

Filed December 16, 1970
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STATE OF WISCONSIN)
) SS
BOARD OF REGENTS OF)
STATE UNIVERSITIES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Eugene R. McPhee, Secretary of the Board of Regents of State Universities and custodian of the official records of said Board, do hereby certify that the annexed amendments to Rules SU 5.01, relating to procedure for dismissal of a non-tenured teacher during his term of employment, and SU 5.02, relating to procedure for dismissal of a teacher having tenure, were duly approved and adopted by this Board on December 11, 1970

I further certify that the copies of said amendments hereto annexed have been compared by me with the respective originals on file in this Board and that the same are true copies thereof and of the whole of such originals.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Regents of State Universities at its office in the City of Madison, this 15 day of December, 1970.

Eugene R. McPhee
Secretary

Resolution Resolved, That the Board of Regents of State
3689. Universities adopt the following:

ORDER OF THE BOARD OF REGENTS OF STATE UNIVERSITIES
ADOPTING PROCEDURAL AMENDMENTS TO RULES.

Pursuant to authority vested in the Board of Regents of State Universities by sections 37.11 (1), 37.31 (1)(b) and 227.02(1)(a), Wis. Stats., the said Board of Regents hereby adopts procedural amendments to its rules as follows:

SECTION SU 5.01 OF THE WISCONSIN ADMINISTRATIVE
CODE IS AMENDED AS FOLLOWS:

Subsection (3) of Rule SU 5.01 is amended to read:

If the teacher requests a hearing, it shall be held before a standing university committee on termination or a hearing agent, in either case selected as hereinafter provided, as soon as reasonably may be but not less than 10 days after the filing of the request for hearing. The time and place of the hearing shall be determined by the chairman of the committee or the hearing agent, as the case may be.

A new subsection is added to Rule SU 5.01 to read:

(9a)(a) In any case where the president, the accused teacher or the committee on termination shall request in writing, prior to the day set for commencement of the hearing, that a hearing agent be appointed to conduct the hearing, the executive director of the Wisconsin State Universities System shall employ a disinterested hearing agent who is legally trained and familiar with the conduct of judicial or quasi-judicial proceedings, to hear the evidence and report his findings of fact, conclusions of law and recommended decision. Prompt notice that a hearing agent is being requested shall be given to the president, the teacher, and the committee on termination by the person or committee initiating the request.

(b) The executive director shall keep on file in his office the names of a panel of 5, 7 or 9 qualified persons nominated at his request by a disinterested person or agency, from which panel hearing agents may be chosen; and at least annually he shall review the panel and obtain additional names from a like source as required to keep it at full strength.

On receipt of a request for appointment of a hearing agent, the executive director shall give the teacher notice of the names of the persons on the panel and shall set a date and place for choosing the hearing agent. The parties may agree upon a hearing agent, or if either party so request, each party shall strike names from the panel in alternation until only one name is left, and the person whose name last remains shall be appointed hearing agent. If the person so chosen shall not be available or shall not accept appointment on a basis of compensation satisfactory to the executive director within 5 days after it is tendered to him, the selection process shall be repeated and another person chosen. If delay on the part of the teacher or his representative shall prevent the selection of a hearing agent in the manner thus specified within 15 days after the date set by the executive director for making the selection, the executive director may himself designate the hearing agent from the panel; and if delay on the part of the administration shall prevent the selection of a hearing agent in the manner thus specified within 15 days after the date set for making the selection, the charges against the teacher shall be deemed withdrawn.

(c) The hearing agent shall conduct the hearing in conformity with subsections (5), (6), (7) and (8) of this section and shall have the powers therein conferred upon the committee on termination and its chairman. He shall make his report to the president; and subsection (9) shall not apply. When charges against more than one teacher involving a common question of fact are pending before the hearing agent, he may after consultation with the parties and consideration of the circumstances and equities, order a joint hearing or trial of any or all of the matters in issue.

(d) The president shall cause copies of the hearing agent's findings, conclusions and recommendations to be served on the teacher, the university representative, and the chairman or a member of the committee on termination if there be such a committee then in existence; and on request made in writing within 10 days after such service he shall cause to be served on each of them a transcript or a recording of the hearing. Service may be made by personal delivery or by registered mail addressed to the last address of the persons shown on the university records. When service is by mail, the date of mailing shall be deemed the date of service.

(e) The teacher and university representative shall have 20 days after service of the hearing agent's findings, conclusions and recommendations, and of the transcript or recording if timely requested, to file exceptions to the hearing agent's report with the president, and to serve a copy of such exceptions on the other party and on the chairman or a member of the committee on termination. The committee on termination shall have 10 days after service of the exceptions to submit its recommendations to the president in writing, and to serve copies thereof on the teacher and university representative. The teacher and university representative shall have 7 days after service of such recommendations to submit their comments thereon to the president in writing. Thereafter the president shall consider the matter and proceed to a decision, following the procedure specified in subsection (10) in case he rejects the committee's recommendations.

(f) The hearing agent's findings of fact shall be conclusive, if supported by substantial evidence in view of the entire record.

(g) This subsection (9a) shall apply to all proceedings for dismissal of a teacher in which a hearing pursuant to subsection (3) has not been held at the effective date of this subsection.

Subsection 11 of Rule SU 5.01 is amended to read:

If, after consideration of the report of the hearing committee or the hearing agent, as the case may be, the president decides that the teacher should be dismissed before the end of the term of his current appointment, and so recommends to the board of regents, the teacher may, by written request mailed to the secretary of the board of regents within five days after receipt of notice of the president's decision, request a review of that decision by the board of regents and a hearing thereon.

SECTION SU 5.02 OF THE WISCONSIN ADMINISTRATIVE
CODE IS AMENDED AS FOLLOWS:

Subsection (2) of Rule SU 5.02 is amended to read:

Whenever the president of a Wisconsin State University receives a complaint against a tenured teacher at his university which he deems substantial and which contains allegations which if true might lead to

the teacher's dismissal, the president shall call the teacher in to discuss the matter informally. If the teacher does not report as requested or if the president is not satisfied with the teacher's explanations, and if any procedure which may be established at the particular university for investigation and consultation with faculty representatives in such cases shall have failed to produce a satisfactory disposition of the matter within fifteen days after the president shall have given notice to the teacher that the procedure is available to him, the president shall give the teacher notice of the charge against him with a summary of its allegations and shall advise him that he may have a hearing before a university committee upon written request made to the president within five days. Such notice shall be given to the teacher in writing unless, upon oral notice, he shall acquiesce in the proposed dismissal and waive in writing further notice and hearing.

Subsection (3) of Rule SU 5.02 is amended to read:

If the teacher requests a hearing, it shall be held before a standing university committee on termination or a hearing agent, in either case selected as hereinafter provided, as soon as reasonably may be but not less than 10 days after the filing of the request for hearing. The time and place of the hearing shall be determined by the chairman of the committee or the hearing agent, as the case may be.

A new subsection is added to Rule SU 5.02 to read:

(9a)(a) In any case where the president, the accused teacher or the committee on termination shall request in writing, prior to the day set for commencement of the hearing, that a hearing agent be appointed to conduct the hearing, the executive director of the Wisconsin State Universities System shall employ a disinterested hearing agent who is legally trained and familiar with the conduct of judicial or quasi-judicial proceedings, to hear the evidence and report his findings of fact, conclusions of law, and recommended decision. Prompt notice that a hearing agent is being requested shall be given to the president, the teacher, and the committee on termination by the person or committee initiating the request.

(b) The executive director shall keep on file in his office the names of a panel of 5, 7 or 9 qualified persons nominated at his request by a disinterested person or agency, from which panel hearing agents

may be chosen; and at least annually he shall review the panel and obtain additional names from a like source as required to keep it at full strength. On receipt of a request for appointment of a hearing agent, the executive director shall give the teacher notice of the names of the persons on the panel and shall set a date and place for choosing the hearing agent. The parties may agree upon a hearing agent, or if either party so request, each party shall strike names from the panel in alternation until only one name is left, and the person whose name last remains shall be appointed hearing agent. If the person so chosen shall not be available or shall not accept appointment on a basis of compensation satisfactory to the executive director within 5 days after it is tendered to him, the selection process shall be repeated and another person chosen. If delay on the part of the teacher or his representative shall prevent the selection of a hearing agent in the manner thus specified within 15 days after the date set by the executive director for making the selection, the executive director may himself designate the hearing agent from the panel; and if delay on the part of the administration shall prevent the selection of a hearing agent in the manner thus specified within 15 days after the date set for making the selection, the charges against the teacher shall be deemed withdrawn.

(c) The hearing agent shall conduct the hearing in conformity with subsections (5), (6), (7) and (8) of this section and shall have the powers therein conferred upon the committee on termination and its chairman. He shall make his report to the president; and subsections (9) and (10) shall not apply. When charges against more than one teacher involving a common question of fact are pending before the hearing agent, he may after consultation with the parties and consideration of the circumstances and equities, order a joint hearing or trial of any or all of the matters in issue.

(d) The president shall cause copies of the hearing agent's findings, conclusions and recommendations to be served on the teacher, the university representative, and the chairman or a member of the committee on termination if there be such a committee then in existence; and on request made in writing within 10 days after such service he shall cause to be served on each of them a transcript or a recording of the hearing. Service may be made by personal delivery or by registered mail addressed to the last address of the person shown on the university records. When service is by mail the date of mailing shall be deemed the date of service.

(e) The teacher and university representative shall have 20 days after service of the hearing agent's findings, conclusions and recommendations, and of the transcript or recording if timely requested, to file exceptions to the hearing agent's report with the president, and to serve a copy of such exceptions on the other party and on the chairman or a member of the committee on termination. The committee on termination shall have 10 days after service of the exceptions to submit its recommendations to the president in writing, and to serve copies thereof on the teacher and university representative. The teacher and university representative shall have 7 days after service of such recommendations to submit their comments thereon to the president in writing. Thereafter the president shall consider the matter and proceed to a decision, following the procedure specified in subsection (11) in case he rejects the committee's recommendations.

(f) The hearing agent's findings of fact shall be conclusive, if supported by substantial evidence in view of the entire record.

(g) This subsection (9a) shall apply to all proceedings for dismissal of a teacher in which a hearing pursuant to subsection (3) has not been held at the effective date of this subsection.

Subsection 12 of Rule SU 5.02 is amended to read:

If, after consideration of the report of the committee on termination or the hearing agent, as the case may be, and of the record on which the report is based, and of any response made pursuant to subsection (11) of this rule, the president decides that the teacher should be dismissed and so recommends to the board of regents, the teacher may, by written notice mailed to the president of the board of regents within twenty days after receipt of notice of the president's decision, appeal the decision to the board of regents.

The foregoing amendments shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register.

December 11, 1970

BOARD OF REGENTS OF STATE UNIVERSITIES

by Ernest A. Lee
Secretary