

CHAPTER 4 NONRETENTION OF EMPLOYEES HOLDING PROBATIONARY APPOINTMENTS

This chapter applies only to probationary appointments, which lead to review for indefinite status. See 2.01.3 and 2.08.

4.01 Statement of Reasons for Nonretention

The administrative head of the operational area shall notify the probationary academic staff member in writing at least 20 working days in advance of the date on which a renewal, nonretention, or promotion decision will be made. The employee shall have the right to present for consideration during this time any documentary material that may be relevant. If a nonretention decision is made, the employee shall receive notice at least three months before the end of the appointment in the first year, six months before the end of the appointment in the second year, and 12 months thereafter. Thus, notice of nonretention must be given no later than the end of the sixth year. The notice shall include a statement of the reasons for nonretention, notification of reconsideration rights, and a copy of ASPP 4 and 9.

4.02 Reconsideration of Nonretention Decision

An academic staff member seeking a reconsideration must submit a written request for a reconsideration meeting within five working days of receipt of the reasons for nonretention. The administrative head of the operational area shall convene the meeting for reconsideration within 10 working days of receipt of the request, and the academic staff member shall be notified a minimum of three working days prior to the meeting. The time limits may be extended by mutual consent of the parties. At the meeting for reconsideration, both parties are entitled to present information relevant to the decision and to have a representative present. The purpose of reconsideration is to allow the academic staff member an opportunity to persuade the administrative head of the operational area to change the recommendation of nonretention. The reconsideration is neither a hearing nor an appeal and shall be nonadversarial in nature.

Within 10 working days of the reconsideration meeting, the academic staff member shall be informed in writing of the decision, the reasons for the decision, and the right of appeal, if applicable. A copy shall be sent to the dean or director.

4.03 Appeal of Nonretention

1. *Review by the Dean or Director.* The academic staff member may, within 20 working days after receipt of notice of the decision in 4.02 above, submit a written appeal of the nonretention decision to the appropriate dean or director. Upon receipt of such an appeal, the dean, director, or designee shall review the issue on the record and shall provide a decision in writing to the academic staff member, the department chair or unit head, the Secretary of the Academic Staff, and the Academic Personnel Office within 20 working days of receipt of the written request for review. If there is no response by the dean or director to the initial appeal within the designated time period, the employee can appeal to the Academic Staff Appeals Committee within 20 working days of the expiration of the designated period.
2. *Review by the Academic Staff Appeals Committee.* Upon receipt of the dean or director's decision, the academic staff member shall have 20 working days to file an appeal with the Secretary of the Academic

Staff, which will forward the files to the Academic Staff Appeals Committee, the Academic Personnel Office, and the dean or director within five working days. The dean or director shall provide the employing department and employee's supervisor with a copy of the academic staff member's request for a review by the Academic Staff Appeals Committee. The Academic Staff Appeals Committee shall conduct a review in accordance with ASPP 9.

3. *Access to the Evidence.* An academic staff member who files an appeal shall have the right to review all evidence the employer used to make the nonretention decision. All additional information the employer uses or plans to use to support the decision shall also be provided to the appellant in a reasonable time prior to a review. Likewise, the employer shall have the right to review all materials to be presented by the appellant. The exchange shall take place within a reasonable time prior to a review.

4. *Burden.* The employee has the burden to show by a preponderance of the evidence that the nonretention is arbitrary, capricious, for reasons prohibited by law, as specified in UWS 10.04(1), or in violation of ASPP when the alleged violation influences the decision under review.

5. *Notification and Disposition.* The Academic Staff Appeals Committee shall forward its findings of fact with a recommendation to the chancellor or designee and shall send a copy to the employee, the department chair or unit head, the dean or director, the Secretary of the Academic Staff, and the Academic Personnel Office. Within 30 working days of receipt of the Committee's recommendation, the chancellor or designee shall implement the recommendation or give the appellant and the Committee written reasons for any decision to modify the recommendation. The employee, the department chair or unit head, the dean or director, the Secretary of the Academic Staff, the Academic Personnel Office, and the Committee shall be notified of the decision of the chancellor or designee, which is final. If the decision of the chancellor or designee has not been issued within 30 working days, the recommendation of the Academic Staff Appeals Committee becomes final.

6. *Time Limits.* Steps in the appeal process must be initiated and completed within the designated time periods except when modified by mutual consent. If the employee fails to initiate the next step in the appeal process within the designated time period, the appeal will be considered resolved by the decision at the last completed step.

7. *Representation.* The presence of a representative or other third party designated by the employee is permitted at any stage during the appeal process.