



ACADEMIC STAFF POLICIES AND PROCEDURES (ASPP)

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TABLE OF CONTENTS

	Page
Chapter 1	COVERAGE AND DEFINITIONS
1.01	Coverage 1
1.02	Delegation 1
1.03	Definitions 1-2
Chapter 2	ACADEMIC STAFF APPOINTMENTS
2.01	Types of Appointments 3-4
2.02	Letters of Appointment 4
2.03	Annual Salary Notification Letters 5
2.04	Periods of Initial Evaluation 5
2.05	Annual Review for Increased Job Security 6
2.06	Continuance of Employment Rights and Privileges 6
2.07	Academic Staff with Limited Appointments 6
2.08	Probationary Appointment 7
2.09	Indefinite Appointment 7-8
Chapter 3	NON-RENEWAL OF FIXEDTERM RENEWABLE APPOINTMENTS
3.01	Grounds for Nonrenewal 9
3.02	Employer's Consideration in Cases of Non-renewal for reasons of Budget or Program Decision 9
3.03	Employer's Responsibility in Cases of Non-renewal for Performance 9
3.04	Notice 9-10
3.05	Referral Priority for Long-Term Staff 10
3.06	Right of Appeal 10-11
3.07	Appeal Process 11
Chapter 4	NON-RETENTION OF PROBATIONARY EMPLOYEES
4.01	Statement of Reasons for Non-retention 12
4.02	Reconsideration of Non-retention Decision 12
4.03	Appeal of Non-retention 12-13
Chapter 5	LAYOFF FOR REASONS OF BUDGET OR PROGRAM
5.01	Layoff Defined 14
5.02	Considerations in Making a Layoff Decision 14
5.03	Approval of a Layoff Decision 14
5.04	Notice 14-15
5.05	Appeal Process for Layoffs 15
5.06	Review and hearing for indefinite appointments 15-17
5.07	Review for fixed term and probationary appointments 17
5.08	Joining of Layoff Appeals 17
5.09	Layoff Status Defined 17
5.10	Reappointment and Referral Rights 17
Chapter 6	DISCIPLINE AND DISMISSAL
6.01	Grounds for Discipline and Dismissal 18
6.02	Discipline 18-19
6.03	Dismissal 19-21
Chapter 7	EMPLOYMENT PROBLEMS: INFORMAL RESOLUTION AND GRIEVANCE PROCEDURES
7.01	Informal Resolution 22-23
7.02	Grievance Procedure 23-24

Chapter 8	COMPLAINTS AGAINST ACADEMIC STAFF MEMBERS	
8.01	Right to be Informed of Complaint	25
8.02	Right to be notified of Investigation and Right to Respond	25
8.03	Investigation and Notification	25
8.04	Right of Appeal	25
Chapter 9	ACADEMIC STAFF APPEALS COMMITTEE AND PROCEDURES	
9.01	Purpose	26
9.02	Composition and Procedures	26
9.03	Conduct of Reviews	26
9.04	Conduct of Hearings	26
9.05	Procedural Guarantees	26-27
Chapter 10	PERFORMANCE REVIEWS	
10.01	Review	28
10.02	Purpose of the Performance Review	28
10.03	Methods of Performance Review	28
10.04	Establishing or Changing the Method of Review	29
10.05	Written Review of a Staff Member	29
10.06	Notification of New Employees	29
10.07	Relationship to Annual Merit	29
Chapter 11	PERSONNEL FILE	
11.01	Contents	30-31
11.02	Access	31-32
11.03	Modification of the Personnel File	32
11.04	Confidentiality and Security	32
11.05	Retention	32
Chapter 12	OUTSIDE ACTIVITIES AND CONFLICT OF INTEREST	
12.01	General	33
12.02	Reporting	33
12.03	Action to Avoid Conflict of Interest	33
12.04	Service to Granting Agencies or as an Expert Witness	34
12.05	Use of University Facilities, Services and Staff	34

ACADEMIC STAFF POLICIES AND PROCEDURES (ASPP)

CHAPTER 1 COVERAGE AND DEFINITIONS

1.01 Coverage

Pursuant to UWS 9.01, these policies and procedures apply to all academic staff appointments at the University of Wisconsin-Superior (referred to as the “university” in this document).

1.02 Delegation

Pursuant to Wisconsin Statutes 36.09(4m), the Academic Staff Senate makes recommendations to the university Chancellor concerning policies and procedures for academic staff appointments as provided in UWS 8-13.

1.03 Definitions

"Academic Staff" means professional and administrative personnel other than faculty, classified staff, limited staff, student employees, or employees in training, with duties and types of appointments that are primarily associated with higher education institutions or their administration (UWS 1.01). Academic staff titles are identified in the UW System Unclassified Personnel Guidelines (UPG) # 1 Attachment 1.

"Academic Department" is a group of faculty members recognized by the faculty and the chancellor of the institution, and the Board of Regents, as dealing with a common field of knowledge or as having a common or closely related disciplinary or interdisciplinary interest (UWS 1.03).

"Annuitant" is an individual who has retired and is receiving an annuity from the Wisconsin Retirement System.

"Back-up Appointment" an academic staff appointment assigned to individuals who have been assigned or hired into a limited appointment.

"Complaint" is an allegation of misbehavior made by person other than the academic staff member's supervisor, including administrators, students, other academic staff, faculty, classified staff, or members of the public concerning conduct by an academic staff member which violates university rules or policies, or which adversely affects the academic staff member's performance or obligation to the university but which allegations are not serious enough to warrant dismissal proceedings under ASPP 8.

"Director" is the head of a department or unit within the university who typically reports to a division officer.

"Discipline" refers to any sanction short of dismissal imposed by the university against an academic staff member for unsatisfactory performance or misconduct, including but not limited to a letter specifically identified as a reprimand, reduction in salary, change of appointment status, or suspension without pay. Performance reviews, letters of counseling, administrative leave with pay, merit-pay determinations, and the like are not considered discipline.

"Dismissal for Cause" is the termination of a staff member's employment for just cause using procedures in ASPP 6 and UWS 11.

"Division" is a major organizational element of the university headed by a dean, assistant/associate or vice chancellor who typically reports directly to the Chancellor.

"Division Officer" is the head of a major university division who typically reports to the Chancellor and serves on the Chancellor's Cabinet. (i.e. Dean of Students, Assistant Chancellor for University Advancement, Provost, Vice Chancellor for Administration and Finance)

"Emeritus status" may be conferred by the Chancellor, upon recommendation of the appropriate division officer to individuals retiring from an academic staff position with at least 20 years of service to the university. Emeritus status is granted on rare occasions as recognition of distinguished service to the university. Academic staff holding emeritus status are entitled to the use of the library and other university facilities.

"Employee Assistance Program" is a program available to employees and their family members when faced with a personal problem or crisis. The Office of Human Resources has additional information on the EAP program.

"Employer" is the Chancellor or his/her designee who has been authorized to act on behalf of the university.

"Fixed-Term Renewable Appointment" is an appointment for a period of time specified in the letter of appointment and is renewable. Fixed-term renewable appointments may be ended during the initial six month evaluation period (ASPP 2.04) without an appeal.

"Fixed-Term Terminal Appointment" is an appointment for a fixed term only, as specified in the letter of appointment, and shall not be used repeatedly except as specified in ASPP 2.01.1.c.

"Grievance" is a written allegation filed by a member of the academic staff in regard to an employment problem that affects his or her conditions or circumstances of employment.

"Hearing" is held when there is an appeal of a layoff (ASPP 5), dismissal for cause (ASPP 6) or grievances involving discipline resulting in a loss of pay (ASPP 7). The hearings will provide the procedural guarantees described in ASPP 9.05.

"Indefinite Appointment" is an academic staff appointment having permanent status and for an unlimited term. The rights conferred by an indefinite appointment are limited to the operational area in which the appointment is made. Indefinite appointments are neither limited to nor specific to any academic staff position or title series.

"Just Cause" means a legitimate reason or a real cause or basis for a decision as distinguished from an arbitrary whim or caprice; that is, some cause or ground that a reasonable employer, acting in good faith in similar circumstances, would regard as a good and sufficient basis for an employment decision.

"Layoff" is the termination of an academic staff member's employment for reasons of budget or program prior to the end of the appointment.

"Limited Appointment" is a special appointment to a designated administrative position (UWS 15.01) and is not an academic staff appointment. A limited appointee serves at the pleasure of the authorized official who made the appointment. Academic staff accepting limited appointments retain the rights outlined in ASPP 2.07.

"Multiple-Year Appointment" is a form of fixed-term renewable appointment with a term longer than one year.

"Nonrenewal" is the termination of an academic staff member's employment at the end of the appointment.

"Operational Area" is the organizational level, such as division, department or smaller unit, specified in the letter of appointment to which the appointee is assigned and that has responsibility for supporting a position in cases of layoff or changes in indefinite appointments.

"Pay Basis" is the specification of whether an academic staff member's salary is paid on an annual (12 months), academic year (9 months), or other appropriate basis.

"Program Discontinuance, Curtailment, Modification, Reorganization or Reduction" is the reallocation or termination of resources by a university management decision that may result in staffing reductions in a program or operational area.

"Probationary Appointment" is an academic staff appointment leading to review and decision on indefinite appointment.

“*Review*” is conducted when requested for non-renewal (ASPP 3), non-retention of probationary employees (ASPP 4), and grievances other than those involving discipline resulting in a loss of pay (ASPP 7) not resolved at a lower level.

“*UWS 8-13; 15; 18, 19, and 21*” refer to the *Rules of the Board of Regents of the University of Wisconsin System, s. UWS 1-21, Wisconsin Administrative Code*.

“*Working days*” are defined to be the normal work days of Monday through Friday excluding holidays.

CHAPTER 2 ACADEMIC STAFF APPOINTMENTS

2.01 Types of Appointment

Academic staff appointments are fixed term, probationary, or indefinite. Rights associated with an appointment are limited to the operational area specified in the letter of appointment.

1. *Fixed-Term Appointments.* Fixed-term appointments are renewable, rolling horizon, or terminal. An initial period of evaluation is required (2.04), during which an appointment may be ended without the right of appeal. Once the evaluation period has been successfully completed, the employment of an academic staff member holding a fixed-term renewable or fixed-term rolling-horizon appointment of 50% or more may be ended by non-renewal, layoff for reasons of budget or program decision that requires a program to be discontinued, curtailed, modified or redirected, or dismissal, according to the procedures outlined in ASPP 3, 5 and 6. (See Note at end of chapter.)

a. *Fixed-Term Renewable Appointment.* The fixed-term renewable appointment is the most common appointment given to academic staff. This appointment is for the initial term specified in the letter of appointment and is renewable so long as the appointee renders satisfactory service, funds are available, and the directions or needs of the program do not change.

Appointments for terms up to and including one year renew for the same term unless the academic staff member receives a written notice to the contrary. A letter of reappointment is not required. If the term of appointment is increased, a letter of reappointment is required.

Appointments for terms of longer than one year, including multiple-year appointments, do not require a letter of reappointment during the original term. To renew the appointment for more than one year requires a reappointment letter. If a reappointment letter or nonrenewal notice is not issued before the end of the original term, then the appointment becomes a one-year fixed-term renewable appointment.

b. *Fixed-Term Rolling-Horizon Appointment.* A rolling-horizon appointment extends daily for the term specified in the letter of appointment. The term may be for one or more years. For example, a three-year rolling-horizon appointment automatically renews every day and entitles the employee to a full three years notice of nonrenewal.

The term of a rolling-horizon appointment may be increased or decreased at any time. If the term is increased, the new term shall take effect upon written notification. If the term is reduced, written notification is required and shall include the reasons for the change, i.e., for reasons of budget or program, unsatisfactory performance, or misconduct. The shorter term takes effect when the time elapsed from the date of notification equals the difference between the old and new terms of appointment. The appointment will, in effect, cease rolling until the period being reduced has elapsed. For example, if a three-year rolling-horizon appointment is reduced to a two-year rolling-horizon, the appointment will cease rolling until one year has elapsed, then resume as a two-year rolling-horizon.

A rolling-horizon appointment may be changed to a fixed-term renewable appointment upon written notice to the employee with copies to the dean or director and the Human Resources Office. The notice shall include the reasons for the change, i.e., for reasons of budget or program, unsatisfactory performance, or misconduct. The initial length of the new fixed-term renewable appointment shall equal the term of the former rolling-horizon appointment.

A decrease in the term of a rolling-horizon appointment or a change to a fixed-term renewable appointment may be grieved, in accordance with ASPP 7.

c. *Fixed-Term Terminal Appointment.* Fixed-term terminal appointments are made when there is no expectation of continuing employment. The appointment letter will specify the appointment termination date. Fixed-term terminal appointments of 50% or more shall not be used repeatedly to avoid granting the increased job security provided by fixed-term renewable and fixed-term rolling-horizon appointments.

There are two types of fixed-term terminal appointments:

(1) *Finite*. This type of appointment is used when the appointment is for a clearly limited period of two years or less with no anticipation of renewal. Fixed-term terminal appointments may be extended, but the total period of appointment may not exceed two years unless the appointment is for less than 50%. Continuation of the position beyond two years shall be as a fixed-term renewable appointment unless the chancellor's designee determines that good cause exists to continue it as a fixed-term terminal appointment.

(2) *Instructional*. This type of fixed-term terminal appointment is limited to instructional academic staff and can be offered repeatedly except as follows. When an instructional academic staff member has held a 50% or more appointment in a given department for either or both semesters in each of the last three successive academic years, reappointment shall be as a fixed-term renewable appointment on a similar basis, e.g., one-semester or two- semester appointment. In cases of uncertain enrollment or other exceptional circumstances, however, reappointment to a fixed-term terminal instructional position beyond this period may be made with the approval of the chancellor's designee.

2. *Probationary Appointment*. A probationary appointment is an appointment with a probationary period of up to seven years leading to a review and decision on granting an indefinite appointment. Probationary academic staff not granted an indefinite appointment by the end of probation will not be reappointed to a fixed-term appointment within the same operational area. However, exceptions may be made by the Chancellor or designee.

Neither probationary nor indefinite appointments are appropriate for positions whose duties approximate a tenured faculty appointment; these may not be used to circumvent or evade normal tenure policies and procedures.

A probationary appointment shall be made in an operational area only when it is anticipated that the position will continue indefinitely. Probationary appointments within an academic department must be approved in advance by the department. In addition, all probationary appointments require the advance approval of the appropriate director or division officer. For appointments in an administrative or service unit, approval must be received both from the immediate unit director and from the division officer, or from the chancellor's office if the appointee reports directly to the Chancellor's office.

3. *Indefinite Appointment*. This appointment type is used to recognize academic staff for outstanding performance and importance to the continuing mission of the unit. This appointment type can be considered only when the director or division officer can assure long-term funding. The indefinite appointment grants the appointee permanent employment status. An indefinite appointee can only be dismissed for cause under ASPP 6 or laid off for reasons of budget or program under ASPP 5; nonrenewal does not apply to indefinite appointees. The percentage of appointment provided for in the indefinite appointment cannot be changed without the mutual consent of the academic staff member and the institution unless the appointment is ended or diminished under ASPP 5 or 6.

An indefinite appointment is granted only upon the recommendation of the department or its functional equivalent, review by an academic staff review committee, and approval by the division officer and the Chancellor pursuant to the procedures described in 2.09.

2.02 Letters of Appointment

Each employee shall receive a letter of appointment signed by the individual making the appointment. Such a letter is required at the time of the initial appointment and whenever there is a change in the terms or conditions of the appointment. The initial appointment letter shall include at a minimum the following:

1. Official university title of the position and working title, if appropriate.
2. Type of appointment: fixed-term renewable, fixed-term rolling-horizon, fixed-term terminal, probationary, or indefinite.
3. The operational area of the appointment.

4. Title and name of the person to whom the employee is immediately responsible.
5. A statement of initial salary level and pay basis, starting date, and date of next salary review.
6. Percentage of full-time employment.
7. Terms of the initial evaluation period if applicable, and the unit's procedure for performance review (see ASPP 10).
8. General position responsibilities including any special requirements of the position, e.g., unusual hours, on-call expectations, flexible hours, or extensive travel.

9. Additional information required for specific types of appointment:

- a. Fixed-term renewable appointment letters shall specify the length of the initial term of the appointment.
- b. Fixed-term rolling-horizon appointment letters shall specify the length of the rolling term.
- c. Fixed-term terminal appointment letters shall specify the ending date for the appointment.
- d. Probationary appointment letters shall specify:
 - (1) the amount of prior service to be counted toward the probationary period.
 - (2) the maximum probationary period for the appointment.
 - (3) the criteria for recommendation for indefinite status.
 - (4) the appropriate review committee for consideration of indefinite status.

Upon initial appointment, each academic staff member shall be provided a printed copy of and the URL Web site for *University of Wisconsin-Superior Academic Staff Policies and Procedures* and the *Rules of the Board of Regents of the University of Wisconsin System (Wisconsin Administrative Code)*.

2.03 Annual Salary Notification Letters

Each academic staff member shall be notified annually of his or her salary for the next fiscal year.

2.04 Periods of Initial Evaluation

Initial fixed-term appointments in an operational area shall include a period of evaluation of at least six months, but not more than 12 months (see exception in 2.04.6). However, in the case of a fixed term terminal appointment of less than six months, an evaluation shall occur prior to the end of the appointment. During the period of evaluation, the appointee may be dismissed at the discretion of the individual making the appointment and without right of appeal. The duration of the period of evaluation shall be specified in the appointment letter. If the appointment letter does not specify the period of evaluation, the evaluation shall be for a period of six months.

1. *Extension of Six-Month Evaluation Period.* The evaluation period may be extended beyond six months, but the total evaluation period may not exceed 12 months (see exception in 2.04.6). If the evaluation period is to be extended, a written statement of the duration of and the reason for the extension shall be provided to the employee prior to the end of the original evaluation period. A written performance evaluation must be provided to the employee at the same time.

2. *Evaluation Period of More than Six Months.* When the period of evaluation specified in the appointment letter is longer than six months, a written performance evaluation should be provided to the employee within 10 working days of the midpoint of the evaluation period. 3. *Completion of the Evaluation Period.* The employee shall be notified in writing of the successful completion of the evaluation period. If the evaluation period lapses without such notification, the employee shall be considered to have completed the evaluation period successfully.

3. *Termination During the Evaluation Period.* During the evaluation period, the appointee may be dismissed at any time at the discretion of the individual making the appointment. If employment is terminated, the academic staff member shall be informed in writing. Termination does not require review by the chancellor, and there is no right of appeal. No notice period prior to termination is necessary, as long as the period of evaluation is specified in the appointment letter; however, if the appointment letter does not specify the period of evaluation, the employee shall be given at least 10 working days notice. Termination during an evaluation period is neither a nonrenewal nor a dismissal for cause and is not subject to the provisions of ASPP 3 or 6 or UWS 11.

4. *Leaves of Absence During the Evaluation Period.* The evaluation period may be suspended by the supervisor during periods of leave without pay, use of sick leave, or use of other leave for family and medical leave purposes. Employee requests for suspending the evaluation period must be made in writing to the supervisor prior to the end of the evaluation period. The academic staff member shall be informed in writing of the supervisor's decision.

2.05 Annual Review for Increased Job Security

Academic staff members holding appointments of 50% or more not holding terminal appointments shall be eligible for consideration for increased job security in the form of multiple-year or rolling horizon, or indefinite appointments on the annual review cycle. No minimum period of appointment at the university is required.

Consideration of an academic staff member's appointment status can be initiated with a request by the academic staff member or by his or her unit. Academic staff members through the Academic Staff Senate shall have the right to participate in establishing or changing the procedures and criteria by which academic staff are considered for additional job security.

Employing units shall annually review academic staff members who have five or more years of academic staff service at UW Superior to determine whether a new or increased multiple-year appointment or rolling horizon appointment or indefinite appointment shall be proposed. Individuals who currently hold rolling horizon appointments shall be reviewed and a determination made about their eligibility for an indefinite appointment.

Academic staff members who are supported by grant funding and who have at least five years of service at UW-Superior shall be reviewed annually to determine whether a multiple year appointment with a term equal to the duration of the grant shall be proposed.

Following review by employing units, division officers shall review the academic staff members for whom longer term appointments have been proposed to identify individuals to be granted increased job security. Increased job security shall be granted to academic staff members when the following criteria are met: 1) the quality of their performance warrants increased job security, 2) their role is an integral part of their department's or unit's continuing mission, and 3) a funding source can be identified that can permit multiple-year, rolling-horizon, or indefinite appointments.

Academic staff with seven or more years of service at the university whose appointments do not provide at least a two-year multiple-year or a two-year rolling horizon appointment shall be given written reasons upon request. These reasons will become a part of the employee's permanent personnel file.

2.06 Continuance of Employment Rights and Privileges

Members of the academic staff who hold the employment rights and privileges provided by a rolling-horizon, multiple-year, or indefinite appointment may negotiate continuance of these rights and privileges when accepting another academic staff position or appointment. Such appointments, however, maybe granted at the discretion of the chancellor in consultation with the employing unit.

2.07 Academic Staff with Limited Appointments

A limited appointment is a special appointment to a designated administrative position and is not an academic staff appointment. A limited appointee serves at the pleasure of the authorized official who made the appointment (UWS 15.01). An academic staff member who accepts a limited appointment shall hold a concurrent academic staff appointment (also referred to as a "back-up appointment"). Rehired annuitants are excluded from this provision.

A limited appointee who does not already hold an academic staff appointment will be provided a concurrent academic staff appointment.

If the limited appointment is terminated or if the academic staff member resigns from the limited appointment, the concurrent academic staff appointment shall remain in effect. Assignment shall be to a position commensurate with the staff member's skills and experience and at a salary level not lower than the staff member might reasonably have expected if the back-up academic staff position, if any, had continued without interruption.

2.08 Probationary Appointment

When a probationary appointment is made, the employee shall receive a letter of appointment stating the terms and conditions of the appointment, including the criteria for recommendation to an indefinite appointment. A copy shall be placed in the personnel file.

1. *Probationary Period.* The probationary period shall be for not more than seven years except as prescribed in 2.08.2 below. Appointments with shortened probationary periods are permitted. The division officer may agree to count all or part of appropriate service at other institutions and the University of Wisconsin – Superior as part of the probationary period, and any agreement to this effect shall be specified in the initial letter of appointment. This letter must clearly specify the maximum probationary period. .

2. *Absences During the Probationary Period* An academic staff member may request a break in the probationary period because of special circumstances. Such circumstances include, but are not limited to, leaves of absence, professional improvement assignments, responsibilities with respect to childbirth or adoption, significant responsibilities with respect to elder, spouse, domestic partner or dependent care, disability or chronic illness, or circumstances beyond the control of the academic staff member, when those circumstances significantly impede the academic staff member's progress toward achieving indefinite status. Such a request must be initiated by the academic staff member concerned, must be supported by credible justification, and must be made before an indefinite status review commences under 2.09. The request must be reviewed by the supervisor and division officer and forwarded to the review committee for recommendation to the Chancellor. Requests made under this section because of responsibilities with respect to childbirth and adoption shall be approved in accordance with applicable laws and university policies. A denial of a request must be based upon clear and convincing reasons that address the circumstances cited in the request. More than one request may be granted, but the aggregate length of time, except for a request because of responsibilities with respect to childbirth or adoption, ordinarily shall be no more than one year. Any academic staff member who has been in probationary status for more than seven years for one of the above reasons shall be evaluated as if he or she had been on probationary status for seven years.

2.09 Indefinite Appointment

An indefinite appointment is an academic staff appointment with permanent status and for an unlimited term in a specified operational area. Indefinite appointments confer the greatest job security of any academic staff appointment. Indefinite appointments are neither limited to nor specific to any academic staff title series or position. The rights conferred by an indefinite appointment are limited to the operational area in which the appointment is made. However, if an individual's operational area moves to another unit, the indefinite appointment shall be retained.

1. *Procedure.* The Academic Staff Senate shall develop procedures for initiating the review process.

a. *Eligibility.* Academic staff are eligible for recommendation for an indefinite appointment when 1) they have shown evidence of consistent excellence in performance and professional growth, 2) they are of

significant current and continuing value to the mission of their department or program, and 3) fiscal resources are available to make the commitment.

The review process can be initiated by the academic staff member.

An indefinite appointment, although normally made to an individual holding a fixed-term or probationary appointment at the University of Wisconsin-Superior may be granted to a person not currently so employed. Such an appointment may be granted to an academic staff member who holds or will hold a half-time or greater appointment. An indefinite appointment is not acquired solely because of years of service.

b. *Review Committee.* A committee to review employees for an indefinite appointment is identified by the supervisor, in consultation with the Cabinet Officer, and shall be appropriate to the area of employment.

The request must go to the unit head or equivalent. The unit is encouraged to consult with the appropriate division officer regarding continuing program need and availability of fiscal resources to support the request.

c. *Action by the Review Committee.* The academic staff member to be reviewed shall be notified in writing at least 20 working days prior to the review. The employee may review his or her supporting documents and may make a personal presentation prior to or during the review process.

Upon affirmative review the recommendation shall be forwarded to the appropriate division officer. The academic staff member shall be notified in writing of the recommendation within one week.

A decision not to recommend an indefinite appointment shall be accompanied by an item-by-item evaluation of the appointee's performance with respect to the criteria for indefinite appointment established in the letter of appointment. The reasons shall be given to the employee in writing. The decision may be appealed using ASPP 4.

d. *Action by the Division Officer.* The division officer must confirm that program need and available fiscal resources exist to support an indefinite appointment. When the division officer recommends an indefinite appointment, the recommendation, including a copy of the review committee report, shall be forwarded to the Chancellor. If the division officer does not recommend an indefinite appointment, he or she shall notify the department and candidate of that fact. When the division officer's recommendation differs from that of the review committee, the committee shall be informed of the reasons in writing.

e. *Action by the Chancellor.* When the Chancellor makes a decision to affirm or deny a recommendation for indefinite status, the Chancellor shall notify the candidate of the decision.

f. *Disapproval of Recommendation to Indefinite Appointment.* When an indefinite appointment is not granted to a fixed-term employee, he or she has the right to continue as a fixed-term employee.

NOTE: These policies and procedures represent efforts to strike a reasonable balance between employment security for academic staff, without intending to create an entitlement or property interest, and the responsibility of the university to manage its programs and resources.

CHAPTER 3

NONRENEWAL OF FIXED-TERM RENEWABLE APPOINTMENTS

3.01 Grounds for Nonrenewal

A member of the academic staff holding a fixed-term renewable appointment of 50% or more may not be renewed at the end of the appointment because of factors such as:

- a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected,
- or unsatisfactory performance.

Termination during an initial period of evaluation (see ASPP 2.04) is not a nonrenewal and is not subject to the provisions of this chapter.

Note: Nonrenewal does not apply to employees who hold indefinite appointments. See ASPP 2.01.3.

3.02 Employer's Consideration in Cases of Nonrenewal for reasons of a Budget or Program Decision

Whenever a nonrenewal decision will result in reduction of the academic staff work force in an operational area, such nonrenewal shall normally be implemented on the basis of years of service. The presumption in favor of years of service shall not apply in cases where program needs dictate other considerations such as the need to maintain specific expertise, responsibility levels, or productivity levels within a program or operational area.

3.03 Employer's Responsibility in Cases of Nonrenewal for Performance

An employer (immediate supervisor, principal investigator, department chair, or unit head) is responsible for clearly communicating to each employee under his or her supervision what the employee's duties are and how the performance of those duties will be evaluated. Before ending an appointment for unsatisfactory performance, the employer must inform the employee in writing about areas of performance deficiency and must make efforts to work with the employee to improve performance to a satisfactory level (see ASPP 10, Performance Reviews). Some examples of unsatisfactory performance include insufficiently productive or timely output, insufficient creative effort, or failure to communicate effectively with individuals or groups important to the work processes.

Lapses in performance may also result from a disability or personal problem. If the supervisor knows that either of these is or could be a factor affecting the employee's work situation, the supervisor should consult with the Office of Human Resources before proceeding or referring the employee to appropriate resources.

3.04 Notice

The employee shall receive written notice of non-renewal in advance of the expiration of the current appointment in accordance with the table below. Copies of this non-renewal notice shall be sent to the department chair or unit head and Human Resources Office. If proper notice in advance of the expiration date is not given, either the appointment shall be extended to provide the requisite nonrenewal notice or a layoff decision shall be made in accord with ASPP 5.

In cases where an academic staff member holding renewable fixed term appointments of 50% or more for three or more years, and where the appointment is then not renewed, the employee may request the reasons for non-renewal. The request must be in writing and within 20 working days of the notification of non-renewal. The written reasons for non-renewal shall be provided within 15 working days of the request. Such reasons shall become part of the personnel file of the individual.

Minimum Notice Period for Non-renewal of Fixed-Term Renewable Appointments

<u>Years of UW-Superior Service*</u>	<u>Minimum Notice Period in Months</u>
Fewer than 2 years	3 months
At least 2 but fewer than 6 years	6 months
6 or more years	12 months

NOTE: Rolling-horizon appointments require additional action and may require additional notice (see ASPP 2.01.1.b).

* Academic staff service is defined as continuous years of paid UW-Superior academic staff employment with an appointment of 50% or more. For purposes of determining the required notice periods, an appointment of one or both semesters of an academic year shall count as one year of service. A leave of absence of any length, an appointment of less than 50%, or a break in academic staff service of three years or less shall not result in loss of prior years' employment credit.

3.05 Referral Priority for Long-Term Staff

Referral priority entitles a non-renewed academic staff member to be considered for academic staff positions for which he or she is qualified prior to open recruitment. Fixed-term academic staff members with six or more years of academic staff employment at the University of Wisconsin-Superior within the prior seven years and who are non-renewed budget or program reasons shall be eligible for referral priority from notification of nonrenewal until the end of the appointment. At the discretion of the department or unit responsible for the open position, an academic staff member with referral priority may be hired without open recruitment.

To initiate and maintain referral priority, the non-renewed academic staff member must register with the Human Resources Office and notify that office of changes of address or employment status. Referral priority ends automatically when a staff member accepts an alternative appointment that is not intended to be temporary, fails to accept an appropriate alternative appointment with any employer, resigns, or fails to notify the Human Resources Office of changes of address or employment status. The primary test in the determination of appropriate alternative appointment is not salary level but the comparability of the qualifications necessary and skill level required.

3.06 Right of Appeal

Nonrenewal of renewable fixed term, multi-year and rolling horizon appointment decisions may be appealed by academic staff with a 50% or more appointment and with at least six years of service when non-renewal is alleged to be based to a significant degree upon one or more of the following factors with material prejudice to the individual.

- a. conduct, expressions, or beliefs which are constitutionally protected or actions which are consistent with an appropriate professional code of ethics; or
- b. employment practices proscribed by applicable state or federal law; or
- c. improper consideration of qualifications for reappointment or renewal.

For purposes of this section “improper consideration” shall be deemed to have been given to the qualifications of a staff member in question if material prejudice resulted because of any of the following:

- 1) the procedures require by the Chancellor or Board were not followed, or
- 2) available data bearing materially on the quality of performance were not considered, or

- 3) unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct.

In carrying out its mission and goals, the university retains the right to determine the direction and scope of its programs, including the right to reduce staff levels through nonrenewal because of a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected.

A pending appeal of the non-renewal decision does not in and of itself extend the appointment.

3.07 Appeal Process

1. *Review by the Division Officer.* To be entitled to a review, the academic staff member must submit a written request to the division officer within 20 working days of receipt of the nonrenewal notice. A written statement of facts and circumstances supporting the appeal must be presented by the academic staff member as a part of the request for review. The academic staff member is entitled to request a meeting with the division officer who shall meet with the academic staff member, if requested to do so, and shall conduct an objective review of all pertinent facts and circumstances. The academic staff member, the department or unit, and the Human Resources Office shall be notified of the decision in writing within 15 working days of receipt of the written request for review. If there is no response by the division officer to the written request for a review within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 15 working days of the expiration of the designated period.

2. *Review by the Academic Staff Appeals Committee.* The academic staff member shall have 15 working days from receipt of the division officer's decision to file an appeal with the Human Resources Office, which will forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a review in accordance with ASPP 9.

3. *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the nonrenewal decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within 15 working days prior to a review.

4. *Burden.* The employee has the burden to show by a preponderance of evidence that non-renewal is based to a significant degree on the factors set forth in ASPP 3.06.

5. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the employee, the department chair or unit head, the division officer, and the Human Resources Office. Within 30 working days of receipt of the Committee's recommendation, the chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, the department chair or unit head, the division officer, and the Committee shall be notified of the decision of the chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final.

6. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.

7. *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon by the appellant and the committee prior to any meeting.

CHAPTER 4

NON-RETENTION OF PROBATIONARY EMPLOYEES

4.01 Statement of Reasons for Non-retention

The division officer shall notify the probationary academic staff member in writing at least 20 working days in advance of the date on which a renewal, non-retention, or promotion decision will be made. The employee shall have the right to present for consideration during this time any documentary material that may be relevant. If a non-retention decision is made, the employee shall receive notice at least three months before the end of the appointment in the first year, six months before the end of the appointment in the second year, and 12 months thereafter. Thus, notice of non-retention must be given no later than the end of the sixth year. The notice shall include a statement of the reasons for non-retention, notification of reconsideration rights, and a copy of ASPP 4 and 9.

4.02 Reconsideration of Non-retention Decision

An academic staff member seeking reconsideration must submit a written request for a reconsideration meeting with the division officer within five working days of receipt of the reasons for non-retention. The division officer shall convene the meeting for reconsideration within 10 working days of receipt of the request and the academic staff member shall be notified a minimum of three days prior to the meeting. The time limits may be extended by mutual consent of the parties. At the meeting for reconsideration, both parties are entitled to present information relevant to the decision and to have a representative present. The purpose of reconsideration is to allow the academic staff member an opportunity to persuade the division officer to change the recommendation of non-retention. The reconsideration is neither a hearing nor an appeal and shall be non-adversarial in nature.

Within 10 working days of the reconsideration meeting, the academic staff member shall be informed in writing of the decision, the reasons for the decision, and the right of appeal, if applicable.

4.03 Appeal of Non-retention

- 1. Review by the Academic Staff Appeals Committee.* Upon receipt of the division officer's decision, the academic staff member shall have 15 working days to file an appeal with the Human Resources Office, which will forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a review in accordance with ASPP 9.
- 2. Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the non-retention decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within 15 working days prior to a review.
- 3. Burden.* The employee has the burden to show by a preponderance of the evidence that the non-retention is based to a significant degree on the factors set forth in ASPP 3.06.
- 4. Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the chancellor or designee and shall send a copy to the employee, the department chair or unit head, the division officer, and the Human Resources Office. Within 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the appellant and the

Committee written reasons for any decision to modify the recommendation. The employee, the department chair or unit head, the division officer, the Human Resources Office, and the Committee shall be notified of the decision of the Chancellor or designee, which is final. If the decision of the chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final.

6. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.

7. *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon prior to any meeting.

CHAPTER 5

LAYOFF FOR REASONS OF BUDGET OR PROGRAM

5.01 Layoff Defined

Layoff is defined as the suspension of an academic staff member's employment during the appointment period, for reasons of budget or program. For the purposes of s. 36.21, Stats., termination occurs at the time of layoff. Layoff is neither a non-renewal (ASPP 3), dismissal for cause (ASPP 6) nor non-retention of a probationary appointee (ASPP 4).

5.02 Considerations in Making a Layoff Decision

If a layoff will result in reduction of the academic staff work force in an operational area, it shall normally be implemented on the basis of years of service. The presumption in favor of years of service shall not apply when program needs dictate other considerations such as the need to maintain specific expertise, responsibility levels, or productivity levels within a program or operational area. When layoffs occur within an operational area in which academic staff members do the same or similar work, employees holding fixed-term and probationary appointments shall be laid off before employees holding indefinite appointments. Years of service shall determine the order of layoff within each of these three groups.

5.03 Approval of a Layoff Decision

The supervisor must prepare a written statement describing the facts and circumstances that may lead to the layoff of an employee in an operational area. This written justification must be approved by the employing unit and division officer or designee in consultation with the Human Resources Office. Upon receipt of this approval, the employing unit shall notify the employee in writing of the layoff (see 5.04.1).

If a layoff is proposed based on a program decision pursuant to a change in the level of resources for a particular project, the Chancellor or designee may establish, at his or her discretion, an ad hoc committee to review the layoff proposal. Affected employees will be notified whether or not there will be a review. The ad hoc committee shall include academic staff employed within the program or activity that will be affected by the layoff decision. This committee will make a recommendation to the Chancellor or designee, who must approve the recommendation before the layoff notice can be issued.

5.04 Notice

1. *Written Notice.* Any academic staff member with a fixed-term or probationary appointment shall be given written notice of layoff by the immediate supervisor, principal investigator, department chair or unit head only after approval from the division officer. At the same time, copies of this notice shall be sent to the department chair or unit head, the division officer, and the Human Resources Office. An academic staff member with an indefinite appointment shall be given written notice by the division officer. The written notice shall inform the employee of the reasons for the layoff, the effective date of the layoff, and his or her appeal rights, and shall include a copy of ASPP 5 and 9.

2. *Minimum Notice Period.* Academic staff with fixed-term or probationary appointments shall be given the minimum notice periods specified below unless there are compelling reasons to the contrary (e.g., almost immediate cutoff of funds). Indefinite appointees shall have 12 months' notice of layoff for reasons of budget or program, unless there are compelling reasons to the contrary.

- a. Fixed term appointments: At least 3 months before the end of the appointment in the first 2 years and 6 months thereafter. When the letter of offer for a fixed term appointment states that renewal is not intended, no further notice of non-renewal is required.
- b. Probationary appointments: At least 3 months before the end of the appointment in the first year; 6 months before the end of the appointment in the second year; and 12 months thereafter.

Academic staff service is defined as continuous years of paid UW-Superior academic staff employment without regard to percent of appointment. For purposes of determining the required notice periods, an appointment of one or both semesters of an academic year shall count as one year of service. A leave of absence of any length or a break in academic staff service of three years or less will not result in loss of prior years' employment credit.

5.05 Appeal Process for Layoffs

1. *Basis of Appeal.* In carrying out its mission and goals, the university retains the right to determine the direction and scope of its programs, including the right to reduce staff levels through layoff because of a budget or program decision that requires a program to be discontinued, curtailed, modified or redirected. However, the academic staff member has the right to appeal when the staff member believes that the layoff is not actually a result of a budget or program decision and is based on improper factors. An academic staff member does not otherwise have the right to appeal the substance of a budget or program decision.

2. *Request for Review by the division officer.* To be entitled to a review, the academic staff member must submit a written request to the division officer within 20 working days of receipt of the written notice of layoff.

3. *Review by the Division officer.* When a review is requested, the division officer, or designee shall meet with the academic staff member, who shall have an opportunity to present facts and circumstances concerning the layoff. The division officer or designee shall make an objective review of all pertinent facts and circumstances and inform the employee, the department chair or unit head, and the Human Resources Office of the decision in writing within 15 working days following the meeting. If there is no response by the division officer to the written request for review within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 10 working days of the expiration of the designated period.

4. *Appeals Committee.* The academic staff member shall have 15 working days from receipt of the division officer's decision to file a written appeal with the Human Resources Office, which will forward the files to the Academic Staff Appeals Committee within five working days.

5.06 Review and hearing for indefinite appointments.

1. An academic staff member with an indefinite appointment whose position is to be eliminated shall be notified in writing and shall, upon request made within 20 working days after such notification, be given a written statement of the reasons for the decision within 15 working days, including a statement of the reasons for the determination that the budgetary or program needs should be met by curtailing or discontinuing the program in which the individual concerned works. If the academic staff member requests in writing within 20 working days after receipt of said statement, he or she shall be entitled to a hearing before the Appeals Committee. However, such a request for hearing shall not forestall a layoff under this section.

- (a) The request for hearing shall specify the grounds to be used in establishing the impropriety of the decision.
- (b) The staff member shall be given at least 10 working days notice of such hearing. Such hearing shall be held not later than 20 working days after the request except that this time limit may be extended by order of the Appeals Committee. Anyone who participated in the decision to layoff or who is a material witness shall not serve on the Appeals Committee.

2. The academic staff member shall have access to the evidence on which the administration intends to rely to support the decision to layoff and shall be guaranteed the following minimal procedural safeguards at the hearing:
 - (a) A right to be heard in his or her defense;
 - (2) A right to counsel and/or other representatives, and to offer witnesses;
 - (c) A right to confront and cross-examine adverse witnesses;
 - (d) A verbatim record of all hearings, which might be a sound recording, provided at no cost;
 - (e) Written findings of fact and decision based on the hearing record;
 - (f) Admissibility of evidence governed by s. [227.47](#), Stats.;
 - (g) The hearing shall be closed unless the staff member whose position is to be eliminated requests an open hearing, in which case it shall be open (see subch. [V](#) of ch. 19, Stats., Open Meeting Law);
 - (h) Adjournments shall be granted to enable either party to investigate evidence as to which a valid claim of surprise is made.

3. Appeal Committee procedures
 - (a) The committee may, on motion of either party, disqualify any one of its members for cause by a majority vote. If one or more of the committee members disqualify themselves or are disqualified, the remaining members may select a number of other replacements equal to the number who have been disqualified to serve;

 - (b) If the committee requests, the chancellor shall provide legal counsel after consulting with the committee concerning its wishes in this regard. The function of legal counsel shall be to advise the committee, consult with them on legal matters, and carry out such responsibilities as shall be determined by the committee within the policies and procedures adopted by the university.

4. The first question to be considered in the review is whether one or more of the following factors improperly entered into the decision to layoff:
 - (a) Conduct, expressions, or beliefs on the staff member's part which are constitutionally protected or actions which are consistent with an appropriate professional code of ethics;

 - (b) Employment practices prescribed by applicable state or federal law; or

 - (c) Improper consideration of the qualifications of the staff member. For the purposes of this section, "improper consideration" occurs if material prejudice resulted from any of the following:
 - (1) The procedures required by the chancellor or board were not followed;

 - (2) Available data bearing materially on the quality of the staff member's actual or potential performance were not considered; or

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

5. The staff member shall present evidence on whether one or more of the factors specified above improperly entered into the decision to layoff. The Appeals Committee shall then consider whether the evidence presented establishes a prima facie case that such factor or factors did enter significantly into the layoff decision. If the Appeals Committee finds that a prima facie case has not been established, the layoff decision shall be found to have been proper and the hearing shall be ended.

6. If the hearing body finds that a prima facie case has been established, the appropriate administration officer for the operational area shall be entitled to present evidence to support the layoff decision, and, thereafter, the staff member may present evidence in rebuttal. Thereafter, on the basis of all the evidence presented, the Appeals

Committee shall make its determinations as follows:

(a) The Appeals Committee shall first consider whether one or more of the above specified factors improperly entered into the decision to layoff. Unless the committee is convinced that such factor or factors did improperly enter into that decision, the committee shall find the decision to have been proper;

(b) If the committee is convinced that such factor or factors entered into the decision to layoff, then the committee shall find that decision to be improper, unless the committee is also convinced 1) that there was a bona fide program or budgetary reason(s), and that the determination of such reason(s) was made in the manner prescribed by, and in accordance with, the standards established by the institution; and 2) that the decision to layoff the particular academic staff member was in accordance with the provisions of ASPP 5.01.

7. In determining whether a bona fide budgetary or program reason existed for layoff of the appointment of the academic staff member concerned, the committee shall presume that the decision to curtail the program was made in good faith and for proper reasons. The committee shall not substitute its judgment or priorities for that of the administration.

8. *Notification and Disposition.* The Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the Human Resources Office, division officer, department chair or unit head, and employee. Within 30 working days of receipt of the Committee's recommendation, the chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, division officer, Human Resources Office, and the Committee shall be notified of the decision of the chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. As an exception, an indefinite appointee may request a review by the Board of Regents under UWS 12.05(8).

5.07 Review for fixed term and probationary academic staff members.

The Appeal Committee shall conduct a review according to the procedures outlined in ASPP 9.

5.08 Joining of Layoff Appeals

If the layoff of two or more members of the academic staff arises from the same or similar situation in a single operational area, the academic staff members who appeal or the division officer may request joining the of cases for review or hearing. The Academic Staff Appeals Committee shall consider joining the cases before taking up the merits of any case. In addition, the Academic Staff Appeals Committee may join the cases on its own motion.

5.09 Layoff Status Defined

Layoff status shall be defined as the three-year period starting with the effective date of layoff. To initiate layoff status, the staff member must register with the Human Resources Office. To maintain layoff status, the staff member shall notify that office by December 1 of each year regarding employment status, or whenever a change of address or employment status occurs, and desire to remain on layoff status. Layoff status ends automatically when a staff member accepts an alternative appointment that is not purely temporary, fails to accept an appropriate alternative appointment, resigns, or fails to notify the Human Resources Office of changes of address or employment status. The primary test in the determination of appropriate alternative appointment is not salary level but comparability of the qualifications necessary and skill level required.

5.10 Reappointment and Referral Rights

Pursuant to Wis. Stats. 36.21 and UWS 12.09, 12.10 and 12.11, in an operational area where layoffs have occurred in the past three years, no person may be employed to perform reasonably comparable duties to those of the staff member laid off without first offering an appointment to the staff member on layoff status without loss of rights or status including salary. The head of each operational area is responsible for notifying laid-off academic staff members of their right to reappointment within that operational area, provided the laid off academic staff member notifies the Office of Human Resources at least quarterly of his/her location, employment status and desire to pursue reappointment rights.

The university shall devote its best efforts to securing alternative appointments in positions for which staff laid off under this chapter are qualified. The head of the operational area responsible for the layoff is encouraged to identify and inform the employee of any comparable positions in related operational areas. An academic staff member on layoff status may be hired without open recruitment into an academic staff position in another unit at the discretion of that department or unit. Units are encouraged to provide release time to academic staff members being laid off for such purposes as retraining, job interviews, career counseling, or job searches.

CHAPTER 6

DISCIPLINE AND DISMISSAL

This chapter describes policies and procedures for discipline and dismissal to be used in cases of unsatisfactory performance or misconduct. Just-cause standards apply to all disciplinary actions involving loss of pay and dismissal actions taken under the provisions of this chapter.

Lapses in performance or misconduct do not necessarily lead to discipline or dismissal. If performance reviews, counseling, or other communication between the employer and the employee alleviate the problem to the employer's satisfaction, there is no necessity to proceed to formal sanctions. However, if lapses in performance or misconduct continue, discipline or dismissal shall be considered. In egregious situations, the employer may proceed directly to discipline or dismissal.

Lapses in performance or misconduct may also result from a disability or personal problem. If the employer knows that either of these is or could be a factor affecting the employee's work situation, the employer should consult with the Office of Human Resources before proceeding or referring the employee to the appropriate resources.

6.01 Grounds for Discipline and Dismissal

1. *Unsatisfactory Performance.* An academic staff employee shall be subject to discipline or dismissal for unsatisfactory performance. Insufficiently productive or timely output, insufficient creative effort, or failure to communicate effectively with individuals or groups important to the work processes are examples of unsatisfactory performance. An employer (immediate supervisor, principal investigator, department chair, or unit head) is responsible for clearly communicating to each employee under his or her supervision what the employee's duties are and how the performance of those duties will be evaluated (see ASPP 2.02). Before ending an appointment for unsatisfactory performance, the employer must inform the employee in writing about areas of performance deficiency and must make efforts to work with the employee to improve performance to a satisfactory level (see ASPP 10, Performance Reviews).

2. *Misconduct.* An academic staff employee who has violated a University rule or policy or has engaged in conduct that adversely affects the staff member's performance of his or her obligations to the University shall be subject to discipline or dismissal for misconduct.

6.02 Discipline

1. *Definition.* Discipline refers to any sanction short of dismissal imposed by the University against an academic staff member for unsatisfactory performance or misconduct, including but not limited to a letter specifically identified as a reprimand, reduction in salary, change of appointment status, or suspension without pay. Performance reviews, letters of counseling, administrative leave with pay, merit-pay determinations, and the like are not considered discipline and should normally precede any disciplinary actions by an employer, unless the unsatisfactory performance or misconduct is egregious or intolerable in the workplace.

2. *Disciplinary Procedures*

a. *Investigation.* Prior to taking disciplinary action, the employer shall notify Human Resources that he/she is conducting an investigation to determine whether the allegations of inappropriate performance or conduct have substance. The length and scope of the investigation shall be at the discretion of the employer. The employer may place the employee on administrative leave with pay during the investigation. Just-cause standards apply for disciplinary actions involving loss of pay. The employer may meet with the employee to ask questions about the allegations as part of the investigation. If the employer concludes that there is no basis for disciplinary action, the employer shall inform the employee immediately.

b. *Pre-disciplinary Meeting.* If, after the investigation, the employer believes that grounds for discipline may exist, the employer shall meet with the employee. Prior to the meeting the employer shall provide the employee with notice in writing of the grounds for possible discipline, the range of discipline being considered, the time and place of the pre-disciplinary meeting, and the employee's right to respond to the allegations and possible disciplinary sanction at the meeting. After taking into account the employee's response at the pre-disciplinary meeting, the employer will determine whether to proceed with disciplinary action. The employer may conclude (1) that discipline is warranted, (2) that discipline is not warranted, or (3) that further investigation is required, in which case another pre-disciplinary meeting must be held after completing the additional investigation if the employer believes discipline is appropriate.

c. *Notification of Disciplinary Action.* When the employer determines that discipline is appropriate, the employer, upon approval by the dean, director, or designee, shall inform the employee in writing. This notification shall clearly state that it is a letter of discipline, shall include a description of the employee's unsatisfactory performance or misconduct, shall state what discipline is imposed, shall inform the employee of his or her appeal rights, and shall include a copy of ASPP 6, 7, and 9.

3. *Appeal Process for Disciplinary Actions.* Disciplinary actions may be grieved using the procedure described in ASPP 7.

6.03 Dismissal

1. *Dismissal for Cause of Academic Staff with Fixed-Term and Probationary Appointments (see also UWS 11.11 and 11.12)*

a. *Grounds for Dismissal.* No academic staff member shall be subject to dismissal prior to the end of the contract period except for just cause. Layoffs (ASPP 5) and non-renewals (ASPP 3) are not dismissals for cause.

b. *Investigation.* The employer shall notify the Office of Human Resources that he/she is conducting an investigation to determine whether allegations of unsatisfactory performance or misconduct have substance. The length and scope of the investigation shall be at the discretion of the employer. The employer may place the employee on administrative leave with pay during the investigation. The employer may meet with the employee to ask questions about the allegations as part of the investigation. If the employer concludes that there is no basis for dismissal, the employer shall inform the employee immediately.

c. *Pre-dismissal Meeting.* If, after the investigation, the employer believes that grounds for dismissal may exist, the employer shall meet with the employee. Prior to the meeting the employer shall provide the employee with notice in writing of the grounds for possible dismissal, the time and place of the pre-dismissal meeting, and the employee's right to respond to the allegations and level of disciplinary sanction at the meeting. After taking into account the employee's response at the pre-dismissal meeting, the employer will determine whether to proceed with dismissal. The employer may conclude (1) that

dismissal is warranted; (2) that dismissal is not warranted, but a disciplinary action is; (3) that neither dismissal nor discipline is warranted; or (4) that further investigation is required, in which case another pre-dismissal or pre-disciplinary meeting must be held after completing the additional investigation if the employer believes grounds exist for either dismissal or discipline.

d. *Notification.* When the employer decides dismissal is necessary, he or she must obtain approval of division officer to proceed with the dismissal. If the division officer approves the dismissal, the academic staff member shall be notified in writing of the effective date of the dismissal, with a copy to the department chair or unit head and the Human Resources Office. This notification shall include a statement of the grounds for dismissal, inform the employee that he or she has the right to request a review by the division officer, and include a copy of ASPP 6 and 9. Notification shall be served personally or by certified mail, return receipt requested. If service cannot be made within 15 working days, service shall be accomplished by first-class mail and by publication as if the statement of charges were a summons and the provisions of section 801.11(1)(c), Wis. Stats., were applicable. Dismissal may occur only after the academic staff member has received written notification.

e. *Review by the Division Officer.* Upon receipt of dismissal notification the employee shall have 20 working days to submit a written request to the division officer for a review, including a summary of the facts and circumstances concerning the allegations. The academic staff member shall have the opportunity to make a personal presentation to the division officer. The division officer shall make a determination of just cause for dismissal and notify the employee of the decision in writing within 15 working days. If the dismissal is upheld by the division officer, the notification shall inform the employee of his or her right to appeal to the Academic Staff Appeals Committee under 6.03.3. If there is no response by the division officer to the written request for a review within the designated time period, the employee may appeal to the Academic Staff Appeals Committee within 15 working days of the expiration of the designated period.

f. *Effective Date of Dismissal.* If the academic staff member does not submit a request for a review by the division officer within 20 working days, the dismissal shall be effective on the date specified in the original notification letter with no further appeal rights. If the academic staff member submits a request for review within 20 working days and the dismissal is upheld, the division officer shall determine the effective date of dismissal and inform the employee in writing of the date.

g. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.

h. *Suspension of Duties.* The division officer may suspend an academic staff member with a fixed-term or probationary appointment with or without pay even if the review is in process.

2. Dismissal for Cause of Academic Staff with Indefinite Appointments (see also UWS 11.01-11.10)

a. *Grounds for Dismissal.* No academic staff member holding an indefinite appointment shall be subject to dismissal except for just cause. Layoff (ASPP 5) is not dismissal for cause. In contrast to the procedure for fixed-term academic staff in 6.03.1, only the chancellor, in consultation with the appropriate division officer, has the authority to begin the dismissal process.

b. *Investigation.* When the chancellor receives an allegation concerning an academic staff member holding an indefinite appointment which appears to be substantial and which, if true, might lead to dismissal, an investigation shall be conducted within a reasonable time by the appropriate division officer or other chancellor's designee. The employer may place the employee on administrative leave with pay during the investigation. Prior to initiating a dismissal, the division officer, in consultation with the chancellor, shall investigate the allegation, offer to discuss it informally with the individual, and provide information of rights to which members of the academic staff are entitled under this chapter and UWS 11. In those cases where the immediate supervisor of the academic staff member concerned is a division officer, the chancellor shall, to avoid potential prejudice, designate another division officer to act for the division officer involved.

c. *Pre-dismissal Meeting.* If, after the investigation, the division officer believes that grounds for dismissal exist, the division officer shall provide the employee with a written statement of the specific charges, the possibility of dismissal, the time and place of the pre-dismissal meeting, and the employee's opportunity to respond to the allegations and possible disciplinary sanction at the meeting. After taking into account the employee's response at the pre-dismissal meeting, the division officer will determine whether to proceed with dismissal. The division officer may conclude (1) that dismissal is warranted; (2) that

dismissal is not warranted, but a disciplinary action is; (3) that neither dismissal nor discipline is warranted; or (4) that further investigation is required, in which case another pre-dismissal or pre-disciplinary meeting must be held after completing the additional investigation if the division officer believes grounds exist for either dismissal or discipline.

d. *Notification.* When the division officer decides dismissal is warranted, he or she shall notify the academic staff member in writing of the effective date of the dismissal with a copy to the department chair or unit head, the Human Resources Office, and the chancellor. The notification shall include a statement of the grounds for dismissal, inform the employee that he or she has 15 working days in which to request a hearing before the Academic Staff Appeals Committee, and include copies of ASPP 6 and 9. Notification shall be served personally or by certified mail, return receipt requested. If service cannot be made within 15 working days, service shall be accomplished by first-class mail and by publication as if the statement of charges were a summons and the provisions of section 801.11(1)(c), Wis. Stats., were applicable. Dismissal may occur only after the academic staff member has received written notification.

e. *Effective Date of Dismissal.* If the academic staff member does not submit a timely appeal under 6.03.1, the dismissal shall be effective on the date specified in the original notification letter with no further right of appeal. If the academic staff member submits a timely appeal and the dismissal is upheld, the effective date of the dismissal will be determined by the chancellor and shall be stated in his or her decision.

f. *Suspension of Duties.* Pending the final decision as to dismissal, an academic staff member with an indefinite appointment shall not be relieved of duties unless the chancellor determines that substantial harm may result if the staff member is continued in his or her position. If such determination is made, the staff member may be relieved of his or her duties immediately or be assigned to another administrative unit, but his or her salary shall continue until the Chancellor makes a decision as to dismissal.

3. Appeal Process for Dismissals of Fixed-Term, Probationary, and Indefinite Appointees

a. *Hearing Before the Academic Staff Appeals Committee.* The academic staff member shall have 15 working days from receipt of the notification (20 working days if notice is by first-class mail and publication) to file an appeal with the Human Resources Office, which will forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a hearing in accordance with ASPP 9.

(1) *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the dismissal decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a hearing. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a hearing.

(2) *Representation.* The presence of a representative is permitted. However, the parameters for participation of the representative must be mutually agreed upon prior to any meeting.

(3) *Burden.* The employer has the burden of proof of the existence of just cause for the dismissal

b. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the chancellor or designee and shall send a copy to the Human Resources Office, dean or director, department chair or unit head, and employee. Within 30 working days of receipt of the Committee's recommendation, the chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, dean or director, Human Resources Office, and the Committee shall be notified of the decision of the Chancellor or designee, which is final. If the decision of the chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. As an exception, an indefinite appointee may request a review by the Board of Regents under UWS 11.10.

c. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.

CHAPTER 7

EMPLOYMENT PROBLEMS: INFORMAL RESOLUTION AND GRIEVANCE PROCEDURES

A “grievance” is a written allegation filed by a member of the academic staff in regard to an employment problem that affects his or her conditions or circumstances of appointment.

7.01 Informal Resolution

An academic staff member who has an employment problem that may lead to the grievance procedure is first encouraged to attempt to resolve the matter informally and at the lowest level. Establishing open lines of communication between the parties in a non-intimidating manner may be sufficient to resolve the problem.

1. An academic staff member is encouraged to seek advice and information from the following University offices if he or she believes he or she is being treated unfairly, but is reluctant to pursue the matter within the employing unit or needs information about the process to resolve employment problems. The academic staff member may seek advice and information without initiating formal or informal action.

- a. The UW-Superior Human Resources Office can provide information and advice on employee rights and responsibilities and appropriate procedures for resolving a problem, either informally or through the grievance procedure.
- b. The UW-Superior Affirmative Action Officer can provide information and assistance if the problem might involve discrimination or sexual harassment and the ADA Coordinator can help with disability issues.
- c. The Employee Assistance Program can provide information about resources for addressing employment problems and support to employees who are experiencing them.
- d. Members of the Academic Staff Senate are also available to assist individuals in determining where to go for help.
- e. The Coordinator of Women and Gender Issues can provide information and assistance if the problems are related to gender, sex or sexual orientation.

2. Informal resolution of a problem may be pursued through any or all of the following:

- a. Discussion with the immediate supervisor, principal investigator, department chair or unit head.
- b. Discussion with the division officer if:
 - (1) discussion with the individual in 7.01.2.a. did not resolve the matter; or
 - (2) the academic staff member prefers not to discuss the problem with the individual in 7.01.2.a.
- c. A request for assistance from the Human Resources Office or, in cases of alleged discrimination, the Affirmative Action Officer. In response to a specific request for assistance in resolving an employment problem, these offices will initiate discussions with the academic staff member, supervisor, principal investigator, chair, director, division officer, or other appropriate persons and recommend corrective action as needed. These discussions concerning the employment problem will be initiated only with the consent of the employee. Extreme cases may require notification of appropriate university officials without such consent.
- d. Contact the Human Resources Office about the mediation/conflict resolution services that are available on the campus.

3. If informal attempts at resolution are unsuccessful, or if the staff member believes that informal resolution would not be productive, grievance procedures are available in 7.02. These procedures do not apply to non-renewals, non-retentions, layoffs, and dismissals for cause, which are covered by ASPP 3, 4, 5, and 6, nor do they apply to grievances regarding disability accommodation requests. Information on the disability accommodation policy can be obtained from the Americans with Disability Act Coordinator or the Human Resources Office. Grievances that deal with discrimination/sexual harassment are to be filed with the Affirmative Action Officer following the Discrimination/Sexual Harassment Policy.

7.02 Grievance Procedure

The grievance procedure is available to resolve employment problems that have not been satisfactorily resolved through the informal resolution process or where the staff member believes that informal resolution would not be productive. The grievance procedure is described in Steps 1 through 3 below. The grievant may be accompanied by another person or persons throughout the procedure. All time limits specified in 7.02 may be modified by mutual consent.

1. Steps in the Procedure

a. Step 1 --Appeal to Division Officer.

(1) *Initiation.* To initiate the grievance procedure, a written statement of grievance by the grievant must be filed with the division officer with copies to the department chair or unit head and the Human Resources Office. The statement shall specify the identity of the grievant, the facts and allegations relevant to the grievance and the relief sought. A grievance must be initiated no later than 20 working days from the time the academic staff member knew or could reasonably be expected to have known of the circumstances giving rise to the grievance. Initiation of the informal procedure described in 7.01 within the 20 working-day period will extend the deadline for initiating the grievance to 40 working days from the time the academic staff member knew or could reasonably be expected to have known of the circumstances giving rise to the grievance.

A grievance filed by an employee who has changed operational areas or has left UW-Superior employment shall be referred, in writing with a copy to the employee, to the Academic Staff Appeals Committee to decide if the grievance shall be processed. The Committee shall submit its findings in writing to the employee, the former employing department and its division officer, and the Human Resources Office.

(2) *Initial Response.* Following receipt of the written statement of grievance, there shall be a period of 15 working days, unless modified by mutual agreement, during which attempts shall be made to resolve the matter. At the request of either party, a conference shall be held during this period. Following these initial resolution efforts, a written response to the grievance must be made by the division officer or designee within 25 working days of receipt of written grievance. This response to the academic staff member must also notify the employee of his or her right of appeal under 7.02.1.b.

b. Step 2 Appeal to the Academic Staff Appeals Committee. If the division officer's decision is not accepted by the employee, he or she shall have 15 working days from receipt of the division officer's decision to file an appeal with the Human Resources Office, which will forward the files to the Academic Staff Appeals Committee within five working days. The Academic Staff Appeals Committee shall conduct a review or hearing in accordance to ASPP 9.

2. Access to the Evidence. An academic staff member who appeals a grievance to the Academic Staff Appeals Committee shall have the right to review all evidence the employer used to make the decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review or hearing. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a review or hearing.

3. Burden.

a. *Grievances Other Than Those Involving Discipline Resulting in a Loss of Pay.* The employee has the burden to show by a preponderance of the evidence that the action being grieved is arbitrary, capricious, and for reasons prohibited by law, or in violation of ASPP.

b. *Grievances of Disciplinary Actions Resulting in the Loss of Pay.* The burden is on the employer to show the existence of just cause.

4. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the Chancellor or designee and shall send a copy to the Human Resources Office, the appropriate division officer, department chair or unit head, and the grievant. Within 30 working days of receipt of the Committee's recommendation, the Chancellor or designee shall implement the recommendation or give the grievant and the Committee written reasons for any decision to modify the recommendation. The employee, department chair or unit head, division officer, Human Resources Office, and the Committee shall be notified of the decision of the Chancellor or designee, which is final. If the decision of the Chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final. The use of this grievance procedure shall not prevent the grievant from seeking redress through another administrative or legal process.

5. *Time Limits.* Steps in the grievance procedure must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the grievance procedure within the designated time period, the grievance will be considered resolved by the decision at the last completed step. If there is no response to a grievance within the designated time period at any step, the employee can proceed to the next step in the grievance process within 15 working days of the expiration of the designated period. In cases of an appeal of dismissal for cause under ASPP 6, grievances filed by the appellant may be held in abeyance pending the resolution of the appeal.

6. *Representation.* In the interest of fairness, both parties shall be given reasonable advance notice if any additional persons will be present at any grievance conference. The parameters for participation of any additional persons must be mutually agreed upon prior to any meeting. If, during the course of the conference, either party wishes to seek professional assistance, he or she may request a postponement without abrogating grievance rights at that stage. Such postponement may be for no longer than five working days, unless extended by mutual agreement.

CHAPTER 8

COMPLAINTS AGAINST ACADEMIC STAFF MEMBERS

A complaint is an allegation of misbehavior made by persons other than the academic staff member's supervisors, including administrators, students, other academic staff, faculty, classified staff, or members of the public concerning conduct by an academic staff member which violates university rules or policies, or which adversely affects the academic staff member's performance or obligation to the university but which allegations are not serious enough to warrant dismissal proceedings under ASPP 6.

8.01 Right to be informed of Complaint

Academic staff members have the right to be informed of formal complaints against them alleging facts which, if true, may constitute adequate cause for discipline or dismissal (ASPP 6), non-retention (ASPP 4), or nonrenewal (ASPP 3). The identity of a complainant may be kept in confidence until a decision is made to take action against the academic staff member, unless it is determined that the anonymity of the complainant will substantially impede the investigation.

8.02 Right to be notified of Investigation and Right to Respond

As soon as is reasonable, the academic staff member named in the complaint shall, except in a criminal investigation, be notified of the investigation. Before the investigation is concluded or a report prepared, the employee shall be given a written summary of the complaint and be offered an opportunity to respond to all allegations.

8.03 Investigation and Notification

The investigation shall be completed within a reasonable period of time. Upon completion of the investigation, the academic staff member shall be notified in writing of its outcome. If a decision is made to take action against the academic staff member, the staff member shall be notified in writing of his or her right of appeal under 8.04 and be given a copy of the ASPP chapter(s) pertaining to the action being taken.

8.04 Right of Appeal

The academic staff member may appeal the decision using the grievance procedure outlined in ASPP 7.02, except for discipline or dismissal (ASPP 6), non-retention (ASPP 4), or non-renewal (ASPP 3).

CHAPTER 9

ACADEMIC STAFF APPEALS COMMITTEE

9.01 Purpose

The Academic Staff Appeals Committee shall review or hear all appeals of non-renewals (ASPP 3), non-retentions of probationary employees (ASPP 4), layoffs (ASPP 5), discipline and dismissals (ASPP 6), and grievances (ASPP 7) not resolved at a lower level and shall forward its findings of fact with a recommendation to the Chancellor or designee. This committee is a University committee reporting directly to the Chancellor or designee rather than a committee reporting to the Academic Staff Senate.

9.02 Composition and Procedures

The Academic Staff Appeals Committee consists of five members of the academic staff. The Committee is appointed by the chancellor or designee upon the recommendations made by the Academic Staff Senate. Members will serve three-year terms, with one-third of the Committee appointed annually; members may be reappointed. The Committee shall elect its chair annually from among its members.

Vacancies will be filled by appointment by the Chancellor with recommendations made by the Academic Staff Senate. The appointed committee member will serve the unexpired portion of that term.

The Committee's procedures for reviews and hearings are subject to the provisions of ASPP 3, 4, 5, 6, and 7. Modifications shall be subject to the approval of the Academic Staff Senate.

9.03 Conduct of Reviews

The Academic Staff Appeals Committee shall conduct reviews for non-renewals (ASPP 3), non-retentions of probationary employees (ASPP 4), layoff of fixed term and probationary employees (ASPP 5) and grievances other than those involving discipline resulting in a loss of pay (ASPP 7) not resolved at a lower level. The Committee shall apply the required burden as described in ASPP 3, 4, and 7 and provide the procedural guarantees described in 9.05. The reviews shall be fair, impartial, and timely. The Committee shall review the written record and afford both the employee and employer an opportunity to submit additional written materials and to make a presentation to the Committee. The Committee shall seek any additional information it needs to reach a decision.

9.04 Conduct of Hearings

The Academic Staff Appeals Committee shall conduct hearings for appeals of layoffs of indefinite employees (ASPP 5), dismissals for cause (ASPP 6) and grievances involving discipline resulting in a loss of pay (ASPP 7). The hearings shall be fair, impartial, and timely. The Committee shall apply the required burden as described in ASPP 5, 6, and 7 and provide the procedural guarantees described in 9.05. The hearing body shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony and shall give effect to recognized legal privileges. The Committee shall seek any additional information it needs to reach a decision.

As a preliminary step, the Committee shall review all documentation provided by the parties and determine its relevance to the appeal. When the Committee determines that everything the employee alleges, even if true, is irrelevant to the disciplinary action or termination, the Committee shall render a decision without considering the matter further.

9.05 Procedural Guarantees

1. A fair and impartial *review or hearing* shall provide the appellant the following rights:

- the right to be heard;
 - the right to counsel or other representation at the employee's expense; and
 - the right to the Committee's written findings of fact and recommendation based on the record.
2. A fair and impartial *hearing* shall provide the appellant the following additional rights:
- within a reasonable time prior to the hearing, the right to the names of witnesses and access to any document that form the basis of an action to impose discipline (ASPP 6.02.1) or terminate employment;
 - the right to offer witnesses;
 - the right to confront and question adverse witnesses; and
 - the right to a verbatim record of the hearing, such as a sound recording, provided at no cost.
3. In situations where the committee needs to determine if just cause was applied to a disciplinary or dismissal decision, the committee may contemplate, among other things, the following questions:
- Are employees made aware of the university's rules and orders and the consequences of violating such rules and orders?
 - Are the rules and orders reasonably related to the efficient and safe operation of the workplace?
 - Before disciplinary action was taken, was there an investigation to determine whether the employee violated or disobeyed a rule or order of the university?
 - Was the investigation conducted fairly and objectively?
 - Were the findings of the investigation based solely on the evidence?
 - Did the university apply its rules, orders and penalties evenhandedly?
 - Was the level of discipline reasonably related to the degree of seriousness of the proven offense and the record of the employee in his/her service to the University?
4. Any member of the Academic Staff Appeals Committee who participated in the decision or action being appealed shall not sit as a member of the Committee for that case.
5. The hearing shall be closed unless the academic staff member requests an open hearing.
6. When a valid claim of material surprise is made, adjournments shall be granted to enable either party to investigate evidence.
7. Upon request, the Chancellor or designee shall provide legal counsel to the Academic Staff Appeals Committee. The legal counsel shall advise and consult with the Committee on legal matters.
8. Upon request of the Committee, the Chancellor or designee shall make available any other staff assistance necessary to conduct a fair and impartial hearing.

CHAPTER 10

PERFORMANCE REVIEWS

Job effectiveness and accountability as well as career development can be improved through increased communication between academic staff and their supervisors. One component of this communication is performance review, whether accomplished through department, team, or group meetings, individual performance reviews or other one-on-one meetings. The diversity of programs at the University of Wisconsin-Superior has created an environment in which many methods of performance reviews have been developed to meet specialized needs of different units. Units are encouraged to develop, implement and maintain review procedures that best meet their needs.

10.01 Review

Academic staff shall be reviewed annually in a manner appropriate to their work setting and responsibilities.

10.02 Purpose of the Performance Review

The performance review is intended to serve various purposes, including but not limited to the following:

1. To provide an opportunity for academic staff to present an organized overview of their activities and accomplishments.
2. To identify ways to enhance academic staff job satisfaction and performance.
3. To enable academic staff to identify career opportunities and to integrate these with the goals of the work unit.
4. To encourage individual initiative and creativity in the work place.
5. To foster communication between supervisors and staff and among staff.
6. To provide a regular opportunity to build a record of performance for use in merit recommendations, indefinite appointment review, promotion, and other personnel actions.

10.03 Methods of Performance Review

1. All units use a structured process of periodic performance review. Methods of performance review include peer review, committee review and/or individual consultation. Academic Staff Evaluation/Salary Adjustment/Retention Forms A & B will be used to document the results, unless other documentation has been approved. Absent a review document in an employee's personnel file, it shall be assumed that the employee's performance has been at least satisfactory.
2. Some units use an ongoing performance review process in which academic staff meet frequently with supervisors to develop goals, review alternatives, discuss problems, evaluate progress toward achieving a desired outcome, and review performance on a continuing basis. While this process need not result in written documentation, supervisors are encouraged to acknowledge exceptional performance in writing and place a copy in the staff member's personnel file.

3. Academic staff may at any time document their professional and other work-related activities by preparing an activities and accomplishments report, updated curriculum vitae, position description, or other form of self-reporting. Upon request, these documents shall be placed in the staff member's personnel file.

4. Whenever a review process results in a document being placed in the staff member's personnel file, the staff member shall be given a copy. The staff member may respond in writing to any review document placed in the personnel file. This response shall be also placed in the personnel file.

10.04 Establishing or Changing the Method of Review

Academic staff shall participate in establishing the criteria and defining the methods of academic staff performance review to be used in the unit. An academic staff member who disagrees with the criteria or methods of performance review may file a statement of objection with the unit head and the dean or director. The academic staff member may request that a copy of this statement be placed in the personnel file.

Staff members of a unit may request the criteria or methods of performance review be changed. Academic staff of the unit shall participate in developing and implementing the changes.

10.05 Written Review of a Staff Member

Once each year a staff member will receive a written performance review from the supervisor regardless of the method of review used by the work unit as a whole. The staff member should provide pertinent documents, such as an activities report, updated position description, or other documents to be considered by the supervisor when conducting the review. The supervisor shall prepare a written review and provide a copy of the review to the staff member and place a copy in the employee's personnel file. A meeting shall be scheduled to discuss the review. The staff member may prepare a written response to the review and place it in the personnel file.

10.06 Notification of New Employees

New staff members shall be notified of the unit's procedures for performance review at the time of appointment.

10.07 Relationship to Annual Merit

Salary considerations are not the principal purpose of performance review, but the assignment of an academic staff member's annual merit increment shall take cognizance of the results of performance reviews.

CHAPTER 11

THE PERSONNEL FILE

A personnel file for each academic staff employee shall be maintained by Human Resources Office. It shall contain only that information relevant to the employee's status and performance as an employee and to the commitments made to and by that employee, i.e., only that information which the University is required to know for the performance of valid and necessary University functions. The employee shall have the right to append signed personal statements to any material in this file concerning its accuracy, relevance, or applicability. Other information may be included (see 11.01.3 below). Note that some personnel records may exist that are not considered part of the personnel file (see 11.01.2 below).

The personnel file is not necessarily a single physical entity and may include electronic records. Collectively, these documents constitute the personnel file. Academic staff members are encouraged to review their personnel files periodically.

11.01 Contents

1. The following items, if they exist, shall be included in the personnel file:

- Letter of application and supporting documents
- Letters of reference; however, note that letters of reference provided under assurances of confidentiality shall be placed in a sealed envelope and are not available to the employee
- Letters of offer, negotiation, and appointment
- Letters of acceptance
- All position description information, including such other documents as the position
- Position Questionnaires, job evaluations, and pay equity descriptions
- Performance reviews and responses
- Letters of reappointment, promotion, and change in appointment status
- Notification of base rate and/or title change
- Indefinite appointment dossiers
- Documents relating to nonrenewal, layoff, or dismissal for cause
- Documents relating to resignation, retirement, and emeritus status
- Requests for leave of absence and responses
- Letters of discipline (see ASPP 6.02.2.c) and supporting documents
- Documents relating to pending grievances
- A summary of the results of final resolutions on grievances
- Notices of work-related awards and grants

- Employee interchange agreements, such as Inter-Institutional Agreements
- Required campus reports, such as outside activities and expert witness reports
- Personal statements that the employee has asked to have included in the personnel file concerning any of the above items

2. Some personnel records are excluded from the personnel file by law, regulation, or policy. Among these are the following:

- Employment Eligibility Verification form (1-9), which must be on file for each staff member, usually located in a separate, secure 1-9 file; however, storage with personnel file records is permissible if these documents are placed in a sealed envelope
- Documents relating to employment-related visa applications; however, storage with personnel file records is permissible if these documents are placed in a sealed envelope
- A supervisor's personal notes
- Confidential medical records from any source, such as the employee, treating specialists, or the Division of Vocational Rehabilitation
- Staff disability accommodation requests and supporting documents, except for a description of the accommodations granted
- Occupational Accident and Illness Reports (DOA-6058) and any subsequent materials relating to Worker's Compensation claim
- Publications and communications not relevant to the accomplishment of valid and necessary University functions, e.g., materials relating to an employee's associations, political activities, and personal life

3. The following items may be included in a personnel file:

- Professional publications
- Newspaper clippings
- Letters of congratulation
- Notices of awards not related to the employee's position
- Current resume
- Other miscellaneous items relative to employment
- Other records may exist for an employee, such as payroll and benefit information, family and medical leave, and sick leave and vacation balances. An academic staff employee is advised to seek these records, if needed, from the appropriate office since they are not included in the Personnel File.

11.02 Access

Wisconsin Open Records Law contains an express "presumption of complete public access, consistent with the conduct of governmental business" (Wis. Stats. 19.31). The law further provides that access may be denied only in an exceptional case or when required by law. See also 11.04.

1. *The Employee.* Whenever a document is added to an academic staff employee's personnel file, copies of the document shall be given or electronically transmitted directly to the Human Resources Office. The employee has the right to see all documents in the personnel file upon request. Exceptions to access are covered by provisions of Wis. Stats. 103.13(6) governing records open to the employee. A request for access may be oral or written and may be directed to the Human Resources Office or other custodian of these records. It is the policy on this campus that access shall be provided as soon as possible, but in no case later than the seven working days required by Wis. Stats. 103.13(2). The supervisor shall be required to provide access to all records that are considered part of the personnel file, as described in 11.01.

2. *The Supervisors.* Access to an employee's personnel file by the supervisor, the department chair or unit head, the administrative officer, or the Chancellor, or their respective designees, shall be on a "need to know" basis, with access limited to circumstances in which the information sought is essential to a legitimate University purpose.

3. *Other State Employees and Members of the Public.* The chancellor designates a Custodian of Public Records for the University. Whenever any UW-Superior employee receives a request from anyone not identified in 11.02.2 for access to an academic staff employee's personnel file, this Custodian shall be consulted for advice and authorization prior to any release of records, both to make sure that open records policies are followed and to protect the employee's privacy rights. The employee and the employee's supervisor shall be informed of the request, as well as the response to the request. Information published in the campus directory may be released outside the University without consulting the Custodian of Public Records.

11.03 Modification of the Personnel File

A document may be modified or removed from a personnel file by mutual agreement of the employee and supervisor, subject to the provisions of Wis. Stats. 103.13(4). However, if an employee considers any document in the file to be inaccurate, irrelevant, or inapplicable, and wishes it to be modified or removed without such mutual agreement, the employee may file a grievance (ASPP 7). If such a grievance is upheld, the document shall be modified or removed.

11.04 Confidentiality and Security

Persons collecting, maintaining, or obtaining personnel data are responsible for respecting the confidentiality of and maintaining the physical security of this information. Special security procedures may be necessary for electronic records. The only exceptions made to this policy shall be in response to a request submitted under open records laws.

11.05 Retention

The personnel file will be retained in the Human Resources Office for permanent preservation.

CHAPTER 12

OUTSIDE ACTIVITIES AND CONFLICTS OF INTEREST

12.01 General

Members of the academic staff are free to engage in outside activities, whether or not such activities are remunerative or related to staff members' fields of academic interest or specialization. However, no member of the academic staff may engage in an outside activity if it conflicts with his or her public responsibilities to the University of Wisconsin system or the University of Wisconsin-Superior at which the academic staff member is employed.

Academic staff may not use their public position for personal gain in a manner contrary to the interests of the University of Wisconsin System. ("Personal gain" includes money, gifts in kind, equity, or anything of value to the recipient.) In addition, employees may not, in a manner contrary to the public interests of the UW System, use or attempt to use their public position or state property, including property leased by the state, to gain or attempt to gain anything of substantial value for private benefit, their immediate families, or any organization with which the staff members are associated (UWS 8.03).

The University of Wisconsin Board of Regents addresses conflicts of interest in Chapter UWS 8 of the *Wisconsin Administrative Code: Rules of the Board of Regents of the University of Wisconsin System*, sections of which are excerpted here. Academic staff members seeking more detailed information should consult the complete chapter, which is available at www.uwsa.edu/bor/rules.htm.

No member of the academic staff may engage in activities that are not consistent with the provisions of UWS 8.03. Each member of the academic staff will comply with the actions that are specified in UWS 8.04 to avoid conflict.

Regent policy prohibits only those activities that will result in a conflict between the personal interests of an academic staff member and that staff member's public responsibilities to the University of Wisconsin system.

A *conflict of interest* may exist when an individual has significant financial interest that could lead an independent observer reasonably to question whether the staff member's public responsibility might be influenced by the possibility of personal gain by the individual or his/her immediate family. Additionally, academic staff engaged in research should consult www.rsp.wisc.edu/coi/ for additional details on conflict of interest as it affects the design, conduct, or reporting of research.

A conflict of interest may also exist when an academic staff member is engaged in an outside activity that is of such magnitude that the obligation to the university is suffering. No member of the academic staff shall be absent from his/her regular duties except by permission of the supervisor.

Individuals who may be affected by these policies shall consult their supervisor before making commitments to outside activities. Further consultation with the appropriate unit head or administrative officer director and/or the UW-Superior committee assigned to advise on outside activities may be necessary before approving an unusual arrangement.

12.02 Reporting

Each academic staff member with a half-time appointment or more shall annually, on or before April 30, file a report of outside activities with his or her supervisor, whether or not there are any reportable outside activities. If, during the year, significant changes in an academic staff member's reportable outside activities occur, the staff member shall immediately inform, in writing, his or her supervisor.

12.03 Action to Avoid Conflict of Interest

When it appears that a material conflict may arise between the personal interests of a staff member and his or her public responsibilities to the university, the staff member shall notify his or her supervisor by submitting a written statement describing the nature of the possible conflict. See detailed information in UWS 8.04.

12.04 Service to Granting Agencies or as an Expert Witness

Any academic staff member who is asked to serve as adviser or consultant, or any other capacity, with a public or private agency that grants money or decides policy for grants shall ascertain if his or her participation will adversely affect the university's eligibility for funds from the agency involved and, if so, shall report this information to the Chancellor through the supervisor.

Any academic staff member who intends to serve as an expert witness in any civil or criminal case shall promptly report the nature of the case to his or her supervisor, who shall transmit the information to the administrative officer, who in turn shall inform the chancellor.

12.05 Use of University Facilities, Services and Staff

Academic staff members shall not use University facilities, equipment, supplies, services or staff for purposes other than carrying out their institutional responsibilities, except for incidental personal use as permitted by departmental or other campus policies.