

UWEX ACADEMIC STAFF POLICIES AND PROCEDURES

Chapter UWEX 12

LAYOFF OF ACADEMIC STAFF FOR REASONS OF BUDGET OR PROGRAM

- 12.01** **General.** Notwithstanding s.36.15, Stats., and Chapters UWEX 10 and 11, the Chancellor of each institution or his/her designee may lay off a member of the academic staff holding an indefinite appointment, or may lay off a member of the academic staff holding either a fixed term or a probationary appointment prior to the end of the appointment period, when such action is deemed necessary due to budget or program decisions requiring program discontinuance, curtailment, modification or redirection. Decisions made pursuant to a change in the level of resources available for a particular project or for program discontinuance, curtailment, modification or redirection shall be discussed by the Chancellor or his/her designee with the Academic Staff Council. Non-reappointment of a fixed term academic staff appointment or non-renewal of a probationary academic staff appointment, even if for financial reasons, is not a layoff.
- 12.02** **Layoff.** For the purposes of this Chapter, "layoff" is the suspension of an academic staff member's employment by the University of Wisconsin System during the appointment period, for reasons of budget or program. A laid-off academic staff member retains the rights specified in Chapter UWEX 12.06 through UWEX 12.09 inclusive. For the purposes of s. 36.21, Stats., termination occurs at the time of layoff.
- 12.03** **Individual layoff decision.**
- (1) A layoff is initiated by the operational area which will recommend to the dean and Chancellor the order in which academic staff members should be laid off.
 - (2) The order of layoffs within an operational area shall depend on:
 - (a) The budget or program situation.
 - (b) The need to maintain specific areas of expertise within the operational area.
 - (c) Job performance.
 - (d) Seniority shall be calculated in terms of years, months, and days of service as a member of the academic staff within UW System, including leaves of absence. Appointments of less than 50 percent time, and employees in training shall not accrue seniority.
 - (3) For layoff of probationary and fixed term appointees under this Chapter, the notice periods specified in Chapter UWEX 10.07 should be used whenever possible.
 - (4) Indefinite appointees shall be given 12 months' notice whenever possible.
- 12.04** **Review and hearing**
- (1) An academic staff member whose position is to be eliminated shall be notified in writing. Within 20 days of such notification, the staff member may request reasons. A written statement of reasons for the decision will be provided within 15 days of the request for reasons. The academic staff

member may request a hearing before the Hearings Committee (see **Chapter UWEX 13.03 and 13.04**). The request for a hearing should be in writing to the Secretary of the Academic Staff within 20 days of receipt of the statement of reasons. However, a request for a hearing shall not forestall a layoff under this Section.

- (a) The request for a 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 days notice of such hearing. A hearing (see **Chapter UWEX 13.03 and 13.04**) shall be held not later than 20 days after the request except that this time limit may be extended by order of the Hearings Committee.
- (2) In the event of a hearing, the Hearings Committee established under Chapter UWEX 17 shall operate as the hearing agent pursuant to s. 227.44 and 227.45, Stats. The first question to be considered by the Hearings Committee in an appeal of a lay-off decision is whether one or more of the following factors improperly entered into the decision to lay off:
- (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.
 - (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:
 - (i) The procedures required by the Board or this Chapter were not followed.
 - (ii) Available data bearing materially on the quality of the staff member's actual or potential performance were not considered.
 - (iii) Unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct.
- (3) The staff member shall present evidence on whether one or more of the factors specified above improperly entered into the decision to lay off. The Hearings Committee shall then consider whether the evidence presented establishes a prima facie (reasonable) case that such factor or factors did enter significantly into the layoff decision. If the Hearings 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.
- (4) If the Hearings Committee finds that a prima facie case has been established, the appropriate administrative 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 hearings committee shall make determinations as follows:
- (a) The Hearings Committee shall first consider whether one or more of the above specified factors improperly entered into the decision to lay off. 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 Hearings Committee is convinced that such factor or factors entered into the decision to lay off, then the examiner 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 lay off the particular academic staff member was in accordance with the provisions of Chapter UWEX 12.03.
- (5) In determining whether a bona fide budgetary or program reason existed for layoff of the appointment of the academic staff member concerned, the Hearings Committee shall presume that the decision to curtail the program was made in good faith and for proper reasons. The Hearings Committee shall not substitute its judgment on priorities for that of the administration.
- (6) The Chancellor shall review the Hearings Committee report, decide whether the staff member should be laid off and notify the Hearings Committee, appropriate administrator for the operational area, and academic staff member of the decision. This decision shall be deemed final unless the Board, upon request of the academic staff member, grants review based on the record.

12.05 Layoff status.

- (1) An academic staff member whose position has been eliminated according to the provisions of this chapter may, at the end of the appropriate notice period [see Chapter UWEX 12.03(3) & (4)], be placed on layoff status, unless the layoff notice has been rescinded prior to that time. The academic staff member whose notice period has expired and who is placed on layoff status shall remain on layoff status until:
 - (a) The appointment expires under its own terms or the staff member resigns.
 - (b) The staff member is reappointed to the position from which laid off. Failure to accept such reappointment would terminate the academic staff member's association with the institution.
 - (c) The staff member accepts an alternative continuing position in the institution. Failure to accept an alternate appointment would terminate the academic staff member's association with the institution except that a staff member on indefinite appointment may refuse an alternate appointment and continue on layoff status.
 - (d) The staff member fails to notify the Chancellor or his/her designee not later than December 1 of each year while on layoff status, as to his/her location, employment status, and desire to remain on layoff status. Failure to provide such notice of desire to remain on layoff status shall terminate the academic staff member's association with the institution.
 - (e) A period of 3 years elapses.

12.06 Alternative employment. The Chancellor and dean shall consider laid-off staff for other vacancies within UW-Extension for which they meet the necessary

qualifications. To the extent possible, laid-off staff members on layoff status should be notified of appropriate openings anywhere in the University of Wisconsin System.

12.07 **Reappointment rights.** Within three years of the layoff of an academic staff member under this section, no person may be employed in the operational area to perform reasonably comparable duties without first offering the laid-off staff member on layoff status reappointment without loss of rights or status, provided that the laid-off staff member has notified the Chancellor or his/her designee by December 1 of each year as to his/her location, employment status, and desire to pursue reappointment rights. Failure to provide such notification shall terminate the academic staff member's reappointment rights under this section.

12.08 **Retention of salary.** Any academic staff member reappointed within 3 years of layoff to reasonably comparable duties within the operational area shall be reappointed with a salary rate at least equivalent to his/her salary rate when laid off, together with such other rights and privileges which may have accrued at the time.

12.09 **Rights of academic staff members on layoff.** An academic staff member on layoff status under provisions of this Chapter has the reemployment rights guaranteed by Chapter UWEX 12.06 and 12.07 and has the following minimal rights:

- (1) Such voluntary participation in fringe benefit programs as may be permitted under existing policies;
- (2) Use of institutional facilities available to other academic staff members under guidelines established by UW-Extension.
- (3) Such participation in UWEX activities as permitted by UW-Extension policies.

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