

## Chapter 04 -- Faculty

### 04.02 Tenure -- TTU

A university is a community of scholars whose members are engaged in the discovery, evaluation, transmission, and extension of knowledge. As such they must be free to search for and express the truth as they find it, whether in the classroom, research/creative activity, or service as members of the community, and regardless of their tenure status. They must also be free from undue constraints, whether imposed from inside or outside the university.

Faculty members' privileges imply correlative responsibilities. In addition to maintaining standards of competence, particularly those relating to scholarship and teaching ability, faculty members are responsible for maintaining the proper attitude of objectivity, industry, and cooperation with their associates within the university. It is a faculty member's professional responsibility to contribute productively throughout his or her academic career.

As persons of learning, faculty members should remember that the public may judge their profession and institution by their utterances and other actions. They should thus at all times be accurate, exercise appropriate restraint, show respect for the opinions of others, and exercise every effort to make clear that as individuals they do not speak for the institution.

#### 04.02.1 Concept of tenure

Academic tenure, or continuing appointment, has been developed so that Texas Tech University may have the benefit of the competent and honest judgment of its faculty. It thus recognizes the professional status of university faculty and assures that tenured employment may be terminated only for adequate cause.

Tenure may normally be obtained only after a period of probationary service. After tenure is granted, the burden of proof rests upon the university when it wishes to dismiss a faculty member.

#### 04.02.2 Purpose of tenure

Tenure is designed to accomplish the following purposes:

- a. to assure the faculty of freedom of teaching, of research, of opinion, and of full participation as citizens in the community;
- b. to provide appropriate procedures of due process for establishing justification for possible termination of tenure, so that faculty members may be guaranteed adequate notice and a fair hearing;
- c. to assist the university by encouraging sound standards for the original selection of faculty; and,
- d. to result in the retention, encouragement and promotion of the ablest and most promising faculty.

#### 04.02.3 Discrimination

All academic appointments and tenure judgments and recommendations rest upon objective requirements in relationship to the ability of the faculty member to perform his or her teaching, research/creative activity, and service responsibilities. Such judgments and recommendations are to be made without regard to race, religion, sex, age, national origin, marital status, or physical disabilities that do not obstruct professional performance.

#### 04.02.4 Types of appointment

Members of the faculty who are employed full-time in the university and who hold the rank of assistant professor, associate professor, or professor for either part or all of their appointment are eligible for tenure consideration. The tenure policy does not apply to administrative or part-time appointments.

- a. Appointments that may be made upon the basis of continuing appointments are

For teaching faculty:

- (1) assistant professor;
- (2) associate professor; and
- (3) professor.

For librarians:

- (1) assistant librarian
- (2) associate librarian
- (3) librarian

For archivists:

- (1) assistant archivist
- (2) associate archivist
- (3) archivist

b. Appointments that are probationary and that may lead to the admission to tenure are

- (1) assistant professor,
- (2) associate professor, and
- (3) professor;
- (4) assistant librarian,
- (5) associate librarian, and
- (6) librarian; and
- (7) assistant archivist
- (8) associate archivist, and
- (9) archivist

c. Special full-time appointments that do not acquire tenure are

- (1) instructor;
- (2) adjunct assistant professor, adjunct associate professor, adjunct professor; and
- (3) all research titles: assistant research professor, associate research professor, and research professor.

Although these three special full-time appointments do not acquire tenure, persons holding these appointments do have academic freedom and after six years can only be dismissed for adequate cause. Non-tenure track faculty members (4c) who are

dismissed for adequate cause shall be accorded due process in accordance with the faculty grievance procedure (OP 32.05).

Appointment to the above special ranks (4c) can be continued beyond six years only by majority vote of the tenured faculty of the academic unit (department, college, or school) in which the position is placed, and subject to the approval of the responsible dean and the provost. Faculty members whose duties are appropriate to tenured and probationary faculty shall not be given the non-tenured ranks listed in Section 04.02.4c.

#### 04.02.5 Admission to tenure

- a. The terms and conditions of every appointment shall be stated in writing and shall be in the possession of both the university and the faculty member before the appointment is completed. Probationary faculty members should review the established standards and procedures for consideration for tenure that are available in the offices of department chairpersons and deans.
- b. A faculty member must complete a reasonable probationary period before acquiring tenure in the university. In exceptional cases, associate professors and professors may have their initial appointment in the university with tenure when the traditional tenure review procedure set forth in Section 04.02.5 e. precedes the appointment.  
Faculty members who are promoted in rank shall not thereby acquire tenure unless the normal tenure review procedure set forth in Section 04.02.5 e. has been completed.
- c. The maximum probationary period for admission to tenure is the same for all tenure-eligible ranks. Before the end of a six-year probationary period at Texas Tech University, an untenured tenure-eligible assistant, associate, or full professor must be notified in writing either that tenure has been awarded or that the appointment will not be renewed at the end of the seventh, terminal year.
- d. Determination of the maximum probationary period begins upon a faculty member's initial appointment to a tenure-eligible

rank and is not affected by promotions made during that period.

- (1) Computation of the maximum probationary period begins upon a faculty member's initial appointment to a tenure-eligible rank. Probation is not reduced by previous non-tenure track appointments or by promotions made during that period.
  - (2) The probationary period for admission to tenure shall begin in September of the calendar year in which the appointment is made.
  - (3) All time accrued in full-time service at Texas Tech University in a tenure-eligible rank will be counted in the probationary period. If unusual circumstances justify a suspension of the tenure probationary period to cause the years included not to be sequential, a request for an extension of the probationary period may be made to the provost. The request will be initiated by the candidate, reviewed and commented upon by the department/division administrator and dean, and forwarded to the provost.
  - (4) Tenure may be awarded prior to completion of the full probationary term. A faculty member can request early tenure consideration prior to completing the full probationary period without prejudice for later reconsideration.
- e. Primary responsibility for evaluation of the academic qualifications of candidates for tenure rests with the faculty. When the organizational structure permits, four sequential levels exist in the tenure review process:
- (1) evaluation by the department or division, which includes a vote by the tenured faculty and recommendation by the chairperson;
  - (2) review at the college level, which includes recommendation by the dean;

- (3) review by the provost, which, except for candidates from the School of Law, includes review by the dean of the graduate school; and
- (4) review by the president, who makes recommendations for tenure to the Board of Regents. The action of the Board of Regents awards faculty members tenure.

#### 04.02.6 Tenure Advisory Committee

The Tenure Advisory Committee may consider matters pertaining to tenure or academic freedom referred to it by members of the university community. The committee reports to the president. If the president does not approve a recommendation of the committee, the committee shall be informed in writing of the reasons for disapproval. The substance of any recommendation by the committee, if approved by the president, shall be given consideration for incorporation in the operating procedures of the university.

The committee shall consist of five tenured faculty and two ex-officio members who are the provost and a dean selected by the Provost's Council. The faculty members will be elected at large by the voting faculty for staggered terms of five years, with one membership position terminating August 31 of each year. No more than two faculty members elected from any college or school shall serve on the committee at the same time. No elected faculty member will be eligible for reelection to the committee until a period of one year has elapsed from the termination date of a prior term unless he or she was elected to serve less than two years of an unexpired term of a previous member. The dean member shall serve for three years, but shall not be eligible to serve consecutive terms. The committee shall determine its own rules of procedure.

#### 04.02.7 Definitions of termination

Termination of tenured faculty, except by resignation, retirement, or under extraordinary circumstances because of demonstrable bona fide financial exigency, will be only for adequate cause shown with the burden of proof on the university.

Adequate cause for termination is directly and substantially related to the fitness of faculty members in their professional capacity and public trust as teachers or scholars. Termination will not be used to restrain faculty members in their exercise of academic freedom or constitutional rights.

There are three categories of termination for faculty:

- (a) revocation of tenure, which is termination of a tenured faculty member's employment;
- (b) non-reappointment, which is termination of a non-tenured faculty member's employment at the end of the stated appointment period; and
- (c) termination, which is immediate termination of a non-tenured faculty member's employment before the expiration of the stated appointment period.

04.02.8 Termination review procedures for tenure revocation, non-reappointment, and termination cases

In each faculty termination case reviewed at the request of the faculty member, the issue will be determined by an equitable procedure that affords protection to the rights of the individual and to the interest of the university. In cases where the respondent faculty member admits his or her conduct constitutes adequate cause, or does not choose to have a hearing, he or she will offer his or her resignation in writing. That faculty member will give notice of resignation as early as possible to obviate serious inconvenience to the university, and so that department objectives and student needs are met.

The procedures for termination described in this section do not negate the right of the president to suspend a faculty member from some or all duties when the president reasonably believes that the allegations, if true, create a likelihood of harm for persons or the university. The suspension shall be with pay until such time as the suspended faculty member has been accorded the procedural rights appropriate to their appointment type, as described in this section.

*Tenure revocation.* The following tenure revocation review procedures outlined in subsections a-f apply to tenured faculty members.

- a. Before the filing of tenure revocation charges, every reasonable effort shall be made to mediate and conciliate differences between the faculty member and the university. The chairperson of the Tenure Advisory Committee (or another member designated by the committee) shall make a rigorous attempt at confidential, equitable, and expeditious mediation.

If such attempted mediation has failed and after the mediator has made a written report to the president and copied that report to the faculty member, a formal investigation shall be undertaken. Together, a member of the Tenure Advisory Committee who has been appointed by the chairperson of that committee, and the provost (or his representative) shall conduct a thorough, confidential, expeditious review. This review and the recommendations of the investigating team shall be considered by the president in determining whether formal charges should be filed by the president to end the faculty member's employment for cause.

In all cases of formal charges, the faculty member will be informed in writing of the charges, which, on reasonable notice, will be considered by a Hearing Panel convened by the president. The Hearing Panel will be made up of five members chosen by the Tenure Advisory Committee from a Tenure Hearing Committee formed of twenty tenured faculty members who will be elected annually. Members of the Tenure Advisory Committee shall not be eligible for concurrent service on the Tenure Advisory Committee and the Hearing Committee.

- b. The Hearing Panel shall be selected in this fashion:

- (1) The Tenure Advisory Committee shall by lot order the names of the members of the Tenure Hearing Committee, assigning them numbers one through twenty.

(2) Hearing Committee members deeming themselves biased shall remove themselves from the case.

(3) Either party in the dispute may strike no more than three names from those remaining on the list.

(4) The Tenure Advisory Committee shall designate the five with the lowest numbers remaining on the list to constitute the Hearing Panel.

- c. The Hearing Panel will select a chairperson from its membership and may, if it chooses, request appropriate legal counsel to be furnished by the university but not from the Office of General Counsel. The legal counsel will advise the Hearing Panel but will not vote.

The Panel may also consult with the general counsel of the university on technical questions not directly bearing on the merit of the case if the committee considers such consultation appropriate and helpful.

- d. The hearing will be private and confidential unless the faculty member elects to have a public hearing. The Hearing Panel shall determine procedures to be implemented in the hearing, procedures that shall afford both parties due process and fairness.

In every such hearing, the faculty member shall have the right to appear in person with legal counsel, retained by the individual, and to confront and cross-examine witnesses. The faculty member shall have the right to testify, but may not be required to do so, and may introduce in his or her behalf all evidence and material, written or oral, which he or she considers to be relevant or material to the case.

The university shall also have the right to legal counsel from the Office of General Counsel in the preparation and presentation of charges and have the same rights in the hearing as those accorded to the faculty member. An audio tape of the proceedings shall be made and delivered to the president for

submission to the Board, and a copy of this audio tape shall be made available to the respondent. The record will be transcribed only on the request of either the faculty member or the president at the expense of the requesting party.

- e. The Hearing Panel, by a majority of its total membership, shall make written findings of fact on each charge and make specific recommendations with regard to each of the charges and the charges as a whole. The committee, by a majority of its total membership, may make supplementary suggestions it deems proper concerning disposition of the case. If minority findings, recommendations, or suggestions are made, they shall be similarly treated. The chairperson of the Hearing Panel shall deliver the findings, recommendations, and suggestions to the president, who shall transmit them along with his/her recommendations to the faculty member and to the Board of Regents.
- f. The Board of Regents, by a majority of its total membership, shall approve, reject, or amend the findings, recommendations, and suggestions to the Hearing Panel based on the record. Any amendment or change of such findings, recommendation, or suggestions, and the reasons therefore, will be stated in writing and communicated to the president who will transmit them to the Hearing Panel, which will then study any additional matters presented to it and within 45 days submit its recommendations to the president. If the Board of Regents then overrules the recommendations of the Hearing Panel, it will state in writing to the president, who will transmit the decision to the Hearing Panel, its reasons for its actions in overruling the Hearing Panel's recommendations. The president shall also notify the faculty member in writing of the Board's decision, and this communication shall include the findings and recommendations of the Hearing Panel as well as those of the Board. The decision of the Board of Regents shall be final.

*Non-reappointment and termination.*

The following procedures on non-reappointment and termination for cause apply to untenured tenure-track faculty members, and to

non-tenure-track faculty members (04.02.4c) who have served more than six full years.

- g. The university is not required to give an untenured tenure-track faculty member a reason for a decision of non-reappointment. However, each faculty member is entitled to see all of his or her personnel file and, at his or her expense, to obtain a copy of the information contained therein.
- h. If an untenured-tenure-track faculty member alleges that a decision not to reappoint him or her is
  - (1) caused by considerations that violate academic freedom,
  - (2) for constitutionally impermissible reasons, or
  - (3) significantly noncompliant with the university's established standards or prescribed procedures,

the allegation of inadequate cause shall be given preliminary consideration by a faculty committee. The Tenure Advisory Committee is responsible for appointing that faculty committee from within or outside its own membership and for its functioning.

If the faculty committee concludes that there is probable cause for the faculty member's allegation, the Tenure Advisory Committee shall notify the provost and form the Hearing Panel, and the matter shall be heard in accordance with the following procedures. The faculty member shall be responsible for stating the specific grounds on which the allegations were based, and the burden of proof will rest upon the faculty member.

- i. The Hearing Panel will be made up of five members chosen by the Tenure Advisory Committee from a Tenure Hearing Committee formed of twenty tenured faculty members who will be elected annually, two Hearing Committee members being elected at large. Members of the Tenure Advisory

Committee shall not be eligible for concurrent service on the Tenure Advisory Committee and the Hearing Committee.

- j. The Hearing Panel shall be selected in this fashion:
  - (1) The Tenure Advisory Committee shall by lot order the names of the members of the Tenure Hearing Committee, assigning them numbers one through twenty.
  - (2) Hearing Committee members deeming themselves biased shall remove themselves from the case.
  - (3) Either party in the dispute may strike no more than three names from those remaining on the list.
  - (4) The Tenure Advisory Committee shall designate the five with the lowest numbers remaining on the list to constitute the Hearing Panel.
- k. The Hearing Panel will select a chairperson from its membership and may, if it chooses, request appropriate legal counsel to be furnished by the university but not from the Office of General Counsel. The legal counsel will advise the Hearing Panel but will not vote.

The Panel may also consult with the general counsel of the university on technical questions not directly bearing on the merit of the case if the committee considers such consultation appropriate and helpful.

- l. The hearing will be private and confidential unless the faculty member elects to have a public hearing. The Hearing Panel shall determine procedures to be implemented in the hearing, procedures that shall afford both parties due process and fairness.

In every such hearing, the faculty member shall have the right to appear in person with legal counsel, retained by the individual, and to confront and cross-examine witnesses. The faculty member shall have the right to testify, but may not be

required to do so, and may introduce in his or her behalf all evidence and material, written or oral, which he or she considers to be relevant or material to the case.

The university shall also have the right to legal counsel from the Office of General Counsel in the preparation and presentation of charges and have the same rights in the hearing as those accorded to the faculty member. An audio tape of the proceedings shall be made and delivered to the president, and a copy of this audio tape shall be made available to the respondent. The record will be transcribed only on the request of either the faculty member or the president at the expense of the requesting party.

- m. The Hearing Panel, by a majority of its total membership, shall make written findings of fact on each charge and make specific recommendations with regard to each of the charges and the charges as a whole. The committee, by a majority of its total membership, may make supplementary suggestions it deems proper concerning disposition of the case. If minority findings, recommendations, or suggestions are made, they shall be similarly treated. The chairperson of the Hearing Panel shall deliver the findings, recommendations, and suggestions to the president, who shall approve, reject, or amend them based on the record, and then transmit them along with his/her recommendations to the faculty member. The decision of the President will be final.
- n. The procedures for determining inadequate cause in termination cases are equivalent to the non-reappointment review procedures in 04.02.8(g-m). These procedures begin with preliminary consideration by a faculty committee, and may close with presidential review [see Section 04.02.8(g-m)].

04.02.9 Timelines for notice of non-reappointment, termination, denial of tenure, and resignation

These notification timelines apply to any non-reappointments and tenure denials that are issued for adequate cause to tenured and untenured tenure-track faculty (see Section 04.02.7). They do not apply to terminations issued to non-tenure-track (4c) faculty.

- a. Full-time faculty members in their first year with the university whose duties commence with the first semester of the academic year must be notified by the following March 1 if they are not to be reappointed.
- b. Full-time faculty members in their first year with the university whose duties commence after November 15 must be notified by the following April 15 if they are not to be reappointed.
- c. Full-time faculty members who are in their second year with the university and who are not to be reappointed shall be notified by December 15 of the academic year in which the appointment is to terminate.
- d. Full-time faculty members with more than two years with the university will be notified of non-reappointment by issuance of a terminal contract for one academic year.
- e. Full-time faculty members who hold a position by appointment for a fixed time period shall receive notice of non-reappointment in accordance with the terms of the appointment or in accordance with Section 04.02.9. a., b., c., or d.

#### 04.02.10 Policy implementation and revision

This policy is to be implemented immediately upon approval by the Board of Regents. Faculty members in a probationary status on that date will have the opportunity to choose the tenure policy—the policy applicable to them, or this policy—under which they wish to be considered for tenure. All tenured faculty members are subject to this tenure policy's applicable provisions and procedures. The tenure of faculty members who have attained tenure under prior policies at Texas Tech University continues. This policy shall not be applied in derogation of any faculty member's contract rights.

Revisions to this policy may be proposed to the Board of Regents by the president. The Tenure Advisory Committee, the Faculty Senate, or other academic groups may submit proposals to the

provost. Such proposals shall be reviewed by the Tenure Advisory Committee and the Faculty Senate. Following this review, the provost shall present approved proposals to the faculty for consideration. In this process, the voting faculty (as defined in the Constitution of the Faculty Senate) shall be polled for approval or disapproval of the proposals. If approved by the voting faculty, the proposals shall be forwarded by the provost to the president for his review and then, if the president approves, to the Board of Regents for its consideration. Under the statutory authority of the State of Texas, the Board of Regents has the sole authority to revise this tenure policy.