to the submission of any evidence to the tribunal. The faculty member shall have no right to disqualify such member from serving on the tribunal. Each such challenged member shall determine whether he or she can serve with fairness and objectivity in the matter. In the event the challenged member chooses not to serve, the President shall appoint a substitute.
 - b. "The faculty member shall have a right to attend the hearing; confront and cross-examine adverse witnesses; present relevant evidence on his or her own behalf; testify or choose not to testify; and, be assisted or represented by counsel. The hearing shall be

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closed although the faculty member may request that it be open to the public. Notwithstanding a faculty member's request, the tribunal may close all or a portion of a hearing to deliberate or if it appears likely that privacy interests of others are relevant and could be affected by an open hearing.

- c. "The . . . [University], through a representative and/or through counsel, shall have the right to attend proceedings; present witnesses and evidence against the faculty member; and cross-examine the faculty member (if the faculty member testifies) and his or her witnesses.
- d. "The hearing tribunal, by a majority of the total membership, shall make written findings on the material facts and a recommendation of the continuance or termination of the faculty member's tenure as well as any supplementary suggestions it may have concerning the case. The original of such findings, the recommendation, any supplementary suggestions, and the record of the hearing shall be delivered to the President and a copy thereof sent to the faculty member. Any minority findings, recommendations, or suggestions shall be distributed in the same manner.
- e. "A stenographic or electronic record of the such record shall be made accessible to the faculty member" (*Rules and Regulations*, V.4.54).

- 5. **Review by President.** "The President shall review the record, plus any additional written briefs the parties wish to submit, and render a decision, stating his or her reasons therefore in writing and communicating the same to the faculty member. The President may recommit the matter to the same tribunal to hear additional evidence and/or to reconsider its findings, recommendations, or suggestions, if any. The original findings, recommendations, and suggestions of the hearing tribunal, a transcript of the hearing, any briefs submitted, and the decisions, recommendations, findings, and suggestions of the President shall be delivered to the Board" (*Rules and Regulations*, V.4.55).
- 6. **Appeal to the Board.** "Upon written request by the faculty member, received in the System Administrative Office within thirty (30) calendar days of the faculty member's receipt of the President's decision, the Board shall review the record before it. Such request should specifically address any defects in procedure or substance which require reversal of the President's decision. The President may submit a written response to the request for review. By a majority of the total membership, the Board may approve, reject, or amend any decisions, findings, recommendations, and suggestions before it, or recommit the matter to the President for reconsideration or the hearing of additional evidence. The Board shall

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notify the faculty member in writing of the reasons for its decision" (*Rules and Regulations*, V.4.56).

2.20.2 Grievances of Issues Other Than Termination of Employment.

"Every employee of each Component, individually or through a representative that does not claim the right to strike, shall be entitled to present grievances to a [grievance] officer designated by the president concerning such employee's wages, hours of work, or conditions of work. Such grievances shall not involve formal hearings" (*Rules and Regulations*, V.2.15). The faculty member shall file the grievance through the Director of Human Resources, who shall transmit the grievance to the President of the University.