



Board of Governors Rule

Faculty
Appointment, Promotion, Tenure, and
Dismissal for Cause
Responsible Unit: Office of the Provost
Adopted: April 20, 2018
Revision History: Prior BOG Policy 2
(Originally effective February 8, 2002),
Prior BOG Policy 22 (February 11, 2005),
and Prior BOG Policy 38 (June 2, 2006)
Review Date: April 2021

BOG FACULTY RULE 4.2 APPOINTMENT, PROMOTION, TENURE, AND DISMISSAL FOR CAUSE

SECTION 1: PURPOSE & SCOPE.

- 1.1. This Rule relates to the appointment, promotion, tenure, reappointment, or dismissal for cause of faculty.
- 1.2. This Rule applies to all Faculty Members at West Virginia University, including West Virginia University Institute of Technology and Potomac State College of West Virginia University.

SECTION 2: FACULTY CLASSIFICATIONS.

- 2.1 Faculty Members holding Academic Rank may be assigned one of the following classifications:
 - 2.1.1 **Tenured:** Those Faculty Members who have attained tenure status as determined by the President. Tenured appointments are normally full-time for the academic year.
 - 2.1.1.1 Under special circumstances, if requested by a Faculty Member and approved by the President, a full-time tenured appointment may be converted to a part-time tenured appointment for a specified time period, normally not to exceed one calendar year per occurrence. At the conclusion of the approved time period or an approved extension thereof, the Faculty Member returns to a full-time tenured appointment unless the Faculty Member chooses not to return to a full-time tenured appointment. Upon such an election, the Faculty Member's employment ceases. This section does not apply to actions associated with phased retirement programs.

2.1.2 **Tenure-Track:** Those Faculty Members who normally have been appointed on a full-time basis and have been designated by the President as being in a tenure-track position.

2.1.2.1 Time spent in a part-time tenure-track appointment at least one-half the contract period is normally not included in the calculation of years of service for the purposes of tenure nor will it result in any de facto award of tenure.

2.1.2.2 Under special circumstances, if requested by a Faculty Member and approved by the President, a full-time tenure-track appointment may be converted to a part-time tenure-track appointment for a specified time period, normally not to exceed one calendar year per occurrence. At the conclusion of the approved time period or extension thereof, the Faculty Member returns to a full-time tenure-track appointment unless the Faculty Member chooses not to return to a full-time tenure-track appointment. Upon such election, the Faculty Member's employment ceases.

2.1.3 **Clinical-Track:** Those Faculty Members who have been appointed by the President and have been designated as being in a clinical-track position in the Health Sciences Schools. Their appointment may be full-time or part-time. Faculty Members in the clinical-track shall be appointed with an applicable HSC Designation.

2.1.4 **Teaching-Track:** Those Faculty Members who have been appointed by the President as instructional faculty for a designated term as defined by the President. Such Faculty Members may hold an Academic Rank, with one or more of the Designated Prefixes. The appointment may be full-time or part-time.

2.1.4.1 Appointment Length:

2.1.4.1.1 Upon promotion to or appointment at the rank of Teaching Instructor or Teaching Assistant Professor, a Faculty Member may be eligible to receive reappointment to additional terms; no single term may exceed three (3) years.

2.1.4.1.2 Upon promotion to or appointment at the rank of Teaching Associate Professor, a Faculty Member may be appointed to terms of up to six (6) years each.

2.1.4.1.3 Upon promotion to or appointment at the rank of Teaching Professor, a Faculty Member may be appointed to terms of up to nine (9) years each.

2.1.4.1.4 Renewal of Teaching-Track appointment(s) shall not create any presumption of a right to appointment as Tenure-Track or Tenured Faculty.

2.1.4.2 Full-time appointments to the teaching-track shall not exceed fifteen percent (15%) of the total number of full-time faculty at any one of the University's campuses. The Provost has the authority to grant exceptions to the fifteen percent threshold. A separate calculation shall be prepared for Potomac State College, WVU Institute of Technology, and the Morgantown campus (including the Health Sciences Schools).

2.1.4.2.1 For purposes of the fifteen percent (15%) calculation, the Provost shall calculate "full-time faculty" by including only the tenured faculty, the tenure-track faculty, and the clinical-track faculty. No other Faculty Members shall be included in the calculation.

2.1.5 ***Other Non-Tenure-Track:*** Those Faculty Members who have been appointed by the President but have not been appointed in a tenure-track, clinical-track, librarian-track, teaching-track, or as having tenured status. Appointment of such faculty may be full-time equivalent or part-time.

2.1.5.1 These include, but are not limited to:

2.1.5.1.1 Faculty with the prefix "Research-" or "Service-" who hold an Academic Rank.

2.1.5.1.2 Faculty in some part-time instructional positions may be appointed as Lecturers or Senior Lecturers.

2.1.5.1.3 Faculty equivalents or academic professionals, whose primary duties are non-instructional, but may hold a secondary appointment that is instructional in character.

2.1.5.2 The renewal of other non-tenure-track appointments shall not create any presumption of a right to appointment as tenure-track or tenured faculty.

2.1.5.2.1 Other non-tenure-track full-time faculty appointments may be used only if one or more of the following conditions prevail:

2.1.5.2.2 The position is funded by a grant, contract, or other source that is not a part of the regular and on-going source of operational funding.

- 2.1.5.2.3 The position is created for the temporary replacement of an individual on sabbatical or other leave of absence. Appointments to such positions are outside tenure-track status, are subject to annual renewal, and normally may not exceed three years.
- 2.1.5.2.4 The position is created to fill an essential teaching post immediately, pending a permanent appointment through a regular search and screening process. Appointment to such positions are outside tenure-track status, are subject to annual renewal, and normally may not exceed three years.
- 2.1.5.2.5 The position is temporary to meet transient instructional needs, to maintain sufficient instructional flexibility in order to respond to changing demand for courses taught, or to meet other institutional needs. The appointee is to be so notified at the time of the appointment. Such appointments are outside tenure-track status, are subject to annual renewal, and normally may not exceed six years.
- 2.1.5.2.6 The position is a secondary appointment for a person who has a primary appointment as an administrator or to perform other noninstructional duties. Any faculty rank or teaching associate with such a position is considered temporary and renewable on an annual basis. The appointee must be notified in writing of the status of any Academic Rank.
- 2.1.5.3 Appointment to a non-tenure-track full-time faculty position shall create no right or expectation of continued appointment beyond the one-year period of appointment.
- 2.2 ***Librarian-Track:*** Those Faculty Members appointed by the President to the rank of “University Librarian,” “Associate University Librarian,” “Assistant University Librarian,” or “Staff Librarian.” Their appointment may be full-time equivalent or part-time.
- 2.3 Clinical-track, librarian-track, and teaching faculty and other non-tenure track faculty hold appointments that are not subject to consideration for tenure, regardless of the number, nature, or time accumulated in such appointments. Clinical-track, librarian-track, and teaching-track faculty appointments are only for the periods and for the purposes specified, with no other interest or right obtained by the person appointed by virtue of such appointment. Since the Faculty Member thus appointed is not on the tenure-track, the notice provisions set out in Section 6 below do not apply.

2.4 ***Faculty Appointments, Generally.***

- 2.4.1 Other appropriate titles which more accurately indicate the nature of a Faculty Member's position may be used at the discretion of the President.
- 2.4.2 The President shall make all tenured, tenure-track, clinical-track, librarian-track, teaching-track, and other non-tenure-track appointments after consultation with appropriate faculty and other collegiate Units.
- 2.4.3 Every faculty contract at the University shall be for one fiscal year, or part thereof, in accordance with and in compliance with the annual budget of the institution, or supplementary actions thereto, as provided by law.
- 2.4.4 Every such contract shall be in writing, and a copy of the document shall be furnished to the person appointed. Such document shall contain the terms and conditions of the appointment.
- 2.4.5 In accordance with accreditor requirements and University policy established by the Provost, each Faculty Member shall have appropriate discipline-specific credentials to qualify as experts in course subjects.

2.5 ***Faculty with Administrative Appointments, Generally.***

- 2.5.1 Persons assigned full-time or part-time to administrative or staff duties at the University may be appointed to, or may retain, Academic Ranks in addition to any administrative or staff title, following consultation with appropriate academic units. Such persons will be informed in writing at the time of the appointment whether the faculty rank is as a tenured, tenure-track, clinical-track, librarian-track, teaching-track, or other non-tenure-track member of the faculty. Administrative or staff personnel who are not appointed to a faculty position are not faculty and therefore are not entitled to the protections provided by this policy.
- 2.5.2 In addition to their regular administrative duties, each campus administrator who also holds Academic Rank, pursuant to W. Va. Code § 18B-8-6(b), shall teach at least one (1) course during each eighteen-month employment period or perform ongoing research. Such teaching and research shall be evaluated in accordance with this Rule.

SECTION 3. FACULTY: TYPES AND CONDITIONS OF APPOINTMENT.

- 3.1 Full-time appointments to the faculty of an institution, other than those designated as clinical-track, librarian-track, teaching-track, or other non-tenure-track, shall be either tenured or tenure-track.

- 3.2 All clinical-track, librarian-track, teaching-track, and other non-tenure-track appointments, as defined in Section 2 of this Rule, shall be neither tenured or tenure-track, but shall be appointments only for the periods and for the purposes specified, with no other interest or right obtained by the person appointed by virtue of such appointment.
- 3.3 The appointment of a person to a full-time position on any campus is made subject to the following conditions:
- 3.3.1 The appointee shall render full-time service to the campus to which appointed. Outside activities which are restricted below in subsection 3.3.3 shall not be restricted unless such activities or employment interfere with the adequate performance of institutional duties. The University expects its faculty to give full professional effort to assignments of teaching, research and service. It is, therefore, inappropriate to engage in gainful employment outside the institution that is not expressly approved by the Provost or is otherwise incompatible with the Faculty Member's contractual commitment to the University. Moreover, it is inappropriate to use University resources to transact private business.
- 3.3.2 Full-time faculty assigned to the Health Science Schools will render patient services only at facilities affiliated with the University, or at such other locations or facilities as may be authorized in their annual notice of appointment, or as otherwise approved in writing by the President.
- 3.3.2.1 Fees for professional patient related services rendered by full-time faculty appointees within the Health Sciences Schools shall be billed, collected and expended in accordance with the bylaws of the faculty practice plan at West Virginia University, or through such other billing and collection mechanism as may be provided for in the Faculty Member's annual notice of appointment, or as otherwise approved in writing by the President.
- 3.3.2.2 Fees for professional services not directly related to patient services including, but not limited to, royalties, honoraria, legal actions where no patient services have been rendered, or other such similar sources as approved in writing by the President are permitted as individual income to the individual Faculty Member. All applicable conflict of interest policies must be followed for any service to be performed that is affected by such policy.
- 3.3.3 If outside employment or service is undertaken without express prior approval or if it interferes with the performance of the regular institutional duties and responsibilities of the appointee, the President has a right to (a) require the appointee to cease such outside employment or service which interferes with institutional duties and responsibilities of the appointee, (b) make such adjustments in the compensation paid to such appointee as are warranted by

the appointee's services lost to the University and by the appointee's use of institutional equipment and materials, or (c) dismiss for cause as set out in Section 8 below.

3.3.4 The University may permit and encourage a reasonable amount of personal professional activity, such as consulting, by a Faculty Member outside the Faculty Member's duties and responsibilities of employment by and for the University, provided such activity: (1) further develops the Faculty Member professionally, (2) does not interfere with duties and responsibilities to the University, and (3) is undertaken in a manner consistent with the requirements of other applicable Board rules.

3.4 If the status of a Faculty Member changes from clinical-track, librarian-track, or teaching-track or other non-tenure track to tenure-track, the time spent at the respective campus may, at the discretion of the President, be counted as part of the tenure-track period.

SECTION 4. PROMOTION IN ACADEMIC RANK.

4.1 Within the following framework, the University shall establish, in cooperation with the Faculty or duly-elected representatives of the Faculty, guidelines and criteria for promotion in Academic Rank, such guidelines to be in conformity with guidelines established by the President:

4.1.1 There shall be demonstrated evidence that promotion is based upon a wide range of criteria, established by the applicable school or college and campuses in conformance with this document and appropriate to the mission of the unit.

4.1.2 There shall be demonstrated evidence that, in the process of making evaluations for promotions, there is participation of persons from several different groups, including but not limited to: peers from within and without the particular unit of the institution, supervisory administrative personnel such as the department/division chairperson and the dean, and students.

4.1.3 There shall be no practice of granting promotion routinely or solely because of length of service, or of denying promotion capriciously.

4.1.4 The University shall provide copies of the Primary Guidelines and criteria for promotion to the Board and shall make available such guidelines and criteria to its Faculty.

4.2 Promotion shall not be granted automatically, but shall result from action by the President, following consultation with the appropriate academic units.

SECTION 5. TENURE.

- 5.1 Tenure is designed to ensure academic freedom and to provide professional stability for the experienced Faculty Member. It is a means of protection against the capricious dismissal of an individual who has served faithfully and well in the academic community. Continuous self-evaluation, as well as regular evaluation by peer and administrative personnel, is essential to the viability of the tenure system.
- 5.1.1 Tenure should never be permitted to mask irresponsibility, mediocrity, or deliberate refusal to meet academic requirements or professional duties and responsibilities.
- 5.1.2 Tenure is a means of making the profession attractive to persons of ability. There shall be demonstrated evidence that tenure is based upon a wide range of criteria, established by the applicable school or college, and campus in conformance with this Rule and appropriate to the mission of the University and its respective academic units.
- 5.1.3 Ultimate authority regarding the application of Primary Guidelines shall rest with the President. In making tenure decisions, careful consideration shall be given to the tenure profile of the University's campuses, projected enrollment patterns, staffing needs, current and projected mission of each department/division, specific academic competence of the Faculty Member, and preservation of opportunities for infusion of new talent.
- 5.2 Tenure shall not be granted automatically, or solely because of length of service, but shall result from action by the president, following consultation with appropriate academic units.
- 5.3 Tenure may be granted at the time of the appointment by the President, following consultation with appropriate academic units.
- 5.4 Tenure may be attained only by faculty who hold the rank of Assistant Professor or above.
- 5.5 A Faculty Member who has been granted tenure shall receive yearly renewals of appointment unless dismissed or terminated for reasons set out in Section 8.

SECTION 6: TENURE-TRACK PERIOD.

- 6.1 When a full-time Faculty Member is appointed on other than a clinical-track, librarian-track, teaching-track, other non-tenure-track or tenured basis, the appointment shall be tenure-track.

- 6.2 During the tenure-track period, the terms and conditions of every reappointment shall be stated in writing, with a copy of the agreement furnished to the individual concerned.
- 6.3 The maximum period of tenure-track status normally shall not exceed seven (7) years.
- 6.3.1 During the Critical Year of a tenure-track appointment, each tenure-track Faculty Member shall be given written notice of tenure, or offered a one-year written terminal contract of employment.
- 6.3.2 Faculty Members may be granted tenure before the sixth year of service if the Critical Year has been officially changed.
- 6.4 Faculty appointed at times other than the beginning of the academic year may choose to have those periods of appointment equal to or greater than half an academic year considered as a full year of the tenure-track period. Such decision should be made at the time of the appointment, and must be made by the end of the fiscal year in which the appointment began.
- 6.5 Tenure-track appointments for less than half an academic year may not be as part of the tenure-track period.
- 6.6 During said tenure-track Period, notices of non-reappointment may be issued for any reason that is not arbitrary, capricious, or without factual basis. Any documented information relating to the decision for non-reappointment or dismissal shall be provided promptly to the Faculty Member upon request.
- 6.6.1 After the decision regarding reappointment or non-reappointment for the following academic year has been made by the President, the tenure-track Faculty Member shall be notified in writing of the decision by letter post-marked and mailed at least one year before the expiration of an appointment.
- 6.6.2 After the decision regarding reappointment or, pursuant to W. Va. Code § 18B-8-5, non-reappointment for the following academic year has been made by the President, the tenure-track Faculty Member may be notified in writing of the decision by letter post-marked and mailed no later than March 1, which shall be sent via "Certified Mail-Return Receipt Requested;" First Class mail; and electronic mail.
- 6.7 If a tenure-track Faculty Member who is not reappointed so requests, the President shall inform the Faculty Member by certified mail within ten (10) days of the reasons for the decision. Pursuant to W. Va. Code § 18B-8-5, a tenure-track Faculty Member who desires to appeal the decision may proceed to file Grievance.

SECTION 7. FACULTY EVALUATION.

- 7.1 All Faculty shall receive yearly written performance evaluations directly related to duties and responsibilities as defined by the University, such evaluations to be made normally by the unit's peer committee and by the department/division chairperson or the equivalent.
- 7.2 Evaluation procedures consistent with University's primary guidelines shall be developed by the various colleges, schools, and campuses and, if appropriate, at the department/division level. Such procedures shall include but not be limited to peer evaluations, student evaluations, and evaluations by immediate supervisors. Evaluation criteria at the college/department/division level may be more stringent than the University's guidelines.
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SECTION 8. DISMISSAL FOR CAUSE.

- 8.1 *Causes for Dismissal:* The dismissal of a Faculty Member for cause shall be effected for one or more of the following:
- 8.1.1 Demonstrated incompetence or dishonesty in the performance of professional duties, including but not limited to academic misconduct;
 - 8.1.2 Conduct which directly and substantially impairs the individual's fulfillment of institutional responsibilities, including but not limited to violations of BOG Governance Rule 1.6 - Rule Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation, and Relationships;
 - 8.1.3 Insubordination by refusal to abide by legitimate reasonable directions of administrators;
 - 8.1.4 Disqualification per the Americans with Disabilities Act.;
 - 8.1.5 Substantial and manifest neglect of duty; and
 - 8.1.6 Failure to return at the end of a leave of absence.
- 8.2 Prior to giving the Faculty Member a written dismissal notice, the President shall notify the Faculty Member of the intent to give the written dismissal notice, the reasons for the dismissal, and the effective date of the dismissal. The Faculty Member shall have an opportunity to meet with the designee prior to the effective date to refute the charges.

- 8.3 *Notice of Dismissal for Cause:* The President shall initiate proceedings by giving the Faculty Member a written dismissal notice by certified mail, return receipt requested, First Class mail, and electronic mail, which dismissal notice shall contain:
- 8.3.1 Full and complete statements of the charge or charges relied upon; and
 - 8.3.2 A description of the appeal process available to the Faculty Member.
- 8.4 Faculty Members who refuse to sign or execute an offered annual contract or notice of appointment or reappointment by the date indicated by the University for its execution, or who fail to undertake the duties under such document at a reasonable time, shall be deemed to have abandoned their employment with the University and any rights to tenure or future appointment. Faculty Members objecting to terms of such document do not waive their objections to such terms by signing or executing the document.
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SECTION 9. FACULTY RESIGNATION.

- 9.1 A Faculty Member resigning from an existing appointment during or at the end of the academic year shall give notice in writing at the earliest opportunity. Professional ethics dictate due consideration of the University's need to have a full complement of faculty throughout the academic year.
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SECTION 10. EMERITUS STATUS.

- 10.1 The University may recognize Faculty Members who have honorably served the University by awarding the individual the honorary designation of Emeritus.
- 10.2 Those Faculty Members whose retirement is announced and who have met the requirements of Meritorious Contributions to the University shall be considered for Emeritus status. Emeritus appointments are normally considered for Faculty Members on their retirement. The Faculty Member must normally have served the University for at least ten (10) years for such consideration.
- 10.3 The review of Faculty candidates begins in the departments or divisions and ends with the President. Faculty Members awarded Emeritus status retain their professional titles. In every case, the term "Emeritus" follows the rank and title.
- 10.4 Emeritus Faculty Members have library privileges; they have the same access as other Faculty Members to athletic events; and they enjoy privileges designated by their departments and the University. There is no salary or emolument attached to the status other than such privileges as the institution may wish to extend.
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SECTION 11. PUBLIC EMPLOYEE GRIEVANCE PROCEDURE.

- 11.1. A Faculty Member may utilize the grievance procedures set out in West Virginia Code §§ 6C-2-1 *et seq.*
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SECTION 12: DEFINITIONS.

- 12.1 “Academic Rank” means the position held by a Faculty Member, consistent with Rule, and includes the ranks of professor, associate professor, assistant professor and instructor.
- 12.2 “Critical Year” means the penultimate year of the tenure-track period, which typically is the sixth year.
- 12.3 “Designated Faculty Prefixes” refers to “Teaching-,” “Research-,” “Service-,” “Extension-,” “Visiting-,” or “Adjunct-,” as applicable to describe the Faculty Member’s connection or function within the University.
- 12.4 “Faculty” refers generally to the class of individuals who are specifically appointed as such by the President including, but not limited to, faculty with academic rank as well as such professional personnel such as librarians, faculty equivalents, and academic professionals.
- 12.5 “Faculty Member” means an individual member of the Faculty.
- 12.6 “Full-time” means a 1.0 full-time equivalent position for the contract year.
- 12.8 “Health Sciences Schools” refers to the University’s School of Dentistry, School of Medicine, School of Nursing, School of Pharmacy, and School of Public Health.
- 12.9 “HSC Designation” refers to the abbreviation of the Health Sciences Schools to be used to designate Clinical-Track appointments: “SD” for the School of Dentistry, “SM” for the School of Medicine, “SN” for the School of Nursing, “SP” for the School of Pharmacy, and “SPH” for the School of Public Health.
- 12.10 “Meritorious Contributions” means contributions to the University and its mission that are highly exceptional and unusually outstanding and which are beyond or outside of the individual’s assigned duties and performance standards.
- 12.11 “President” means the President of the University or the President’s designee.
- 12.12 “Provost” means the Provost of the University or the Provost’s designee.

SECTION 13: DELEGATION.

- 13.1 The Board of Governors delegates to the President the authority to adopt additional academic affairs internal policies and procedures to effectuate the implementation of this Board of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.

SECTION 14: AUTHORITY.

- 14.1 W. Va. Code §§ 18B-1-6, 18B-8-1 through -7.

SECTION 15: SUPERSEDING PROVISIONS.

- 15.1 This Rule supersedes and replaces Higher Education Policy Commission Series 9 – Academic Freedom, Professional Responsibility, Promotion, and Tenure; and any other Rule of the Higher Education Policy Commission which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes WVU BOG Policy 2 – Promotion and Tenure, which was adopted February 8, 2002, and amended on June 6, 2003 and February 15, 2008; BOG Policy 22 – Faculty and Administrative Productivity, effective February 11, 2005; and Prior BOG Policy 38, which was adopted on June 2, 2006; and any other internal academic affairs policy or procedure which relates to the subject matter contained within this Rule.