



2-3-1983

February 3, 1983

University of North Dakota

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MINUTES OF THE UNIVERSITY SENATE MEETING

February 3, 1983

1.

The February meeting of the University Senate was held at 4:05 p.m. on Thursday, February 3, 1983, in room 7, Gamble Hall. Richard Ludtke presided.

2.

The following members of the Senate were present:

Clifford, Thomas	Henry, Gordon H.	Perrone, Vito
Ahlen, Michael	Johnson, A. William	Phillips, Monte
Antes, James	Karunatileka, Parakrama	Pynn, Ronald E.
Bender, Myron	Kemper, Gene	Reid, John R.
Bostrom, Donald	Kolstoe, Ralph	Ring, Benjamin
Boyd, Robert	Korbach, Robert	Rowe, Clair
Brown, Ralph	Lambeth, Sharon	Samson, Mark
Clark, Alice	Lang, Gretchen	Schwartz, Paul J.
Donaldson, Sandra	Lewis, Robert W.	Shireman, Joyce
Elsinga, Lillian	Ludtke, Richard	Skarvold, Jane
Fuller, Mary Lou	Markovich, Denise	Wermers, Donald
Grow, Crystal	Markovich, Stephen C.	White, Harvey
Haffner, Peter	O'Kelly, Bernard	Wilborn, Graciela
Hamerlik, Gerald	Oberpriller, John	Yeager, Bradford
Hampsten, Elizabeth	Odegard, John	
Hampsten, Richard	Omdahl, Lloyd B.	

The following members of the Senate were absent:

Berg, Marty	Johnson, Tom	Plawecki, Judith
Bolonchuk, William	Langemo, Mark	Schubert, George
Curry, Mabel	Lee, Randy	Skogley, Gerald
Davis, W. Jeremy	Loendorf, Lawrence	Tomasek, Henry
Fletcher, Alan	Medalen, Rodney	Waitsman, Eileen
Greff, Louise	Miller, Jack	Warner, Edward
Hess, Carla	Nowacki, Melanie	Wilson, Todd
Hill, Lawrence	O'Keefe, Kerry	Young, Robert
Hill, Richard	Pederson, Steven	
Jacobsen, Bruce	Peltier, Suzette	

3.

Mr. Johnson moved that the minutes of the January 20, 1983, meeting be approved as distributed. Mr. Yeager seconded the motion which was voted upon and carried by a vote of 42 for and 2 abstaining.

4.

Mr. Johnson presented the proposed schedule for the implementation of procedures adopted by the University Senate on the Role of the College/School Faculties and Deans in Academic Matters, the Administrative Procedures Committee, and the Student Academic Standards Committee. Mr. Perrone seconded the motion. The motion was voted upon and carried by a vote of 41 for and 3 abstaining. (See attachment # 1.)

5.

Mr. Bostrom, Chair of the Academic Policy Committee, presented the report of that committee and moved that it be filed. The motion was seconded, voted upon and carried by a vote of 42 for and 2 abstaining. (See attachment # 2.)

6.

LaVonne Russell, Chair of the Summer Sessions Committee, presented the report of that committee. Mr. Henry moved that it be accepted and filed. The motion was seconded, voted upon and carried by a unanimous vote. (See attachment # 3.)

7.

Mr. Johnson presented the following resolution from the Graduate Faculty and moved approval:

"The Graduate Faculty advises and urges the University Senate to form a Special Committee, to include appointees representing students and faculty of undergraduate colleges/schools, the Graduate School, the Law School, and the Medical School, to propose a university-wide policy for resolving academic grievances. Such committee shall incorporate the following principles in its proposal:

1. The proposal shall cover all classes of student, but not necessarily by an identical procedure. The unique needs of undergraduates, graduates, medical, and law students, and their faculties, and opportunities for redress within their existent organizations/committees, shall be considered.
2. The term "academic grievance" shall be reasonably precisely defined.
3. The process shall include the minimum number of steps to ensure objective consideration of concerns of students and faculty, preclude redundancy, and ensure reasonably rapid response to and resolution of appropriate issues.
4. The final appeal step shall be to a committee or committees."

Ms. Skarvold seconded the motion and discussion followed. The motion was voted upon and carried by a vote of 42 for, 2 against and 1 abstaining.

8.

The Chair announced that there would not be a status report from the Committee on the Faculty Handbook but that Bonniejean Christensen will present the completed report at the March 1983 meeting of the Senate.

9.

In the absence of Randy Lee, Mary Jane Schneider was called upon to present the status report of Tenure Study. Ms. Schneider reported that the North Dakota State Board of Higher Education Recommended Regulations on Academic Freedom, Tenure, and Due Process (see attachment # 4) will be presented to the Board on February 11, 1983, for the first reading.

Mr. Lewis moved that it is the wish of this Senate to remove the reference to economic security in A1. (c.). Mr. Hampsten offered a friendly amendment to change the words, "extremely important" to "indispensable" in A1. (c.) and change "both important" to "indispensable" in A1. (a.). Item A1. (c.) would read as follows: (c.) The purpose of tenure is to assure academic freedom. Academic freedom and, hence, tenure is indispensable to the success of an institution in fulfilling its obligations to its students and to society. The motion was seconded and discussion followed. The motion was voted upon and carried by a vote of 44 for and 1 abstaining.

Mr. Kolstoe moved that this body go on record as urging that tenure be granted by the institution. The second sentence under A1. (d.) would read: "The granting of tenure requires an affirmative act by the Board and is limited to the institution in which tenure is granted. Mr. Hampsten seconded the motion which was voted upon and carried by a vote of 37 for, 4 against, and 3 abstaining.

Mr. Johnson moved that in H1. (d.), page 18, the words, "a student" be changed to "an assistant." Mr. O'Kelly seconded the motion and discussion followed. The motion was voted upon and carried by a unanimous vote.

Mr. O'Kelly moved to change the words "faculty" to "personnel" and "coach" to "coaches" in A2. (a.). Mr. Hampsten seconded the motion and discussion followed. The motion was voted upon and carried by a vote of 44 for and 1 against.

Mr. Lewis moved that A1. (f.) be deleted. Mr. Ring seconded the motion and discussion followed. The motion was voted upon and carried by a vote of 42 for and 3 abstaining.

Mr. Johnson moved that all reference to graduate research assistants be deleted from this document. Mr. Bender seconded the motion which was voted upon and carried by a vote of 41 for and 3 against.

Mr. Ring moved that the Senate go on record as supporting the AAUP position as retaining A3. (e.), the last paragraph on page 5. Mr. Hampsten seconded the motion and discussion followed. Mr. Lewis offered a friendly amendment that the Senate retain the paragraph except for the last sentence. There being no objection, this was accepted. Mr. Lewis called for the question. The motion was voted upon and carried by a vote of 36 for, 11 against, and 6 abstaining.

Mr. Hampsten moved to restore the present policy on part-time tenure, B1. (b III), and delete the addition which begins with the sentence: "Part-time tenure shall no longer be granted." (last paragraph on page 7.) The motion was seconded and discussion followed. The motion was voted upon and carried by a vote of 33 for, 4 against and 3 abstaining.

Mr. Johnson moved to strike the word, "institutional," from F1. (e.) on page 15. Mr. Lewis seconded the motion which was voted upon and carried by a vote of 38 for and 1 abstaining.

Mr. O'Kelly moved to suspend the rules of the Senate on 5:30 adjournment to enable the meeting to continue. The motion was seconded, voted upon and carried by a vote of 31 for, 1 against and 4 abstaining.

Mr. O'Kelly moved to change the word, "or" to "and," in F1. (e.) on page 15. Mr. Hampsten seconded the motion. The motion was voted upon and carried by a vote of 30 for and 4 against.

Mr. Hampsten moved to remove the phrase, "With the exception of dismissals under F1. (c.)," in F2 on page 15. Elizabeth Hampsten seconded the motion. Discussion followed and Mr. O'Kelly suggested a friendly amendment to change the word, "selected," to "considered," in that same sentence. The sentence would then read: 2. "A faculty member considered for dismissal under this section shall be given written notice of dismissal by the institutional president in accordance with the following schedule:". The motion was voted upon and carried by a vote of 21 for, 2 against, and 5 abstaining.

10.

Mr. Kolstoe, the alternate representative to the Council of College Faculties, reported on Board Policy. (See attachments # 5 and # 6.) He said there are approximately 16 of these kinds of documents which will be coming forth on these types of issues. In the future, we hope to get prior notice. Any feedback on such documents should be sent either to Norton Kinghorn or Ralph Kolstoe.

11.

Ms. Clark moved adjournment. The motion was seconded, voted upon and carried by a unanimous vote. The meeting adjourned at 5:42 p.m.

D. J. Wermers
Secretary

Proposed Schedule for the Implementation of Procedures
Adopted by the University Senate on January 20, 1983

I. Role of the College/School Faculties and Deans in Academic Matters

- Paragraph 1 (certification of students for graduation)
-February 4, 1983
- Paragraph 2 (petitions and appeals handled in their colleges)
-May 15, 1983
- Paragraph 3 (readmission of former students)
-effective for all seeking readmission for the 1983
Summer Session and later terms.
- Paragraph 4a (Admissions office determination of transferability)
-immediately (is present practice).
- Paragraph 4b (determination of transfer work meeting GER requirements)
-for all applications for admission received after
September 15, 1983, but with an intent to do so for
all new fall 1983 enrollees if possible.
- Paragraph 4c (applicability of transferred work to degree requirements)
-immediately (is present practice).
- Paragraph 5 (appeals to college committees)
-May 15, 1983

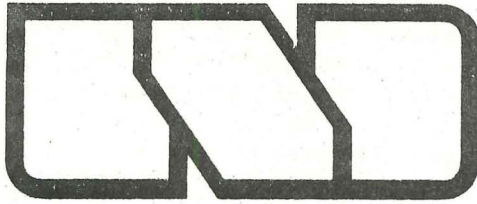
II. Administrative Procedures Committee

The new division of responsibilities will apply to all petitions received in the Registrar's office or the Dean's office after May 15, 1983.

III. Student Academic Standards Committee

The new division of responsibilities shall apply for all students seeking readmission for the 1983 Summer Session and later terms.

Recommended by Dean's Council
February 2, 1983



memorandum

TO: University Senate
 FROM: UND Academic Policies Committee
 RE: Annual Report

DATE: December 23, 1982

The Committee on Academic Policies is a standing committee charged by Senate By-Laws "to recommend to the University Senate and/or the student Senate policies and plans of action relating to the academic life of the University (curricula, teaching methods, and those aspects of student and faculty affairs which affect academic life) which are consistent with the acknowledged purposes of the University."

<u>1981-1982 Academic Year</u>		<u>1982-1983 Academic Year</u>	
Don Bostrom, Chair	Accounting	Don Bostrom, Chair	Accounting
Lee Kraft	Nursing	Jacqueline Grinde	Nursing
Ralph Kolstoe	Psychology	Ralph Kolstoe	Psychology
Ernest Norman	Social Work	Ernest Norman	Social Work
Alice Clark	(ex off) VPAA	Alice Clark	(ex off) VPAA
Paul Colwell	Student	David Pudwill	Student
John Welch Jr	Student	Eileen Waitsman	Student
Mark Young	Student	Mark Young	Student

Activities since last Annual Report:

12/8/81. Interviewed Goerge Schubert, University College Dean, as an information resource concerning four policy items under consideration by the Committee:

Situations involving repeat for S-U credit of courses originally taken for letter grade. Further research scheduled.

Situations involving "lumpy" enrollments caused by departments offering full-term courses in half-term scheduling increments with class times doubled. Viewed primarily as a localized matter to be handled at College or Departmental levels. No further action recommended.

Referral from October 1, 1981 Senate meeting of a motion to permit completion of a portion of the last-thirty-hours residency requirement by CLEP Subject Examination(s), Special Examination(s) ("validating" or "challenge"), Correspondence Course(s), transfer work, or a combination of those methods. After substantial discussion, the proposal was rejected by a unanimous vote. University Senate was notified at its March meeting.

Situations concerning students who transfer in virtually all but the final thirty semester hours for undergraduate degrees at UND. No further action recommended.

1/9/82. Three policy items were considered:

Situations involving repeat for S-U credit of courses originally taken for letter grade (continued). Following additional research concerning dangers inherent in existing policies and technological feasibilities of implementing a more sophisticated replacement policy, the catalog provision that "The last grade achieved in each course is to be used in calculating the grade point average" was modified as follows: "If a course repetition is taken for traditional A-through-F letter grading, the last grade achieved in the course will be used in calculating the student's grade point average. Repeating a course by S-U registration will eliminate the effects of the last earlier grade from a student's grade point average computation if the last achieved result is an S, but repetition which results in a U will leave the effects of the earlier grade intact." Recommendation approved by University Senate at its February 4 meeting.

1/9/82 (continued)

A request from University College that policy restrictions on mid-year dismissals be modified or eliminated was discussed and carried forward pending further research. A request from Dean Schubert for elimination of current policies providing student exemption from Composition 101 for certain combinations of ACT scores and high school grades was referred to the General Graduation Committee with a request for prior consideration there.

2/18/82. Interviewed Dean Schubert to acquire further information and perspectives concerning the last two items from 1/9. Considered three policy matters:

After thorough review, existing policies on mid-year dismissals were retained.

The matter of English exemptions was discussed pro and con, with action deferred.

Prior consideration by the General Graduation Requirements Committee was in progress.

An informal survey of existing last-course-drop-without-permission dates at institutions in this geographic area was briefly discussed, with further consideration docketed for later.

4/27/82. In the final meeting of the 1981-82 academic year, the Committee:

Reviewed recommendations concerning the Composition Waiver provisions from University College Dean George Schubert, memo 12/15/81; from Director of Freshman English Ed Chute and English Department Chairman Norton Kinghorn, 4/1/82 memo to the General Graduation Requirements Committee; and from the General Graduation Requirements Committee itself.

Voted unanimously to recommend to the Senate the elimination of the English Exemption provision delineated as item (3) on page 24 of the 1982-84 UND Undergraduate Bulletin. The recommendation was approved by University Senate October 7, 1982.

Discussed briefly the last-drop-dates policy, with further consideration deferred until Fall.

Summarized and reviewed the year's activities.

Commended the Committee's student members for clearly superior performances and participations throughout the year.

11/18/82.

1982-83 organizing session.

Reintroduced discussion of deadlines for dropping courses without instructor permission.

Received inquiry concerning the minimum number of additional hours required, beyond the minimum number of hours required for attainment of a first baccalaureate degree, to earn a second baccalaureate degree.

REPORT
OF THE
SENATE COMMITTEE ON
SUMMER SESSIONS
1981-82

Submitted by

LaVonne Russell, Chairperson 1982-83

Committee Members 1981-82
Beverly Brekke, Chairperson
Sandra Modisett
Brian Paulsen
LaVonne Russell
Sheldon Schmidt
Paul Schwartz
George Schubert, Dean

Committee Members 1982-83
Sue Hultman
Sandra Modisett
Brian Paulsen
Sheldon Schmidt
Harvey White
LaVonne Russell, Chairperson
George Schubert, Dean

The Summer Sessions Committee met seven times during the 1981-82 academic year: October 13, November 9, December 7, January 25, February 24, April 7, and May 5. During these meetings the committee, as an advisory board to the Dean of Summer Sessions, engaged in the following activities:

1. Discussed scheduling of summer session classes.
2. Reviewed action taken by the University Senate and Vice President Clark in regard to the improvement of 1981 Summer Session teaching salaries.
3. Compared academic year salaries at each rank with summer sessions salaries.
4. Recommended to Vice President Clark that summer session teaching salaries for summer 1983 be increased to 75% of academic monthly salaries. (The comparison of salaries revealed monthly summer session salaries were 67-68% of monthly academic salaries.)
5. Recommended to Vice President Clark a seven year plan (1983-89) whereby Summer Sessions faculty salaries can be increased to a parity with academic year salaries.
6. Requested the Academic Policy Committee to examine the policy covering the credit load of students as it applies to the number of hours in which a student can be enrolled at any one time.
7. Discussed limitation of contact hours for students attending summer session.
8. Submitted an introductory proposal to Robert Young, Director of Instructional Development, for a contract to fund innovative teaching in the Summer Session.

In summary, the committee in conjunction with Dean Schubert focused on Summer Session salaries, policies, scheduling and teaching including the initiation of a proposal to foster innovative teaching during the Summer Session.

Board Draft #1

November 19, 1982

NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
RECOMMENDED REGULATIONS ON ACADEMIC FREEDOM, TENURE, AND DUE PROCESS*

A INTRODUCTION

1. General Principles

- a. A College or university is a forum for ideas, and it cannot fulfill its purpose of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. Academic freedom and tenure are both important in guaranteeing the existence of such a forum.
- b. Academic freedom applies to both research and teaching. Freedom in research is fundamental to the advancement of knowledge. Academic freedom in teaching is fundamental for the protection of the rights of the teacher in teaching and of the student in learning. It carries with it duties and responsibilities correlative with rights. These duties and rights are set forth in a policy on Academic Freedom adopted by the State Board of Higher Education and hereby

*Underlined words are recommended additions to the current policy by the Tenure Study Committee. Crossed out words are recommended deletions from current policy or from the Tenure Study Committee recommendations. Double underlined words are recommended additions to the Tenure Study Committee draft.

incorporated by reference into these regulations. The policy and these regulations apply to all persons appointed to the academic staff of an institution unless otherwise indicated.

- c. The purpose of tenure is to assure both academic freedom and a sufficient degree of economic security to make the academic profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable extremely important to the success of an institution in fulfilling its obligations to its students and to society.
- d. The awarding of tenure in an individual case shall be consistent with the sound fiscal management and academic priorities of the institution and the system of education under the control of the State Board of Higher Education. The granting of tenure requires an affirmative act by the Board and is limited to the academic unit or program area in the institution in which tenure is granted.
- e. These regulations are designed to enable North Dakota institutions under the control of the State Board of Higher Education to protect academic freedom and tenure and the requirements of academic due process. ~~The principles implicit in these regulations are for the benefit of all who are involved with or are affected by the policies and programs of the institutions.~~

- f. Failure by institutions to meet the timelines set forth in this policy shall not affect the validity of the proceedings unless the recipient has suffered substantial detriment because of the procedural violation.

2. Definitions

- a. Academic Staff: Includes faculty appointed as lecturers, including adjunct and visiting appointments in these ranks, instructor, assistant professor, associate professor, professor, graduate teaching or research assistants, but shall not include coaches in their capacity as a coach.
- b. Board: Board shall refer to the North Dakota State Board of Higher Education.
- c. Receipt: Receipt means either actual or constructive receipt. Constructive receipt means the sending party has taken all reasonable steps to ensure that the receiving party has received actual notice.

3. General Procedures

- a. Because of the variety of scope and organizational structure of the institutions under the control of the State Board of Higher Education, the faculty governance structure at each institution in accordance with section 305.1 of these policies, shall adopt recommend procedural regulations to the president to implement these Regulations on Academic Freedom, Tenure, and Due Process. A statement of such procedures and any amendments shall be presented to the Board for approval, shall be

filed with the State Board of Higher Education and shall be made available in convenient form to all academic personnel at each institution.

- b. In accordance with section 305.1 of these policies, the faculty governance structure at each institution shall, though-the-faculty-and-administration, develop:
- (1) procedures for continuing evaluation of both probationary and tenured faculty members, and (2) criteria and procedures by which faculty members are evaluated and recommended for tenure.
- c. Each institution shall have a Standing Committee on Faculty Rights consisting of three to or five tenured faculty members elected for staggered terms by the faculty-as defined-by faculty governance structure at each institution. The Committee shall elect its own presiding officer annually and shall hold formal hearings in accordance with the procedures described in Section J on all matters referred to it under these regulations. The Committee shall judge any allegation of bias or conflict of interest. In the event that an individual member is judged by the Committee to be biased or to have a conflict of interest in a specific case, the Committee shall replace the member with a substitute member for that case.
- d. Each-institutional-senate The faculty governance structure at each institution shall provide for a Special Review Committee to investigate each alleged violation of this policy on an informal basis without a verbatim transcript or

the privilege of cross-examination. ~~A~~ After investigation of a complaint, the A Special Review Committee shall, within thirty calendar days of its receipt of an allegation of violation, investigate the alleged violation and attempt to resolve the problem. If the problem is not resolved, the Special Review Committee or failing that, where this policy provides for a hearing by the Standing Committee on Faculty Rights, shall refer the matter to the that Standing Committee on Faculty Rights for formal hearing if this policy provides for such hearing. Findings Recommendations of the Special Review Committee shall be reported in writing to the complainant, department head, division head of the academic unit or program area, dean or academic vice president, and president. Except by mutual consent of the complainant and the president, no complaint shall be heard by the Standing Committee on Faculty Rights until a Special Review Committee has completed its investigation and attempted a solution.

~~e. A Special Review Committee shall also be available to attempt mediation of grievances. For purposes of this paragraph a "grievance" does not include matters related to termination or nonrenewal. The faculty governance structure at each institution shall define the actions or conditions subject to grievance and shall file them with the State Board of Higher Education. Such grievances shall not be subject to further review by the Standing Committee on Faculty Rights or the State Board of Higher Education.~~

B. ACADEMIC STAFF APPOINTMENTS

1. The following academic staff appointments are appointments to the faculty of an institution; they shall be at the rank of instructor, assistant professor, associate professor, and professor or higher and shall be probationary, tenured or special.
 - a. PROBATIONARY APPOINTMENTS are renewable annually and yield credit toward tenure. Initial probationary appointment must be entirely supported by state appropriated funds. No person may spend more than six years of academic service on probationary appointment at an institution.
 - b. TENURED APPOINTMENTS recognize a right, subject to the conditions in these regulations, to continuous academic year employment in an academic unit or program area as defined by an institution and stated on the contract. A faculty member shall qualify for a tenured appointment by satisfying the criteria for tenure (developed in accordance with Section A(3)(b) of this policy) during a probationary period of six years of academic service to the institution. Upon recommendation by the president, the State Board of Higher Education may award early tenure.
 - (1) An individual with previous professional experience may, at the discretion of the institution, be given

tenure credit not to exceed three years for this experience, with such credit to be regarded as academic service to the institution for the purpose of these regulations. The faculty member shall be informed in writing of this policy and the institution's this decision prior to or at the time of appointment.

- (ii) Time spent on leave of absence or developmental leave may be counted, up to a maximum of two years, as academic service for the purposes of these regulations. The amount this shall be determined, and the faculty member informed in writing, including any applicable conditions, prior to authorization the-beginning of the leave.

- (iii) ~~A faculty member who has completed six years of continuous part-time academic service on a probationary appointment to the institution and who is given a seventh-year unconditional appointment shall be considered tenured at any time thereafter to an extent equal to the average of the proportion of full-time appointment (as defined by reference to a full-time teaching load stipulated by the institution for the academic unit or program area involved) held during each of the previous four years of service.~~ Part-time tenure shall no longer be granted. Faculty members who have been awarded part-time tenure as established by previous Board policy shall continue to have such tenure recognized.

c. SPECIAL APPOINTMENTS of academic staff do not involve either tenure credit or status. Examples are:

- (i) Courtesy adjunct appointments awarded in accordance with Board policy to professional people in the community who contribute to the academic or research program of the institution;
- (ii) Visiting appointments for people holding academic rank at another institution of higher education;
- (iii) Appointments of retired faculty members on special conditions;
- (iv) Initial appointments supported wholly or partially by other than state appropriated funds;
- (v) Appointments clearly limited to a brief association with the institution, as defined by the institution; but not to exceed the maximum probationary period; and
- (vi) Terminal appointments given with notice of nonrenewal to faculty members who were previously on probationary appointment. A terminal appointment with notice of nonrenewal must be given to a faculty member no later than the end of the sixth year of probationary appointment if the decision is made to deny tenure.

2. The following academic staff appointments shall be made without faculty rank or status:

- a. Lectureship appointments, which shall be for performance of specifically assigned academic duties only, without general faculty responsibilities. These appointments should

ordinarily be either part-time or temporary; and

b. Graduate teaching or research assistant appointments.

3. Those appointed to the faculty have the right to information regarding their appointment.

a. The general terms and conditions of appointment shall be provided the appointee in a written document. any Subsequent extensions or modifications of an appointment, and any special understanding, or any notices required, shall be in writing and a copy provided the appointee.

b. The institutional process for evaluation of faculty, and the criteria or minimum expectations for promotion and for tenure, shall be made known to the appointee at the time of appointment. This disclosure may be accomplished by a published description of the process, criteria, and expectations in a faculty handbook or similar document.

c. The terms and conditions of renewal appointment, or other appointment subsequent to initial appointment, should be provided no later than May 15. Each institution shall make a reasonable effort to provide such ~~the~~ notice by April 15.

d. Faculty appointment shall be evidenced by a contract which shall state on its face whether the appointment is probationary, tenured, or special. Contracts are normally issued for one academic year at a time.

C. NONRENEWAL OF APPOINTMENT OF PROBATIONARY FACULTY

1. In all cases, written notice that a probationary appointment is not to be renewed shall be given to the faculty member in

advance of the expiration of his or her appointment, as follows:

a. Not later than March 1 of the first academic year of service if the appointment expires at the end of that academic year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

b. Not later than December 15 of the second academic year of service if the appointment expires at the end of that academic year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.

c. At least twelve months before the expiration of an appointment after two or more academic years of service at the institution.

2. When a decision not to renew a probationary appointment has been reached, the faculty member involved shall be informed of that decision in writing by the individual or chair of the body making the decision. If the faculty member so requests in writing within seven calendar days after receipt of notice, he or she will be advised of the reasons which contributed to that decision within seven calendar days after receipt of the request. The faculty member may within fifteen calendar days after receipt of the stated reasons request a reconsideration by the deciding body or individual and a written confirmation of the reasons given in explanation of the nonrenewal. ~~if said request is made within 15 calendar days after receipt of the stated reasons~~ The results of the reconsideration must be

provided in writing to the faculty member within fifteen calendar days after receipt of the request.

3. ~~Insofar as~~ If within sixty calendar days after receipt of notice of nonrenewal, the faculty member alleges that the non-renewal decision was based on inadequate consideration, a Special Review Committee shall review the faculty member's allegations and determine whether the decision was the result of inadequate consideration in terms of relevant standards of the institution. The term "inadequate consideration" shall be interpreted to refer to essentially procedural rather than substantive issues and shall not mean that the Special Review Committee should substitute its own judgment on the merits of whether the faculty member should be reappointed or given tenure. If the Special Review Committee believes that adequate consideration was not given, it shall request reconsideration, indicating the respects in which it believes the consideration may have been inadequate. It shall provide copies of its findings report to the faculty member, the recommending body or individual, the president, and other appropriate administrative officers. Allegations Cases involving the adequacy of consideration shall not be subject to further review by the Standing Committee on Faculty Rights or the ~~State Board of Higher Education~~.
4. If a faculty member on probationary or ~~other non-tenured~~ special appointment alleges, within sixty calendar days after receipt of notice of nonrenewal, that the nonrenewal decision was based significantly on considerations violative of

(a) academic freedom, (b) rights guaranteed by the United States Constitution, or (c) rights previously conferred by written agreement, the allegation shall be given preliminary consideration by a Special Review Committee, which shall seek to settle the matter by informal methods. The allegation shall be accompanied by a statement that the faculty member agrees to the presentation, for the consideration of the faculty committees, of such reasons and evidence as the institution may allege in support of this decision. If the allegation ~~difficultly~~ is unresolved at this stage, and if the Special Review Committee so recommends, the matter shall be heard by the Standing Committee on Faculty Rights in accordance with the procedures in Section J, except that the faculty member making the complaint shall be responsible for stating the grounds upon which it is based and ~~and the burden of proof shall rest upon the faculty member~~ must prove by clear and convincing evidence that the nonrenewal was based significantly on the alleged improper considerations. If the faculty member succeeds in establishing a prima facie case before the Standing Committee on Faculty Rights, it shall be incumbent upon those who made the nonrenewal decision to come forward with evidence in support of their decision.

D. TERMINATION OF APPOINTMENT BY A FACULTY MEMBER

A faculty member may terminate an appointment effective at the end of the academic year, provided that he or she gives notice in writing at the earliest possible opportunity, but not later than May 15, or one month after receiving notification by the institution

of the terms of an appointment for the coming academic year, whichever date occurs later. The faculty member may properly request a waiver of this requirement of notice in case of hardship or in a situation where he or she would otherwise be denied substantial professional advancement or other opportunity.

E. TERMINATION OF APPOINTMENTS OF TENURED FACULTY AT THE END OF A CONTRACT PERIOD:

1. Upon approval by the Board, an institution may terminate ~~termination of~~ an appointment with tenure ~~may be~~ based upon demonstrably bona fide financial exigency, loss of legislative appropriations, loss of enrollments, loss of institutional or program enrollment, consolidation of departments, academic units or program areas, or elimination of courses. In such cases, primary significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected ~~department or program division~~ academic unit or program area. Other factors such as curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity shall also be considered and may prove to be conclusive.
2. In accordance with section 305.1 of these policies, the governance structure at each institution shall recommend to the president by July 1, 1984, define the means procedure by which faculty participation will be provided in resolving the following questions prior to any notice of termination under Section E 1:
 - a. The extent to which there are grounds for termination of

tenured appointments;

- b. Judgments determining where within the overall academic program termination of appointments may occur; and
 - c. The procedure and criteria for identifying the individuals whose appointments are to be terminated.
3. A tenured faculty member considered selected for termination under this section shall be given written notice of termination by the institutional president at least twelve months prior to the expiration of the faculty member's appointment.
 4. A faculty member given notice of termination under this section may request that the institution circulate his or her vita to other departments academic units or program areas within the institution. In addition, the institution shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for any vacant academic positions in the employing institution for which the faculty member is qualified. ~~although~~ The faculty within any academic department unit or program area shall have the major responsibility in determining qualifications for appointment within their department therein.
 5. A position terminated under this section will not be filled by a replacement within two years, unless the released faculty member has been offered appointment with tenure and a reasonable time within which to accept or decline it.
 6. If a faculty member is terminated under this section, then the provisions of Sections I and J shall not apply.
 7. Termination at the end of a contract period also may be made

for adequate cause, in which case the grounds specified in Section F must be shown.

F. DISMISSAL DURING A CONTRACT PERIOD

1. Dismissal of a faculty member with tenure, or with a special or probationary appointment before the end of the specified term, may be effected by the institution only for adequate cause. Adequate cause shall be defined to include: (a) demonstrated incompetence or dishonesty in teaching, or research, or other professional activity related to institutional responsibilities, (b) substantial and manifest neglect of duty, (c) personal conduct, which could include criminal conduct, which substantially impairs personal conduct including but not limited to moral turpitude or criminal conduct which substantially impairs the individual's fulfillment of institutional responsibilities, or (d) a physical or mental inability to perform assigned duties, or (e) significant or continued a violations of State Board of Higher-Education policy or institutional policy; provided that for violations of institutional policy the faculty member must have been notified in advance by the president or the president's designee that violation would constitute grounds for dismissal, or the policy provides specifically for dismissal as a sanction.
 2. With the exception of dismissals under F(1)(c), a faculty member selected for dismissal under this section shall be given written notice of dismissal by the institutional president in accordance with the following schedule:
 - (a) At least three months, if written notice is given by March 1 ~~(or three months prior to the expiration)~~ of during the first year of the probationary service;
 - (b) at least six months, if the written notice is given by December 15 ~~of during~~ the second year (or after nine months but prior to eighteen months) of probationary service; or
 - (c) at least twelve months, if the written notice is given thereafter, eighteen months of probationary service or if the faculty member has tenure.
 3. Pending a final decision on dismissal, the faculty member may be suspended by the president or his delegates, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or other is threatened by continuance. ~~including but not limited to cases involving moral turpitude or criminal conduct.~~ The faculty member's salary and economic fringe benefits shall continue during a period of suspension, but may be terminated by the institution at the conclusion of the dismissal procedures provided by these regulations if the final decision affirms the dismissal and finds the grounds for the suspension to have been substantiated by the evidence. If there has been a suspension under this subsection and/or a dismissal pursuant to F(1)(c), all other benefits or rights may be terminated at the conclusion of the procedures. ~~Before suspending a faculty member, pending an ultimate determination of his or her status through the institution's hearing procedures, the administration may consult with the faculty committee concerning the propriety, the length and other~~

~~conditions of the suspension, in the event the grounds for suspension are substantiated by the evidence, the faculty member's suspension shall be without pay, and the written notice provisions of this section shall not apply.~~

G. ADMINISTRATIVE ACTIONS OTHER THAN DISMISSAL

1. If the administration determines that the conduct of a faculty member, although not constituting ground for termination or dismissal, justifies provides reasonable cause for imposition of a sanction, the faculty member must be informed in writing of the sanction and, upon request, the reasons for the sanction.
2. ~~No faculty member shall be subjected to demotion in status or reduction in salary without reasonable and just cause, which shall be stated in writing if the faculty member so requests in either of the above cases.~~ The faculty member may request consideration by a Special Review Committee. If the Committee fails to resolve the matter, and if it determines that the severity of the sanction justifies further consideration, it shall refer the matter to the Standing Committee on Faculty Rights for formal proceedings as provided in Section J.

H. OTHER PERSONNEL DECISIONS

~~1. Administrative Personnel~~

~~If an administrator alleges that a consideration violative of academic freedom or constitutional rights significantly contributed to a decision to terminate or not to renew his or her appointment, the administrator shall be entitled to the procedures set forth in Section I-5-7 and J.~~

1. ~~2.~~ Lecturers and Graduate Teaching Assistantships

- a. The terms and conditions of every appointment of a lecturer or graduate teaching assistantship shall be stated in writing, with a copy of the appointment document supplied to the graduate teaching assistant appointee.
- b. A lecturer or graduate teaching assistant shall not be dismissed before the end of the period of appointment without having been provided with an opportunity to receive a statement of reasons and ~~to be heard before a~~ Special Review Committee consideration.
- c. If the Special Review Committee cannot resolve the complaint, a lecturer or graduate teaching assistant who establishes a prima facie case to the satisfaction of the Standing Committee on Faculty Rights that his or her dismissal was based significantly on considerations violative of (1) academic freedom, or (2) rights guaranteed by the United States Constitution, or (3) rights previously conferred by written agreement, shall be entitled to a full hearing in accordance with the procedures described in Section J.
- d. Should the graduate assistant not be academically qualified to continue as a student, he or she will not be entitled to the benefits of this section.

I. OTHER REQUIREMENTS FOR TERMINATION OR DISMISSAL

A termination of a tenured faculty member or a dismissal during the contract period of any faculty member will not become final until the following steps (unless waived by mutual consent of the

faculty member and president) have taken place, in the order listed:

1. Written notice of intent to terminate or dismiss shall be given to the faculty member by the appropriate administrative officer;
2. If so requested by the faculty member, Within seven calendar days after receipt of written notice by the faculty member, the appropriate administrative officers shall offer to meet with the faculty member to discuss a mutual settlement;
3. If no meeting occurs or no mutual settlement is attained, the administrative officer shall promptly provide written recommendation of termination or dismissal to the institutional president within a reasonable time;
4. If the president concurs, written notice of termination or dismissal shall be provided to the faculty member within a reasonable time;
5. If requested by the faculty member within ~~ffteen~~ seven calendar days of receipt of the president's written notice, a statement of the grounds for the action, defined with reasonable particularity, shall be given by the president or a delegate within fifteen calendar days receiving the request;
6. ~~If requested by the~~ A faculty member may within fifteen calendar days of receiving the statement of grounds, request an informal and confidential inquiry and a report ~~shall be provided~~ by from a Special Review Committee. The Special Review Committee shall provide such report within thirty days of receiving the request; and
7. If requested by the faculty member within fifteen calendar days after receipt of the report of the Special Review Committee,

formal hearing by the Standing Committee on Faculty Rights shall be provided under Section J.

J. HEARING PROCEDURES FOR THE STANDING COMMITTEE ON FACULTY RIGHTS

1. The Committee may, with the consent of the parties concerned, hold joint pre-hearing meetings with the parties in order to (a) simplify the issues, (b) effect stipulations of facts, (c) provide for the exchange of documentary or other information, and (d) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.
2. Service of written notice of hearing with including specific grounds for ~~termination or dismissal in writing~~ the institution's contested action shall be made at least twenty calendar days prior to the hearing. The faculty member may respond in writing up until three calendar working days before the hearing. The faculty member also may waive a personal appearance and request a decision on the basis of the written statement.
3. During the proceedings the ~~administration~~ institution shall be entitled to have counsel, and the faculty member will be entitled to have an academic advisory and counsel of his or her own choice and at his or her own expense. In addition, either party or the Committee may invite up to two observers each a piece-a-representatives-of-responsible-educational-associations to attend the proceedings. ~~as-an-observer~~
4. A ~~record~~ recording ~~transcript~~ of the hearing or hearings shall be made at the institution's expense and the ~~record~~ transcript

- ~~shall be accessible to both parties.~~ ~~administration and~~ The faculty member ~~shall have access to it and~~ shall be provided a copy of the record upon request, ~~with costs of making the record and any copies to be charged to the institution without charge.~~ The faculty member may request if a written transcript of all or a portion of the record. The faculty member shall be provided with a copy of such transcript without charge. The findings of fact and the decision shall be based solely on the hearing record. Except in cases brought under Section C4 of this policy, the burden of proof that grounds for ~~termination or dismissal~~ the institution's action exist shall rest with the institution and be satisfied only by clear and convincing evidence in the record considered as a whole.
5. ~~The Committee shall not be bound by strict rules of legal evidence, and~~ may admit any evidence which is of probative value in determining the issues involved. Every reasonable effort shall be made to obtain the most reliable evidence available. The Committee shall grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
6. The faculty member shall be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. ~~The administration~~ institution shall cooperate with the Committee in securing witnesses and making available documentary and other evidence. The faculty member and the ~~administration~~ institution shall have the right to confront and cross-examine all

witnesses. Where a witness cannot or will not appear, but the Committee determines that the interests of justice require admission of the witness' ~~this~~ statement, the Committee shall identify the witness, disclose the statements, and, if possible, provide for interrogatories.

7. The Committee's conclusion as to whether or not grounds to support the institution's action ~~for termination or dismissal~~ have been established by the evidence in the record shall be reported to the president. If the institution's action was a notice of dismissal and if the Committee concludes that adequate cause for dismissal has been established, but that a lesser penalty would be more appropriate, it may so recommend with supporting reasons. The president shall notify the Committee and the faculty member of the president's decision, within fifteen calendar days of receiving the report. The faculty member or committee may submit a written response to the president's decision, and the faculty member may also exercise those rights provided in Section K.

K. ACTION BY THE BOARD OF HIGHER EDUCATION

1. If termination or dismissal of a tenured faculty employee ~~or severe sanction, or nonrenewal~~ is imposed by the president following a hearing under Section J, the president shall, on request of the faculty member, transmit to the Board of Higher Education the record of the case. The Board's review will be based on the record of the hearing of the Standing Committee on Faculty Rights. The Board and it may provide opportunity for argument, oral, or written, or both, by the principals or by

their representatives at the a hearing. The Board may make a final determination of the case at this point, or it may return the case to the Standing Committee on Faculty Rights for further proceedings. The Board shall make a final decision after study of the further report of the Standing Committee ~~is-reconsideration~~ on Faculty Rights. The final decision ~~made-by-the-Board~~ shall be communicated in writing to the faculty member involved, the president, and the Standing Committee on Faculty Rights within seven calendar days after determination by the Board.

2. The Board may appoint a hearing officer to take testimony, make findings, and make recommendations to it in any manner appealed to the Board under these regulations.

PAGE: (1 of 1)

SUBJECT: PERSONNEL

EFFECTIVE:

ISSUED:

Section: Employee Responsibility and Activities:
Outside Employment or Education

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POLICY

1. A full time employee's principal occupational responsibility is to the employing college, university, or other activity governed by the Board. Outside employment or education during a contract period must receive prior approval by appropriate administrative officers.
2. Full time employees will not be allowed to be full time students without the consent of the president.
3. Failure to secure prior approval from appropriate administrative officers shall constitute grounds for disciplinary action, including dismissal, in accordance with section ____ of these policies.
4. "Outside employment or education" includes employment and continuing education activities, employment for another for compensation, or self-employment in a business. Outside employment does not include public service positions such as membership on a school board or city council so long as the activities in conjunction with such a position do not unduly interfere with the individual's responsibilities to the college, university, or activity.

PROCEDURE

1. Each institution shall adopt rules and procedures implementing this section.

COMMENT: For restrictions on political activities by state employees while on duty, see section 44-08-19, N.D.C.C.

Exhibit A

POLICY MANUAL

AMENDMENT: ^

RESTATEMENT:

SUBJECT: PERSONNEL

PAGE: 1 (1 of 2)

EFFECTIVE:

ISSUED:

Section: Employee Responsibility and Activities:
Consulting Practices

This is different than Senate Document on Consulting in 80-81

POLICY

1. The Board recognizes that teaching, research and public service are the primary responsibilities of faculty members. It is therefore considered reasonable for employees of the Board to engage in consulting activities so long as such activities do not interfere with the employees fulfillment of his or her primary responsibilities.
2. Each university, college and other activity governed by Board shall adopt rules governing consulting practices by faculty. These rules shall provide that:
 - A. No faculty, staff, facilities, or equipment shall be used for other than instructional purposes unless payment is made on the same basis as charged to commercial concerns or other outside groups or persons. The institution shall be paid an appropriate sum for the facilities used.
 - B. Faculty and staff may can engage in consulting practices activities so long as the work is of a purely professional nature and does not in any way interfere with the academic duties of the individual concerned.
 - C. Permission to engage in consulting practice is obtained in advance from the appropriate administrative officer.
 - D. Appropriate arrangements are to-be made if for-the-use of university personnel or students are engaged in the consulting activity.

NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL

2359

AMENDMENT: λ

RESTATEMENT:

PAGE: (2 of 2)

SUBJECT: PERSONNEL

EFFECTIVE:

ISSUED:

Section: Employee Responsibility and Activities:
Consulting Practices

- 1 E. No faculty member shall engage in consulting
2 practices which would constitute a possible conflict
3 of interest.
- 4 3. "Consulting" shall mean any additional activity beyond
5 duties assigned by the institution, professional in
6 nature, and based in the appropriate discipline for which
7 the individual receives additional personal compensation
8 during the contract year.

9 PROCEDURE

- 10 1. Rules adopted by each institution shall be filed with
11 the Commissioner and shall be made available to all
12 faculty members by publication in the institution's
13 faculty handbook.
- 14 2. Each president shall submit to the Commissioner annually,
15 by October 1, an inventory of faculty consulting
16 activities during the preceding fiscal year.

17 AMENDS AND REPLACES

18 Replaces Article III, Section 5(B).

19 HISTORY
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