

## **CHAPTER 106 NON-RENEWAL**

### **106.01 Non-renewal of Probationary Academic Staff**

### **106.02 Appeal of Non-renewal of Probationary Academic Staff**

### **106.03 Reconsideration of Non-renewal of Probationary Academic Staff**

### **106.04 Reconsideration of Non-renewal of Fixed Term Academic Staff**

### **106.05 Non-Renewal of Fixed-Term and Probationary Academic Staff for Reasons of Budget or Program Decision**

(AS Doc 88, 2/2015)

(AS Doc 97, 1/2016)

### **106.01 Non-renewal of Probationary Academic Staff**

In making a decision that may involve non-renewal, the Dean or Division Head and supervisor shall start the process early enough to allow time for an appeal and possible reconsideration and to abide by policy deadlines for notification of non-renewal for Academic Staff (*Chapter 108, Notice Periods*).

#### **A. Recommendation for Non-Renewal**

##### **1. Supervisor's Recommendation**

The supervisor shall forward a written recommendation of non-renewal, including justification, to the Dean or Division Head.

#### **B. Dean/Division Head Action**

1. The Dean or Division Head shall inform the Academic Staff member in writing, within ten working days of the receipt of the supervisor's recommendation, of their decision to accept a non-renewal recommendation or reject a renewal recommendation.
2. The notification shall include:
  - a. The effective date of the Academic Staff member's non-renewal.
  - b. An explanation of their rights to written reasons and appeal under UWS 10.04 and UWM 106 II.
  - c. A copy of *UWM Academic Staff Personnel Policies and Procedures Chapter 106, Non-Renewal* in its entirety.

#### **C. Academic Staff Member's Right to Written Reasons**

1. The Academic Staff member may, in writing, request written reasons within five working days of receipt of notification of non-renewal.
2. The Dean or Division Head shall respond within five working days of receipt of the request.

3. The Academic Staff member may then submit their response to the non-renewal and written reasons within five working days.
4. If the Academic Staff member requests written reasons, those reasons and their response become part of the official personnel file.

(Editorially Revised, 2/2021)

## **106.02 Appeal of Non-Renewal for Probationary Academic Staff**

### **A. Right of Appeal**

1. Non-renewal decisions may be appealed consistent with UWS 10.04.
2. A pending appeal of the non-renewal decision does not in and of itself extend the appointment if appropriate notice has been given.

### **B. Hearing Body**

1. The Academic Staff Hearing and Appeals Committee shall constitute the Hearing Body.
  - a. The Hearing Body may, on motion of either party, disqualify any of its members by a majority vote.
  - b. Any member of the Hearing Body who has had any involvement in the non-renewal action of the Academic Staff member requesting the hearing shall be disqualified.
  - c. If any members of this Hearing Body disqualify themselves or are disqualified, the Hearing Body shall select by majority vote an equal number of replacements from the list of Academic Staff established in the committee bylaws.

### **C. Appeal Process**

1. Initiation of Appeal
  - a. Appeals for non-renewal decisions shall be brought to the Hearing Body within 20 working days after the date of written notification of non-renewal to the Academic Staff member (25 working days if notice is by first-class mail).
  - b. A hearing for the appeal shall be held no later than 15 working days after the request. This time limit may be extended by mutual written consent of the parties or by written order of the Hearing Body.
  - c. Parties to the hearing shall be given at least five working days' notice of the scheduled time and place of the hearing.
2. Scope

The scope and procedures of the hearing for the appeal shall be limited under UWS 10.04. The burden of persuasion in such a review shall be on the non-renewed appointee and the scope of the review shall be limited

to the question of whether the decision was based in any significant degree upon one or more of the following factors, with material prejudice to the individual:

- a. Conduct, expressions, or beliefs which are constitutionally protected, or actions which are consistent with an appropriate professional code of ethics.
- b. Employment practices proscribed by applicable state or federal law, or
- c. Improper consideration of qualifications for reappointment or renewal. For purposes of this section, “improper consideration” shall be deemed to have been given to the qualifications of a staff member in question if material prejudice resulted because of any of the following:
  - i. The procedures required by the Chancellor or board were not followed, or
  - ii. Available data bearing materially on the quality of performance were not considered, or
  - iii. Unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct.

### **3. Hearing**

1. *Counsel and Witnesses.* At the hearing, the Academic Staff member may have counsel present, present witnesses, and will be provided with a recording of the proceedings. While the parties to the hearing may have advisors or counsel of their choice present at the hearing for the purpose of providing advice, such advisors or counsel may not participate directly in the hearing.
2. *Open or closed meeting.* The hearing shall be closed unless the Academic Staff member requests an open meeting.
3. The hearing shall proceed according to the processes of the Hearing Body.

### **4. Report and Remedies**

1. A written report shall be forwarded by the Hearing Body to the Chancellor and Dean or Division Head, with a copy to the Academic Staff member, within 15 working days of the conclusion of the hearing. Remedies may include but are not limited to reconsideration by the Dean or Division Head, reconsideration by the Dean or Division Head under instructions from the Hearing Body, or a recommendation to the next higher administrative level. See *106.03* below.

2. Cases in which the Hearing Body finds that a decision was in violation of UWS 10.04, as noted in *106.02.C. 2* above, shall be remanded and the Hearing Body shall retain jurisdiction during the reconsideration process.
3. *Except as noted in 106.03 below in regard to reconsiderations*, the Dean or Division Head shall accept or reject the report, in full or in part, and shall so notify the Academic Staff member, the Chancellor, and the Hearing Body in writing of their decision within ten working days of the receipt of the report.
  - i. The Dean or Division Head shall send a copy of the Hearing Body's report to the Chancellor along with their response to the report.
  - ii. The Chancellor shall accept or reject the Dean or Division Head's decision and notify the Dean or Division Head, the Hearing Body, and the Academic Staff member, in writing, within ten working days of the receipt of the Dean or Division Head's response.
  - iii. The Chancellor's decision shall be final.
4. If the Chancellor's decision directs that a reconsideration take place, the Dean or Division Head shall order a reconsideration under *106.03, Reconsideration of Non-Renewal for Probationary Employees*, unless the Academic Staff member states in writing within ten working days of the receipt of the report that they do not wish reconsideration. Where reconsideration takes place, the Dean or Division Head's response to the Hearing Body's report shall be incorporated into their report of findings prepared in accordance with III.

(Editorially Revised, 2/2021)

### **106.03 Reconsideration of Non-Renewal for Probationary Employees**

#### **A. Reconsideration Meeting**

If reconsideration is ordered per *106.02 C.4, Report and Remedies*, a meeting will be held to reconsider non-renewal. This meeting is not a hearing, nor an appeal, and shall be non-adversarial in nature. Its only purpose shall be to allow the Academic Staff member an opportunity to persuade the institutional representative responsible for holding the reconsideration meeting to change the non-renewal decision. The burden of persuasion is on the person who is being reconsidered.

**B. Time Limits.**

If the Hearing Body in its report directed a reconsideration of the non-renewal decision, a reconsideration meeting shall be held within 15 working days of the receipt of the report.

1. The Academic Staff member shall be notified a minimum of five working days prior to the meeting.
2. The time limits may be extended by mutual written consent of the parties.
3. The reconsideration meeting will be scheduled as a closed meeting unless the Academic Staff member requests that it be open.

**C. Attendees at the Reconsideration Meeting**

1. The employee and decision-maker.
2. Impartial Observers:
  - a. Upon the request of either party an impartial observer may be present.
  - b. The impartial observer will be selected by consent of the two parties from a panel of three chosen by the Hearing Body.
  - c. The impartial observer shall be a member of the university community, but not a member of the School, College, or Division employing the Academic Staff member under reconsideration.
3. Witnesses and Counsel:
  - a. The Academic Staff member is entitled to present witnesses, to have counsel present, and to be provided with a recording of the proceedings.

**D. Scope**

The scope of reconsideration is addressed above in *106.03 A., Reconsideration Meeting.*

**E. Determination and Report**

1. If the supervisor is the institutional representative responsible for holding the reconsideration meeting, he/she shall forward a recommendation and reasons in writing to the Dean or Division Head with a copy to the Academic Staff member within ten working days of the reconsideration meeting.
2. If the Dean or Division Head is the institutional representative responsible for holding the reconsideration meeting, he/she shall forward a decision and reasons in writing to the Academic Staff member within ten working days of the reconsideration meeting.
3. In either case, the Dean or Division Head must prepare a report within ten working days of the reconsideration meeting, including their findings on the reconsideration decision and their response to the Hearing

Body's report. The report, including the Hearing Body's initial report, shall be placed in the official personnel file with a copy sent to the Academic Staff member, the Hearing Body, and the Chancellor.

**F. Chancellor's Action**

The Chancellor shall accept or reject the Dean or Division Head's decision and notify the Dean or Division Head, the Hearing Body, and the Academic Staff member, in writing, within ten working days of the receipt of the Dean or Division head's response. The Chancellor's decision shall be final.

**G. Deadlines**

Except where the deadlines have been extended by mutual written consent, failure by the Academic Staff member to meet the deadlines established in the above sections shall be considered a waiver of the rights defined in those procedures, and the procedures will continue as outlined above.

(Editorially Revised, 2/2021)

**106.04 Reconsideration of Non-Renewal Decisions of Fixed-Term Academic Staff**

Fixed-term appointees who meet the non-renewal notice criteria of 108.01 (1) may request reconsideration of non-renewal as follows. Please note this is not an appeal process.

1. The request for written reasons shall be made upon receipt of the non-renewal notice and reasons shall be provided within five working days of the request.
2. Within five working days of the receipt of reasons for the non-renewal, the Academic Staff member may request that the supervisor reconsider the non-renewal decision.
3. Within five working days of the receipt of the request for reconsideration, the supervisor must meet with the Academic Staff member to reconsider the non-renewal.
4. A decision based on the reconsideration must be given to the Academic Staff member within five working days of this meeting.
5. If the supervisor decides to proceed with non-renewal, the Academic Staff member may request a review by the supervisor's superior within five working days of receipt of the decision.
6. The supervisor's superior must meet with the Academic Staff member within five working days of receipt of the request to review the supervisor's decision.
7. The supervisor's superior must give a decision to the Academic Staff member within five working days of this meeting.
8. The decision of the supervisor's superior is final.

### **106.05 Non-Renewal of Fixed-Term and Probationary Academic Staff for Reasons of Budget or Program Decision**

Fixed-term and probationary academic staff who are not renewed for reasons of budget or program decision shall be provided written reasons in the notice of non-renewal. Program decision is defined per UWS 12.01 as those actions requiring program discontinuance, curtailment, modification, or redirection.

Notice of non-renewal shall be sent to the academic staff member upon the decision to not renew. Appropriate notice periods shall be observed.

(AS Doc 97, 1/2016)

(Editorially Revised, 2/2021)