Termination or Suspension of Faculty Appointments

1. GROUNDS FOR TERMINATION OR SUSPENSION

1.1 Termination for Cause:

Civilian Faculty: Termination of an appointment of a civilian faculty member covered by this Instruction may be put into effect for such cause as incompetence, neglect of duty, academic dishonesty, a criminal conviction, termination of clinical privileges by a health care facility, inappropriate conduct, or infraction of regulations, and shall be accomplished in accordance with 5 CFR, Part 752C and this Enclosure. Termination of an appointment for cause shall be accomplished strictly in accordance with 5 CFR, Part 752C unless the civilian faculty member elects, in writing, to address the termination action in accordance with the procedures set forth below. A civilian faculty member may discontinue the procedures listed below at any time, at which time the process will revert to 5 CFR, Part 752c. A civilian faculty member appointed for one year or less or who has not completed one year of current continuous service is excluded from the procedures of this Enclosure.

Uniformed Faculty: Termination of an appointment of a uniformed faculty member covered by this Instruction may be put into effect for such cause as incompetence, neglect of duty, academic dishonesty, a criminal conviction, termination of clinical privileges by a health care facility, inappropriate conduct, or infraction of regulations. Termination of an appointment for cause shall be accomplished strictly in accordance with the procedures set forth below. Uniformed faculty are not eligible for the procedures and process afforded by 5 CFR, Part 752c.

1.1.1 When a Department Chair determines that cause exists to warrant termination of an appointment, they will notify the faculty member and so recommend their proposal to the appropriate Dean. The recommendation will summarize the facts and reasons for the proposal. It will be accompanied by supporting documentation such as a report of investigation, if any, witness statements, history of past performance including the three most recent annual performance evaluations, report of previous actions, including counseling activities by the Chair to correct problem (s), a response of the faculty member [Section 1.1.2], or any other evidence relevant to the case.

1.1.2 The faculty member will be provided copies of the Chair's recommendations and supporting documentation and will have fourteen calendar-days to prepare a rebuttal to the proposal notice.

1.1.3 The appropriate Dean will submit this material to the CAPT for review within ten calendar-days after receipt. The CAPT will provide recommendations, within fifteen workdays after receipt of the material, to the appropriate Dean concerning whether appointment termination procedures should be undertaken; however, the recommendations will not be binding upon the Dean.

1.1.4 If the appropriate Dean determines that the termination action is warranted, after reviewing the information provided and the recommendations of the CAPT, he or she will propose, in writing, termination of the faculty member's appointment and furnish it to the Department Chair and faculty member. The appropriate Dean will notify and provide the notice of proposed termination of the faculty member's appointment to the President, USUHS.

1.1.5 The President, USUHS, within ten calendar-days after receipt of the proposal, shall appoint, identify the Chair, and charge a special hearing committee to review the proposal for appointment termination and recommend appropriate action. Once the committee is established, the President, USUHS, within seven calendar-days after its establishment, shall notify the faculty member of the committee members. The affected faculty member may challenge the proposed committee

membership within seven calendar-days after receiving the notification of the committee membership. It must be submitted, in writing to the President, USUHS, explaining the reason for the challenge. The President, USUHS shall review the information and provide his final decision within five calendar-days and so notify the faculty member.

1.1.6 The hearing committee will convene, conduct a hearing, and provide recommendations to the President, USUHS within thirty workdays after receiving the case. Any extension for additional time to complete the committee's responsibilities must be requested, in writing. at least five calendar-days prior to the established suspense date. from the President, USUHS. It must include the reason for the extension request. The committee may conduct prehearing meetings and solicit additional information. It will examine all relevant documents and hear the testimony of all parties. Any prehearing information solicited by the committee will be made available to the faculty member at least ten calendar days prior to the date of the hearing. The faculty member may be accompanied by counsel and an academic advisor at any prehearing meeting and the hearing. The faculty member's representative(s) may consult with the faculty member, but may not speak for the faculty member at any prehearing meeting or during the hearing. At the hearing after the presentation of the Department Chair's position and the reason(s) for the proposed termination, the committee members and the faculty member may query the Chair. The faculty member shall then make his or her presentation, after which the committee and the Chair may query the faculty member. The faculty member and the administration may provide witnesses. Each side will be given the opportunity to question the witnesses. The proceedings will be recorded and transcribed verbatim. A copy of the proceedings will be made available to the faculty member upon request.

1.1.7 Pending a final decision by the hearing committee, the President, USUHS, may place the faculty member on administrative leave under the provisions described in [Section 1.5].

1.1.8 The committee will then prepare a report and recommendations for the President, USUHS. As soon as possible, the President, USUHS will present the committee's recommendation and the record, including all relevant documents and the transcript of the hearing, to the Board of Regents (BOR) for its consideration and advice. The President, USUHS, after reviewing the BOR recommendation and relevant documentation, may either accept their recommendation or request that they reexamine the issue. The BOR recommendation will not be binding upon the President, USUHS. The decision of the President, USUHS is final.

1.1.9 The President, USUHS will notify the faculty member in writing within ten calendar-days of the final decision.

1.2 Termination for Medical Reasons: When a faculty member cannot continue to perform the essential functions of his or her position because of physical or mental incapacity, his or her appointment may be terminated. Such action will be based on a review of the faculty member's performance and clear and convincing medical evidence from an authoritative source directly familiar with the faculty member's medical condition. If it is determined that termination of an appointment action is warranted for medical reasons, the action will be accomplished in accordance with the basic process and provisions described above, except that the faculty member may designate, in writing, a representative to speak on his or her behalf at prehearing meetings and the hearing.

1.3 Termination for Financial Exigency: When insufficient resources threaten the survival of the institution, a tenured or non-tenured faculty member's appointment may be terminated.

1.3.1 With the threat of imminent financial exigency, the President, USUHS, with the concurrence of the board, may elect to appoint a special committee of the faculty to advise and to assist in evaluating the situation.

The committee shall consist of only billeted uniformed and full time civilian faculty and should include the following members or their designees:

- President of the Faculty Assembly;
- Chairs of the curriculum committees;
- A representative nominated by the SOM Basic Sciences Chairs;

- A representative nominated by the SOM Clinical Sciences Chairs; and
- A representative nominated by the GSN Chairs.
- The President shall appoint a Chair who is a tenured professor.
- The Vice President, Resource Management; Vice President, Administration and Management; General Counsel; Associate Dean, Faculty Affairs; and Director, CHR will act as consultants to the committee.

The committee will be given timely access to all relevant administration information and shall, within two weeks, provide written input to the President, USUHS.

1.3.2 Should the President, USUHS, after considering the advice of the committee and the Board, declare that a condition of financial exigency exists, the President, USUHS shall as soon as possible provide the faculty with a report, including all facts on which the determination is based.

1.3.3 If US UHS terminates appointments, it will not at the same time make new appointments except in extraordinary circumstances, which would result in severe distortion of the academic program.

1.3.4 The position of the faculty member concerned will not be filled by a replacement within a period of three years unless the released faculty member has been offered reinstatement and a reasonable time in which to accept or decline the offer.

1.3.5 In all cases of termination for financial exigency the termination shall be accomplished in accordance with the federal reduction-in-force (RIF) provisions, regardless of the tenure status of the individual involved.

1.4 Reorganization: Upon formal discontinuance of an instructional program, activity or department, a faculty member's appointment may be terminated. The decision to discontinue a program, activity or department of instruction will be based upon educational considerations, as determined by the appropriate Dean, after considering the advice of the faculty.

1.4.1 To initiate the reorganization of an academic program, activity, or department, the appropriate Dean shall ask the curriculum committee to consider the issue and report on the suggested reorganization within a specified time not to exceed three months. Upon receipt of the curriculum committee report, the appropriate Dean shall recommend the proposed reorganization to the President, USUHS.

1.4.1.1 The appropriate Dean shall simultaneously advise all affected faculty of the request.

1 .4.2 The President, USUHS shall inform the Board of the proposal for reorganization. The President, USUHS shall decide upon the appropriate Dean's recommendation within three months. The President, USUHS may solicit appropriate faculty advice and shall provide in a timely fashion the faculty with a report justifying the determination.

1.4.3 If no alternate position is available with or without retraining, the affected faculty members' appointments may be terminated. However, before the administration issues a notice of termination, the USUHS shall attempt to place the faculty members in other suitable positions or, if resources permit, offer financial and other support for retraining of up to one year.

1.4.4 In all cases of termination for reorganization, the termination shall be accomplished in accordance with the provisions prescribed in [Section 2].

1.4.5 Per USUHS Instruction 1205[d], a faculty member may appeal a termination because of reorganization not due to fiscal exigency to the Faculty Grievance Committee. The issues in such a hearing may include the university's failure to satisfy

USUHS procedures concerning the decision to reorganize the USUHS school.

1.4.6 In all cases of termination for reorganization due to fiscal exigency the termination shall be accomplished in accordance with the federal RIF provisions, regardless of the tenure status of the individual involved.

1.5 Administrative Leave and Suspension:

1.5.1 The President, USUHS, may place a civilian member of the faculty on administrative leave if the faculty member's presence at the school will disrupt its functioning, or be a danger to him or herself or others. Uniformed faculty with similar concerns will be dealt with by the President, USUHS, through the office of the Brigade Commander.

1.5.2 Base salary for civilian faculty will continue during the period of administrative leave. Base salary excludes special pay categories such as administrative appointments, retention allowances, etc.

1.5.3 Special pays and allowances for civilian faculty may be continued at the discretion of the President, USUHS.

1.5.4 If further action for civilian faculty (e.g., suspension) is required, the suspension action shall be accomplished in accordance with the 5 CFR, Part 752c.

2. TERMINATION OF SALARY OR NOTICE:

2.1 Except for appointments terminated due to medical reasons, for cause or reduction-in- force separations, a termination or non-renewal of appointment will require the following process:

- Full time tenure-ineligible track faculty shall be notified no later than twelve months prior to the expiration of their appointments.
- Faculty members whose appointments are solely supported by extramural or grant funds and are defined at the time of the appointment as not-to-exceed the expected life of the extramural or grant funds will have no specific notice rights upon expiration of the appointment and will not be eligible for severance pay.
- Tenured faculty shall receive twelve months notice of appointment termination due to reorganization.

2.2 Failure of the administration to give timely notice of termination as defined in [Section 2.1], shall entitle the individual to a special appointment for one additional terminal year.

2.3 Termination of a faculty appointment for cause or for medical reasons will occur upon final decision of the President, USUHS.

2.4 The above provisions for terminal notice or salary need not apply in the event that the conduct which justified dismissal involves incompetence, neglect of duty, termination of clinical privileges, academic dishonesty, a criminal conviction, inappropriate conduct, or infraction of regulations. In such cases, the President, USUHS, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.

2.5 In all cases of termination for financial exigency or reorganization, the termination shall be accomplished in accordance with the federal RIF provisions, regardless of the tenure status of the individual involved.

3. NECESSITY FOR A HEARING

3.1 Termination of Tenured Faculty: Except for RIF separations no tenured faculty member shall have an appointment terminated without an opportunity to have the hearing(s) as prescribed by USUHS Instruction 1205d and this Instruction.

3.2 Termination of Non-Tenured Faculty: Except for RIF separations, no non-tenured faculty member shall have an appointment terminated prior to the expiration of the term of the appointment without an opportunity to have the hearing(s) as prescribed by USUHS Instruction 1205d and this Instruction.

3.3 Any civilian faculty member may file a written petition with the Faculty Grievance Committee for redress of grievances arising from relief of responsibilities, failure to promote, non renewal of an appointment of a non tenured faculty member, discriminatory reduction in base pay, denial of tenure, termination of an appointment prior to the expiration of the appointment term, or termination of a tenured appointment. The exercise of the right to appeal to the Merit Systems Protection Board is not abridged by the exercise of this faculty appeal.

3.4 Any uniformed faculty member may file a written petition with the Faculty Grievance Committee for redress of grievances arising from a proposal by the appropriate Dean for termination of an academic appointment for cause, from the relief of responsibilities or for a failure to achieve academic promotion.

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