



Academic Policies and Programs/Student Life Committee

Meeting Agenda

Austin Peay State University

317 College Street

Clarksville, TN 37040

June 6, 2019

Call to Order

Roll Call/Declaration of Quorum

Action Items

- A. Consideration of Tenure Appointments
- B. Consideration of Tenure Upon Appointment of Dr. Nancy King Sanders
- C. Petition for the Right to Appeal Promotion Decision– Dr. Robert Halliman
- D. Consideration of Elevation of Existing Media Technology Concentration within BA/BS Communication Arts into separate major of BA/BS Communication Media
- E. Consideration of Termination of B.S. English
- F. Consideration of Termination of B.A. Psychological Science
- G. Consideration of Student Conduct and Disciplinary Sanctions Rule

Adjourn

**Agenda Item: A.**

**Date:** June 6, 2019

**Subject:** Tenure Approval

**Action Recommended:** Approval by Voice Vote

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**Background Information:**

Per university policy, the president recommends the granting of tenure to eligible faculty members. The recommendations are made within the requirements of APSU policies on tenure. The university has followed approved policies and procedures in each case.

**Proposed Implementation Date:**

August 2019

**Item Details:**

A total of 14 faculty members are recommended for tenure. The list of faculty members is provided below.

| <b>Name:</b>       | <b>Department:</b>                          |
|--------------------|---|
| Robert Atkinson    | Languages and Literature                    |
| Christopher Bailey | Theatre and Dance                           |
| Jennis Biser       | Accounting, Finance and Economics           |
| Joseph Elarde      | Computer Science and Information Technology |
| Christina Galben   | Agriculture                                 |
| Virginia Griswold  | Art and Design                              |
| Ying Ma            | Sociology                                   |
| Gloria Miller      | Management, Marketing and General Business  |
| Michael Shen       | Management, Marketing and General Business  |
| Marissa Sikes      | Languages and Literature                    |
| Andrea Spofford    | Languages and Literature                    |
| Patrick Vincent    | Art and Design                              |
| Colleen White      | Biology                                     |
| Stefan Woltmann    | Biology                                     |

Currently there are 344 full-time tenured and tenure-track faculty, of which 239 (69%) are tenured. The following summary table provides the numbers of tenure-track faculty

granted tenure from 2015-16 to the present. The president is recommending 14 tenure-track faculty for tenure at this time.

| <b>Tenured/Tenure-Track Faculty</b>        |                |                |                |                |
|--|----------------|----------------|----------------|----------------|
| <b>Year Hired</b>                          | <b>2010</b>    | <b>2011</b>    | <b>2012</b>    | <b>2013</b>    |
| <b>Tenure Decision Year</b>                | <b>2015-16</b> | <b>2016-17</b> | <b>2017-18</b> | <b>2018-19</b> |
|  |                |                |                |                |
| <b># Hired</b>                             | 20             | 29             | 29             | 17             |
|  |                |                |                |                |
| <b># No Longer with University</b>         | 9              | 11             | 11             | 2              |
|  | 45%            | 38%            | 38%            | 12%            |
|  |                |                |                |                |
| <b># Tenured or Currently Tenure Track</b> | 11             | 18             | 18             | 15             |
|  | 55%            | 62%            | 62%            | 88%            |

**Agenda Item: B.**

**Date:** June 6, 2019

**Subject:** Tenure Upon Appointment: Dr. Nancy KingSanders

**Action Recommended:** Approval by Voice Vote

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**Background Information:**

The provost and vice president of Academic Affairs proposes the award of tenure upon appointment for Dr. Nancy KingSanders, new executive director for the Center of Teaching and Learning. Dr. KingSanders began her appointment as executive director on April 1, 2019. Dr. KingSanders' education, as well as teaching, scholarship and service experience, meet the tenure criteria of the Department of Music. Therefore, the Department of Music and the College of Arts and Letters recommend that Dr. Sanders be appointed with tenure at the rank of full professor in the department.

**Proposed Implementation Date:** retroactive to April 1, 2019

**Item Details:**

Dr. KingSanders comes to APSU holding a terminal degree (DMA) in music with focus areas in clarinet performance and music education. Before transferring into her role in student success, Dr. Sanders rose through the academic ranks from assistant to full professor with tenure in the music department at her prior institutions. She has since maintained an active service and research agenda and currently holds membership in six professional associations pertaining to higher education.

Enclosed: Dr. Nancy KingSanders CV

**NANCY KINGSANDERS**

***Home Contact Information:***

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**EDUCATION**

**The University of Illinois**  
School of Music  
Urbana-Champaign, Illinois

**Doctor of Musical Arts**, 1994  
Focus Area: Clarinet Performance  
Secondary Field, Music Education

**University of North Texas**  
College of Music  
Denton, TX

**Master of Music**, 1983  
Focus Area: Clarinet Performance  
Secondary Field, Music Theory

**Texas State University**  
Department of Music  
San Marcos, TX

**Bachelor of Music Education**, 1980  
Focus Area: Music Education  
Secondary Field, French  
Education Graduated cum laude

**PROFESSIONAL EXPERIENCE**

***Associate Vice President for Student Success***  
Texas A&M University-Kingsville  
Kingsville, TX 78363

**Spring 2011 - 9/2017**

***Associate Dean, College of Graduate Studies***  
Texas A&M University-Kingsville  
Kingsville, Texas

**Fall 2010-Spring 2011**

***Academic Affairs Administrative Intern for the Provost***  
Texas A&M University-Kingsville  
Kingsville, Texas

**Fall 2007 –Summer 2010**

***Graduate Music Education Coordinator***  
Texas A&M University-Kingsville  
Kingsville, Texas

**Fall 1999 – Summer 2010**

## TEACHING EXPERIENCE

### *Professor of Music*

Texas A&M University-Kingsville  
Kingsville, Texas

2002-2011 – (Full Professor Faculty Rank Retained  
Concurrently with Administrative  
Positions)

### *Associate Professor of Music*

Texas A&M University-Kingsville  
Kingsville, Texas

1996 –2002

### *Assistant Professor of Music*

Texas A&M University-Kingsville  
Kingsville, Texas

1993 –1996

### *Assistant Professor of Music*

McMurry University  
Abilene, Texas

1990–1993

## PROFESSIONAL HONORS, SCHOLARSHIP, AND PROFESSIONAL ACTIVITIES

### *Selected Honors*

- Outstanding First-Year Student Advocate, February 2016, National Resource Center for the First-Year Experience and Cengage Learning
- Kingsville, Texas Women's Club Community Service Award, 2009
- Marquis Who's Who in Education, 2006
- Women in Music Award, Tau Beta Sigma, 2005
- Presidential Award for Excellence in Teaching, Texas A&M University-Kingsville, 2003

### *Funded Research Projects*

- Integrating a Culture of Academic Research and Engagement, ***I-CARE***. Nancy KingSanders, Co-Principal Investigator, Allen Rasmussen, Co-Principal Investigator, \$2.625 Million, Department of Education, Title V, October 2015-September 2020
- Partnering for Student Success in South Texas, ***PSSST***. Nancy KingSanders, Principal Investigator, \$3.826 Million, Department of Education, Title V, October 2010-September 2015
- Bridges to Success Program, Nancy KingSanders, Principal Investigator, \$100,000, Ed Rachal Foundation, May 2014-April 2015

- **A**dvancement **V**ia **I**ndividual **D**etermination, **AVID** Work-study Mentorship Grant, Nancy KingSanders, Principal Investigator, \$100,000, Texas Higher Education Coordinating Board, August 2013 – July 2014
- Complete College America FOCUS for Developmental Math, Nancy KingSanders, Principal Investigator, \$36,000, Texas Higher Education Coordinating Board, January 2013 – August 2013
- **AVID** Work-study Mentorship Grant, Nancy KingSanders, Principal Investigator, \$158,000, Texas Higher Education Coordinating Board, August 2011-July 2013
- The Effect of Temperature, Elevation, and Humidity as it applies to *Arundo Donax*. Nancy KingSanders, Principal Investigator, \$8,400, Teaching Excellence Fund Grant, August 2002-2003

### ***Selected Presentations***

- *Increasing Faculty Participation in Professional Development; Teacher Preparation Initiative; Increased Retention Rates*, AHE National Leadership Summit (AVID Higher Education, **A**dvancement **V**ia **I**ndividual **D**etermination), July 2017
- Selected as a panelist for The Texas Higher Education Coordinating Board, in partnership with National Institute for Staff and Organizational Development (NISOD) and Austin Community College May 2016 event to bridge secondary and postsecondary education and support goals of the 60X30TX strategic plan
- *Bridge Focus Group*, February 2016, Educational Policy Improvement Center
- *Using AVID-Based Dual Enrollment Courses to Bridge the Educational Gap*, December 2014, **A**dvancement **V**ia **I**ndividual **D**etermination, **AVID** National Conference
- *Student Success in the First-Year Through Graduation*, May 2013, Texas Hispanic Institutions Consortium Spring Conference
- *Refresh Participation and the Benefit to Student Success, Retention, and Graduation Rate*, February 2012, Foundations of Excellence Winter Meeting
- *The Value of Immediate Feedback Toward Future Correct Responses*, Texas A&M University 9<sup>th</sup> Annual Assessment Conference, March 2008
- *Woodwind Pedagogy*, University of Central Florida, April 2005
- *Practical Rehearsal Techniques for Middle School Clarinetists*, Texas Music Educators Association, February 1997

### ***Selected Publications***

- Bain De Los Santos, S., Mundy, M.A., KingSanders, N. (2017). *We are the Jetsons! 21st century technology engages online classrooms by infusing AVID strategies*. Presented at the International Council for Open and Distance Education's World Conference on Online Learning (ICDE 2017). Toronto, ON, Canada. October.
- Gonzalez, C., Birdwell, J., and KingSanders, N., "Power of the Javelina Pack: The Evolution of Peer Mentoring," in proceedings of 2017 Annual Conference on The First-Year Experience, Atlanta, GA.
- Gonzalez, C., Bain DeLosSantos, S., Vanness, B., Birdwell, J., and KingSanders, N., "The Javelina First-Year Experience: Building the Pack," in proceedings of 2017 Annual Conference on the First-Year Experience, Atlanta, GA.

Dr. Nancy KingSanders

Joiner, M., Gohre, D., and KingSanders, N., “Using AVID-Based Dual Enrollment Courses to Bridge the Educational Gap,” in proceedings of 2014 Advancement Via Individual Determination National Conference, Orlando, FL.

KingSanders, N., “Student Success in the First-Year Through Graduation,” in proceedings of the 2013 Texas Hispanic Institutional Consortium Spring Conference, Kingsville, TX.

KingSanders, N., “Using John Gardner’s 9 Foundational Dimensions to Design an Effective First-Year Experience,” in proceedings of 2013 Foundations of Excellence Winter Meeting, Orlando, FL.

KingSanders, N., “Refresh Participation and the Benefit to Student Success, Retention, and Graduation Rate,” in proceedings of the 2012 Foundations of Excellence Winter Meeting, San Antonio, TX.

KingSanders, N., “The Value of Immediate Feedback Toward Future Correct Responses,” in proceedings of the 2008 Annual Assessment Conference, College Station, TX.

### ***Selected University and Professional Activities***

#### **Texas A&M University-Kingsville**

- Dana Math Center Liaison for Math Pathways
- Academic Deans Council
- Council of Chairs
- Retention Performance Management Liaison
- Foundations of Excellence Liaison
- Liaison for Former Foster Care Students
- Army ROTC Task Force Chair
- Full Member of Graduate Faculty
- Liaison for Advancement Via Individual Determination, **AVID**, Student Success Initiative and Teacher Preparation Initiative
- *Ex-officio*, Center for Student Success Advisory Board
- *Ex-officio*, First-Year Experience Committee
- *Ex-officio*, Common Read Committee
- *Ex-officio*, Transitional Education Committee

### ***Professional Affiliation Activities***

**Council on Undergraduate Research, CUR**

**American Association for State Colleges and Universities, AASCU**

**Liberal Education and America’s Promise – AASCU LEAP, Texas**

**Hispanic Association of Colleges and Universities**

**Texas A&M University System-wide Advising Council**

**Texas Women in Higher Education**



**Agenda Item: C.**

**Date:** June 6, 2019

**Subject:** Petition for Right to Appeal Promotion Decision

**Action Recommended:** Voice Vote

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**Background Information:**

Dr. Robert Halliman, associate professor of management technology, sought promotion to the rank of professor during the 2017-2018 academic year. APSU President Alisa White considered the recommendations made during the promotion review process, including positive and negative recommendations at prior levels of review, and elected to deny Dr. Halliman's request for promotion. Dr. Halliman is requesting the right to appeal this decision per APSU policy 1:010.

**Item Details:**

While APSU policy 1:010 creates the right to petition for permission to appeal, petitioner for appeal must present compelling evidence that President White's decision was erroneous. In determining whether to grant an appeal, the appropriate board committee may consider the following:

- "Whether Board policy or procedures have been followed;
- "Whether or not there is material evidence to substantiate the decision appealed from; and/or
- "Whether or not there has been a material error in application of the law, which prima facie results in substantial injustice."

## **REQUEST ORAL PRESENTATION**

### **APPEAL TO THE APSU BOARD OF TRUSTEES**

#### **I. Decision Being Appealed**

The decision being appealed is the decision of Dr. Alisa White, President of APSU to not support my request for promotion to full professor. Because Dr. White based her recommendation on previous recommendations that were deeply flawed, having resulted from a process that was in violation of APSU and Board of Trustees policy, her decision was, necessarily, deeply flawed.

#### **II. Issues**

1. Whether the promotion process regarding my promotion to full professor was subjective, in violation of APSU and Board of Trustees Policy 2:063.
2. Whether my record of scholarly and creative achievement is sufficient to merit promotion to full professor.

#### **III. Background**

I became a member of the Department of Leadership & Organization Administration, effective August 1, 2017. In July 2017, I was asked by the chair, Dr. Rayburn, what my expectations were. I said I expected to be a full member of the Department. Dr. Rayburn visibly bristled at my comment and made it clear he did not want that. I was not welcomed to or made a full member of the department, yet, Dr. David Denton was welcomed, with open arms, as a full member of the Department several months later.

The net result is that I am isolated from the department. Dr. Rayburn does not want me to associate with department members or to meet with the department in department meetings but will meet with me separately. He does not even ask me to come to his office for discussions but comes to my office on the second floor. It has the appearance that he thinks I have a contagious disease that will somehow contaminate his department if he does not keep me quarantined.

In Dr. Rayburn's eyes I am junior college/vocational education, and it is his desire that I stay that way, even though I am fully qualified, by education and experience, to teach most of the undergraduate and graduate courses in L & OA. I hold the same terminal degree as the majority of the faculty members in the department.

In some areas I am best qualified to teach in L & OA because I have senior management experience in the hospitality industry, a field in which the department offers a degree. Each semester, it appears that there are a number of adjunct faculty utilized to teach L & OA courses, but Dr. Rayburn rejects any suggestion that I teach some of those courses.

It is clear Dr. Rayburn has a greater loyalty to adjunct instructors than he has to me, a tenured person, under the department umbrella, who is qualified to teach the courses. Dr. Rayburn does not want me to be a part of the department but, he and the department want to hold me to arbitrary standards for purposes of promotion, rather than apply the published standards.

It has the appearance, and it is my belief the Chair and the department committee went out of their way to find fault with my promotion e-dossier because recommending promotion would mean acknowledging I am fully qualified to be a member of the department, something that, at least for the chair, and some department members, there is no willingness to do. It also has the appearance that, regardless of the strength of my record, I am being punished for having the nerve to challenge Dr. Denton's, Dr. Gandy's, and Dr. White's promotion decisions to the Board of Trustees last year.

#### **IV. Allegations**

1. I allege that the promotion process that I faced, regarding promotion to full professor, violates APSU and Board of Trustees policy 2:063, because very subjective and arbitrary reasoning was interjected into the process by the Department Promotion Committee, The Department Chair, and the Dean, College of Behavioral and Health Sciences, when by all objective standards, I qualified for promotion.

#### **V. Facts**

A. The stated purpose of APSU policy 2:063 is “*to make promotions strictly on consideration of merit....*” The purpose is further stated as “*to help **ensure** that promotions are made **objectively, equitably, impartially,** and as a recognition of merit....*” (See Appendix A)

B. According to the Merriam-Webster Dictionary:

- “**Objectively**”: means 1. Not influenced by emotion, **surmise** or **personal prejudice**. 2. Of a test: limited to choices of fixed alternatives and reducing subjective factors to a minimum.
  - o “**surmise**”: means conjecture without conclusive evidence.
- “**Equitably**”: means 1. Dealing fairly and equally with all concerned.

C. In keeping with the stated purpose, APSU and Board policy 2:063 states the following:

*“ Promotion Criteria*

*A. The academic departments and programs of APSU **must develop written guidelines with specific criteria** for evaluating the faculty in teaching, research and service.....” (Appendix A)*

D. Regarding the Department promotion guidelines, APSU policy 2:063 states “**The departmental and program guidelines cannot be less rigorous than University guidelines.**” (Appendix A)

E. According to the APSU Tenure Procedures and Guidelines, p. 20, para #7, the Provost approves the final version of the Department Promotion Criteria. (See Appendix B)

F. The Notice of Appointment and Contract of Employment contains a statement that says the contract is “**subject to the requirements and policies of this institution.**” (See Appendix C)

G. The current APSU Tenure Procedures and Guidelines contains a note on page 8 that states:

**“Note: The Notice of Tenure-Track Appointment and Agreement of Employment is a legal document that, along with applicable University policies, governs the faculty member’s employment and relationship with the University.”** (Appendix B)

H. In *Reed v. Alamo Rent-A-Car, Inc.*, 4 S.W.3d 677 (Tenn. App. Ct. 1999), The Tennessee Court of Appeals ruled that policies become a part of the terms of the employment contract when there is clear statement of intent that such is the case. The explicit statements noted in the preceding paragraph, along with this court ruling, firmly establish that the university policies are part of the terms of the employment contract and are enforceable. (See Appendix D)

I. In the area of Scholarly and Creative Achievement, the published criteria for promotion to full professor in the Department of Leadership and Organization Administration is:

**1. Publications**

*“at least two papers in a scholarly, peer reviewed journal.*

**2. Presentations and other scholarly works.**

*Three presentations at regional professional conferences*

*OR*

*Two presentations at national or international conferences. (See Appendix E)*

- J. My promotion e-dossier contains documented evidence of 10 peer-reviewed papers published in refereed media, four of which were peer-reviewed journals.
- K. My promotion e-dossier contains documented evidence of 6 peer-reviewed presentations at international conferences.
- L. My promotion e-dossier and appeal of the department recommendations contains documented evidence of the positive reputation of my publishing and presentation venues.
- M. The Dean, Dr. Rebecca Corvey, stated in her report there was no evidence of sustained high quality scholarship in the e-dossier, despite evidence of 10 peer-reviewed papers published and 6 peer-reviewed presentations at international conferences. (See Appendix F)
- N. In neither the Department Promotion Committee report, The Chair's report, nor the Dean's recommendation is any evidence provided to support their negative assessment of my publishing activity.
- O. Criticisms of my scholarly and creative work uses the language of "surmise," that is, the language of conjecture without conclusive evidence, i.e. "we question," "the committee questioned," "the committee's uncertainty lead us....", the "concerns," etc. (See Appendix G)
- P. The Department Promotion Committee was critical of a published paper because it " did not reflect a current connection to the literature." (Appendix G)
- Q. The Department Committee "questioned" the propriety of some published papers because they "seemed" similar. (Appendix G)
- R. The Department Committee was "concerned" because one paper " appeared" to be published in two different publications. (Appendix G)
- S. The Department Committee was critical because, as they claimed, I was writing on subjects on which I "had no academic or experiential expertise."
- T. The Department Promotion Committee had "concerns" about the venues in which I had published. Thus, it disregarded my publications in those venues. (Appendix G)

- U. The APSU Tenure and Promotion Appeal Board recognized that I met the Department criteria but stated I did not meet the University's higher standard. (See Appendix H)
- V. The APSU Tenure and Promotion Appeal Board stated: “ *Generally, the committee found that there were justifiable concerns with the quality of the work that was produced by Dr. Halliman, and with the quality of the peer review,*” but provided no evidence or specifics to justify their statement. (Appendix H)
- W. The APSU Tenure and Promotion Appeal Board stated “*to achieve rank of full professor one should have a proven history of academic excellence and the promise of achieving even more and it does not appear that Dr. Halliman meets either of these **requirements.***” The Board did not cite **ANY** specifics to justify their comment. (Appendix H)
- X. In a meeting with the Provost on November 17, 2017, to “discuss promotion,” the Provost stated, in the presence of witnesses, the promotion process was “all subjective” and “not a numbers game.” (Appendix I)

## **VI. Argument**

### **1. Argument Regarding Allegation 1**

- A. It cannot be disputed that APSU and Board policy states that promotion recommendations are to be made **objectively**, and that **written, specific criteria** are supposed to be used in order to eliminate subjective calls and ensure promotions are based **strictly** on merit. That is the clear and unambiguous language of the policy.
- B. It cannot be disputed that the stated policy is a legal document, part of the terms of the employment contract and, therefore, are binding on the university and the Board.
- C. Based on the employment contract, promotion recommendations are not to be influenced by emotion, “surmise” (conjecture without conclusive evidence.), or personal prejudice.
- D. Where there is conjecture without conclusive evidence the benefit of the doubt should go to the candidate for promotion. Otherwise, the “surmise” has violated the employment contract.
- E. When evaluators, with uncertainty, “question” a candidate's credentials, they are engaging in conjecture without conclusive evidence, which is a violation of policy 2:063, thus a violation of the employment contract.

- F. The purpose of written criteria is “to help *ensure that promotions are made objectively, equitably, impartially, and as a recognition of merit....*” and, to limit decisions to fixed alternatives. Either the candidate met the criteria and thus merits promotion or he didn’t.
- G. “Concerns” are an expression of feelings or “surmise” when the evaluators have a degree of uncertainty and are not using “specific criteria” with which to make a conclusive statement. Given the negative comments made by the Department Committee were those using the language of “surmise”, that is, “conjecture without conclusive evidence”, the evaluation was precisely of the type the policy intends to prevent. The Department Committee report clearly states that they made a negative recommendation based on its “uncertainty.” (Appendix G) Therefore, the subjective evaluation is a violation of policy, and the contract of employment, and inherently unfair.
1. The Department Promotion Committee members, obviously, did not read the entire e-dossier, which is their duty and obligation under university policy. That failure, alone, should cast doubt on the legitimacy of their negative conclusions. Had they read the entire e-dossier, they would have known that one paper was, indeed, published twice in two different publications, but for a very good reason. The paper had been noticed by the editorial staff of the American Journal of Management (AJM), and I was invited to submit the paper to their journal. Another paper was submitted to AJM after being published in a refereed proceedings because I wanted to ensure it was published in a journal that was beyond reproach. The net result is that both papers passed two double-blind peer reviews, one for the original publication and one for AJM. I also note here that AJM is beyond reproach as a publisher and is listed on Cabell’s whitelist of reputable publishers. The same paper published in two venues I count as two publications because they had two peer-reviews and were published twice and reached different audiences.
  2. One of my articles was criticized for not having a connection to current literature. The paper survived two double-blind peer reviews and was published twice. It was not the role of the committee to pass judgment on the paper. Judgment had already been passed by the two peer reviews. Nowhere is it stated in published policy or criteria, that published papers must pass the scrutiny of the promotion

reviewers. Passing the peer review is deemed sufficient to establish the quality of the paper.

(APPENDIX J, Pg. 9)

- H. Yes, some papers are similar but that is not unusual. Many academics use a body of research to write similar but different papers. Some of my papers, while “similar” are each different, with a different focus.
- I. The Department Committee claimed that I did not have academic or experiential expertise to write on climate change/global warming. My VITA shows I was an Army pilot for almost 20 years and, I hold a commercial pilot license. Meteorology is a significant part of the training to get the pilot rating. The American Council on Education (ACE) grants 3 semester hours credit in meteorology for those who went through Army Rotary Wing Aviator training. It is, also, a bit arrogant to assume one cannot develop a level of expertise through reading and research. As an academic I have the training and expertise to evaluate academic research and evaluate the conclusions from other research. The department’s criticism in this regard is misguided. Global warming/climate change has significant implications for management at all levels, and I make those connections in my papers.
- J. The Provost’s statement to me that the process is “all subjective” is an admission of a violation of the Policy and employment contract.
- K. The Provost’s statement, that publishing is “not a numbers game,” is not consistent with published policy and the history of promotion decisions. When I was told two years in a row that I had not published “enough,” it was a “numbers game.” When every academic unit has specified the number of publications required to get promoted, it is a “number game.” When the Dean tells me that I do not have a record of “sustained” scholarly activity, it is a “numbers game.” The “numbers game,” as the Provost calls it, is part of **published policy** and the employment contract and cannot be ignored or set aside at his whim.
- L. Given that APSU policy states that department criteria cannot be less rigorous than university criteria, and also given that the department criteria were approved by the University via the Provost’s office, the department criteria, as published, must be regarded as at least equal to the university criteria. That said, the claim of the Promotion Appeal Board that I met the department criteria but not the university criteria is not



valid. Given that I met the department criteria, by default, I, also, have met the university's promotion criteria.

- M.** Given that neither the Provost, nor the Promotion Appeals Board, nor Dr. Alissa White offered any explanation for their negative recommendations, other than to say they were based on a review of the documents, it must be presumed that their recommendations are based on the comments of the Dean, the Chair, and the Department Promotion Committee, which comments violate the terms of the employment contract. Therefore, the President's decision perpetuates the violation of the terms of the employment contract.
- N.** Given that no one in the promotion process offered any evidence to rebut my rebuttal of the comments of the Dean, the Department Chair, or the Department Promotion Committee, my factual and logically sound rebuttal stands unopposed and I have met my burden of proof.
- O.** My record of scholarly activity, consisting of ten (10) peer-reviewed papers published, and six (6) peer-reviewed presentations at international conferences, certainly meets or exceeds the specific requirements of the Department regarding promotion to full professor. If others are getting promoted whose record of publication is less than mine, the "equitable" and "fair" standard is not being met and is a violation of the employment contract.
- P.** Given that the Promotion Appeal Board criticized the quality of my scholarship without any supporting evidence, their criticism is conjecture without evidence, thus a violation of APSU policy 2:063. My articles are well-researched, well-documented and referenced, factually and scientifically accurate, and well-written. Some of my papers are published in a Cabell white-listed journal that boasts an acceptance rate of less than 20 percent (20%). My other papers are published in respected media that claim an acceptance rate of 25 percent (25%.) The quality of my work is firmly established. The Appeal Board has merely made subjective statements without doing any fact-checking. It is also arrogant for an APSU faculty member to be critical of the peer reviewers of my articles and my articles themselves without providing evidence of error in my papers or evidence of poor peer review. As I said of the Department Committee, it is not the role of the Appeal Board to pass judgment on the articles or the peer reviewers.

- Q.** The Promotion Appeal Board said I did not deserve promotion because I did not meet the **requirement** of a strong history of academic excellence and a promise of more in the future, but provided no justification for such a statement. My work consistently passes peer-review by respected publishers that boast a less than 25% acceptance rate. My students, in a business simulation, simultaneously used by over 2500 BBA and graduate business students worldwide, consistently rank in the top 50 or top 100 participants worldwide. The high quality of my work has been firmly established. The statement by the Board not only shows a high level of arrogance and an ignorance of the language of the policy but, also, suggests illegal discrimination at play. The policy does not state that the promise of greater achievement is a **requirement** for promotion, but merely states continued productivity is an expectation when one is promoted. None of the Board members are clairvoyant. That said, on what grounds do they say there is no expectation of more or better quality work in the future? They have none. What they are doing is expressing prejudice. In effect, they are saying “you can’t teach an old dog new tricks.” This is illegal age discrimination.
- R.** Criticism of my publishing venues was based on Dr. Denton’s discovery, last year, of a mention of two of my venues on a third-party replication of Beall’s list of possible predatory publishers. Beall’s list, itself, is not held in high regard, and has not existed in official form for several years because of methodological issues. On the other hand, based on guidance from Provost Gandy, I provided verifiable evidence of the positive reputation of my venues, in the form of letters from respected academic administrators as well as documents showing the high regard for the publishers by a highly ranked University, and/or appearance on Cabell’s whitelist of reputable publishers. But the evaluators would rather believe the questionable Beall’s list than accept my evidence. I question whether those in the review process bothered to read my evidence in defense of my publishers. This is indicative of a prejudicial agenda and a violation of APSU policy 2:063.
- S.** Dr. Denton rejected one of my publication/presentation venues, AEPP, because he had never heard of the organization. The evidence provided in the e-dossier clearly shows that many others have heard of AEPP. Such evidence indicates Dr. Denton’s knowledge of organizations is not complete and therefore not an appropriate metric for rejecting my presentations and publications in that venue.

## **VII. Conclusion:**

According to APSU and Board policy 2.063, the promotion process is to be objective and equitable, based on specific criteria. Because it is policy and policy governs the employment contract, it is part of the employment contract and subject to contract law. Beginning with the Department Promotion Committee and progressing to President White, it has been neither objective nor equitable, and definitely not based on specific published criteria, which is a violation of the employment contract. This is an opportunity for the Board of Trustees to exercise proper oversight and provide redress for a failure in policy that resulted in an unfair promotion decision.

## **VIII. Redress Desired**

1. My record of scholarly achievement clearly meets or exceeds all reasonable objective criteria for promotion to full professor.
2. I have clearly shown that the promotion process for promotion to full professor is in violation of APSU and Board of Trustees policy 2:063, and therefore a violation of the employment contract.
3. Dr. White's recommendation is, therefore, seriously flawed and her decision should be overruled.
4. Based on my record, my promotion to full professor is warranted and justified.
5. The Board of Trustees has the authority to overrule President White and grant me promotion to full professor.
6. Therefore, based on the evidence I have presented, in the interest of fairness and in the interest of enforcing the published policy of APSU and the Board of Trustees, I request promotion to full professor effective the academic year beginning August 2018.



May 11, 2018

Robert W. Halliman, Ed.D  
Associate Professor & Program Manager  
Management Technology  
Dept. of Leadership & Organization Administration  
College of Behavioral and Health Sciences  
Austin Peay State University

## APPENDIX A

# 2:063 Policy on Academic Promotion

Austin Peay State  
University

## Policy on Academic Promotion

**Issued:** April 26, 2018

### POLICIES

**Responsible Official:** Provost and Vice President for Academic Affairs

**Responsible Office:** Academic Affairs

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### Policy Statement

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Promotion in rank is recognition of past achievement of the individual being considered for promotion. In addition, the advancement in rank is recognition of future potential and a sign of confidence that the individual is capable of even greater accomplishments and of assuming greater responsibilities. **It is the policy of Austin Peay State University to make promotions strictly on consideration of merit** tempered by University and fiscal considerations.

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### Purpose

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**The purpose of this policy is to help ensure that promotions are made objectively, equitably, impartially, and as recognition of merit** in line with the following policy guidelines. The President of APSU is responsible for the master staffing plan of the University. In developing such a plan, the President will consider the fiscal impact of each promotion, that is, resources allocated and distributed to the University.

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### Definitions

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| <b>Academic Assignment</b>                       | Teaching applies to any strategy in which information is imparted so that others may learn, and may include, but is not limited to, a variety of techniques including instruction; student advising and/or mentoring; development of course materials and courseware; and development of innovative approaches to instruction.  |
| <b>Scholarly and Creative Achievement</b>        | Research applies to the studious inquiry, examination, or discovery that contributes to disciplinary and interdisciplinary bodies of knowledge. Scholarly and Creative Achievement may include, but are not limited to, disciplinary and interdisciplinary activities that focus on the boundaries of knowledge; field-based scholarship; creative activities (e.g. film-making, performances, or other artistic creations); and the development of cutting-edge teaching approaches. |
| <b>Professional Contributions and Activities</b> | Service applies to involvement within the community as defined by the University's role and mission; service to the University; and service within the bounds of the applicant's academic discipline and budgeted assignment.   |

\*\*A more detailed description of these activities and the criteria to be applied in assessing performance in these three areas may be found in [APSU Policy No. 1:025 "Policy on Academic Tenure,"](#) Section IV (Criteria To Be Considered In Tenure Recommendations). Faculty are also required to consult the *APSU Tenure Procedures and Guidelines* document. [https://www.apsu.edu/sites/apsu.edu/files/academic-affairs/Tenure\\_Procedures\\_and\\_Guidelines.pdf](https://www.apsu.edu/sites/apsu.edu/files/academic-affairs/Tenure_Procedures_and_Guidelines.pdf)

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### Procedures

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### Promotion Criteria

The academic departments and programs of APSU must develop written guidelines with specific criteria for evaluating the faculty in academic assignment, scholarly and creative achievement and professional contributions and activities. The departmental and program guidelines cannot be less rigorous than University guidelines. These departmental and program guidelines should be distributed to all new faculty members and should be easily available at all times, preferably via the Web. Whenever the guidelines are revised, the faculty should be notified of the availability of the revised guidelines. The University promotion guidelines for evaluation should use the same criteria as those identified for tenure and located in [APSU Policy No. 1:025 “Policy on Academic Tenure.”](#)

### The Evaluation Process

The evaluation process for academic promotion at APSU will follow the guidelines established for academic tenure as identified in [APSU Policy No. 1:025 “Policy on Academic Tenure.”](#)

A faculty member (below rank of Professor) shall receive a promotion review at all levels of the University at least once every five (5) years unless such review is contrary to the wishes of the faculty member. Faculty who wish to apply for promotion should inform their chairperson/director in writing of their intent in the semester prior to the one in which they will apply for promotion.

The evaluation process for academic promotion at APSU will follow the guidelines established for academic tenure as identified in [APSU Policy No. 1:025, “Policy on Academic Tenure”](#) and the Tenure Procedures and Guidelines document with the following exceptions:

#### A. Persons to be considered for Promotion.

Every eligible faculty member that has given written notice of intent shall be reviewed by the appropriate departmental promotions committee, unless the faculty member requests not to be reviewed.

#### B. Committee Membership.

No faculty member shall vote on or participate in promotion deliberations relative to colleagues seeking promotion to higher rank than those voting at the departmental level, that is, faculty members voting to promote a faculty member to Associate Professor, for example, must already be at the rank of Associate Professor or above it to be eligible to vote on the faculty member requesting to be promoted to Associate. Only tenured faculty members shall serve on a promotion committee at any level. At the college level, only tenured full Professors are eligible to serve on the college promotions committee.

Exception: Chairs who are lower in rank than the candidate on whom they are voting and writing independent reports may participate in the RTP processes of candidates under review for Associate professor or Professor. All faculty are

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under the supervision of their chair and shall receive an independent chair's report as part of the review.

However, chairs at the rank of Associate may not actively participate in the personnel meeting of a candidate for Professor other than to provide an overview at the front of the meeting of such a candidate's strengths and weaknesses when requested by committee members. Similarly, chairs at the rank of Assistant Professor may not actively participate in the personnel meeting of a candidate for Associate Professor other than to provide an overview at the front of the meeting of such a candidate's strengths and weaknesses when requested by committee members. Chairs in these circumstances shall convene the RTP meeting and then must leave the room after introductory comments and reviewing personnel meeting protocols.

### C. Recommendations.

The department chair must notify the Dean in writing of the voting results of all negative recommendations. The Dean shall notify the Provost in writing of the voting results of all negative recommendations made at the department and college levels. Each of the forms related to promotion contains the voting record.

### D. Appeals.

Faculty members seeking promotion may only appeal a negative promotion decision by the Provost to the University Tenure and Promotion Appeals Board.

The instructor and professor tracks are distinct and independent lines of employment at Austin Peay State University.

### Academic Ranks for Instructor Tracks

The following are criteria that distinguish among academic ranks.

#### 1. **Instructor**

- a. Demonstrated ability in instruction and student development.
- b. Master's degree from an accredited institution in the instructional discipline or related area.
- c. Evidence of good character, mature attitude, and professional integrity.

#### 2. **Senior Instructor**

- a. Documented evidence of high quality teaching and contribution to student development.
- b. Master's degree from an accredited institution in the instructional discipline or related area.
- c. Evidence of good character, mature attitude, and professional integrity.

#### 3. **Master Instructor**

- a. Documented evidence of teaching excellence and superior contribution to student development.

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- b. Master's degree from an accredited institution in the instructional discipline or related area.
- c. Evidence of good character, mature attitude, and professional integrity.

### Academic Ranks for Professor Track

The following are criteria that distinguish among academic ranks

#### 1. Assistant Professor

- a. Earned doctorate or terminal degree from an accredited institution in the instructional discipline or related area.
- b. Evidence of potential ability in academic assignment and/or scholarly and creative achievement, and/or professional contributions and activities.
- c. Evidence of good character, mature attitude, and professional integrity.

#### 2. Associate Professor (see NOTE at end of section)

- a. Earned doctorate or terminal degree from an accredited institution in the instructional discipline or related area.
- b. Documented evidence of high quality professional productivity at Austin Peay State University which may lead to national recognition in the academic discipline, and/or consonant with the goals of the University and of the academic unit to which the faculty member belongs. Any exceptions to this requirement will need the written approval of the Provost.
- c. Documented evidence of ability in academic assignment and/or scholarly and creative achievement, and/or professional contributions and activities at Austin Peay State University. Any exceptions to this requirement will need the written approval of the Provost.
- d. Evidence of good character, mature attitude, and professional integrity.
- e. For faculty beginning employment with Austin Peay State University in the fall of academic year 2017-2018, at least four (4) years of full-time status in the rank of Assistant Professor is required before attaining the rank of Associate Professor. Any exceptions to this requirement will need the written approval of the Provost.
- f. Additionally, the faculty member seeking a promotion exception to the four year rule (4) shall submit in writing a substantive narrative rationale, aligned with published departmental criteria, no later than ninety (90) business days before faculty begin updates to the e-dossier as prescribed in the Calendar for Faculty Personnel Actions.

If the Provost allows the exception, the Provost shall provide a clear written statement to the faculty member's chair either granting the exception or denying the exception. The Provost shall provide this letter prior to the faculty member's organization of the e-dossier and formal submission for



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promotion to Associate Professor.

If the Provost denies the exception, the faculty member shall not proceed with the application for promotion. Copies of the letter denying the exception shall be provided to the faculty member, his or her chair, the Dean of the college, and the Office of Academic Affairs.

If the Provost grants the exception, the faculty member under review may proceed with the application for promotion and shall also include this letter within the e-dossier following his/her statement of intent. The faculty member's statement of intent shall refer to the exception to the normal three-year wait period prior to application for Associate Professor. In no way shall the Provost's letter approving the exception to apply for promotion be construed by any personnel committee to be a guarantee that the faculty member's application to promotion will be successful. That determination is made by the various levels of review within the normal retention, tenure, and promotion channels currently in place at the university.

NOTE: For faculty beginning employment with Austin Peay State University in the fall of academic year 2017-2018, at least four (4) years of full-time faculty status at Austin Peay State University at the rank of Assistant Professor shall be the normal expectation for attainment of rank of Associate Professor. In addition to this minimum length of service, faculty members who wish to apply for promotion shall adhere to the standards prescribed in the current RTP criteria governing promotion in their department. Faculty members who are hired at the rank of Assistant Professor shall be eligible to apply for promotion to Associate in the fall semester of their fourth year, although the actual rank awarded shall not be in effect until the fifth year.

For example, a faculty member beginning employment at Austin Peay State University in the Fall semester of 2018 at the rank of Assistant Professor may apply for promotion to Associate Professor no earlier than the fall semester of 2021, with attainment of Associate Professor rank in Fall 2022.

Faculty who find themselves in anomalous situations (e.g. faculty on leaves of absence or faculty who have stopped the tenure clock) and are seeking promotion must consult with the Provost and the Office of Academic Affairs for a ruling on the appropriate date for application. Any exceptions to the minimum requirements described above shall require the written approval of the President.

### 3. **Professor (see NOTE at end of section)**

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- a. Earned doctorate or terminal degree from an accredited institution in the instructional discipline or related area.
- b. Documented evidence of sustained high quality professional productivity at Austin Peay State University and national recognition in the academic discipline or sustained high quality professional productivity in the academic discipline at Austin Peay State University that is consonant with the goals of the University and of the academic unit to which the faculty member belongs. Any exceptions to this requirement will need the written approval of the President.
- c. Documented evidence of teaching excellence and superior contribution to student development or superior scholarly and creative achievement at Austin Peay State University will contribute to the positive record of the candidate for advancement to the rank of professor. Any exceptions to this requirement will need the written approval of the President. Since there is no higher rank, promotion to professor is taken with great care and requires a level of achievement beyond that required for associate professor. This rank is not a reward for long service; rather it is recognition of superior achievement within the discipline with every expectation of continuing contribution to the University and the larger academic community.
- d. Evidence of good character, mature attitude, and professional integrity, and a high degree of academic maturity and responsibility.
- e. At least five (5) years of faculty status at the rank of Associate Professor at Austin Peay State University shall be the requirement for promotion to Full Professor. Any exceptions to this requirement will require the written approval of the Provost. Additionally, the faculty member seeking a promotion exception to the five year (5) rule shall submit in writing a substantive narrative rationale, aligned with published departmental criteria, no later than ninety (90) business days before faculty begin updates to the e-dossier as prescribed in the Calendar for Faculty Personnel Actions.

If the Provost allows the exception, the Provost shall provide a clear written statement to the faculty member's chair either granting the exception or denying the exception. The Provost shall provide this letter prior to the faculty member's organization of the e-dossier and formal submission for promotion to Professor.

If the Provost denies the exception, the faculty member shall not proceed with the application for promotion. Copies of the letter denying the exception shall be provided to the faculty member, his or her chair, the Dean of the college, and the Office of Academic Affairs.

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If the Provost grants the exception, the faculty member under review may proceed with the application for promotion and shall include this letter within the e-dossier following his/her statement of intent. The faculty member's statement of intent shall refer to the exception to the normal five year wait period prior to application for Professor.

In no way shall the Provost's letter approving the exception to apply for promotion be construed by any personnel committee to be a guarantee that the faculty member's application to be promoted will be successful. That determination is made by the various levels of review within the normal retention, tenure, and promotion channels currently in place at the university.

NOTE: At least five (5) years of full-time faculty status at Austin Peay State University at the rank of Associate Professor shall be the normal expectation for attainment of rank of Professor. In addition to this minimum length of service, faculty members who wish to apply for promotion shall adhere to the standards prescribed in the current RTP criteria governing promotion in their department. Faculty members who are hired at the rank of Associate Professor shall be eligible to apply for promotion to Professor as early as their fifth year, although the actual rank awarded shall not be in effect until the sixth year.

For example, a faculty member who is hired at Austin Peay State University or has attained the rank of Associate Professor in the Fall of 2018 may apply for promotion to Professor no earlier than the fall semester of 2022, but the promotion will go into effect fall 2023.

Faculty who find themselves in anomalous situations (e.g. faculty on leaves of absence or faculty who have stopped the tenure clock) and are seeking promotion must consult with the Provost and the Office of Academic Affairs for a ruling on the appropriate date for application. Any exceptions to the minimum requirements described above shall require the written approval of the Provost.

### **Exceptions to Minimum Rank Qualifications**

The minimum rank qualifications should be met in every recommendation regarding appointment to academic rank and for promotion in academic rank. In extraordinary circumstances, if the faculty member receives recommendations by the departmental and college promotions committees and Provost that clearly state the recommendation is by exception as part of the regular evaluation process, the Provost may grant an approval to the exception to minimum rank. However, such exceptions are not encouraged and should be granted only upon a showing of a candidate's exceptional merit and/or other extraordinary circumstances, such as an objective need to deviate from these

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minimum qualifications in filling positions and/or retaining otherwise qualified faculty within certain academic disciplines.

Petitions for exceptions to promotional criteria may include consideration of the appropriateness of the degree or extraordinary qualities that the candidate may possess. The equivalent work experience credit may include relevant teaching experience or other experiences such as experience gained as an administrator, counselor, librarian, or the like.

### **Terminal Degree Designation**

The APSU Board of Trustees will use national discipline standards to determine which degrees are considered to be “terminal” within each discipline and will provide APSU with a list that delineates these degrees. The APSU Board of Trustees affords APSU the opportunity to request blanket exceptions to these standards by classification based upon its mission and hiring practice. APSU may also petition the Board for “equivalent work experience credit” when a candidate has not obtained a terminal degree, but has a record of extraordinary achievement in a given field. The equivalent work experience credit may include relevant teaching experience or other experiences such as experience gained as an administrator, counselor, librarian, journeyman, or the like.

### **General Process Guidelines at University Level**

So that the decision process can be as objective as possible, each recommendation (forwarded from the department or program to a higher administrative level in the University) should be accompanied by complete and careful documentation of the candidate’s performance in academic assignment, and/or scholarly and creative achievement, and/or professional contributions and activities. Although the three areas of evaluation—academic assignment, scholarly and creative achievement, and professional contributions and activities—are all considered important, certain exceptions may exist where evaluation may occur in one or the other area exclusively.

In these cases, as well as in the general case, appropriate supervisory personnel shall clearly and adequately document the facts which justify the individual's promotion. The academic department or program may, if it deems it desirable, include information relative to the candidate's research activities, publication record, exceptional administrative performance, or other types of contributions. Additional procedures may be used by APSU with approval of the APSU Board of Trustees. For example, APSU may wish to establish an interdisciplinary, University-level promotion review committee to review the individual unit recommendations.

### **Withdrawals and Optional Written Responses**

The faculty member may withdraw a promotion e-dossier from further consideration at any level at any time. Applications for promotion go forward unless withdrawn by the faculty member. For example, when the department committee submits a negative recommendation, the faculty member may decide to withdraw the e-dossier from further consideration until the faculty member chooses to apply for promotion at a later date.. When the faculty member applies at a future date for promotion, the faculty member is required to include an explanation for the missing administrative reviews from levels

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beyond the department. This explanation shall be the first item within the “Prior Administrative Reviews” section of the faculty member’s e-dossier.

At the departmental level during the promotion process, a faculty member may submit a two-page written response only in cases of two negative recommendations, and the e-dossier shall move forward. However, the faculty member may choose not to submit a two-page written response, and the e-dossier will move forward, or the faculty member can withdraw his/her e-dossier.

Because applying for promotion is optional, the faculty member may choose to submit an e-dossier and apply for promotion at a later date. However, the official recorded actions (reports and votes etc.) of all previous submissions shall be included within the faculty member’s subsequent e-dossiers for promotion.

All formal appeals to the University Tenure and Promotion Appeals Board within the retention, tenure, and promotion process must offer a substantive, narrative rationale as the basis of the appeal. A very brief document containing a statement such as “I appeal this decision” is not helpful to review committees examining the appeal. If the faculty member persists and still submits a one-sentence or very brief appeal (as described above), the University Tenure and Promotion Appeals Board shall disregard that appeal. In their report, the University Tenure and Promotion Appeals Board shall provide a brief explanation for non-consideration of the faculty member’s formal appeal based on lack of sufficient documentation and substance.

### **Optional Written Responses**

#### **College Level Promotion**

At the college level during the promotion process, a faculty member may submit an optional two-page written response only in cases of two negative recommendations, and the e-dossier shall move forward. However, the faculty member may choose not to submit a two-page written response, and the e-dossier can move forward or the faculty member can withdraw his/her e-dossier.

When a college-level review has been fully completed with recommendations from the departmental committee and the Chair, the e-dossier may be withdrawn from further consideration until the faculty member chooses to apply for promotion at a later date. Under these circumstances, the e-dossier will not automatically move forward. When the faculty member applies at a future date for promotion, the faculty member shall be required to include an explanation for the missing administrative reviews from levels beyond the college. This explanation shall be the first item within the “Prior Administrative Reviews” section of the faculty member’s e-dossier.

If review committee members at the college level have access to an e-dossier prior to the inclusion of the faculty member’s written response, the review committee shall be informed by the individual convening the meeting (at the

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college level, this individual is the Dean, or his/her designee) that the faculty member has written a response to the negative decision from the level below.

Because applying for promotion is optional, the faculty member may choose to submit an e-dossier and apply for promotion at a later date. However, the official recorded actions (reports and votes etc.) of all previous submissions shall be included within the faculty member's subsequent e-dossiers for promotion.

### Review Process for Fixed-Term Faculty

Annual review by the chair/director/supervisor is required for Fixed-Term Faculty. Review by a departmental/school faculty committee is required prior to (1) reappointment to a new fixed term, (2) advancement to a higher rank (clinical-track and research-track only), or (3) non-reappointment during a fixed term. Annual renewal within a fixed term does not require a committee review.

For Fixed-Term Faculty, appointment to a higher rank will occur at the beginning of a new fixed term once the criteria for the higher rank have been met. Advancement in rank requires a recommendation from the chair/director/supervisor, a departmental review committee, the dean, and the provost.

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### Links

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|                          |   |
|--------------------------|---|
| <b>APSU Policy 1:025</b> | <a href="https://www.apsu.edu/policy/policy-academic-tenure-1025">https://www.apsu.edu/policy/policy-academic-tenure-1025</a> |
|--------------------------|---|

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### Revision Dates

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APSU Policy 2:063 (previously 5:061) – Rev.: June 7, 2017  
APSU Policy 2:063 – Rev.: July 26, 2016  
APSU Policy 2:063 – Rev.: April 29, 2014  
APSU Policy 2:063 – Issued: August 10, 2012

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### Subject Areas:

| Academic | Finance | General | Human Resources | Information Technology | Student Affairs |
|----------|---------|---------|-----------------|------------------------|-----------------|
| X        |         |         | X               |                        |                 |

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**Approved**

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President: signature on file

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### **Contact Us**

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**Austin Peay State  
University**

## **Tenure Procedures and Guidelines**

### **Procedures & Guidelines**

**Issued:**

**Responsible** Provost and Vice President for Academic

**Official:** Affairs

**Responsible Office:** Academic Affairs

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#### **Introduction**

The following Tenure Procedures and Guidelines document of Austin Peay State University (APSU) on retention, tenure, and promotion applies to all tenure-track and tenured faculty within the University. These procedures and guidelines embody and communicate all provisions, definitions, and stipulations of Austin Peay State University policy.

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#### **Contents**

##### **Procedures**

- Consideration for Tenure
- Tenure Process
- Composition of the College Retention and Tenure Committee
- The Departmental Representative to the College Committee
- Appeals Process
- Conditions for Filing an Appeal
- Composition of University Tenure and Promotion Appeals Board
- Steps in the Process for Filing an Appeal with the Tenure and Promotion Appeals Board
- Procedures when the Provost is Sole Dissenter
- Department Level Retention and Tenure Appeals
- College Level Retention and Tenure Appeals
- Applying for Tenure
- Calculating the Probationary Period
- Criteria to be considered in Tenure Recommendations
- Evaluation Materials
- General Organization and Procedure for Personnel Committees

##### **Links**

- APSU Policy 5:020
- APSU Policy 1:012
- APSU Policy 1:025



- APSU Policy 2:063
- APSU Policy 2:052
- APSU E-Dossier Website
- APSU QEP

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## **Procedures**

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### **Consideration for Tenure**

#### **Who Awards Tenure at APSU**

Tenure is awarded only by positive action of the APSU Board of Trustees, pursuant to the requirements and procedures of this policy at APSU. The President has the authority to recommend tenure or to continue faculty members in probationary status.

#### **Calendar for Faculty Personnel Actions**

Copies of all personnel actions made at every level shall be sent to the faculty member, departmental chair/director and Dean on a timetable consistent with the Calendar for Faculty Personnel Actions. The Calendar for Faculty Personnel Actions is established and prepared by the Provost in the Office of Academic Affairs. Any questions concerning adjustments to the established dates on the calendar shall be addressed by the Office of Academic Affairs.

### **Tenure Process**

#### **1. Departmental Recommendations**

- a. The departmental chair/director shall inform faculty members who are to be reviewed of the nature of materials required by the retention and tenure committee and the date by which these materials must be received for committee consideration. Faculty members under review for retention, tenure, and promotion are responsible for submitting well-organized, up-to-date, and accurate e-dossiers. This responsibility shall end upon final submission of the e-dossier by the faculty member for the year under review.

Faculty members are encouraged to work closely with their directors/chairs, assigned mentors, and/or other senior faculty within and outside of their department (as necessary) to make sure that the e-dossier complies with content and order requirements as noted below. Faculty members should consider the preparation of e-dossiers as a year-round process, gathering and

maintaining materials accordingly.

- b. Included in the e-dossier shall be a description and a curriculum vita of the candidate's scholarly and professional achievements. The chair may appoint faculty to advise other faculty members in the development of their dossiers. Their advice should be reported to both the chair and the faculty member.

**Note:** Faculty members must submit an updated e-dossier for the current year's review. Activities in all the three areas of review must be updated. Faculty members who do not submit an updated e-dossier for evaluation by the appropriate retention/tenure committee during the current review cycle shall, by the act, be considered in breach of contract, and their employment shall terminate as of the end of the academic year in which they do not submit their e-dossier. Any exceptions to this requirement must have the written approval of the President.

c. **Preparing the E-Dossier** (overview)

NOTE: All faculty seeking retention, tenure, or promotion must complete an electronic dossier. Faculty preparing e-dossiers for the first time must consult the Academic Affairs Technical Support Coordinator for an e-dossier shell and training.

Faculty who wish to apply for promotion should inform their chair/director of their intent in writing in the semester prior to the one in which they will apply for promotion. The deadline cut-off date to inform the chair/director shall be October 1 or the next business day (if October 1 falls on a weekend). Starting with the 2018-2019 academic year, faculty seeking promotion should file their letter of intent by March 1 or the next business day (if March 1 falls on a weekend).

Faculty preparing e-dossiers should allow plenty of time to prepare an e-dossier, especially if they are preparing an e-dossier for the first time. All supplemental materials shall be a part of the e-dossier.

Faculty undergoing personnel review for retention, tenure, and promotion must read Policy 1:025, which

governs tenure as well as Policy 2:063, which governs promotion. Faculty members must consult closely with their department chair/director as well as with experienced senior members in their own department for guidance in preparing an accurate, well-organized, and up-to-date e-dossier.

In smaller departments or within departments that do not have a number of senior faculty members, the faculty member under review is strongly encouraged to seek assistance from colleagues in a related discipline or colleagues in another department of the University.

The faculty member under review should seek advice from colleagues who have been through the tenure process and have personal experience with preparing e-dossiers themselves. The responsibility for complying with all the rules and regulations governing the preparation and submission of the e-dossier lies with the faculty member under review. While the faculty member may receive assistance from other individuals at the university related to the technical aspects of preparing an e-dossier, the ultimate responsibility lies with the faculty member to ensure that all links and file attachments within his or her e-dossier work and that all required items have been uploaded correctly and are available for review by personnel committees.

New faculty as well as experienced and more senior faculty (those applying for promotion to professor, for example) are strongly encouraged to attend training sessions conducted by the Academic Affairs Technical Support Coordinator in order to prepare the electronic version of documents (PDF file) correctly. This training will include scanning documents for conversion to PDF and conversion of electronic files to PDF. Faculty also shall use the A-Z index on the main page of APSU, selecting "E-Dossiers." This section contains valuable resources to help you create an effective e-dossier.

Click on <http://www.apsu.edu/academic-affairs/edossier>

All documents within the e-dossier shall be PDFs. Other important review materials added to the e-dossier, such as Chair's reports and college committee reports, shall also be PDFs and must not be scanned as JPG

files. Limited exceptions for JPG or QuickTime media are acceptable within supplemental materials when related to the academic discipline.

Faculty members preparing e-dossiers shall follow the order of items as provided in the e- dossier template. Faculty should see ORGANIZATION OF MATERIALS IN THE E-DOSSIER [III.B.1.e] for general guidance in the order and arrangement of e-dossier materials.

**d. Direct Instructions to Faculty for Preparing the E-Dossiers for Personnel Review Processes**

General Overview

If you are being reviewed for retention, tenure, or promotion, you will need to prepare an e-dossier. All reviews will be conducted in accordance with the standards in effect at the time of the review. All actions are due by the close of business (4:30 p.m.) on the date specified in the Calendar for Faculty Personnel Actions. These actions include submissions of e-dossiers; notifications of retention, tenure, and promotion recommendations to candidates; and appeals of negative recommendations.

To ensure that materials are placed appropriately in the three areas of review and that credit for a certain activity is not duplicated, you **must** consult closely with your department chair/director as well as with experienced senior members in the department for guidance in preparing an accurate, well-organized, and up-to-date e-dossier.

Any dossier considered to be incomplete during the departmental review stage, prior to the committee vote, or which does not comply with the content and order requirements of Section III.B.1.e, must be returned to the faculty member for timely revision and resubmission to the departmental committee prior to formal consideration by the departmental committee. An incomplete e-dossier is one that is declared by the departmental committee (before the vote takes place) as missing necessary materials or not complying with the content requirements of current policy.

The chair/director/coordinator shall have the authority to direct that an e-dossier be unlocked for a faculty member within that department/school, provided that the departmental committee meets and declares an e-dossier incomplete and affirms that no vote on the e-dossier has been taken. This meeting to declare an e-dossier incomplete may occur electronically over email, for example, using voting buttons or other similar methods. By declaring the e-dossier incomplete, the chair/director/coordinator attests that the departmental committee will convene again and vote before the due date specified in the Calendar for Faculty Personnel Actions.

During the retention process, except for first year faculty, your dossier should focus on describing teaching activities, scholarly accomplishments and service since the most recent personnel action. For example, the e-dossier of a faculty member seeking fourth-year retention should focus on accomplishments in Areas 1, 2, and 3 since the application for 3<sup>rd</sup> year retention.

However, when you are in your tenure year, all of the activities in the three areas since you came to APSU will be examined as part of the personnel review, that is, in your tenure year, you will receive a summative assessment or comprehensive review of your time at Austin Peay State University

**e. Organization of Materials in the E-Dossier**

Make your accomplishments clear by adding brief explanatory statements where needed because your e-dossier is likely to be examined by many faculty members who may not be completely familiar with your discipline. Do not assume, for instance, that colleagues outside of your department will understand the value of being nominated for the Pushcart Prize in fiction.

Faculty are not permitted to alter the appearance or ordering of the headings provided for their e-dossier. Your e-dossier should include the following items and must be arranged as described below in the e-dossier. Any menu items in the e-dossier added for informational purposes (those not stated below) should not be altered

or removed.

1. **Brief narrative statement of intent** (30 words or less). Your statement of intent should be in the form of a letter. Use “Dear Reviewers” as your salutation. Include a date, sign your name (print name below signature), and add your current rank as well as departmental affiliation beneath your name. Indicate your intention clearly. You should prepare a new statement of intent when you are seeking more than one action in the same review cycle (e.g. retention and promotion, tenure and promotion). You should also include the year for which you are seeking retention (e.g. third year or fourth year etc.).

Example of text for *statement of intent for retention*:

“Please consider this e-dossier in support of my application for retention for a fifth year at Austin Peay State University.”

Example of text for *statement of intent for tenure*:

“Please consider this e-dossier in support of my application for tenure at Austin Peay State University.”

Example of text for *statement of intent for promotion*:

“Please consider this e-dossier in support of my application for promotion to Associate Professor at Austin Peay State University.”

Faculty members seeking more than one action (e.g. retention and promotion, tenure and promotion) in a single calendar year must submit one e-dossier for each action sought; with sufficient prior notification to the Academic Affairs Technical Support Coordinator, a copy of a completed e-dossier can be made to assist in this process.

2. All e-dossiers must include the **Notice of Tenure-Track Appointment and Agreement of Employment**, that is, your contract, which includes

special conditions that govern your employment such as years of prior service toward tenure and your starting salary. You may cover up the salary figure before you scan this document to upload to your e-dossier. The Notice of Tenure-Track Appointment and Agreement of Employment, that is, your contract only needs to be uploaded during your first year retention review and will be a permanent part of the e-dossier items. If your contract has changed, the new contract must be uploaded in that review cycle. The previous contract shall not be deleted or removed.

Note: The Notice of Tenure-Track Appointment and Agreement of Employment is a legal document that, along with applicable University policies, governs the faculty member's employment and relationship with the University.

Interpretations of a faculty member's contract that contravene or deviate from what is explicitly stated (such as years toward tenure, requirements for promotion, and conditions governing employment etc.) are not permitted. For example, a departmental review committee cannot require a faculty member hired at the rank of Instructor to complete a doctoral degree or a terminal degree to attain tenure or be retained if the terms of the faculty member's contract do not specifically state that the faculty member is required to complete the aforementioned degree in order to be tenured or retained.

3. **Current Recommendations**. Your e-dossier should contain reports from departmental and college committees, the Dean, the Provost, and the President. All appeals shall be included within the faculty member's Current Recommendations under the level of the decision being appealed. These current recommendations will include the following items:

- (a) Department Committee's Retention and Tenure Recommendation Form or Promotion Recommendation Form as appropriate as well as all reports, including any positive and negative minority reports

- (b) Department Chair Faculty Performance Review Form
  - (c) Post-tenure review form. This form will not be required from the 2018-19 academic year onward. Faculty who already have previously completed post-tenure forms in the e-dossier should leave the documents where they currently reside in the e-dossier.
  - (d) Appeal (if any) of negative departmental and chair/director recommendations. Documents in support of the faculty member's appeal. Faculty shall clearly delineate documents that are part of their appeal (e.g. Appeal Attachment A, Appeal Attachment B).
  - (e) College Committee's Report and Dean's Retention and Tenure Recommendation Form/Promotion Recommendation Form as appropriate as well as all reports, including any positive and negative minority reports
  - (f) Appeal (if any) of the University Tenure and Promotion Appeals Board to the Provost
  - (g) Provost's recommendation
  - (h) President's recommendation
4. **An up-to-date vita.** A vita is a continuing academic record of the faculty member's activities and accomplishments. At the very minimum, your vita should be well-organized, current, accurate, and aesthetically appealing. Follow reverse chronology, that is, list most recent achievements and/or activities first.

Your vita should clearly indicate specific dates of activities in the three areas under review (e.g. "presented paper at College English Association meeting in March 2016") as well as clearly distinguish among stages of development of academic scholarship within Area II (e.g. a work in progress, article accepted, submitted to, under



review, accepted by editors but needing publisher etc.). See Section IV.B for further information [Criteria to be Considered in Tenure Recommendations; Irregularities in Research, Scholarship, and/or Creative Activities].

Faculty members may follow different formats for a vita; however, do not organize your academic vita into Areas I, II, and III as the review committee will get this information from your narrative summaries. The standard parts of your vita should include the following: your current position at Austin Peay, your prior positions, education, scholarly/creative and professional accomplishments, and other relevant achievements

**5. A brief narrative summary of Areas I, II, and III.** Provide a snapshot summary of Effectiveness in Academic Assignment, Scholarly and Creative Achievement, and Professional Contributions and Activities. This document should provide an overview of significant accomplishments in these areas, and it should be prepared using reverse chronology, that is, list most recent achievements and/or activities first. Your narrative may include some bullet points but should include sentences and should be no longer than two (2) pages when formatted as single-spaced text

If you are seeking retention, this summary shall be a narrative of the single year since your most recent personnel action. If you are seeking tenure, this summary shall be a consolidated narrative of your years at Austin Peay State University from the date of hire. If you have been awarded years of prior credit toward tenure, this summary shall be a consolidated narrative of only the time spent at Austin Peay State University.

In your tenure year, however, you are required to write (a) one narrative summary of Areas 1, 2, and 3 covering your time at APSU from the date of hire and (b) a narrative description for each of the three areas of review. You are, then, providing a brief snapshot summary of all your three areas (1 document) followed by the narrative descriptions for each area (3 documents), which expand on the one

brief snapshot summary. If you have done this correctly, you will have written a total of four documents.

In your tenure year, you are not required to write a separate narrative for the immediate year's activities (as you have done during previous retention cycles). During retention cycles, you were only required to provide a brief consolidated summary of activities since the last personnel review. However, in your tenure year, this summary covers all time at APSU.

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In your tenure year, for each required individual description of Areas 1, 2, and 3, expand (with a reasonable level of detail) upon the information contained in your consolidated brief narrative summary. As always, discuss the most recent year's activities first and then continue with the description of your time at APSU from the date of hire.

It is not necessary to describe in exacting detail each and every activity in which you were engaged during all time spent at APSU. You may be more effective limiting your descriptive narrative to highlights and more significant achievements. Consult with your chair, your mentor, and other senior faculty within and outside of your department as appropriate.

If you are seeking promotion to Associate Professor, this summary shall be a consolidated narrative of your activities in your three areas since your last promotion at Austin Peay State University or your initial appointment at Austin Peay State University.

If you are seeking promotion to Professor, this summary shall be a consolidated narrative of your activities in the three areas since your last promotion. If it has been longer than five years since your last promotion at Austin Peay State University, please include within your consolidated narrative information pertaining to the most recent five years or since your last promotion (at the candidate's

discretion). If it has been longer than five years since your last promotion at Austin Peay, you also have the option to include student evaluations only from the most recent five (5) years in your promotion e-dossier. Also, when faculty apply for promotion to professor, they are strongly encouraged to organize Areas 1-3 of the previous years' accomplishments since the last promotion into standard academic year divisions. For example, include Areas 1-3 under "2015-2016," "2014-2015," "2013-2014" and so on. Use the academic year as the over-arching heading.

6. **Prior Administrative Reviews.** These reviews must include copies of all previous years' APSU personnel recommendations by departmental and college committees, Chairs/Directors, Deans, the Provost and the President. Place the President's renewal notice first in this section followed by copies of all previous years' APSU personnel recommendations by the Provost, Dean, college committee, chair/director, and departmental committee. These reviews should be arranged in reverse chronological order, that is, from the most recent to the earliest review. Group these items by the calendar or academic year under review.

In the year following the current retention, tenure, and promotion cycle, it shall be the responsibility of the faculty member under review to upload to his/her e-dossier the prior administrative reviews from, the Provost, and the President and to ensure that these reviews are always maintained from year to year in the faculty member's e- dossier.

7. **Post-Tenure Review.** All tenured faculty are required to include the annual post-tenure review during their personnel proceedings. Place the post-tenure review after the Chair's report. This form will not be required starting with the 2018-19 academic year onward. Faculty who already have previously completed post-tenure forms in the e-dossier should leave the documents where they currently reside in the e-dossier.
8. **Narrative Description of Academic Assignment.** Your narrative description should expand on the snapshot summary. See No. 5, above.

9. **Teaching Philosophy Statement.** A summary of your teaching philosophy (this document shall be limited to one to two pages formatted as single-spaced text) should accompany this description. Place your teaching philosophy statement after the narrative description of your Academic Assignment. Your teaching philosophy may reflect changes from year to year.
10. **Narrative Description of Scholarly and Creative Achievement.** including evaluations by off-campus authorities in the relevant field. Your narrative description should expand on the summary offered in No. 5.
11. **Narrative Description of Professional Contributions and Activities.** including evaluations by off-campus authorities in the relevant field; supporting materials should be provided in supplemental dossier. Your narrative description should expand on the summary offered in No. 5.
12. **Annual Peer Review of Teaching.** At a minimum, peer reviews should contain some narrative statements that comment on the teaching effectiveness of the candidate.

At least one peer review per year of teaching instruction is required of all faculty members undergoing personnel review during *each review cycle* leading to tenure. The peer reviews are required of all faculty, including on-ground and online faculty

Faculty applying for promotion to Associate Professor after they receive tenure shall include at least one recent peer review (within two years prior to the current promotion action). Faculty applying for promotion to Professor shall also include at least one recent peer review of instruction (within two years prior to the current promotion action). If a faculty member has requested peer reviews from multiple colleagues, the faculty member shall include all completed peer reviews of instruction and not selectively pick among completed peer reviews for inclusion in the e-dossier.

When a long gap of time, such as ten years or more, has occurred between any personnel actions (except retention), faculty are required to submit at least two recent peer reviews from within the most recent five years prior to the semester when the application has been made for promotion. For example, if a faculty member was last promoted to associate professor in 2003 and intends to seek promotion to Full Professor rank effective Fall 2018 (the long gap being fifteen (15) years, the faculty member is encouraged to submit two recent peer reviews from years 2013 until the year of application to rank of Full Professor .

When a faculty member includes only one peer review within his/her e-dossier, that peer review must be written by someone within the faculty member's department. If a faculty member in the candidate's department is unavailable to provide this review for a clear and abiding reason, then the candidate should seek a colleague who teaches in a closely-related discipline. In so far as it is feasible, the mentor of the faculty member under review should not write the peer review of the candidate during the period of the two-year mentorship in order to avoid advocacy and conflict of interest issues. Peer reviews for faculty undergoing personnel reviews should be written only by regular full-time faculty at Austin Peay. Faculty members who audit a class taught by a colleague are strongly encouraged not to write any peer reviews for the colleague's personnel actions.

All peer reviews shall include the date of the review, the specific class being reviewed, name, rank, and department name of the individual completing the peer review.

- 13. All student evaluations of instruction since coming to APSU.** Do not include evaluations of study-abroad classes, APSU 1000 classes, or classes not routinely evaluated by the University (such as summer courses, intersessions, wintermester, Maymester, independent studies, and individual instruction).

Faculty must clearly label student evaluations that are included within the e-dossier. At a minimum, the label must include the year and the semester. For instance, the faculty member may use the label “Spring 2015 Student Evaluations.” Simply using “2015” as a label in the e-dossier shall be unacceptable. The student evaluations shall also be uploaded to the e-dossier in reverse chronological order, that is, the most recent set of student evaluations shall appear first.

Evaluations shall be included except for narrative comments, which must be removed. Faculty shall not extract any other sections of Class Climate or other survey instrument evaluations. . In courses with an enrollment of fewer than 5 students at the time of evaluations, student evaluations may be included. Faculty must provide a brief explanatory statement for courses that have not been evaluated.

Faculty being reviewed for promotion to Associate or Professor shall include all student evaluations of instruction only from the most recent five-year period or, if fewer than five, all evaluations.

Faculty members may comment on their own student evaluations. These comments related to student evaluations shall be on a separate sheet that should be placed before the student evaluations in the faculty member’s e-dossier. If a faculty member is commenting on a specific set of evaluations, those courses should be clearly identified within the commentary (e.g. titling the page “Comments for Fall 2015 English 1010 Section 08 class”).

**Any Narrative Comments Written by Students  
Must Be Excluded from Your E-Dossier**

Note: Narrative comments written by students at the time of the regular faculty evaluation process or narrative comments from online surveys must not be included within the faculty member’s e-dossier. Student comments should be used only informally by the faculty member for his/her assessment and/or improvement. The department chair/director shall

also receive a copy of the students' narrative comments.

### **Learning Opportunities (APSU High-impact Practices)**

Faculty who engage in activities that meet or exceed high impact practices criteria and best practices as outlined in Austin Peay State University's E<sup>3</sup> Quality Enhancement Plan (QEP) Explore, Experience, Excel shall be permitted to include such activities toward credit in Areas 1, 2, or 3 as appropriate according to departmental criteria in the retention, tenure, and promotion process. These activities might include service learning, study abroad, internships, undergraduate research, and other high-impact practices. Faculty can learn more about Explore, Experience, and Excel activities at <http://www.apsu.edu/QEP>.

#### **f. Organization of Supplemental Materials**

Your supplemental materials should contain supporting materials related to the three areas under review: academic assignment; scholarly and creative achievement; and professional contributions and activities. Faculty are advised to examine Section IV. [Criteria to be Considered in Tenure Recommendations] for further information relative to these three areas.

The supplemental materials shall be organized by the three areas under review. See section "Organization of Materials in the E-Dossier." The faculty member must consult closely with the chair/director and senior members of the department for specific guidance in the appropriate selection and placement of materials within the supplemental dossier.

Examples of supporting materials might include copies of published articles; copies of representative chapter(s) in a book publication or the book itself; (c) copies of published essay in an anthology; (d) photographs of a painting exhibit or sculpture etc. If you are unsure of what might be appropriate, consult closely with your chair/director as well as with experienced senior faculty members in your department.

### **Suggested Materials for Inclusion in Your Supplemental Materials**

Area I: Copies of course syllabi; representative samples of lecture notes; a few selected PowerPoint presentations; sample of graded work, and/or other appropriate teaching materials. If you have relevant documents related to student advising, you may include those here.

Area II: Copies of articles in journals. If a book, include copies of relevant chapters and pages, e.g. title page (author name must be visible) and table of contents page. If you have presented a paper at a conference, you should submit a copy of your paper and include the program schedule (highlight your name in some visible way in the program schedule).

If you are using online articles as evidence of scholarship, save the articles as PDF files and include the complete text of all articles within your supplemental materials. Because hyperlinks may become broken, you must preserve copies of your online articles that support your accomplishments in Area II. These copies should contain the access date and URL.

It shall be the responsibility of a faculty member undergoing a retention, tenure, or promotion review to retain all materials (electronic or physical format) pertinent to the faculty member's activities in the area of research/scholarship/creative activities until such time as the faculty member has attained tenure achieved the rank of Professor. Such documents might include, among other things: (a) copies of all email exchanges between the faculty member and the editor/publisher of a scholarly journal; (b) written exchanges among multiple authors of a document; (c) written correspondence between co-authors; (d) documentation of the level of contribution by the faculty member in a multi-authored work; and (e) notes and suggestions for revisions from editors/reviewers.

Area III: Include evidence of your participation in the governing and policy-making processes of the University e.g. your appointment letter to a standing



committee. Include information pertinent to your participation on departmental committee and leadership or advisory role in student organizations. Include evidence of your memberships and leadership positions in professional organizations at state, regional or national levels. Thank you notes from colleagues for your service as guest lecturer in a class would be acceptable in this section. Also include pertinent information to your service as session chair, discussant, paper reviewer, etc.

Faculty shall retain back-ups of all files and materials entered by the faculty member into the e-dossier and used in the retention, tenure, and promotion process.

### **Unlocking an E-Dossier**

Note: Any e-dossier considered to be incomplete during the departmental review stage, prior to the committee vote, or which does not comply with the content and order requirements must be returned to the faculty member for timely revision and resubmission to the departmental committee prior to formal consideration by the departmental committee.

The chair/director/coordinator shall have the authority to direct that an e-dossier be unlocked for a faculty member within that department/school, provided that the departmental committee meets and declares an e-dossier incomplete and affirms that no vote on the e-dossier has been taken. This meeting to declare an e-dossier incomplete may occur over email, for example, using voting buttons or other similar methods. By declaring the e-dossier incomplete, the chair/director/coordinator attests that the department committee will convene again before the date specified in the Calendar for Faculty Personnel Actions.

#### **g. Departmental Criteria for Retention-Tenure Actions**

Faculty under review shall adhere to the RTP criteria in place for the current review cycle. Departmental review committees, chairs, directors, college committees, and deans shall evaluate candidates based on approved departmental RTP criteria.

Departments shall review and may consider revisions to their Retention, Tenure, and Promotion (RTP) criteria every 5 years. The current criteria, revised in Fall 2015, are in effect beginning in academic year 2016-17. Future opportunities for revisions will occur in 2020, 2025, and 2030. Departments wishing to make any substantive changes within the five-year period must obtain written permission from the Provost and the President. The Provost shall establish the time table for the revision of departmental criteria.

### **General Procedures for Revision of Departmental RTP Criteria**

1. Departments are encouraged to review carefully the criteria that they presently have and use APSU Policies 1:025, 2:063 and this document to inform their discussions.
2. Each department will establish a criteria review committee. The committee will include members from all tenure-track and tenured ranks within a department. The review committee will review the criteria, propose changes, and discuss the revised criteria with the department.
3. The review committee may incorporate suggested changes to the RTP criteria and forward the proposal in writing with brief rationales for those changes to the dean. The dean will review the proposed changes and make suggestions with brief rationales to the departmental criteria review committee.
4. The review committee shall reconvene and consider the dean's suggestions and may choose to modify the RTP criteria. Then, the review committee will prepare a final revision of the RTP criteria and present it to the department. All tenured and tenure-track faculty members of the department will vote on the proposed changes. In order for the proposal to move forward, a simple majority of the voting members must approve the proposed changes. If the vote fails, the review committee will reconvene and consider faculty members' suggestions and may choose to modify the RTP criteria to bring to the

faculty members for a second vote. The chair will cast an independent vote. The approved proposal and vote tally shall be forwarded to the department's dean.

5. The department's proposed RTP criteria will be reviewed and voted on by the College Promotion Committee, chaired by the dean. The dean and college promotion committee will send to the Provost the department's proposed changes (including any college-level or decanal comments) and votes of the College Promotion Committee and of the dean. The dean will forward the results of Dean's vote and College Promotion Committee's votes to the department chair for dissemination to all faculty members within the department.
6. The Provost shall review each department's proposed RTP changes. The Provost may make suggestions in writing with brief rationales and send them back to the department chair, with a copy to the dean. The chair shall inform the department of the Provost's comments. The department review criteria committee will reconvene and consider the Provost's suggestions. The Provost may meet with the department to discuss revisions. The review criteria committee will prepare its final proposed criteria and send them to the Provost.
7. After consultation with the dean, chair, and department criteria review committee, the Provost will approve final departmental criteria.
8. Changes to a department's RTP criteria will take effect the following academic year. Faculty members who believe that the newly adopted criteria will negatively affect future retention or tenure actions may appeal their case to the Provost. The timeline shall be set by the Provost.
9. College Committees are not permitted to reinterpret and/or redefine departmental RTP criteria.

#### **h. Storage of E-Dossiers**

Because of record-keeping requirements, official

personnel records are to be kept a minimum of seventy-five years from an individual faculty member's last date of employment in a paper or imaged format. In addition, due to the time frame in which an individual faculty member could file an EEOC complaint and/or lawsuit, a paper dossier of any faculty member must specifically stay in the department office for a minimum period of four (4) years from the point when the final personnel decision is made on the faculty member's status at the institutional level or at the APSU Board of Trustees level. Likewise, an electronic dossier shall be stored on a server or some other media for a minimum period of four (4) years from the point when the final personnel decision is made on the faculty member's status at the institutional level or at the APSU Board of Trustees level.

After the separation of a faculty member from University service and the expiration of the timeframe in which an EEOC complaint may be filed, an imaged copy may be kept in any format compliant with federal and state record-keeping requirements. All existing paper dossiers not converted to electronic format must be maintained until converted to imaged format after the separation of the faculty member from APSU employment.

A faculty member's existing paper dossier, if relevant, is the property of APSU and shall continue to remain in the department until the faculty has achieved the rank of tenured full professor. In order to protect the security of a paper dossier, a faculty member may not remove his or her paper dossier from the departmental office without prior permission of the department chair/director. A faculty member's e-dossier that is prepared for personnel reviews is the property of APSU and shall be maintained on a server or other media..

When a faculty member has attained tenure and achieved the rank of Professor, a paper dossier may reside in the faculty member's office after meeting the required four-year residency in the department following the final personnel decision on the faculty member's status at the institutional level or at the APSU Board of Trustees level.

Faculty members who retire or resign from the University may make copies of materials in their dossier;

however, the dossier itself shall remain with the University. When a faculty member is currently teaching on a post-retirement contract, a paper dossier of that faculty member may reside in the faculty member's office after meeting the required four-year residency in the departmental office.

If a faculty member leaves the institution, the faculty member may make copies of documents submitted as part of his or her review process. The faculty member must consult with his or her department chair/director for guidance in this area. If the department chair/director leaves the institution, the department chair/director shall consult with the Dean of the college and/or the Provost for guidance.

#### **i. Departmental Reviews**

The Departmental Retention and Tenure Committee shall be convened by the departmental chair/director in a timely fashion. A faculty member who is normally eligible to serve on review committees but who is on a leave of absence or on faculty development leave during the current review cycle shall not participate or vote in any RTP process.

#### **Role of Presiding Officer**

The committee will then select a presiding officer, who shall be a voting member of the committee. The presiding officer will select a committee member to take notes to provide a summary statement reflecting the strengths and weaknesses noted during the review of each dossier. These notes can be used as reference material for the written evaluation. The departmental committee's report for retention and tenure shall be prepared on the appropriate form on white paper using portrait orientation only. The departmental committee's report for promotion shall also be prepared on the appropriate form on white paper using portrait orientation only. The forms are available here: <http://www.apsu.edu/academic-affairs/resources>

While the Chair/Director may participate in the discussion, the presiding officer shall manage the

meeting. If the committee wishes to discuss a candidate without the presence of the chair, , the presiding officer should set aside a time period in which the departmental committee can discuss the candidate freely without the presence of the chair. The department chair may be recalled to the room at any time during the process if the committee wishes further input. The chair must leave the room when it is time to cast final ballots.

The presiding officer shall ensure that draft versions of reports are prepared in a timely manner and available for comment and review by committee members before the final version is prepared. The presiding officer shall ensure that reports contain all appropriate signatures and help coordinate the movement of reports to the department office in a manner consistent with the Calendar for Faculty Personnel Actions.

### **Years toward Tenure:**

At retention, tenure and promotion meetings, department chairs shall remind personnel committees about the specific number of years granted to the faculty member under review.

Faculty members granted years of prior service will have that service applied immediately preceding the tenure year. Therefore, a faculty member granted one year of prior service must seek tenure in the fifth year of service at APSU after signing the tenure-track contract and would be evaluated as first-year, second- year, third-year, fourth-year, and tenure year. A faculty member granted two years of prior service must seek tenure in the fourth year of service at APSU after signing the tenure-track contract and would be evaluated as first-year, second- year, third-year, and tenure year. A faculty member granted three years of prior service must seek tenure in the third year of service at APSU after signing the tenure-track contract and would be evaluated as first-year, second-year, and tenure year.

At the departmental level, it is the professional responsibility of all faculty members serving on any personnel committee (retention, tenure, or promotion) to review fully a candidate's e-dossier before casting a

vote.

### **Documents Not Ordinarily Part of Content and Order Requirements**

Documents *not* ordinarily part of the content and order requirements as stipulated in 5:060 or other standard review materials (Chair's report, Provost's report etc.) may be introduced at any personnel review meeting on the condition that such documents relate to the three areas under review. Faculty members on a review committee wishing to introduce documentation at the personnel meeting must inform the chair and supply the documents or copies thereof.

However, these documents must be signed and may not be introduced at the review meeting unless the faculty member under review has been previously informed by the chair that these documents may be introduced and discussed. These documents are not required to be signed by the faculty member under review; rather, the documents are to be signed by the individual (s) who has/have authored the document(s).

All pertinent documents related to the situation must be included. The faculty member under review shall be permitted to include one rebuttal to such documents. This rebuttal shall be in the form of a single document, limited to a narrative response no more than two pages in length.

The faculty member's rebuttal must be submitted prior to the department committee's vote to include or exclude these documents from the e-dossier. The faculty member shall be notified by the department chair or presiding officer of the committee's decision to include or exclude the documents from the e-dossier. If the personnel committee votes to admit these documents, then the faculty member's rebuttal shall be included within the e-dossier. In terms of document order and placement, the faculty member's rebuttal document shall follow the documents that have been introduced and admitted. All these items shall follow the chair's review. The documents are to be uploaded by the administrative assistant to the Dean or the Office of Academic Affairs.

If the personnel committee votes to reject these documents, the faculty member's rebuttal shall not be included within the e-dossier. Once the documents have been denied inclusion in the e-dossier at the departmental level, these documents may not be re-introduced at the college level. If the documents have been approved for inclusion at the departmental level, these documents may not be removed at the college level.

On the matter of the chair informing the faculty member, the chair of the department or members of the review committee must provide written evidence of such communication. An e-mail to the faculty member under review with a "request a delivery receipt" and "request a read receipt" option sent with the e-mail is recommended. All written communication between the faculty member and the chair or between the faculty members and members of the review committee must include a time and date stamp. A chair or members of a review committee who initiate these messages to the faculty member shall bring copies of such communications to the personnel meeting.

The faculty member shall have the right to see the documents or copies of such documents. If the faculty member is not informed about such documentation at least three (3) business days before the personnel meeting, such documentation may not be introduced at the meeting or discussed.

Written narrative comments by students that were completed as part of the normal faculty evaluation process are not to be shared with committee members during personnel meetings and are not to be used in any way as part of the personnel process.

If any member of the committee or the chair wishes to introduce a document, that document will then be given to the presiding officer, who will then present the nature of the document to the committee. However, no document may be introduced until the faculty member under review (a) has seen the documents or copies of documents; (b) has been informed in advance about such documentation as prescribed in the previous paragraph; and (c) is assured that these documents have



not been altered in any way.

If requested, the presiding officer will read the document aloud. The entire committee will then vote to determine the admissibility of this document within the committee's deliberations. A simple majority vote shall determine the outcome. A secret ballot process (similar to that used for conventional retention, tenure, and promotion actions) shall be used in order for the votes to remain anonymous. A tie vote is not a majority vote, and the document shall not be discussed. The chair shall not be permitted to break a tie vote.

If the committee has voted to admit these documents, the reports of the review committee shall reference these documents and include clear narrative statements that (a) are specific and (b) demonstrate the importance of the document(s) to reviewers. All positive or negative reports may include attachments as needed. The presiding officer shall arrange for the document itself to be included in the e-dossier of the faculty member under review. If a chair is under review and is the subject of the document, the Dean of that college shall fulfill the role normally assigned to the chair.

The presiding officer from the departmental committee shall inform the department chair in writing of the results of the committee members' deliberations on documents that meet the criteria for "not ordinarily part of content and order requirements" and the decision whether or not to permit the inclusion of the document or parts thereof within the e-dossier of the faculty member under review. The presiding officer of the departmental committee shall prepare a narrative rationale for the department chair, which will include the numerical results of the vote on the document in question.

In order to assist reviewers at the college level and beyond, the chair shall make a note in his/her report of the department review committee's ruling on the document if the chair chooses to include or refer to the document that has been voted not to be included in the candidate's e-dossier by the review committee. Similarly, the chair shall make a note in his/his report of the department review committee's ruling on the

document if the chair chooses to include or refer to a document that has been voted to be included in the candidate's e-dossier by the review committee.

When a department committee has voted not to include this material but the chair chooses to include the same document or parts thereof, the chair's report shall include substantive rationale and clear narrative statements that (a) are specific and (b) demonstrate the importance of this document(s) for reviewers beyond the chair's level. The chair shall include the original documents (which meet the criteria for "documents not ordinarily part of content and order requirements") by attaching them to the chair's report. The chair's report and these documents "not ordinarily part of content and order requirements" shall be uploaded to the e-dossier of the faculty member under review.

When a chair receives documented information (positive or negative) relating to the three areas of review on a faculty member that the chair intends to include within his/her report, the chair shall notify the departmental committee regarding such information according to the normal procedure for documents that meet the criteria for "not ordinarily part of content and order requirements.". When a chair receives a document that he/she wishes to include in the chair's report, but which has not been cleared by the departmental committee, at a very minimum, the chair shall let the candidate know and inform the departmental committee of his/her intentions.

Note: Exceptions may occur because of legal restrictions.

### **Placement of Documents Not Ordinarily Meeting Content and Order Requirements in the E-dossier**

The placement of documents that meet the criteria for documents not ordinarily meeting content and order requirements in the e-dossier is determined by the level at which the document (s) is introduced (departmental level or college level). There shall be no opportunities for the Appeals Board, the Provost or the President to add such documents because the procedures currently in

place for approval of such documents at the department and college level have not been extended to any levels beyond the college.

At whichever level the document is introduced (department, chair, college, Dean), the document shall be placed in the e-dossier at the end of that chain. For example, if the document were introduced at the departmental level, the document shall be placed in the e-dossier below the chair's report.

If the document is introduced at the college level, the document shall be placed after the dean's report. In order to alert review committees that the faculty member's e-dossier contains these documents, the department chair/director or the Dean of the college shall write a simple statement of fact indicating that these documents are included within the faculty member's e-dossier. The chair or the Dean shall not provide any additional evaluative comments related to that statement.

This statement, which shall follow the signature line of the chair or Dean and be set off from the rest of the report, may read something like this: "This e-dossier contains a document that meets the criteria for documents *not ordinarily meeting the content and order requirements of the e-dossier.*"

### **Guidelines for Voting, Recommendations, and Reports**

As the time for voting approaches, the chair/director will leave the room. Further discussion may ensue. A vote then will be held by secret ballot and the results recorded on the appropriate personnel form by the presiding officer. In order to preserve the integrity of the secret ballot process, standardized ballots and identical writing instruments shall be provided to the committee.

Faculty who are unable to attend personnel meetings and plan to vote on two separate actions on a candidate (tenure and promotion or retention and promotion) are required to submit separate votes for each action: one

vote for tenure, and a separate vote for promotion. Because retention/tenure committees and promotion committees are discrete units, the process to separate such votes must be preserved.

When chairs convene retention, tenure, and promotion meetings to vote on multiple actions (such as tenure and promotion), they are encouraged to review first the promotions to full professor, followed by reviewing tenure candidates, then reviewing promotions to associate professor, and finally reviewing retention candidates. Because the personnel review process should occur in an environment that affords the most open and least stifling atmosphere for discussion, examining the candidates in the order described above will provide the greatest level of free speech and openness.

A member of the committee voting with the majority shall be selected to write the evaluation of the faculty member for the committee. The RTP recommendation forms should, at a minimum, contain sufficient information for review committees at all levels to make a reasonably sound assessment of the candidate's strengths and weaknesses. The language for each section under review on RTP forms shall include more than a single line of text. For example, a sentence such as "Faculty Jane Doe is performing satisfactorily in Area 1" with no other accompanying information is not permitted as an assessment statement for Area 1.

Negative information shall be supported by some sense of the reasons for their inclusion in the report. If the faculty member is known to be an ineffective advisor, a few additional sentences explaining this position will be helpful. A member of the committee voting with the minority may write, in collaboration with other members in the minority, a minority report, which must be included in the faculty member's e-dossier along with the committee's recommendation. However, members who did not attend and stay for the full duration of the RTP meeting and did not, in person, hear the discussion on candidates at a departmental retention, tenure, or promotion meeting are not permitted to write either a positive or negative minority report on any candidate.

## **Majority and Minority Reports**

Minority reports are optional, except in special circumstances when they are required. For each faculty member under review, there can be no more than one majority and one minority report generated at the *department level* unless there is an even split vote, in which case two minority reports shall be written.

Minority reports may be authored by an individual or a group of writers. Minority reports may contain positive or negative information or a combination of positive and negative information. A member of the committee voting with the minority may write, alone or in collaboration with other members voting in the minority, a minority report, which must be included in the faculty member's e-dossier along with the committee's majority report.

When there is disagreement about the content of any report (majority and/or minority) circulated for comment and review, the personnel committee reviewers should attempt to work out differences among themselves and write a report (or reports) that is/are generally acceptable to the committee. In cases in which differences cannot be worked out, the report(s) should reflect the disagreements. All faculty members who voted on a candidate for retention, tenure, or promotion are required to sign all reports (both the majority report and the minority report, if any).

For each faculty member under review, there can be no more than one majority and one minority report generated at the *college level* unless there is an even split vote, in which case two minority reports shall be written.

## **Who Signs Reports?**

All faculty members who voted on a candidate for retention, tenure, or promotion are required to sign all reports (both the majority report and the minority report, if any). Faculty members who were absent and did not vote on a faculty member's e-dossier shall not sign any reports. Non-voting departmental representatives who were present at the college meeting during the vote shall also be required to sign all reports.

Faculty members who were absent and did not vote on a faculty member's e-dossier shall not provide input on majority or minority reports. Faculty members who are present for a personnel meeting but who leave the meeting early without casting a vote for a particular candidate shall not be provided access to any draft majority or minority reports for his/her input. These faculty members may not write any minority reports either.

At the departmental or college level, in the event of a tie vote (an even split), two (2) minority reports will be written and must be included in the faculty member's e-dossier before it is forwarded to the next level in the personnel process. If two minority reports are required, those reports must contain distinct comments; one may not be a copy of the other. When two minority reports are needed, two individuals—one voting for and one voting against—must come forward to write the required minority reports.

Majority and minority reports that are written following a departmental review may contain information discussed at the meeting as well as information freely available within the faculty member's e-dossier. Extraneous elements and hearsay are not permitted within majority or minority reports. If the material is important enough to appear within a candidate's majority or minority report, it should be discussed openly within the personnel meeting.

Minority reports must discuss all three areas of review and must be turned in for the candidate to read at the same time as majority reports. Minority reports cannot be written a week or several days after a candidate has seen a majority report.

Faculty members under review are required to sign these minority reports in a timely manner consistent with the deadlines listed on the Calendar for Faculty Personnel Actions. Signing these reports simply indicates that the faculty member has read the review reports and/or forms. Signing these reports does not necessarily indicate agreement or disagreement with the contents of these reports and/or forms. Check the box next to "Absent" on RTP forms only for noting a

count of faculty members who did not vote at all for the candidate. An “abstain” vote is a real vote and shall be counted.

Personnel committees must count the official vote (*for*, *against*, or *abstain*) of a faculty member on a candidate even if the faculty member who voted cannot attend a personnel meeting and submitted his/her vote through a colleague or through other means of submission.

It shall be acceptable for faculty members to change their position on a candidate and present a substitute vote, replacing an original vote that has previously been submitted, so long as the official final vote is presented to the committee before the presiding officer counts and records the official votes at the meeting. After the departmental committee acts on a faculty member's dossier and forwards it to the next level, the departmental action cannot be rescinded, unless authorized in writing by the President or his/her designee. In extraordinary circumstances, the departmental committee may be permitted to take a re-vote before the e-dossier moves forward. The departmental committee cannot re-vote unless authorized in writing by the President or his/her designee.

Faculty members shall sign all reports in a timely manner consistent with the deadlines on the Calendar for Faculty Personnel Actions. Signing these reports simply indicates that the faculty members have read the reports; signing does not necessarily indicate agreement or disagreement with the contents of these reports. Faculty members shall also print their name below their signatures.

### **Tie Vote or Even Split Vote**

If an even split vote occurs at the departmental level (for example, 3 votes to retain, 3 votes not to retain a candidate), the even split vote shall be seen as a negative action for retention, tenure, and promotion purposes. An even split vote at the departmental level accompanied by a negative vote from the chair would permit a faculty member to file an appeal. Votes that are either clearly *for* or *against* a candidate have greater

weight than *abstain* votes. The procedures outlined here regarding Tie Vote or Even Split Vote are to be mirrored at the college level.

After the departmental committee acts on a faculty member's dossier and forwards it to the next level, the departmental action cannot be rescinded, unless authorized in writing by the President.

Faculty members under review shall be required to sign the Retention and Tenure Recommendation Form as well as any other retention, tenure, and promotion recommendation forms. Faculty members under review shall also be required to sign all retention and tenure Minority Report forms. Signing these forms simply indicates that the faculty member has read the review reports and/or forms. All department committee members who voted are required to sign all reports, including Minority Report forms. Committee members are required to print names clearly below their signatures on these reports. Faculty who did not actually attend a personnel meeting, but voted on the candidate, are still required to sign all reports, including Minority Report forms. Signing does not necessarily indicate agreement or disagreement with the contents of these reports and/or forms.

- j. The departmental chair/director shall write a separate evaluation of, and recommendation for, the faculty member under review (Chair's form, Faculty Performance Review). The department chair shall write an independent review after the departmental committee has made a recommendation. The Chair is not obligated to be guided by the departmental committees' reports or their votes.

If the faculty member refuses to sign the Chair's Faculty Performance Review Report or other retention, tenure, and promotion recommendation forms, it shall be the responsibility of the chair/director to prepare a clear statement indicating that the faculty member under review was given the opportunity to read the documents and that the faculty member subsequently refused to sign such documents. The chair/director shall include this statement in the form of (a) an attached "note" to the Chair's Faculty Performance Review Report below



the signature line or (b) a note on a separate sheet of paper attached to forms other than the Chair's Faculty Performance Review Report.

The faculty member shall sign to indicate having read the recommendations of the departmental committee and the chair/director and shall have access to all materials forwarded to the college committee. If both departmental recommendations are negative, the candidate has a right to appeal the decision to the college Dean.

When a faculty member being reviewed for retention or tenure gets denied by the department and the chair, the faculty member may appeal this decision, and the faculty member's e-dossier shall automatically move forward to the next level. Even when the faculty member chooses not to appeal the decision, the e-dossier always moves forward in retention and tenure decisions.

Recommendations once forwarded from the department to the next level cannot be rescinded unless authorized in writing by the President.

After the college committee acts on a faculty member's dossier and forwards it to the next level, the college action cannot be rescinded, unless authorized in writing by the President.

### **Confidentiality of Meetings**

All retention, tenure, and promotion committee proceedings and deliberations are confidential. For further information, visit <http://www.apsu.edu/files/policy/5050.pdf>

### **Option to Withdraw an E-Dossier during a Promotion Review**

However, when a faculty member *being reviewed for promotion* gets denied by the department and the chair, the faculty may choose not to appeal the two negative decisions. Under these circumstances, the e-dossier may then be withdrawn from further consideration until the faculty member chooses to apply for promotion at a

later date, that is, the e-dossier does not automatically move forward. When the faculty member applies at a future date for promotion, the faculty member shall include an explanation for the missing administrative reviews from levels beyond the department. This explanation shall be the first item under the “Prior Administrative Reviews” section of the faculty member’s e-dossier. Faculty are advised to read Policy 2:063 for further details on promotion and conditions under which a faculty member under review may withdraw his/her e-dossier.

### **College Recommendations**

Documents Not Ordinarily Part of Content and Order Requirements (See Department Level Procedures, which are mirrored at the College Level)

Any e-dossier missing a Department Chair-Faculty Performance Review Form (Chair’s report) or a Departmental Committee’s Retention and Tenure Recommendation or Promotion form must be rectified and resubmitted to the college committee prior to formal consideration by that committee; any college committee member may notify the Dean of e-dossiers missing these administrative reviews.

### **Composition of the College Retention and Tenure Committee**

- a. A college retention and tenure committee shall be composed of one (1) tenured faculty member elected from each department or school within the college. All tenured and tenure-track faculty within the department or school, with the exception of the chair/director, shall have an opportunity to vote on departmental/school nominee(s) for the college committee, and a simple majority vote shall determine the outcome.
- b. Members of the college committee are not permitted to vote on candidates from their own department. When they complete the ballot, they should select “non-voting department member” or “abstain [non-voting department member].” If the vote is tied, the department/school chair/director shall cast the deciding vote. If a college has fewer than four (4) departments, two (2) tenured faculty members from each department shall be elected to serve on the retention and tenure committee. If a department/school has an insufficient number of tenured faculty members to serve on the college committee, the

department shall elect appropriate representatives from other departments within the college provided that they are not representatives from their own department.

- c. Each college shall have an additional tenured member elected at large by the electorate of the college. The at-large member shall be elected from among all eligible faculty members not serving as a departmental representative on the college committee. All tenured and tenure-track faculty in a college are eligible to vote for the at-large representative. If the vote is tied, the college dean shall cast the deciding vote. The at-large member of any college-level retention and tenure or promotion committee shall be a voting, full member of that committee, but the at-large member shall not vote for members of his or her own departments. If a department/school has no tenured faculty, the committee as a whole will protect their interests. Chairs/directors may not serve on the college committee.

#### College-Level Retention and Tenure Committee

The College Retention and Tenure Committee shall be convened by the college Dean in a timely fashion. Associate Deans shall not serve on or preside over college-level RTP committees. The committee will then select a presiding officer, who shall be a voting member of the committee. The presiding officer will select a committee member to take notes to provide a summary statement reflecting the strengths and weaknesses noted during the review of each dossier. These notes can be used as reference material for the written evaluation.

Members of the committee may solicit documented information from the Dean or other persons from the college who are not members of the committee. While the Dean may participate in the discussion, the presiding officer shall manage the meeting. Prior to the college committee members casting their final votes, the presiding officer should set aside a time period in which the college committee can discuss the candidate freely without the presence of the Dean. However, as the time for voting approaches, the Dean will leave the room. Further discussion may ensue. A vote will be held by secret ballot and recorded on the appropriate

personnel form by the presiding officer.

The presiding officer shall also ensure that draft versions of reports are prepared in a timely manner and available for comment and review by committee members before the final version is prepared. The presiding officer shall ensure that reports contain all appropriate signatures and help coordinate the movement of reports to the college office in a manner consistent with the Calendar for Faculty Personnel Actions.

### **Informing Committees of Years toward Tenure**

At retention, tenure and promotion meetings, the departmental representative shall inform personnel committees about the specific number of years granted to the faculty member under review. The departmental representative shall remind members of personnel committees about years toward tenure whenever faculty members in this situation come up for retention, tenure, or promotion.

### **How Credit for Years of Prior Service is Awarded**

Faculty members granted years of prior service will have that service applied immediately preceding the tenure year. Therefore, a faculty member granted one year of prior service must seek tenure in the fifth year of service at APSU after signing the tenure-track contract and would be evaluated as first-year, second-year, third-year, fourth-year, and tenure year. A faculty member granted two years of prior service must seek tenure in the fourth year of service at APSU after signing the tenure-track contract and would be evaluated as first-year, second-year, third-year, and tenure year. A faculty member granted three years of prior service must seek tenure in the third year of service at APSU after signing the tenure-track contract and would be evaluated as first-year, second-year, and tenure year.

The quorum of any departmental or college-level personnel committee is a simple majority of those faculty members eligible to vote. At any level of review, if a faculty member is unable to attend a personnel meeting, has to leave a meeting early, or is late in attending

because of extenuating circumstances, the faculty member shall make every effort to leave an absentee ballot (by voting *for*, *against* or *abstain*) in a sealed envelope entrusted to a colleague, which shall subsequently be handed over to the presiding officer of the personnel review committee. As stated in Policy [2:052](#) [Academic Freedom and Responsibility], “the right to academic freedom imposes upon the faculty an equal obligation to take appropriate professional action against faculty members who are derelict in discharging their professional responsibilities. The faculty member has an obligation to participate in tenure and promotion review of colleagues as specified in University policy.”

The vote may proceed if all the votes counted at the time of voting (including votes from those members physically present as well as absentee ballot votes from faculty) constitute a simple majority. However, any action taken with less than a simple majority of eligible faculty present and voting (and which includes absentee ballots) will be invalid, with a new vote to be conducted at a rescheduled meeting in a timely manner.

A member of the committee voting with the majority shall be selected to write the evaluation of the faculty member for the committee. A member of the committee voting with the minority may write, in collaboration with other members in the minority, a minority report that must be included within the pages of the faculty member’s dossier along with the committee’s recommendation. In the event of a tie vote, two (2) minority reports will be written and must be included within the pages of the faculty member’s e-dossier before the dossier is forwarded to the next level in the personnel process. If two minority reports are required, those reports must contain distinct comments; one may not be a copy of the other. Minority reports must discuss all three areas of review and must be turned in for the candidate to read at the same time as majority reports. Minority reports cannot be written a week or several days after a candidate has seen a majority report.

Majority and minority reports that are written following a college committee review must contain only information discussed at the meeting. All faculty members who voted

on a candidate for retention, tenure, or promotion shall be required to sign all reports, including any positive and negative minority reports.

Faculty members under review shall be required to sign these reports in a timely manner consistent with the deadlines on the Calendar for Faculty Personnel Actions. Signing these forms simply indicates that the faculty member has read the review reports and/or forms. Signing does not necessarily indicate agreement or disagreement with the contents of these reports and/or forms.

All faculty members who voted on a candidate for retention, tenure, or promotion shall be required to sign all reports, including any positive and negative minority reports. Faculty members shall sign these reports in a timely manner consistent with the deadlines on the Calendar for Faculty Personnel Actions. Committee members are required to print names clearly below their signatures on these reports (where specified). Signing these reports simply indicates that the faculty members have read the reports. Signing does not necessarily indicate agreement or disagreement with the contents of these reports. After the college committee acts on a faculty member's dossier and forwards it to the next level, the college action cannot be rescinded unless authorized in writing by the President.

**The Departmental  
Representative to the  
College Committee**

- a. The role of the departmental representative on the college committee is informational in nature. The departmental representative shall answer questions posed to him/her by the members of the college committee without advocating either for or against the retention, tenure, or promotion of the candidate within the representative's department. However, as discussion ensues, the departmental representative may seek permission from the presiding officer to rectify incorrect factual information (for example, the conversation may surround a single conference the faculty member attended, but the departmental representative knows, for a fact, that the candidate actually participated in two conferences.) The departmental representative should strive for objectivity on behalf of the department committee and refrain from offering personal opinions.

Departmental representatives are required to attend personnel meetings in their own department as well as the college-level meetings in which candidates from their department are being reviewed. If the departmental representative knows in advance that he/she will not be able to attend a departmental personnel meeting, the department shall elect an alternate candidate to serve as departmental representative. If the departmental representative knows in advance that he/she will not be able to attend a college-level personnel meeting, he/she must inform the alternate faculty member who will serve in his/her place. If an alternate faculty member has not been selected, the department shall elect an alternate candidate by whatever reasonable and expedient procedure is available at the time.

The college committee may solicit documented information from the departmental chair/director, departmental representative or others from the department of the faculty member under review. Faculty members who participated in the college committee meeting shall be selected to write reports on individual candidates applying for retention, tenure or promotion. These reports shall be organized into the three areas under review. The presiding officer shall notify the faculty member under review of the outcome of the college committee's actions within the timetable in the Calendar for Personnel Action.

- b. The college Dean shall write an evaluation of and recommendation for, the faculty member under review and forward it with the committee evaluation. The college Dean shall inform, in writing, the faculty member under review of the decanal recommendation. After the college Dean makes a recommendation regarding the faculty member under review and forwards it to the next level, the college Dean's action cannot be rescinded, unless authorized in writing by the President.
- c. A faculty member shall have the right to appeal the college recommendation in writing to the Provost.

### **Appeals Process**

The appeals process is available concerning negative decisions on retention, tenure, and promotion. When faculty receive two negative recommendations at the department level (department

committee and chair), they can choose to appeal to the college. When faculty receive two negative recommendations at the college level (college committee and Dean), they can choose to appeal to the Promotion and Tenure Appeals Board. All appeals must be in writing and shall be included within the faculty member's e-dossier under "Current Recommendations."

Faculty who are eligible to appeal negative decisions on their retention, tenure, or promotion are required to, at the very minimum, include a clear, narrative rationale within the written appeal. All formal evaluations at all levels of the retention, tenure, and promotion appeal processes shall be available to the University Tenure and Promotion Appeals Board, the appropriate individuals at each level of the process, and to the candidate.

Each faculty member shall have only one-time access to the University Tenure and Promotion Appeals Board during any one review action within a cycle. For example, a faculty member may not access the University Tenure and Promotion Appeals Board twice for a negative retention, tenure, or promotion decision. All actions related to appeals shall follow the timetable guidelines prescribed in the Calendar for Faculty Personnel Actions.

### **Conditions for Filing an Appeal**

A faculty member is not permitted to file a formal appeal with the University Tenure and Promotion Appeals Board when the faculty member receives two negative recommendations at the *departmental* level. Two negative recommendations at the departmental level constitute a negative recommendation from the departmental committee and a negative recommendation from the chair/director. In order to file a formal appeal with the University Tenure and Promotion Appeals Board, the faculty member needs to receive *two* negative recommendations at the *college* level.

Two negative recommendations at the college level constitute a negative recommendation from the college committee and a negative recommendation from the Dean. For appeals to the Dean, the faculty member's e-dossier shall be unlocked by the Dean's office.

A faculty member may also file a formal appeal with the University Tenure and Promotion Appeals Boards when the Provost is the sole dissenter within a particular review cycle. In retention and tenure cases, the e-dossier automatically moves



forward whether the faculty member decides to appeal the two negative recommendations or not to appeal the two negative recommendations.

**Composition of  
University Tenure  
and Promotion Appeals  
Board**

University Tenure and Promotion Appeals Board, which is constituted during the fall semester by dates prescribed on the Calendar for Faculty Personnel Actions shall be composed of one member from each of the college promotion committees (College of Arts & Letters, College of Behavioral and Health Sciences, College of Business, College of Education, College of Science and Mathematics,) chosen by election of college faculties from among the colleges' tenured Professors, one (1) University faculty member designated by the President, and one (1) University faculty member designated by the Faculty Senate.

Even though it is not possible to know in advance which faculty members may file appeals in the fall and spring, a single University Tenure and Promotion Appeals Board shall be convened each year. This appeals board will meet to deliberate on any appeals from second year faculty in the fall semester or any appeals from faculty in the following spring semester from anyone other than 2<sup>nd</sup> year faculty. The member representing each of the college promotion committees shall be a tenured Professor who must be *elected* by that college's faculty according to established procedures at the University.

The Chair of the Appeals Board shall be a non-voting member, a college Dean, appointed by the President. The Dean of the College of the faculty member making an appeal shall not serve as Chair of the University Tenure and Promotion Appeals Board for that appeal. In these cases, the committee members shall elect a temporary chair for that particular faculty member's appeal. Reports from the University Tenure and Promotion Appeals Board shall document the recusal of the specific faculty member and/or Dean should this circumstance arise.

To protect the integrity of the appeals process, it is vital that neutrality be an important component of the University Tenure and Promotion Appeals Board and that a real or perceived conflict of interest be avoided. Faculty members who have previously served and voted on any personnel committee on a colleague for retention, tenure, or promotion *shall* be permitted to serve as a member of the University Tenure and Promotion Appeals Board to examine a retention, tenure, or promotion appeal that may be filed subsequently by that colleague in the same retention/tenure/promotion review cycle. However, that

faculty member shall *not* be permitted to actively participate in the deliberations and is required to leave the meeting room. If an appeal is made by a faculty member from a college under a Dean that has been appointed to serve as Chair of the University Tenure and Promotion Appeals Board, then this Dean shall also *not* be permitted to actively participate in the deliberations and is also required to leave the room using the procedure noted above.

Any necessary adjustments in membership to this board and the subsequent eligibility to vote (based on the college of the faculty member making the appeal) shall be the responsibility of the President or his/her designee.

**Steps in the Process  
for Filing an Appeal  
with the Tenure and  
Promotion Appeals  
Board**

Appeals shall be filed by the deadline outlined in the Calendar for Faculty Personnel Actions. The appeal shall be filed via email with the Provost, copying the Assistant Provost and Assistant Vice President for Academic Affairs (AP/AVPAA), who will forward the appeal to the University Tenure and Promotion Appeals Board. All paperwork associated with the electronic appeal must be converted to PDF files and included within the e-dossier of the faculty member making the appeal before the e-dossier moves to the next level.

At a minimum, the documents that should be included in the e-dossier are as follows: (a) the appeal letter (b) any supporting documents (c) the recommendation of the University Tenure and Promotion Appeals Board. The faculty member's e-dossier will need to be unlocked to include the documents related to the appeal. The Chair of the University Tenure and Promotion Appeals Board shall provide a written recommendation to the Provost and copy the faculty member making the appeal. The Provost or his/her designee shall have the responsibility for unlocking an e-dossier to upload appeals documents of faculty members appealing retention, tenure, or promotion decisions.

**Procedures when  
the Provost is sole  
dissenter**

The University Tenure and Promotion Appeals Board's normal position of review is *before* the Provost's review. However, when a retention, tenure, or promotion e-dossier moves forward to the Provost, and the faculty member under review receives a negative recommendation from the Provost (where the Provost might be the sole dissenter even though all other levels have provided positive recommendations **or** where the Provost has denied a faculty member who has received consistent split votes) in retention, tenure, or promotion cases, the faculty member normally, by the sequencing process currently in place, does not have the opportunity for his/her appeal to be heard by

the University Tenure and Promotion Appeals Board.

Therefore, in order to provide due process for each faculty member, in these rare situations, the faculty member shall have the option to file an appeal with the University Tenure and Promotion Appeals Board. After the University Tenure and Promotion Appeals Board has concluded its deliberations, the Provost shall be provided with the recommendations of this board. The Provost, at this time, may reconsider his/her initial negative recommendation after examining the report from the University Tenure and Appeals Board and share these findings with the President.

#### **Department Level Retention and Tenure Appeals**

At the departmental level during the retention and tenure process, a faculty member may appeal only in cases of two negative recommendations. If there are two negative recommendations, the faculty member may appeal the two departmental-level negative recommendations to the college Dean. If there is one negative and one positive recommendation, no appeal shall be permitted.

The Dean of the college or his/her designee shall have the responsibility for unlocking an e-dossier to include appeals documents of faculty members appealing retention, tenure, or promotion decisions at this level.

However, if the faculty member chooses *not* to file an appeal related to the two negative recommendations at the department level within the time frame set for that level by the Calendar for Faculty Personnel Actions, the faculty member's e-dossier shall still move forward in retention and tenure actions to the college level, the Provost, and the President. The decision by the faculty member not to appeal two negative recommendations may jeopardize the faculty member's employment with Austin Peay State University.

In all retention and tenure cases, the e-dossier automatically moves forward whether the faculty member files an appeal or not. See also "Department Level Promotion" in Policy 2:063.

#### **College Level Retention and Tenure Appeals**

At the college level during the retention and tenure process, a faculty member may appeal only in cases of two negative recommendations. If there are two negative recommendations at the college level, the faculty member may appeal the two college-level negative recommendations to the University Tenure and Promotion Appeals Board. If there is one negative

and one positive recommendation, no appeal shall be permitted.

However, if the faculty member chooses *not* to file an appeal related to the two negative recommendations at the college level within the time frame set for that level by the Calendar for Faculty Personnel Actions, the faculty member's e-dossier shall still move forward in retention and tenure actions to the Provost and the President. The decision by the faculty member not to appeal two negative recommendations may jeopardize the faculty member's employment with Austin Peay State University.

In all retention and tenure cases, committee members at the college level reviewing an e- dossier should be informed at least one business day before a personnel meeting that a candidate has filed an appeal. See also "College Level Promotion" in Policy 2:063.

In all retention and tenure cases, the e-dossier automatically moves forward whether the faculty member files an appeal or not.

- a. When both department-level recommendations are negative, the faculty member may submit to the college dean an appeal which automatically brings the matter before the college committee and the college dean for consideration and recommendations. Should one (1) department-level recommendation be affirmative, that will bring the dossier forward for consideration and action at the college level. Should an entire committee vote with "abstain" votes, that action will be considered neither a positive nor a negative vote.

However, when an entire committee votes with all "abstain" votes, a member or members of that committee shall come forward to prepare the RTP recommendation report that discusses the candidate's performance in the three areas of review. When a chair is being reviewed for retention, tenure, or promotion and the departmental level recommendation is negative (hence no chair's review), the chair shall have the right to appeal to the college dean for consideration at the college level. The presiding officer of the committee will write the report and move the dossier forward to the next level.

- b.** If there is at least one (1) affirmative college-level recommendation, the dossier shall move forward for consideration by the Provost. When both college-level recommendations are negative, the faculty member may request that an appeal of those negative recommendations be heard by the University Tenure and Promotion Appeals Board (see Composition of University Tenure and Promotion Appeals Board below) for further consideration.
- c.** Such a request must be submitted in writing to the offices of the Provost and the President within seven (7) days of receiving written notice of the second of the two negative recommendations (i.e. Dean or college committee).
- d.** The University Tenure and Promotion Appeals Board shall examine the appeal forwarded to the Board by the President or Provost and may, at its discretion, seek additional information from the candidate, the Provost, and other individuals who the Board believes may have information germane to its deliberations.
- e.** After the University Tenure and Promotion Appeals Board has deliberated on the faculty member's appeal, the faculty member's e-dossier shall be submitted to the Provost and must include the Board's recommendations to the Provost. The Provost will have a vote at this time. After the Provost has acted on the e-dossier, it shall move forward for consideration by the President.
- f.** The University Tenure and Promotion Appeals Board shall make its recommendation to the Provost in writing by the date established by the Provost in the Calendar for Faculty Personnel Actions. The recommendations of the University Tenure and Promotion Appeals Board are advisory, and the President and Provost may accept or reject the recommendations of the Appeals Board in formulating their decisions. A *Calendar for Faculty Personnel Actions*, which is prepared annually by the Provost, shall include the dates by which each level of consideration should be accomplished, including appeal periods. Appeal documents may only be added to the e-dossier within the windows of time as outlined within the Calendar for Faculty Personnel Actions.

If the faculty member fails to submit an appeal by the close of business on the due date established on the Calendar for Faculty Personnel Actions, then the appeals process is automatically stopped on the due date, and the e-dossier will receive no further consideration. Such a calendar shall be recognized as a tool for the orderly accomplishment of personnel processes described in this policy and shall conform to the final dates specified elsewhere in the policy. The President shall have discretion and authority to extend the Calendar for Faculty Personnel Actions. (See Section V.A [Changes in Tenure/Tenure-Track Status, Non-renewal of Probationary Tenure- Track]).

- A. See Policy 1:025 for Minimum Eligibility Requirements for Consideration for Academic Tenure
- B. See Policy 1:025 for Probationary Employment

### **Applying for Tenure**

Faculty members shall apply for tenure in their sixth year. However, the faculty member may apply for tenure during the fifth year probationary period under extraordinary circumstances with written permission of the President and the APSU Board of Trustees for an exception to the normal six-year waiting period. Faculty members who are denied tenure will receive a notice of non-renewal from the President. Any faculty member denied tenure in the tenure process may not re-apply for tenure but is provided a final year of employment.

Faculty members who apply for tenure while they are in the 5<sup>th</sup> year probationary period shall submit in writing a substantive narrative rationale, aligned with published departmental criteria, to accompany the application no later than ninety (90) business days before faculty begin updates to the e-dossier as prescribed in the Calendar for Faculty Personnel Actions. If the President allows the exception, he or she will forward the full request (including the written narrative rationale) for the APSU Board of Trustees' consideration and determination. In no way shall the President's and APSU Board of Trustees' written approvals permitting the exception to apply for tenure in the faculty member's fifth year be construed by any personnel committee to be a guarantee that the faculty member's application for tenure will be successful. That determination is made by the various levels of review within the normal retention, tenure, and promotion channels currently in place at the University. If the faculty member is denied tenure during the fifth year, the faculty

member may not re-apply for tenure but shall be provided a final year of employment.

The approval letters from the President and the APSU Board of Trustees shall be included in the faculty member's e-dossier following the statement of intent. The faculty member's statement of intent shall clearly reference the exception to the normal six year probationary period prior to application for tenure. If the President and the APSU Board of Trustees do not allow the exception, copies of such letters shall be provided to the faculty member, his or her Chair, the Dean of the college, and the Office of Academic Affairs.

### **Calculating the Probationary Period**

Only full-time continuous service at a University will be included in determining completion of the probationary period, except where a break in service was pursuant to an approved leave of absence.

#### **1. Credit for Prior Service**

The minimum probationary period of five years may include credit for prior service when agreed to by the President, and subject to the maximum permissible credit for prior service as noted below:

- a.** Credit toward completion of the probationary period may at the discretion of the President be given for a maximum of three (3) years of previous full-time service at other colleges, universities, or institutes provided that the prior service is relevant to the institution's own needs and criteria. The years awarded will be added on after the second, third, or fourth year retention. Faculty members negotiating and receiving credit for prior service must seek tenure in the sixth year (prior service granted plus APSU tenure-track service) of employment. Recommendations on prior service are the responsibility of the Provost after consultation with the appropriate Dean, department Chair, and department personnel committee. The departmental Chair shall notify all faculty within the relevant department of the amount of credit for prior service awarded to newly appointed tenure-track faculty at the time of employment, and such information shall become a permanent part of the faculty member's record. Any credit for prior service that is recognized

and agreed to must be confirmed in writing at the time of the initial appointment.

- b.** Credit toward completion of the probation period may, at the discretion of the President, be given for a maximum of three (3) years or previous full-time service in a temporary faculty appointment or term appointment at the same institution (see Faculty Appointments Policy 2:051) or in an earlier tenure-track appointment at the same institution that has been followed by a break in service. Any credit for prior service in a temporary full-time faculty appointment at the same institution or in an earlier tenure-track appointment (at the same institution) that has been followed by a break in service must be recognized and confirmed in writing in the appointment letter to a tenure-track position.

## **2. Approved Leave of Absence**

A period of approved leave of absence shall be excluded from the requisite period for completion of the probationary period unless the President of the University specified in writing prior to the leave of absence that it shall be included in the probationary period.

However, articles that are published (online or in print) during the “leave of absence” period shall be accepted as items in Area 2 (Scholarly and Creative Achievement) during the probationary period. For example, if the faculty member receives notice of an acceptance of an article (submitted at a previous time) during the “leave of absence” period or receives notice of an invitation to submit a scholarly essay to a journal, the faculty member may count this as part of his/her publication achievements in Area 2. When there is disagreement as to the admissibility of scholarly/creative activity in Area 2 during a “leave of absence” period, the faculty member shall consult with his/her Chair, Dean, and Provost to resolve the situation. This provision applies to tenure-track faculty only.

Leaves of absence may not be granted retroactively. A faculty member may apply for a maximum of two (2) extensions in one-year increments so long as the total



probationary period does not exceed six years. Requests for a second extension follow the same procedure and are subject to the same considerations as the original extension.

### **3. Stopping the Tenure Clock**

A faculty member in a tenure track appointment may request to “stop the clock” during his/her probationary period when circumstances exist that interrupt the faculty member’s normal progress toward building a case for tenure. Discretion for stopping the tenure clock rests on the institution and also requires supervisory approval. In such cases, the faculty member may request to “stop the tenure clock” for one-year if he/she demonstrates that circumstances reasonably warrant such interruption. Reasons for approving a request to “stop the clock” will typically be related to a personal or family situation requiring attention and commitment that consumes the time and energy normally addressed to faculty duties and professional development. Examples may include, but are not limited to, childbirth or adoption, care of dependents, medical conditions or obligations, physical disasters or disruptions, or similar circumstances that require a fundamental alteration of one’s professional life. The intent of this policy is to serve the best interests of the University while providing neither preference to, nor adverse effect on, a faculty member’s process of developing a case for tenure. Once approved, the “stop the clock” year is not counted in the probationary period accrual.

However, articles that are published (online or in print) during the “stop the clock” year shall be accepted as items in Area 2 (Scholarly and Creative Achievement) during the probationary period. For example, if the faculty member receives notice of an acceptance of an article (submitted at a previous time) during the “stop the clock” year or receives notice of an invitation to submit a scholarly essay to a journal, the faculty member may count this as part of his/her publication achievements in Area 2. When there is disagreement as to the admissibility of scholarly/creative activity in Area 2 during a “stop the clock” year, the faculty member shall consult with his/her Chair, Dean, and Provost to resolve the situation. This provision applies to tenure-track

faculty only.

#### **4. Clarification of evaluation procedures during leaves of absence and stopped tenure clocks**

APSU further clarifies evaluation procedures during probationary period approved leaves of absence and periods of stopped tenure clocks.

There are two methods for extending the probationary period. The first (Outlined in E.2 [Approved Leave of Absence] above) occurs when a faculty member is on an approved leave of absence. Unless otherwise specified in writing by the President, such a leave of absence automatically extends the probationary period by one year. At APSU, the minimum leave of absence to apply under this policy is twenty (20) weeks in a given nine (9) month academic year as defined by faculty contract.

The second method for extending the probationary period is Stopping the Tenure Clock, (Outlined in E.3 [Stopping the Tenure Clock]). Stopping the tenure clock is for situations that do not prevent a faculty member from fulfilling teaching, advising, and administrative duties. The faculty member must specifically request in writing to the President that the tenure clock be stopped. A request to stop the clock must be submitted no later than sixty (60) business days before the dossier is due. The phrase “building a case for tenure” is herein defined as referring to the accumulation of job-related accomplishments during the relevant performance review period. This is distinguished from the actual preparation of a dossier which is the assembly and presentation of evidence that accomplishments have occurred over the course of a performance review period. The time period to which the “stop the clock” option is applied is the performance review period within which the request is made. The “stop the clock” option is only open to individuals who have not been able to make normal progress toward “building a case for tenure” as defined above. It is not open to an individual who has been unable to prepare a dossier, i.e., evidence of accomplishment, by the date stipulated in the governing Calendar for Faculty Personnel Actions.

## **Credit for Prior Service**

If granted, the years of credit for prior service awarded will be added on after the second, third, or fourth year retention. As a result, a faculty member granted one (1) year of credit towards completion of the probationary period may apply for tenure in the fall of the fifth year of service at APSU, a faculty member granted two (2) years of credit towards completion of the probationary period may apply for tenure in the fall of the fourth year of service at APSU, and a faculty member granted three (3) years of credit towards completion of the probationary period may apply for tenure in the fall of the third year of service at APSU. Faculty members negotiating and receiving credit for prior service must seek tenure in the sixth year (prior service granted plus APSU tenure-track service) of employment. Recommendations on prior service are the responsibility of the Provost after consultation with the appropriate Dean, department Chair, and departmental personnel committee and approval by the President. Upon the President's approval, the number of years awarded toward tenure will be stated in the faculty member's initial contract. The department Chair shall notify all faculty within the relevant department of the amount of credit for prior service awarded to newly appointed tenure-track faculty at the time of employment. For additional information on Leave of Absence, please see APSU policy 5:020, particularly regarding clearance procedures for returning from medical leave.

### **Criteria to be Considered in Tenure Recommendations**

#### **Overview**

Faculty members shall be evaluated for retention, tenure, and promotion in the areas of academic assignment, scholarly and creative activities, and service.

|            |   |
|------------|---|
| Retention: | since initial appointment;  |
| Tenure:    | since initial appointment; and  |
| Promotion: | since initial appointment or date of last promotion whichever is the more recent. |

#### **General Criteria for Evaluation of Faculty Members are**

1. Teaching effectiveness;

2. Effectiveness in other academic assignments, including student advisement, as well as departmental and program administrative assignments;
3. Research, scholarly and creative activity;
4. Professional degrees, awards, and achievements;
5. Professional service (may include institutional committee assignments) to the University, the community, and the State or Nation;
6. Activities, memberships, and leadership in professional organizations;
7. Evidence of continuing professional development and growth; and potential for contributions to the objectives of the department and the University and
8. Demonstrated willingness and ability to work effectively with colleagues to support the mission of the institution and the common goals both of the institution and of the academic organizational unit; and evidence of, regard for, and performance consistent with, accepted standards of professional conduct.

For convenience and further clarification, APSU groups these criteria into three general areas of evaluation: Effectiveness in Academic Assignment; Scholarly and Creative Achievement; and Professional Contributions and Activity.

- A. See policy 1:025 for Effectiveness in Academic Assignment
- B. See policy 1:025 for Research/Scholarship/Creative Activities

Research and scholarly and creative activities are important to the University's role in society. Clear evidence of the quality of work shall be a part of every evaluation.

### **Irregularities in Research, Scholarship, and/or Creative Activities**

If the activities of a faculty member in Research, Scholarship, and Creative Activities appear irregular to the

departmental personnel review committee, that committee shall have the right to request the faculty member to provide copies of correspondence, documents, and materials related to the faculty member's publications and/or scholarly/creative activities. The faculty member shall act on that request and must furnish the required information as expeditiously as possible before the committee votes on that faculty member's dossier.

However, if questions of misconduct in research or other creative activities arise at committee levels higher than the departmental level, these committees and/or supervisors (the Dean, Provost, and/or President) may ask for and consider additional information that may be forwarded with the dossier. If the allegations are substantiated through the University's due process procedures, this additional information shall become part of the faculty member's permanent personnel file in Academic Affairs. Faculty are advised to read Policy [2:019](#) (Misconduct in Research and Other Creative Activities) for more information.

Sole authorship is universally understood to mean one person writing original work. Faculty are reminded that only materials that have been accepted for publication by a reputable journal or recognized press in the author's area of expertise should be included as "publications" in the dossier.

For co-authored or multi-authored publications submitted to peer-reviewed journals or recognized publishers, the authors must indicate, as precisely as possible, their level of contribution to the published work. Their level of contribution may be determined by (a) highlighting their part of the work; (b) a letter from the senior or primary author describing the levels of each of the other faculty members' levels of contribution to the work; and/or (c) a clear narrative explanation with documentation of the faculty member's specific contributions.

- C. See policy 1:025 for Professional Contributions and Activities
- D. See policy 1:025 for Criteria for Assessing the Long-Term Staffing Needs
- E. See policy 1:025 for Changes in Tenure/Tenure-track Status

- Non-renewal of Probationary Tenure-Track
- Transfer of Tenure
- Expiration of Tenure
- Relinquishment of Tenure
- Termination of Tenure for Reasons of Financial Exigency
- Termination of Tenure for Curricular Reasons
- Procedures for Termination of Tenure
- Termination for Adequate Cause
- Procedures for Termination for Adequate Cause

### **Evaluation of Materials**

All faculty members who participate in personnel processes at the departmental level are expected to evaluate all materials in the faculty member's e-dossier. Those preparing written reports must state reasons for their decisions. However, in departments or colleges where a large number of e-dossiers has to be evaluated at the college level and where the process may need to be expedited, the dean of the college may choose to set up a more convenient procedure for presenting e-dossiers at the personnel meeting.

### **General Organization and Procedures for Personnel Committees**

- A. The department chair/director and all full-time tenured faculty members of a department constitute the official body eligible to make departmental personnel recommendations. The department chair/director and all eligible full-time tenured faculty members of a department or school shall be required to participate in personnel processes.
- B. Departmental personnel committees shall consist of at least three (3) tenured faculty members not counting the department chair/director. In departments having fewer than three (3) faculty members eligible to serve on their departmental personnel committee, the Provost may assign the review of faculty to the departmental personnel committee of another department. In such an instance, all eligible faculty from the department consisting of fewer than three (3) tenured faculty shall be included in all departmental personnel committee proceedings.

When a small department must constitute RTP committees with faculty from other departments, chairs from other departments may not serve on this RTP committee. The department-specific criteria of the faculty member being reviewed for tenure or promotion shall be the criteria used in

making determinations by the departmental personnel committee created under this provision. The Chair's evaluation shall be made by the chair of the department that has fewer than three (3) tenured faculty. The Chair of the department with fewer than three (3) members shall meet with the personnel committee while his/her faculty member is being reviewed and shall leave prior to a vote.

- C. College committee members who were eligible to vote on a personnel action at the departmental level shall not be eligible to vote on the same action at the college level. Administrators holding full-time positions outside the department or involved in making personnel recommendations at the college or University levels shall not participate in departmental personnel actions. Departmental Chairs/directors may not act on their own retention, tenure, merit salary adjustment, or promotion.
- D. At any level in the retention and tenure process, a tie vote or even split shall carry the recommendation forward. However, in promotion cases, a faculty member shall be permitted to withdraw his/her e-dossier from future consideration. Please refer to Policy 2:063 (Policy on Promotion) for details.
- E. Any department, division, or unit that does not fit within the evaluative framework presented above will have its process designated by the Provost, but must be consistent with the spirit of the above described process.

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### Links

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|                                |   |
|--------------------------------|---|
| <b>APSU Policy 5:020</b>       | <a href="https://www.apsu.edu/policy/leave-policies-5020">https://www.apsu.edu/policy/leave-policies-5020</a>   |
| <b>APSU Policy 1:012</b>       | <a href="http://www.apsu.edu/policy/inspecting-and-copying-public-records-and-related-charges-producing-copies-public-records-101">http://www.apsu.edu/policy/inspecting-and-copying-public-records-and-related-charges-producing-copies-public-records-101</a> |
| <b>APSU Policy 1:025</b>       | <a href="https://www.apsu.edu/policy/policy-academic-tenure-5060">https://www.apsu.edu/policy/policy-academic-tenure-5060</a>   |
| <b>APSU Policy 2:063</b>       | <a href="https://www.apsu.edu/policy/policy-academic-promotion-5061">https://www.apsu.edu/policy/policy-academic-promotion-5061</a>   |
| <b>APSU Policy 2:052</b>       | <a href="https://www.apsu.edu/policy/academic-freedom-and-responsibility-2052">https://www.apsu.edu/policy/academic-freedom-and-responsibility-2052</a>   |
| <b>APSU E-Dossiers Website</b> | <a href="http://www.apsu.edu/academic-affairs/edossier">http://www.apsu.edu/academic-affairs/edossier</a>   |
| <b>APSU QEP</b>                | <a href="http://www.apsu.edu/sites/apsu.edu/files/learning-opportunities-center/OFFICIAL_QEP.pdf">http://www.apsu.edu/sites/apsu.edu/files/learning-opportunities-center/OFFICIAL_QEP.pdf</a>   |

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**Revision Dates**

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APSU Tenure P&G – Rev.:  
APSU Tenure P&G – Issued: July 12, 2016

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**Subject Areas:**

| Academic                            | Finance | General | Human<br>Resources | Information<br>Technology | Student<br>Affairs |
|-------------------------------------|---------|---------|--------------------|---------------------------|--------------------|
| <input checked="" type="checkbox"/> |         |         |                    |                           |                    |

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**Approved**

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Provost: signature on file

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STATE BOARD OF REGENTS  
OF  
THE STATE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF TENNESSEE

NOTICE OF TENURE-TRACK APPOINTMENT  
AND AGREEMENT OF EMPLOYMENT  
FOR FACULTY

TO: Dr. Robert W. Halliman  


This is to confirm your appointment to a position approved by the State Board of Regents as an Assistant Professor in the area of Management Technology at a salary of \$30,228, effective July 18, 1988 and ending June 30, 1989, subject to the terms hereinafter set forth and your acceptance thereof:

1. This appointment is made subject to the laws of the State of Tennessee, the requirements and policies of the State Board of Regents, and the requirements and policies of this institution. Any renewal of this appointment will be subject to all laws, requirements and policies in effect at the time of renewal.

2. The above stated salary is contingent upon your completion of service for the full term of this appointment. The salary for an academic year appointment will accrue at the rate of one-half for each academic semester, and will be payable at the rate of one-twelfth of the amount for each month from September through August. The salary for a fiscal year appointment will accrue and be payable at the rate of one-twelfth for each completed month of service. In the case of appointments for less than an academic or fiscal year, or in the event of failure to complete the specified term of the appointment, salaries will be prorated in accordance with the policies of the institution.

3. This appointment and the above stated salary are in consideration of your faithful performance to the best of your ability of the duties and responsibilities assigned to you as a full-time faculty member of this institution, and such additional duties as may be assigned to you from time to time, subject to the policies of the department or other areas of assignment, and subject to the supervision and direction of appropriate representatives of this institution.

4. Academic year appointments include no obligation for or guarantee of summer session employment.

5. This appointment is a tenure-track appointment, which is for faculty employed in a probationary period of employment. A tenure-track appointment does not include any right to permanent or continuous employment or any interest in or expectancy of renewal of the appointment. This appointment is on an annual basis only, subject to renewal by this institution, and annual approval by the State Board of Regents, for a maximum probationary period of seven years. The minimum requirements and conditions for the award of tenure by the State Board of Regents upon completion of the probationary period are set forth in the policy on academic freedom, responsibility and tenure of the Board, which policy is incorporated by reference as if fully set forth herein. Requirements and conditions for the recommendation of tenure by this institution are set forth in the policies of the institution. Tenure may only be awarded by positive action by the State Board of Regents.

6. The following special conditions shall govern this appointment:

Salary for the month of July 1988 will be prorated.

You must signify your acceptance of this appointment under the terms and conditions set forth by signing the original copy of this notice and returning it to the office of the Vice President for Academic Affairs within ten days after the date of this notice.

7/21/88  
Date

  
Oscar C. Page, President

I accept the appointment described above under the terms and conditions set forth

7/23/88  
Date

  
Appointee

TENNESSEE BOARD OF REGENTS  
OF  
THE STATE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF TENNESSEE  
AUSTIN PEAY STATE UNIVERSITY  
NOTICE OF RENEWAL OF TENURED APPOINTMENT  
AND AGREEMENT OF EMPLOYMENT

Dr. Robert W. Halliman  



This is to confirm your appointment to a position approved by the Tennessee Board of Regents as an Assistant Professor and Program Manager of the Management Technology Program, effective July 1, 2001, at an academic year's salary of \$36,111, subject to the terms and conditions hereinafter set forth and your acceptance thereof:

1. This appointment is made subject to the laws of the State of Tennessee, the requirements and policies of the Tennessee Board of Regents, and the requirements and policies of this institution.
2. The above stated salary is contingent upon your completion of service for the full term of this appointment. The salary for an academic year appointment will accrue at the rate of one-half for each academic semester, and will be payable at the rate of one-twelfth of the amount for each month from August through July. The salary for a fiscal year appointment will accrue and be payable at the rate of one-twelfth for each completed month of service. In the case of appointments for less or other than an academic or fiscal year, or in the event of failure to complete the specified term of the appointment, the salary will be prorated in accordance with the policies of the institution.
3. This appointment and the above stated salary are in consideration of your faithful performance to the best of your ability of the duties and responsibilities assigned to you as a full-time employee of this institution, and such additional duties as may be assigned to you from time to time, subject to the policies of the department or other area of assignment, and subject to the supervision and direction of appropriate representatives of this institution.
4. A specific condition of this contract is your agreement to participate in an annual evaluation of your assigned duties and responsibilities.
5. Academic year appointments include no obligation for or guarantee of summer session employment.
6. By acceptance of this appointment, you agree to abide by the terms of the Drug-Free Workplace Act of 1988 as defined in published institutional statements and policy. You also agree to notify the Office of Human Resources no later than five days after conviction of any criminal drug violation occurring in the workplace.
7. The following **special condition(s)** shall govern this appointment:
  - a. **Your regular duties and responsibilities will be determined by the department chair and may include varied schedules on main campus, the APSU Center at Fort Campbell, or other off-campus sites.**

- b. Employment contract period is July 1 - March 31. You will be required to teach 24 semester hours during the period of this contract. In the event any of those 24 hours are scheduled during the on-campus spring semester, you will complete the teaching assignment as scheduled with no additional compensation for the extended period of the course.
- c. You are invited to attend a two-day orientation session for new faculty. This event will occur on August 16 and 17, 2001 and will provide useful information about the campus since you have been on leave.
8. Pursuant to the policies of the Tennessee Board of Regents and of this Institution, I agree to promptly disclose to this Institution all Intellectual Property (including inventions, copyrightable works, computer software, technical know-how and trademarks) conceived, invented, authored, or reduced to practice ("developed") by me, either solely or jointly with others, during the term of my employment with this Institution. I acknowledge and agree that all Intellectual Property developed by me in the scope of my employment with this Institution is to be considered a work for hire, and shall be the sole and exclusive property of this Institution. I further agree to assign all rights in Intellectual Property developed by me to this Institution as required under the policies of Tennessee Board of Regents and this Institution and to execute and deliver all necessary documents and otherwise provide proper assistance to enable the Institution to obtain, maintain and enforce its rights in the Intellectual Property.

You must signify your acceptance of this appointment under the terms and conditions set forth by signing two copies of this agreement and returning them to the Office of Academic Affairs within ten (10) days after the date affixed below.

5/23/01  
Date

  
Sherry L. Hoppe, President

I accept the appointment described above under the terms and conditions set forth.

5/29/01  
Date

  
Appointee

**TENNESSEE BOARD OF REGENTS  
OF  
THE STATE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF TENNESSEE  
AUSTIN PEAY STATE UNIVERSITY**

**NOTICE OF AMENDMENT OF AGREEMENT  
OF EMPLOYMENT FOR FACULTY**

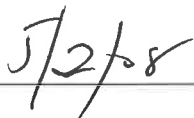
**TO: Dr. Robert W. Halliman  
Department of Public Management  
P.O. Box 4455  
Austin Peay State University**


This is to notify you of the amendment of your nine-month **tenured** appointment at Austin Peay State University. This agreement is subject to the current policies and requirements of this institution and the Tennessee Board of Regents, and subject to the terms and conditions of your previous appointment and the Notice of Amendment of Agreement for Employment for Faculty, as amended by the following conditions:

**Beginning August 11, 2008, this amendment establishes your nine-month, academic year appointment period as August 11 through May 10. *Note: The exact date of months to begin and end will vary each year hereafter based upon academic term dates.***

Should your academic year salary change, you will be notified of the recommended salary for your position in a separate document, Notice of Recommended Salary. You must signify your acceptance of this appointment under the terms and conditions set forth by signing each copy of this notice and returning them to the office of the president within fifteen days after the date of this notice. Your failure to accept this renewal within the above stated time will constitute a rejection of this offer. Every other term and provision of the initial employment agreement not inconsistent with the terms and provisions contained herein shall remain valid and binding.

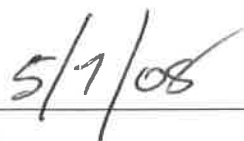
Date




  
David Denton, Interim Provost and Vice President  
for Academic and Student Affairs

I accept the appointment described above under the terms and conditions set forth.

Date



  
Appointee

## APPENDIX D

4 S.W.3d 677 (1999)

**Patricia K. REED, Plaintiff/Appellant,**  
**v.**  
**ALAMO RENT-A-CAR, INC., Defendant/Appellee.**

**Court of Appeals of Tennessee, at Jackson.**

March 26, 1999.

Application for Permission to Appeal Denied October 4, 1999.

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Application for Permission to Appeal Denied by Supreme Court October 4, 1999.

[678\\*678](#) FARMER, Judge.

Plaintiff Patricia K. Reed appeals the trial court's judgment dismissing her claims for retaliatory discharge and breach of employment contract against Defendant/Appellee Alamo Rent-A-Car, Inc. We affirm the trial court's dismissal of [680\\*680](#) Reed's retaliatory discharge claim, but we reverse the court's dismissal of Reed's claim for breach of employment contract, and we remand for further proceedings.

### ***I. Factual and Procedural History***

Reed worked for Alamo Rent-A-Car from June 1990 to December 1994. During this time, Reed received good job evaluations and, on more than one occasion, was named Alamo's employee of the month. Reed's most recent job evaluation indicated that her performance was between "above average" and "outstanding."

On March 13, 1993, Reed injured her knee at work when she slipped on some ice and fell. Reed's injury caused her to miss approximately one month of work. After returning to work in April 1993, Reed resumed her duties as a rental agent supervisor. Reed continued to experience difficulty with her injured knee, however, and she was required to undergo knee surgery on October 4, 1994.

At the time of her surgery, Reed requested permission to take a leave of absence under the Family and Medical Leave Act (FMLA). *See* 29 U.S.C. §§ 2601-2654 (1994). Reed's manager, Dick Snyder, initially approved Reed's request to be off work from October 5, 1994, to November 20, 1994. When the request was submitted to Alamo's corporate offices in Fort Lauderdale, Florida, however, Alamo's Family Wellness Department denied Reed's request for

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FMLA leave because Reed already was on leave for her on-the-job injury, during which time she was receiving workers' compensation benefits.

On November 16, 1994, Reed visited her doctor's office for a scheduled checkup. At that time, Dr. Robert L. Bourland, Jr., signed a certificate authorizing Reed to be off work until December 14, 1994. Shortly after Reed's visit, however, a representative of CNA Insurance Company, Alamo's workers' compensation carrier, contacted Dr. Bourland, apparently to inquire about the possibility of releasing Reed to return to light duty work. Dr. Bourland agreed that Reed could return to light duty work, and on November 18, 1994, he signed a release authorizing Reed's return. Dr. Bourland's certificate set forth the following restrictions: "No prolonged standing, walking, bending or stooping." CNA notified Alamo of the release on November 21 or 22, 1994. CNA also ceased paying workers' compensation benefits to Reed.

On November 22, 1994, Diane Bledsoe, Reed's supervisor at Alamo, contacted Reed by telephone and informed her that Dr. Bourland had released her to return to light duty work. Reed expressed confusion and told Bledsoe that she understood she was not supposed to return to work until December 14, 1994. Bledsoe instructed Reed to contact Dr. Bourland to see if he had made a mistake in releasing Reed. When Reed contacted her doctor's office, however, a staff member confirmed that Reed had been released for light duty work.

Bledsoe again contacted Reed on November 23, 1994. During this conversation, Bledsoe informed Reed that Alamo expected her to report to work at 4:00 p.m. that day. Upon learning this information, Reed became upset and started crying. Just days previously, Reed had received authorization to be off work until December 14, 1994, and now, one day before Thanksgiving, Alamo was demanding that Reed return to work. Reed also expressed concern about her ability to drive because her injured right leg was the leg she used to drive her car. Reed told Bledsoe that she needed more time to relearn how to drive, and she asked if another Alamo employee could transport her to work.

After checking with Dick Snyder, Bledsoe informed Reed that Alamo would not provide her with transportation to work. Bledsoe also warned Reed that, if she did not report to work on November 23, 1994, Alamo would assume that she was resigning her position. Despite this warning, [681\\*681](#) Reed did not report to work for her shift on November 23.

Instead of terminating Reed, Dick Snyder rescheduled Reed to return to work on November 27, 1994, rather than November 23. When Reed still did not report for work, however, Snyder wrote a letter to Reed, dated December 1, 1994, warning her that she was in violation of Alamo's policy on job abandonment and that Snyder had no other choice but to believe that Reed had resigned.

Reed received Snyder's letter during the first week of December 1994, and she promptly called Snyder to discuss the matter. When Reed insisted that she did not wish to resign her position but that she still was in great pain and was unable to drive or walk very well, Snyder instructed Reed to try to get another appointment with Dr. Bourland. Snyder indicated that he would wait until after Reed's next appointment before he proceeded with any paperwork, took any disciplinary action, or made any decision.

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Although Reed was not scheduled to return to the doctor until December 14, she rescheduled her next appointment for December 7, 1994. At the appointment, however, Dr. Bourland was not responsive to Reed's questions as to why he had released her for light duty work, and he did not provide her with a new certificate authorizing her to be off work as she had hoped. The parties disputed whether Reed contacted Snyder after her December 7 doctor's appointment. On December 13, 1994, however, still having received no authorization for Reed to be off work, Snyder completed the paperwork required by Alamo to terminate Reed's employment.

On December 12, 1995, Reed filed this lawsuit in which she contended that Alamo had discharged her in retaliation for filing a workers' compensation claim. Reed further contended that her discharge breached her employment contract with Alamo, which she claimed was evidenced by a document entitled "My Personal Alamo Family Member Pact" or "FamPact." Finally, Reed contended that Alamo breached section 50-6-123 of the Tennessee Workers' Compensation Law by failing to provide case management services to Reed. Reed's complaint also asserted claims against CNA Insurance Company and Transportation Insurance Company, but these defendants were voluntarily dismissed from the lawsuit by an order entered in June 1996.

After conducting a bench trial, the trial court dismissed Reed's complaint in its entirety. The trial court dismissed Reed's retaliatory discharge claim based upon the one-year statute of limitations for personal injury actions. *See* T.C.A. § 28-3-104(a)(1) (Supp.1990). The court dismissed Reed's breach of contract claim based on the court's ruling that FamPact did not constitute a part of the parties' employment agreement.

On appeal, Reed presents the following issues for this court's review:

- I. Whether the Trial Court erred in ruling that [Reed] had unequivocal knowledge of a termination decision under the authority of [\*Weber v. Moses\*<sup>\[1\]</sup>](#) barring that portion of [Reed's] case involving allegations of retaliatory discharge.
- II. Whether the Trial Court erred in ruling that FamPact was not a contractual agreement by and between [Reed] and [Alamo].
- III. Whether the Trial Court erred in failing to award damages to [Reed] for the violation of Tennessee Code Annotated Sections [50-6-123(b)(2) and (5)], by [Alamo].

Alamo also has raised the following issues:

- I. Whether the Trial Court incorrectly ruled that [the] release language executed by Reed in the order approving her workers compensation settlement did not preclude this action.
- [682\\*682](#) II. Whether Reed failed to carry her burden of establishing a causal connection between her claim for worker compensation benefits and her termination.

### ***II. Reed's Claim for Retaliatory Discharge***

We first address Reed's contention that the trial court erred in ruling that her claim for retaliatory discharge was barred by the one-year statute of limitations applicable to such claims. *See*



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[\*Headrick v. Union Carbide Corp.\*, 825 S.W.2d 424 \(Tenn.App.1991\)](#); T.C.A. § 28-3-104(a)(1) (Supp.1990). In making its ruling, the trial court relied upon our supreme court's decision of [\*Weber v. Moses\*, 938 S.W.2d 387 \(Tenn.1996\)](#). In *Weber*, the court held that the one-year limitations period for a retaliatory discharge or discriminatory practice claim commenced when the employee received unequivocal notice that his employer had made a definite and final decision to terminate him. [\*Weber\*, 938 S.W.2d at 392-93](#). Applying this rule, the court concluded that Weber's claims filed August 31, 1993, were barred because the statute began to run in early August 1992, when Weber was notified of his employer's decision to terminate his sales manager contract, and not on August 31, 1992, when Weber's employment actually ended. *Id.* at 393.

At the conclusion of trial in the present case, the trial court orally summarized its reasons for dismissing Reed's retaliatory discharge claim:

I believe that she did—through her oral notice on [November] the 23rd I believe that [the] decision of the company to discharge her was abundantly clear. I believe she understood that. I think she had nothing more than a hope of some kind of redress or a hope of some kind of grievance procedure being put into place, which evidently never really completely occurred. That decision being made, really communicated, the decision that I believe was made before the 23rd was certainly communicated to her on the 23rd is what is controlling under Tennessee law under this [[\*Weber v. Moses\*](#)] case.

We conclude that the trial court's ruling on this issue was in error because the undisputed evidence demonstrated that Alamo had not made a final decision to terminate Reed on November 23, 1994. It is true that Reed was informed on November 23, 1994, that if she did not report for work later that day, Alamo would assume that she had resigned her position. Moreover, other evidence presented at trial suggested that Reed believed she indeed had been terminated on that date. The testimony of Alamo's own employees, however, made clear that Reed was not terminated until a later date in December 1994.

After Reed did not report for work on November 23, Reed's manager, Dick Snyder, rescheduled her to return to work on November 27, 1994. On December 1, 1994, when Reed still did not report for work, Snyder wrote her a letter reiterating Alamo's job abandonment policy and stating that he had no alternative but to believe that Reed had resigned her position with Alamo. Reed and Snyder discussed this letter in a telephone conversation during the first week of December 1994. When Reed complained that she was unable to drive, was in great pain, and could not understand why the doctor had released her for light duty, Snyder instructed Reed to try to schedule another appointment with her doctor. Specifically, Snyder testified:

I agreed with her at that time. I said try to get another appointment and go back to your doctor. If you are unable to proceed, you know, as far as a work schedule, I will wait until after you have done this before I proceed with any paperwork.

....

Or any disciplinary, you know, action.

Snyder later testified that

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So that is when I suggested she go back to the doctor, and after that appointment [683\\*683](#) —we would hold off any decision making until we find out if in fact she should be coming back to work. Based on this conversation, Snyder expected Reed to contact him after her doctor's appointment and they "would proceed from that point on."

According to Snyder, this was the last conversation he had with Reed. Reed, however, testified that she spoke with Snyder after her December 7 doctor's appointment. According to Reed, she complained that Dr. Bourland had refused to discuss the release issue with her and, to complicate matters, had placed her in a brace that extended from her hip to her ankle. Snyder reportedly responded by stating that "well, we'll see what happens." In any event, it was undisputed that Snyder completed the necessary paperwork to terminate Reed on December 13, 1994.

Contrary to the trial court's ruling, we conclude that Reed could not have received unequivocal notice of Alamo's termination decision on November 23, 1994, because on that date, no decision had been made to terminate Reed. The undisputed evidence showed that, after that date, Snyder rescheduled Reed's return to work and informed her that he would not make any termination decision or initiate any disciplinary action until after she returned to the doctor's office on December 7. The evidence also showed that Snyder did not actually terminate Reed until December 13, 1994, and that Reed did not receive notice of her termination until sometime after that date. This evidence was consistent with Reed's own testimony that, during their telephone conversation in early December 1994, Snyder assured her that she had not been terminated. Under these circumstances, we conclude that the trial court erred in ruling that the one-year statute of limitations had run by the time Reed filed this lawsuit on December 12, 1995.

In ruling on this issue, the trial court noted that Snyder, who no longer worked for Alamo, was "very hostile toward the company." The court also indicated that it was not influenced by Snyder's testimony that his December 1 letter to Reed "wasn't a letter of termination." We recognize that the trial court is in the best position to judge the credibility of the witnesses and that, when the court resolves a conflict in testimony in favor of a party, such a determination is "binding on the appellate court unless from other real evidence the appellate court is compelled to conclude to the contrary." [Hudson v. Capps, 651 S.W.2d 243, 246 \(Tenn.App.1983\)](#).

In the present case, however, the evidence really was not disputed. Alamo's own witness, Bobbie Bonavia, testified that Bledsoe and Snyder "extended [the] time that [Reed] could come back to work." In fact, toward the trial's conclusion, even Alamo's attorney agreed that Reed had been granted an extension to return to work during her telephone conversation with Snyder in early December 1994. The undisputed evidence, therefore, showed that Reed was not terminated on November 23, 1994, that she instead was given an extension to attempt to resolve the confusion over her doctor's conflicting reports, and that she later was terminated on December 13, 1994.<sup>[2]</sup>

[684\\*684](#) We are aware that the evidence was disputed as to whether Snyder talked to Reed after her December 7 doctor's appointment. Reed testified that, when she contacted Snyder after her December 7 appointment, Snyder merely stated that "well, we'll see what happens." Snyder, on the other hand, testified that he did not talk to Reed between December 7 and December 13, when he completed the paperwork to terminate Reed. Based on Snyder's testimony, Alamo could

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have made the alternative argument that Reed should have had notice of her imminent termination after her doctor's appointment on December 7.

Nevertheless, we decline to affirm the trial court's ruling on this ground. At trial and on appeal, Alamo consistently has maintained that the one-year limitations period began to run on November 23, 1994, and that the limitations period was triggered by the communications which took place between Bledsoe and Reed on that day. Alamo has not argued that the limitations period could have begun to run on any other date. Inasmuch as the trial court apparently was not asked to consider the later date of December 7, the court did not resolve the conflict between Reed's and Snyder's testimony as to what, if any, conversation transpired between December 7 and December 13.

Because the statute of limitations was an affirmative defense, Alamo had the burden of proving that the statute had run by the time Reed filed this lawsuit on December 12, 1995. [\*Carr v. Borchers\*, 815 S.W.2d 528, 532 \(Tenn.App.1991\)](#); [\*Jones v. Hamilton County\*, 56 Tenn.App. 240, 405 S.W.2d 775, 779 \(1965\)](#). Based on the undisputed evidence which was presented in this case, we conclude that Alamo failed to meet this burden. Even if Reed subjectively believed on November 23, 1994, that she had been terminated, the testimony of Alamo's own employees indicated that Reed was given an extension to return to work and that a final decision on Reed's termination was postponed until after her December 7, 1994, doctor's appointment. We believe that these facts distinguish the information conveyed to Reed on November 23, 1994, from the termination decision conveyed to Weber in [\*Weber v. Moses\*](#).

Although we conclude that Alamo failed to meet its burden of proving that the one-year statute of limitations had run when Reed filed this lawsuit, we nevertheless affirm the trial court's dismissal of Reed's wrongful discharge claim. In order to establish a cause of action for discharge in retaliation for asserting a workers' compensation claim, a plaintiff must plead and prove the following elements:

- (1) The plaintiff was an employee of the defendant at the time of the injury;
- (2) the plaintiff made a claim against the defendant for workers' compensation benefits;
- (3) the defendant terminated the plaintiff's employment; and
- (4) the claim for workers' compensation benefits was a substantial factor in the [defendant's] motivation to terminate the [plaintiff's] employment.

[\*Anderson v. Standard Register Co.\*, 857 S.W.2d 555, 558 \(Tenn.1993\)](#).

In the present case, Reed was able to show that she was an employee of Alamo at the time of her injury, that she made a claim against Alamo for workers' compensation benefits, and that Alamo thereafter terminated her employment; however, Reed was unable to establish the final element of her retaliatory discharge claim, that of causation. This court has [685\\*685](#) held that, in order to establish the element of causation, the plaintiff must present some proof other than merely the facts showing her employment, her exercise of rights under the Workers' Compensation Law, and her subsequent discharge. [\*Thomason v. Better-Bilt Aluminum Prods., Inc.\*, 831 S.W.2d 291, 293 \(Tenn.App.1992\)](#). The plaintiff may accomplish this goal either by presenting direct

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evidence of the necessary causal link or by introducing compelling circumstantial evidence of such a link. *Id.*

Various courts have considered what type of circumstantial evidence will support the necessary causal link. For example, a plaintiff cannot establish causation by testifying that she cannot think of any other reason for her discharge. [\*Vaughan v. Harvard Indus., Inc.\*, 926 F.Supp. 1340, 1350 \(W.D.Tenn.1996\)](#). The plaintiff's subjective beliefs or speculations are insufficient to create the requisite causal relationship. *Id.* (citing [\*Chappell v. GTE Prods. Corp.\*, 803 F.2d 261, 268 \(6th Cir.1986\)](#) (indicating that mere personal beliefs, conjecture, and speculation were insufficient to support inference of age discrimination), *cert. denied*, [480 U.S. 919, 107 S.Ct. 1375, 94 L.Ed.2d 690 \(1987\)](#)).

Moreover, a plaintiff may not prevail on a wrongful discharge claim merely by showing that a causal connection exists between her on-the-job injury and her subsequent discharge. [\*Vaughan v. Harvard Indus.\*, 926 F.Supp. at 1351](#). Instead, the plaintiff must show that her claim for workers' compensation benefits, as opposed to her injury, was the true or substantial reason for her discharge. *Id.*; *see also* [\*Anderson v. Standard Register Co.\*, 857 S.W.2d 555, 559 \(Tenn.1993\)](#) (holding that plaintiff failed to establish causal relationship where she testified that she had "been out so long" that her employer "didn't have the time to wait"). And, absent evidence of a discriminatory motive, a plaintiff may not satisfy the causation requirement merely by showing that her employer required her to return to work over her objection that she was medically unable to work. [\*Harris v. American Red Cross\*, 752 F.Supp. 737, 740 \(W.D.Tex.1990\)](#).

When asked by her attorney why she believed she was terminated by Alamo, Reed gave the following testimony:

A: I believe in my heart, because to me my dream was to retire with Alamo, that had I not had the surgery and filed workers' comp I would still be employed there, and I wish I was.

Additionally, when questioned on cross-examination as to why she believed she was terminated for filing a workers' compensation claim, Reed gave the following testimony:

Q: Now, Ms. Reed, in finishing up here, nobody—never heard anybody from Alamo tell you that the reason you were terminated was because you filed a workers' compensation claim, is that true?

A: They didn't word it that way, no.

Q: And you don't have any evidence or reason to believe that you were terminated because you filed a workers' compensation claim other than the fact that you filed a workers' compensation claim and you were terminated after that, do you?

A: I believe, again, like I repeat myself, I believe in my heart had I not had the surgery or filed workers' comp and had stayed on with Alamo working with my leg the shape it was in, had not had the surgery, I would still be employed there, and I believe that, and I'll die by that.

Q: Okay. But my question is do you have any reason to believe that your termination is related to this workers' compensation claim other than the fact that they chronologically follow one another?

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....

A: In answer to your question, for a doctor, a company doctor to tell me one [686\\*686](#) thing on one day, two days later renege on that because he was instructed by my employer at which point they used that to tell me—to start all of this, I can't help but feel that that is a major reason, and I believe that the doctor's a good example of it when they tell me one thing and just because the company instructs the CNA to call him, him seeing me two days prior and knew the shape I was in, and then two days later all of a sudden he's going to tell the company, yeah, I'll let her come back to work.

In our view, the foregoing contentions by Reed were too speculative to establish the required causation element of a retaliatory discharge claim. For the most part, Reed's testimony merely expressed her subjective belief that she would not have been fired had she not had knee surgery or filed a workers' compensation claim. Reed's subjective beliefs and speculations were insufficient to create the requisite causal relationship of her claim for wrongful discharge. Additionally, Reed's testimony failed to establish that it was her claim for workers' compensation benefits, as opposed to her on-the-job injury, which motivated Alamo to terminate her employment.

To support her belief that Alamo terminated her because she had surgery and because she filed a workers' compensation claim, Reed additionally testified that Alamo had instructed CNA to contact Dr. Bourland and that this contact resulted in Dr. Bourland releasing Reed for light duty work. We conclude, however, that this circumstantial evidence was not sufficiently compelling to support the inference that Reed was terminated for filing a workers' compensation claim. Apparently, it is not uncommon for an employer to contact a doctor who is treating an on-the-job injury, and we know of no prohibition against an employer questioning a doctor as to an employee's progress or availability for work. See [Harris v. American Red Cross, 752 F.Supp. 737, 738 \(W.D.Tex.1990\)](#) (wherein plaintiff was instructed to report to work after employer's chief medical officer reviewed reports of various treating doctors and concluded that plaintiff was medically able to work); see also [Brown v. Southwestern Bell Tel. Co., 901 F.2d 1250, 1253 \(5th Cir.1990\)](#) (wherein employer's medical advisor asked plaintiff's doctor to reconsider his assessment of plaintiff's disability in light of plaintiff's job duties as maintenance administrator and, unsatisfied with doctor's response, then sought second opinion from another neurologist); but see [Texas Steel Co. v. Douglas, 533 S.W.2d 111, 117 \(Tex.Civ.App.1976\)](#) (wherein defendant's superintendent, after learning that plaintiff had reported on-the-job injury, went out of his way to get doctor treating plaintiff to release him for light duty work even though doctor had advised that plaintiff could not lift more than eight pounds or stoop more than once per hour). Without more, this evidence was insufficient to support Reed's claim for retaliatory discharge.

### ***III. Reed's Breach of Contract Claim***

We agree, however, with Reed's contention that the trial court erred in dismissing her claim for breach of contract against Alamo. In her complaint, Reed contended that Alamo's termination of her employment violated the provisions of "FamPact," a document which was signed by the parties in September 1993 and which purported to govern the parties' employment relationship.

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Accordingly, this appeal requires us to consider whether FamPact constituted part of the employment contract between the parties.<sup>[3]</sup>

This court considered a similar issue in *Rose v. Tipton County Public Works Department*, 953 S.W.2d 690 (Tenn.App. 1997). In *Rose*, we explained that 687\*687 this Court has recognized that an employee handbook can become a part of an employment contract. *Smith v. Morris*, 778 S.W.2d 857, 858 (Tenn.App. 1988) (citing *Hamby v. Genesco, Inc.*, 627 S.W.2d 373 (Tenn.App.1981)); accord *Davis v. Connecticut Gen. Life Ins. Co.*, 743 F.Supp. 1273, 1278 (M.D.Tenn.1990). In order to constitute a contract, however, the handbook must contain specific language showing the employer's intent to be bound by the handbook's provisions. *Smith v. Morris*, 778 S.W.2d at 858. Unless an employee handbook contains such guarantees or binding commitments, the handbook will not constitute an employment contract. *Whittaker v. Care-More, Inc.*, 621 S.W.2d 395, 397 (Tenn.App.1981).

*Rose*, 953 S.W.2d at 692.

In the present case, the trial court apparently dismissed Reed's breach of contract claim based upon the following reasoning:

I don't believe that this FAMPACT is anything other than a very touchy, feely, wildly drawn document by some attorney to engender loyalty, which is what, naturally, a company would want of it's employees but I don't believe that it in any way made Ms. Reed anything other than an at-will employee.

We respectfully disagree. Contrary to the trial court's ruling, the FamPact document executed by Reed and Alamo was not just a loosely-drawn document having no binding legal effect. Rather, the document contained specific language showing Alamo's intent to be bound by FamPact's provisions. This intent was unequivocally demonstrated by the following language which appeared near the beginning of the document:

NOW, THEREFORE, Alamo and I agree to my employment with the company, all on the terms and conditions set forth in this FamPact document:

1. FAMPACT. "FamPact" means Family Member Pact. It is my personal agreement of employment with Alamo.

This intent was supported further by the document's concluding language:

Alamo has written this FamPact, and promises and agrees to:

— abide by all its terms and conditions;

— provide me competitive pay and benefits, including the benefits of FamPact.

Alamo and I acknowledge and understand the special relationship created between us by this FamPact. It is our entire agreement of employment. Alamo's employing me under the terms and conditions of this FamPact, and my working under its terms and conditions, support this agreement.



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We believe that this case is controlled by the court's decision in [\*Hamby v. Genesco, Inc.\*, 627 S.W.2d 373 \(Tenn.App.1981\)](#). In *Hamby*, the employer, Genesco, had furnished to each employee a handbook which provided that, as long as the employment relationship continued, the handbook "shall be The Guaranteed Policies, Practices and Procedures of [Genesco]." [\*Hamby\*, 627 S.W.2d at 376](#). Based on this language, this court held that the handbook was a part of the contract of employment between Genesco and its employees. *Id.*

We similarly conclude that FamPact was a part of the contract of employment between Alamo and Reed. As the quoted provisions reveal, FamPact itself indicated that it was the parties' "entire agreement of employment." Moreover, in executing FamPact, Alamo specifically promised and agreed to "abide by all its terms and conditions." If anything, this language evidences an even stronger intent to be bound by the document's provisions than the language found in the Genesco handbook.

On appeal, Alamo points out that paragraph 24 of FamPact specifically reserved to Alamo the right to periodically revise FamPact's provisions. In some of [688\\*688](#) its decisions, this court has cited [\*Claiborne v. Frito-Lay, Inc.\*, 718 F.Supp. 1319, 1321 \(E.D.Tenn.1989\)](#), for the proposition that an employer's reservation of a unilateral right to modify the provisions of its employee handbook generally precludes the handbook from being considered part of the parties' employment contract. See [\*Rose v. Tipton County Pub. Works Dep't\*, 953 S.W.2d 690, 693-94 \(Tenn.App.1997\)](#); [\*Adcox v. SCT Prods.\*, No. 01A01-9703-CV-00123, 1997 WL 638275, at \\*4 \(Tenn.App. Oct. 17, 1997\)](#); [\*Williams v. Memphis Hous. Auth.\*, No. 02A01-9608-CV-00190, 1997 WL 287645, at \\*3 \(Tenn.App. June 2, 1997\)](#). While we continue to adhere to this proposition, we do not believe that it applies in cases such as this where the employer also has included within its handbook unequivocal language demonstrating its intent to be bound by the handbook's provisions.

In [\*Adcox v. SCT Products\*, No. 01A01-9703-CV-00123, 1997 WL 638275, at \\*4 \(Tenn.App. Oct.17, 1997\)](#), we observed that we could "conceive of no clearer way for an employer to express its intent not to be bound by an employee handbook's provisions than the employer's specific statement that the handbook is not a contract or that the handbook should not be construed as a contract." Conversely, we can conceive of no clearer way for an employer to express its intent to be bound by a handbook's provisions than the employer's specific statement that the document represents the parties "entire agreement of employment" and that the employer "promises and agrees to abide by all its terms and conditions." Accordingly, we conclude that the trial court erred in dismissing Reed's claim for breach of contract based on the court's ruling that FamPact was not a contract.

As with Reed's retaliatory discharge claim, we have considered whether the trial court's judgment dismissing Reed's breach of contract claim can be affirmed on evidentiary grounds. After carefully reviewing the evidence presented at trial, however, we decline to affirm the trial court's judgment on this alternate ground because the record contains evidence from which the trial court could have found that Alamo breached the provisions of FamPact when it terminated Reed's employment.

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Upon Reed's successful completion of her probationary-at-will period, FamPact entitled her to remain employed for a one-year term, which would be renewed annually, unless Reed voluntarily quit her job or was discharged due to a violation of an official Alamo policy, sub-standard job performance, or a decline in the company's revenues or earnings. At trial, Alamo took the position that Reed voluntarily quit her job pursuant to provision 5(a) of FamPact, which stated that an employee could quit her job by, *inter alia*, "engaging in conduct that [made] it apparent that [she was] quitting, such as [her] unexplained failure to report to work." To counter this position, Reed presented evidence from which the fact-finder could have found that Reed's failure to report to work was not unexplained. Specifically, Reed presented evidence that she was physically unable to report to work due to continued swelling, pain, and weakness in her right leg and that she communicated this fact to both Snyder and Bledsoe. Moreover, the undisputed evidence showed that, during her conversations with Snyder and Bledsoe, Reed consistently maintained that she had no intention of resigning her position.

Based on the foregoing evidence, we conclude that the record reveals a genuine dispute as to whether Alamo's discharge of Reed violated FamPact's provisions and that this issue should be resolved by the trier of fact. Inasmuch as the trial court made no findings with regard to this issue, we reverse the trial court's dismissal of Reed's breach of contract claim and remand for a new trial on this claim.

### ***IV. Reed's Statutory Claim***

In addition to her claims for wrongful discharge and breach of contract, Reed [689\\*689](#) also sought to recover damages from Alamo for its alleged violation of section 50-6-123 of the Tennessee Workers' Compensation Law. That section contained the following provisions:

- (a) No later than January 1, 1993, the commissioner [of labor] shall establish, pursuant to the commissioner's rule and regulation-making authority, a system of case management for coordinating the medical care services provided to employees claiming benefits under this chapter.
- (b) All cases anticipated to reach an expenditure threshold or other appropriate point established by the commissioner shall be subject to case management. Such case management shall include, but not be limited to:
  - (1) Developing a treatment plan to provide appropriate medical care services to an injured or disabled employee;
  - (2) Systematically monitoring the treatment rendered and the medical progress of the injured or disabled employee;
  - (3) Assessing whether alternate medical care services are appropriate and delivered in a cost-effective manner based on acceptable medical standards;
  - (4) Ensuring that the injured or disabled employee is following the prescribed medical care plan; and
  - (5) Formulating a plan for return to work with due regard for the employee's recovery and restrictions and limitations, if any.



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(c) The commissioner may contract with an independent organization, not owned by or affiliated with any carrier authorized to write workers' compensation insurance in the state of Tennessee, to assist with the administration of the provisions of this section.

(d) Nothing in this section shall prevent an employer from establishing its own program of case management that meets the guidelines promulgated by the commissioner in rules and regulations.

T.C.A. § 50-6-123 (Supp.1992). Reed contends that Alamo violated these provisions by failing to systematically monitor Reed's treatment and medical progress and by failing to formulate a plan for Reed's return to work with due regard for her recovery and her restrictions and limitations.

Our supreme court recently addressed the issue of when the provisions of a statute create a private right of action for the statute's violation. In [\*Premium Finance Corp. v. Crump Insurance Services\*, 978 S.W.2d 91 \(Tenn.1998\)](#), the court explained:

Where a right of action is dependent upon the provisions of a statute, our courts are not privileged to create such a right under the guise of liberal interpretation of the statute. [\*Hogan v. McDaniel\*, 204 Tenn. 235, 239, 319 S.W.2d 221, 223 \(Tenn.1958\)](#). Only the legislature has authority to create legal rights and interests. Thus, the burden of establishing the existence of a statutory right of action lies with the plaintiff. [\*Ergon, Inc. v. Amoco Oil Co.\*, 966 F.Supp. 577, 585 \(W.D.Tenn.1997\)](#).

In determining whether the legislature intended to grant a statutory right of action, we begin by examining the language of the statute. If no cause of action is expressly granted therein, then we must determine whether such action was intended by the legislature and thus is implied in the statute. To do this, we consider whether the person asserting the cause of action is within the protection of the statute and is an intended beneficiary. [\*Carter v. Redmond\*, 142 Tenn. 258, 263, 218 S.W. 217, 218 \(1920\)](#); [\*Chattanooga Ry. & Lt. Co. v. Bettis\*, 139 Tenn. 332, 337, 202 S.W. 70, 71 \(1918\)](#). The statute's structure and legislative history are helpful in making this determination.

[\*Premium Fin. Corp.\*, 978 S.W.2d at 93.](#)

Contrary to Reed's argument, we conclude that section 50-6-123 did not give her a private right of action against Alamo [690\\*690](#) for negligent case management. We acknowledge that Reed and other workers' compensation claimants are among the intended beneficiaries of section 50-6-123's provisions. The primary duty set forth in section 50-6-123, however, appears to be imposed on the commissioner of labor rather than on employers. To that end, the statute directs the commissioner to establish a system of case management for coordinating the medical care services provided to workers' compensation claimants in cases meeting certain criteria.<sup>[4]</sup> Although certain responsibilities for case management ultimately may fall on employers,<sup>[5]</sup> we do not perceive the primary intent of section 50-6-123 to be to impose on employers the duty of case management.

Moreover, we note that the language of section 50-6-123 does not expressly grant a cause of action to an employee against an employer who fails to perform its case management duties in

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accordance with the guidelines promulgated by the commissioner, and we likewise can discern no implied grant of a cause of action in the statute. Viewed in its entirety, the Workers' Compensation Law provides for governmental enforcement of its provisions. Section 50-6-118, for example, requires the division of workers' compensation of the department of labor to establish and collect penalties for certain violations of the Law, such as an employer's failure to provide coverage, the late filing of notices, reports, and judgments, the late payment of benefits, and the bad faith denial of claims. T.C.A. § 50-6-118 (1991). The legislature could have authorized the establishment and collection of penalties for an employer's or insurer's failure to comply with the commissioner's case management rules and regulations,<sup>[6]</sup> but at this juncture it has not done so. We decline to use the judicial process to engraft additional requirements onto the enforcement scheme designed by the legislature.<sup>[7]</sup>

### *V. Alamo's Release Defense*

As for the final issue raised in this appeal, we reject Alamo's contention that the present action was precluded by the release previously executed by Reed in connection with her workers' compensation action. In settling her workers' compensation claim, Reed agreed to dismiss, discharge, and relieve Alamo "from any and all further liability ... for the injury resulting from the on-the-job accident of March 13, 1993." Attempting to characterize this language as a "general release," Alamo contends that the release barred Reed's current action against it. Alternatively, Alamo contends that Reed's present claims were expressly barred by the terms of the release because the claims resulted from Reed's on-the-job accident.

As an initial matter, we question whether Alamo waived the defense of release by failing to raise it in a timely manner. A litigant waives an affirmative defense if he fails to raise it in his answer. [691\\*691 Steed Realty v. Oveisi](#), 823 S.W.2d 195, 197 (Tenn.App.1991); [Thompson, Breeding, Dunn, Creswell & Sparks v. Bowlin](#), 765 S.W.2d 743, 744 (Tenn.App.1987); T.R.C.P. 8.03, 12.08. In its answer, Alamo did not raise the affirmative defense of release, and Alamo did not move to amend its answer to assert this defense until shortly before the trial began in July 1997. The trial court apparently granted Alamo's motion, but the court did not enter its order permitting Alamo to amend its answer until after Reed filed her notice of this appeal.<sup>[8]</sup>

We recognize that the trial court has the discretion to allow a defendant to amend his answer to assert an affirmative defense, even if such a motion is not made until the time of trial. [Steed Realty](#), 823 S.W.2d at 197. The primary factor to be considered by the trial court in making this determination is whether the plaintiff will be unduly prejudiced by the defendant's delay in raising the affirmative defense. [Gardiner v. Word](#), 731 S.W.2d 889, 891-92 (Tenn.1987); [Garthright v. First Tennessee Bank](#), 728 S.W.2d 7, 9 (Tenn.App.1986). In the present case, we are unable to determine why the trial court entered its order granting Alamo's motion to amend its answer to assert the affirmative defense of release, inasmuch as the court's comments at trial suggested that it found Reed was prejudiced by the manner in which Alamo raised this defense.

Nevertheless, we need not decide whether Alamo waived this defense, or whether the trial court abused its discretion in permitting Alamo to amend its answer to assert this defense, because we conclude that the release, by its terms, did not preclude Reed from pursuing claims for retaliatory

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discharge and breach of employment contract against Alamo. Our supreme court has explained that

the scope and extent of a release depends on the intent of the parties as expressed in the instrument. A general release covers all claims between the parties which are in existence and within their contemplation; a release confined to particular matters or causes operates to release only such claims as fairly come within the terms of the release. [\*Glover v. Southern Bell Telephone & Telegraph Co. et al.\*, 229 Ga. 874, 195 S.E.2d 11 \[\(1972\)\]](#); 76 C.J.S. *Release* § 51, p. 695; 66 Am.Jur.2d, *Release*, Section 29, p. 706.

....

"A release which is confined or which is construed as being confined to claims or demands arising from, or relating to, a specified matter operates to release all the particular claims or demands properly embraced in the specifications, but it does not release other claims or demands, ..." 76 C.J.S. *Release* § 51, p. 696.

[\*Cross v. Earls\*, 517 S.W.2d 751, 752-53 \(Tenn.1974\)](#).

In light of the foregoing authority, we disagree with Alamo's characterization of the release in the present case as being a "general release." Rather than generally purporting to settle all claims between the parties, the release specifically sought to settle only Reed's claims "for the injury resulting from the on-the-job accident of March 13, 1993." The order in which this release language appeared was entitled Order Approving Lump Sum Settlement of Worker's Compensation Benefits. The order [692\\*692](#) indicated that the parties wished "to settle and compromise this matter on the basis of payment to [Reed] of permanent partial disability benefits of 30% to the leg, which amounts to the payment of \$275.75 per week for a period of 60 weeks, in the total uncommuted amount of \$16,545.00." In our view, the plain meaning of the release language that followed was that Reed was relieving Alamo from any further liability for the leg injury she sustained on March 13, 1993. Contrary to Alamo's contention, this language did not relieve Alamo of further liability for any and all claims arising out of the parties' employment relationship.

Our interpretation of the release's language is supported by decisions from other jurisdictions which have narrowly construed release provisions purporting to relieve an employer of further liability for injuries from on-the-job accidents. In [\*Pope v. Bethesda Health Center, Inc.\*, 813 F.2d 1306, 1307 \(4th Cir.1987\)](#), for example, Pope released and discharged her former employer "from all other claims of whatsoever kind which might or could hereafter arise under the Workmen's Compensation Law from the said injury, disablement or disability." In rejecting the employer's contention that this release language barred Pope's subsequent claim for wrongful discharge, the court explained:

We think that the language of this release, examined in its entirety, is clear and unambiguous. It releases and forever discharges Pope's present or future claims arising under the compensation statute "from the said injury, disablement or disability." Application of the release thus depends upon fulfillment of two conditions: first, the claim must "arise" under the Maryland Workmen's Compensation Law, and, second, the claim must be "from the said injury, disablement or disability." Pope's claim may satisfy the first condition, but we need not reach that issue. *Pope's*

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*claim does not stem from her injury and thus fails to satisfy the second condition. Pope does not allege a cause of action for injury, disablement or disability stemming from an accident in the course of her employment. Rather she alleges a separate, distinct and different cause of action—her wrongful discharge because she asserted her right to worker's compensation benefits.*

[Pope, 813 F.2d at 1308](#) (emphases added).

In [Bailey v. Martin Brower Co., 658 So.2d 1299 \(La.Ct.App.1995\)](#), the plaintiff was injured in an on-the-job accident in July 1991. In September 1991, the plaintiff was terminated by his employer, ostensibly for filing a fraudulent workers' compensation claim. [Bailey, 658 So.2d at 1300](#). In settling his workers' compensation claim in December 1991, the plaintiff agreed to release his former employer from any and all claims, actions, and causes of action sustained "in consequence of [the] accident that occurred on or about the 21st day of July, 1991." *Id.* at 1301. Thereafter, the plaintiff filed a wrongful termination suit against the former employer in which he alleged that he was illegally fired for filing a workers' compensation claim. *Id.* at 1300. In rejecting the employer's argument that the plaintiff's retaliatory discharge claim was barred by the language of the release agreement, the Louisiana appellate court explained:

We find that given the language employed by the parties in the release agreement, as well as the only testimony on the parties' intent in confecting that agreement, the parties did not intend to release plaintiff's wrongful discharge claim. Although purporting to release [the employer] from "all claims," the language of the release itself focuses on the plaintiff's worker's compensation claim arising on July 21, 1991. The termination, which gave rise to the instant cause of action, did not occur until September 5, 1991. There is nothing in the document pertaining specifically to this separate cause of action, although it was in existence prior to the time that the release was executed. Furthermore, [693\\*693](#) the small consideration given in exchange for the release lends support to the conclusion that the parties intended for the release to only cover plaintiff's compensation claim. Accordingly, ... the parties did not intend to release plaintiff's retaliatory discharge claim.

*Id.* at 1302; cf. [Spencer v. Howard, Weil, Labouisse & Friedrichs, Inc., 543 So.2d 547, 551-52 \(La.Ct.App.\)](#) (reaching different result where plaintiff released defendant for all claims arising out of on-the-job accident "or anything else that may have occurred" to plaintiff while employed by defendant), *writ denied*, [546 So.2d 1217 \(La.1989\)](#).

In accordance with these authorities, we conclude that the release language in the present case did not bar Reed's claims for wrongful discharge and breach of employment contract. Reed's complaint did not allege a cause of action for injury or disability resulting from her on-the-job accident of March 13, 1993. Rather, Reed alleged separate, distinct, and different causes of action. She alleged that Alamo wrongfully discharged her because she asserted her right to workers' compensation benefits,<sup>[9]</sup> and she further alleged that Alamo breached the parties' employment contract when it discharged her. Moreover, we note that the language of the release focused on Reed's workers' compensation claim arising due to her March 13, 1993, on-the-job injury. Nothing in the document pertained to the separate causes of action alleged in the present case, although these potential claims existed prior to the time when Reed agreed to the release language. Our conclusion that the release did not bar the present claims is further supported by

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the fact that the consideration given in exchange for the release pertained only to disability benefits for Reed's March 13, 1993, leg injury.

In contending that the release barred the present claims, Alamo relies on a line of Alabama decisions holding that a retaliatory discharge action was barred by a prior settlement agreement which released the employer from all claims on account of the employee's injury under the Alabama Workmen's Compensation Act "or otherwise." [\*Gates Rubber Co. v. Cantrell\*, 678 So.2d 754 \(Ala.1996\)](#); [\*Ex parte Aratex Servs., Inc.\*, 622 So.2d 367 \(Ala.1993\)](#); [\*Sanders v. Southern Risk Servs.\*, 603 So.2d 994 \(Ala.1992\)](#); [\*Dow-United Techs. Composite Prods., Inc. v. Webster\*, 701 So.2d 22 \(Ala.Civ.App.1997\)](#). We conclude that these decisions are distinguishable from the present case because they dealt with retaliatory discharge claims which, at least arguably, arose under the Alabama Workmen's Compensation Act. In contrast, the release in the present case did not purport to release Alamo from liability for all claims arising under the Tennessee Workers' Compensation Law. Moreover, in the present case, Reed also asserted a claim for breach of employment contract, which did not arise under the Workers' Compensation Law. In any event, to the extent that it conflicts with our decision today, we decline to follow the reasoning set forth in the Alabama courts' decisions.

We also conclude that the present case is easily distinguishable from this court's decision in *Davenport v. Home Federal Bank*, No. 03A01-9401-CV-00034, 1994 WL 287591 (Tenn.App. June 30, 1994), wherein we held that a plaintiff's claim for retaliatory discharge was barred by a prior release executed in connection with the plaintiff's termination from employment. In that case, the plaintiff released the employer "of any and all claims he has or may acquire arising out of or related to his employment." *Davenport*, 1994 WL 287591, at \*1. We reasoned that the plaintiff's subsequent retaliatory discharge claim arose out of or was related to his employment, "and so must be covered by the express terms of the Release." *Id.*, at [694\\*694](#) \*6. In contrast, the release in the present case referred only to the injury resulting from Reed's on-the-job accident of March 13, 1993. The release did not purport to cover the parties' entire employment relationship.

## VI. Conclusion

That portion of the trial court's judgment dismissing Reed's claim for breach of employment contract is reversed, and this cause is remanded for further proceedings consistent with this opinion. In all other respects, the trial court's judgment is affirmed. Costs of this appeal are taxed one-half to Reed and one-half to Alamo, for which execution may issue if necessary.

CRAWFORD, P.J., W.S., concurs.

LILLARD, J., concurs.

[\[1\] \*Weber v. Moses\*, 938 S.W.2d 387 \(Tenn.1996\).](#)

[\[2\]](#) On appeal, Alamo relied on Reed's testimony at a prior unemployment compensation hearing to support its contention that Reed was terminated by Alamo on November 23, 1994. At the February 1995 hearing, Reed testified to her belief that she was terminated by Alamo on November 23, 1994. We agree that principles of judicial estoppel may preclude a party from contradicting sworn testimony given in a prior judicial proceeding or from maintaining inconsistent legal positions in judicial proceedings. See [Allen v. Neal](#), 217 Tenn. 181, 396 S.W.2d 344, 346-47

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(1965); [\*Stearns Coal & Lumber Co. v. Jamestown R.R. Co.\*, 141 Tenn. 203, 208 S.W. 334, 334-35 \(1919\)](#); *Butler v. Butler*, No. 02A01-9702-CH-00038, 1997 WL 576533, at \*4 (Tenn.App. Sept.18, 1997); *but see* [\*Mangrum v. Wal-Mart Stores, Inc.\*, 950 S.W.2d 33, 37 \(Tenn.App.1997\)](#) (holding that T.C.A. § 50-7-304(k) precludes application of collateral estoppel principles in workers' compensation proceedings). We note, however, that Snyder, who represented Alamo at the unemployment compensation hearing, maintained throughout the hearing that Reed was terminated on December 13, 1994, and not on November 23, 1994. Moreover, we note that it was Alamo which injected the statute of limitations defense into this lawsuit and which first attempted to maintain a position inconsistent with the one it assumed at the unemployment compensation hearing.

[3] The statute of limitations for Reed's claim for breach of employment contract was six years. *See* [\*Stone v. Halsell\*, 648 S.W.2d 949, 952 \(Tenn.App.1982\)](#); T.C.A. § 28-3-109(a)(3) (1980).

[4] Under the commissioner's rules and regulations, the duty of an employer or insurer to provide case management services arises only if (a) the employee requires inpatient hospitalization, (b) the employee's injury results in medical costs exceeding \$10,000, or (c) the employee's lost work time due to the injury reaches a cumulative total of eight weeks of full-time employment. Tenn.Comp.R. & Regs. 0800-2-7-.03(1) (as revised in Feb. 1998).

[5] Specifically, the rules and regulations impose this duty (1) on the insurer, where the employer is insured by a third party, and (2) on the employer, where the employer is self-insured. *See* Tenn.Comp.R. & Regs. 0800-2-7-.02(1)(a) (as revised in Feb. 1998).

[6] *See* Tenn.Comp.R. & Regs. 0800-2-7-.01 to -.07 (as revised in Feb. 1998).

[7] *But see* [\*Clanton v. Cain-Sloan Co.\*, 677 S.W.2d 441, 445 \(Tenn.1984\)](#) (holding that creation of common-law cause of action for retaliatory discharge, although not explicitly created by Tennessee Workers' Compensation Law, was necessary to enforce employer's duty to compensate employees for work-related injuries, to secure employee's rights to receive such compensation, and to carry out legislature's intention in enacting Law).

[8] As a general rule, a trial court loses jurisdiction to enter orders in a case after one of the parties files a notice of appeal. *McCormick v. Phillips*, 140 Tenn. 268, 204 S.W. 636, 636-37 (1918); [\*Sweetwater Bank & Trust Co. v. Howard\*, 16 Tenn.App. 91, 66 S.W.2d 225, 228 \(1932\)](#); *Osborne v. Turner*, 1991 WL 26720, at \*2 (Tenn.App. Mar.5, 1991); *but see* T.R.C.P. 54.04(2) (providing that trial court retains jurisdiction over motion for discretionary costs even though party has filed notice of appeal); T.R.C.P. 59.01 (listing authorized motions which will extend trial court's jurisdiction). In the present case, however, the trial court's order merely conformed to her pre-trial ruling on this issue. *See* [\*Zack Cheek Builders, Inc. v. McLeod\*, 597 S.W.2d 888 \(Tenn.1980\)](#).

[9] In Tennessee, "[a] claim for damages for retaliatory discharge is not a part of a worker's compensation claim, but is a separate tort action." [\*Van Cleave v. McKee Baking Co.\*, 712 S.W.2d 94, 95 \(Tenn.1986\)](#).



### **Professional Studies Retention, Tenure, and Promotion Criteria**

APSU Policy 5:060 details general expectations for faculty in the retention and tenure process. These include the expectation that faculty will have made progress since the date of the last review as part of the personnel action process. Further, it is noted in that same policy statement that “the relative importance of each of these criteria will vary with the type of action contemplated as well as the nature and mission of the department...”. The nature and mission of the Professional Studies department is wide-ranging, preparing students at the associate, baccalaureate, and master levels with academic and technical education and skills necessary to progress within the management of an organization.

#### **I. Faculty Retention Years 1-3 [Accomplishments since time of hire at APSU]**

##### **A. Effectiveness in Academic Assignment**

1. Teaching effectiveness
  - A. Student evaluations of instruction.
    - Typically "good" or better on student evaluations of instruction or on a 1-6 number scale in the 4-6 range.
  - B. Annual peer review of instruction.
    - Receive positive peer evaluation by tenured departmental faculty.
  - C. Direction of undergraduate and graduate research
    - Supervises undergraduate and/or graduate research by third year.
  - D. Course and curricular development or improvements
    - Course and curricular development or improvements as needed.
  - E. Effective student advisement
    - Positive evaluation of student advisement (years 2-3) as evidenced by assigned student advisee records.
  - F. Work effectively with colleagues on academic issues
    - As evidenced in sharing departmental workload on a regular basis.
2. Non-teaching assignments
  - Evidence of administrative or supervisory duties as dean, department chair/director, program coordinator, or other special activities for which reassigned time is given. Annual review by supervisor will be used as evidence of effectiveness.

##### **B. Research/Scholarship/Creative Activities**

1. Publications.
  - Active research program that may lead to publication.
2. Papers presented.
  - Active research program that may lead to presentation.
3. Research In Progress.
  - Shows progress towards meeting tenure/promotion requirements.

**C. Professional Contributions and Activities**

1. Service to Campus (1 or more of the following)
  - Serve on departmental committees. (after year 1)
  - Serve on appropriate APSU standing committee. (after year 1)
  - Serving as advisor to student organization. (after year 1)
  - Serves campus, department, and students through participation on committees or through campus activities. (after year 1)
2. Service to One's Discipline (1 or more of the following)
  - Memberships and/or leadership in appropriate professional organizations
  - Obtaining licensure, certification, or additional professional development/training activities
  - Professional service as session chair, discussant, paper reviewer, etc.
  - Professional service as a peer-reviewer of journals, textbooks, etc.
3. Service to the Community (Examples could include)
  - Discipline-related presentations to community groups
  - Discipline-related advice and consultations to community groups.
  - Other discipline-related service to the local community or larger society.

**II. Faculty Retention Years 4-5 [Accomplishments since time of hire at APSU]**

**A. Effectiveness in Academic Assignment**

1. Teaching effectiveness
  - A. Student evaluations of instruction.
    - Typically "good" or better on student evaluations of instruction or on a 1-6 number scale in the 4-6 range.
  - B. Annual peer review of instruction.
    - Receive positive peer evaluation by tenured departmental faculty.
  - C. Direction of undergraduate and graduate research
    - Supervises undergraduate and/or graduate research.
  - D. Course and curricular development or improvements
    - Course and curricular development or improvements as needed.
  - E. Effective student advisement
    - Positive evaluation of student advisement as evidenced by assigned student advisee records.
  - F. Work effectively with colleagues on academic issues
    - As evidenced in sharing departmental workload on a regular basis
2. Non-teaching assignments
  - Evidence of administrative or supervisory duties as dean, department chair/director, program coordinator, or other special activities for which reassigned time is given. Annual review by supervisor will be used as evidence of effectiveness.



**B. Research/Scholarship/Creative Activities**

1. Publications.
  - Active research program that has led to at least one publication.
2. Papers presented.
  - Active research program that has led to at least one presentation.
3. Research in Progress.
  - Shows progress towards meeting tenure/promotion requirements.

**C. Professional Contributions and Activities**

1. Service to Campus (1 or more of the following)
  - Serve on departmental committees.
  - Serve on appropriate APSU standing committee.
  - Serving as advisor to student organization.
  - Serves campus, department, and students through participation on committees or through campus activities.
2. Service to One's Discipline (1 or more of the following)
  - Memberships and/or leadership in appropriate professional organizations.
  - Obtaining licensure, certification, or additional professional development/training activities
  - Professional service as session chair, discussant, paper reviewer, etc.
  - Professional service as a peer-reviewer of journals, textbooks, etc.
3. Service to the Community (Examples could include)
  - Discipline-related presentations to community groups
  - Discipline-related advice and consultations to community groups.
  - Other discipline-related service to the local community or larger society.

**III. Tenure [Accomplishments since time of hire at APSU]**

**A. Effectiveness in Academic Assignment**

1. Teaching effectiveness
  - A. Student evaluations of instruction.
    - Typically "good" or better on student evaluations of instruction or on a 1-6 number scale in the 4-6 range.
  - B. Annual peer review of instruction.
    - Receive positive peer evaluation by tenured departmental faculty.
  - C. Direction of undergraduate and graduate research
    - Supervises undergraduate and/or graduate research.
  - D. Course and curricular development or improvements
    - Course and curricular development or improvements as needed.

- E. Effective student advisement
  - Positive evaluation of student advisement as evidenced by assigned student advisee records.
- F. Work effectively with colleagues on academic issues
  - As evidenced in sharing departmental workload on a regular basis.
- 2. Non-teaching assignments
  - Evidence of administrative or supervisory duties as dean, department chair/director, program coordinator, or other special activities for which reassigned time is given. Annual review by supervisor will be used as evidence of effectiveness.

## **B. Research/Scholarship/Creative Activities**

[Each additional publication in (1) may replace a required presentation in (2)]

- 1. Publications.
 

Published at least one paper in a scholarly, peer-reviewed journal.  
OR  
Received at least one multi-year federal research grant.  
OR  
Published at least one chapter in a peer-reviewed scholarly book  
OR  
Authored a marketed college-level textbook
- 2. Presentations and other scholarly works.
 

Three presentations at regional professional conferences.  
OR  
Two presentations at national or international conferences.  
OR  
Two invited talks (presentations)  
OR  
Submitted a grant for external funding, favorably reviewed but not yet funded  
OR  
Author textbook ancillaries
- 3. Research or Creative Arts in Progress.
  - Ongoing research program that has potential to lead to future publication(s) and/or presentation(s).

## **C. Professional Contributions and Activities**

- 1. Service to Campus (1 or more of the following)
  - Serve on departmental committees.
  - Serve on appropriate APSU standing committee.
  - Serving as advisor to student organization.
  - Serves campus, department, and students through participation on committees or through campus activities.

2. Service to One's Discipline (1 or more of the following)
  - Memberships and/or leadership in appropriate professional organizations.
  - Obtaining licensure, certification, or additional professional development/training activities
  - Professional service as session chair, discussant, paper reviewer, etc.
  - Professional service as a peer-reviewer of journals, textbooks, etc.
3. Service to the Community (Examples could include)
  - Discipline-related presentations to community groups
  - Discipline-related advice and consultations to community groups.
  - Other discipline-related service to the local community or larger society.

**IV. Promotion to Assistant Professor.**

- Earned appropriate doctoral degree.

**V. Promotion to Associate Professor. [Accomplishments since time of hire at APSU]**

- A. Effectiveness In Academic Assignment.
  1. Teaching effectiveness
    - A. Student evaluations of instruction.
      - Typically "good" or better on student evaluations of instruction or on a 1-6 number scale in the 4-6 range.
    - B. Annual peer review of instruction.
      - Receive positive peer evaluation by tenured departmental faculty.
    - C. Direction of undergraduate and graduate research
      - Regularly supervises undergraduate and/or graduate research.
    - D. Course and curricular development or improvements
      - Course and curricular development or improvements as needed.
    - E. Effective student advisement
      - Positive evaluation of student advisement as evidenced by assigned student advisee records.
    - F. Work effectively with colleagues on academic issues
      - As evidenced in sharing departmental workload on a regular basis
  2. Non-teaching assignments
    - Evidence of administrative or supervisory duties as dean, department chair/director, program coordinator, or other special activities for which reassigned time is given. Annual review by supervisor will be used as evidence of effectiveness.

**B. Research/Scholarship/Creative Activities**

[Each additional publication in (1) may replace a required presentation in (2)]

1. Publications.  
Published at least one paper in a scholarly, peer reviewed journal.  
OR  
Received at least one multi-year federal research grant.  
OR  
Published at least one chapter in a peer-reviewed scholarly book  
OR  
Authored a marketed college-level textbook
2. Presentations and other scholarly works.  
Three presentations at regional professional conferences.  
OR  
Two presentations at national or international conferences.  
OR  
Two invited talks (presentations)  
OR  
Submit a grant for external funding, favorably reviewed but not yet funded  
OR  
Author textbook ancillaries
3. Research or Creative Arts in Progress.
  - Ongoing research program that has potential to lead to future publication(s) and/or presentation(s).

**C. Professional Contributions and Activities**

1. Service to Campus (1 or more of the following)
  - Serve on departmental committees.
  - Serve on appropriate APSU standing committee.
  - Serving as advisor to student organization.
  - Serves campus, department, and students through participation on committees or through campus activities.
2. Service to One's Discipline (1 or more of the following)
  - Memberships and/or leadership in appropriate professional organizations.
  - Obtaining licensure, certification, or additional professional development/training activities.
  - Professional service as session chair, discussant, paper reviewer, etc.
  - Professional service as a peer-reviewer of journals, textbooks, etc.
3. Service to the Community (Examples could include)
  - Discipline-related presentations to community groups
  - Discipline-related advice and consultations to community groups.
  - Other discipline-related service to the local community or larger society.

**VI. Promotion to Full Professor [Accomplishments since time of promotion to Associate]**

**A. Effectiveness in Academic Assignment.**

**1. Teaching effectiveness**

- A. Student evaluations of instruction.**
  - Typically "good" or better on student evaluations of instruction or on a 1-6 number scale in the 4-6 range.
- B. Peer review of instruction (at least twice since promotion to associate and once in the year going up for promotion).**
  - Receive positive peer evaluation by tenured departmental faculty.
- C. Direction of undergraduate and graduate research**
  - Regularly supervises undergraduate and/or graduate research.
- D. Course and curricular development or improvements**
  - Course and curricular development or improvements as needed.
- E. Effective student advisement**
  - Positive evaluation of student advisement as evidenced by assigned student advisee records.
- F. Work effectively with colleagues on academic issues**
  - As evidenced in sharing departmental workload on a regular basis

**2. Non-teaching assignments**

- Evidence of administrative or supervisory duties as dean, department chair/director, program coordinator, or other special activities for which reassigned time is given. Annual review by supervisor will be used as evidence of effectiveness.

**B. Research/Scholarship/Creative Activities**

[Each additional publication in (1) may replace a required presentation in (2)]

**1. Publications.**

Published at least two papers in a scholarly, peer reviewed journal.

OR

Received at least one multi-year federal research grant.

OR

Published at least one chapter in a peer-reviewed scholarly book

OR

Authored a marketed college-level textbook

**2. Presentations and other scholarly works.**

Three presentations at regional professional conferences

OR

Two presentations at national or international conferences.

OR

Two invited talks (presentations)

OR  
Submit a grant for external funding, favorably reviewed but not yet funded  
OR  
Author textbook ancillaries

3. Research or Creative Arts in Progress.
  - Ongoing research program that has potential to lead to future publication(s) and/or presentation(s).

**C. Professional Contributions and Activities**

1. Service to Campus (1 or more of the following)
  - Serve on departmental committees.
  - Serve on appropriate APSU standing committee.
  - Serving as advisor to student organization.
  - Serves campus, department, and students through participation on committees or through campus activities.
2. Service to One's Discipline (1 or more of the following)
  - Memberships and/or leadership in appropriate professional organizations.
  - Obtaining licensure, certification, or additional professional development/training activities
  - Professional service as session chair, discussant, paper reviewer, etc.
  - Professional service as a peer-reviewer of journals, textbooks, etc.
3. Service to the Community (Examples could include)
  - Discipline-related presentations to community groups
  - Discipline-related advice and consultations to community groups.
  - Other discipline-related service to the local community or larger society.

**VII. Expectations for tenured faculty not being reviewed for promotion (Accomplishments since award of tenure)**

Tenured faculty will set individual goals in consultation with the Chair.



March 15, 2018

**College of Behavioral & Health Science**

Robert Halliman  
Public Management/Criminal Justice  
Austin Peay State University

Dear Dr. Halliman:

I have completed my review of your dossier pursuant to your request for promotion to the rank of professor. I have carefully read prior year reports, your appeal letters, and, reviewed documents included in the edossier in support of your accomplishments. I agree that this past year has been difficult in that you were a faculty member of two differing departments with two different colleague groups and two different sets of expectations for promotion to Professor.

Promotion to full professor is a time when scholarship and performance face the most thorough scrutiny in an academic career. The common theme at this time is excellence, outstanding quality, productivity and *sustained* scholarly impact upon one's professional practice. It is a time when faculty become known as regional, national and international experts, and are able to demonstrate a deep and rich exploration of topics pertinent to their area of teaching and research. Evidence of this level of accomplishment is absent from your dossier at this time. Support of your edossier and your request for promotion continues mixed among your colleagues and Department Chair. Colleagues specifically continue to question your publication record. Regrettably, I cannot support your request and I will be forwarding this letter to Provost Gandy as indicative of my position.

I would encourage you to work this coming academic year on strengthening your research and scholarship. It might be helpful for you to meet periodically with your department chair to discuss your plan for scholarship.

Sincerely,

A handwritten signature in black ink that reads 'Rebecca Corvey'.

Rebecca Corvey, Ed.D.  
Interim Dean: College of Behavioral and Health Sciences  
Professor and Director of the School of Nursing  
Austin Peay State University

## AUSTIN PEAY STATE UNIVERSITY

**DEPT. COMMITTEE PROMOTION RECOMMENDATION**

Name: Dr. Robert Halliman Date: 1/31/2018  
 College: Behavioral and Health Science Dept: Leadership and Organizational Administration  
 Highest degree: Ed.D Year Awarded: 1984  
 Institution Awarding Highest Degree: University of Southern California  
 Date of initial APSU appointment: July 18, 1988 Present rank: Inst. Asst. X Assoc. Prof.  
 Years in rank at APSU: 1 16 13 0 Years in rank elsewhere: 0 0 0 0  
Inst. Asst. Assoc. Prof. Inst. Asst. Assoc. Prof.

**Departmental Evaluation:** Please submit information in each of the categories listed. Attach appropriate supporting documents.

**A. Effectiveness in Academic Assignment (Area 1) Use attachments as needed.**

The committee agreed that Dr. Halliman's work performance meets the department criteria for effectiveness in academic assignment. His peer evaluations conducted by tenured faculty are very positive and the student evaluations included in the dossier are good. A majority of the committee understood the challenges of text edition changes experienced by faculty domiciled at the Fort Campbell Campus. Dr. Halliman has answered this challenge by coordinating reading assignments and assignments across editions. Dr. Halliman's simulation used in MT 2550, Small Business Operations capstone course saw two students ranked in the top 100 participants of a worldwide population of 2,578.

**B. Scholarly and Creative Accomplishments (Area 2) Use attachments as needed.**

In the area of scholarly and creative activity, a majority of the committee was **concerned** that Dr. Halliman appeared to have published the same paper in two different publications, the American Journal of Management and the Business and Management Review. Another paper that appeared in two different outlets, albeit with different titles, **seemed** quite similar as well. The committee **questioned** the propriety of doing this. In addition, the committee was unpersuaded by the defense Dr. Halliman offered of the venues in which he has presented/published his work. Aside from **concerns** about the outlets, a majority of the committee was **concerned** that Dr. Halliman is writing on subjects, i.e., climate change/alarmism for which he has no academic or experiential expertise, and his papers on leadership don't reflect a current connection to that literature. Finally, Dr. Halliman claimed to have developed 10 online courses over the review period and cited this as evidence in support of his contention that he met the standards for scholarly and creative activity. However, online course development is not an activity that fulfills requirements in this category.

Overall, **the committee's uncertainty about the caliber of the outlets in which Dr. Halliman has presented/published, uncertainty about how to count what appear to be double-submissions, and concerns about the appropriateness of Dr. Halliman publishing/presenting in an area in which he appears to have no academic expertise leads the committee to err on the side of caution** and conclude that Dr. Halliman has not met the requirements in the area of scholarly and creative activity to be promoted to the rank of professor. We recommend that Dr. Halliman redirect his research and writing efforts toward the field of management in which he has appropriate academic training. Also, Dr. Halliman has a wealth of course development and teaching experience and some success seeing his students honored for their work in a simulation competition. The committee urges Dr. Halliman to consider making substantive contributions to the scholarship of teaching and learning by publishing in peer-reviewed teaching and learning journals.

**C. Professional Contributions and Activities (Area 3) Use attachments as needed.**



## Department Committee Promotion Recommendation Form 2


Dr. Halliman served as peer reviewer for the *International Journal on Business and Economic Development*, May 2016. He participated in three (3) ROW sessions during the Summer of 2016. Dr. Halliman has been active in the Association on Employment Practices and Principles (AEPP) serving in a leadership position. He was instrumental in bringing the annual conference to Nashville in October, 2014. The committee members agreed that Dr. Halliman does meet the department criteria for promotion to full professor in this area.

DEPARTMENT PROMOTION COMMITTEE VALIDATION: We certify that we have read the department promotion report. Although these statements reflect committee discussion, our signatures do not indicate agreement or disagreement with the above evaluation and recommendation.

Signatures [Print your name clearly below your signature.]:

  
Robyn Hulsart


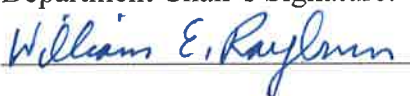
  
Sue Evans

  
David Denton

I certify that I have read the department committee promotion recommendation report. My signature does not indicate agreement or disagreement with the statements made here.

Signature of Faculty Member: 

Date: 2/1/18

| Dept. Promotion Committee Voting Record   | Dept. Chair's Recommendation  |
|---|---|
| <p>For: <u>0</u> Abstain: <u>1</u></p> <p>Against: <u>2</u> Absent: <u>0</u></p> <p>Non-Voting Dept. Member(s) <u>0</u></p> <p>Minority Report? No <u>X</u> Yes <u>    </u></p> <p>(Attach to form)</p> <p>Committee Chair's Signature:<br/></p> | <p>For: <u>    </u></p> <p>Against: <u>✓</u></p> <p>Special Condition: <u>    </u></p> <p>(Attach explanation.)</p> <p>Department Chair's Signature:<br/></p> |

1. The first part of the paper is devoted to the study of the

problem of the existence of solutions of the system

$$\begin{cases} \Delta u = f(x, y, u, v) \\ \Delta v = g(x, y, u, v) \end{cases}$$

$$\begin{cases} \Delta u = f(x, y, u, v) \\ \Delta v = g(x, y, u, v) \end{cases}$$

$$u(x, y) = \int_0^1 \int_0^1 f(x, y, u, v) dx dy$$

$$v(x, y) = \int_0^1 \int_0^1 g(x, y, u, v) dx dy$$

## APPENDIX H

### University Tenure and Promotion Appeals Board Report

#### Members:

Dr. Karen Meisch, Interim Dean, College of Science and Mathematics, Chair  
Dr. Victoria McCarthy, President's Appointee  
Dr. Gary Stewart, Martha Dickerson Ericksson College of Education Representative  
Dr. Hassan Said, College of Business Representative  
Dr. Justin Oelgoetz, College of Science, Technology, Engineering and Mathematics Representative  
Dr. Jordy Rocheleau, College of Arts and Letters Representative  
Dr. Lisa Lewis, College of Behavioral and Health Sciences Representative  
Dr. Allyn Smith, Faculty Senate Representative

April 20, 2018

Provost Gandy,

This report is a result of the discussion convened by the University Tenure and Promotion Appeals Board to discuss the appeal from Dr. Robert Halliman.

The Board voted five to deny Dr. Halliman's appeal and one to uphold the appeal. **It appears Dr. Halliman may meet the minimum department criteria, however, the committee does not think he satisfies the more general APSU criteria** laid out in APSU policy 2:063, "Academic Ranks for Professor Track", 3. Professor, b: "Documented evidence of sustained high quality professional productivity at Austin Peay State University and national recognition in the academic discipline or sustained high quality professional productivity in the academic discipline at Austin Peay State University that is consonant with the goals of the University and of the academic unit to which the faculty member belongs." Furthermore **we do not believe** he meets the definition for promotion laid out in 2:063, "Promotion in rank is recognition of past achievement of the individual being considered for promotion. In addition, the advancement in rank is recognition of future potential and a sign of confidence that the individual is capable of even greater accomplishments and of assuming greater responsibilities." **To achieve rank of full professor one should have a proven history of academic excellence and the promise of achieving even more and it does not appear that Dr. Halliman meets either of these requirements.**

**Generally the committee found that there were justifiable concerns with the quality of work that was produced by Dr. Halliman, and with the quality of the peer review** conducted by the journals. These concerns were also raised in the department report. While the areas of scholarly activity are often not within the academic discipline of his expertise in leadership and organization, that is not necessarily a problem. For some of the faculty working in fields more closely related to climatology, these concerns stand independent of Dr. Halliman's background and are based on the scholarly articles themselves.

It should be noted that Dr. Lisa Lewis, the College of Behavioral and Health Sciences Representative, is a member of the Board but was not allowed to deliberate or vote on the Board's report for the Provost due to voting previously on Dr. Halliman's e-dossier at the College level.

**APPENDIX I**  
**TO THE APSU**  
**BOARD OF TRUSTEES**

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**AFFIDAVIT OF ROBERT W. HALLIMAN**

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I, Robert W. Halliman, having been first duly sworn to tell the truth, depose as follows:

1. I am over the age of eighteen years, am suffering from no mental disability, and I am Legally competent to make this affidavit. This Affidavit is based upon my personal knowledge.

2. I am currently employed as an Associate Professor of Management Technology at Austin Peay State University, in the Department of Leadership and Organization Administration, College of Health and Behavioral Sciences, Austin Peay State University Center at Fort Campbell, KY.

3. In a meeting with the APSU Provost, Dr. Rex Gandy, on November 17, 2017, for the purpose of discussing promotion, I attempted to make a point to Dr. Gandy that APSU policy states that promotion decisions are to be made objectively. Dr. Gandy, stopped me in mid-sentence by throwing up his hands and stating "it's all subjective."

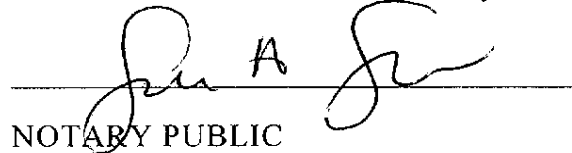
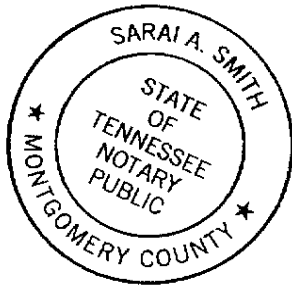
4. Present in the room when Dr. Gandy made the statement was Dr. William Rayburn, Chair of the Department of Leadership and Organization Administration, and Dr. Rebecca Corvey, Interim Dean, Colleges of Health and Behavioral Sciences.

5. Also, at that same meeting, Dr. Gandy stated that promotion is "not a numbers game." Again, Drs. Rayburn and Corvey were present when the statement was made.



ROBERT W. HALLIMAN

Sworn to and Subscribed before me this 9 day of May,  
~~2015~~. 2018

  
NOTARY PUBLIC

My Commission Expires: August 17 2021

# 1:025 Policy on Academic Tenure

Austin Peay State  
University

Policy on Academic Tenure

## POLICIES

**Issued:**

May 19, 2017

**Responsible Official:**

Provost and Vice President for Academic Affairs

**Responsible Office:**

Academic Affairs

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## Policy Statement

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The following policy of Austin Peay State University (APSU) on tenure is applicable to all tenure-track faculty within the University.

Faculty and administrators are also required to follow the Tenure Procedures and Guidelines document, which comprises procedures and guidelines related to the retention, tenure, and promotion of all tenure-track and tenured faculty within the University. These procedures and guidelines embody and communicate all provisions, definitions, and stipulations of Austin Peay State University.

The quality of the faculty of any University is maintained primarily through support of a wide variety of professional development. It is monitored through the appraisal, by competent faculty and administrative officers, of each candidate for tenure. Tenure at Austin Peay State University provides certain full-time faculty with the assurance of continued employment during the academic year until retirement or dismissal for adequate cause, financial exigency, or curricular reasons, as further discussed herein.

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[-Academic Tenure](#)

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[-Changes in Tenure/Tenure-Track Status](#)

### Links

[-APSU Tenure Procedures and Guidelines](#)  
[-APSU Policy 2:051](#)  
[-APSU Policy 1:012](#)

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### Definitions

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|                                |  |
|--------------------------------|--|
| <b>Academic Tenure</b>         | A personnel status in an academic department or academic program unit pursuant to which the academic or fiscal year appointments of full-time faculty who have been awarded tenure are continued at a University until the expiration or relinquishment of that status, subject to termination for adequate cause, for financial exigency, or for curricular reasons.  |
| <b>Adequate Cause</b>          | A basis upon which a faculty member, either with academic tenure or a tenure-track or temporary appointment prior to the end of the specified term of the appointment may be dismissed or terminated. The specific grounds which constitute adequate cause are set forth in Termination for Adequate Cause Section H herein.   |
| <b>Financial Exigency</b>      | The formal declaration by the APSU Board of Trustees that APSU faces an imminent financial crisis, that there is a current or projected absence of sufficient funds (appropriated or non- appropriated) for the campus as a whole to maintain current programs and activities at a level sufficient to fulfill its educational goals and priorities, and that the budget can only be balanced by extraordinary means which include the termination of existing and continuing academic and non-academic appointments. The purpose of the APSU financial exigency policy is to establish the criteria and process regarding financial exigency at the university. |
| <b>Faculty Member</b>          | A full-time employee who holds academic rank as instructor, assistant professor, associate professor, or professor. <a href="#">APSU Policy 2:051</a> provides additional details about types of appointments.   |
| <b>Probationary Employment</b> | Period of full-time professional service by a faculty member for whom an appointment letter denotes a tenure-track appointment in which he/she does not have tenure and in which he/she is evaluated by the University for the purpose of determining his/her satisfaction of the criteria for a recommendation for tenure. Probationary employment provides an opportunity for the individual to assess his/her own commitment to the   |

## APPENDIX J

University and for the University to determine whether the individual meets its perception of quality and/or projected need.

### Faculty Appointments

See [APSU Policy No. 2:051](#).

### Annual Evaluation

Annual evaluations conducted by the candidate's department chair or other appropriate head of an academic program unit are an important aspect of the criteria for tenure at APSU; therefore, university policy should include a clear statement as to the role of evaluation in measuring those criteria relevant to assessing the merit of the probationary candidate.

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## Procedures

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### Consideration for Tenure

#### A. Tenure Appointments

The awarding of tenure is recognition of the merit of a faculty member and of the assumption that he/she would meet the long-term staffing needs of the department or academic program unit and the University. Tenure is awarded only to those members of the faculty who have exhibited professional excellence and outstanding abilities sufficient to demonstrate that their future services and performances justify the degree of permanence afforded by academic tenure. The APSU Board of Trustees does not award tenure in non-faculty positions.

Tenure appointments reside in the departments and academic program units and are assurances of continued employment during the academic year subject to expiration, relinquishment, or terminations of tenure as set out in Sections IV (Criteria to Be Considered in Tenure Recommendations) and V (Changes in Tenure/Tenure-Track Status). Recommendations for or against tenure should originate from the department or academic program unit in which the faculty member is assigned and should include appropriate participation in the recommendation by tenured faculty in the department or academic program unit as specified in Policy.

#### Who Awards Tenure at APSU

Tenure is awarded only by positive action of the APSU Board of Trustees, pursuant to the requirements and procedures of this policy at APSU. No faculty member shall acquire or be entitled to any interest in a tenure appointment at APSU without a recommendation for tenure by the President of the University and an affirmative award of tenure by the APSU Board of Trustees. No other person shall have any authority to make any representation concerning tenure to any faculty member, and failure to give timely notice of non-renewal of a contract shall not result in the acquisition of a tenure appointment, but shall result in the right of the faculty member to another year of service at APSU, provided that no tenure appeals remain outstanding due to lack of cooperation and/or appropriate action on the part of the candidate in completing the appeal process.

## APPENDIX J

The President has the authority to recommend tenure or to continue faculty members in probationary status in accord with the provisions elsewhere in this policy. The President shall base his/her determination upon consideration of the recommendations of departmental and college retention and tenure committees, and upon the recommendations of departmental Chairs\*, college Deans\*, and the Provost.

\*(APSU Editorial Note: Some academic units of the University have directors instead of Chairs. If the job description of the director of an academic unit includes duties and responsibilities typically assigned to the Chair of a department, then the director shall be seen as the equivalent of a Chair and shall participate in all personnel processes including retention, tenure, and promotion.)

See *Tenure Procedures and Guidelines* document for Calendar for Faculty Personnel Actions.

### **B. Tenure Process**

All tenure-track faculty shall be reviewed for retention on an annual basis until they attain tenure. The guidelines governing the criteria for retention are included within this policy (1:025) as well as in the *Tenure Procedures and Guidelines* document.

Types of evidence relevant to evaluating effectiveness and contributions in teaching, research/scholarship, and service/outreach are identified in this policy under “General Criteria for Evaluation of Faculty Members.”

#### **1. Departmental Recommendations**

- a. The departmental chair/director shall inform faculty members who are to be reviewed of the nature of materials required by the retention and tenure committee and the date by which these materials must be received for committee consideration. Faculty members under review for retention, tenure, and promotion are responsible for submitting well-organized, up-to-date, and accurate e-dossiers. This responsibility shall end upon final submission of the e-dossier by the faculty member for the year under review. Faculty members are encouraged to work closely with their directors/chairs, assigned mentors, and/or other senior faculty within and outside of their department (as necessary) to make sure that the e-dossier complies with content and order requirements as noted below. Faculty members should consider the preparation of e-dossiers as a year-round process, gathering and maintaining materials accordingly.

Faculty should consult the *Tenure Procedures and Guidelines* document for developing their e-dossiers.

### **Confidentiality of Meetings**

## **APPENDIX J**

All retention, tenure, and promotion committee proceedings and deliberations are strictly confidential. Faculty members who serve on review committees may discuss the vote and specifics of a particular personnel meeting only with other members who are also part of that same personnel review committee. As the discussion of the review committees involves personnel issues, the personnel review committee members are encouraged to exercise appropriate discretion in any subsequent discussion of the meetings. Faculty may consult with the university ombudsman and the Office of Human Resources in this process.

### **C. Minimum Eligibility Requirements for Consideration for Academic Tenure**

1. Academic tenure may be awarded only to full-time faculty members who: (a) hold academic rank as instructor, assistant professor, associate professor, or professor and meet the minimum rank criteria for the rank held under [APSU Policy 2:063 \(Faculty Promotion\)](#); (b) have been employed through tenure track appointments and have completed not less than the minimum probationary period of service; and (c) have been determined by the institution to meet the criteria for recommendation for tenure and have been so recommended based upon this policy.
2. Faculty holding temporary appointments are not eligible for tenure.
3. Faculty members supported in whole or in part by funds available to the institution on a short-term basis, such as grants, contracts, or foundation sponsored projects, shall not be eligible for tenure unless continuing support for such members can be clearly identified in the regular budget of the institution upon the recommendation of tenure to the APSU Board of Trustees.
4. No faculty member shall be eligible for tenure in an administrative position; however, when a faculty member with tenure is appointed to an administrative position, he/she will retain tenure in the former faculty position; and a faculty member otherwise eligible for tenure who holds an administrative position may be awarded tenure in the faculty position only, subject to the requirements of this policy.

### **D. Probationary Employment**

Probationary faculty may be employed on annual tenure-track appointments for a probationary period which may not exceed six (6) years; however, six (6) years is considered to be the normal length of time required to develop a substantial record in teaching, research and service. The faculty member may apply for tenure following a probationary period of not less than five years, provided that exceptions to the minimum probationary period may be made under special circumstances upon recommendation by the President and approval by the APSU Board of Trustees. Upon approval of such an exception by the APSU Board of Trustees, the faculty member's recommendation for tenure will go forward to the Board as meeting the requirements for the probationary period, per [APSU Policy 2:063](#).

#### **1. Approved Leave of Absence**

## **APPENDIX J**

A period of approved leave of absence shall be excluded from the requisite period for completion of the probationary period unless the President of the University specified in writing prior to the leave of absence that it shall be included in the probationary period. However, articles that are published (online or in print) during the “leave of absence” period shall be accepted as items in Area 2 (Scholarly and Creative Achievement) during the probationary period.

For example, if the faculty member receives notice of an acceptance of an article (submitted at a previous time) during the “leave of absence” period or receives notice of an invitation to submit a scholarly essay to a journal, the faculty member may count this as part of his/her publication achievements in Area 2. When there is disagreement as to the admissibility of scholarly/creative activity in Area 2 during a “leave of absence” period, the faculty member shall consult with his/her Chair, Dean, and Provost to resolve the situation. This provision applies to tenure-track faculty only.

Leaves of absence may not be granted retroactively. A faculty member may apply for a maximum of two (2) extensions in one-year increments so long as the total probationary period does not exceed six years. Requests for a second extension follow the same procedure and are subject to the same considerations as the original extension.

### **2. Stopping the Tenure Clock**

A faculty member in a tenure track appointment may request to “stop the clock” during his/her probationary period when circumstances exist that interrupt the faculty member’s normal progress toward building a case for tenure. Discretion for stopping the tenure clock rests on the institution and also requires supervisory approval. In such cases, the faculty member may request to “stop the tenure clock” for one-year if he/she demonstrates that circumstances reasonably warrant such interruption. Reasons for approving a request to “stop the clock” will typically be related to a personal or family situation requiring attention and commitment that consumes the time and energy normally addressed to faculty duties and professional development. Examples may include, but are not limited to, childbirth or adoption, care of dependents, medical conditions or obligations, physical disasters or disruptions, or similar circumstances that require a fundamental alteration of one’s professional life. The intent of this policy is to serve the best interests of the University while providing neither preference to, nor adverse effect on, a faculty member’s process of developing a case for tenure. Once approved, the “stop the clock” year is not counted in the probationary period accrual.

However, articles that are published (online or in print) during the “stop the clock” year shall be accepted as items in Area 2 (Scholarly and Creative Achievement) during the probationary period. For example, if the faculty member receives notice of an acceptance of an article (submitted at a previous time) during the “stop the clock” year or receives notice of an invitation to submit a scholarly essay to a journal, the faculty member may count this as part of his/her publication achievements in Area 2. When there is disagreement as to the admissibility of scholarly/creative activity in Area 2 during a “stop the clock” year, the faculty

## **APPENDIX J**

member shall consult with his/her Chair, Dean, and Provost to resolve the situation. This provision applies to tenure-track faculty only.

### **3. Procedure for Modifying the Probationary Period**

A faculty member seeking a modification of his/her probationary period must submit his/her request, in writing, addressing the considerations described above. The request is to be submitted to the department chair/director for consideration and recommendation. The chair/director's recommendation is forwarded to the Dean of the faculty member's college for consideration and recommendation; thence to the provost for consideration and approval or denial. The Provost will notify the faculty member, in writing, of such exceptions within one month of submission. Requests for modification of the probationary period that are based on a faculty member's health or care for an immediate family member should also be submitted to the APSU Office of Legal Affairs.

A faculty member who is appointed to an administrative position prior to a tenure award remains eligible for tenure under two conditions: 1) the faculty member must qualify for tenure under departmental or academic program unit, college and University guidelines; and 2) the faculty member must maintain a significant involvement in academic pursuits including teaching, scholarship and service. The time (or prorated portion of time) spent in the administrative position may be credited toward completion of the probationary period.

Where a faculty member is serving a probationary period in a department or academic program unit and is subsequently transferred to another department or academic program unit, the faculty member may – with the approval of the President – elect to begin a new probationary period on the date that the transfer occurs. If he/she does not so elect (and confirm in writing to the President), time spent in the first appointment shall count toward establishing the minimum and maximum probationary period.

#### **Criteria to be Considered in Tenure Recommendations**

##### **Overview**

Faculty members shall be evaluated for retention, tenure, and promotion in the areas listed below and according to the standards indicated for the particular personnel action being considered. Time periods for particular personnel actions and supporting e-dossier material relevant to each action are as follows:

Retention: since initial appointment;

Tenure: since initial appointment; and

Promotion: since initial appointment or date of last promotion whichever is the more recent.

##### **General Criteria for Evaluation of Faculty Members**

## **APPENDIX J**

The following are general criteria to be used in evaluating faculty members for any personnel action. This list is not exhaustive, and the selection and relative importance of each of these criteria will vary with the type of action contemplated as well as the nature and mission of the department to which the faculty member is assigned. It should also be recognized that common sense and flexibility need to be used in the application of criteria. Faculty members truly outstanding in one (1) area but less active or successful in others may well be contributing more to the well-being of the University than someone adequate in all areas but outstanding in none. Reasonable expectations for the following evaluative criteria for retention, tenure, promotion and merit shall be established in writing at the departmental and college levels as a standard or basis for personnel actions.

1. Teaching effectiveness;
2. Effectiveness in other academic assignments, including student advisement, as well as departmental and program administrative assignments;
3. Research, scholarly and creative activity;
4. Professional degrees, awards, and achievements;
5. Professional service (may include institutional committee assignments) to the University, the community, and the State or Nation;
6. Activities, memberships, and leadership in professional organizations;
7. Evidence of continuing professional development and growth; and potential for contributions to the objectives of the department and the University and
8. Demonstrated willingness and ability to work effectively with colleagues to support the mission of the institution and the common goals both of the institution and of the academic organizational unit; and evidence of, regard for, and performance consistent with, accepted standards of professional conduct.

For convenience and further clarification, APSU groups these criteria into three general areas of evaluation: Effectiveness in Academic Assignment; Scholarly and Creative Achievement; and Professional Contributions and Activity.

### **A. Effectiveness in Academic Assignment**

Effective teaching is an essential qualification for tenure, and tenure should not be granted in the absence of clear evidence of a candidate's teaching ability and potential for continued development. Excellence in teaching is a strong recommendation for both tenure and promotion though it cannot be considered in isolation from scholarship and service. Although it is difficult to establish evidence of teaching excellence, each department must develop a procedure to ensure that factual information relative to a candidate's teaching is available at the time he/she is considered for tenure. It is expected that a component of teaching is effective student advisement.

The teaching portfolio should include, but is not limited to, evidence of teaching excellence as follows: ability to organize and present subject matter in a logical and meaningful way; ability to motivate and stimulate creativity, intellectual curiosity, and interest in writing and inquiry in undergraduates and/or graduate students; and

## APPENDIX J

evidence of peer evaluation. Documentation of teaching should routinely include: statement of teaching philosophy; course materials; student evaluations for every course evaluated during the probationary period; and evidence of supervision of student projects and other forms of student mentorship. A candidate for tenure may choose to include other types of evidence that support his/her application for tenure such as additional student input; student products; teaching recognition; teaching scholarship; peer input; evidence of professional development in teaching; evidence of disciplinary or interdisciplinary program or curricular development; alumni surveys and student exit interviews; and other evidence of excellence in teaching or mentoring, or both.

Candidates should be evaluated within the scope of their defined academic assignment. For most faculty members, judgment of “Effectiveness in Academic Assignment” will involve evaluation primarily of teaching, student advising, and related instructional activities.

Positive evaluation in the area “Effectiveness in Academic Assignment” is the prime, but not sole, condition for retention, tenure, or promotion.

1. **Teaching Effectiveness.** Evidence for teaching effectiveness shall include a list of courses taught, a sample of relevant course materials, and student evaluations since the most recent similar action was taken. Evidence may also include letters from present and former students solicited on a statistically random basis by the department chair/director and returned to him/her and all included in the dossier; reviews of public talks or lectures; evaluations by the faculty member's colleagues and Deans and directors supervising special programs in which the faculty member participates.

Faculty members may present their own analyses of their student evaluations, teaching materials, and teaching methods. Contributions such as the direction of student research and special studies, student advisement, the development or initiation of new courses, involvement in Continuing Education programs, and carefully evaluated and properly supervised experimentation in instruction should also be included.

2. **Non-Teaching and Teaching Chairs, Directors, and Coordinators.** Academic program directors and department chairs who do not teach will be evaluated for retention and tenure in Category A (“Academic Assignment”) on the basis of their effectiveness in their administrative position. Department chairs who teach will be evaluated for retention and tenure on their teaching effectiveness as well as their effectiveness in their administrative position.

### **B. Research/Scholarship/Creative Activities**

A candidate for tenure must present evidence of his/her research, scholarship and/or creative activities when he/she applies for tenure. Such evidence should cite books, journal articles, monographs, creative activities, performances, or exhibitions that have undergone appropriate peer review. **Research publications in refereed journals or media of similar quality are considered reliable indicators of research/scholarly ability.** Written reviews and evaluations by qualified peers, either in person or aided



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by other forms of reports, or both, are appropriate for performances, compositions, and other artistic creations. Books published by reputable firms and articles in refereed journals, reviewed by recognized scholars, are more significant than those that are not subjected to such rigorous examination. It should be emphasized that quality is more important than quantity.

The tenure dossier/application must include evidence of peer review of the candidate's record of research/scholarly activity by qualified peers. The scholarship of teaching is a valid measure of research capability. It goes beyond doing a good job in the classroom; creative teachers should organize, record, and document their efforts in such a way that their colleagues may share their contributions to the art of teaching. Appropriate textbooks or educational articles in one's own discipline and innovative contributions to teaching, if published or presented in a peer-reviewed forum, constitute scholarship of teaching.

Research and scholarly and creative activities are important to the University's role in society. Clear evidence of the quality of work shall be a part of every evaluation, including evaluations from Deans and directors supervising special programs in which the faculty member participates. Evidence supplied by the candidate or others might include the following:

1. **Publications.** These include books or chapters in books, textbooks, articles in refereed journals, articles in non-refereed journals, monographs, refereed and non-refereed conference proceedings, book reviews, and other similar published materials.
2. **Papers Presented.** These include those papers presented at local, state, regional, national, and international professional meetings. The significance of content and selection process should be considered in reviewing such presentations.
3. **Performance or Exhibitions.** These include performances or exhibitions that are invited or juried by nationally or regionally recognized members or groups within that area of expertise.
4. **Research or Arts in Progress.** Verification of stages of development is mandatory.
5. **Other Items.** These include funded or unfunded research proposals, grant applications, computer software development, audio-visual media, and other similar material.

### C. Professional Contributions and Activities

Part of every faculty member's expected performance in Professional Contributions and Activities is regular participation in the governing and policy-making processes of the University, and such participation should be included in this area of evaluation. Evidence of a faculty member's contributions in the area of professional service might include examples of assistance to the faculty member's discipline, the local community, and to the larger society. The faculty member should also include evidence of continuing professional development and growth. The documentation of all service activities is required and may include evaluations from colleagues, Deans and directors supervising special programs in which the faculty member participates.

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Service should include participation in organizations and on committees, although more significance will be attached to formal and informal leadership than to mere membership. Evidence might involve the following:

1. **Service to Campus.** University service refers to work other than teaching and scholarship done at the department, college, or University level. A certain amount of such service is expected of every faculty member; indeed, universities could hardly function without conscientious faculty who perform committee work and other administrative responsibilities. University service includes, but is not limited to, serving on departmental committees and participating in college and University committees. Some faculty members may accept more extensive citizenship functions, such as a leadership role in the Faculty Senate, membership on a specially appointed task force, service as advisor to a University-wide student organization, and membership on a University search committee.
2. **Service to One's Discipline.** This category includes memberships and leadership positions in professional organizations at state, regional, or national levels and includes service as track chair, session chair, discussant, paper reviewer, editorial staff, etc.
3. **Service to the Community.** This category includes presentations related to one's discipline; providing professional advice or consultations to groups or individuals; and providing other types of service related to the discipline, particularly in the University's service area.
4. **Professional Development.** This category includes training, workshops, seminars, continuing education, conference attendance, online training, or similar activities related to professional growth.

### D. Criteria for Assessing the Long-Term Staffing Needs

The long-term staffing needs of the department/division and the University are taken into account at each level in the review process when candidates are evaluated for retention and tenure. Criteria to be considered may include the following:

1. University mission;
2. Enrollment patterns;
3. Program changes;
4. Potential resources for staff additions;
5. Prospective retirements and resignations; and
6. Maintenance of adequate faculty to support essential curricula.

### Changes in Tenure/ Tenure-Track Status

#### A. Non-renewal of Probationary Tenure-Track

1. When tenure-track appointments of faculty are not to be renewed for further service, the faculty member shall receive notice of his/her non-retention for the ensuing academic year as follows:
  - a. Not later than April 1 of the first academic year of service, if the appointment expires at the end of that year; or, if the appointment terminates during an academic year, at least two months in advance of its termination;

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- b. Not later than January 1 of the second year of service, if the appointment expires at the end of that year; or, if the appointment terminates during an academic year, at least five months in advance of its termination or
  - c. Not later than the close of the academic year preceding the third or subsequent year of service, if the appointment expires at the end of that year; or, if the appointment terminates during an academic year, at least twelve months in advance of its termination.
  - d. The above stated dates are the latest dates for notice of non-renewal of faculty on tenure-track appointments, and each University may adopt annual dates which provide for longer notice of non-renewal. Notice of non-renewal shall be effective upon personal delivery of the notice to the faculty member, or upon the date the notice is mailed, postage prepaid, to the faculty member at his/her current home address of record at the University.
  - e. Applicable dates for notice of non-renewal are based upon actual years of service at APSU and in no way affected by any credit for prior service. When a faculty member on a tenure-track appointment completes his/her probationary period, the faculty member will be recommended for tenure by the President or will be given notice of non-renewal of the appointment during the spring term following application for such status. Such notice of non-renewal should be given not later than the final day of the academic year. The faculty member's right in an instance where timely notice is not given is described in the section titled Changes in Tenure/Tenure-Track Status, Procedures for Termination for Adequate Cause.
2. Faculty members on tenure-track appointments shall not be terminated during the term of the annual appointment as stated in the employment contract except for reasons which would be sufficient for the termination of tenured faculty.
  3. The non-renewal or non-reappointment of any faculty member on a tenure-track appointment does not necessarily carry an implication that his/her work or conduct has been unsatisfactory.
  4. Unless there is a violation of state or federal law under the limitations described in the [APSU Policy 1:010 \(Appeals and Appearances Before the Board\)](#), decisions that are not subject to appeal to the APSU President include (a) non-renewal of a tenure-track faculty appointment during the first five years of the probationary period and (b) denial of tenure unaccompanied by notice of termination in the sixth year of the probationary period.

### B. Transfer of Tenure

Where a faculty member is tenured in an academic program unit (e.g., a department or division) he/she may be transferred to another academic program unit. In such cases, the transfer will be made with tenure; moreover, the tenure appointment will be transferred to the new academic program unit. In no instance may the faculty member be compelled to relinquish tenure as a condition for effecting the transfer.

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### **C. Expiration of Tenure**

Tenure status shall expire upon retirement of the faculty member. Tenure shall also expire upon the event of permanent physical or mental inability of a faculty member, as established by an appropriate medical authority, to continue to perform his/her assigned duties.

### **D. Relinquishment of Tenure**

A faculty member shall relinquish or waive his/her right to tenure upon resignation from the University or upon failure to report for service at the designated date of the beginning of any academic term, which shall be deemed to be a resignation unless, in the opinion of the President, the faculty member has shown good cause for such failure to report. Where a tenured faculty member is transferred or reclassified to another department or academic program unit by the University, the transfer or reassignment shall be with tenure. Tenure is not relinquished during administrative assignments at the University.

### **E. Termination of Tenure for Reasons of Financial Exigency**

A tenured faculty member may be terminated as a result of financial exigency at APSU subject to the APSU Board of Trustees declaration that such financial conditions exist. Personnel decisions (including those pertaining to tenured faculty) that result from a declaration of financial exigency at APSU will comply with the [APSU Board of Trustees' policy 5:025 \(APSU Policy on Financial Exigency\)](#).

### **F. Termination of Tenure for Curricular Reasons**

The employment of a tenured faculty member may be terminated because 1) an academic program is deleted from the curriculum or 2) because of substantial and continued reduction of student enrollment in a field or discipline. Before declaring that curricular reasons exist, the President will ensure meaningful participation by the University's representative faculty body in identifying the specific curricular reasons, evaluating the long-term effect on the University's curriculum and its strategic planning goals, and the advisability of initiating further action. Prior to initiating the process described below, the President will present- either verbally or in writing - a description of curricular reasons that may warrant the termination of tenured faculty member(s).

The procedures whereby this presentation is made to a representative faculty body is provided below in item G. That body will have the opportunity to respond in writing to the President before action described below is initiated. Each of these reasons for termination of tenure for curricular reasons must denote shifts in staffing needs that warrant greater reductions than those which are accommodated annually in light of shifting positions from one department to another or among colleges to handle changing enrollment patterns.

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1. Part-time faculty within a department or division should not be hired or renewed before tenured faculty are terminated.
2. Temporary faculty should not be renewed before tenured faculty are terminated.
3. Tenure-track faculty in the probationary period should not be renewed before tenured faculty are terminated.
4. Among tenured faculty those with higher rank should have priority over those with lower rank.
5. Among tenured faculty with comparable rank, those with appropriate higher academic degree(s) should have priority over those with lower academic degree (s).
6. Among tenured faculty with comparable rank and degrees, those with greater seniority in rank should normally have priority over those with less seniority.

### **G. Procedures for Termination of Tenure**

1. Upon determining that termination of one or more tenured faculty members is required for one or more of the two reasons cited above, the President shall furnish each faculty member to be terminated a written statement of the reasons for the termination. Those reasons shall address fully the curricular circumstances that warranted the termination and shall indicate the manner and the information upon which the decision of which faculty members were to be terminated was reached. The President's written statement shall also indicate that the faculty member has the opportunity to respond in writing stating any objections to the decision.
2. If the faculty member(s) to be terminated indicate(s) objections to the President's written statement(s) and request(s) a review, the President will appoint a faculty committee consisting of a minimum of five tenured faculty members from a slate of ten tenured faculty members proposed by the representative faculty body. The committee shall conduct a hearing on the proposed termination(s). The committee shall report its findings and recommendations to the President, who shall in a reasonable time inform the faculty member(s) proposed for termination in writing either that the decision for termination stands or that it has been altered.
3. The President's decision to terminate a tenured faculty member for curricular reasons is subject to appeal to the APSU President and the APSU Board of Trustees as provided in [APSU Policy 1:010 \(Appeals and Appearances Before the Board\)](#).
4. When a tenured faculty member is terminated for curricular reasons, the position will not be filled by a new appointee with the same areas of specialization as the terminated faculty member within a period of three years unless the terminated faculty member has been offered, in writing, reappointment to the position at his/her previous rank and salary (with the addition of an appropriate increase which, in the opinion of the President, would constitute the raise(s) that would have been awarded during the period that he/she was not employed).
5. Upon determining that termination of one or more tenured faculty members is warranted for curricular reasons, the President shall base his/her decision

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about which faculty member(s) should be terminated upon his/her assessment as to what action would least seriously compromise the educational programs in a department or division. Termination for curricular reasons presumes a staffing pattern in a department or academic program unit which cannot be warranted either by comparison with general load practices within the University or by comparison with faculty loads in comparable departments or academic program units at similar universities. In that light, the President shall also, at his/her discretion, base his/her decision on a careful assessment of the impact of the curricular reason on staffing requirements in the department or academic program unit as compared to overall patterns in the University and to comparable departments or academic program units which, in his/her judgment, are in universities similar enough to warrant assessment.

### **6. Definitions**

- a. "Program is deleted from the curriculum" means that the Board takes formal action to terminate a degree major, concentration, or other curricular component and that such termination eliminates or reduces need for faculty qualified in that discipline or area of specialization.
- b. "Substantive and continued reduction of student enrollment in a field" means that over a period of at least three (3) years student enrollment in a field has decreased at a rate in considerable excess of that of the University as a whole and that such reduction has resulted in faculty-student ratios that, in the opinion of the President, cannot be warranted either by comparison with equivalent faculty load practices within the University or by comparisons with faculty loads in comparable departments or academic program units at similar universities which the President would deem to be appropriate for comparison.

7. When a tenured faculty member is to be terminated for curricular reasons, the President will make every possible effort to relocate the tenured faculty member in another existing vacant position for which he/she is qualified. In instances where (in the opinion of the President) relocation within the University is a viable alternative, the University has an obligation to make significant effort to relocate the faculty member, including the bearing of reasonable retraining costs. The final decision on relocation is within the discretion of the President.

## **H. Termination for Adequate Cause**

A faculty member with tenure or a faculty member on a tenure-track appointment prior to the end of the term of appointment may be terminated for adequate cause, which includes the following:

1. Incompetence or dishonesty in teaching or research;
2. Willful failure to perform the duties and responsibilities for which the faculty member was employed or refusal or continued failure to comply with the policies of the Board, the University or the department, or to carry out specific assignments, when such policies or assignments are reasonable and non-discriminatory;
3. Conviction of a felony or a crime involving moral turpitude;

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4. Improper use of narcotics or intoxicants, which substantially impairs the faculty member's fulfillment of his/her departmental and University duties and responsibilities;
5. Capricious disregard of accepted standards of professional conduct;
6. Falsification of information on an employment application or other information concerning qualifications for a position; and
7. Failure to maintain the level of professional excellence and ability demonstrated by other members of the faculty in the department or academic program unit of the University.

### **I. Procedures for Termination for Adequate Cause**

Termination of a faculty member with a tenure appointment, or with a tenure-track or temporary appointment prior to the annual specified term of the appointment, shall be subject to the following procedures:

1. No termination shall be effective until steps 4 through 9 below have been completed.
2. Suspensions pending termination shall be governed by the following procedure:
  - a. A faculty member may not be suspended pending completion of steps 4 through 9 unless it is determined by the University that the faculty member's presence poses a danger to persons or property or a threat of destruction to the academic or operational processes of the University. Reassignment of responsibilities is not considered suspension; however, the faculty member must be reassigned responsibilities for which he/she is qualified.
  - b. In any case of suspension, the faculty member shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension; and, if there are disputed issues of fact or cause and effect, the faculty member shall be provided the opportunity for a hearing on the suspension as soon as possible at which time the faculty member may cross-examine his/her accuser, present witnesses on his/her behalf, and be represented by an attorney. Thereafter, whether the suspension is upheld or revoked, the matter shall proceed pursuant to these procedures.
3. Except for such simple announcements as may be required concerning the time of proceedings and similar matters, public statements and publicity about these proceedings by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including consideration by the APSU Board of Trustees.
4. Upon a recommendation by the chief academic officer of the University to the President or upon a decision by the President that these procedures should be undertaken in consideration of the termination of a tenured faculty member, one or more appropriate administrators shall meet privately with the faculty member for purposes of attempting to reach a mutually acceptable resolution of the problems giving rise to the proposed termination proceedings.

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5. If no mutually acceptable resolution is reached through step 4, the following steps shall be taken.
  - a. The faculty member shall be provided with a written statement of the specific charges alleged by the University which constitute grounds for termination and a notice of hearing specifying the time, date, and place of the hearing. The statement and notice must be provided at least twenty (20) days prior to the hearing. The faculty member shall respond to the charges in writing at least five (5) days prior to the hearing. The faculty member may waive the hearing by execution of a written waiver.
  - b. A committee consisting of tenured faculty or tenured faculty and administrators shall be appointed to hear the case and to determine if adequate cause for termination exists according to the procedure herein described. The committee shall be appointed by the President and the officially recognized faculty senate, assembly or advisory committee, with each appointing the number of members designated by the policy of the University. The committee may not include any member of the faculty committee referred to in 4 above. Members deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party or on their own initiative. Members of the committee shall not discuss the case outside committee deliberations and shall report any ex-parte communication pertaining to the hearing to the President who shall notify all parties of the communication.
6. The hearing committee shall elect a Chair who shall direct the proceedings and rule on procedural matters, including the granting of reasonable extensions of time at the request of any party and upon the showing of good cause for the extension.
7. The Chair of the hearing committee may in his/her discretion require a joint pre- hearing conference with the parties which may be held in person or by a conference telephone call. The purpose of the pre-hearing conference should include but is not limited to one or more of the following:
  - a. Notification as to procedure for conduct of the hearing;
  - b. Exchange of witness lists, documentary evidence, and affidavits;
  - c. Definition and clarification of issues and
  - d. Effecting stipulations of fact. A written memorandum of the pre-hearing conference should be prepared and provided to each party.
8. A hearing shall be conducted by the hearing committee to determine whether adequate cause for termination of the faculty member exists. The hearing shall be conducted according to the procedures below.
  - a. During the hearing, the faculty member will be permitted to have an academic advisor present and may be represented by legal counsel of his/her choice.
  - b. A verbatim record of the hearing will be taken and a typewritten copy will be made available to the faculty member, upon request, at the faculty member's expense.
  - c. The burden of proof that adequate cause exists rests with the University and shall be satisfied only by clear and convincing evidence in the record considered as a whole.



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- d. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the committee in using its best efforts to secure witnesses and make available documentary and other evidence that is under its control.
  - e. The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and, if possible, provide for interrogatories. An affidavit may be submitted in lieu of the personal appearance of a witness if the party offering the affidavit has provided a copy to the opposing party at least ten (10) days prior to the hearing and the opposing party has not objected to the admission of the affidavit in writing within seven (7) days after delivery of the affidavit or if the committee Chair determines that the admission of the affidavit is necessary to ensure a just and fair decision.
  - f. In a hearing on charges of incompetence, the testimony shall include that of qualified faculty members from the University or other universities of higher education.
  - g. The hearing committee will 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 possible effort will be made to obtain the most reliable evidence available.
  - h. The findings of fact and the report will be based solely on the hearing record.
  - i. The President and the faculty member will be provided a copy of the written committee report. The committee's written report shall specify findings of fact and shall state whether the committee has determined that adequate cause for termination exists and, if so, the specific grounds for termination found. In addition, the committee may recommend action less than dismissal. The report shall also specify any applicable policy the committee considered.
9. After consideration of the committee's report and the record, the President may at his/her discretion consult with the faculty member prior to reaching a final decision regarding termination. Following his/her review, the President shall notify the faculty member of his/her decision, which, if contrary to the committee's recommendation shall be accompanied by a statement of the reasons. If the faculty member is terminated or suspended as a result of the President's decision, the faculty member may appeal the President's action to the APSU Board of Trustees pursuant to [APSU Policy 1:010 \(Appeals and Appearances Before the Board\)](#). Review of the appeal shall be based upon the record of hearing. If upon review of the record, the APSU Board of Trustees notes objections regarding the termination and/or its proceedings, the matter will be returned to the President for reconsideration, taking into account the stated objections, and, at the discretion of the President, the case may be returned to the hearing committee for further proceedings.

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### Links

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| <b>APSU Tenure Procedures and Guidelines</b> | <a href="https://www.apsu.edu/academic-affairs/resources">https://www.apsu.edu/academic-affairs/resources</a>   |
| <b>APSU Policy 2:051</b>                     | <a href="https://www.apsu.edu/policy/faculty-appointments-2051">https://www.apsu.edu/policy/faculty-appointments-2051</a>   |
| <b>APSU Policy 1:012</b>                     | <a href="https://www.apsu.edu/policy/inspecting-and-copying-public-records-and-related-charges-producing-copies-public-records-101">https://www.apsu.edu/policy/inspecting-and-copying-public-records-and-related-charges-producing-copies-public-records-101</a> |

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### Revision Dates

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APSU Policy 1:025 (previously 5:060) – Rev.: May 19, 2017  
APSU Policy 1:025 – Rev.: July 26, 2016  
APSU Policy 1:025 – Rev.: May 12, 2015  
APSU Policy 1:025 – Issued: April 29, 2014

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### Subject Areas:

| Academic | Finance | General | Human Resources | Information Technology | Student Affairs |
|----------|---------|---------|-----------------|------------------------|-----------------|
| X        |         |         | X               |                        |                 |

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### Approved

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President: signature on file

Dr. Robert Halliman is petitioning the APSU Board of Trustees for the right to appeal the 2018 decision by the University President to deny him promotion to the rank of professor. While APSU policy 1:010 creates the right to petition for permission to appeal, petitioners for appeal must present compelling evidence that President White's decision was erroneous. In determining whether to grant an appeal, the appropriate Board committee may consider the following:

- “Whether Board policy or procedures have been followed;
- Whether or not there is material evidence to substantiate the decision appealed from; and/or
- Whether or not there has been a material error in application of the law, which prima facie results in substantial injustice.”

On both procedural and substantive grounds, Dr. Robert Halliman's petition to appeal the President's decision should be denied as he has failed to meet this burden. More specifically, the review of Dr. Halliman's request for promotion up, through, and including the review by the President conformed to relevant University and Board of Trustees policies. In addition, Dr. Halliman offers no material evidence to sustain his claim that the President's decision was in error. And there has been no “material error in the application of the law” to justify granting his appeal. Furthermore, where Dr. Halliman attempts to re-litigate his case for promotion on the merits, his argument reflects a mischaracterization or misunderstanding of the promotion process.

Before addressing the issues raised by Dr. Halliman in his petition to appeal in 2018, we first review the history of Dr. Halliman's application for promotion to attain the rank of full professor. The history is shown in Table 1. This history is given to illustrate the multiple layers of review available to a faculty member going up for promotion.

| Robert Halliman                                    |            |            |            |                            |           |                      |           |               |
|--|------------|------------|------------|----------------------------|-----------|----------------------|-----------|---------------|
| Full Professor Promotion Recommendations/Decisions |            |            |            |                            |           |                      |           |               |
|  | Department | Chair      | College    | Exec.<br>Director/<br>Dean | Provost   | Appeals<br>Committee | President | TBR/<br>Board |
| 2018   |            |            |            |                            |           |                      |           |               |
|  | <b>No</b>  | <b>No</b>  | <b>Yes</b> | <b>No</b>                  | <b>No</b> | <b>No</b>            | <b>No</b> | <b>?</b>      |
| votes*   | 0-2-1      |            | 4-3-1      |                            |           | 1-5                  |           |               |
|  |            |            |            |                            |           |                      |           |               |
| 2017   |            |            |            |                            |           |                      |           |               |
|  | <b>Yes</b> | <b>Yes</b> | <b>Yes</b> | <b>No</b>                  | <b>No</b> | <b>No</b>            | <b>No</b> | <b>No</b>     |
| votes*   | 2-0-1      |            | 6-0-1      |                            |           |                      |           |               |
|  |            |            |            |                            |           |                      |           |               |
| 2016   |            |            |            |                            |           |                      |           |               |
|  | <b>No</b>  | <b>No</b>  | <b>No</b>  | <b>No</b>                  | <b>No</b> | <b>No</b>            | <b>No</b> | <b>No</b>     |
| votes*   | 0-4        |            | 0-3        |                            |           | 0-8                  |           |               |
|  |            |            |            |                            |           |                      |           |               |
| 2015   |            |            |            |                            |           |                      |           |               |
|  | <b>No</b>  | <b>No</b>  | <b>Yes</b> | <b>No</b>                  | <b>No</b> | <b>No</b>            | <b>No</b> | <b>No</b>     |
|  |            |            |            |                            |           |                      |           |               |
| * Yes-No-Abstain                                   |            |            |            |                            |           |                      |           |               |
|  |            |            |            |                            |           |                      |           |               |
| Table 1. Halliman history of promotion.            |            |            |            |                            |           |                      |           |               |

We now address the materials that Dr. Halliman submitted as part of his petition to appeal. The first part is a personal attack on the leadership ability of his department chair, Dr. Bill Rayburn. Dr. Rayburn is an accomplished and experienced leader at the university and a person of high ethical standards. The attacks are entirely without merit.

The second part of his petition deals with the number of publications needed to attain the rank of full professor in his department. The issue here is what is considered a scholarly publication. For instance, if one submits a letter to the editor for the local newspaper and it is printed, that is generally not counted as a scholarly publication. To summarize, a “publication” is not necessarily considered a “scholarly publication.” A scholarly publication is generally defined

by the appropriate members of the scholarly community, faculty peers and academic administrators. The judgements that these individuals make as they examine any set of publications obviously can involve differing opinions as to the merit of an individual case. In promotion cases, the university uses multiple levels of review (department, chair, college dean, etc...) and the final recommendation is made by the President to the APSU Board of Trustees.

Dr. Halliman's petition to appeal claimed that the Provost stated that the process is "all subjective." The Provost's statement was that any decision is ultimately an opinion and as such has an element of subjectivity. His statement in no way removes the requirement that this opinion should be arrived at in a manner that is consistent with a process that "...objectively, equitably, and impartially and as a recognition of merit..." weighs the case per APSU Policy 2:063. Merit is a qualitative, professional assessment, not a counting exercise.

The recommendations made in this promotion process were entirely merit-based. Evaluation processes such as these naturally require that information provided by the applicant for promotion be subjected to scrutiny and professional judgment. The burden in such processes rests with the faculty member to make an affirmative case for promotion. It does not rest with evaluators to demonstrate that the applicant is unworthy of promotion. The applicant did not meet this burden. Promotion is not an entitlement.

Reviewers in this process are not obligated to take the self-report of the promotion candidate as an objective analysis of their work. When reviewers reach a point where reasonable doubt exists about the merits of the request for promotion, they are empowered to make a recommendation not to promote. Because promotion is not an entitlement, reviewers are not obligated to proceed further with their analysis once they have reached the point where reasonable doubt exists.

Each academic department crafts their own promotion criteria, within the university's criteria established in Policy 2:063. These criteria effectively represent "eligibility for promotion" standards, not "guarantee of promotion" standards. They include quantitative indicators based on the belief that an absence of sufficient quantity of work makes an evaluation of the quality of work unreliable. Having a sufficient quantity of work is a necessary, but not sufficient condition for making an assessment of quality.

Evaluating human performance over time is a complex activity. It is not merely a counting of the quantity of work someone does, but also an evaluation of the quality of that work. In addition, the evaluation of a request for promotion is significantly different from the on-going evaluation of performance which can result in the loss of employment should the performance be deemed unsatisfactory. One's job is not at stake if a promotion request is denied. When there is uncertainty as to whether someone merits promotion, prudence would dictate that the promotion request be denied. There is no requirement that the administration prove beyond a reasonable doubt that someone is not deserving of promotion.

Dr. Halliman essentially asserts that his self-report as to the quality of his work should be accepted as fact unless the administration can prove otherwise. We reject this contention. The professional judgments rendered in a promotion process need not be based on conclusive evidence, but plausible concerns about the caliber of the work relative to the promotion criteria.

**Agenda Item: D.**

**Date:** June 6, 2019

**Subject:** Elevation of existing Media Technology Concentration within BA/BS Communication Arts into separate major of BA/BS Communication Media

**Action Recommended:** Approval

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**Background Information:**

The Department of Communication is seeking accreditation from the Accrediting Council on Education in Journalism and Mass Communication (ACEJMC). ACEJMC requires curriculum revisions to better align with current industry standards and trends. Therefore, the Department of Communication is requesting the addition of a second major option in the Department of Communication.

Media Technology is an existing concentration that is indicative of the areas of study and thus the Department of Communication opted to utilize this concentration for elevation. However, as many of the concentration and major naming conventions within the Department of Communication are outdated according to industry standards and trends, the department will rename the Media Technology program to Communication Media. Communication Media will more clearly reflect the content of the program and assist students seeking employment post-graduation.

The existing B.A./B.S. Communication Arts program will be modified into two separate majors as described below:

1. The existing B.A./B.S. Communication Arts name has been changed to B.A./B.S. Professional Communication which will include the following existing concentrations
  - Corporate Communication Concentration
  - Public Relations Concentration
  - Information Specialist Concentration

2. The Media Technology Concentration will be elevated to stand-alone major (pending approval by the APSU Board of Trustees and the Tennessee Higher Education Commission).

- Change the name of major to B.A./B.S. Communication Media
- B.A./B.S. Communication Media will include the following existing concentrations:
  - Broadcast Media Concentration
  - Sports Broadcasting Concentration
  - Journalism Concentration (Formally Print and Web Journalism)

**Proposed Implementation Date:**

Fall 2019

**Item Details:**

Many of the major core requirements will remain the same, but some adjustments to each concentration will be made in order to meet the ACEJMC standard which requires students to take a minimum of 72 credit hours outside the communication discipline. With the minimum of 120 credit hours to complete a bachelor's degree, this limits the number of hours of communication courses a student can take to only 48 credit hours. The ACEJMC standard also requires that 95% of the graduating students meet this requirement in the program prior to the program attaining ACEJMC accreditation.

The program modification supports the APSU Strategic Plan Goal 1 Enrollment Growth, specifically Priority 1.2, create new credit programs. By creating a stand-alone major, the Department of Communication will continue with robust recruiting efforts to maintain and increase enrollment numbers.



**Agenda Item: E.**

**Date:** June 6, 2019

**Subject:** Termination of BS in English

**Action Recommended:** Approval

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**Background Information:**

The Department of Languages and Literature currently offers two undergraduate degree programs in English: the Bachelor of Arts (B.A.) and the Bachelor of Science (B.S.). The department proposes to eliminate the Bachelor of Science in English to reaffirm its commitment to the humanities.

**Proposed Implementation Date:**

Fall 2019

**Item Details:**

The B.A. is the standard degree for the English discipline, and the Department of Languages and Literature is aligning its program with national norms. Given the humanistic nature of the discipline and the emphasis on language and literature, it is most fitting that the Bachelor of Arts be the sole degree offered for the English major.

The change is essentially curricular. As part of the major requirements, the Department of Languages and Literature currently requires all English majors to complete 6-8 credit hours of Foreign Language regardless of whether students are seeking the B.A. degree or the B.S. option.

The B.S. currently requires one year of foreign language, which can be fulfilled with two semesters of elementary-level 1010/1020) courses. The B.A. requires intermediate-level (2010/2020) foreign language. Students who place out of the elementary courses can still fulfill the language requirement in one year, although students who need to take the elementary level to get to the Intermediate need to complete two years of language. A recent program review of the B.A./B.S. English program affirmed this change. The external reviewer, Dr. Julia A. Galbus, University of Southern Indiana, stated the following in the recent program review report: "The decision to eliminate the B.S. degree

is a wise one and will simplify planning for students and the department.”

The termination of the B.S. option for the English major is aligned with Strategic Plan Goal 5: Communication as it will help to better communicate the humanistic nature of the degree program and discipline to students and to others within and external to the university. The proposed termination also aligns with Strategic Plan Goal 2: Student Success as the Bachelor of Arts degree will be advantageous to students who may pursue advanced graduate education in English and related disciplines and to those seeking employment in settings or occupations that emphasize cultural competencies and language expertise.

This action will have no impact on the current program and the B.A. degree will remain active with no changes to coursework in the major.

No adverse impact is anticipated for students as the B.A. degree contains the same major coursework as the B.S., with the exception of the requirement for Intermediate foreign language. There are no anticipated personnel, fiscal or other impacts resulting from this action.

This termination constitutes a SACSCOC Substantive Change and will be submitted for approval per SACSCOC policy, after obtaining approval by the APSU Board of Trustees.

**Agenda Item: F.**

**Date:** June 6, 2019

**Subject:** Termination of B.A. in Psychological Science

**Action Recommended:** Approval by Voice Vote

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**Background Information:**

The Department of Psychological Science and Counseling currently offers two undergraduate degree programs: Bachelor of Arts (B.A.) in Psychological Science and Bachelor of Science (B.S.) in Psychological Science. In 2015, the Department of Psychological Science and Counseling (formerly Department of Psychology) sought a change in the department name and degree/major title change from *Psychology* to *Psychological Science*. These changes were approved and implemented in 2016. The department requested a title change to Psychological Science to better reflect the empirical basis of the discipline and to align with national trends among similar academic programs as well as the guidelines for undergraduate programs set forth by the American Psychological Association (APA). The current request to terminate the B.A. degree option is borne of this same rationale. The proposed action reflects the final step toward this alignment which began with changing the title of our program/major from psychology to psychological science in 2016.

**Proposed Implementation Date:**

Fall 2019

**Item Details:**

The Department proposes the termination of the B.A. option for the Psychological Science major. Currently, students who wish to pursue the major in Psychological Science have the option of selecting the B.A or the B.S. Given the scientific nature of the discipline and the emphasis on knowledge acquired through empirical investigative research methods, it is most fitting that the B.S. be the sole degree offered for the Psychological Science major. The American Psychological Association guidelines have been adopted by the program and this modification will allow the department to be in greater alignment with its emphasis on promoting the scientific nature of the discipline. This change will be in further

alignment with national trends among academic institutions. The B.S. degree option is identical to the B.A. with the exception of the university-wide additional foreign language credit that is required for the B.A. The major coursework, core and electives, are identical.

The termination of the B.A. option for the major in Psychological Science is aligned with Strategic Plan Goal 5: Communication as it will help to better communicate the scientific nature of the degree program and discipline to students and to others within and external to the university. The proposed termination also aligns with Strategic Plan Goal 2: Student Success as the Bachelor of Science degree will be advantageous to students who may pursue advanced graduate education in psychological science and to those seeking employment in settings or occupations that emphasize empiricism and knowledge of research methods.

This action will have no impact on the current program and the B.S. degree will remain active with no changes to coursework in the major.

No adverse impact is anticipated for students as the BS degree contains the same major coursework as the B.A. with the exception of the university's requirement for foreign language for the B.A. Any student who wishes to complete foreign language coursework will still be able to do so using free electives. There are no anticipated personnel, fiscal, or other impacts resulting from this action.

This termination constitutes a SACSCOC Substantive Change and will be submitted for approval per SACSCOC policy, after obtaining approval by the APSU Board of Trustees.

**Agenda Item: G.**

**Date:** June 6, 2019

**Subject:** Student conduct and disciplinary sanctions rule

**Action Recommended:** Approval by roll call vote

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**Background Information:**

State entities are required to promulgate rules and regulations when the subject of those rules and regulations affects the rights of third parties. The Tennessee General Assembly recently passed Public Chapter 0980, which put additional requirements on due process for students accused of sexual misconduct. The attached rule includes changes in response to the recent legislation.

**Proposed Implementation Date:** At the conclusion of the rule promulgation process.

**Item Details:** See attachment.

**Rules  
of  
Austin Peay State University**

**Chapter 0240-05-02  
Student and Student Organization Conduct and Disciplinary Sanctions**

|                |                                   |
|----------------|-----------------------------------|
| 0240-05-02-.01 | APSU Policy Statement             |
| 0240-05-02-.02 | Disciplinary Offenses             |
| 0240-05-02-.03 | Academic and Classroom Misconduct |
| 0240-05-02-.04 | Disciplinary Sanctions            |
| 0240-05-02-.05 | Disciplinary Procedures           |

**0240-05-02-.01 APSU Policy Statement.**

- (1) Austin Peay State University ("University" or "APSU") students are expected to conduct themselves as law-abiding members of the community at all times. Admission to APSU carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between APSU and the academic community which it seeks to serve, the APSU Board of Trustees (the Board) has authorized the President of APSU (the President) to take such action as may be necessary to maintain campus conditions and preserve the integrity of APSU and its educational environment.
- (2) Pursuant to this authority and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the Board has developed the following regulations, intended to govern student conduct on the APSU campus. The University under the jurisdiction of the Board is directed to implement policies subject to, and consistent with, these rules. In addition, students are subject to all federal, state, and local laws and ordinances. If a student's violation of such laws or ordinances also adversely affects APSU's pursuit of its educational objectives, APSU may enforce its own regulations regardless of any proceedings instituted by other authorities. Conversely, violation of any section of these rules may subject a student to disciplinary measures by APSU whether or not such conduct simultaneously violates state, local or national laws.
- (3) For the purpose of these rules, a "student" shall mean any person who is admitted and/or registered for study at APSU for any academic period. This shall include, but not be limited to any period of time following admission and/or registration, but preceding the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from APSU. Finally, "student" shall also include any person subject to a period of suspension or removal from campus as a sanction which results from a finding of a violation of the policies, rules, and regulations governing student conduct. Students are responsible for compliance with rules and policies including, but not limited to the Policies on Student Conduct and with similar APSU policies at all times.
- (4) Disciplinary action may be taken against a student for violation of the policies, rules, and regulations which occur on APSU owned, leased or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any APSU activity or the mission, processes, and functions of APSU. The University may enforce their own rules regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding.

- (5) These rules, and related material incorporated herein by reference, are applicable to registered student organizations as well as individual students. Registered sStudent organizations are subject to discipline for the conduct and actions of individual members of the organization while acting in their capacity as members of, or while attending or participating in any activity of, the organization.
- (6) Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA) and/or the Tennessee Open Records Act, a student's disciplinary files are considered educational records and are confidential within the meaning of those Acts.

**Authority:** T.C.A. §§ 4-5-101 et seq., 49-8-203, and § 10-7-501 et seq.

#### **0240-05-02-.02 Disciplinary Offenses.**

- (1) Generally, through appropriate due process procedures, APSU disciplinary measures may be imposed for conduct which adversely affects APSU's pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of APSU's academic community or which endangers property or persons on APSU, or APSU-controlled property.
- (2) Individual students or registered student organizational misconduct which is subject to disciplinary sanction may include but not be limited to the following examples:
  - (a) Conduct dangerous to self or others. Any conduct, or attempted conduct, which poses a direct threat to the safety of others or where the student's behavior is materially and substantially disruptive of APSU's learning environment;
  - (b) Hazing. Violations of this section include any act of hazing on or off the ~~Austin Peay State~~ University campus or APSU controlled property, by an ~~Austin Peay State University individual~~ APSU student, group of ~~individuals~~ students or registered student organization. Hazing means any intentional or reckless act on or off the property of any higher education institution by one (1) student acting alone or with others which is directed against any other student, that endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger such student's mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organizations;
  - (c) Discrimination or Discriminatory Harassment. Any ~~individual student~~ or group of students act against another individual or group in violation of these rules and Board of Trustee University policies, as well as federal and/or state laws prohibiting discrimination and discriminatory harassment, including, but not limited to, APSU Policy ~~5:0036:001 and 6:003, and 6:004;~~
  - (d) Disorderly Conduct. Any ~~individual student~~ or group of students whose behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs or may reasonably provoke other groups or individuals (this may include, but not be limited to verbal abuse, nonverbal gestures and inappropriate behavior resulting from the use of being under the influence of alcohol or drugs), etc.;

- (e) Obstruction of or Interference with APSU Activities or Facilities. Any intentional interference with or obstruction of any APSU program, event, or facility including, but not limited to the following:
1. Any unauthorized occupancy of APSU or APSU-controlled facilities or blockage of access to or from such facilities;
  2. Interference with the right of any APSU member or other authorized person to gain access to any APSU or APSU-controlled activity, program, event or facility;
  3. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any University official in the performance of his or her duty;
  4. Any form of disruptive behavior in the classroom, during any campus event; or activity or at any location on campus or
- (f) Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to APSU or property being used, rented, owned or leased by a student, group of students or officially registered student organization not owned by APSU;
- (g) Theft, Misappropriation, or Unauthorized Sale. Any act of theft, misappropriation, or unauthorized possession, use or sale of APSU property or any such act against a member or organization of the APSU community or a guest of APSU;
- (h) Misuse of Documents or Identification Cards. Any forgery, alteration of or unauthorized use of APSU documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment or status at APSU or; failure to carry the APSU ID card at all times or to show it upon proper request;
- (i) Firearms and Other Dangerous Weapons. Any possession of or use of firearms, dangerous weapons of any kind on APSU property or APSU controlled property. Firearms or dangerous weapons include, but are not limited to: rifles, handguns, replica/toy guns, BB guns, pellet guns, stun guns, non-culinary knives with a blade greater than four (4) inches, martial arts equipment, paint ball guns, water guns, bows and arrows, etc., or other objects with the intent to cause bodily harm, including mace and/or pepper spray;
- (j) Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition or detonation of any object or article which would cause damage by fire or other means to persons or property or APSU controlled property or possession of any substance which could be considered to be and used as fireworks;
- (k) Alcoholic beverages. The use and/or possession of alcoholic beverages and/or public intoxication on APSU-owned or controlled property, violation(s) of any local ordinance or state or federal law concerning alcoholic beverages, on or off campus, or a violation of the terms of the APSU Drug-Free Policy Statement. It shall not be a violation for students twenty-one (21) years of age or older to consume alcohol



within areas designated by the President where alcohol is permitted to be served. In addition, officially registered student organizations that sponsor events off campus, where alcoholic beverages are present and available for consumption, must adhere to all local, state and federal laws concerning alcoholic beverages and must follow APSU's Risk Management Guidelines for Student Organizations;

- (l) Drugs. The unlawful possession or use of any drug, controlled substance or drug paraphernalia (including, but not limited to, any prescription drug, stimulant, depressant, narcotic or hallucinogenic drug or substance, or marijuana), or sale or distribution of any such drug or controlled substance, or a violation of any terms of the APSU Drug-Free Policy Statement;
- (m) Gambling. Participation in any gambling or gambling-related activities on campus or on APSU controlled property or property being used, rented or leased by a student, group of students or ~~officially~~-registered student organization not owned by APSU that have not been approved and/or administered in accordance with the laws and regulations of the State of Tennessee. Any permitted gambling or gambling-related activity, e.g. raffles, must also be operated under the auspices of the APSU's Foundation;
- (n) Financial Irresponsibility. Failure to promptly meet financial responsibilities to APSU including, but not limited to, knowingly passing a worthless check or money order in payment to APSU or to a member of the APSU community acting in an official capacity;
- (o) Unacceptable Conduct in hearings. Any conduct at an APSU hearing involving contemptuous, disorderly behavior, or the giving of false testimony or other evidence at any hearing;
- (p) Failure to Cooperate with University Officials. Failure to comply with directions of APSU officials acting in the performance of their duties;
- (q) Violation of general rules and regulations. Any violation of the general rules and regulations of the University as published in an official APSU publication, whether in print or digital, including but not limited to, the intentional failure to perform any required action or the intentional performance of any prohibited action;
- (r) Attempts and aiding and abetting the commission of offenses. Any attempt to commit any of the offenses listed in this document, or the aiding and abetting of the commission of any of the offenses (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission);
- (s) Violations of state or federal laws. Any violation of state or federal laws or regulations proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference;
- (t) Violation of imposed disciplinary sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by an APSU official or a constituted body including, but not limited to, sanctions contained herein;
- (u) Violations of APSU Residence Hall or Apartment policies or regulations. The violation of any policies or regulations which appear in printed materials, whether in

print or digital, distributed to resident students (i.e., housing license agreements, handbooks for resident students, etc.);

- (v) Sexual Battery/Rape. Any act of sexual battery or rape as defined by state law;
- (w) Sexual Misconduct. An offense including acts of sexual assault, domestic violence, dating violence and/or stalking as defined in APSU Policy 6:001. The handling procedures concerning All matters involving allegations of sexual misconduct ~~will be governed by the procedures~~ are set forth in APSU Policy 6:001;
- (x) Tobacco. Smoking, inclusive of electronic smoking devices and vapors, in all APSU buildings, grounds and state-owned vehicles is prohibited (except in otherwise designated areas as provided in APSU policy 99:022). Regardless of whether classes are in session, smoking is prohibited in APSU all buildings, grounds and state-owned vehicles twenty-four (24) hours a day, year round. Students who want to use smoke-free tobacco products may do so thirty (30) feet from each building exit and entrance. Smoke-free tobacco product use is prohibited in APSU buildings and state-owned vehicles.
- (y) Pets. With the exception of service animals, emotional support animals, and animals used for academic research purposes, animals are prohibited on APSU campus except in designated housing areas. Students are required to provide the Office of Disability Services with medical documentation in requesting an accommodation for an emotional support animal.
- (z) Filing a false complaint or statement. Any behavior whereby a student knowingly submits a false complaint or statement alleging a violation of these regulations by a student or organization or APSU employee.
- (aa) Academic Misconduct includes, but is not limited to: ~~p~~Plagiarism, cheating, facilitation, fabrication or collusion. For purposes of this section the following definitions apply:
  - 1. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution.
  - 2. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. The term academic exercise includes all forms of work submitted for credit or hours.
  - 3. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.
  - 4. Facilitation or Collusion. Assisting or attempting to assist another to violate a provision of APSU's student code of conduct regarding academic misconduct.
- (bb) Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of any key for an APSU facility without proper authorization.
- (cc) Litter. Dispersing litter in any form onto the grounds or facilities of the APSU campus;

(dd) Abuse of Computer Resources and Facilities. Misusing and/or abusing computer resources including, but not limited to the following:

1. Distribution or use of a student and/or another person's identification to gain access to APSU computer resources<sup>17</sup>
2. Use of APSU computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems<sup>17</sup>
3. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file<sup>17</sup>
4. Unauthorized transfer of a computer or network file<sup>17</sup>
5. Use of computing resources and facilities to send abusive or obscene correspondence<sup>17</sup>
6. Use of computing resources and facilities in a manner that interferes with normal operation of the APSU computing system<sup>17</sup>
7. Use of computing resources and facilities to interfere with the work of another student, faculty member, or APSU official<sup>17</sup>
8. Violation of any published information technology resources policy<sup>17</sup> or
9. Unauthorized peer-to-peer file sharing<sup>17</sup>

(ee) Unauthorized Access to APSU Facilities and/or Grounds. Any unauthorized access and/or occupancy of APSU facilities and grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present;

(ff) Unauthorized Surveillance. Making or causing to be made unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and men's or women's restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;

(gg) Uncontrolled or Unsafe Rollerblading/Skateboarding/Other Coasting Device. Individuals are prohibited from using Rollerbladesing/skateboardsing and other /coasting devices in an unsafe and/or reckless manner on APSU campus. must comply with APSU Policy 4:01<sup>23</sup>.

(3) Disciplinary action may be taken against a student or registered student organization for violations of the foregoing rules which occur on APSU owned, leased or otherwise controlled property, or which occur off-campus when the conduct impairs, interferes with, or obstructs any APSU activity or the missions, processes and functions of APSU. In

addition, disciplinary action may be taken on the basis of any conduct, on or off campus which violates local, state or federal laws, which violate APSU policies for student organizations, or which poses a substantial threat to persons or property within the APSU community. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree including periods prior to or between semesters. Conduct occurring while a student is registered or enrolled at APSU, but not discovered until after the awarding of a degree is actionable under these provisions and may result in the retroactive application of a disciplinary sanction. Should a student withdraw from APSU with disciplinary action or academic misconduct action pending, the student's record may be encumbered by the appropriate APSU office until the proceedings have been concluded.

**Authority:** T.C.A. §§ 4-5-101 et seq., 49-7-123(a)(1), 49-8-203, and 10-7-501.

### **0240-05-02-.03 Academic and Classroom Misconduct.**

- (1) The instructor has the primary responsibility for control over classroom behavior and maintenance of academic integrity, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct that violates the general rules and regulations of APSU. Extended or permanent exclusion from the classroom, beyond the session in which the conduct occurred, or further disciplinary action can be effected only through appropriate procedures established by the Division of Student Affairs.
- (2) Academic dishonesty may be defined as any act of dishonesty in academic work. This includes, but is not limited to, plagiarism, the changing or falsifying of any academic documents or materials, cheating and giving or receiving of unauthorized aid in tests, examinations or other assigned work. Students guilty of academic misconduct, either directly or indirectly through participation or assistance, are immediately responsible to the instructor of the class. Penalties for academic misconduct will vary with the seriousness of the offense and may include, but are not limited to, a grade of "F" on the work in question, a grade of "F" in the course, reprimand, probation, suspension and expulsion. The student will be advised of his/her rights. The student may accept the instructor's finding, grade reduction, and/or other sanction and waive his/her hearing right. In the event a student believes he/she has been erroneously accused of academic misconduct, he/she may request a hearing. Hearings will be conducted pursuant to the procedures set forth at Rule 0240-05-02-.05, Disciplinary Procedures, below. If the student is found responsible for the allegation(s) of academic misconduct, the grade as assigned by the instructor will stand. Should the hearing source absolve the student of the allegations of academic misconduct, the faculty member will reassess the student's grade based upon the hearing source's finding. When necessary, grade changes will be made administratively.
- (3) Students may appeal a grade assignment associated with a finding of academic misconduct, as distinct from a student disciplinary action, through appropriate APSU academic grade appeal procedures. Courses may not be dropped pending the final resolution of an allegation of academic misconduct.
- (4) Disruptive behavior in the classroom may be defined, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., repeated outbursts from a student which disrupts the flow of instruction or prevents concentration on the subject taught, failure to cooperate in maintaining classroom decorum, the presence of non-enrolled visitors in the classroom (~~([see APSU Policy No. 3-032, Minors on Campus Policy], etc including but not limited to minors).~~), the continued use of any electronic or other noise or light emitting

device which disturbs or interrupts the concentration of others (e.g., disturbing noises from beepers, text messaging, cell phones, palm pilots, laptop computers, games, etc.).

- (5) Class attendance and punctuality requirements are established by the faculty through the ~~printed~~ syllabus, whether print or digital, for each course. Students are expected to attend class regularly and on time and are responsible for giving explanations/rationale for absences and lateness directly to the faculty member for each course in which they are enrolled. In cases where student absences are the result of emergency circumstances (e.g., death in the family, a student's serious injury or incapacitating illness), for which student(s) are unable to make immediate contact with faculty, the student may contact the Central Student Affairs office for assistance in providing such immediate notification to faculty. However, the student remains responsible for verifying the emergency circumstances to faculty and for discussing arrangements with faculty for possible completion of coursework requirements, if feasible.

**Authority:** T.C.A. §§ 4-5-101 et seq. and 49-8-203.

#### **0240-05-02-.04 Disciplinary Sanctions.**

- (1) APSU shall adopt and publish ~~a policy~~ guidelines, providing notice of potential disciplinary sanctions consistent with these rules applicable to both individuals and organizations. The ~~policy~~ guidelines may include any appropriate sanction subject to prior review by the APSU Office of Legal Affairs and approval by the Board of Trustees. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in these rules, disciplinary policies, ~~or the general policies,~~ and/or guidelines disciplinary sanctions may be imposed, either singly or in combination, by the appropriate school officials. (Note: Final results of disciplinary proceedings for violations that include violent acts or non-forcible sex offenses, as defined by Tennessee law, may be released without permission of the student perpetrator.)
- (2) Definition of Sanctions. The following provides a non-exhaustive list of possible sanctions with corresponding definitions:
  - (a) Restitution. Restitution may be required in situations which involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated by the appropriate judicial authority to monetarily compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such monetary payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
  - (b) Warning. The appropriate APSU official may notify the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;
  - (c) Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of these rules and provides notice that any further violation(s) may result in more serious penalties;
  - (d) Restriction. A restriction upon a student's or registered student organization's privileges for a period of time may be imposed. This restriction may include, but is not limited to, the following: denial of the right to represent APSU in any way, denial of the use of APSU facilities and/or parking privileges, restriction of participation in

extracurricular activities, restriction of organizational privileges including registration, and restriction of the transfer of academic credit from another institution;

- (e) University Probation. Continued enrollment of a student or student organization on probation may be conditioned upon adherence to these rules. Any student or registered student organization placed on probation will be notified of such in writing, either in hard copy or electronic, and will also be notified of the terms and length of probation. Probation may include restrictions upon the extracurricular activities of a student or registered student organization. Any conduct in violation of these rules while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of a more serious disciplinary sanction;
- (f) Suspension. If a student or student organization is suspended, he/she or the organization is separated from APSU for a stated period of time with conditions for readmission stated in the notice of suspension;
- (g) Expulsion. Expulsion entails a permanent separation from APSU. The imposition of this sanction is a permanent bar to the student's readmission, or a registered student ~~student~~ organization's recognition ~~to-by~~ APSU. A student or registered student organization that has been expelled may not enter APSU property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;
- (h) Interim or Summary Suspension. As a general rule, the status of a student or student organization accused of violations of these rules should not be altered until a final determination has been made in regard to the charges. Interim or Summary suspension may be imposed upon a finding by the appropriate APSU official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused or of any other member of the APSU community or its guests, destruction of property, or substantial disruption of classroom or other campus activities. In any case of interim suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the suspension;
- (i) Housing Probation. A ~~resident student~~ or registered student organization placed on housing probation is deemed not to be in good standing with the housing community, and his/her continued residence is conditioned upon adherence to these rules and the Housing Contract. Any student or registered student organization ~~resident~~ placed on probation shall be notified in writing or via email of the terms and length of the probation. Probation may include restrictions upon the activities of the housing resident, including any other appropriate special condition(s). Any conduct of a similar or more serious nature in violation of the probation shall result in suspension from housing;
- (j) Housing Suspension and Forfeiture. A ~~resident student~~ or registered student organization suspended from housing may not reside in, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended student or registered student organization ~~resident~~ shall be required to forfeit housing fees (including any unused portion thereof and the Housing deposit). A suspended student or registered student organization ~~resident~~ must vacate the housing unit within forty-



eight (48) hours. Housing suspension shall remain a part of the student's disciplinary record;

- (k) Service to the University. A student or registered student organization may be required to donate a specified number of service hours to APSU, by way of performing reasonable tasks for the appropriate APSU office or official. This service shall be commensurate to the offense the student or registered student organization ~~student~~ is guilty of violating (i.e., service to maintenance staff for defacing APSU property);
- (l) Special Educational Program. A student or student organization may be required to participate in any special educational programs relevant to the offense, to attend special seminars or educational programs or to prepare a project or report concerning a relevant topic;
- (m) Smoking and Clean Air Policy Violation. There will be graduated fines imposed for violation of the Smoking and Clean Air policy:
  - 1. First Offense- \$25.00
  - 2. Second Offense- \$50.00
  - 3. Third Offense or more- \$100.00 and for additional Disciplinary Charges;
- (n) Interim or Summary Suspension from Campus Housing. Though as a general rule, the status of a student or student organization accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him or her, interim suspension from campus housing may be imposed upon a finding by the appropriate APSU official that the continued presence of the accused in APSU housing constitutes an immediate threat to the physical safety and well-being of the accused, or of any other member of the APSU community or its guests, or the destruction of property. A final determination of the charges against any student or student organization summarily suspended from campus housing shall be made through appropriate hearing procedures within seven (7) class days of such housing suspension during which time the accused shall forfeit the right to reside in or visit campus housing facilities. The accused student shall be permitted to attend classes during this interim period.
- (o) Referral for Intervention, Assessment and/or Counseling. The student is mandated to visit the appropriate APSU official for an initial intervention and assessment which may be followed by required participation and a prescribed plan of action or treatment plan. Parents or legal guardians may be notified;
- (p) Fines. Penalties in the form of fines may be enforced against a student or an organization whenever the appropriate hearing officer(s) or hearing body deems necessary. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines to the Business Office within two (2) weeks of the decision will result in further disciplinary action;
- (q) Letter of Apology. A student or student organization may be required to write a letter of apology to APSU or its guests, another student or student organization, faculty or staff member, or any other constituent affected by the behavior for which the student or student organization has been found responsible. The letter shall be

written and sent within seven (7) class days of notification of sanction and copies to the appropriate hearing body or official;

- (r) Revocation of Admission, Degree, or Credential; and,
- (s) Any alternate sanction deemed necessary and appropriate to address the misconduct at issue.

**Authority:** T.C.A. §§ 4-5-101 et seq. and 49-8-203.

#### **0240-05-02-.05 Disciplinary Procedures.**

(1) Hearing Procedures:

- (a) Procedures conforming to the Uniform Administrative Procedures Act (UAPA). All cases which may result in (i) suspension or expulsion of a student or student organization from APSU for disciplinary reasons, or (ii) revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the UAPA § T.C.A. 4-5-301 et seq. and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Trustees, unless the student or student organization waives those procedures in writing and elects to have his or her case heard by either the University Hearing Board or an Administrative Hearing.
- (b) Cases which are not subject to the contested case procedures under the Uniform Administrative Procedures Act and cases in which a student or student organization has waived the contested case procedures in writing shall be processed in accordance with APSU Hearing Procedures. APSU has established two (2) alternate APSU Hearing Procedures:
  - 1. A hearing conducted by one (1) or more Student Affairs Administrators; or
  - 2. A hearing conducted by the University Hearing Board. (Note: This option shall be available until the final ten (10) class days of each semester, or the final five (5) class days of the second summer term, during which time all disciplinary hearings will be conducted by appropriate Student Affairs Administrators, except those subject to UAPA procedures as selected by the accused student or student organization.)
- (c) Cases which are not subject to the contested case procedures under the Uniform Administrative Procedures Act and which involve very minor first offenses by students or student organizations may be discussed informally with students or student organizations. In such cases, no formal record will be maintained in the judicial records of APSU. The Dean of Students or other designee, appointed by the Vice President for Student Affairs, shall note the name of the student or student organization involved in his/her personal records. The purpose of this notation is only to determine a student's or student organization's prior involvement in a minor offense, when and if a second offense occurs at a later date. If the student or student organization is subsequently involved in another violation of regulations, at the discretion of the hearing body, this Informal Record will become a part of the student's or student organization's Formal Disciplinary Records.



(d) Alternative resolution methods may include, but are not limited to, mediation, diversion programs and/or negotiated resolutions.

(e) Jurisdiction of Cases to be heard by Student Affairs Administrators:

1. All formal cases involving incidents which occur in APSU residence halls and/or apartments and which involve on-campus residents shall be heard by the Residence Life staff or designee.
2. All other formal cases shall be heard by the Dean of Students for Student Affairs, or appropriate designee, except in cases where such staff member is unavailable or has a bias toward either party in the pending case. In such cases the Senior Student Affairs Officer shall assign one (1) or more Student Affairs Administrators to hear the case.

(2) Commencement of Disciplinary Proceedings.

(a) A student or registered student organization accused of violating APSU disciplinary policies, rules, or regulations shall be called before the Dean of Students or designee, appointed by the Vice President for Student Affairs, for a preliminary conference at which the student or registered student organization will be orally advised of the following:

1. The charges against him/her/or organization;
2. The rights afforded to him/her/or organization by the hearing procedures which are available;
3. The hearing procedure options available; and
4. The responsibilities of the accused student or registered student organization ~~organization~~ in the disciplinary procedures.

(b) A student or registered student organization ~~organization~~ may waive the right to a preliminary conference and an oral explanation of the items listed in (2) (a) above.

(c) Once advised of the hearing options, the accused student or registered student organization ~~organization~~ may elect to accept the finding and sanction from the Dean of Students or designee, or elect a hearing pursuant to UAPA (where appropriate), or a hearing before the University Hearing Board.

(d) The election must be made within three (3) class days of receipt of notice of pending charges against him/her or organization by completing, and signing, an Election of Procedure form and/or waiver form. Once the election is made, the decision is final and may not be changed during the course of the hearing.

(e) Procedural guidelines for aAll matters involving allegations of impermissible discrimination, harassment, or retaliation ~~will be governed by the procedures outlined~~are set forth in an APSU policy that reflects the requirements of that ~~g~~Guideline.

(f) Procedural guidelines regarding aAll matters involving allegations of sexual misconduct and/or stalking ~~will be governed by~~are set forth in the procedures outlined in APSU policy 6:001: Sexual Violence and Stalking.

- (3) APSU Hearing Rights. These rights shall be afforded the accused student/organization in all APSU Hearings before the appropriate Student Affairs administrator or the University Hearing Board.
- (a) The right to choose the appropriate hearing option. (This right must be exercised within three (3) class days of the presentation of charges. Note: This option shall be available until the final ten (10) class days of each semester, or the final five (5) class days of the second summer term, during which time all discipline hearings will be conducted by appropriate Student Affairs administrators, except those subject to UAPA procedures.)
  - (b) The right to written notice, by United States mail, courier service, hand delivery to the permanent or local address on file for the student, or APSU email, of the time, place, and date of the hearing at least three (3) days in advance of the hearing. A justified delay may be granted. (This right may be waived in writing by the accused student/organization.) When notice is sent by United States Mail.
  - (c) The right to a written statement of the charges in time and detail sufficient to enable the student/organization to prepare a defense.
  - (d) The right to be accompanied by an advisor of the student's/organization's choice, but such advisor participation shall be limited to advising the student/organization.
  - (e) The right to a statement of the possible sanctions that may be imposed as a result of a finding of a violation of the Student Code, at least three (3) days in advance of the hearing.
  - (f) The right to present witnesses in the student's/registered student organization's behalf and to question any witnesses presented against the student. The student/organization is responsible for the attendance of any witnesses to be present in the student's /organization's behalf.
  - (g) The right to be informed in writing, delivered either by United States mail, courier service, hand delivery to the permanent or local address on file for the student, or via email, of:
    - 1. The final administrative decision in the case.
    - 2. The proper procedure for appeal.
  - (h) The right to be provided copies, upon request and in accordance with APSU policies, rules, and guidelines, of all complaints, reports, witness statements and other written materials used in determining the charges.
  - (i) In cases involving sexual misconduct, the right to the name of each witness ~~the institution~~ APSU expects to present at the student disciplinary proceeding and those ~~the institution~~ APSU may present if the need arises.
  - (j) In cases involving sexual misconduct, the right to request a copy of the institution's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974.

- (k) In cases involving sexual misconduct, the student's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the institution has in its possession, custody, or control and may use to support claims or defenses, unless the use would solely be for impeachment.

(4) Rights of Complainant and/or Victim.

The APSU member (student, faculty or staff) who authors "complaints" or "statements" as a victim in the alleged violation shall have the following rights:

- (a) To be notified of his/her rights prior to making a statement.
- (b) To be informed that any written statement made or signed will be shared with the accused student/organization and that the accused student/organization may request a copy of the statement.
- (c) To attend the hearing.
- (d) To have an advisor present during the hearing.
- (e) To be given the opportunity to question all witnesses and the accused during the hearing.
- (f) To be provided a copy of any statement he/she has written or dictated to others.
- (g) To be able to submit a list of witnesses to be called to the hearing.
- (h) To be permitted to drop the charges only up to the date of the hearing.
- (i) To be notified of the outcome of the hearing, including the finding concerning responsibility and any sanctions taken.
- (j) In cases involving sexual misconduct, the right to the name of each witness ~~the institution~~APSU expects to present at the student disciplinary proceeding and those ~~the institution~~APSU may present if the need arises.
- (k) In cases involving sexual misconduct, the right to request a copy of the ~~institution's~~APSU's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974.
- (l) In cases involving sexual misconduct, the student/organization's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that ~~the institution~~APSU has in its possession, custody, or control and may use to support claims or defenses, unless the use would solely be for impeachment.

(5) APSU Hearing Procedures.

- (a) Hearings before a Student Affairs Administrator. The appropriate Student Affairs Administrator shall act as hearing officer in the hearing, shall determine student's/organization's innocence or guilt and shall apply sanctions as appropriate.

- (b) Hearings before the University Hearing Board ("Hearing Board). Procedures for the Board include the following:
1. The Hearing Board shall be composed of nine (9) persons: five (5) students, (two (2) automatically selected from the Student Tribunal Justices of the Student Government Association, and three (3) selected at large from the student body who meet the same qualifications and are selected via the same procedures as those for Student Tribunal Justices as listed in the APSU SGA Constitution), two (2) faculty and two (2) administrators, all appointed by the President, for a term of one (1) academic year. Additionally, student, faculty and administrator alternate members shall be selected to serve in the absence of regular members and shall be appointed by the President for a term of one (1) academic year.
  2. The Chair of the Hearing Board shall be appointed by the President.
  3. A minimum of five (5) members of the Hearing Board are required to hear a disciplinary case, composed of at least two (2) students, one (1) faculty member, and one (1) administrator.
  4. The Dean of Students shall train and advise all regular and alternate members of this Hearing Board in appropriate disciplinary procedures.
  5. The hearing shall be conducted consistent with the rights described above in paragraphs (3) and (4) of this rule.
  6. All hearings shall be closed unless the respondent and the complainant both elect in writing to have an open hearing.
  7. Formal rules of evidence shall not be applicable. The adjudicating body may exclude evidence which in its judgment is immaterial, irrelevant, or unduly repetitious.
  8. The standard of proof required to overturn a finding of violation of the Student Discipline Policy made by the Dean of Students, or designee, shall be the preponderance of the evidence and the charged student bears the burden of proof.
  9. The hearing source shall issue a written decision within three (3) class days after the conclusion of the hearing.
  10. The student will be advised in writing via ASPU email (and USPS mail if requested by the student) of the Hearing Board or Student Affairs Administrator decision and all sanctions imposed as a result of the disciplinary hearing.
  11. Any sanction imposed as a result of a hearing conducted under the Code of Conduct shall be effective immediately upon written notification of the student/organization unless the hearing authority deems a stay of such sanction desirable pending appeal.
  12. In any case where the decision results in separation from APSU, the decision shall be reviewed by the Senior Student Affairs Officer prior to notifying the

Office of the Registrar and the Academic Department in which the student has been enrolled.

(6) Appeals.

- (a) The student may appeal a decision of the University Hearing Board or the Student Affairs Administrator to the Senior Student Affairs Officer, or designee.
- (b) An appeal in writing setting forth grounds for the appeal and addressed to the appropriate appellate authority must be received in the Office of the Senior Student Affairs Officer within three (3) class days after the student/organization is notified of the sanction imposed at any hearing or appellate level.
- (c) Appeals shall be limited to the following grounds on the following issues:
  - 1. Were procedures properly followed in the hearing?
  - 2. Was the evidence presented at the hearing determined by “preponderance”?
  - 3. Was the sanction imposed proportional to the violation?
  - 4. New information, not available at the time of the original hearing, has become available which would substantially alter the outcome of the hearing.
- (d) Review shall be based solely on a consideration of the record generated through the hearing together with the written appeal document and relevant attachments filed by the student.
- (e) Appellate Authority. The Senior Student Affairs Officer, or designee, shall have the authority to do any of the following upon review of an appeal:
  - 1. Sustain the previous decision including the penalty imposed;
  - 2. Sustain the previous decision but impose a greater or lesser penalty;
  - 3. Remand the case for further consideration; or
  - 4. Reverse the previous decision.
- (f) The Senior Student Affairs Officer shall issue a written decision within ten (10) class days after the appeal is filed by the student.
- (g) The decision of the Senior Student Affairs Officer is final.

(7) Student Organization Disciplinary Procedures.

Sanctions against Student Organizations. Any registered student organization may be given a warning, reprimand, placed on probation, suspension, or restriction or may have its registration withdrawn by the Dean of Students, or by a Student Affairs Administrator appointed by the Senior Student Affairs Officer. Such actions may be taken after having a hearing conducted in accordance with the procedures outlined in these rules for disciplinary procedures. In the case of Withdrawal of Registration of an organization, the procedures to be used will be the contested case provisions of the ~~Tennessee Uniform Administrative Procedures Act~~ UAPA, unless those provisions have been waived in writing by an

authorized representative of the student organization. Such action may be taken for any one of the following reasons:

- (a) The organization fails to maintain compliance with the initial requirements for registration.
- (b) The organization ceases to operate as an active organization.
- (c) The organization requests withdrawal.
- (d) The organization operated or engaged in any activity in violation of the policies, rules, and regulations of APSU, of any governing body of federal or state laws.

**Authority:** T.C.A. §§ 4-5-101 et seq. and 49-8-203.