

# MISSISSIPPI STATE UNIVERSITY

## DEPARTMENT OF HUMAN RESOURCES MANAGEMENT

### TERMINATION OF EMPLOYMENT

**PURPOSE:** The purpose of this policy is to clearly define the steps that must be taken to terminate an employee of Mississippi State University.

**POLICY:** It is the policy of Mississippi State University that no employee should be terminated for any reason that would constitute a violation of federal or state law or University policy. In order to ensure that this policy is followed, the following procedures have been established. Failing to renew the contract of an employee is not considered to be a termination.

#### **PROCEDURES:**

- I. **At will employees** – The majority of the employees of the University are at will employees. At will employees may be terminated for any reason whatsoever as long as the reason does not violate federal or state law or University policy. To ensure that no employee is terminated in violation of federal or state law or University policy, all termination decisions must be signed off in advance by Human Resources Management, the appropriate Department Head, the appropriate Vice President or the President, and the Office of General Counsel. Should any of the individuals listed not be available, they may designate someone to sign in their absence.
  
- II. **Employees with a Contract** – Employees who hold a contract with the Board of Institutions of Higher Learning cannot be terminated during the contract term unless the contract provides for such termination right. All contracts allow employees to be terminated for the following reasons: (1) financial exigencies as declared by the IHL Board; (2) termination or reduction of programs, academic or administrative units as approved by the IHL Board; (3) malfeasance, inefficiency, or contumacious conduct; or (4) for cause. Additionally, many contracts allow for employees to be terminated if their funding source should expire or for various other causes.

Generally, employees who are terminated for one of the reasons included in the contract, have no right to appeal their termination. The exception to this is that faculty members (either tenured or those who are terminated during a contract term) who are terminated for cause do have a right to a hearing as outlined in section V. below.

To ensure that employees with a contract are not terminated in violation of federal or state law or University policy, all termination decisions must be signed off in advance by Human Resources Management, the Department Head, the appropriate Vice President and/or the President, and the Office of General Counsel. Should any of the individuals listed not be available, they may designate someone to sign in their absence.

Employees with a contract who are terminated due to a lack of funds shall be furnished notice in writing 30 days prior to the termination in accordance with IHL Board Policy 404.02.

**III. Notice of Non-reappointment of Non-tenured, Tenure-track Faculty** – Non-tenured, tenure-track faculty members will be notified in writing of the University’s intention not to renew their contracts as provided in IHL Board Policy 403.0102:

- not later than March 1<sup>st</sup> before the date of contract termination during the first year of service;
- not later than December 1<sup>st</sup> before the date of contract termination during the second year of service;
- not later than September 1<sup>st</sup> before the date of contract termination after two or more years of service.

This schedule of notification does not apply to persons holding temporary, part-time, or adjunct positions.

**IV. Tenured Faculty Members** – Tenured faculty members who are terminated for financial exigencies as declared by the Board or for the termination or reduction of programs, academic units and/or administrative units as approved by the Board shall remain employed for a minimum of 9-12 months, consistent with the current contract periods of time from the date of notification. Tenured faculty members who are terminated for malfeasance, inefficiency or contumacious conduct or for cause shall have no right to continued employment after they are provided notice and a right to a hearing.

**V. Procedure for the Termination of a Faculty Member For Cause Prior to the Expiration of the Contract Term or for Termination of a Tenured Faculty Member**

– To terminate a faculty member for cause prior to the expiration of the contract term or to terminate a tenured faculty member, the following procedures must be followed:

- A.** To initiate the termination of a faculty member for cause, a recommendation for termination may be made to or by the Provost and Executive Vice President who will then obtain the authorization of the President. Alternatively, the President may initiate termination proceedings.
- B.** In all cases, the faculty member will be informed in writing of the proposed termination action against him/her and that he/she has the opportunity to be heard in his/her own defense. The notice will contain the reasons for the recommendation of termination. Within ten (10) working days from the date of the notice, the faculty member has the right to request a hearing. If a hearing is desired, the faculty member should request a hearing in writing and such request should be delivered to the Office of the Provost and Executive Vice President. If the faculty member does not request a hearing, then the President may recommend termination to the IHL Board.

- C.** At the discretion of the President, any faculty may be relieved of all teaching duties, assignments, appointments and privileges when he/she is dismissed for cause or pending a termination hearing.
- D.** If the faculty member submits a written request for a hearing, then the written request for a hearing and the underlying notice will be referred by the Provost and Executive Vice President to a faculty panel for a selection of a hearing (“Panel”). Unless referred to a different faculty panel under the inherent authority of the Provost and Executive Vice President, the action will normally be referred to the University Promotions and Tenure Committee. If the University Promotions and Tenure Committee is not able to hear the matter, the hearing will be before the Faculty Grievance Committee.
- E.** Upon receipt by the Panel Chair of the referred action, the Chair shall issue written notice to the faculty member and the University official who initiated the action setting forth the date, time, and location for the hearing. The hearing should be held within 30 day of the Panel Chair receiving the faculty member’s written hearing request from the Provost and Executive Vice President absent extraordinary circumstances.
- F.** The Panel Chair will preside over the hearing and will apply the following procedures, as appropriate, in an effort to provide an orderly, fair, and impartial hearing. The Chair will rule on all issues that arise using his/her discretion. As an example, the length of a witness’ testimony may be limited to avoid repetition or documents may be excluded from consideration if they are not relevant in the judgment of the chair. The following procedural guidelines will be followed at the hearing:
1. The faculty member will be permitted to have an adviser of his/her own choosing present throughout the hearing. The faculty member’s adviser may be an attorney. In the event the faculty member’s advisory is an attorney, the faculty member shall notify the Panel Chair in writing at least 3 business days before the scheduled hearing date.
  2. The University will record, in a manner suitable for transcription, all hearings.
  3. The hearing will be closed to the public.
  4. The faculty member, the faculty member’s adviser, the University official who initiated the action (or his/her designee), the University official’s advisor, the Panel members, the Panel’s adviser, and any support personnel deemed necessary by the Chair for the hearing are permitted to be present during the hearing except during the Panel’s closed deliberations. No others are permitted to be present during the hearing without the specific authorization of the Chair.

5. If the basis of the “for cause” reason for dismissal, or a portion thereof, is “incompetence”, the testimony taken by the Panel must include that of faculty and other scholars.
6. Witnesses:
  - i. Witnesses appearing at the hearing shall be admitted to the hearing only during the time his/her testimony is being presented.
  - ii. Oaths of the witnesses are not required.
  - iii. The faculty member may call witnesses to testify at the hearing at the faculty member’s expense. The University official may also call witnesses to testify.
  - iv. Witnesses will be questioned first by the faculty member or the University official who is presenting the witness. The witness next may be questioned by the faculty member or the official who did not present the witness. The Panel members may then question the witness. Additional questioning of the witness thereafter will be at the discretion of the Chair.
  - v. The Chair, if the Panel so desires, may request additional persons to appear to testify as witnesses and may request persons who have already testified to return to testify further. However, the Panel has no subpoena power that would permit the Panel to require the attendance of witnesses. Should a University employee whose appearance has been requested by the Panel refuse to appear or refuse to testify, the Chair must report the matter to the appropriate University administrative official for any further appropriate action.
  - vi. Employees of the University may be excused from normal job duties with pay to testify at the hearing.
  - vii. Witnesses should appear in person. However, if circumstances prevent their personal appearance, written statements may be accepted for consideration at the discretion of the Chair or they may join by electronic means.
  - viii. Witnesses may offer documents for consideration but the Panel is not required to accept documents for consideration.
  - ix. The faculty member may testify, and be examined by the Panel and the University official presenting the case for dismissal/termination, and the Faculty member may present documents which the faculty member considers pertinent for consideration.
7. At the conclusion of the examination of witnesses and after the presentation of documents for consideration by the Panel, the faculty member and the University official recommending dismissal/termination may each make a closing statement.
8. No more than 5 working days after the hearing, the Panel will meet in a closed session to deliberate and adopt its written findings of fact and

recommendation. The Panel will adopt by majority vote written findings of fact and a recommendation for termination or continued employment. Each member of the majority must sign the recommendation.

- G.** Within 5 work days of the hearing the Panel must submit the written findings and recommendation through the Provost and Executive Vice President to the President and forward a copy of the same to the faculty member.
- H.** The Provost and Executive Vice President must limit review of the Panel's recommendation to the Panel's findings of fact and recommendation. No additional matters may be presented for consideration. The Provost and Executive Vice President must then forward the Panel's findings of fact and recommendation to the President within 3 business days of receipt, or as soon as reasonably possible, and include the Provost and Executive Vice President's concurrence/non-concurrence with the Panel's recommendation. The Provost and Executive Vice President shall simultaneously provide a copy of his forwarding endorsement to the Faculty Member.
- I.** Upon receipt of the Panel's findings of fact and recommendation from the Provost and Executive Vice President, should the President determine that further investigation is desirable or that other matters need to be addressed by the Panel, he may direct appropriate action including, but not limited to, directing the Panel to reconvene for those purposes. The President shall not consider any matters beyond the Panel's written findings of fact and written recommendation and that of the Provost and Executive Vice President unless the faculty member is notified in writing of the additional matters to be considered by the President and provided an opportunity to respond to those additional matters.
- J.** Should the President concur with the Panel's recommendation that the faculty member be dismissed/terminated, or should the President determine that the faculty member should be dismissed/terminated despite the Panel's recommendation to the contrary, the President shall notify the faculty member, the Provost and Executive Vice President, and the Panel Chair in writing of the decision. The written notification letter should include notification to the faculty member that he/she may appeal the President's decision to the Board of Trustees of State Institutions of Higher Learning ("Board") in accordance with the applicable Board policy.
- K.** Should the President not concur with the Panel's recommendation for dismissal/termination or should the President concur with the Panel's recommendation against dismissal/termination, then the faculty member shall be so notified and the action shall be closed.
- L.** In the event the faculty member submits an appeal to the Board, the faculty member shall simultaneously submit a copy of the appeal to the President. An appeal may only take place after the faculty member has exhausted all administrative remedies at the institutional level.

**REVIEW:** This policy shall be reviewed every four years or as needed by the Office of the Provost and Executive Vice President and by Human Resources.

**AUTHORIZATION:**

**Reviewed by:**

/s/ Judy Spencer 10/27/2014  
Chief Human Resources Officer Date

/s/ Timothy N. Chamblee 10/28/2014  
Assistant Vice President & Director Date  
Institutional Research & Effectiveness

/s/ Joan Lucas 10/21/2014  
General Counsel Date

**Approved by:**

/s/ Jerome A. Gilbert 10/29/2014  
Provost and Executive Vice President Date

/s/ Mark Keenum 11/24/2014  
President Date