

Adoption of Regent Policy
Document on Tenure

EDUCATION COMMITTEE

Resolution I.1.c.

That, upon the recommendation of the Vice President of the University of Wisconsin System Board of Regents and the President of the University of Wisconsin System, the Board affirms its support for the importance of tenure for ensuring academic freedom and approves the attached new Regent Policy Document on tenure, contingent upon and effective upon the date that s. 36.13, Wis. Stats., is repealed. The new Regent Policy Document maintains the provisions currently codified in s. 36.13, Wis. Stats., and shall be construed in accordance with applicable state law. This new Regent Policy Document will sunset on the date that the Board adopts a tenure policy as a result of the work of the Tenure Policy Task Force, which shall not be later than June 15, 2016.

NEW REGENT POLICY DOCUMENT ON FACULTY TENURE

BACKGROUND

The Governor's 2015-17 biennial budget proposed deleting portions of Chapter 36, Wis. Stats., including s. 36.13, Wis. Stats., pertaining to tenure. On May 29, 2015, the legislative Joint Committee on Finance adopted a motion which: (1) approves the Governor's recommendation to delete from Chapter 36 the definition of "tenure appointment" and language establishing the conditions under which the Board of Regents may grant a tenure appointment to a faculty member; (2) deletes current law specifying that a person who has been granted tenure may be dismissed only for just cause and only after due notice and hearing; and (3) deletes the definition of "probationary appointment" and provisions limiting the length of such an appointment to seven years. Specific statutory language is not yet available.

REQUESTED ACTION

Approval of Resolution I.1.c., adopting the newly-created Regent Policy Document on faculty tenure, contingent upon removal of s. 36.13, Wis. Stats., from state law.

DISCUSSION

At its March 2015 meeting, the Board of Regents adopted a resolution that stated that if the state legislature adopts the Governor's proposal to remove tenure from the statutes with an effective date of earlier than July 1, 2016, the Board of Regents would adopt policies that reflect existing statutory language. Also, at the Board's March 2015 meeting, the President of the Board announced the creation of a Tenure Policy Task Force.

The Joint Finance Committee's action on May 29, 2015 would remove s. 36.13, Wis. Stats., from Chapter 36. Final legislative action will not be known by the time of the Board's June meeting; however, in anticipation that the Joint Finance action will stand as the budget progresses through the Senate and Assembly, the Board is being asked to approve language in Board of Regents policy that replicates the language of s. 36.13, Wis. Stats.

The Tenure Policy Task Force, scheduled to begin meeting in late August 2015, will still be asked to review tenure policy and recommend any needed changes. The policy developed by that group, once approved by the Board, would supersede the policy adopted at the June 2015 meeting. This would be expected to occur by the spring of 2016.

According to the Association of Governing Boards, tenure is a major employment practice in higher education. Tenure has been considered central to ensuring academic freedom. Among public doctoral institutions, 99.5 percent have a tenure system, as do 98.6 percent of master's institutions, and 72 percent of baccalaureate institutions.

For the University of Wisconsin System, tenure has been codified in s. 36.13, Wis. Stats., which:

- a. permits the Board to grant faculty probationary and tenure appointments;
- b. specifies which faculty may be granted tenure;
- c. defines conditions under which a faculty member having tenure may be dismissed;
- d. places a time limit for a probationary appointment; and
- e. requires the Board to develop procedures for dismissal notice, hearings, and other tenure-related matters.

The proposed Regent Policy Document (Attachment A) maintains the provisions currently codified in s. 36.13, Wis. Stats. As noted, specific statutory language is not yet available. If the policy is adopted, it must comply with applicable state law.

RELATED REGENT POLICIES

None.

RPD __: FACULTY TENURE

DRAFT POLICY	NOTES
<p>Scope</p> <p>This policy describes the authority of the University of Wisconsin System Board of Regents to grant faculty tenure.</p>	<p>New language.</p>
<p>Purpose</p> <p>The purposes of this policy are to define who may be granted tenure, establish conditions under which a faculty member having tenure may be dismissed; and require UW System institutions to develop procedures for dismissal notice and hearing.</p>	<p>New language.</p>
<p>Definitions</p> <p>For the purpose of this policy, the following definitions are used:</p> <ul style="list-style-type: none"> (a) “Probationary appointment” means an appointment by the board held by a faculty member during the period which may precede a decision on a tenure appointment. (b) “Tenure appointment” means an appointment for an unlimited period granted to a ranked faculty member by the board. 	<p>New introductory phrase; definitions are from s. 36.13, Wis. Stats.</p>
<p>Policy Statement</p> <p>The Board of Regents shall provide tenure appointments within the following parameters:</p> <ul style="list-style-type: none"> 1. APPOINTMENTS <ul style="list-style-type: none"> (a) Except as provided under par. (b), the board may grant a tenure appointment only upon the affirmative recommendation of the appropriate chancellor and the appropriate academic department or its functional equivalent. Neither the chancellor nor the academic department or its functional equivalent may base a tenure recommendation upon impermissible factors, as defined by the board by rule. (b) The board may grant a tenure appointment without the affirmative recommendation of the appropriate academic department or its functional equivalent if all of the following apply: <ul style="list-style-type: none"> 1. The board has the affirmative recommendation of the appropriate chancellor. 2. A faculty committee authorized by the board by rule to review the 	<p>New introductory phrase.</p> <p>Language copied from s. 36.13, Wis. Stats.</p>

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<p>negative recommendation of the academic department or its functional equivalent finds that the decision of the academic department or its functional equivalent was based upon impermissible factors, as defined by the board by rule.</p> <p>3. The board has the affirmative recommendation of a committee appointed according to the policies and procedures of the appropriate institution to review the individual’s record with reference to criteria for tenure published by the institution under procedures established by the board by rule. No person may be appointed to the committee under this subdivision unless the person is knowledgeable or experienced in the individual’s academic field or in a substantially similar academic field. No member of the committee appointed under this subdivision may be a member of the academic department, or its functional equivalent, that made the negative recommendation. The committee appointed under this subdivision may not base its tenure recommendation upon impermissible factors, as defined by the board by rule.</p> <p>(c) A tenure appointment 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 nor increased without the mutual consent of the faculty member and the institution subject only to sub. (5) <u>Section 4, “Procedural Guarantees,”</u> and s. 36.21.</p> <p>(d) A probationary appointment shall not exceed 7 consecutive academic years in a full-time position in an institution. 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. The board may promulgate rules specifying additional circumstances that do not constitute a break in continuous service and that shall not be included in the 7-year period.</p> <p>2. RULES</p> <p>The board and its several faculties after consultation with appropriate students shall promulgate rules for tenure and probationary appointments, for the review of faculty performance and for the nonretention and dismissal of faculty members. Such rules shall be promulgated under ch. 227.</p> <p>3. CONTINUATION OF APPOINTMENT</p> <p>(a) Any person who holds a tenure appointment under ch. 36, 1971 stats. and ch. 37, 1971 stats., and related rules on July 9, 1974 shall continue to hold tenure as defined under those chapters and related rules.</p> <p>(b) Any person who holds the equivalent of a probationary appointment under ch. 36, 1971 stats., and ch. 37, 1971 stats., and related rules on July 9, 1974 shall continue to enjoy the contractual rights and</p>	<p>Language copied from s. 36.13, Wis. Stats.</p> <p>Change is to point to the correct reference in policy.</p>

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<p>guarantees as defined under those chapters and related rules, and may elect to be considered for tenure according to the procedures existing under that appointment or under sub. (2) <u>Section 1, "Appointments."</u></p> <p>(c) Any person who is not a ranked faculty member on August 15, 1991, and who is also described under subd. 1. or 2. shall be treated as a faculty member with the rank of associate professor for all purposes:</p> <ol style="list-style-type: none"> 1. Any person who held an unranked faculty tenure appointment or unranked faculty concurrent tenure appointment under ch. 37, 1971 stats., prior to July 10, 1974. 2. Any person who held an unranked probationary appointment under ch. 37, 1971 stats., prior to July 10, 1974, and who subsequently received an unranked faculty tenure appointment or unranked faculty concurrent tenure appointment. <p>4. PROCEDURAL GUARANTEES</p> <p>Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person's contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review under ch. 227. The board and its several faculties shall develop procedures for the notice and hearing which shall be promulgated by rule under ch. 227.</p> <p>5. LIMITATION</p> <p>Tenure and probationary appointments are in a particular institution. A tenure appointment is limited to the institution in which the appointment is held.</p>	<p>Language copied from s. 36.13, Wis. Stats.</p> <p>Change is to point to the correct reference in policy.</p>
<p>Oversight, Roles, and Responsibilities</p> <p>The Board of Regents delegates to the President of the UW System or his or her designee the authority to issue operational policies to implement and administer this policy. The Board further authorizes the President to delegate to individual chancellors the authority to implement this policy at their respective institutions within the parameters established by Regent Policy Documents, Wisconsin Administrative Code provisions, and University of Wisconsin System policies.</p> <p>Related Regent Policies and Applicable Laws</p> <p>Chapter 36, Wis. Stats. Chapters UWS 3, 4, 5 and 7, Wis. Admin. Code</p> <p>History</p>	<p>New language – consistent with standard format for RPDs.</p> <p>Delegates authority to UW System President and chancellors.</p> <p>New language</p> <p>New language</p>