

Chapter 132B-128 WAC

POLICIES AND PROCEDURES FOR TENURE AND DISMISSAL

WAC

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WAC 132B-128-010 General statement of policy. In accordance with the provisions of sections 32 through 45, chapter 283, Laws of 1969 ex. sess., as amended by chapter 5, Laws of 1970 ex. sess., the following procedures for tenure at Community College District No. 2 will be implemented as of January 29, 1973. These procedures supersede the previously adopted tenure regulations, Grays Harbor College. Granting of tenure should be the rule, not the exception; if denial of tenure becomes the rule, the hiring practices of the college shall be reevaluated.

Tenure policy statement. The only difference between a nontenured and a tenured faculty member is that the latter is evaluated periodically for the purpose of improving services and instruction and the former is evaluated regularly for the additional purpose of granting tenure. The dean of instruction shall hold an election and select a tenure review committee which will interview and evaluate the probationer and will make recommendations to the board of trustees regarding the professional qualifications of the nontenured faculty member.

It shall be the policy of Community College District No. 2 that the board of trustees, on the recommendation of the tenure review committee which has interviewed and evaluated the probationer, may grant tenure at any time between the assumption of his faculty position and the end of the three year probationary period, except that compelling reasons must be shown for the award of tenure prior to the third year of probation.

[Statutory Authority: RCW 28B.50.140(13). WSR 79-08-129 (Order 79-1, Resolution No. 11-79), § 132B-128-010, filed 8/1/79; Order, § 132B-128-010, filed 3/28/73.]

WAC 132B-128-020 Definitions. Faculty appointment - Full-time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments; "faculty appointment" shall mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian.

Full-time position - One in which the faculty member receives a contract labeled full-time and works a regular load of his division or area for any three complete quarters in one calendar year. Only special circumstances, which shall be

described in writing, will permit the faculty member to work less than a regular load and retain a full-time contract.

Dismissal review committee - A committee to hear dismissal cases shall be composed of a member of the administrative staff, a student representative, and members of the teaching faculty. The representatives of the teaching faculty shall represent a majority of the members on each review committee. The members representing the teaching faculty on each review committee shall be selected by a majority of the teaching faculty and faculty division heads acting in a body as specified by the dismissal policy.

Faculty peer - One who holds a faculty appointment.

Probationer - Any individual holding a probationary faculty appointment.

Probationary faculty appointment - A faculty appointment for a designated period of time which may be terminated without sufficient cause upon expiration of the probationer's terms of employment.

Tenure - A faculty appointment for an indefinite period of time which may be revoked only for sufficient cause and by due process.

Tenure review committee - A committee composed of the probationer's faculty peers, a student representative, and a member of the administrative staff of the community college provided that the majority of the committee shall consist of the probationer's faculty peers and that the faculty members be elected as specified by the tenure policy by a majority of the faculty members.

Appointing authority - Shall mean the board of trustees of Community College District No. 2.

Administrative appointment - Shall mean employment in a specific administrative position as determined by the appointing authority.

Administrative position - For purposes of this document, the following positions are considered administrative positions at Grays Harbor College: President, dean of instruction, dean of administration, associate dean for student affairs, associate dean for admissions and records, associate dean for vocational education, associate dean for continuing education, assistant dean of administration, assistant dean for library and media services, coordinator of basic education, coordinator of continuing education, coordinator of child and family studies, coordinator of women's resources center, coordinator of financial aids and veterans affairs, and coordinator of student programs.

[Statutory Authority: RCW 28B.50.140(13). WSR 81-10-008 (Order 81-1, Resolution Nos. 2-81, 3-81 and 4-81), § 132B-128-020, filed 4/24/81; WSR 79-08-129 (Order 79-1, Resolution No. 11-79), § 132B-128-020, filed 8/1/79; Order, § 132B-128-020, filed 3/28/73.]

WAC 132B-128-030 Procedure for granting tenure.**(1) Selection of the tenure review committee -**

(a) A tenure review committee shall be established for each probationer. The committee shall be responsible for the probationer until he is either granted tenure or is no longer employed within Community College District No. 2. If a vacancy occurs during the terms of service of the tenure review committee members, the dean of instruction will call a special election within two weeks to fill that position.

(b) The dean of instruction shall be responsible for the establishment of each tenure review committee, which shall normally begin functioning no later than four weeks after the day that the probationer has begun his faculty duties.

(c) Each tenure review committee shall be composed of five members. There shall be automatic nomination of the appropriate division chairman to position number one. One faculty member shall be nominated by the probationer to position number two. After these nominations are made, the dean of instruction shall call an all-faculty meeting at which faculty members shall nominate one or more faculty members for position number three and may nominate faculty members for positions one and two. A vote shall be taken and the nominee receiving a majority vote for a particular position shall be elected. If no candidate for a particular position receives a majority vote, a run-off election shall be held within five days between the two candidates receiving the largest number of votes. A student representative, who shall be a full-time student, shall be appointed by Grays Harbor College student council to position number four. The president of the college shall appoint a member to position number five.

(2) Evaluation of the probationer -

If the probationer disagrees with the tenure review committee's recommendation, he shall be given an opportunity to challenge it before the college president.

(3) Final action on tenure -

(a) The final decision to award or withhold tenure shall rest with the board of trustees (appointing authority) after it has given reasonable consideration to the recommendations of the tenure review committee, and reasonable consideration to the recommendation of the college president. Any recommendations of the tenure review committee and the president shall be advisory only and not binding upon the board of trustees (appointing authority).

(b) If the probationer is not to be retained, he must be informed no later than the last day of winter quarter.

(c) If the probationer is dismissed prior to the termination of his contract, his case shall be considered by the dismissal review committee in accordance with the laws of the state of Washington and the dismissal policy of Community College District No. 2.

[Statutory Authority: RCW 28B.50.140(13). WSR 79-08-129 (Order 79-1, Resolution No. 11-79), § 132B-128-030, filed 8/1/79; Order, § 132B-128-030, filed 3/28/73.]

WAC 132B-128-040 Basis for dismissal. A tenured faculty member shall not be dismissed from his appointment except for sufficient cause, nor shall a faculty member who holds a probationary faculty appointment be dismissed prior to the dates established in the written terms of his appointment except for sufficient cause which is of a substantial

nature and is not frivolous or inconsequential as determined by the board of trustees, and when it is determined by the board of trustees that the termination of his employment would be in the best interests of the community college district.

[Order, § 132B-128-040, filed 3/28/73.]

WAC 132B-128-050 Procedures for dismissal. (1) A dismissal review committee created for the express purpose of hearing dismissal cases shall be established no later than October 15 of each academic year (except if this provision is passed after October 15 of any academic year, the dismissal review committee will be chosen within thirty days after passage of this provision), and shall be comprised of the following members:

(a) One member chosen by the college president

(b) Three faculty members chosen by the faculty and division heads acting in a body and in the following manner:

(i) Two individuals will be nominated for each of positions one, two and three by a district-wide random selection process as described in (v) below.

(ii) Two individuals will be nominated in the same manner as (i) above to run for each of three alternate positions identified as alternate one, alternate two and alternate three.

(iii) The nominees receiving a majority of the votes cast will be elected for a one-year term.

(iv) In case of a vacancy in position one, two or three occurring any time after the election, the vacancy will be filled by the alternates, beginning with alternate one.

(v) A district-wide random selection process will be developed by the president of Grays Harbor College. This selection process will be designed to remove any element of preselection or predisposition from the dismissal review committee selection process.

(c) A student representative, who shall be a full-time student, shall be appointed by the Grays Harbor College student council. The student council shall also appoint a full-time student as an alternate member to serve on the dismissal review committee should the regularly appointed member be unable to serve on the committee.

(d) The college president shall choose one alternate member to serve on the dismissal review committee should the regularly appointed member be unable to serve on the committee.

(e) The dismissal review committee will select one of its members to serve as chairman.

(2) When the president receives or initiates a formal written recommendation about a faculty member which may warrant dismissal, he shall inform that faculty member. Within ten days after having been so informed, the faculty member will be afforded an opportunity to meet with the president or his designee and the chairman of the division. At this preliminary meeting, which shall be an information-gathering session, an adjustment may be mutually agreed upon. If the matter is not settled or adjusted to the satisfaction of the college president, he shall recommend that the faculty member be dismissed.

(3) If the president recommends that the faculty member be dismissed, he shall:

(a) Deliver a short and plain statement to the faculty member which shall contain:

- (i) The grounds for dismissal in reasonable particularity;
- (ii) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (iii) Reference to any particular statutes or rules involved.

(b) Call into action the dismissal review committee and deliver the above statement to the members of the dismissal review committee, if the professional requests a hearing.

(4) After receiving the president's recommendation for dismissal, the affected professional may request a hearing within the following five days. If the president does not receive this request within five days, the professional's right to a hearing will be deemed waived.

(5) If the president receives a request for a hearing, the dismissal review committee shall, after receiving the written recommendation from the college president, establish a date for a committee hearing giving the faculty member so charged twenty days notice of such hearing, and inform in writing the faculty member so charged of the time, date and place of such hearing.

(6) The dismissal review committee shall:

(a) Hear testimony from all interested parties, including but not limited to other faculty members and students and receive any evidence offered by same;

(b) Afford the faculty member whose case is being heard the right of cross-examination and the opportunity to defend himself and be accompanied by legal counsel;

(c) Allow the college administration to be represented by an assistant attorney general.

(7) The dismissal review committee shall include a neutral presiding officer appointed by the appointing authority. Such presiding or hearing officer shall not be a voting member of the committee; it shall be his responsibility to:

(a) Make all rulings regarding the evidentiary and procedural issues presented during the course of the dismissal review committee hearings;

(b) Meet and confer with the members of the dismissal review committee and advise them in regard to procedural and evidentiary issues considered during the course of the committee's deliberations;

(c) Appoint a court reporter, who shall operate at the direction of the presiding officer and shall record all testimony, receive all documents and other evidence introduced during the course of hearings, and record any other matters related to the hearing as directed by the presiding officer;

(d) Prepare a record which shall include:

- (i) All pleadings, motions and rulings;
- (ii) All evidence received or considered;
- (iii) A statement of any matters officially noticed;
- (iv) All questions and offers of proof, objections and rulings thereon;

(v) Proposed findings and exceptions;

(vi) A copy of the recommendations of the dismissal review committee.

(8) A copy of the above shall be transcribed and furnished upon request to the faculty member whose case is being heard.

(9) The hearing shall be closed. However, interested parties, including but not limited to faculty members and students, will be given an opportunity to present evidence.

(10) Within ten college calendar days of the conclusion of the hearing, the dismissal review committee will arrive at its recommendations in conference on the basis of the hearing. Before doing so, it should give the faculty member or his counsel(s) and the representative designated by the president of the college the opportunity to argue orally before it. If written briefs would be helpful, the dismissal review committee may request them. The dismissal review committee may proceed to a recommendation promptly or await the availability of a transcript if making a fair recommendation would be aided thereby. Within fifteen college calendar days of the conclusion of the hearing the president of the college, the faculty member and the board of trustees will be presented with recommendations in writing and given a copy of the record of the hearing.

(11) The board of trustees shall meet within a reasonable time subsequent to its receipt of the dismissal review committee recommendations to consider those recommendations. The board of trustees shall afford the parties the right to oral and written argument with respect to whether they will dismiss the faculty member involved. The board of trustees may hold such other proceedings as they deem advisable before reaching their decision. A record of the proceedings at the board level shall be made and the final decision shall be based only upon the record made before the board and the dismissal review committee, including the briefs and oral arguments. The decision to dismiss or not to dismiss shall rest, with respect to both the facts and the decision, with the board of trustees after giving reasonable consideration to the recommendations of the dismissal review committee. The dismissal review committee's recommendations shall be advisory only and in no respect binding in fact or law upon the decision maker, the board of trustees. The board of trustees shall within fifteen days following the conclusion of their review, notify the charged faculty member in writing of its final decision.

(12) Suspension of the faculty member by the president during the administrative proceedings involving him (prior to the final decision of the board of trustees) is justified if immediate harm to himself or others is threatened by his continuance. Any such suspension shall be with pay.

(13) Except for such simple announcements as may be required covering the time of the hearing and similar matters, no public statements about the case shall be made by the faculty member, the dismissal review committee or administrative officers of the board of trustees until all administrative proceedings and appeals have been completed.

(14) Any dismissed faculty member shall have the right to appeal the final decision of the board of trustees within ten days of the receipt of the notice of dismissal. The filing of an appeal shall not stay enforcement of the decision of the board of trustees.

(15) If the president of Grays Harbor College initiates a formal written recommendation that a faculty member be dismissed and the board of trustees decides to retain the faculty member, or if the trustees' decision to dismiss a faculty member is reversed by a court, all evidence concerning the dismissal will be removed from the faculty member's permanent

personnel file if the reason for the denial of the recommendation was the president's failure to establish the facts which were the basis for the dismissal recommendation.

If the facts which were the basis for the dismissal recommendation were shown to the satisfaction of the trustees and the courts, but the dismissal recommendation was not followed because the trustees or the courts decided that the facts were not sufficient to warrant dismissal, the facts which were shown would be retained in the faculty member's permanent personnel file along with a record of the outcome of the dismissal proceeding.

If the facts are to be retained in the faculty member's permanent personnel file, the faculty member will be given an opportunity to review the facts and to write an explanation which will be retained along with the findings of fact.

[Statutory Authority: RCW 28B.50.140(13). WSR 79-08-129 (Order 79-1, Resolution No. 11-79), § 132B-128-050, filed 8/1/79; Order, § 132B-128-050, filed 3/28/73.]

WAC 132B-128-100 Academic employee reduction procedure. If an academic employee with a full-time faculty appointment is to be laid off for program termination or reduction, decreases in enrollment, changes in educational policy or substantial evidence of a serious shortage of funds, the Grays Harbor College policies and procedures for tenure and dismissal will be utilized and the following criteria and procedures will be used:

(1) The president, with consultation from his administrative staff, will review the nature of the problem facing the college. If the president determines that reductions in staff are or will be necessary in the near future, he will give notice of the potential reductions to the recognized academic employee organization. The notice which the president gives to the recognized academic employee organization shall include:

(a) The reasons for the proposed reductions in force;
 (b) The number of academic employees to be considered for layoff.

(2) The recognized academic employee organization will then have the right to meet with the president who shall fully document the need for such reductions in staff. The president shall present and explain the major criteria to be used to identify those to be laid off. If any courses currently in the curriculum are expected to be eliminated, he shall identify those courses and explain why they have been judged not to be the most necessary course offerings to maintain the best possible quality educational opportunities at Grays Harbor College.

(3) The need for a reduction in force will be determined on the basis of the need for reduction in each division of Grays Harbor College.

(4) The divisions at Grays Harbor College, for purposes of this document, shall be business administration, English-speech, health and physical education, humanities, life sciences, physical science and mathematics, social science, vocational-technical, administration, library, and student services.

(5) Within a reasonable time after the start of the fall quarter of each year, the dean of instruction, with advice from the appropriate division chairman, shall assign each academic employee to a division. An academic employee may not be a member of more than one division. (If this code is passed during the school year, the dean of instruction shall

assign the academic employees to their respective divisions within a reasonable period of time after passage of this code.)

(6) If the number of academic employees is to be reduced, the president, with advice from the dean of instruction and division chairmen, shall decide in the case of each affected division what course offerings and/or other services are most necessary to maintain quality education at Grays Harbor College. The president shall consider but not be limited to the following factors:

(a) The enrollment and the trends in enrollment for not less than four consecutive quarters, if applicable, and their effect upon each division;

(b) The goals and objectives of Grays Harbor College and the state board for community college education;

(c) Information concerning faculty and administrative vacancies occurring through retirement, resignation, sabbaticals and leaves of absence.

(7) Those duties associated with the course offerings and/or other services determined to be most necessary at Grays Harbor College will be considered needed duties of an academic employee.

(8) The president's determination of the most necessary course offerings and/or other services is not subject to review by the dismissal review committee.

(9) If a reduction is necessary within a division, the following order of layoff will be utilized provided there are qualified academic employees to replace and perform all the needed duties of the academic employees to be laid off: First, part-time academic employees; second, probationary appointees with the least seniority; third, full-time tenured academic employees with the least seniority.

(10) Seniority shall be determined by establishing the date of the signing of the first full-time contract for the most recent period of continuous full-time professional service for Grays Harbor College which shall include leaves of absence, sabbatical leaves, and periods of layoffs. (This shall include professional services for the Aberdeen School District No. 5 prior to July 1, 1967, if assigned to Grays Harbor College.) The longest terms of employment as thus established shall be considered the highest level of seniority. In instances where academic employees have the same beginning date of full-time professional services, seniority shall be determined in the following order:

(a) First date of the signature of a letter of intent to accept employment;

(b) First date of application for employment.

(11) An academic employee shall be qualified to instruct courses which the president, with advice from the dean of instruction and the appropriate division chairman, determines the academic employee is qualified to instruct. The president's determination of what duties an academic employee is qualified to perform is not subject to review by the dismissal review committee.

(12) A full-time tenured academic employee whose contract was not renewed as a result of this academic employee staff reduction procedure has a right to recall to any teaching position, either a newly created one or a vacancy, providing he is qualified as determined by the college president. The recall shall be in reversed seniority, the most senior first. The right of recall shall extend three years from the date of layoff. Full-time tenured academic employees who have been laid

off will retain all accrued benefits, such as sick leave and seniority. Upon recall they shall be placed at least at the next higher increment on the salary schedule than at the time of layoff and will retain their tenured status.

[Order, § 132B-128-100, filed 3/28/73.]