

FACULTY HANDBOOKS:

Practical Suggestions for Drafting Faculty
Handbooks That Comport with AAUP Policies



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This Webinar Series

The Redbook

Faculty Handbooks

Conference and Chapter Committee A Matters

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Today's Objectives

- To review AAUP principles that should be included in faculty handbooks
- To suggest ways in which institutional regulations may fall short
- To encourage advocacy for the inclusion of AAUP-recommended standards and policies in faculty handbooks



Introduction

A major responsibility of a chapter or a conference is to seek the adoption and retention of local institutional regulations that comport with Association policies.

At the heart of all AAUP principles and standards are the core notions that faculty members should be:

- free
- secure
- responsible



Why Do We Have Handbooks?

- To reinforce these three core notions and establish the “rule of law” on campus.
- To protect faculty rights from the exercise of arbitrary power.
- To operationalize the principles of academic freedom, due process, and shared governance.
- To spread standards and procedures across campus encouraging consistency between departments.



What Should be in a Handbook?

- Key principles and standards for faculty
- Regulations/procedures for implementing these
- Statements regarding the primary responsibility of the faculty for developing handbook policies and procedures that are central to the academic life of an institution.



Key Handbook Provisions

1. Statement of Academic Freedom & Tenure
2. Standards for Termination
 - Adequate Cause
 - Financial Exigency
 - Program Discontinuance
3. Post-Tenure Review



Key Handbook Provisions

4. Tenure-Track faculty

Tenure procedures

Reasons, review, notice

Collegiality

5. Non-Tenure-Track and Part-Time Faculty

6. Grievances

7. Governance

8. Amending the Handbook



ACADEMIC FREEDOM & TENURE



1940 *Statement*

Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole.

The common good depends upon the free search for truth and its free exposition.



Academic Freedom

Academic freedom is essential to [the free search for truth and its free exposition] and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.



Academic Tenure

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.



Academic Tenure

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

Tenure

With a few exceptions “all full-time faculty appointments are of two kinds: (1) probationary appointments; (2) appointments with continuous tenure.”

The AAUP expects administrations to afford full-time faculty members on tenure-ineligible appointments the same due-process protections as those afforded tenure-track or tenured faculty members.



STANDARDS AND PROCEDURES FOR DISMISSAL



Reasons for Termination

Every handbook should clearly outline the grounds for termination and the procedural protections available to faculty members facing termination.

The AAUP recognizes three grounds for termination of tenured faculty member:

- Adequate Cause
- Financial Exigency
- Program Discontinuance



What Is Adequate Cause?

Adequate cause should “be related, directly and substantially,” to fitness in professional capacity as a teacher or researcher and restricted to:

- demonstrated incompetence or dishonesty in teaching or research,
- substantial and manifest neglect of duty, or
- personal conduct which substantially impairs the individual’s fulfillment of institutional responsibilities.



Dismissal For Cause

The essential elements of a dismissal proceeding:

- Written statement of charges
- Opportunity for a pre-termination hearing before an elected body of peers
- Burden of proof rests on the administration, based on clear and convincing evidence in the record as a whole
- The faculty member has the right to present evidence and cross-examine witnesses
- The decision is based on the record of the hearing
- The faculty member may to appeal to the governing board

Poor Examples

- Class enrollment
- Willingness to take on new preparation to meet curricular needs
- Level of student complaints
- Regular and meaningful feedback to students
- Comprehensive syllabi
- Meaningful evaluation of students
- Discourteous or disruptive behavior
- Active involvement in student advising or mentoring
- Contribution to extramural activities at school



Financial Exigency Standard

“Termination ... may occur under extraordinary circumstances because of a demonstrably **bona fide** financial exigency, i.e., ***a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.***”



Financial Exigency Process

- Faculty should be involved at every stage.
- Faculty bodies participating in the process should not be appointed by the administration.
- All feasible alternatives to termination of appointments should be pursued.
- All faculty in a program being considered for discontinuance should be informed in writing and given at least thirty days to respond.



Terminations for Exigency

- A faculty body has primary responsibility in determining the criteria for identifying individuals whose appointments are to be terminated.
- Decisions must be based on educational policy and faculty status.
- The faculty member will have the right to a full hearing before a faculty committee.



Hearings for Exigency Terminations

Issues in a hearing may include:

- The existence and extent of the condition (burden on administration to prove);
- The validity of the educational judgments and criteria for identification for termination;
- Whether criteria are being properly applied.

The recommendations of a faculty body on these matters will be considered presumptively valid.

Poor Examples

- Termination of tenured faculty will take place when “the Board of Trustees concludes that an imminent financial crisis exists.”
- “The Board, upon the recommendation of the Dean, shall adopt a statement of criteria governing selection of faculty for retention and termination.”
- “Relevant financial circumstances requiring a headcount reduction”
- “Projected significant operating deficits”
- “Financial challenges”



Program Discontinuance Standard

Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur as a result of **bona fide** formal discontinuance of a program or department of instruction.



Deciding to Discontinue

The decision to discontinue a program or department should be based essentially upon **educational considerations**, as determined primarily by the **faculty as a whole** or an **appropriate committee thereof**.

- Educational considerations do not include cyclical or temporary variations in enrollment.
- They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.



In Cases of Discontinuance

The administration should

- make every effort to find another suitable position within the institution for an affected faculty member.
- provide the faculty member with the opportunity for a hearing before a faculty committee in which the administration is obliged to demonstrate the validity of its actions.

Poor Examples

- Evidence that program was discontinued to force faculty member into part-time or emeritus position (private university, language program)
- Evidence that program was closed because faculty were union trouble-makers (state university, language program)
- Introduction of strict enrollment quota or else program closure (private university, language program)



QUESTIONS?

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POST-TENURE REVIEW



The AAUP's Position

Periodic formal institutional evaluation of each post probationary faculty member

- would bring scant benefit
- would incur unacceptable costs, not only in money and time, but also in dampening of creativity and of collegial relationships
- would threaten academic freedom



Where PTR Does Exist

- Should not be about accountability (not summative), but about development (formative)
- Must be carried out by faculty
- Must not deprive faculty of presumption of competence
- Professors must not be in the position of having to demonstrate why they should not be dismissed
- Must not be a reevaluation of tenure
- Requires demanding procedures and standards

Practical Suggestions

- Be aware that "selective" post-tenure review evaluations (as opposed to periodic ones) may raise the specter of impermissible age discrimination.
- PTR should be developed and implemented by faculty members.
- Resources should be allocated to support the professional development of faculty under such policies.

Practical Suggestions

Where post-tenure review exists, processes should

- Provide an opportunity for faculty to respond to an evaluation
- Include an appeals procedure
- Reaffirm an institution's commitment to academic freedom and tenure
- Establish and apply standards consistently and fairly
- Educate participants, including department chairs and deans.



TENURE-TRACK FACULTY

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Tenure Procedures

The handbook must include:

- Length of the probationary period (approx. 7 years)
- Clear statement about what is expected and when
- Policies regarding reasons for, review and timely notice of tenure decision
- Grievance procedures in cases of nonrenewal



Reasons, Review, and Notice

Faculty members turned down for reappointment or tenure are entitled to

- Reasons, upon request
- Reasons in writing, upon request
- Review of the decision
- Adequate notice (3 months, 6 months, 12 months)



Collegiality

Some faculty handbooks have in recent years added “collegiality” as a fourth criterion in addition to the traditional teaching, scholarship, and service.

The AAUP opposes collegiality as a criterion because

- it can be a cover for discrimination
- it can have a chilling effect on academic freedom



NON-TENURE-TRACK, FULL- AND PART-TIME FACULTY



Full-Time NTT Faculty

Procedural standards available for TT faculty are **applicable to** NTT full-time faculty.

Remember: “all full-time faculty appointments are of two kinds: (1) probationary appointments; (2) appointments with continuous tenure.”

For nonreappointment of faculty appointments, the handbook must contain: Reasons, Review, and Notice.

Poor Examples

- Individuals employed in NTT positions shall not be eligible for consideration for the award of tenure.
- Probationary credit toward tenure shall not be awarded for service in non-tenure track positions, except for lecturers and senior lecturers.
- Individuals employed in non-tenure track positions may apply on an equal basis with other candidates for tenure track positions which may become available.



Part-Time NTT Faculty

- Terms and conditions (including length of service) must be stated in writing.
- In case of dismissal before the end of term, administration will set forth cause for action and faculty will have right to a hearing before faculty committee.
- If faculty member establishes prima facie case of academic freedom violation, or discrimination, then those who made decision must come forward with evidence in support of decision.



QUESTIONS?

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GRIEVANCES



Three Categories of Due Process

Access to an elected grievance committee is a central element of academic due process. Your handbook should specify:

- A hearing process for dismissal and other severe sanctions.
- A grievance process for appealing nonrenewal decisions.
- A grievance process for other matters.



Dismissal & Other Severe Sanctions

The hearing process should specify that:

The administration bears the burden of establishing cause for dismissal.



Appealing Nonrenewal Decisions

Faculty on renewable term appointments should be able to appeal a decision not to renew:

- To an elected faculty body
- For claims that appropriate procedures were not followed
- For claims that the decision involved considerations that violated their academic freedom
- For claims that the decision involved considerations that were discriminatory in nature
- The burden of proof is on the **grievant**



Dismissal/Nonrenewal Grievances

In both dismissal & nonrenewal grievance procedures:

- A faculty member should be given opportunity for appeal of decision.
- The appeal must be heard by a hearing committee (not the same P&T committee).
- Original committee can be asked to reconsider decision based on inadequate consideration.
- Special provisions should be available for allegations of academic freedom and discrimination.



Other Grievances

- A faculty member ought to be able to file a grievance for other reasons.
- These policies are not very common. If there is such a policy, then it is likely to set out “grievable offenses.”
- Petition must set forth nature of grievance (bears burden of proof).
- Committee decides whether facts merit investigation.

Poor Example

A tenured faculty member whose contract is terminated under a claim of financial exigency or as a result of a merger is **not entitled to a hearing** under the rules of the Tenure Code except as follows: ... a terminated faculty member who believes his or her termination is inconsistent with provisions of the Tenure Code concerning academic freedom may demand a hearing before the Hearing Committee to determine whether termination violated the principles of academic freedom...



GOVERNANCE



Rationale

“[The nature of the academic calling] make still more clear the nature of the relationship between university trustees and members of university faculties. **The latter are the *appointees*, but not in any proper sense the *employees*, of the former. For, once appointed, the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene.** The responsibility of the university teacher is primarily to the public itself, and to the judgment of his own profession. . . .”



Faculty Responsibility

The faculty has responsibility (voice, authority) for matters *in proportion to degree of expert knowledge*.
Therefore ...

has “primary responsibility for ... curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.”




Elements of Governance

- A structure that allows faculty to exercise their primary responsibility for academic matters.
- A body that can speak for the faculty to the administration or the governing board.
- A clear statement that academic matters are the responsibility of the faculty and that the board and administration will honor faculty recommendations about these matters “except on rare occasions and for compelling reasons stated in detail.”



AMENDING THE HANDBOOK



Amending Handbooks

Make sure that your handbook contains provisions for amending it!

- Do not make them overly cumbersome.
- Make sure they prevent administration/board from making changes unilaterally.
- Watch out for policies that give the board or administration emergency power to override the faculty handbook.

Practical Considerations

- Identify body responsible for amendments
- Identify who can seek amendments (individual faculty, committees, administration, board)
- Identify mechanism for amendment
- Require supporting documentation including:
 - identification of specific handbook sections(s) to be amended
 - specific language being proposed
 - rationale for the proposed amendment



Other Things to Consider

- Read and disseminate the “Redbook”
- Organize an AAUP chapter
- Employ outside experts
- Collect and compare other faculty handbooks
- Strike when the iron is hot
- Make sure there is a faculty handbook committee
- Review the entire handbook periodically
- Exercise eternal vigilance



Thank You!

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