

UofA
UNIVERSITY OF ARKANSAS SYSTEM

Office of the President

February 26, 2018

Dear Colleagues:

In addition to the latest version of Board Policy 405.1 that I sent you on February 14, the General Counsel's Office has also revised the draft of Board Policy 405.4 *Employment/Termination* to address issues identified after distributing the first draft. In making these revisions, a decision was made to remove from this policy the provision dealing with graduate assistants and, instead, to create a new Board Policy, which will be included in the Student Affairs section of the policies, specifically addressing graduate assistant appointments. An explanation of the new changes to the policy is attached along with red-lined and clean versions of Board Policy 405.4 and the new Board Policy 500.1 on graduate assistants. Please circulate these to appropriate individuals on your campuses. As with 405.1, we believe these are near completion and on track to be considered at the March 28-29 Board of Trustees meeting but will accept any feedback you may have.

Thank you,



Donald R. Bobbitt
President
Charles E. Scharlau Presidential Leadership Chair

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University of Arkansas, Fayetteville / University of Arkansas at Little Rock / University of Arkansas at Pine Bluff
University of Arkansas for Medical Sciences / University of Arkansas at Monticello / Division of Agriculture / Criminal Justice Institute
Arkansas Archeological Survey / Phillips Community College of the University of Arkansas / University of Arkansas Community College at Hope
University of Arkansas Community College at Batesville / Cossatot Community College of the University of Arkansas
University of Arkansas Community College at Morrilton / University of Arkansas at Fort Smith
University of Arkansas – Pulaski Technical College / University of Arkansas Community College at Rich Mountain
Arkansas School for Mathematics, Sciences and the Arts / University of Arkansas Clinton School of Public Service / University of Arkansas System eVersity

The University of Arkansas is an equal opportunity/affirmative action institution.

Explanation of Revisions to the Proposed Changes to Board Policy 405.4

The following is a summary of the substantive changes to the revised draft of Board Policy 405.4. There are other changes that were made for clarity, grammar or organizational purposes that can be viewed on the document; however, the following generally covers the substantive changes in the new draft.

1. It was discovered that the section regarding notice of termination of tenure track positions was not consistent with a similar provision in Board Policy 405.1 regarding non-reappointment. The section is now 2(B) on the updated draft and provides "not later than" dates for notice of termination of tenure-track faculty members in their first and second year of service and "at least twelve months" notice for termination after the second year of service.
2. Section 3 on Graduate Assistants has been removed from the updated draft and the language has been included in a new draft Board Policy 500.1 *Graduate Assistants: Termination of Appointments*. This change was made in large part because graduate assistants are not considered employees since they are first and foremost students. Because of this, the policy will be included in the Student Affairs section of the policies along with other policies pertaining to graduate assistants. An additional change to the language was made to provide at least sixty days notice for termination for convenience of graduate assistants after concerns were raised that a provision with less notice might negatively impact graduate school recruiting.

TERMINATION OF EMPLOYMENT

The following ~~provisions apply to all campuses of the University of Arkansas and its programs and activities. employment periods are established to govern employment with the University of Arkansas on all of its campuses and in all of its programs and activities.~~

1. Administrative Employees

The President of the University shall serve at the pleasure of the Board of Trustees, unless otherwise provided by contract. The vice presidents, members of the System staff, and the Chancellors or chief executive officers of each campus, division or unit shall serve at the pleasure of the President, unless otherwise provided by contract. Vice chancellors, associate vice chancellors, and assistant vice chancellors shall serve at the pleasure of their appropriate Chancellors ~~or chief executive officer~~, unless otherwise provided by contract. ~~Similarly, a ssociate vice presidents, assistant vice presidents, and department heads shall serve at the pleasure of the Vice President for Agriculture, unless otherwise provided by contract.~~ Persons in such positions are “at-will” employees and may have their employment terminated by the university for convenience at any time or may be dismissed immediately for cause.¹ Although a dismissal for cause may be effective immediately, an administrator may seek review of a for-cause dismissal in accordance with the policies of the campus, division or unit. If no review policy applies, the administrator shall have the opportunity to seek, ~~within five (5) working days of dismissal~~, review of the matter to the chief executive of the campus, division, or unit, or a designee selected by the chief executive, who shall make a final decision on the for-cause termination.

2. Faculty Employees

(A) Faculty members who have been awarded tenure have a right to continuous employment except for a disciplinary suspension, ~~or~~ dismissal for cause (according to the procedures in Section IV., C. of Board Policy No. 405.1) or for termination in the event of demonstrably bona fide financial exigency, reduction or elimination of programs, retirement, ~~or~~ resignation ~~or job abandonment~~.

(B) Faculty members in tenure-track positions² who have not ~~yet~~ been awarded tenure, ~~heretofore or hereafter~~, may be terminated ~~effective~~ at the end of ~~the appointment period~~ ~~a year~~ by a written notice, ~~e~~, given in ~~advanced~~ ~~advance~~, according to the following schedule of ~~time~~: (a) ~~in the first year of his/her employment, no t less~~

¹ ~~When a tenured faculty member is serving in an administrative position as contemplated by this section, only the tenured faculty member’s administrative position is “at-will”.~~

² See definition in Board Policy 405.1.

~~than ninety (90) days before the employment ceases; (b) in the second year of his/her employment, not less than one hundred eighty (180) days before the employment ceases; and (c) not later than twelve months before the expiration of the employment after the employment has continued for two or more consecutive years. "Year" will be either fiscal year (July 1 through June 30 next) or academic year (fall and spring semester of the same fiscal year). For purposes of (c) above, the employment for the last year shall be for an academic or fiscal year according to the employment period previously served by the individual.~~

For the first year of service, not later than March 1, if the appointment expires at the end of that academic year; or at least three months in advance of its termination if the appointment expires at some other time during the year.

For the second year of service, not later than December 15, if the appointment expires at the end of that academic year; or at least six months in advance of its termination if an appointment expires at some other time during the year.

After the second year of service, at least twelve months before the expiration of the terminal appointment. The terminal appointment will be for the academic or fiscal year, according to the appointment last held by the individual.

These termination notice periods are those specified under IV.B., "Non-Reappointment", in Board Policy ~~No.~~ 405.1. In addition to termination as outlined here, these employees may be dismissed for cause, or terminated in the event of demonstrably bona fide financial exigency, reduction or elimination of programs, retirement, ~~or~~ resignation, or job abandonment pursuant to Board Policy ~~No.~~ 405.1.

- (C) Clinical or other non-tenure track faculty who have ~~received~~ received a multi-year term appointment under ~~merit~~-based campus procedures approved by the President, may be terminated upon the expiration of their appointment or under campus procedures for such purpose, or they may be dismissed for cause by written notice of the chief academic officer of the campus, division, or unit, following verbal or written notice and opportunity to respond. Although the dismissal for cause may be effective immediately, the faculty member may, within five (5) working days of dismissal, appeal such termination directly to the Chancellor or chief executive officer of the campus, division or unit, with such decision to be final, or appeal in accordance with the grievance policies of the campus, division or unit. Further, such faculty may be terminated in the event of demonstrably bona fide financial exigency, reduction or elimination of programs, retirement, ~~or~~ resignation or job abandonment. Terminations for bona fide financial exigency, reduction or elimination of programs, retirement, ~~or~~ resignation or job abandonment are not appealable or grievable events.
- (D) Other faculty members and other academic employees in positions for which tenure may not be awarded (part-time faculty in the ranks of assistant professor, associate professor, professor, University professor, and distinguished professor; clinical,

research, teaching adjunct, or visiting faculty; research associates or research assistants; instructors, ~~advanced~~assistant instructors, ~~senior instructor~~, master lecturers and lecturers; ~~a~~executive in residence; professor of practice and faculty in clinical attending positions at the University of Arkansas for Medical Sciences notwithstanding that such faculty may be designated as assistant professor, associate professor or professor) are considered “at will” employees and may be terminated for convenience at any time, or dismissed for cause by written notice by the chief academic officer or other senior designee of the campus, division or unit, following verbal or written notice and opportunity to respond. Although a dismissal for cause may be effective immediately, employees under this section may seek review of a for-cause dismissal in accordance with the review policies of the campus, division or unit. If no review policy applies, these employees shall have the opportunity to seek, within five (5) working days of dismissal, review of the matter to the chief executive of the campus, division, or unit, or a designee selected by the chief executive, who shall make a final decision on the for-cause termination. For appointments through June 30, 2018, termination for convenience is effected by giving written notice at least sixty (60) days in advance of the date the employment is to cease. Thereafter, termination for convenience is effected by giving written notice at least thirty (30) days in advance of the date the employment is to cease.

~~3. Graduate Assistants. Graduate assistants; graduate associates; and teaching assistants (hereinafter collectively referred to as “graduate assistants”) are considered “at will” employees and may be terminated from their appointments at any time for convenience, or dismissed for cause.~~

~~(A) Termination for convenience shall be effected by giving written notice, at least thirty (30) days in advance.~~

~~(B) With respect to dismissal for cause as defined in this policy, dismissal shall be effective immediately upon notification, and no advance notice shall be required, although the graduate assistant may seek post termination review of the action pursuant to the campus grievance procedures for graduate students.~~

~~(C) With respect to other forms of unsatisfactory work performance, graduate assistants shall be given written notice of the possibility of termination, with a statement of actions pertaining to the duties of the assistantship to be taken within a specific time period to achieve satisfactory performance. These expectations must be appropriate to the nature of the appointment. If a graduate assistant so notified does not meet the requirements of satisfactory performance within the time frame specified, the student may be terminated from his or her appointment immediately.~~

~~(D) In the case of grant termination or loss of appropriated funds, termination may be immediate or with reduced notice.~~

~~For purposes of this policy, “graduate assistant” refers to all of those graduate students who are receiving a stipend and/or tuition benefits in exchange for duties associated with~~

~~a University department or unit. These positions may be referred to as graduate associates, graduate assistants, senior graduate assistants, teaching assistants, fellows, or the like.~~

4. Staff Employees-Appointed or Regular Positions

All classified and non-classified staff employees of the university, whether full-time or part-time, who are appointed or hold regular positions, are “at-will” employees and may have their employment terminated by the university for convenience at any time or may be dismissed immediately for cause. In the case of grant termination or loss of appropriated funds, termination may be immediate. Although a dismissal for cause may be effective immediately, a staff member may seek review of a for-cause dismissal in accordance with the review policies of the campus, division or unit. If no review policy applies, the staff member shall have the opportunity to seek, within five (5) working days of dismissal, review of the matter to the chief executive of the campus, division, or unit, or a designee selected by the chief executive, who shall make a final decision on the for-cause termination.

5. ~~All Other Employees and Student Workers (excluding Graduate Assistants)~~

All other employees (for example, temporary and hourly employees who do not hold an appointed or regular position) and student workers (excluding Graduate Assistants, who are addressed in Board of Trustees Policy 500.1) may be terminated at any time without advance written notice. While advance written notice is not required, termination should be communicated to the employees and documented.

~~6..6.~~ Procedure

Each campus, division or unit of the University may establish procedures, which are consistent with any applicable Board Policies, University of Arkansas Systemwide Policies and Procedures, and laws, for processing personnel actions and similar employment-related information for all employees, and for communicating this information to employees.

_____ 20187 (Revised)
September 18, 1998 (Revised)
April 18, 1998 (Revised)
September 16, 1994 (Revised)
March 27, 1989 (Corrected)
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2. Faculty Employees

- (A) Faculty members who have been awarded tenure have a right to continuous employment except for a disciplinary suspension, dismissal for cause (according to the procedures in Section IV., C. of Board Policy No. 405.1) or for termination in the event of demonstrably bona fide financial exigency, reduction or elimination of programs, retirement, resignation or job abandonment.
- (B) Faculty members in tenure-track positions² who have not been awarded tenure, may be terminated at the end of the appointment period by a written notice, given in advance, according to the following schedule of time:

¹ When a tenured faculty member is serving in an administrative position as contemplated by this section, only the tenured faculty member’s administrative position is “at-will”.

² See definition in Board Policy 405.1.

For the first year of service, not later than March 1, if the appointment expires at the end of that academic year; or at least three months in advance of its termination if the appointment expires at some other time during the year.

For the second year of service, not later than December 15, if the appointment expires at the end of that academic year; or at least six months in advance of its termination if an appointment expires at some other time during the year.

After the second year of service, at least twelve months before the expiration of the terminal appointment. The terminal appointment will be for the academic or fiscal year, according to the appointment last held by the individual.

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- (C) Clinical or other non-tenure track faculty who have received a multi-year term appointment under merit-based campus procedures approved by the President, may be terminated upon the expiration of their appointment or under campus procedures for such purpose, or they may be dismissed for cause by written notice of the chief academic officer of the campus, division, or unit, following verbal or written notice and opportunity to respond. Although the dismissal for cause may be effective immediately, the faculty member may, within five (5) working days of dismissal, appeal such termination directly to the Chancellor or chief executive officer of the campus, division or unit, with such decision to be final, or appeal in accordance with the grievance policies of the campus, division or unit. Further, such faculty may be terminated in the event of demonstrably bona fide financial exigency, reduction or elimination of programs, retirement, resignation or job abandonment. Terminations for bona fide financial exigency, reduction or elimination of programs, retirement, resignation or job abandonment are not appealable or grievable events.
- (D) Other faculty members and other academic employees in positions for which tenure may not be awarded (part-time faculty in the ranks of assistant professor, associate professor, professor, University professor, and distinguished professor; clinical, research, teaching adjunct, or visiting faculty; research associates or research assistants; instructors, advanced instructors, senior instructor, master lecturers and lecturers; executive in residence; professor of practice and faculty in clinical attending positions at the University of Arkansas for Medical Sciences notwithstanding that such faculty may be designated as assistant professor, associate professor or professor) are considered "at will" employees and may be terminated for convenience at any time, or dismissed for cause by written notice by the chief academic officer or other senior designee of the campus, division or unit, following verbal or written notice and opportunity to respond. Although a dismissal for cause may be effective immediately, employees under this section may seek review of a

for-cause dismissal in accordance with the review policies of the campus, division or unit. If no review policy applies, these employees shall have the opportunity to seek, within five (5) working days of dismissal, review of the matter to the chief executive of the campus, division, or unit, or a designee selected by the chief executive, who shall make a final decision on the for-cause termination. For appointments through June 30, 2018, termination for convenience is effected by giving written notice at least sixty (60) days in advance of the date the employment is to cease. Thereafter, termination for convenience is effected by giving written notice at least thirty (30) days in advance of the date the employment is to cease.

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All classified and non-classified staff employees of the university, whether full-time or part-time, who are appointed or hold regular positions, are “at-will” employees and may have their employment terminated by the university for convenience at any time or may be dismissed immediately for cause. In the case of grant termination or loss of appropriated funds, termination may be immediate. Although a dismissal for cause may be effective immediately, a staff member may seek review of a for-cause dismissal in accordance with the review policies of the campus, division or unit. If no review policy applies, the staff member shall have the opportunity to seek, within five (5) working days of dismissal, review of the matter to the chief executive of the campus, division, or unit, or a designee selected by the chief executive, who shall make a final decision on the for-cause termination.

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GRADUATE ASSISTANTS: TERMINATION OF APPOINTMENTS

Graduate Assistants.—Graduate assistants,¹ graduate associates,¹ and teaching assistants (hereinafter collectively referred to as “graduate assistants”) assist with University programs and research but are first and foremost students. Subject to the procedures set out below, their appointments may be terminated at any time for convenience, or ~~dismissed~~ for cause, or due to abandonment of the assistantship, or may be terminated following notice for unsatisfactory performance.

- (A) Termination for convenience shall be effected by giving written notice, at least sixtythree (630) days in advance of the end of the appointment.
- (B) With respect to dismissal for cause¹, excluding unsatisfactory work performance as defined in this policy, dismissal shall be effective immediately upon notification, and no advance notice shall be required, although the graduate assistant may seek post-termination review of the action pursuant to the campus grievance procedures for graduate students.
- (C) Termination due to abandonment of the assistantship shall be effective immediately upon notification.
- (DE) With respect to ~~other forms of~~ unsatisfactory work performance, graduate assistants shall be given written notice of the possibility of termination, with a statement of actions pertaining to the duties of the assistantship to be taken within a specific time period to achieve satisfactory performance. These expectations must be appropriate to the nature of the appointment. If a graduate assistant so notified does not meet the requirements of satisfactory performance within the time frame specified, the student may be terminated from his or her appointment immediately.
- (ED) In the case of grant termination or loss of appropriated funds, termination may be immediate or with reduced notice.

For purposes of this policy, expiration of appointment, or non-reappointment, is not a termination. Further, “graduate assistant” refers to all of those graduate students who are receiving a stipend and/or tuition benefits in exchange for duties associated with a University department or unit. These positions may be referred to as graduate associates, graduate assistants, senior graduate assistants, teaching assistants, fellows, or the like.

¹ For purposes of this policy, grounds to terminate the appointment of a graduate assistant for cause include, but are not limited to those examples set out in Board Policy 405.1, which applies to faculty.

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- (A) Termination for convenience shall be effected by giving written notice, at least sixty (60) days in advance of the end of the appointment..
- (B) With respect to dismissal for cause¹, excluding unsatisfactory work performance, dismissal shall be effective immediately upon notification, and no advance notice shall be required, although the graduate assistant may seek post-termination review of the action pursuant to the campus grievance procedures for graduate students.
- (C) Termination due to abandonment of the assistantship shall be effective immediately upon notification.
- (D) With respect to unsatisfactory work performance, graduate assistants shall be given written notice of the possibility of termination, with a statement of actions pertaining to the duties of the assistantship to be taken within a specific time period to achieve satisfactory performance. These expectations must be appropriate to the nature of the appointment. If a graduate assistant so notified does not meet the requirements of satisfactory performance within the time frame specified, the student may be terminated from his or her appointment immediately.
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