

UWS 9

Filed September 17, 1975
4:20 pm. S. J. Pra

CERTIFICATE

STATE OF WISCONSIN)
BOARD OF REGENTS OF)
THE UNIVERSITY OF WISCONSIN) ss
SYSTEM)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, J. S. Holt, Secretary of the Board of Regents of the University of Wisconsin system and custodian of the official records of said board, do hereby certify that the annexed rules and regulations, relating to personnel rules for academic staff, limited appointees and other appointees of the University of Wisconsin System, were duly approved and adopted by this board on September 12, 1975.

I further certify that said annexed copy has been compared by me with the original on file in this board and that the same is a true copy thereof, and of the whole original.

IN TESTIMONY WHEREOF I
have hereunto set my hand
and the official seal of the
Board in the City of Madison
this 17th day of September, 1975.



J. S. Holt, Secretary

ORDER OF THE BOARD OF REGENTS
OF THE UNIVERSITY OF WISCONSIN SYSTEM
ADOPTING RULES

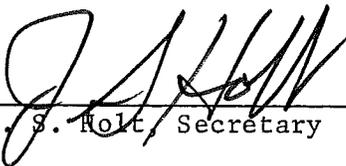
Pursuant to the authority vested in the Board of Regents of the University of Wisconsin System by Section 36.15(3), Wisconsin Stats., the Board of Regents of the University of Wisconsin System hereby adopts the attached rules, relating to personnel rules for academic staff, limited appointments and other appointments, as Chapters UWS 9 through 16 of the Wisconsin Administrative Code.

The rules contained herein shall take effect on November 1, 1975.

Dated: September 12, 1975

BOARD OF REGENTS OF THE
UNIVERSITY OF WISCONSIN
SYSTEM

By


J. S. Holt, Secretary

UNIVERSITY OF WISCONSIN SYSTEM PERSONNEL RULES FOR
ACADEMIC STAFF, LIMITED AND OTHER APPOINTEES

1
2 CHAPTER UWS 9. ACADEMIC STAFF RULES: COVERAGE AND DELEGATION.

3 UWS 9.01 COVERAGE. The rules of UWS 10 to UWS 14, and the policies
4 and procedures developed by particular institutions or central administration
5 thereunder, apply to all academic staff appointments within each institution
6 or within the central administration. In UWS 9 through 14, where appropriate,
7 "president" may be substituted for "chancellor" and "central administration"
8 for "institution."

9 UWS 9.02 DELEGATION. Each chancellor shall provide for the establishment
10 of a committee to advise the administration on policies and procedures for
11 academic staff adopted by the institution pursuant to UWS 9-14. At least a
12 majority of the members of this committee shall be members of the academic staff
13 elected by members of the academic staff. Members of the committee shall select
14 the chairperson thereof. Institutions which now have persons with faculty rank
15 holding positions which will become academic staff positions under the definitions
16 of faculty and academic staff provided in Chapter 36, Wis. Stats., may designate
17 such persons as academic staff for purposes of eligibility to participate in the
18 election of members of the committee chosen in this way, and eligibility for
19 election to the committee. Wherever each institution is charged in UWS 10-14
20 with adopting policies and/or procedures, the chancellor shall develop these
21 policies and procedures in consultation with the committee and, as appropriate,
22 members of the faculty and student body. Policies and procedures developed by
23 each institution for administering the elements of the academic staff personnel
24 policies addressed by these rules shall be in full force and effect when finally
25 approved by the chancellor and forwarded to the board. The board may undertake
26 a review of any or all portions of such policies and procedures but shall complete
27 such review within 90 days of the receipt of the policies and procedures. Should
28 the board within 90 days return to the institution any portion or portions of its
29 policies and procedures as disapproved, that portion or portions shall be suspended
30 until reconsideration and resubmission has taken place.

1 CHAPTER UWS 10. ACADEMIC STAFF APPOINTMENTS.

2 UWS 10.01 TYPES OF APPOINTMENTS. Academic staff appointments may be fixed
3 term, probationary, or indefinite. Several probationary academic staff appointments
4 may precede the granting of an indefinite appointment. Each institution shall
5 develop guidelines concerning the categories of academic staff positions that may
6 be appropriately designated as fixed term, probationary, or indefinite appointments.
7 Appointments may be made in the central administration, an institution, college,
8 department (or its functional equivalent), or a specified research or program unit.
9 An appointment shall be limited to an operational area specified at the time of the
10 appointment and shall not carry rights beyond that limitation.

11 UWS 10.02 RECRUITMENT AND LETTER OF APPOINTMENT.

12 (1) Each institution shall develop procedures relating to recruitment of
13 members of the academic staff. The procedures shall be consistent with board policy
14 and state and federal laws with respect to nondiscriminatory and affirmative action
15 recruitment. The procedures shall allow maximum flexibility at the department,
16 school, and college levels to meet particular needs.

17 (2) The terms and conditions of the appointment shall be specified in a written
18 letter of appointment. The appointment letter shall be signed by an authorized
19 official of the institution and should contain details as to the terms and conditions
20 of the appointment, including but not limited to type of appointment (fixed term,
21 probationary or indefinite), duration of the appointment (starting date, ending date),
22 salary, general position responsibilities, definition of operational area, the
23 length of the probationary period (if appropriate) and recognition of prior service
24 as part of the probationary period (if appropriate). Accompanying this letter shall
25 be an attachment detailing institutional and system regulations, rules, and procedures
26 relating to academic staff appointments. If the appointment is subject to the approval
27 of the board, a statement to this effect must be included in the letter. An amended
28 letter of appointment should be sent in situations where a significant change in
29 position responsibility occurs.

1 UWS 10.03 APPOINTMENTS POLICIES.

2 (1) Fixed term appointments. Each institution of the system may employ
3 academic staff members on fixed term appointments. Such appointments shall be
4 for a fixed term to be specified in the letter of appointment, are renewable
5 solely at the option of the employing institution, and carry no expectation of
6 reemployment beyond their stated term, regardless of how many times renewed.
7 The initial fixed term appointment may include a specified period of time during
8 which the appointee may be dismissed at the discretion of the authorized official.
9 Such a dismissal is not subject to the provisions of UWS 11. Unless otherwise
10 specified, fixed term appointments shall be for a period of one year. Each
11 institution shall develop policies and procedures for the use of such appointments.
12 The policies and procedures of each institution shall specifically treat the issue
13 of job security including appropriate due process protections in the case of non-
14 reappointment for those fixed term academic staff members who have served the
15 institution for a substantial period of time. Such policies and procedures shall
16 be formulated so as to meet the continuing needs of the institution while at the
17 same time recognizing the employment commitment and contribution to the institution
18 provided by such fixed term academic staff members.

19 (2) Indefinite and probationary academic staff appointments. Indefinite
20 appointments and probationary academic staff appointments shall be authorized by
21 the chancellor or his/her designee.

22 (a) Probationary academic staff appointments. Each institution of the system
23 may appoint selected members of the academic staff to probationary academic staff
24 appointments leading to review and a decision on an indefinite appointment. Each
25 institution shall adopt procedures to govern such appointments. These procedures
26 shall provide for appropriate counting of prior service, for a maximum probationary
27 period not to exceed seven years for a full-time position for annual appraisal of
28 performance, and for an affirmative review process prior to the end of the

1 probationary period resulting in promotion to an indefinite appointment or
2 termination of the appointment. A longer maximum probationary period may be
3 provided for part-time appointees. Unless otherwise specified, probationary
4 appointments shall be for a period of one year. A leave of absence shall not
5 constitute a break in continuous service, nor shall it be included in the
6 probationary period. An indefinite appointment is not acquired solely because
7 of years of service.

8 (b) Indefinite appointment. An indefinite appointment is an appointment
9 with permanent status and for an unlimited term, granted by the chancellor to
10 a member of the academic staff. Such an appointment is terminable only for
11 cause under UWS 11 or for reasons of budget or program under UWS 12. Such an
12 appointment may be granted to a member of the academic staff who holds or will
13 hold a half-time appointment or more. The proportion of time provided for in
14 the initial indefinite appointment may not be diminished or increased without
15 the mutual consent of the academic staff member and the institution unless the
16 appointment is terminated or diminished under UWS 11 or UWS 12. Each institution
17 shall adopt procedures to govern indefinite appointments including provisions for
18 annual appraisal of performance.

19 UWS 10.04 NONRENEWAL OF PROBATIONARY ACADEMIC STAFF APPOINTMENTS.

20 (1) Each institution shall establish procedures for dealing with instances
21 where probationary academic staff are not renewed. Nonrenewal is not a dismissal
22 under UWS 11. A nonrenewed member of the academic staff shall be provided with
23 an opportunity to request and to receive, in writing, the reasons for nonrenewal
24 and to receive a review of the decision upon written appeal by the academic staff
25 member concerned within twenty days of notice of nonrenewal (twenty-five days
26 if notice is by first class mail and publication). The hearing body may be
27 either an appropriate committee or a hearing examiner as designated in the
28 institutional procedures. Such review shall be held not later than twenty days

1 after the request, except that this time limit may be extended by mutual
2 consent of the parties or by order of the hearing body. The burden of
3 persuasion in such a review shall be on the nonrenewed appointee and the scope
4 of the review shall be limited to the question of whether the decision was
5 based in any significant degree upon one or more of the following factors,
6 with material prejudice to the individual:

7 (a) conduct, expressions, or beliefs which are constitutionally protected,
8 or actions which are consistent with an appropriate professional code of ethics;

9 (b) employment practices proscribed by applicable state or federal law; or

10 (c) improper consideration of qualifications for reappointment or renewal.

11 For purposes of this section, "improper consideration" shall be deemed to have
12 been given to the qualifications of a staff member in question if material
13 prejudice resulted because of any of the following:

14 1. the procedures required by the chancellor or board were not followed; or

15 2. available data bearing materially on the quality of performance were
16 not considered; or

17 3. unfounded, arbitrary, or irrelevant assumptions of fact were made about
18 work or conduct.

19 (2) Findings as to the validity of the appeal shall be reported to the
20 official making the nonrenewal decision and to the appropriate dean or director
21 and the chancellor.

22 (3) Such report may include remedies which may, without limitation because
23 of enumeration, take the form of a reconsideration by the decision maker, a
24 reconsideration by the decision maker under instructions from the hearing body,
25 or a recommendation to the next higher administrative level. Cases shall be
26 remanded for reconsideration by the decision maker in all instances unless the
27 hearing body specifically finds that such a remand would serve no useful purpose.
28 The hearing body shall retain jurisdiction during the pendency of any reconsideration.

1 UWS 10.05 NOTICE.

2 (1) Notice periods. Written notice that a fixed term or probationary
3 academic staff appointment will not be renewed shall be given to the appointee
4 in advance of the expiration of the appointment as follows:

5 (a) Fixed term appointments: At least three months before the end of
6 the appointment in the first two years and six months thereafter. When the
7 letter of offer for a fixed term appointment states that renewal is not intended,
8 no further notice of nonrenewal is required.

9 (b) Probationary appointments: At least three months before the end of
10 the appointment in the first year; six months before the end of the appointment
11 in the second year; and twelve months thereafter.

12 (2) Extension in the absence of proper notification. If proper notice
13 of nonrenewal is not given in accordance with sec. (1) above, the appointment
14 shall be extended so that at least the required notice is provided.

15 (3) The policies and procedures of each institution may provide for longer
16 notice periods for teaching members of the academic staff. Unless specifically
17 enumerated in the institutional policies and procedures, the above provisions
18 shall govern.

19 CHAPTER UWS 11. DISMISSAL OF ACADEMIC STAFF FOR CAUSE.

20 UWS 11.01 DISMISSAL FOR CAUSE--INDEFINITE ACADEMIC STAFF APPOINTMENTS.

21 (1) A member of the academic staff holding an indefinite appointment may
22 be dismissed only for just cause under sections 11.02 through 11.10 of this
23 chapter or for reasons of budget or program under UWS 12.

24 (2) The board's policy is that members of the academic staff are entitled
25 to enjoy and exercise all rights of United States citizens and to perform
26 their duties in accordance with appropriate professional codes of ethics.
27 This policy shall be observed in determining whether or not just cause for
28 dismissal exists. The burden of proof of the existence of just cause for a
29 dismissal is on the administration.

1 UWS 11.02 RESPONSIBILITY FOR CHARGES.

2 (1) Whenever the chancellor of an institution receives an allegation which
3 concerns an academic staff member holding an indefinite appointment which appears
4 to be substantial and which, if true, might lead to dismissal under sec. UWS 11.01,
5 the chancellor shall request within a reasonable time that the appropriate dean
6 or director investigate the allegation, offer to discuss it informally with the
7 individual, and provide information of rights to which members of the academic
8 staff are entitled under this chapter. If such an investigation and discussion
9 does not result in a resolution of the allegation and if the allegation is deemed
10 sufficiently serious to warrant dismissal, the dean or director shall prepare a
11 written statement of specific charges. A member of the academic staff may be
12 dismissed only after receipt of such a statement of specific charges and, if a
13 hearing is requested by the academic staff member, after a hearing held in
14 accordance with the provisions of this chapter and the subsequently adopted
15 procedures of the institution. If the staff member does not request a hearing,
16 dismissal action shall proceed along normal administrative lines but the provisions
17 of secs. 11.02, 11.08, and 11.09 of this chapter shall apply. In those cases
18 where the immediate supervisor of the academic staff member concerned is a dean
19 or director, the chancellor shall, to avoid potential prejudice, designate an
20 appropriate administrative officer to act for the dean or director under this
21 section.

22 (2) Any formal statement of specific charges shall be served personally
23 or by certified mail, return receipt requested. If such service cannot be
24 made within 20 days, service shall be accomplished by first class mail and by
25 publication as if the statement of charges were a summons and the provisions
26 of sec. 262.06(1)(c), Wis. Stats., were applicable. Such service by mailing
27 and publication shall be effective as of the first insertion of the notice of
28 statement of charges in the newspaper.

1 UWS 11.03 HEARING BODY.

2 (1) The chancellor of each institution shall provide for a hearing body
3 charged with hearing dismissal cases and making a report and recommendations
4 under this chapter. Throughout this chapter, the term "hearing body" is used
5 to indicate either a hearing committee or a hearing examiner as designated in
6 the institutional procedures. This hearing body shall operate as the hearing
7 agent for the chancellor pursuant to sec. 227.12, Wis. Stats., and conduct the
8 hearing, make a verbatim record of the hearing, prepare a summary of the
9 evidence and transmit such record and summary along with its recommended
10 findings of fact and decision to the chancellor according to UWS 11.07.

11 (2) With the concurrence of the faculty and the academic staff advisory
12 committee of each institution, the chancellor may provide that dismissal for
13 cause of a member of the academic staff having teaching responsibilities may
14 be heard by the hearing body specified in UWS 4.03. If so provided, the hearing
15 shall be held pursuant to the provisions of UWS 11.

16 UWS 11.04 HEARING. If the staff member requests a hearing within twenty days
17 from the service of the statement of charges (twenty-five days if notice is by
18 first class mail and publication), such a hearing shall be held not later than
19 twenty days after the request, except that this time limit may be extended by
20 mutual consent of the parties or by order of the hearing body. The request for
21 a hearing shall be addressed in writing to the hearing body established pursuant
22 to UWS 11.03. Service of written notice of hearing on the specific charges
23 shall be provided at least ten days prior to the hearing.

24 UWS 11.05 ADEQUATE DUE PROCESS.

25 (1) Each institution shall develop policies and procedures to provide for
26 a fair hearing upon request in the event of dismissal. A fair hearing for an
27 academic staff member whose dismissal is sought under UWS 11.01 shall include
28 the following:

1 (a) a right to the names of witnesses and of access to documentary
2 evidence upon the basis of which dismissal is sought;

3 (b) a right to be heard in his or her defense;

4 (c) a right to counsel and/or other representative, and to offer witnesses;

5 (d) a right to confront and cross-examine adverse witnesses;

6 (e) a verbatim record of all hearings, which might be a sound recording,
7 provided at no cost;

8 (f) written findings of fact and decision based on the hearing record;

9 (g) admissibility of evidence governed by 227.10, Wis. Stats.

10 UWS 11.06 PROCEDURAL GUARANTEES. (1) The following requirements shall
11 also be observed:

12 (a) any person who participated in the investigation of allegations leading
13 to the filing of a statement of charges, or in the filing of a statement of
14 charges, or who is a material witness shall not be qualified to participate as
15 a member of the hearing body;

16 (b) the hearing shall be closed unless the staff member under charges
17 requests an open hearing, in which case it shall be open (see 66.77, Wis. Stats.,
18 Open Meeting Law);

19 (c) the hearing body shall not be bound by common law or statutory rules
20 of evidence and may admit evidence having reasonable probative value but shall
21 exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give
22 effect to recognized legal privileges;

23 (d) the burden of proof of the existence of just cause is on the
24 administration or its representatives;

25 (e) if a staff member whose dismissal is sought has requested a hearing,
26 discontinuance of the proceeding by the institution is deemed a withdrawal of
27 charges and a finding that the charges were without merit;

1 (f) nothing in sec. (e) shall prevent the settlement of cases by mutual
2 agreement between the administration and the staff member, with the chancellor's
3 approval, at any time prior to a final decision by the chancellor; or when
4 appropriate, with the board's approval prior to a final decision by the board;

5 (g) adjournments shall be granted to enable either party to investigate
6 evidence as to which a valid claim of surprise is made.

7 (2) If the institutional policies and procedures provide that dismissal
8 cases be heard by a hearing committee, the following requirements shall be
9 observed:

10 (a) the committee may, on motion of either party, disqualify any one of
11 its members for cause by a majority vote. If one or more of the hearing
12 committee members disqualify themselves or are disqualified, the remaining
13 members may select a number of replacements equal to the number who have been
14 disqualified to serve, except that alternative methods of replacement may be
15 specified in the policies and procedures adopted by the institution;

16 (b) if the hearing committee requests, the chancellor shall provide legal
17 counsel after consulting with the committee concerning its wishes in this regard.
18 The function of legal counsel shall be to advise the committee, consult with them
19 on legal matters, and such other responsibilities as shall be determined by the
20 committee within the provisions of the policies and procedures adopted by the
21 institution.

22 UWS 11.07 RECOMMENDATIONS: TO THE CHANCELLOR. The hearing body shall
23 send to the chancellor and to the academic staff member concerned, as soon as
24 practicable after conclusion of a hearing, a verbatim record of the testimony
25 and a copy of its report, findings, and recommendations. After reviewing the
26 matter on record and considering arguments if submitted by the parties, the
27 chancellor shall issue a decision. In that decision, the chancellor may order
28 dismissal of the staff member, may impose a lesser disciplinary action, or may

1 find in favor of the staff member. This decision shall be deemed final unless
2 the board, upon request of the academic staff member, grants review based on
3 the record.

4 UWS 11.08 SUSPENSION FROM DUTIES. Pending the final decision as to
5 dismissal, the academic staff member with an indefinite appointment shall not
6 be relieved of duties, except where, after consultation with the appropriate
7 administrative officer, the chancellor finds that substantial harm may result if
8 the staff member is continued in his or her position. Where such determination
9 is made, the staff member may be relieved of his or her position immediately,
10 or be assigned to another administrative unit, but his or her salary shall
11 continue until the chancellor makes a decision as to dismissal.

12 UWS 11.09 DATE OF DISMISSAL. A decision by the chancellor ordering dismissal
13 shall specify the effective date of the dismissal.

14 UWS 11.10 BOARD REVIEW. A member of the academic staff on indefinite
15 appointment who has been dismissed for cause by the chancellor following a hearing
16 may appeal this action to the board. Any appeal must be made within thirty days
17 of the date of the decision of the chancellor to dismiss. Upon receiving an appeal
18 the board shall review the case on the record. Following such review the board may
19 confirm the chancellor's decision, or direct a different decision, or approve a
20 further hearing before the board with an opportunity for filing exceptions to the
21 hearing body's recommendations or the chancellor's decision and for oral argument
22 on the record. If further review with opportunity for oral argument on the record
23 is provided, this review shall be closed unless the staff member requests an open
24 hearing. (See 66.77, Wis. Stats., Open Meeting Law.) All decisions of the board,
25 whether after review on the record or after oral argument, shall be expressed in
26 writing and shall indicate the basis for such decision.

27 UWS 11.11 DISMISSAL FOR CAUSE--FIXED TERM OR PROBATIONARY ACADEMIC STAFF
28 APPOINTMENTS. A member of the academic staff holding a probationary appointment,

1 or a member of the academic staff holding a fixed term appointment and having
2 completed an initial specified period of time, may be dismissed prior to the end
3 of the contract term only for just cause or for reasons of budget or program
4 under UWS 12. A nonrenewal of such an appointment is not a dismissal under this
5 section. A dismissal shall not become effective until the individual concerned
6 has received a written notification of specific charges and has been offered an
7 opportunity for a hearing before the appropriate dean or director or his/her
8 designee. If such hearing is requested, determination of just cause and notification
9 of dismissal shall be made by the dean or director or designee. If no hearing
10 is requested the dismissal is effected by the specifications in the original
11 notification of charges. The hearing before the dean, director, or designee shall
12 provide the academic staff member with an opportunity to present evidence and
13 argument concerning the allegations. Dismissal shall be effective immediately on
14 receipt of written notification of the decision of the dean or director or designee
15 unless a different dismissal date is specified by the dean or director. Dismissals
16 for cause shall be appealable by filing an appeal with the hearing body established
17 under sec. 11.03. The burden of proof as to the existence of just cause on appeal
18 shall be on the administration or the authorized official. The provisions of
19 sec. 11.04, procedural guarantees, contained in sec. 11.05 and 11.06 and the review
20 provisions of sec. 11.07, shall be applicable to the appeal proceeding. In no event,
21 however, shall a decision favorable to the appellant extend the term of the original
22 appointment. If a proceeding on appeal is not concluded before the appointment
23 expiration date, the academic staff member concerned may elect that such proceeding
24 be carried to a final decision. Unless such election is made in writing, the
25 proceeding shall be discontinued at the expiration of the appointment. If the
26 chancellor ultimately decides in favor of the appellant, salary lost during the
27 interim period between the effective date of dismissal and the date of the chancellor's
28 decision or the end of the contract period, whichever is earlier, shall be restored.

1 In those cases where the immediate supervisor of the academic staff member concerned
2 is a dean or director, the chancellor shall, to avoid potential prejudice, designate
3 an appropriate administrative officer to act for the dean or director under this
4 section.

5 UWS 11.12 DISMISSAL FOR CAUSE--TEACHING MEMBERS OF THE ACADEMIC STAFF.

6 The policies and procedures of each institution may provide that dismissal for
7 cause of a member of the academic staff having teaching responsibilities and holding
8 a probationary appointment or a fixed term appointment may proceed under UWS 11.02
9 to 11.10. If the institutional policies and procedures do not specifically make
10 such provisions, dismissal for cause shall be made pursuant to UWS 11.11.

11 CHAPTER UWS 12. LAYOFF OF ACADEMIC STAFF FOR REASONS OF BUDGET OR PROGRAM.

12 UWS 12.01 GENERAL. Notwithstanding 36.15, Wis. Stats., and UWS 10 and 11,
13 the chancellor of each institution or his/her designee may layoff a member of the
14 academic staff holding an indefinite appointment, or may layoff a member of the
15 academic staff holding either a fixed term or a probationary appointment prior to
16 the end of the appointment period, when such action is deemed necessary due to
17 budget or program decision requiring program discontinuance, curtailment, modification,
18 or redirection. Consistent with the limitation of academic staff appointments to an
19 operational area, each institution shall establish policies and procedures which will
20 ensure careful consideration of layoff decisions for reasons of budget or program.
21 The institutional policies and procedures should recognize the constraints imposed
22 on institutional response to an unanticipated cancellation of a contract or grant
23 or to an unanticipated decline in an income account supporting a particular activity.
24 The institution should take such constraints into account in designing the nature
25 and timing of the consultation appropriate to such circumstances. The institution's
26 policies and procedures may provide as needed the alternative forms of consultation
27 appropriate to differences in the sources of funds for various programs or activities,
28 or differences in the timing of information concerning a decline in resources for

1 particular programs or activities. Program decisions made pursuant to a change
2 in the level of resources available for a particular project shall be discussed
3 by the chancellor or his/her designee with such committee, committees, or committee
4 representatives as may be specified by institutional policies and procedures as
5 appropriate for such purposes. Decisions affecting individuals shall be communicated
6 to the affected persons by the chancellor or his/her designee together with a
7 description of the change in available resources which has required the layoff
8 decision. Nonrenewal of a probationary academic staff appointment under UWS 10.04,
9 or a fixed term appointment, even if for financial reasons, is not a layoff for
10 reasons of program or budget.

11 UWS 12.02 LAYOFF. For the purpose of this chapter, "layoff" is the suspension
12 of an academic staff member's employment by the university of Wisconsin system
13 during the appointment period, for reasons of budget or program. A laid-off academic
14 staff member retains the rights specified in UWS 12.07 through 12.11, inclusive.
15 For the purposes of sec. 36.21, Wis. Stats., termination occurs at the time of layoff.

16 UWS 12.03 INDIVIDUAL LAYOFF DECISION. When a reduction in program of a
17 particular operational area is required, layoffs of academic staff members with
18 indefinite, fixed term, or probationary appointments should normally follow seniority.
19 This presumption in favor of seniority may be overcome where program needs dictate
20 other considerations (e.g., the need to maintain specific expertise within the
21 program or operational area). The standard notice periods specified in UWS 10.05
22 should be used, unless there are compelling reasons to the contrary (e.g., almost
23 immediate cutoff of funds), for layoff of probationary and fixed term appointments
24 under this chapter. Indefinite appointees shall have twelve months' notice of
25 layoff for reasons of budget or program, unless there are compelling reasons to
26 the contrary.

27 UWS 12.04 HEARING BODY. The chancellor of each institution shall provide
28 for a hearing body for the purposes of this chapter. Throughout this chapter the
29 term "hearing body" is used to indicate either a hearing committee or a hearing

1 examiner as designated in the institutional procedures. This hearing body shall
2 operate as the hearing agent for the chancellor pursuant to sec. 227.12, Wis. Stats.,
3 and conduct the hearing, make a verbatim record of the hearing, prepare a summary
4 of the evidence and transmit such record and summary along with findings of fact
5 and decision to the chancellor.

6 UWS 12.05 REVIEW AND HEARING FOR INDEFINITE APPOINTMENTS. (1) An academic
7 staff member with an indefinite appointment whose position is to be eliminated
8 shall be notified in writing and shall, upon request made within twenty days
9 after such notification, be given a written statement of the reasons for the
10 decision within fifteen days, including a statement of the reasons for the
11 determination that the budgetary or program needs should be met by curtailing
12 or discontinuing the program in which the individual concerned works. If the
13 academic staff member requests in writing within twenty days after receipt of
14 said statement, he or she shall be entitled to a hearing before the hearing body.
15 However, such a request for hearing shall not forestall a layoff under this section.

16 The request for hearing shall specify the grounds to be used in establishing
17 the impropriety of the decision.

18 The staff member shall be given at least ten days notice of such hearing.
19 Such hearing shall be held not later than twenty days after the request except
20 that this time limit may be extended by order of the hearing body. Anyone who
21 participated in the decision to layoff or who is a material witness shall not
22 serve on the hearing body.

23 (2) The academic staff member shall have access to the evidence on which
24 the administration intends to rely to support the decision to layoff and shall
25 be guaranteed the following minimal procedural safeguards at the hearing:

- 26 (a) a right to be heard in his or her defense;
27 (b) a right to counsel and/or other representatives, and to offer witnesses;
28 (c) a right to confront and cross-examine adverse witnesses;

1 (d) a verbatim record of all hearings, which might be a sound recording,
2 provided at no cost;

3 (e) written findings of fact and decision based on the hearing record;

4 (f) admissibility of evidence governed by 227.10, Wis. Stats.;

5 (g) the hearing shall be closed unless the staff member whose position is
6 to be eliminated requests an open hearing, in which case it shall be open
7 (see 66.77, Wis. Stats., Open Meeting Law);

8 (h) adjournments shall be granted to enable either party to investigate
9 evidence as to which a valid claim of surprise is made.

10 (3) If the institutional policies and procedures provide that the review
11 and hearing be conducted by a committee, the following requirements shall be
12 observed:

13 (a) the committee may, on motion of either party, disqualify any one of its
14 members for cause by a majority vote. If one or more of the committee members
15 disqualify themselves or are disqualified, the remaining members may select a
16 number of other replacements equal to the number who have been disqualified to
17 serve;

18 (b) if the committee requests, the chancellor shall provide legal counsel
19 after consulting with the committee concerning its wishes in this regard. The
20 function of legal counsel shall be to advise the committee, consult with them on
21 legal matters, and carry out such responsibilities as shall be determined by the
22 committee within the policies and procedures adopted by the institution.

23 (4) The first question to be considered in the review is whether one or more
24 of the following factors improperly entered into the decision to layoff:

25 (a) conduct, expressions, or beliefs on the staff member's part which are
26 constitutionally protected or actions which are consistent with an appropriate
27 professional code of ethics;

28 (b) employment practices prescribed by applicable state or federal law; or

1 (c) improper consideration of the qualifications of the staff member. For
2 the purposes of this section, "improper consideration" occurs if material
3 prejudice resulted from any of the following:

- 4 1. the procedures required by the chancellor or board were not followed;
- 5 2. available data bearing materially on the quality of the staff member's
6 actual or potential performance were not considered; or
- 7 3. unfounded, arbitrary, or irrelevant assumptions of fact were made about
8 work or conduct.

9 (5) The staff member shall present evidence on whether one or more of the
10 factors specified above improperly entered into the decision to layoff. The
11 hearing body shall then consider whether the evidence presented establishes a
12 prima facie case that such factor or factors did enter significantly into the
13 layoff decision. If the hearing body finds that a prima facie case has not been
14 established, the layoff decision shall be found to have been proper and the hearing
15 shall be ended.

16 (6) If the hearing body finds that a prima facie case has been established,
17 the appropriate administration officer for the operational area shall be entitled
18 to present evidence to support the layoff decision, and, thereafter, the staff
19 member may present evidence in rebuttal. Thereafter, on the basis of all the
20 evidence presented, the hearing body shall make its determinations as follows:

21 (a) the hearing body shall first consider whether one or more of the above
22 specified factors improperly entered into the decision to layoff. Unless the
23 body is convinced that such factor or factors did improperly enter into that
24 decision, the body shall find the decision to have been proper;

25 (b) if the hearing body is convinced that such factor or factors entered
26 into the decision to layoff, then the body shall find that decision to be improper,
27 unless the body is also convinced (1) that there was a bona fide program or
28 budgetary reason(s), and that the determination of such reason(s) was made in

1 the manner prescribed by, and in accordance with, the standards established by
2 the institution; and (2) that the decision to layoff the particular academic staff
3 member was in accordance with the provisions of UWS 12.02.

4 (7) In determining whether a bona fide budgetary or program reason existed
5 for layoff of the appointment of the academic staff member concerned, the hearing
6 body shall presume that the decision to curtail the program was made in good faith
7 and for proper reasons. The hearing body shall not substitute its judgment or
8 priorities for that of the administration.

9 (8) If the hearing body finds that the layoff was improper, it shall report
10 this decision and its recommendation to the chancellor and to the staff member.
11 The chancellor shall review the matter, decide whether the staff member should be
12 laid off, and notify the hearing body and academic staff member of the decision.
13 This decision shall be deemed final unless the board, upon request of the academic
14 staff member, grants review based on the record.

15 UWS 12.06 REVIEW FOR FIXED TERM AND PROBATIONARY ACADEMIC STAFF MEMBERS.

16 Each institution shall establish procedures for an impartial review of the layoffs
17 for reasons of budget or program of academic staff members with fixed term and
18 probationary appointments. Nonrenewal is not a layoff under this section.

19 UWS 12.07 LAYOFF STATUS. An academic staff member whose position has been
20 eliminated according to the provisions of this chapter may, at the end of the
21 appropriate notice period, be placed on layoff status, unless the layoff notice
22 has been rescinded prior to that time. The academic staff member whose notice
23 period has expired, and who is placed on layoff status shall remain on layoff
24 status until,

25 (a) for fixed term and probationary appointees, one of the following occurs:

- 26 1. The appointment expires under its own terms;
27 2. The staff member fails to accept an alternate appointment.

28 (b) for academic staff on indefinite appointment one of the following occurs:

1 1. The staff member is reappointed to the position from which laid off.
2 Failure to accept such reappointment would terminate the academic staff member's
3 association with the institution;

4 2. The staff member accepts an alternative continuing position in the
5 institution. Failure to accept an alternate appointment would not terminate
6 the academic staff member's association with the institution;

7 3. The staff member resigns;

8 4. The staff member fails to notify the chancellor or his/her designee
9 not later than December 1, of each year while on layoff status, as to his/her
10 location, employment status, and desire to remain on layoff status. Failure to
11 provide such notice of desire to remain on layoff status shall terminate the
12 academic staff member's association with the institution;

13 5. A period of three years lapses.

14 UWS 12.08 ALTERNATIVE EMPLOYMENT. Each institution shall devote its best
15 efforts to securing alternative appointments within the institution in positions
16 for which staff laid off under this chapter are qualified under existing criteria.
17 Each institution should seek to provide financial assistance for academic staff
18 members who have indefinite appointments and who are to be laid off to readapt
19 within the operational area or within another operational area of the institution
20 where such readaptation is feasible within one year's time. Further, the university
21 of Wisconsin system shall devote its best efforts to insure that such staff members
22 laid off in any institution shall be made aware of openings within the system.

23 UWS 12.09 REAPPOINTMENT RIGHTS. Each institution shall establish administrative
24 procedures and policies to insure compliance with 36.21, Wis. Stats., in providing
25 that where layoffs occur for reasons of budget or program, no person may be employed
26 in that operational area at that institution within three years to perform reasonably
27 comparable duties to those of the staff member laid off without first offering the
28 laid off staff member on layoff status reappointment without loss of rights or status.

1 In addition, an institution shall continue for three years from date of layoff
2 to offer the reappointment rights stated in this section to a laid off fixed term
3 appointee whose appointment has expired under its own terms if such appointee
4 notifies the chancellor or his/her designee by December 1 of each year, or more
5 frequently if institutional policies and procedures require, as to his/her location,
6 employment status, and desire to pursue reappointment rights. Failure to provide
7 such notification shall terminate the academic staff member's reappointment rights
8 under this section.

9 UWS 12.10 RETENTION OF SALARY. Any academic staff member reappointed within
10 three years after layoff to reasonably comparable duties within the operational area
11 shall be reappointed with a salary rate at least equivalent to his/her salary rate
12 when laid off, together with such other rights and privileges which may have accrued
13 at that time.

14 UWS 12.11 RIGHTS OF ACADEMIC STAFF MEMBERS ON LAYOFF. An academic staff
15 member on layoff status in accord with the provisions of this chapter has the
16 reemployment rights guaranteed by UWS 12.09 or 12.10, and has the following minimal
17 rights:

18 (1) Such voluntary participation in fringe benefit programs as is permitted
19 by institutional policies;

20 (2) Such continued use of campus facilities as is allowed by policies and
21 procedures established by the institution; and

22 (3) Such participation in institutional activities as is allowed by the
23 policies and procedures established by the institution.

24 CHAPTER UWS 13. COMPLAINTS AND GRIEVANCES.

25 UWS 13.01 COMPLAINTS. Each institution shall establish policies and procedures
26 to deal with allegations by persons other than the academic staff member's supervisor(s),
27 including administrators, students, other academic staff, faculty, classified staff,
28 or members of the public concerning conduct by an academic staff member which violates

1 university rules or policies, or which adversely affects the staff member's
2 performance or obligation to the university but which allegations are not serious
3 enough to warrant dismissal proceedings under UWS 11. Such procedures shall
4 include the designation of an individual or body with the power and authority
5 to conduct a hearing on the complaint and to recommend solutions to the chancellor
6 if the problem cannot be otherwise resolved.

7 UWS 13.02. GRIEVANCES. Each institution shall establish policies and
8 procedures for adjudicating grievances involving members of the academic staff.
9 Such procedures shall include the designation of an individual or body with
10 the power and authority to investigate and to recommend solutions to the
11 chancellor if the problem cannot be otherwise resolved.

12 CHAPTER UWS 14. OUTSIDE ACTIVITIES.

13 UWS 14.01 OUTSIDE ACTIVITIES. Each institution shall develop policies
14 and procedures concerning the performance by an academic staff member of
15 outside activities of an extensive, recurring, or continuing nature outside
16 his/her broad institutional responsibilities during any period of employment
17 by the institution. Such policies and procedures shall be designed to encourage
18 appropriate participation by academic staff members in public service or
19 endeavors related to their fields of interest while ensuring adequate attention
20 to all normal university responsibilities. Institutional procedures and policies
21 shall, at a minimum, provide as appropriate for the following:

- 22 (a) reporting of substantial outside activities;
- 23 (b) notification to academic staff members where activities are deemed
24 excessive or improper;
- 25 (c) a mechanism for appeal from a decision of impropriety;
- 26 (d) policies concerning the use of university facilities;
- 27 (e) policies concerning absence from regular duties;
- 28 (f) reporting of any intended service as an expert witness in legal
29 proceedings, or as staff, advisor, or consultant to granting agencies.

1 CHAPTER UWS 15. LIMITED APPOINTMENTS.

2 UWS 15.01 LIMITED APPOINTMENTS. (1) A limited appointment under
3 sec. 36.19, Wis. Stats., is a special appointment to a designated administrative
4 position. A person in this type of appointment serves at the pleasure of the
5 authorized official who made the appointment. A member of the academic staff
6 granted a limited appointment shall not lose existing rights to an academic
7 staff appointment by accepting the limited appointment, and a member of the
8 faculty granted a limited appointment shall not lose existing rights to a faculty
9 appointment by accepting the limited appointment. Termination of a limited
10 appointment is not a dismissal under UWS 4 or UWS 11 and is not otherwise
11 appealable. Wherever possible, three months' notice of termination should be
12 given if the appointee does not hold simultaneously another university appointment.

13 (2) Limited appointments apply to the following positions: president,
14 senior vice president, provost, vice president, associate vice president,
15 assistant vice president, chancellor, vice chancellor, associate chancellor,
16 assistant to the chancellor, assistant chancellor, associate vice chancellor,
17 assistant vice chancellor, center system dean, secretary of the board, associate
18 secretary of the board, assistant secretary of the board, trust officer and
19 assistant trust officer, and such other administrative positions as the board,
20 the president, or the chancellor determines at the time of the appointment.

21 CHAPTER UWS 16. OTHER APPOINTMENTS.

22 UWS 16.01 OTHER APPOINTMENTS. The board may make or authorize appointments
23 of specified terms for student assistants and employees in training, such as
24 residents, interns, post-doctoral fellows or trainees or associates. Appointments
25 made pursuant to this section shall not be subject to the provisions of secs. 36.13
26 and 36.15, Wis. Stats., and UWS 1-15. Policies and procedures for such appointments
27 shall be determined as appropriate by the president or the chancellor of each
28 institution after consultation with appropriate faculty and with appropriate
29 student assistants and employees[®] in training.