

# MARSHALL UNIVERSITY BOARD OF GOVERNORS

## Rule No. AA-8

### TERMINATION OF FACULTY DUE TO PROGRAM REDUCTION OR DISCONTINUANCE

#### 1 General Information.

- 1.1 Scope: Academic policy regarding the termination of faculty due to program reduction or discontinuance.
- 1.2 Authority: W. Va. Code §18B-1-6
- 1.3 Passage Date: September 12, 2019
- 1.4 Effective Date: October 15, 2019
- 1.5 Controlling over: Marshall University
- 1.6 History: Faculty Senate passed 12/10/87 (FPC); Approved 12/10/87. This version of the policy replaces an earlier version that was passed on March 8, 2006.

#### 2 Policy

- 2.1 Criteria for personnel decisions upon reduction or discontinuance of programs
  - 2.1.1 Once the decision to reduce faculty within a specific program of department is final, the head of the affected department or program, in consultation with and with the approval of department member(s), will determine which particular faculty member(s) must be terminated.
  - 2.1.2 There are several overriding principles to which the university must adhere when personnel reduction is necessary. First, program reduction must never be used for the sole purpose of removing an individual from a program because of job performance or personality conflicts. Second, the university is committed both morally and legally to affirmative action. All reasonable steps possible will be taken to maintain a faculty of racial, sexual and ethnic diversity. Strict adherence to a seniority rule in reduction, for example, would have a debilitating effect on minorities and women. And third, but perhaps most important, any reduced program must remain academically viable. The value of each faculty member to the viability of the program must be considered. Should there be redundancy of faculty expertise among the tenured faculty while untenured faculty possess unique and essential capabilities for the successful fulfillment of the program, then the decision to retain the untenured faculty with less seniority will be considered.

- 2.1.2.1 Given these considerations, the following guidelines will be applied, in sequence, to achieve the necessary reduction in personnel within an affected program:
  - 2.1.2.1.1 Non-replacement or vacant positions due to attrition or retirement.
  - 2.1.2.1.2 Reduction or elimination of graduate teaching assistantships.
  - 2.1.2.1.3 Removal or reduction of adjunct faculty considering seniority.
  - 2.1.2.1.4 Qualified faculty will be urged to consider the option of early retirement.
  - 2.1.2.1.5 Non-tenured faculty may be reduced in the following order:
    - 2.1.2.1.5.1 non-tenure track positions, considering seniority
    - 2.1.2.1.5.2 tenure-track positions, considering seniority
  - 2.1.2.1.6 Reduction in tenured positions considering seniority.
- 2.1.2.2 As an alternative to the above, the affected department or program may propose a plan for fractional appointments instead of the release of any faculty member. Such a plan may be recommended to the President only if all faculty members in the unit who are to participate agree to the plan. Such plans are to be time limited and are subject to annual consideration.
- 2.1.2.3 Faculty who are dismissed as a result of program reduction have the right to appeal.
- 2.1.2.4 Assistance to faculty affected by program change
  - 2.1.2.4.1 The university will make every reasonable effort to place affected faculty in positions within the university for which they are qualified at a salary comparable to their present salary. The determination shall be made by the department or unit where the vacancy exists. The department with the vacancy shall be prohibited from filling any vacancies until or unless it demonstrates that affected faculty members are not academically suitable for those vacancies. Since tenure is granted by the university, an individual has tenure within the university rather than within a particular department. In order to meet the needs of a specific department, the affected faculty member may receive a one-year temporary appointment that is related to the individual's academic training and background. This position may be instructional or non- instructional. The conditions shall be explicit and put in writing at the time of the transfer. If the position is temporary or less than full-time, the qualified faculty member may accept or refuse the position without in any way altering or affecting his/her rights as established in this article. Persons who decline offers of full-time re-employment waive all rights of reassignment as established in this article.

- 2.1.2.4.2 If the employing unit requires additional training for the faculty member, the university shall provide financial and other support, including if necessary, leave with full pay, which will be negotiable between the employing department and faculty. The two parties will also negotiate a reasonable length of retraining.
- 2.1.2.4.3 Should faculty for whom positions cannot be found within the university so desire, Marshall University will request consideration by other West Virginia higher education institutions for employment in suitable positions.
- 2.1.2.4.4 Should an affected faculty member desire to seek employment outside the institution and/or university or college systems, letters from appropriate administrators and the President will be written expressly stating that termination due to program change does not imply a negative judgment about the individual's performance. Copies of the letters will be maintained in university files.
- 2.1.2.4.5 The Chief Academic Officer (CAO), or where appropriate, the Dean of the Joan C. Edwards School of Medicine, will assist the faculty member at university expense in efforts to find suitable placement by sending letters that explain the circumstances of the termination and professional resumes to other institutions.
- 2.1.2.4.6 Each faculty member who has been given notice of termination will be granted release from the current contract upon request.
- 2.1.2.4.7 If suitable employment cannot be found through steps A-F, then time for retraining will be offered to tenured faculty. During this terminal year of appointment, faculty will retain full salary for the express purpose of retraining. The university will be required to meet staffing needs of a department while a faculty member is involved in retraining.
- 2.1.2.4.8 Faculty terminated as a result of program change will be offered the right of first refusal if the program is reinstated or expanded within three years. Recall rights and rehiring preference shall be in accordance with the following provisions:
  - 2.1.2.4.8.1 When a vacant position is to be filled, terminated faculty members who are eligible for the position shall be offered re-employment in inverse order of their termination from the system. If two or more faculty members were terminated at the same time, then that person with the greater seniority shall have priority for recall. If they have equal seniority then the person with the greater length of tenured service in the university shall have priority for recall.
  - 2.1.2.4.8.2 Persons offered re-employment must accept such offers within fifteen (15)

working days after such offers.

2.1.2.4.8.3 Persons who decline such offers of re-employment waive all rights of recall as established in this article and shall have their names removed from the “recall list.”

2.1.2.4.8.4 Faculty members who are recalled shall be re-employed at former academic rank, at the current salary for their previous rank and years of service. They shall retain their previously earned tenure rights and sabbatical leave rights.

## 2.1.2.5 Impact on Students

### 2.1.2.5.1 Undergraduate Students

2.1.2.5.1.1 Even when a program is being reduced or discontinued, Marshall University has an obligation to all students in that program to provide adequate course offerings and quality instruction to ensure that those students can complete their chosen major. However, when a degree program is scheduled for termination, no new majors or minors will be admitted. Students enrolled as majors or minors will be informed by the Registrar in writing of the program change decision during the semester in which it is made and of the existence of these guidelines:

2.1.2.5.1.1.1 Enrolled students will have time to complete their major as a full-time student. A program that requires four years to complete will be phased out over four years so that students engaged in completing a major may do so.

2.1.2.5.1.1.2 If the terminated program has specialized courses that do not interfere with the person’s ability to complete the major, the student will be advised of the date of termination of such courses and of the need to complete or select other courses to fulfill degree requirements.

2.1.2.5.1.1.3 Students minoring in the program will be encouraged to complete their coursework within two years after the decision or to consider changing their minor. Academic advising will be available and students will be apprised in writing of such a service.

2.1.2.5.1.1.4 Students will be given academic advising for expeditious course selection to meet time requirements or credit and program transfer to other majors within the university.

2.1.2.5.1.1.5 Students will be assisted in transferring to colleges or universities that offer a similar program. When the student requests, both the department and the university will provide a letter to other institutions

indicating that programmatic change necessitated the transfer. Other programs will be brought to the student's attention, as will possibilities for financial aid.

#### 2.1.2.5.2 Graduate Students

2.1.2.5.2.1 In the case of a program change that terminates a graduate degree program, enrolled students will have the right to complete the program within the time outlined in graduate or departmental bulletins. In no case will that time exceed four years for masters' degrees and seven years for doctorates. Whenever possible, courses will be phased out sequentially and students will be informed of the sequence.

2.1.2.5.2.2 No new masters or doctoral students will be admitted after the decision to terminate.

