



Office of Human Resources & Workforce Diversity

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February 27, 2013

TO: Chancellors
Provosts
Chief Business Officers
Faculty Representative
Academic Staff Representative

FROM: Alan N. Crist 
Associate Vice President

RE: Potential Revisions to Faculty and Academic Staff Personnel Rules on
Grievance Procedures

As you know, Wis. Stat. §36.115 establishes personnel systems that are separate and distinct from the personnel system under ch. 230. Certainly, most of the policies and procedures developed by these two personnel systems concern University Staff. However, Wis. Stat. § 36.115(4) requires that dismissal for cause grievance procedures for all employees include the following elements:

- A written document specifying the process that a grievant and an employer must follow;
- A hearing before an impartial hearing officer; and
- An appeal process in which the highest level of appeal is the Board of Regents

These elements have been incorporated in the University Staff dismissal for cause operational policies for all institutions except UW-Madison and will be incorporated in the HR Design program policies for UW-Madison.

The faculty and academic staff personnel rules need to be reviewed to ensure that all three elements are satisfied. The enclosure outlines what needs to occur. As noted, the written documentation requirement is currently satisfied for both faculty and academic staff. Appeal to the Board of Regents is currently satisfied for faculty and indefinite academic staff but not fixed term and probationary academic staff. The faculty and academic staff will need to determine how to best satisfy the impartial hearing officer requirement. Through the governance review process, faculty and academic staff may determine that existing governance structures already satisfy this requirement or alternately one of the other suggested methods of satisfying this new requirement need to be established. In either event, I ask that the appropriate governance process be followed to address this new statutory requirement which takes effect July 1, 2013.

Please let me know if you have questions.

Thank you.

cc: Directors of Human Resources
Office of General Counsel

ADDITIONAL PROVISIONS TO THE DISMISSAL FOR CAUSE GRIEVANCE PROCEDURES FOR FACULTY AND ACADEMIC STAFF

Wis. Stat. § 36.115(4) requires that dismissal for cause grievance procedures for all employees include the following elements:

- A written document specifying the process that a grievant and an employer must follow
- A hearing before an impartial hearing officer
- An appeal process in which the highest level of appeal is the Board of Regents

The written document requirement is currently satisfied in both the faculty and academic staff personnel rules based on Wis. Admin. Code Chapter UWS 4, Faculty Dismissal for Cause, UWS 7, Dismissal of Faculty in Special Cases, and Chapter UWS 11, Dismissal of Academic Staff for Cause.

The hearing before an impartial hearing officer requirement can be satisfied by one of the following:

- an arbitrator employed by the Wisconsin Employment Relations Commission (WERC); or
- an arbitrator from the WERC roster of neutral decision-makers not employed by the WERC; or
- an arbitrator from a roster developed by UW System Administration of arbitrators with a set fee for resolving a discharge case; or
- a grievance review committee established through shared governance.

The highest level of appeal to the Board of Regents is currently satisfied for faculty based on Wis. Admin. Code Chapter UWS 4, Faculty Dismissal for Cause and for indefinite academic staff under Chapter UWS 11, Dismissal of Academic Staff for Cause.

REVISIONS NEEDED TO FACULTY PROCEDURES FOR DISMISSAL

The faculty personnel procedures for dismissal for cause need to be reviewed to ensure the concept of the right to a hearing before an impartial hearing officer is satisfied. The faculty at each institution must decide and recommend how it wishes to satisfy this requirement in one of the ways defined above. If the faculty determine the “impartial hearing officer” requirement, as defined above, is satisfied by its current dismissal for cause rules, no further action needs to be taken.

If as a result of this requirement the faculty personnel dismissal for cause procedures do change and if the Chancellor approves the recommended revised procedure, the new procedures must be forwarded to the Board of Regents for its approval prior to the revision taking effect (UWS 2.02).

REVISIONS NEEDED TO ACADEMIC STAFF PROCEDURES FOR DISMISSAL

The academic staff personnel procedures for dismissal for cause need to be reviewed to (1) ensure the concept of the right to a hearing before an impartial hearing officer is satisfied, and (2) extend the right to appeal a dismissal decision to the Board of Regents for probationary and fixed term academic staff (indefinite academic staff are currently entitled to appeal dismissal decisions to the Board of Regents per Chapter UWS 11). The academic staff at each institution must decide and recommend how these two requirements are to be satisfied. If the academic staff determine the “impartial hearing officer” requirement, as defined above, is satisfied by its current dismissal for cause rules, no further action needs to be taken.

As with any change to the academic staff personnel rules, the recommended revisions are in full force and effect when approved by the Chancellor and forwarded to the Board of Regents. Under UWS 9.02 the Board may review the procedures. If the Board disapproves of a procedure, the procedure shall be suspended until reconsideration and resubmission has taken place.

February 27, 2013