

**II-327****CRITERIA FOR POLICIES FOR SUSPENSION OF THE TENURE CLOCK****INTRODUCTION**

Effective March 1, 1994, the UW System administrative rules were amended to stipulate four circumstances in which the tenure clock could be suspended during the seven year faculty probationary period. (See attachments UWS 3.04 and 3.06. below) On February 24, 1994, the System administration directed system institutions to revise their rules or develop policies, as appropriate, to implement the revised administrative code in each university. The policies that appear below are proposed for the University of Wisconsin Madison.

History

For many years the probationary period for faculty at the University of Wisconsin Madison was strictly defined in various laws and regulations, with virtually no possibility for alteration. Two equally important arguments underlay establishing such a period with limited flexibility: the first was to protect the faculty member from an indefinite period of service without the protection of academic freedom provided by employment security; the second was to establish a high standard of performance for securing a permanent faculty position, with the expectation that excellence was a function both of the quality and the rate of scholarly productivity. The relatively inflexible probationary period had the further intention of assuring that competitive conditions were similar amongst faculty: one person did not receive a significantly longer period than another to produce work of comparable quality and extent.

In the last two decades, the state, the regents and the faculty have all introduced alterations to the calculation of the probationary period. Many of these changes arose from the recognition that the fairness envisioned in the earlier rules could not reasonably be achieved when members of the faculty were forced to abandon or greatly restrict their research programs by serious illness, childbearing, or adoption, and that a half time appointee limited to the probationary period of a full time faculty member could hardly be working half time. In addition, following merger, the new UW System found it necessary to respond to the desires of members of some other system institutions who found the probationary period used at the UW Madison more restrictive or demanding than met their needs. One major change in the provisions governing the probationary period was incorporated into the merger statute itself. Section 36.13 (2) (d) stipulated a probationary period of seven consecutive years, but also provided—as Madison rules previously had not—that a “leave of absence, sabbatical or a teacher improvement assignment” would not be counted as part of the seven year probationary period, although they did not constitute a break in continuous service. The Madison faculty adopted revisions to *Faculty Policies and Procedures* 7.04. to reflect the changed statutory foundation and to shape the way in which the statute would be applied in this university. The principal provisions of section 7.04. are:

- the probationary period for a full time faculty member is seven years, unless decreased by mutual agreement of the candidate and the department and so stipulated in the initial letter of appointment.
- all previous tenure track service, up to a maximum of three years, must be subtracted from the seven year probationary period at the time of appointment. Conversely, a faculty member shall not be compelled to accept a probationary period of less than four years, even if he or she has more than three years prior faculty service.
- part time service may extend the probationary period, but in no case to a period longer than 12 years.
- an “approved leave of absence” could extend the probationary period;
- and finally, a general purpose “escape clause” was introduced at 7.04.G.:  
“The maximum probationary period may be extended for an appropriate period by the vice chancellor for academic affairs and provost on the recommendation of the departmental executive committee and the relevant dean, and with the approval of the University Committee.”

In practice, over the subsequent years, both the latter provisions were found to raise issues of consistency of treatment, competitive fairness, and on rare occasions, maintenance of consistently high standards of performance.

The “approved leave of absence” provision was the first to generate significant concern. Interpreted as some viewed it, the provision offered the prospect that those most successful at securing research time through extramural support or adequate personal resources would be precisely the ones to obtain the longest probationary periods, thereby placing less richly supported colleagues at substantial disadvantage.

The faculty responded by establishing (in section 7.20. of *Faculty Policies and Procedures*) the category “temporary assignment,” which it distinguished from “leave of absence.” A “temporary assignment” does not interrupt or extend the tenure clock. Effective 1991-92 academic year, section 7.20. of *Faculty Policies and Procedures* stipulated that an approved leave of absence would be granted only when “the faculty member is not paid from funds administered by the university” and when the activity undertaken during the leave “substantially interrupts the ability of the candidate to establish, within the normal probationary period, a record that would warrant the granting of tenure.” This section directs that whenever the occasion for the request does not involve a “substantial interruption of the ability of the candidate to establish within the normal probationary period, a record that would warrant the granting of tenure,” a “temporary assignment,” not a leave of absence, should be granted—whether or not during the period in question the faculty member is compensated by funds administered through the university.

Meanwhile, appeals to the University Committee under the “escape clause” steadily grew. In establishing a committee in spring, 1994, to review the policies on adjustment of the tenure clock, the University Committee acknowledged that such requests had “proliferated” and that “many of these requests represent, in our view, abuse of the rules;” and continued that “we are often forced to balance the need to enforce those rules uniformly with the need to treat equitably all faculty in similar circumstances.” The committee found cases in which faculty members had been promised some adjustment of the tenure clock without prior approval and requests on behalf of faculty with prior service or substantial assigned administrative/service duties to be particularly troublesome.

Consequently, when the changes in the UW System administrative code with respect to the counting of the probationary period became effective March 1, 1994, a need already existed to clarify Madison policy in this area. The newly effective administrative code makes explicit that adjustment of the probationary period can be made in the following conditions, “when those circumstances significantly impede the faculty member’s progress toward achieving tenure”

- “responsibilities with respect to childbirth or adoption
- “significant responsibilities with respect to elder or dependent care obligations
- “disability or chronic illness, or
- “circumstances beyond the control of the faculty member.” [*UWS 3.04(3)*]

These rules further provide that it is assumed that responsibilities with respect to childbirth or adoption will significantly impede progress toward tenure. Requests for suspension of the clock for up to a year on each such occasion are presumed approved, and may be granted on more than one occasion. Under the other three circumstances, determination must be made, under appropriately specified policies, that the circumstance has significantly impeded progress, and the aggregate length of time granted to any single petitioner “ordinarily shall be no more than one year.”

The rules stipulate that a request for a tenure clock extension shall be made before “a tenure review commences under *s. UWS 3.06(1)(c)*.” The referenced statute describes the requirement for written notice of the departmental tenure review. Under normal circumstances this review will occur no later than the beginning of the sixth year.

The issues suggested by this history constitute the matters which these policies are designed to address.

## Definitions and Presuppositions

It is assumed that it is the responsibility of departments to appoint faculty whose specializations, prior experience, and assigned responsibilities equip and permit them to compete successfully for tenure within the specified probationary period. Consequently, requests for adjustment of the tenure clock for reasons other than childbearing or adoption should be infrequent.

Request to adjust the tenure clock is not an appropriate response to failure of departments to follow the written procedures of the University of Wisconsin Madison appointment system. Relief under this section is ordinarily prospective, not retrospective. This section is not an alternative to faculty grievance procedures which involve a hearing with the University Committee or appeal to Committee on Faculty Rights and Responsibilities. Individual faculty members have recourse, pursuant to the *Faculty Policies and Procedures*, to the Committee on Faculty Rights and Responsibilities when they allege that denial of tenure “was based in any significant degree upon impermissible factors, as defined in *UWS 3.08*, with material prejudice to the individual.” (*FPP 7.10*.)

The normal course of competitive search for grants and for publication results in some decisions which are “beyond the control of the staff member” in some sense. The results of competitive application for grants and contracts are not construed to fall within the meaning of “circumstances beyond the control of the faculty members” under these rules, nor is the decrease of general opportunities for scholarly publication.

## Policies

Ordinarily, adjustment of the tenure clock will be justified only by events which cannot reasonably be planned for, and request for adjustment should be made within the year in which the event requiring adjustment occurs or begins to occur. Birth and adoption are time specific events. In general, request for extension because of “responsibilities with respect to childbirth or adoption” should be made within the year following each birth or adoption. On the occasion of birth or adoption, a faculty member may request a leave of absence OR an adjustment of the tenure clock. One or the other shall be granted upon such request. (Individuals may also apply for extension of the tenure clock if significant responsibilities with respect to dependent care significantly impede progress toward tenure.)

When circumstances unique to the nature of the appointment are asserted to justify adjustment of the tenure clock, request for adjustment must be made at the time of appointment and reflected in the initial letter of appointment. Requests for adjustment must be approved in advance of sending the letter of appointment. Medical School administrative practice allows clinical departments to make an initial appointment as a CHS faculty member and then (within five years) convert the appointment to tenure track. When such a conversion is approved, three of the years as CHS faculty are not counted in calculating the maximum probationary period.

Substantial, mutually agreed upon, changes in research site or focus may be a basis for adjustment of the tenure clock. Such changes must be documented in letters of appointment or reappointment and annual evaluation, and must be consistent with the interests of both the individual and the department. Changes of this type may be an acceptable reason for extension of the tenure clock, provided that adequate documentation is provided and that adjustment is requested prospectively.

Circumstances that will not normally be approved as a basis for extension of the tenure clock include:

1. Departure from the procedures for probationary faculty stated in Chapter 7 of *Faculty Policies and Procedures*.
2. Appeals resulting from failure of the department to follow procedures for guidance and written annual evaluation stated in Section 7.05. of *Faculty Policies and Procedures*.
3. Delays in securing extramural support for research and facilities.

Departments and schools/colleges have the responsibility to ensure the availability of needed resources and facilities for the faculty member to embark on a sustained research program. Appointments and arrival dates

should be timed to coordinate with such availability.

It is normal that faculty members will have a lag period before they get started on their research. This does not constitute sufficient reason for extending the tenure clock.

Attachments: UWS 3.04 and 3.06 as revised March 1, 1994

[UW Madison Faculty Document 1110 - 6 February 1995]

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## WISCONSIN ADMINISTRATIVE CODE

### Rules of BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

#### *UWS 3.04 Probationary appointments.*

- (1) Each institution's rules for faculty appointments shall provide for a maximum 7 year probationary period in a full time position, and may provide for a longer maximum probationary period in a part time position of at least half time. Such rules may permit appointments with shortened probationary periods or appointments to tenure without a probationary period. Provision shall be made for the appropriate counting of prior service at other institutions and at the institution. Tenure is not acquired solely because of years of service.
- (2) A leave of absence, sabbatical or a teacher improvement assignment does not constitute a break in continuous service and shall not be included in the 7 year period under sub. (1).
- (3) Circumstances in addition to those identified under sub. (2) that do not constitute a break in continuous service and that shall not be included in the 7 year period include responsibilities with respect to childbirth or adoption, significant responsibilities with respect to elder or dependent care obligations, disability or chronic illness, or circumstances beyond the control of the faculty member, when those circumstances significantly impede the faculty member's progress toward achieving tenure. It shall be presumed that a request made under this section because of responsibilities with respect to childbirth or adoption shall be approved. A request shall be made before a tenure review commences under s. UWS 3.06 (1) (c). A request for additional time because of responsibilities with respect to childbirth or adoption shall be initiated in writing by the probationary faculty member concerned and shall be submitted to a designated administrative officer who shall be authorized to grant a request and who shall specify the length of time for which the request is granted. Except for a request because of responsibilities with respect to childbirth or adoption, a request made because of other circumstances under this section shall be submitted to a designated administrative officer who shall be authorized to grant a request in accordance with institutional policies. A denial of a request shall be in writing and shall be based upon clear and convincing reasons. More than one request may be granted because of responsibilities with respect to childbirth or adoption. More than one request may be granted to a probationary faculty member but the total, aggregate length of time of all requests, except for a request because of responsibilities with respect to childbirth or adoption, granted to one probationary faculty member ordinarily shall be no more than one year. Each institution shall develop procedures for reviewing the requests.
- (4) If any faculty member has been in probationary status for more than 7 years because of one or more of the reasons set forth in sub. (2) or (3), the faculty member shall be evaluated as if he or she had been on probationary status for 7 years.

Example: A faculty member has been on probationary status for a total of 9 years because the faculty member was granted 2 requests under sub. (3) for one year extensions because of the birth of 2 children. The faculty member's teaching, research and professional and public service and contribution to the institution shall be evaluated as if the faculty member had only 7 years to work towards achieving tenure, rather than as if the faculty member had been working towards achieving tenure for 9 years.

*History: Cr. Register, January, 1975, No. 229, eff. 2 1 75; renum. to be (1) and am., cr. (2) to (4), Register, February, 1994, No. 458, eff. 3 1 94.*

*UWS 3.06 Renewal of appointments and granting of tenure.*

(1) (a) General.

Appointments may be granted only upon the affirmative recommendation of the appropriate academic department, or its functional equivalent, and the chancellor of an institution. When specified by the board, the institutional recommendation shall be transmitted by the president of the system with a recommendation to the board for action. Tenure appointments may be granted to any ranked faculty member who holds or will hold a half time appointment or more. The proportion of time provided for in the appointment may not be diminished or increased without the mutual consent of the faculty member and the institution, unless the faculty member is dismissed for just cause, pursuant to s. 36.13 (5), Stats., or is terminated or laid off pursuant to s. 36.21, Stats.

(b) Criteria.

Decisions relating to renewal of appointments or recommending of tenure shall be made in accordance with institutional rules and procedures which shall require an evaluation of teaching, research, and professional and public service and contribution to the institution. The relative importance of these functions in the evaluation process shall be decided by departmental, school, college, and institutional faculties in accordance with the mission and needs of the particular institution and its component parts. Written criteria for these decisions shall be developed by the appropriate institutional faculty bodies. Written criteria shall provide that if any faculty member has been in probationary status for more than 7 years because of one or more of the reasons set forth in s. UWS 3.04 (2) or (3), the faculty member shall be evaluated as if he or she had been in probationary status for 7 years.

(c) Procedures.

The faculty and chancellor of each institution, after consultation with appropriate students, shall establish rules governing the procedures for renewal or probationary appointments and for recommending tenure. These rules shall provide for written notice of the departmental review to the faculty member at least 20 days prior to the date of the departmental review, and an opportunity to present information on the faculty member's behalf. The probationary faculty member shall be notified in writing within 20 days after each decision at each reviewing level. In the event that a decision is made resulting in nonrenewal, the procedures specified in s. UWS 3.07 shall be followed.

*History: Cr. Register, January, 1975, No. 229, eff. 2 1 75; am. (1) (b), Register, February, 1994, No. 458, eff. 3 1 94; correction in (1) (a) made under s. 13.93 (2m) (b) 5, Stats., Register, February, 1994, No. 458.*