

REVISED

Agenda Item No. 4.2

AGENDA ITEM BRIEFING

Submitted by: R. Brooks Moore, General Counsel
The Texas A&M University System

Subject: Approval of Revisions to Policy *08.01, Civil Rights Protections and Compliance* and Policy *12.01, Academic Freedom, Responsibility and Tenure*

Proposed Board Action:

Approve revisions to two system policies.

Background Information:

The purpose of this agenda item is to propose revisions to Policy *08.01, Civil Rights Protections and Compliance*, and *12.01, Academic Freedom, Responsibility and Tenure*. The Office of General Counsel has reviewed all revisions for legal sufficiency.

Listed below are the revisions unique to each of these policies.

System Policy *08.01, Civil Rights Protections and Compliance*

- Section 2.1(b) is revised to add the following: “No system academic course will advocate race or gender ideology, or topics related to sexual orientation or gender identity, unless the course and the relevant course materials are approved in advance by the member CEO.”

System Policy *12.01, Academic Freedom, Responsibility and Tenure*

- Section 1.2 is revised to clarify that a faculty member will not teach material that is inconsistent with the approved syllabus for the course.

A&M System Funding or Other Financial Implications:

None.

Strategic Plan Imperative(s) this Item Advances:

The board’s adoption, maintenance and revision of system policies advances all eight Strategic Plan Imperatives by providing policy direction to the member institutions and agencies.

REVISED

Agenda Item No. 4.2

THE TEXAS A&M UNIVERSITY SYSTEM

Office of General Counsel

October 22, 2025

Members, Board of Regents
The Texas A&M University System

Subject: Approval of Revisions to Policy *08.01, Civil Rights Protections and Compliance* and
Policy *12.01, Academic Freedom, Responsibility and Tenure*

I recommend adoption of the following minute order:

“The revisions to System Policies *08.01, Civil Rights Protections and Compliance*, and Policy *12.01, Academic Freedom, Responsibility and Tenure*, as shown in the attached exhibits, are approved, effective immediately. These revised policies apply beginning with the Spring Semester 2026.”

Respectfully submitted,

R. Brooks Moore
General Counsel

Approval Recommended:

Approved for Legal Sufficiency:

Glenn Hegar
Chancellor

R. Brooks Moore
General Counsel

Susan Ballabina, Ph.D.
Executive Vice Chancellor

08.01 Civil Rights Protections and Compliance

Revised [November 13, 2025](#) (MO -2025)

Next Scheduled Review: November 13, 2030

Click to view [Revision History](#).



Policy Summary

This policy outlines the civil rights protections provided by The Texas A&M University System (system) to employees, students, applicants for employment and admission, and the public, and sets forth procedures and responsibilities for compliance with applicable laws and regulations.

Definitions

Diversity, Equity, and Inclusion – means engaging in any of the following actions:

1. Influencing hiring or employment practices with respect to race, sex, color, or ethnicity, other than through the use of equal opportunity described in Section 1.1;
2. Promoting differential treatment of or providing special benefits to individuals in violation of Section 2.1;
3. Promoting policies or procedures about race, color, or ethnicity, except as expressly authorized by OGC in accordance with state law; or
4. Conducting trainings, programs, or activities about race, color, ethnicity, gender identity, or sexual orientation, other than those expressly authorized by OGC in accordance with state law.

Diversity, Equity, and Inclusion Office – means a member office, division, or other unit that is established for the purpose of engaging in a diversity, equity, and inclusion function.

Gender Ideology – means a concept that self-assessed gender identity should replace the biological category of sex or that biological sex has less value or legitimacy than self-assessed gender identity.

Race Ideology – means a concept that attempts to shame a particular race or ethnicity, accuse them of being oppressors in a racial hierarchy or conspiracy, ascribe to them less value as contributors to society and public discourse because of their race or ethnicity, or assign them intrinsic guilt based on the actions of their presumed ancestors or relatives in other areas of the world. This also includes course content that promotes activism on issues related to race or ethnicity, rather than academic instruction.

Policy

1. AUTHORITY AND SCOPE OF THE EQUAL OPPORTUNITY PROGRAM

- 1.1 The system provides equal opportunity for employment to all persons regardless of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, or any other classification protected by federal, state or local law and strives to achieve full and equal employment opportunity throughout the system.
- 1.2 The System Ethics and Compliance Office (SECO), in coordination with the Office of General Counsel (OGC), is responsible for the system's compliance with civil rights laws and regulations. This includes, but is not limited to, addressing charges or complaints filed with federal, state and local agencies, and audits or compliance reviews of policies and procedures carried out by the U.S. Department of Labor, the Equal Employment Opportunity Commission, the Texas Workforce Commission's Civil Rights Division, the U.S. Department of Education's Office of Civil Rights, and other state and federal civil rights compliance agencies.
- 1.3 The system promotes equal employment opportunity through its procedures, training, compliance with applicable legal requirements, and other methods authorized by federal regulations.

2. PROHIBITED ACTIONS

2.1 Prohibited Discrimination or Instruction

- a. System Employment. No individual will be subjected to discrimination in system employment on the basis of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, or any other classification protected by federal, state or local law.
- b. Other System Programs and Activities. No individual will, on the basis of any classification protected by state, federal, or local law, be excluded from participation in, or be denied the benefit of, or be subjected to discrimination under any system program or activity. No system academic course will advocate race or gender ideology, or topics related to sexual orientation or gender identity, unless the course and the relevant course materials are approved in advance by the member CEO.

2.2 Except as required by federal law, a member or member employee must not:

- a. establish or maintain a diversity, equity, and inclusion office, or hire or assign an employee or contractor to perform diversity, equity, and inclusion functions; or
- b. compel, require, induce, or solicit any person to provide a statement about diversity, equity, and inclusion or give preferential treatment to any person based on the provision of a statement about diversity, equity, and inclusion.

2.3 Except as required by federal law, a member or member employee must not require, as a condition of enrollment at the member or performing any member function, any person to participate in a diversity, equity, and inclusion training that includes a training, program, or activity about race, color, ethnicity, gender identity, or sexual orientation, unless developed and approved by OGC in accordance with state law.

- 2.4 Retaliatory action of any kind is prohibited when taken against a complainant, respondent, witness or other person participating in a discrimination investigation, complaint, hearing or suit. Such retaliatory action is regarded as a separate and distinct cause for complaint and possible disciplinary action, including dismissal or expulsion.
- 2.5 The prohibitions in Sections 2.2 and 2.3 do not apply to the following:
- a) Academic course instruction;
 - b) An employee or student's scholarly research or creative work;
 - c) An activity of a student organization registered with or recognized by a member;
 - d) A guest speaker or performer on a short-term engagement;
 - e) Policies, practices, procedures, programs, or activities to enhance student academic achievement or postgraduate outcomes without regard to race, sex, color, or ethnicity;
 - f) Data collection; or
 - g) Student recruitment or admissions.

3. RESPONSIBILITIES

- 3.1 Each member chief executive officer (CEO) is responsible for equal opportunity and program accessibility in accordance with federal, state and local laws and regulations and system policy.
- 3.2 SECO, in coordination with OGC, serves as the liaison between members and federal, state and local compliance agencies. SECO is also responsible for the coordination of all civil rights reporting requirements for the system and its members under applicable state and federal regulations.
- 3.3 Each member CEO must appoint, a Title IX of the Education Amendments of 1972 Coordinator, a Section 504 of the Rehabilitation Act of 1973 Coordinator and other administrators who oversee the implementation of guidelines to ensure compliance with legal and regulatory provisions under this policy.

4. PROCEDURES

- 4.1 The administrators appointed under Section 3.3 must inform SECO as soon as a charge or complaint of discrimination or notice of civil rights audit, compliance review or other inquiry is received from a federal, state or local agency.
- 4.2 The system developed a regulation providing systemwide standards for the receipt and processing of complaints of discrimination.
- 4.3 A member may not spend state funds appropriated for a fiscal year until the system submits a report to the legislature and the Texas Higher Education Coordinating Board certifying the system's compliance with Texas Education Code Section 51.3525 during the preceding state fiscal year. SECO implements monitoring processes to assess member compliance with Texas Education Code Section 51.3525 throughout the state fiscal year. The System Internal Audit Department includes DEI compliance in its systemwide risk assessment as part of the annual audit plan process. Audits are conducted as necessary based on the annual risk assessment. SECO annually provides a report to the Board of

Regents (board) for the August regular meeting and the board approves SECO's submission of this report on behalf of the system. This section takes effect January 1, 2024 for money appropriated for the state fiscal year beginning September 1, 2024.

- 4.4 The board designates the chancellor or designee to provide legislative testimony in accordance with Texas Education Code Section 51.3525. This section takes effect January 1, 2024.

Related Statutes, Policies, or Requirements

[The Equal Pay Act of 1963](#)

[Title VI of the Civil Rights Act](#)

[Title VII of the Civil Rights Act of 1964, as amended](#)

[The Age Discrimination in Employment Act of 1967](#)

[Title IX of The Education Amendments of 1972](#)

[The Rehabilitation Act of 1973, as amended](#)

[The Americans with Disabilities Act of 1990, as amended](#)

[The Genetic Information Nondiscrimination Act of 2008](#)

[Executive Order 14173](#)

[Tex. Educ. Code Sec. 51.3525](#)

[Tex. Educ. Code § 51.354](#)

[Tex. Lab. Code Ch. 21, Employment Discrimination](#)

[Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended](#)

[Uniformed Services Employment and Reemployment Rights Act](#)

[System Policy 07.01, *Ethics*](#)

Member Rule Requirements

A rule is not required to supplement this policy.

Contact Office

Ethics and Compliance
(979) 458-6203

12.01 Academic Freedom, Responsibility and Tenure

Revised [November 13, 2025](#) (MO -2025)

Next Scheduled Review: November 13, 2030

Click to view [Revision History](#).



Policy Summary

The relationship between faculty and the academic institution of The Texas A&M University System (system) for which they work is a balance between the responsibilities and obligations of the faculty with the requirements and demands of the system academic institution. This policy provides the basis upon which faculty may be hired, tenured, and dismissed. The responsibilities of the faculty are described as are the criteria by which they will be evaluated.

Policy

The following policies on academic freedom, responsibility and tenure apply separately, but equally, to each of the universities (academic institutions) of the system.

1. ACADEMIC FREEDOM

- 1.1 Institutions of higher education exist for the common good. The common good depends upon an uninhibited search for truth and its open expression. Hence, it is essential that each faculty member be free to pursue scholarly inquiry and to voice and publish individual conclusions concerning the significance of evidence that the faculty member considers relevant. Each faculty member must be free from the corrosive fear that others, inside or outside the academic community, because their vision may differ, may threaten the faculty member's professional career or the material benefits accruing from it.
- 1.2 Each faculty member is entitled to full freedom in the classroom in discussing the subject that the faculty member teaches, but a faculty member will not introduce a controversial matter that has no relation to the classroom subject or teach material that is inconsistent with the approved syllabus for the course. Each faculty member is also a citizen of the nation, state, and community; and when speaking, writing, or acting as such, must be free from institutional censorship or discipline, subject to academic responsibility. In such instances, the faculty member should clearly state that the faculty member is not speaking for the system academic institution.

2. ACADEMIC RESPONSIBILITY OF FACULTY MEMBERS

The concept of academic freedom for faculty must be accompanied by an equally demanding concept of academic responsibility. Faculty members have a responsibility to the system academic institution, their profession, their students, and society at large. The rights and privileges of faculty members extended by society and protected by governing boards and

administrators through written policies and procedures on academic freedom and tenure, and as further protected by the courts, require reciprocally, the assumption of certain responsibilities by faculty members. Some of those are:

- 2.1 The fundamental responsibilities of faculty members as teachers and scholars include maintenance of competence in their field of specialization and the exhibition of professional competence in the classroom, studio, or laboratory and in the public arena through activities such as discussions, lectures, consulting, performances, exhibitions, publications, and participation in professional organizations and meetings.
- 2.2 Faculty members must recognize that the public will judge their profession and system academic institutions by their statements. Hence, faculty members should at all times strive to be accurate in their statements, exercise appropriate restraint, show respect for the opinions of others, and make every effort to indicate that they are not speaking or acting for the system academic institution when they are speaking or acting as private persons.
- 2.3 The constitutionally protected rights of faculty members, as citizens, to freedom of expression on matters of public concern must be balanced with the interest of the state, as an employer, in promoting the efficiency of the educational services it performs through its employees. A faculty member's comments are protected even though they may be highly critical in tone or content, or erroneous, but such statements are not protected free speech if they either substantially impede the faculty member's performance of daily duties or materially and substantially interfere with the regular operation of the system academic institution, department, or college. False statements made with knowledge of their falsity or in reckless disregard of the truth are not entitled to constitutional protection, and public statements may be so without foundation as to call into question the fitness of the faculty member to perform his or her professional duties.
- 2.4 Faculty members should be professional in their conduct in the classroom and in relationships with students. They should maintain respect for the student and for the student's posture as a learner and should be appropriately available to students for consultation on coursework.
- 2.5 Faculty members have the responsibility to provide timely and adequate notice of their intention to interrupt or terminate institutional services.

3. WRITTEN TERMS OF EMPLOYMENT

- 3.1 All new faculty members must be provided with an appointment letter stating the initial terms and conditions of employment. Any subsequent modifications or special understandings in regard to the appointment, which may be made on an annual basis, should be stated in writing and a copy given to the faculty member. All faculty members, unless the terms and conditions of their appointment letter state otherwise, are expected to engage in teaching, scholarship, and service. Essential job functions for a position may vary depending upon the nature of the department in which the faculty member holds expertise, external funding requirements attached to the position, licensing or accreditation requirements, and other circumstances. It is therefore important that essential job functions for each faculty position be listed in the initial appointment letter. For example, all of the following that are applicable should be listed: teaching

responsibilities, responsibilities for advising students, independent and/or collaborative research responsibilities, engaging in patient care, committee assignments, conditions imposed by external accrediting agencies, conditions for holding a named professorship or endowed chair, or a position that combines academic and administrative duties, and any other specific essential functions for the position in question. All appointment letters must indicate whether the appointment being offered is with tenure, tenure track, or non-tenure track.

- 3.2 The appointment letter for a faculty member with administrative duties must state the portion of the faculty member's salary that is associated with the administrative duties. The portion of the faculty member's salary not associated with the administrative duties must not exceed the salaries of other faculty with similar qualifications and performing similar duties. The appointment letter for faculty members with administrative duties must also state that the administrative duties may be removed without cause.
- 3.3 The system academic institution must notify faculty members annually, in writing, of their salary. Any other changes or additions to the appointment should also be included.
- 3.4 Faculty members are expected to fulfill the terms and conditions of employment for the following year unless they resign prior to 30 calendar days after receiving notice of the terms.
- 3.5 An annual performance review will be conducted for all faculty members regardless of their title in accordance with written procedures. The purpose of the annual performance review is to facilitate dialogue between the administration and faculty and provide a process to evaluate each faculty member's accomplishments in the context of departmental, college, university, and system goals. An unsatisfactory rating in any one area (e.g., teaching effectiveness, research, creative activities and other scholarly endeavors, or service) requires the implementation of a written short-term development plan for the faculty member, including performance improvement benchmarks.
- 3.6 Generally, all faculty members are entitled under Texas law to see their personnel files and to obtain a copy of the information in these files at their own expense.

4. TENURE POLICY

Tenure means the entitlement of faculty members to continue in their academic positions unless dismissed for good cause. Tenured faculty who remain in good standing will continue to enjoy those privileges customarily associated with tenure, including an expectation of continuing employment, appropriate compensation, a suitable office and workspace, serving as a principal investigator and conducting research, teaching classes, participating in faculty governance, and representing oneself as a tenured faculty member at their system academic institution. However, tenure will not be construed as creating a property interest¹ in any attributes of the faculty position beyond the faculty member's regular annual salary. A specific system of faculty tenure should undergird the integrity of each system academic institution. System academic institution tenure systems should have these elements:

¹ A property interest refers to the constitutionally protected interest that may not be taken by the state without affording due process as required by federal and state law.

- 4.1 Beginning with appointment to a tenure-track position, the probationary period for a faculty member must not exceed seven (7) years. This period may, at the system academic institution's option, include appropriate full-time service at other institutions of higher education, even if the inclusion of such service extends the total probationary period in the academic profession beyond the normal maximum of seven (7) years. However, any credit for prior service included within the seven-year probationary period must be agreed upon in writing at the time of employment. System academic institutions must develop a rule authorizing extension of the probationary period beyond seven (7) years to permit a possible "time-out" due to special conditions or in order to pursue special opportunities. Such extensions must be based on extraordinary circumstances and require written concurrence by the faculty member, department head, dean, and the chief academic officer, or the chief academic officer's designee. A person who is a member of the U.S. National Academy of Sciences and/or the U.S. National Academy of Engineering and/or the U.S. National Academy of Medicine at the time of employment by a system academic institution shall be eligible for tenure upon arrival at such institution and must be presented to the system Board of Regents (board) for its consideration, and a grant of tenure to such faculty member shall not be subject to a probationary period. Tenure is granted only by the affirmative action of the system board upon recommendation of the chief executive officer (CEO). At the conclusion of the probationary period, unless appropriately informed otherwise, the faculty member will not have tenure. Prior to the beginning of the last year of the probationary period, the system academic institution must notify the faculty member in writing of a decision regarding the granting or denial of tenure. The failure by the system academic institution to so notify will not be construed as a grant of de facto tenure. If the decision is not to award tenure, the faculty member is entitled to serve for two additional long semesters following the term or semester in which the notice is received.
- 4.2 Notice of non-reappointment, or of intention not to reappoint a non-tenured tenure track faculty member, should be given in writing in accordance with the following standards:
- (a) not later than March 1 of the first academic year of probationary service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination;
 - (b) not later than December 15 of the second year of probationary service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination; and
 - (c) at least twelve months before the expiration of a probationary appointment after two or more years with the system academic institution.
- 4.3 Good cause for dismissal of a faculty member relates directly and substantially to the performance of professional duties and may include, but not be limited to, the following:
- (a) professional incompetence;
 - (b) continuing or repeated failure to perform duties or meet responsibilities to the system academic institution or to students or associates;

- (c) failure to successfully complete a post-tenure review professional development program;
- (d) moral turpitude adversely affecting the performance of duties or the meeting of responsibilities to the system academic institution, or to students or associates;
- (e) violation of system policies, system regulations, system academic institution rules, or laws substantially related to performance of faculty duties;
- (f) conviction of a crime related to the fitness of a faculty member to engage in teaching, research, service/outreach, and/or administration;
- (g) unprofessional conduct adversely affecting to a material and substantial degree the performance of duties or the meeting of responsibilities to the system academic institution, or to students or associates;
- (h) falsification of academic credentials;
- (i) bona fide financial exigency or the phasing out of institutional programs requiring reduction of faculty (see Section 9);
- (j) the reduction or discontinuance of institutional programs based on educational considerations and requiring the termination of faculty members (see Section 9); or
- (k) a finding of sexual harassment or other serious misconduct, in accordance with system policy.

4.4 A faculty member who is found responsible for sexual harassment or other serious misconduct may be summarily dismissed or suspended without pay pending dismissal in accordance with the procedures outlined in Section 8.2. A faculty member may be dismissed for other reasons, as outlined in Section 4.3, after the faculty member has received notice of the cause for dismissal and an opportunity for a hearing in accordance with the procedures set forth in Section 8.3. Non-tenure track faculty may present a grievance in accordance with Section 6.5.

5. ADMINISTRATIVE LEAVE

Faculty members may be placed on administrative leave with pay by the faculty member's dean, with the concurrence of the dean of faculties (or provost if there is no dean of faculties), pending an investigation into matters pertaining to the faculty member's job performance, including but not limited to, fiscal matters, improper conduct in teaching, research, or service, or an allegation of misconduct pursuant to System Regulation *08.01.01, Civil Rights Compliance*. Notification must be given in writing and include the reasons for placing the faculty member on administrative leave with pay and the terms of the leave. A faculty member placed on administrative leave with pay may appeal the decision to the provost by submitting an appeal in writing. The provost conducts the appeal and may appoint a person or persons to assist the provost in the appeal. The investigation process is not stayed by an appeal. The appeal should be completed within five (5) business days of receipt of the appeal. This provision is distinct from suspension during the pendency of termination proceedings. Placing a faculty member on administrative leave with pay is justified to aid in an investigation or if the welfare of the faculty member or that of students, colleagues, or other institutional employees is threatened by continuance, or if the continued presence of the faculty member would be disruptive of the regular operations of the system academic

institution. Any such leave should be with appropriate provisions for useful duties, including appropriate access to classrooms, laboratories, libraries, and other facilities. A tenured faculty member who has been placed on administrative leave with pay will be entitled to his or her regular annual salary.

6. NON-TENURE TRACK FACULTY

- 6.1 This section does not apply to Professional Track Faculty with multi-year appointments. (*See, System Policy 12.07, Fixed Term Academic Professional Track Faculty*).
- 6.2 Appointments of non-tenure track faculty should be in writing and include specific beginning and ending dates for the appointment and clearly state that there is no implied guarantee or promise of future employment.
- 6.3 A system academic institution is not required to give a non-tenure track faculty member a reason for a decision not to reappoint for another appointment term or to provide a hearing. However, a system academic institution's rule for implementing this policy may provide that all or certain non-tenure track faculty members are entitled to appeal the institution's decision not to renew the faculty member's appointment or to dismiss the faculty member for cause.
- 6.4 Unless the academic institution's rule provides for an appeal, a non-tenure track faculty member whose appointment is not renewed may present a grievance in person to their dean or designee regarding the non-reappointment within 10 business days of receipt of the notice of non-reappointment. The dean or designee considers the grievance and renders a final decision in writing regarding the grievance within 10 business days of the presentation of the grievance.
- 6.5 Unless the academic institution's rule provides for an appeal, a non-tenure track faculty member who is dismissed for cause before the end of the term may present a grievance in person to the provost or designee regarding the dismissal within 10 business days of receipt of the notice of dismissal. The provost or designee considers the grievance and renders a final decision in writing regarding the grievance within 10 business days of the presentation of the grievance.
- 6.6 However, if a grievance or appeal related to the nonrenewal or dismissal of a non-tenure track faculty member includes an allegation(s) that the decision was based on discrimination, the provost, dean, or designee promptly reports the allegation(s) to the designated office in accordance with System Regulation 08.01.01.
- 6.7 Any allegation(s) of discrimination will be exclusively adjudicated in accordance with the procedures outlined in System Regulation 08.01.01. The grievance or appeal processes in this section are not stayed pending conclusion of the investigation, decision, and appeal processes outlined in System Regulation 08.01.01.

7. NON-RENEWAL OF NON-TENURED TENURE TRACK FACULTY AT END OF AN APPOINTMENT TERM

Procedures in cases of non-renewal of non-tenured tenure track faculty members at the end of any appointment term (other than a one-year only appointment that has not been renewed) must have the following parts:

- 7.1 A system academic institution is not required to give a non-tenured tenure track faculty member a reason for a decision not to reappoint for another appointment term or to provide a hearing.
- 7.2 A non-tenured tenure track faculty member may present, in person, a grievance over non-renewal of the faculty member's employment at the system academic institution, including that the decision was made in retaliation for the faculty member's exercise of protected First Amendment rights. The board delegates the authority through the chancellor to the CEO to designate an individual within the system academic institution's administration to hear the faculty member's grievance. The system academic institution must adopt a method of promptly presenting, reviewing, and acting on grievances in accordance with this section.
- 7.3 In the alternative to a grievance in accordance with Section 7.2, a non-tenured tenure track faculty member may appeal a decision not to reappoint on the basis that the decision was made in violation of the academic freedom of the individual and/or for inadequate consideration of the faculty member's record of professional achievement. Such an appeal must be filed within 20 business days of the date on which the faculty member was given written notice of non-reappointment.
- 7.4 However, if a grievance or appeal related to the nonrenewal of a non-tenured tenure track faculty member includes an allegation(s) that the decision was based on discrimination, the CEO or designee promptly reports the allegation(s) to the designated office in accordance with System Regulation *08.01.01*.
- 7.5 Any allegation(s) of discrimination will be exclusively adjudicated in accordance with the procedures outlined in System Regulation *08.01.01*. The grievance or appeal processes in this section are not stayed pending conclusion of the investigation, decision, and appeal processes outlined in System Regulation *08.01.01*.
- 7.6 System academic institution appeal procedures must provide for preliminary consideration within 15 business days of the faculty member's notice of appeal of the allegations by a faculty committee to determine whether the faculty member has established a prima facie case that the decision was made in violation of the faculty member's academic freedom, or without adequate consideration of the faculty member's record of professional achievement. If the preliminary review committee determines that the faculty member has not alleged a prima facie case, the allegations will be dismissed and the decision not to reappoint stands. If the committee determines that the allegations do establish a prima facie case, the matter is referred for an evidentiary hearing under established system academic institution procedures. A prima facie case for purposes of this section means that the faculty member's evidence, alone and un-rebutted, would establish that a violation as defined in Section 7.3 may have occurred.
- 7.7 In any evidentiary hearing, the burden of proving that the decision was made in violation of academic freedom or without adequate consideration of the faculty member's record of professional achievement rests with the faculty member. The burden of proof must be

met by a preponderance of the evidence; i.e., that which is more convincing, more credible, and of greater weight than contrary evidence. Both the faculty member and the administration have the right of representation at this hearing. The system academic institution provides staff support to schedule and hold a hearing. If the appeal is filed before March 1, the hearing must be completed within 40 business days from the date the committee chair is notified of the appeal; the chair of the hearing committee may extend the time for completing the hearing by an additional 10 business days for good cause shown. If more than one appeal is filed in a given year, some appeals may be delayed until the first full academic term following the notice of appeal. The committee must complete its report within 10 business days of the completion of the hearing. The importance of conducting the hearing in a prompt manner guides the system academic institution and the hearing committee. Hearing committee members' departments assist as needed to accommodate the scheduling of the hearing.

8. DISMISSAL FOR CAUSE

8.1 Procedures. System academic institutions must establish proper procedures for dismissal of faculty for cause to address issues related to performance or misconduct. These dismissal procedures apply only to a faculty member who has tenure, a non-tenured tenure track faculty member, or a fixed-term professional track faculty member under System Policy *12.07* whose term appointment has not expired at the time of the dismissal. Such procedures must have the following parts:

8.1.1 A bona fide effort by appropriate administrative officers and/or other persons or committees should be made to achieve a satisfactory resolution of performance and/or misconduct issues through preliminary inquiry, discussion, or confidential mediation. During these proceedings, a faculty member has the right to an advisor, who may attend any meetings with the faculty member, but may communicate only with the faculty member. The advisor is not permitted to serve as an advocate for the faculty member in these preliminary proceedings.

8.1.2 Should these efforts fail to achieve a satisfactory resolution; the administration initiates a dismissal for cause or summary dismissal.

8.1.3 Unless a faculty member is summarily dismissed in accordance with the procedures outlined in Section 8.2, a faculty member may be reassigned or suspended with pay during the pendency of dismissal proceedings; however, suspension with pay is justified only if the welfare of the faculty member or that of students, colleagues or other institutional employees is threatened by continuance, or if the continued presence of the faculty member would be materially and substantially disruptive of the regular operations of the system academic institution. A suspension with pay should be with appropriate provisions for useful duties, including appropriate access to classrooms, laboratories, libraries, and other facilities.

8.2 Summary Dismissal or Suspended without Pay Pending Dismissal

8.2.1 A tenured faculty member may be subject to summary dismissal or suspension without pay pending dismissal if the stated cause for dismissal is a finding of serious misconduct that has been substantiated by an investigation conducted

in accordance with system policy. Serious misconduct includes, but is not limited to, sexual harassment, scientific misconduct, fraud, and violence or threat of violence in the workplace.

- 8.2.2 A non-tenured faculty member whose term appointment has not expired may be subject to summary dismissal or suspension without pay pending dismissal for good cause.
- 8.2.3 Prior to summary dismissal or suspension without pay pending dismissal, a faculty member will be provided with written notice of the charges, an explanation of the evidence, and an opportunity to respond to an administrator. A faculty member who is summarily dismissed or suspended without pay pending dismissal also has an opportunity for a post-termination evidentiary hearing appealing the dismissal in accordance with the procedures outlined in Section 8.3.
- 8.2.4 The faculty member and the administration each have the independent right to representation in this process.
- 8.2.5 The board delegates the authority through the chancellor to the CEO to designate an individual within the system academic institution's administration to hear a faculty member's response to the charges prior to summary dismissal or suspension without pay pending dismissal and determine, after considering the faculty member's response, whether or not to proceed with a summary dismissal or suspension without pay pending dismissal.

8.3 Hearing

- 8.3.1 A faculty member who is summarily dismissed or suspended without pay pending dismissal after the process described in Section 8.2 or a faculty member who receives a notice of dismissal for other reasons outlined in Section 4.3 may submit a notice of appeal to the system academic institution's CEO or designee within 10 business days of receipt of the notice of dismissal. The CEO or designee must notify the appropriate hearing committee within five (5) business days of the date the appeal has been filed. The system academic institution provides staff support to schedule a hearing.
- 8.3.2 However, if an appeal includes an allegation(s) that the decision was based on discrimination, the CEO or designee promptly reports the allegation(s) to the designated office in accordance with System Regulation *08.01.01*.
- 8.3.3 Any allegation(s) of discrimination will be exclusively adjudicated in accordance with the procedures outlined in System Regulation *08.01.01*. The appeal hearing process in this section is not stayed pending conclusion of the investigation, decision, and appeal processes outlined in System Regulation *08.01.01*.
- 8.3.4 The hearing committee must promptly schedule a hearing to be completed within 40 business days of being notified by the CEO or designee. The chair of the hearing committee may extend the time for completing the hearing 10

business days for good cause shown or longer for extenuating circumstances caused by the administration. The system academic institution and the hearing committee must conduct the hearing in a prompt manner. Hearing committee members' departments assist as needed to accommodate the scheduling of the hearing. The burden of proof is on the system academic institution to establish, by a preponderance of the evidence, the existence of good cause for dismissal and/or suspension without pay pending dismissal. The proceedings will be stenographically transcribed and copies made available to either party upon request.

- 8.3.5 The faculty member and the administration each have the independent right to representation.
- 8.3.6 The hearing committee must complete its report within 10 business days of the completion of the hearing. The hearing committee formulates explicit findings with respect to each of the grounds for dismissal and/or suspension without pay pending dismissal presented and recommends whether or not, in its judgment, there is good cause for dismissal and/or suspension without pay pending dismissal. The committee's findings and recommendations must be conveyed in writing to the CEO and to the faculty member.
- 8.3.7 If the faculty member's appointment is proposed to be terminated by the CEO, the full report of the hearing committee, the record of the hearing, the CEO's recommendation, and other relevant documentation available to both the faculty member and the system academic institution will be delivered to the chancellor, or designee, who carries out a review of the documentation. In the event that the chancellor identifies the need for information not contained in the documentation, the chancellor may choose to give the system academic institution and the faculty member an opportunity to present their arguments and take questions from the chancellor. The chancellor has a maximum of 20 business days in which to conduct the review. Upon completion of the review, the chancellor makes a final determination as to the dismissal and/or suspension without pay pending dismissal.
- 8.3.8 In the event that the review identifies information that is probative of the dismissal, and that was not made available to the faculty review committee and/or the CEO, the chancellor may return the matter to the system academic institution CEO. Upon return to the CEO, the hearing committee has 10 business days in which to conduct a follow-up hearing to evaluate the new information and render its findings and recommendations. The CEO then reviews the hearing committee's findings and recommendations and takes action as appropriate following the guidelines in Section 8.3.5.
- 8.3.9 A faculty member's termination from employment will be effective as determined by the chancellor, upon a finding by the chancellor, pursuant to these procedures, that there is good cause for the faculty member's dismissal. This decision is final.

9. TENURE, FINANCIAL EXIGENCY, AND TERMINATION OR REDUCTION OF PROGRAMS

9.1 Cases of bona fide financial exigency or the reduction or discontinuance of an institutional program based on educational considerations may permit exceptions to tenure regulations.

9.2 Definitions

9.2.1 Bona fide financial exigency means a pressing need to reorder the nature and magnitude of financial obligations in such a way as to restore or preserve the financial stability of any system academic institution. A bona fide financial exigency may exist without the entire system academic institution being affected.

9.2.2 Financial stability means the ability of a system academic institution to provide from current income the funds necessary to meet current expenses, including current debt payments and sound reserves, without invading or depleting capital.

9.2.3 Evidence of financial exigency may include but is not limited to, substantially declining enrollments, substantial revenue cutbacks, and substantial ongoing operating budget deficits.

9.2.4 Educational considerations that could result in the reduction or discontinuance of a program may include, but are not limited to:

- (a) a substantial decrease in program enrollment;
- (b) the need to shift substantial resources to other programs; or
- (c) a substantial modification or redirection of a unit's mission.

9.3 Administration

9.3.1 When the system academic institution CEO believes that a state of bona fide financial exigency exists, the CEO informs the chancellor. If the chancellor concurs with this assessment, the chancellor informs the board. If the board finds that such conditions exist, a state of bona fide financial exigency will exist within that system academic institution.

9.3.2 When faculty dismissals are contemplated on grounds of financial exigency or program termination or reduction, there should be early, careful, and meaningful sharing of information and views with appropriate faculty representatives on the reasons indicating the need to terminate programs. Recommendations from such faculty representatives will be sought on alternatives available to the system academic institution to ensure continuation of a strong academic program and to minimize the losses sustained by affected students and faculty members.

9.3.3 Faculty members who are being considered for termination on the basis of a bona fide financial exigency or a program termination or reduction should be given opportunities for appointment in related areas at their system academic institution provided:

- (a) they are qualified professionally to teach in those areas;

- (b) positions are available; and
 - (c) the affected dean and department head or director concur.
- 9.3.4 Any tenured faculty member or faculty member whose term appointment has not expired, who is selected for termination on the basis of a bona fide financial exigency or a program termination or reduction necessitating a reduction in staff, must be given the following information:
 - (a) a written statement of the basis for the initial decision to lay off;
 - (b) a description of the manner in which the initial decision was made; and
 - (c) information and data upon which the decision makers relied.
- 9.3.5 The faculty member selected for termination must be given an opportunity to respond in a hearing before an appropriate faculty committee. In this hearing, the burden of proof rests with the system academic institution to demonstrate by some credible evidence that a bona fide financial exigency exists or that educational considerations led to the reduction or discontinuance of a program. The faculty committee formulates findings whether or not, in its judgment, a bona fide financial exigency exists or that educational considerations led to the reduction or discontinuance of a program. The faculty committee's findings and recommendations, if any, must be conveyed in writing to the CEO and to the faculty member.
- 9.3.6 Any faculty member reassigned to another position or terminated has the right to reappointment to their previous position if it is re-established within two (2) calendar years.

Related Statutes, Policies, or Requirements

[Tex. Educ. Code § 51.354](#)

[Tex. Educ. Code § 51.942](#)

[System Regulation 12.01.01, Institutional Rules for Implementing Tenure](#)

[System Policy 12.06, Post-Tenure Review of Faculty and Teaching Effectiveness](#)

[System Policy 12.07, Fixed Term Academic Professional Track Faculty](#)

Member Rule Requirements

A rule is required to supplement this policy. See Section 4.1.

Contact Office

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