

Recommendation of the University Committee to Establish Policies and Procedures for Program Discontinuance (UWM P&P Section 5.64-5.73)

**CHAPTER 5
FACULTY PERSONNEL**

5.64 Layoff and Termination of Tenured Faculty for Reasons of Program Discontinuance

Rules and procedures to be followed for program discontinuance are outlined in Wis. Stats. secs. 36.21-36.22 and Regent Policy Document 20-24. A tenured Faculty member may be laid off in the event that educational considerations relating to a program require program discontinuance. Educational considerations may include strategic institutional planning considerations such as long-term student and market demand and societal needs.

A proposal to discontinue a program due to educational considerations that will result in Faculty layoff may be initiated by Faculty in the program, Faculty in the college or school that contains the program, the Faculty Senate, the Dean, the Provost, or the Chancellor. The proposal shall be in writing and shall contain appropriate information and analysis regarding the educational considerations, including programmatic and financial considerations, supporting the proposed program discontinuance. The proposal shall be provided for review to the Faculty in the affected program, to the Faculty Senate, to the Academic Staff shared-governance body, to the University Staff shared-governance body, and other governance bodies at the institution, and to the Chancellor. A proposal to discontinue a program that will not result in Faculty layoff shall follow the standard program review process in place at each institution, and shall not be required to follow the process outlined in this policy.

In addition, in all such cases, advice must be sought from the appropriate Faculty body before any recommendation under 5.66 is made. This Faculty body is the Academic Planning Committee or equivalent of the college of the Faculty member if the proposal originates within the college. The Faculty body is the University Committee if the proposal originates at the University level.

5.65 Faculty Committee Review

The Faculty committee designated under 5.64 shall review and evaluate any proposal to discontinue a program that will lead to Faculty layoff. The committee's review and evaluation may be based on the following considerations, where relevant:

- (1) The centrality of the program to the institution's mission;
- (2) The academic strength and quality of the program, and of its Faculty in terms of national ratings if applicable;
- (3) Whether the work done in the program complements that done in another essential program;
- (4) Whether the work done in the program duplicates academic instruction and course content delivered in other programs at the institution;
- (5) Student and market demand and projected enrollment in the subject matter taught in the program;

- (6) Current and predicted comparative cost analysis/effectiveness of the program; and
- (7) Other relevant factors that the committee deems appropriate.

The Faculty committee shall request and review comments and recommendations on the proposed program discontinuance from Faculty and Academic and University Staff in the program, Faculty and Academic and University Staff in the affected college or school, students in the program, and other appropriate institutional bodies or individuals. Such comments and recommendations shall be due within 30 days of the Faculty committee's request, which shall be issued no later than 5 days after receipt of the proposal.

Based on this review and evaluation, the Faculty committee shall prepare a recommendation and report regarding the proposed program discontinuance that shall be shared with the Faculty in the program, the Faculty Senate, the college Dean, the Provost and the Chancellor. The Faculty committee shall provide its recommendation and report to the Chancellor within three months of the date of the Faculty Senate's receipt of the program discontinuance proposal. The Faculty Senate shall vote on the recommendation from the Faculty committee. The Faculty Senate vote shall occur within four months of the date of the Faculty Senate's receipt of the program discontinuance proposal. In the event the deadline falls between scheduled Faculty Senate meetings, the Faculty Senate will call a special session.

5.66 Chancellor's Recommendation

The Chancellor shall consult with the Faculty committee and the Faculty Senate before making any recommendation to the Board of Regents. It is recognized that the Chancellor should make a recommendation adverse to the recommendations of the Faculty committee or the Faculty Senate with respect to discontinuance of an academic program only for compelling reasons which should be stated in writing and in detail.

If the Chancellor decides to recommend that the Board of Regents approve discontinuance of a program that will result in the layoff of Faculty, the Chancellor shall provide their recommendation to the University of Wisconsin System President and the Board of Regents, accompanied by a report that shall include information demonstrating the educational considerations supporting program discontinuance, any recommendation and report created by the Faculty committee, and a report of any action of the Faculty Senate on the matter. The Chancellor shall provide any such recommendation to the University of Wisconsin System President and the Board of Regents within four months of the date of the Faculty Senate's receipt of the program discontinuance proposal.

5.67 Faculty Notice and Due Process

If, after the process outlined in Regent Policy Document 20-24, the Board of Regents approves a program discontinuance, a Faculty member whose position is recommended for layoff shall receive the notification provided in Wis. Stats. s. 36.22(4), and shall be entitled to the notification period provided in Wis. Stats. s. 36.22(5). The Faculty member also shall be entitled to the due process hearing and appeal procedures, reappointment rights and other rights and protections in Wis. Stats.

s. 36.22. As provided in Wis. Stats. s. 36.22 (12), institutions shall devote their best efforts to securing alternative appointments for Faculty laid off under this section, and also shall provide financial assistance for readaptation of Faculty laid off under this section where readaptation is feasible.

5.68 Seniority

If the Board of Regents approves discontinuance of a program resulting in Faculty layoffs at a University of Wisconsin System institution under this policy, the tenured Faculty at that institution shall have responsibility for recommending which Faculty will be laid off. In the case of layoffs of Faculty members due to a budget or program decision requiring a program change, layoffs shall follow seniority unless, per Wis. Stats. sec. 36.22(3)(a), a clear and convincing case is made that program or budget needs dictate other considerations such as the need to maintain diversity of specializations within a department.

In the event of the submission of a proposal for program discontinuance, the Executive Committee of any affected department shall draw up a Faculty seniority listing, with seniority determined as of the submission of the program discontinuance proposal. The Faculty seniority listing shall be completed within 30 days of the Board of Regent's approval of program discontinuance. For this purpose, seniority within a department or non-departmentalized school or college shall be determined according to the following criteria listed in order of decreasing seniority:

- (1) Tenured Faculty by rank, beginning with Professor, and within rank, according to length of service in the institution at that rank. If two or more individuals within the department or non-departmentalized school have identical seniority at that time, then the Executive Committee shall give each a unique seniority placement based on projected program needs at that time (e.g., the need to maintain diversity of specializations, affirmative action consistent with state and federal laws, staff unique programs, etc.). Affected members of the Executive Committee shall not participate in any balloting that occurs. In the event this results in fewer than two members remaining, placement shall be made jointly with the appropriate Dean. The Executive Committee may seek the advice of other groups or individuals in formulating its decision. Placement does not become official until approved by the appropriate Dean.
- (2) Non-tenured Faculty by rank, beginning with Professor, and within rank according to length of service in the institution at that rank. If two or more individuals within the department or non-departmentalized school or college have identical seniority at that time, then the Executive Committee shall give each a unique seniority placement based on projected program needs at that time (e.g., the need to maintain diversity of specializations, affirmative action consistent with state and federal laws, staff unique programs, etc.). The Executive Committee may seek the advice of other groups or individuals in formulating its decision. Placement does not become official until approved by the appropriate Dean.

5.69 Computation of Length of Service

Length of service at UWM shall be calculated from the first contractual day of service in the initial academic year semester following the Faculty member's initial appointment to each rank, except that in the case of an initial appointment with tenure the Dean may, on the recommendation of the Executive Committee, grant additional seniority by counting all or a portion of service elsewhere at the rank granted. In such case, the letter of appointment shall indicate the terms of the seniority granted.

- (1) The period of an approved leave of absence is included in determining length of service.
- (2) If a Faculty member is reappointed after having left the University, the reappointment shall be treated as an initial appointment and previous service in University considered on the same basis as service elsewhere as provided in 5.611.

5.70 Review Hearing

A Faculty member who has been notified of layoff is entitled to a hearing before the Faculty hearing committee as to the appropriateness of the decision to lay off that particular individual. The budget or program decisions made to discontinue a program are not subject to review in the hearing.

A hearing must be requested within 20 days of the receipt by the Faculty member of notification of layoff. The request shall state with particularity the grounds to be relied upon in establishing the impropriety of the decision. Relevant information supplementary to that contained in the notification statement may be requested. The question to be considered in the review is whether one or more of the following improper factors entered into the decision to lay off:

- (1) Conduct, expressions, or beliefs on the Faculty member's part that are constitutionally protected, or protected by the principles of academic freedom.
- (2) Factors proscribed by applicable state or federal law regarding fair employment practices.
- (3) Improper selection of the individual to be laid off.

For purposes of sec. (3), "improper selection" has occurred if material prejudice resulted from any of the following:

- (1) The procedures required by the Board of Regents were not followed.
- (2) Available data bearing materially on the role of the Faculty member in the institution were not considered.
- (3) Unfounded or arbitrary assumptions of fact were made.
- (4) Immaterial or improper factors other than those improper factors specified above entered into the decision.

The committee shall determine whether one or more of the three improper factors above entered significantly into and affected the layoff decision on the basis of the

evidence presented. If the committee believes that one or more improper factors may have entered into the layoff decision but is convinced that the same decision would have been reached had the error or errors not occurred, the committee shall find the layoff decision to have been proper. The committee shall report its findings and recommendations to the Chancellor and the Faculty member.

5.71 Faculty Hearing Committee

In the event of a program discontinuance, the Faculty hearing committee shall be the Faculty Appeals and Grievances Committee.

5.72 Recommendations and Board Review

The recommendations of the Chancellor and the recommendations, if any, of the Faculty Appeals and Grievances Committee shall be forwarded to the University of Wisconsin System President and the Board of Regents and acted upon by the Board of Regents in accordance with [Wis. Stats. 36.22\(9\)](#).

Review by the Board of Regents is governed by [Wis. Stats. 36.22\(9\)](#) and [36.22\(10\)](#).

5.73 Layoff Status and Retained Rights

A Faculty member whose position has been eliminated or reduced in accordance with the provisions of this chapter shall be placed on layoff status and shall so remain until removed according to [UWS 5.16](#) and [Wis. Stats. 36.22\(11\)](#).

A Faculty member designated for layoff or on layoff status shall have the rights provided in [Wis. Stats. 36.22\(12\)-\(15\)](#), and, in addition, shall have the following rights: Faculty on layoff status will be entitled to use University-wide facilities. Use of the facilities of a school, college, department, or program will be determined by the Faculty thereof.