

## **PRAIRIE VIEW A&M UNIVERSITY RULE**

### **12.01.99.P1 Academic Freedom, Responsibility, and Tenure Procedure (PVAMU)**

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#### **Prairie View A&M University: Procedures/Rules/Information**

*Academic Freedom, Responsibility, and Tenure Procedure*

*Reference: TAMUS Policy 12.01; 12.02*

*Revised: March 25, 2006 (MO-06)*

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#### **1. ACADEMIC FREEDOM (Source: TAMUS Policy 12.01.1)**

- 1.1 Institutions of higher education exist for the common good. The common good depends upon an uninhibited search for truth and its open expression. Hence, it is essential that each faculty member be free to pursue scholarly inquiry, and to voice and publish individual conclusions concerning the significance of evidence that the faculty member considers relevant. Each faculty member must be free from the corrosive fear that others, inside or outside the academic community, because their vision may differ, may threaten the faculty member's professional career or the material benefits accruing from it.
- 1.2 Each faculty member is entitled to full freedom in the classroom in discussing the subject which he or she teaches but should not introduce controversial matter which has no relation to the classroom subject. Each faculty member is also a citizen of the nation, state and community; and when speaking, writing or acting as such, must be free from institutional censorship or discipline, subject to academic responsibility. In such instances, the faculty member should clearly state that he or she is not speaking for Prairie View A&M University.

#### **2. ACADEMIC RESPONSIBILITY OF FACULTY MEMBERS (Source: TAMUS Policy 12.01.2)**

The concept of academic freedom for faculty is accompanied by an equally demanding concept of academic responsibility. Faculty members have a responsibility to Prairie View A&M University, the academic profession, the students, and society at large. The rights and privileges of faculty members extended by society and protected by the Board of Regents of the Texas A&M University and the Prairie View A&M University administration through written policies and procedures on academic freedom and tenure, and as further protected by the courts, require reciprocally the assumption of certain responsibilities by faculty members. Some of those are:

- 2.1 The fundamental responsibilities of faculty members as teachers and scholars include maintenance of competence in their field of specialization and the exhibition of professional competence in the classroom, studio or laboratory and in the public arena through activities such as discussions, lectures, consulting, publications and participation in professional organizations and meetings.
- 2.2 Faculty members must recognize that the public will judge their profession and the University by their statements. Hence, faculty members should at all times strive to be accurate in their statements, exercise appropriate restraint, show respect for opinions of others, and make every effort to indicate that they are not speaking or acting for Prairie View A&M University when they are speaking or acting as private persons.
- 2.3 The constitutionally protected rights of faculty members, as citizens, to freedom of expression on matters of public concern must be balanced with the interest of the state, as an employer, in promoting the efficiency of the educational services it performs through its employees. A faculty member's comments are protected even though they may be highly critical in tone or content, or erroneous, but such statements are not protected free speech if they either substantially impede the faculty member's performance of daily duties or materially and substantially interfere with the regular operation of the University, department or college. False statements made with knowledge of their falsity or in reckless disregard of the truth are not entitled to constitutional protection, and

public statements may be so without foundation as to call into question the fitness of the faculty member to perform his or her professional duties.

- 2.4 Faculty members should be professional in their conduct in the classroom and in relationships with students. They should maintain respect for the student and for the student's posture as a learner and should be appropriately available to students for consultation on course work.
- 2.5 Faculty members have the responsibility to provide timely and adequate notice of their intention to interrupt or terminate services to Prairie View A&M University.

### 3. **WRITTEN TERMS OF EMPLOYMENT**

- 3.1 The University shall provide new faculty with appointment letters stating the initial terms and conditions of employment. Any subsequent modifications or special understandings in regard to the appointment, which may be made on an annual basis, should be included in the annual contract or in a memorandum on that subject. The faculty member shall be provided a copy of the contract or memorandum. All faculty members, unless the terms and conditions of their appointment letter state otherwise, are expected to engage in teaching, scholarship, and service. Essential job functions for a position may vary depending upon the nature of the department in which the faculty member holds expertise, external funding requirements attached to the position, licensing or accreditation requirements, and other circumstances. It is therefore important that essential job functions for each faculty position be listed in the initial appointment letter. For example, all of the following that are applicable should be listed: teaching responsibilities, responsibilities for advising students, independent and/or collaborative research responsibilities, engaging in patient care, committee assignments, conditions imposed by external accrediting agencies, conditions for holding a named professorship or endowed chair, or a position that combines academic and administrative duties, and any other specific essential functions for the position in question. All appointment letters must indicate whether the appointment being offered is with tenure, tenure-accruing, or non-tenure accruing.
- 3.2 Prairie View A&M University shall notify faculty members annually, in writing, of their salary. Any other changes or additions to the appointment also shall be included.
- 3.3 Faculty members are expected to fulfill the terms and conditions of employment for the following year unless they resign prior to 30 calendar days after receiving notice of the terms.

A faculty member is defined as a full or part-time employee whose primary function is to deliver instruction and to conduct research and provide service as specified in the employment contract. The title of faculty whether regular or adjunct, to include visiting and other non-tenure track appointments, may be, lecturer, instructor, assistant professor, associate professor, professor, distinguished professor, or endowed professor. Regular faculty are tenure track and tenured faculty. Temporary faculty are full or part-time non-tenured track faculty to include visiting and adjunct faculty. Adjunct faculty are typically persons who are employed full-time at other institutions or agencies but who have established a relationship with the University that entails some teaching. The relationship could also involve mentoring, advising, consulting, research, collaboration, or other roles approved by the President and CEO.

Faculty considered eligible for tenure are to be full-time tenure track, probationary faculty or faculties, who, upon initial employment, are recommended to the Board of Regents by the President and CEO following receipt of a recommendation from the Provost and Senior Vice President for Academic and Student Affairs who have received a recommendation from the head of the employing department and the dean of the college. No commitments of intent to award tenure will be made until credentials have been received and examined. Letters of recommendation from external professionals in the discipline may be required.

Employees who are in non-tenure accruing faculty positions such as part-time or full-time non-tenure track (visiting, adjunct) shall not be eligible for tenure regardless of rank.

Research scientists, librarians, and administrative personnel may be awarded faculty rank if they are expected to teach, conduct research, and provide service with credentials suitable for faculty appointments may be appointed to tenure accruing positions. The terms and conditions of any dual role shall be clearly outlined in the letter of appointment or contract.

Faculty holding appointments in two or more departments shall have one department designated as “home” for tenure accruing purposes at the time of employment and shall have at locum in that department. Its’ head shall coordinate the annual performance evaluation and tenure review process with the head of any other department in which the faculty member is serving.

#### 4. **TENURE POLICY**

Tenure means the entitlement of faculty members to continue in their academic positions unless dismissed for good cause. Tenured faculty who remain in good standing shall continue to enjoy those privileges customarily associated with tenure, including an expectation of continuing employment, appropriate compensation, a suitable office and workspace, serving as a principal investigator and conducting research, teaching classes, participating in faculty governance, and representing oneself as a tenured faculty member at Prairie View A&M University. However, tenure shall not be construed as creating a property interest in any attributes of the faculty position beyond the faculty member’s regular annual salary. Faculty tenure at Prairie View A&M University is designed to be an open and fair procedure. Following are the components of the tenure procedure at Prairie View A&M University:

- 4.1 Beginning with appointment to a tenure-track position, the probationary period for a faculty member shall not exceed seven years. This period may include credit for a maximum of three years of tenure track service at Prairie View A&M University the normal maximum of seven years; however, any credit for prior service included within the seven-year probationary period shall be agreed upon in writing at the time of employment.

At Prairie View A&M University, the probationary period shall in every instance begin September 1 of the employee’s first year of employment. Semesters and summer terms worked preceeding September 1 of the first year of employment shall not be credited as part of the official probationary period. A faculty member who has held tenure at a previous institution may receive credit for prior tenure accruing service. Credit for prior service included within the seven-year probationary period shall be included in the offer of employment. Tenure is granted only by the affirmative action of the Board of Regents upon recommendation of the President and CEO of Prairie View A&M University. At the conclusion of the probationary period, unless appropriately informed otherwise, the faculty member shall not have tenure. Prior to the beginning of the last year of the probationary period, the faculty member who has not received notice of a decision relating to receipt of tenure should make a written request for such a decision from the administration, and the administration should promptly respond. If the decision is not to award tenure, the faculty member is entitled to serve for one additional contract year following the term or semester in which the notice is received.

At Prairie View A&M University, the extension of the probationary period beyond the seven years shall be based upon extraordinary circumstances that would reasonably impede to a substantial extent the probationary faculty member’s performance in a tenure track position. Such circumstances may include, but not be limited to, serious illness of the employee or of the employee’s family member for whom the employee is primary care giver; approved institutional changes or special assignments affecting to a material and substantial extent the faculty member’s responsibilities; loss of research or other resources due to fire, flood or other event beyond the faculty member’s control; or other circumstances that the President and CEO determines as those that warrant extension of the probationary period. Extensions will normally be for one year but may be granted for two years if circumstances necessitate and approval is granted by the President and CEO upon a recommendation of the Dean and the Provost. It is the responsibility of the

faculty member to initiate in writing a request for extension of the probationary period. The request, including supporting documentation, should be made as soon as it becomes evident that the faculty member is facing circumstances to which the “*stop the clock*” provision applies. Should the faculty member be unable to initiate such a request, his or her immediate supervisor, usually the Department Head, should initiate the request and submit it to the Dean who must present his or her recommendation to the Provost and Senior Vice President for Academic and Student Affairs. The final determination of whether an extension may be granted shall be made by the President and CEO.

4.2. See Section 4.2 of Tenure Policy in TAMUS Policy 12.01 Revised May 25, 2006 (MO-06).

Notice of nonreappointment, or of intention not to reappoint a faculty member, should be given in writing in accord with the following standards:

- (1) not later than March 1 of the first academic year of probationary service, if the appointment expires at the end of that year, or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination;
- (2) Not later than December 15 of the second year of probationary service, if the appointment expires at the end of that year, or, if an initial two-year appointment terminated during an academic year, at least six months in advance of its termination; and
- (3) At least twelve months before the expiration of a probationary appointment after two or more years in the institution.

4.3. See Section 4.3 of Tenure Policy in TAMUS Policy 12.01.

Good cause for dismissal of a faculty member with tenure will relate directly and substantially to the performance of professional duties, and may include, but shall not be limited to, the following:

- (1) professional incompetence;
- (2) continuing or repeated failure to perform duties or meet responsibilities to the University or to students or associates;
- (3) failure to successfully complete a post tenure review professional development program;
- (4) moral turpitude adversely affecting the performance of duties or the meeting of responsibilities to the University, or to students or associates;
- (5) violation of System Policies, System Regulations, university, or health science center rules, or laws substantially related to performance of faculty duties;
- (6) conviction of a crime substantially related to the fitness of a faculty member to engage in teaching, research, service/outreach, and/or administration;
- (7) unprofessional conduct adversely affecting to a material and substantial degree the performance of duties or the meeting of responsibilities to the University, or to students or associates;
- (8) falsification of academic credentials;
- (9) bona fide financial exigency or the phasing out of institutional programs requiring reduction of faculty (see Paragraph 8, below); or
- (10) the reduction or discontinuance of institutional programs based on educational considerations and requiring the termination of faculty members (see Section 8,

Dismissal for Cause).

- 4.4. See Section 4.4 of Tenure Policy in TAMUS Policy 12.01.

A faculty member with tenure shall not be dismissed until he or she has received reasonable notice of the cause for dismissal and, except as specified in Section 8 and in the suspension provision in Section 5 of this policy, only after an opportunity for a hearing pursuant to procedures established in accordance with Sections 5 and 8.

- 4.5. Tenure and Promotion

- (1) Normally tenure-track faculty will enter a tenure accruing appointment as assistant professor but a faculty member at the rank of instructor may be appointed to a tenure track position.
- (2) Faculty at the assistant professor rank shall be eligible for promotion to associate professor if the faculty is viewed as eligible for tenure. Faculty who are candidates for tenure and are at the rank of associate professor must meet the qualifications for full professor if they are to be promoted to that rank at the time tenure is awarded.
- (3) Academic unit's guidelines for tenure and promotion shall include contributions associated with acquisitions of patents, creation of major works of art, discovery of new treatments, engaging students substantially in service learning that is linked to course content, and other productivity that unquestionably raises the status of the discipline and/or the University.

- 4.6. Documentation for the Tenure Review

The "Faculty Portfolio Organization and Contents" is the standard guide to be used by all faculty who apply for tenure, promotion, or post-tenure review. Standard profile data to be included on the first page of the resume will be provided by the Department Head. Binders are to be limited to a minimum of three inches. Those that exceed this limit will be returned to the faculty member by the department head who will give the faculty member three to five days to make adjustments. Copies are available in the Office for Academic and Student Affairs as well as in offices of the department heads, division heads and deans.

- 4.7. The Review Schedule

- (1) Assessment of a candidate for tenure upon initial appointment will take place during the candidate review process. Tenure status in previous positions held in colleges and universities and unique attributes with potential to strengthen the employing academic unit will be important contributions. The Department/Division Head; the Dean; and the Provost and Senior Vice President for Academic and Student Affairs shall make a recommendation to the President and CEO who will make the final decisions as to whether to recommend to the Board of Regents that the candidate for employment be awarded tenure at its next regular meeting.
- (2) Tenure track (probationary) faculty members serving in their sixth year of continuous service and who are not serving under a terminal contract, must undergo peer review and evaluation for tenure in accordance with procedures described herein. Deans are required to ensure that tenure track faculty are informed each year during their Annual Performance Evaluation of how many annual evaluation cycles remain before they must prepare the tenure and promotion portfolio for review by their peers and supervisors. The binder must be limited to a minimum of three inches. Failure of the dean to fulfill this requirement does not lessen the faculty member's responsibility to submit a portfolio by October 30 of the review year. Tenure is not awarded as a result of the department head or dean's omission

of the reminder notice.

Tenure track (probationary) faculty members may undergo promotion and tenure review prior to the sixth year. Upon receipt of the request, the Department Head will conduct a preliminary assessment of the individual's readiness to undergo the review and meet with the faculty member. An individual who decides to proceed with the request for early review shall prepare a portfolio and submit it to the Department Head or Dean by October 30 of the review year.

An individual who is unsuccessful in early promotion and tenure application process will not be negatively impacted but will not be reviewed again until the scheduled sixth year mandatory review or until the mandatory review year cited in the conditions of employment included in his or her offer letter.

A tenure track faculty member who wishes to relinquish tenure track status and become a non-tenure track, temporary faculty member must notify the department head and dean of this desire at least two years before the mandatory review is scheduled to take place.

#### 4.8. The Tenure Review Process

##### (1) Departmental/Division Tenure and Promotion Advisory Committee

In schools and colleges comprised of departments and/or divisions, the regular full-time tenured faculty shall elect three to five tenured faculty members to serve on the Departmental/Division Tenure and Promotion Advisory Committee (DTPAC). The committee members shall elect a chair and notify the department head and dean of the action. In those instances where there is an insufficient number of tenured full-time faculty to support a faculty election, the Department Head and Dean shall jointly identify qualified faculty in related areas within the University to serve on the review committee. (See TAMUS Policy 07.01). Candidates for service on the DTPAC should not be selected if their service would create a conflict or appearance of conflict as described in the TAMUS ethics policy 07.01. A lottery system may be used to select three to five persons to serve on the Tenure and Promotion Advisory Committee (DTPAC). Transcripts, resumes' and other documentation of academic qualifications must be made available to the Dean and Department Head before the external faculty member may be invited to serve on the DTPAC. During the review process, a candidate for tenure and promotion may be interviewed by the DTPAC. Additionally, a candidate for tenure and/or promotion may review all items in their own tenure file upon request. All tenure and promotion recommendations must be made and submitted to the Department/Division Head (Dean if school or college not departmentalized) by November 30. All members of the DTPAC must be present to conduct business. All members must sign the DTPAC's recommendation, but may register a minority opinion. All review materials and deliberations must be treated as confidential. In the final recommendations, votes of individual members of the DTPAC should not be shown by name. Instead, the total voting "yes" and the total voting "no" should be recorded. All members are to sign the final report affirming their participation in the review process as members of the committee.

##### (2) Division/Department Head's Review

The Division/Department Head shall review the Departmental Tenure and Promotion Advisory Committee's recommendations and shall review the same materials submitted to the committee along with any other relevant material from the department's personnel files. The Division/Department Head may interview the candidate for tenure. Copies of relevant materials considered by the Department Head shall be assembled and appended to the faculty member's original portfolio, along with the Department Head's letter which

shall include his or her recommendation and justification. The Department Head shall assemble and submit the packet to the Dean by December 15.

(3) The School/College Level Review and Recommendation

A School/College Tenure and Promotion Advisory Committee (SCTPAC), consisting of three (3) to five (5) tenured full-time faculty members shall be appointed by the Dean. Each member of the SCTPAC and the Dean shall separately review the requirements for tenure and promotion and review the portfolio submitted by each person being reviewed. The SCTPAC's recommendations should be submitted to the dean by January 15 in order for the dean to complete his or her review and submit recommendations to the Provost and Senior Vice President for Academic and Student Affairs by February 1.

(4) The Dean's Review

The Dean shall review the faculty portfolio and other materials in the faculty member's personnel file. The Dean may interview the candidate for tenure and/or promotion. Copies of all relevant materials, including the recommendations and rationale for recommendation of the DTPAC, Department Head, the SCTPAC and the Dean, shall be appended to each candidate's portfolio.

The Dean shall meet with the Department Head/Division Head to review the recommendations he/she proposes to transmit by February 1 to the Provost and Senior Vice President for Academic and Student Affairs. When the Dean and the Department/Division Head differ in their recommendations, both should again examine the respective committee's recommendations (DTPAC and SCTPAC) and, where appropriate confer with the respective committee chairs. For additional information or clarification the faculty candidate for tenure and promotion may be called into conference with the Department/Division Head and the Dean.

(5) The Executive Level Review and Recommendation

The faculty member's portfolio and the full set of recommendations from each successive level shall be reviewed by the President and CEO, Provost and Senior Vice President for Academic and Student Affairs, the Vice President for Research and the candidate's Dean. These persons shall comprise the Executive Level Review Team. The President and CEO's decision will be final. The Provost and Senior Vice President for Academic and Student Affairs will notify each dean of the recommendations the President and CEO will make to the Chancellor on promotions and to the Board of Regents on tenure. Deans of candidates not being recommended will be notified in person and by certified mail. Deans will meet with each successful and unsuccessful candidate. Persons who were early applicants for tenure or who sought a promotion in rank and were denied will be provided guidance on teaching, research, and service performance expectations necessary to improve their chances of being successful in a subsequent review.

Following the meeting of the Board of Regents, at which tenure and promotion awards are made, the President and CEO shall notify the Provost and Senior Vice President for Academic and Student Affairs who shall notify the Dean of the Board action so that each faculty member awarded tenure and/or promotion shall be notified in writing by the President and CEO as well as by the Dean of the school or college.

(6) Procedure for Review and Appeal

See Section 7, Nonrenewal of Nontenured Faculty at End of Term Contract.

(7) Mid-Point Cumulative Review

Prior to October 1 of the fourth year of tenure track (probationary) service, the Division/Department Head, Dean, and a tenured senior faculty member from within the unit or from a related academic unit are to review the tenure track faculty member's past three years of performance in teaching, research, and service in accordance with the role expectations set for the faculty member. Areas of strength and weakness should be identified. Reasonable resources required to support any needed improvement (e.g. computer, short-term course load reduction, adjustments in department/division responsibilities) should be committed. No promises or general assurances of the eventual outcome of the tenure track faculty member's bid for tenure are to be made. The purpose of the mid-point assessment conference is to assist the faculty member in improving performance and increasing effectiveness as a contributor to the academic unit. The mid-point assessment does not replace or supercede the annual performance review. It is an amplification of the performance review process designed to assist the tenure track faculty member in the pursuit of tenure.

(8) Peer Review of Teaching

Visits to classrooms, reviews of on-line courses, conferences on instructional philosophy and strategies to produce positive learning outcomes are expected of a peer driven profession. Tenure track faculty are to be monitored and assisted by tenured faculty and by the department head and the dean.

(9) Required Letters of Support

Faculty who are candidates for promotion to full professor must have three to four letters from faculty persons at other colleges, universities, research institutes, agencies or other entities where there is knowledge of the candidate's qualifications for promotion to full professor based upon affiliations with research, professional associations, accreditation initiatives, public service projects, review panels, or other components of one's academic career.

5. **ADMINISTRATIVE LEAVE**

Faculty members may be placed on administrative leave with pay by the faculty member's Dean, with the concurrence of the Provost and Senior Vice President for Academic and Student Affairs pending an investigation into matters pertaining to the faculty member's job performance, including but not limited to, fiscal matters and improper conduct in teaching, research, or service. Notification shall be given in writing and shall include the reasons for placing the faculty member on administrative leave with pay and the terms of the leave. A faculty member placed on administrative leave with pay may appeal the decision to the Provost and Senior Vice President for Academic and Student Affairs by submitting an appeal in writing. The Provost may appoint a full-time tenured faculty member to assist in the appeal. Appeals may be referred to the Director of Human Resources if the allegations underlying the investigation relate to those to whom investigation has been delegated to the Director of Human Resources (e.g., Title IX, etc.). The investigation process is not stayed by an appeal. The appeal should be completed within five (5) business days of the receipt of the appeal. This provision is distinct from suspension during the pendency of termination proceedings. Placing a faculty member on administrative leave with pay is justified to aid in an investigation or if the welfare of the faculty member or that of students, colleagues or other institutional employees is threatened by continuance, or if the continued presence of the faculty member would be disruptive of the regular operations of the University, school, college, or department. During the leave period, the faculty member shall not be disallowed from appearing on campus or at off-campus locations for the purpose of using facilities such as the library, computing laboratory, research laboratory, unless granting access would place the faculty member or his/her colleagues, students, or staff at risk. A tenured faculty member who has been placed on administrative leave with pay shall be entitled to his or her regular

annual salary.

## **6. DISMISSALS FOR CAUSE FOR FACULTY WITH TENURE OR UNEXPIRED TERMS**

The procedures below shall apply only to a faculty member who has tenure or whose term appointment has not expired at the time of dismissal.

- 6.1 A bona fide effort to achieve a satisfactory outcome shall be made by the Department/Division Head, dean or other appropriate administrative official. The Director of Human Resources may be asked to provide guidance during the review including facilitating any nonbinding alternative dispute resolutions.
- 6.2 Should the administrative review fail to achieve a satisfactory resolution and should the difficulties be considered by the administration to be serious enough to warrant dismissal, the faculty member will be afforded the opportunity for a hearing that meets the requirements set forth in Section 7.2, below.
- 6.3 Unless a faculty member is summarily dismissed, as set forth in Section 8.1 below, he or she may be reassigned or suspended during the pendency of termination proceedings; however, suspension of the faculty member is justified only if the welfare of the faculty member or that of students, colleagues or other institutional employees is threatened by continuance, or if the continued presence of the faculty member would be materially and substantially disruptive of the regular operations of the institution. Any such suspension should be with pay and with appropriate provisions for useful duties wherever possible.
- 6.4 In any of these proceedings the faculty member and the administration shall have the right to representation.

## **7. NONRENEWAL OF NONTENURED FACULTY AT END OF TERM CONTRACT**

Procedures in cases of nonrenewal of nontenured tenure track faculty members at the end of any term contract (other than a one-year only contract which has not been renewed) shall have the following components:

- 7.1 The University is not required to give a nontenured faculty member a reason for a decision not to reappoint for another contract term or to provide a hearing. Faculty members are entitled under Texas law to see their personnel files and to obtain a copy of the information in these files at their own expense.
- 7.2 A nontenured faculty member who wishes to file a grievance over nonrenewal of his or her employment should initiate the process by meeting with his or her immediate supervisor, generally the Department or Division Head presently the concern first at that level and then presenting it to the Dean if necessary in writing within twenty (20) business days of receipt of the non-renewal notice.
- 7.3 A non-tenured faculty member who is not renewed including those whose terms of employment will end or following denial of tenure and who claims that the termination was based upon an (a) illegal reason (defined as a religion, creed, color, or disability unrelated to the performance of duties; (b) or ,made in retaliation for the faculty member's exercise of Protected First Amendment Rights) or for (c) inadequate consideration of the faculty member's record of professional achievement may file a written appeal within twenty (20) business days of receipt of the non-renewal notice. Appeals based upon reasons (a) and/or (b) will be sent to the Equal Employment Opportunity Officer (EEOC) for review. The results of the EEOC officer's review will be provided to the Provost and Senior Vice President for Academic and Student Affairs who depending upon the EEOC report may take action.

Appeals based upon reason (c), inadequate consideration of the faculty member's record of professional achievement, should first present a written appeal to the department head within three (3) to five (5) business days of receiving the notice of nonrenewal. If the non-tenured faculty member does not accept the results of that conference and wishes to proceed to a higher level, he or she should he/or she request a conference with the dean and present all documentation presented to the department head. If the non-tenured faculty member chooses to appeal at a level above the Dean, he/or she should submit the written appeal to the Provost and Senior Vice President for Academic and Student Affairs. All appeals including the one to the Provost should within twenty (20) days of receipt of the notice of nonrenewal. Appeals received after the twenty (20) business days of the nontenured faculty member's receipt of the notice of non-renewal shall be denied.

The Provost and Vice President for Academic and Student Affairs may refer the matter for a six (6) member advisory committee comprised of both tenured and nontenured faculty who are members of the Faculty Senate. The Speaker of the Faculty Senate shall chair the advisory committee but will not vote except when there is a tie in the committee's vote. The committee will be charged with reviewing documents, interviewing the faculty member's immediate supervisors, and interviewing the faculty member in order to determine if the nontenured faculty member present a prima facie case that the termination has been an illegal reason.

- 7.4. Within fifteen (15) business day of receiving the nontenured faculty member's appeal, the advisory committee is to have considered the appeal and to have presented to the president a written report of findings relative to the claim. A finding that the faculty member made a prima facie case that the termination, for retaliation for exercising protected First Amendment rights, or for inadequate consideration of the faculty members' record of professional achievement may result in a reversal of the termination following a review of findings by the EEOC officer, the Provost and the Dean. Should the aforementioned determine that a case has not been made to support the claim, the termination will stand. Within ten (10) days of receiving the report, the faculty member and/or his or her representative shall be notified of the decision.
- 7.5. If the decision is that the termination of the nontenured faculty member will stand, the faculty member may reassert his or her appeal and the President and CEO may authorize the Provost and Senior Vice President for Academic and Student Affairs to conduct an **evidentiary hearing** by a five (5) person committee of tenured faculty selected jointly by the President and CEO and the Speaker of the Faculty Senate. The Director of Human Resources supported by the Provost shall provide the committee with an orientation on the procedures for conducting a hearing, review the charge, describe the format of the report of findings, and confirm the timeline. The EEOC officer may be consulted as well depending upon the basis used to support the appeal. In such a hearing, the burden of proof that the decision has been made in violation of academic freedom or for an illegal reason rests with the faculty member. That burden of proof must be met by a preponderance of the evidence (i.e., that which is more convincing, more credible, and of greater weight than contrary evidence). If a faculty member plans to be represented at the hearing, he or she must notify the chair of the committee at least 20 business days before the hearing and the chair must immediately notify the Provost and Senior Vice President for Academic and Student Affairs and the Director of Human Resources to allow time for the University to arrange to be represented. Clerical support will be made available if the chair deems it necessary a record of the proceedings must be made. Arrangements for meeting locations will be coordinated by the chair with the assistance of the Director of Human Resources.

Appeals filed before March 1 shall be scheduled within sixty (60) calendar days from the date the hearing committee is notified of the appeal; the chair may extend the scheduled completion date by 15 days for good cause but not before conferring with the Director of Human Resources. In the event the committee is addressing other appeals, it may be necessary to schedule an appeal for the next full academic term following the notice of appeal. Within fifteen (15) days of completing the hearing, the committee shall file its report with the President and CEO with a copy to both the

Provost and Senior Vice President for Academic and Student Affairs and the Director of Human Resources.

Faculty who are serving on either an administrative review advisory committee, a preliminary review committee or an evidentiary hearing committee shall be supported in this professional service by supervisors and colleagues. Any faculty member who is asked to serve and who experiences retaliation or other hardship because of it should report the situation to the Provost and Senior Vice President for Academic and Student Affairs and/or the President and CEO. The final decision as to whether to renew the contract of a non-tenured tenure track faculty member who has alleged violation for an illegal reason shall rest with the President and CEO who shall review the findings of the evidentiary hearing committee.

## 8. **DISMISSAL FOR CAUSE HEARINGS**

See Section 4.3, Good Cause for Dismissal of Tenured Faculty.

### 8.1 Summary Dismissal

While both tenured and non-tenured faculty whose conduct is judged by his or her immediate supervisor to be so unprofessional as to be disruptive or place the University, its students, its staff, or its material existence at risk, shall be recommended to the President and Chief Executive Officer for immediate dismissal following the recommendation by the Provost and Senior Vice President for Academic and Student Affairs' consultation with the Dean and Division/Department Head. The faculty member shall be called into conference or notified by certified mail of the reasons for the summary dismissal, the proposed final date of termination of employment, and the right of appeal.

#### 8.1.1 Appeal of Tenured Faculty

The faculty member's written appeal should be filed within ten (10) business days of receipt of the notification of termination and should be directed to the President and Chief Executive Officer who shall provide the faculty member with a post-termination hearing that shall be conducted as outlined in paragraph 8.2.

### 8.2 Pre-Termination Hearing

For tenured faculty who are summarily dismissed as set forth in paragraph 8.1 above the procedures for pre-termination hearing shall also apply to the post-termination hearing. Faculty who are summarily dismissed are entitled to a hearing should they appeal the dismissal.

8.2.1. Prairie View A&M University shall provide a tenured faculty dismissed for cause with a notice of the charges and or opportunity for a fair and impartial hearing. The hearing committee shall consist of three (3) to six (6) member faculty committee from a slate of tenured elected members of the Faculty Senate provided to the President and CEO by the Speaker of the Faculty Senate. In cases wherein the Speaker of the Faculty Senate is selected as chair, he or she shall vote only when there is a tie in the committee's vote. In all instances, the committee should not consist of more that two (2) representatives from the College in which the appealing faculty member is a member. Within ten (10) business days after receiving notice of termination, the faculty member shall submit a written appeal to the President and Chief Executive Officer who shall in five (5) business days notify the chair of the Faculty Senate Committee, also known as the Due Process Committee of the Faculty Senate to consider the to provide the slate of sixteen (16) to eighteen (18) tenured faculty senators from which the hearing committee members will be selected. Should there occur an instance in which there are fewer than sixteen (16) tenured faculty members on the Faculty Senate, the President and CEO may select from among tenured faculty who are represented by the Faculty Senate but who have not been elected as senators from their school or college. Staff support to include clerical assistance shall be provided. If the appeal is based upon a claim of termination for an illegal reason as defined in Section 7.3, the EEOC officer may be consulted. Section 4.3 outlines "good causes" for dismissal of tenured faculty.

8.2.1 The following applies to the hearing committee.

- (a) Receive the written charge to the committee.
- (b) Receive an orientation provided by the Office of Human Resources and/or System Legal staff on the hearing process.
- (c) Set the date for the hearing to take place within sixty (60) calendar days of the notice of appeal. The chair may extend the time for completing the hearing fifteen (15) calendar days for good cause shown.
- (d) Schedule time during which all reports or other documents related to the charge will have been read.
- (e) Establish meeting place and time for committee to plan the conduct of the hearing.
- (f) Notify the Office of Human Resources of any developments including special requests from committee members, faculty member appealing the decision to terminate, or faculty member's representative.
- (g) Keep contents of proceedings confidential
- (h) Establish method of recording proceedings
- (i) Within fifteen (15) calendar days of the completion of the hearing, formulate a written report of findings for each of the grounds for removal presented.
- (j) Recommend whether or not, in its judgment, there is good cause for dismissal, recognizing that the burden of proof is on the University to establish by a preponderance of the evidence the existence of good cause for dismissal of a faculty member.

8.2.2 The committee's findings and recommendation concerning dismissal, or such action as it deems appropriate under the circumstances, shall be conveyed in writing to the faculty member and the President and CEO. The Provost and Senior Vice President for Academic and Student Affairs and the Director of Human Resources will be apprised of the findings.

8.2.3 If the faculty member's appointment is proposed to be terminated by the CEO, the full report of the hearing committee, the record of the hearing, the CEO's recommendation, and other relevant documentation available to both the faculty member and the University shall be delivered to the Chancellor of the System for review and transmittal to the Board of Regents. If the recommendation of the CEO for termination conflicts with the recommendation of the hearing committee, the Board of Regents shall review the case based on the record of the hearing, with opportunity for argument by the principals or their representatives. If the recommendations of the CEO and the hearing committee are in accord, the Board may choose to limit its review to a review of the full report of the hearing committee, the record of the hearing, the CEO's recommendation and other relevant documentation available to both the faculty member and the University.

8.2.4 The Board shall either sustain the decision of the hearing committee or the CEO, or return the matter to the hearing committee for consideration with appropriate instructions. In such case, the committee should promptly reconsider the case within (15) calendar days of the action by the Board, taking into account the instructions of the Board and receiving new evidence if directed to do so by the Board. Upon reconsideration the hearing committee shall forward its reconsidered recommendation to the CEO and the Board. After review of the hearing committee's reconsideration, the Board shall render its own final written decision with a copy provided to each of the principals.

8.2.4.1 The Board may not render a final written decision if the CEO, Chancellor, or Board receives additional evidence, which is probative of the decision to be made, beyond that which was presented to the hearing committee. In such case, the Board will forward the additional evidence to the committee, and direct the committee to reconvene and review the additional evidence. The committee will review the additional evidence and reconsider its recommendation. The committee will provide a written recommendation within fifteen (15) calendar days of the day of the Board's action.

8.2.5 A faculty member's termination from employment shall be effective as determined by the Board, upon a finding by the Board, pursuant to these procedures, that there is adequate cause of the faculty member's dismissal. The President and CEO shall provide the faculty member with written notification that his or her termination of employment shall stand or that it shall not.

## 9. TENURE, FINANCIAL EXIGENCY, AND PHASING OUT OF PROGRAMS

9.1 In the case of bona fide financial exigency or the reduction or discontinuance of programs based on educational considerations, the University may make exceptions to tenure regulations.

### 9.2 Definitions

9.2.1 Bona fide financial exigency means a pressing need to reorder the nature and magnitude of financial obligations in such a way as to restore or preserve the financial stability of any component of The Texas A&M University. A bona fide financial exigency may exist without having the entire University affected.

9.2.2 Financial stability means the ability of the University to provide from current income the funds necessary to meet current expenses, including current debt payments and sound reserves, without invading or depleting capital.

9.2.3 Evidence of financial exigency may include but is not limited to declining enrollments, revenue cutbacks, and ongoing operating budget deficits. Upon a determination that a state of financial exigency exists, the President and CEO will inform the University faculty and provide the rationale for exigency and announce the academic areas in which tenured faculty will be affected.

9.2.4 Educational considerations that could result in the reduction or discontinuance of a program may include but are not limited to:

- (1) a substantial decrease in program enrollment,
- (2) the need to shift resources to other programs, or
- (3) a modification or redirection of a unit's mission.

(4) The faculty member selected for termination and who wishes to appeal that termination based upon denial of due process shall be given an opportunity to respond in a hearing before a ten member committee appointed by the President and CEO with input from the Speaker of the Faculty Senate. The University will demonstrate that a bona fide financial exigency exists or that educational considerations led to the reduction or discontinuance of a program. If the faculty member selected for termination appeals the decision on the basis of illegal discrimination, he or she shall be provided a hearing by a committee of five (5) tenured faculty appointed by the President and CEO. The majority of the committee members shall be from among elected members of the Faculty Senate.

(5) Any faculty member reassigned to another position or terminated shall have the right to reappointment to his or her previous position if it is re-established within two calendar years.

### 9.3 Administration

9.3.1 The President and CEO of Prairie View A&M University shall inform the Chancellor of The Texas A&M University System if he/she believed based upon available data, that the University or a component within the University is facing financial exigency. If the Chancellor concurs in this assessment, the Chancellor shall inform the Board of Regents. If the Board of Regents finds that such conditions exist, a state of bona fide financial exigency shall exist at Prairie View A&M University or in the said component of the University.

9.3.2 When faculty dismissals are contemplated on grounds of financial exigency or program termination or reduction, the general faculty and administration will be notified electronically and by memorandum and the rationale shall be provided. The President and CEO shall form a committee of ten to include tenured faculty representing each school/college and one at-large representative from among tenured faculty. Input on options will be sought from the Faculty Senate. Representatives of the Student Government Association will serve as ex-officio members of the committee. Alternatives available to the institution to ensure continuation of a strong academic program and to minimize the losses sustained by affected students and faculty members shall be used in decision making.

9.3.3 Faculty members who are being considered for termination on the basis of a bona fide financial exigency or a program termination or reduction shall be given opportunities for appointment in related areas at Prairie View A&M University provided (1) they are qualified professionally to teach in those areas (2) positions are available, and (3) the affected dean and department head or director concur.

9.3.4 Any tenured faculty member or faculty member whose term appointment has not expired, who is selected for termination on the basis of a bona fide financial exigency or the phasing out of an institutional program necessitating a reduction in staff, shall be given the following information:

- (1) a written statement of the basis for the initial decision to lay off;
- (2) a description of the manner in which the initial decision was made; and
- (3) information and data upon which the decision was based.

9.3.5 A faculty member selected for termination shall be given an opportunity to respond in a hearing before a faculty financial exigency committee that includes some representatives from the Faculty Senate. The committee shall be appointed by the President and CEO. In this hearing, the University must present data and other relevant credible documentation of the circumstances that demonstrate evidence that a bona fide financial exigency exists or that educational considerations that place the strength of the academic programs at risk led to the reduction or discontinuance of a program. The faculty committee shall formulate findings as to whether or not, in its judgment, a bona fide financial exigency exists or that educational considerations led to the reduction or discontinuance of a program. The committee's findings, and recommendation, if any, shall be conveyed in writing to the President and CEO as well as to the faculty member. The President and CEO will formulate recommendations and present them for approval by the Chancellor and The Board.

9.3.6 Any faculty member reassigned to another position or terminated following a finding of financial exigency or decision to close a program shall be notified by the President and CEO within thirty (30) days of the University's determination that the previous faculty position at the University has been re-established if it is re-established within two calendar years. The faculty member shall notify the Dean of the school or college within thirty (30) days of receipt of the notification of his or her desire to be reappointed to the previous position. Positions that are re-established shall be at the rank of the position when it was discontinued. Any changes in salary shall be at the discretion of the University.