

January 20, 2022

Dear Chancellor Drale and President Nolan:

As requested, the Provost and Deans have reviewed the proposed revisions to UA Little Rock Policy 403.3. Although the most up to date version of the revisions was not available, the group used the proposed revisions sent by President Nolan as the working document (sent on November 19, 2021). Attached you will find that document along with edits and comments. This feedback is informed by a commitment to the importance of the annual review process in faculty development, support, and success. The majority of suggestions in the attached document are focused on around these three major areas :

1) Clarity of guidelines for satisfactory/unsatisfactory

The proposed faculty senate legislation is clear in that it recognizes the academic unit as the appropriate body to develop criteria for satisfactory/unsatisfactory performance in each area. There is variability among academic unit governance documents with a need, in many areas, for more clarity and direction for faculty. We support the criticality of governance documents that have objective and clear performance expectations that frame faculty reviews and support faculty success.

The legislation states that if no such academic unit performance criteria exists, then the generic department governance document should be used. This generic governance document, however, does not contain criteria that could be used to evaluate satisfactory/unsatisfactory performance and thus, is not helpful in providing direction.

2) The definition of "Overall Unsatisfactory"

The revisions to this policy define overall unsatisfactory as receiving an unsatisfactory rating in all three categories. However, later in the document, it is stated that "Competency in teaching (or professional performance) is a minimum criterion for satisfactory annual review." This statement is contradictory in that it infers that a faculty member could receive an unsatisfactory rating based solely on the rating in the teaching category. Although we agree that this should in fact be the case, additional modifications need to be made so that the document is consistent.

The definition of overall should be returned to the original proposed definition where unsatisfactory was defined as receiving an unsatisfactory rating in 2 or more categories. Furthermore, we believe this definition should be expanded to include instances where faculty have been rated unsatisfactory in the same category for 2 years in a row. Two years in a row of an unsatisfactory rating in teaching would enable support for faculty improvement and would assist in maintaining educational quality.

Finally, this document is inconsistent with board policy in that it stipulates that a faculty member must receive two additional unsatisfactory ratings in order for dismissal to be

initiated. 405.1 V.A. 9 ..."If, in the next annual review following an overall dissatisfaction performance rating, the faculty fails either to attain an overall satisfactory performance rating or to demonstrate meaningful progress in remediating the overall performance deficiencies, the faculty member may be issued a notice of dismissal on twelve months/ notice as provided for in this policy, and subject to the procedures contained in Section IV.C “.

3) Appeal

The policy in multiple places interjects a process for appeal that is not provided in the board policy. In the section titled “Overall Unsatisfactory Rating for a Tenured Faculty Member and Post-tenure Review”, there is a statement indicating that faculty have a right to appeal an overall unsatisfactory review to the Faculty Appeals Committee. Board policy does not provide a route for faculty to appeal an annual evaluation. If an annual evaluation led to a decision to dismiss during post-tenure review, the faculty member could appeal the dismissal to the Faculty Appeals Committee but not the evaluation.

Ann B. Bain, Executive Vice Chancellor and Provost

Terri Beiner, Dean, Law School

Brian Berry, Dean, Graduate School

Frank Braun, Dean, College of Business, Health and Human Services

Sara Beth Estes, Dean, College of Humanities, Arts, Social Sciences, and Education

Lawrence Whitman, Dean, Donaghey College of Science, Technology, Engineering, and Mathematics

Be it resolved to modify Annual Review policy (403.3) Section I.6.e-f, and Section I.9-11 as indicated below (underline indicates addition; strikethrough indicates deletion), and **Be it further resolved** that the implementation date for these changes to policy will begin in Spring 2023.

Section I. Annual Faculty Review

Pursuant to ACA 6-63-104, an annual review of the performance of all full time faculty members shall be made on the basis of assigned duties and according to criteria and procedures required herein.

It is the responsibility of the department chair to review the performance of adjunct faculty, visiting faculty, and lecturers according to requirements and guidelines established by the voting faculty as provided in the department's approved governance document.

The annual review of each faculty member shall provide the primary basis for the chairperson's recommendations relating to salary, promotion, granting of tenure, successive appointment, reappointment, post-tenure review, and dismissal. Furthermore, this review is to provide guidance and assistance to all faculty in their professional development and academic responsibilities in the areas of teaching, scholarly and creative activity, and service.

Commented [1]: replace chair and chairperson with the phrase, "Chairperson or equivalent" throughout the document.

Commented [2]: Existing governance documents would need a review to determine if adjunct, visiting, and lectures are consistently reflected in the documents

Commented [3]: This excludes the board policy introductory sentence that states "Provided the faculty member is in substantial compliance with applicable university policies and legal requirements the....."

A. Procedures for Annual Faculty Evaluation

Detailed criteria and procedures for annual evaluation of faculty shall be recommended by the faculty and chairperson of each academic unit; these criteria and related procedures must be submitted to the dean or director, the Vice Chancellor and Provost, and the Chancellor for approval. All procedures for annual reviews adopted by each unit shall include provision for, and details for implementation of, the following:

1. No later than 30 days after the beginning of the first appointment of each faculty member, the chairperson shall advise him or her in writing of the criteria, procedures, and instruments currently used to assess performance;
2. No later than September 1 of each year, each faculty member shall be informed in writing by the chairperson of the review schedule, criteria, procedures, and instruments to be used that year;
3. No later than the second week of classes in the spring semester of each year, each faculty member shall submit to the chairperson any materials desired to be considered in the annual review;
4. Each academic unit shall establish procedures to provide its faculty the opportunity to participate in the annual review of their peers. Except as set forth in this policy, no particular

system¹ of peer review is prescribed. Academic units are encouraged to develop a peer review system that is consistent with the unit's faculty resources, the particular expertise of the unit's faculty members, and practices within the discipline.

- a. Feedback from the peer review process will be provided to the chairperson and the faculty member that is the subject of the review regarding the performance of those reviewed².
 - b. If an academic unit forms a peer review committee, the following principles govern:
 - i. Membership eligibility for peer review committees shall be defined by each academic unit. As much as possible, the composition of these committees should represent the diversity of faculty within the unit.
 - ii. The unit's governance document shall include procedures for developing a pool of eligible faculty if a committee from within the unit cannot be formed.
5. Each academic unit shall establish procedures for student evaluation of teaching. The purpose of student evaluation of teaching is to provide students with a voice in curriculum development and implementation and will be one component of teaching evaluation.
- a. Student evaluations of teaching may not be the sole basis for evaluation of teaching.
 - b. The items included in the instrument administered to students to evaluate teaching must be approved by the department, college, or university faculty.
 - c. The data resulting from a faculty member's student evaluation of teaching must be made available to that faculty member in a timely manner and are confidential. These data may only be made available to those involved in performance evaluation (~~faculty member, chairperson, peer evaluation committee, promotion and tenure committee~~).
6. Prior to the chairperson's making a final recommendation in any year, the following shall occur:
- a. A meeting between the chairperson and faculty member to discuss all issues relating to the review, In the case of a tenured faculty member who has a satisfactory performance evaluation, a faculty member can waive the meeting requirement.
 - b. ~~The providing to The~~that faculty member is provided a copy of the chairperson's tentative recommendation(s), and

Commented [4]: this is covered in a footnote in board policy - "Footnote 14, 405.1 In the case of a tenured faculty member who has a satisfactory performance evaluation, a faculty member can waive the meeting requirement."

¹ Solely by way of illustration, a unit might choose to create a separate peer review committee. Alternatively, a unit might allocate the peer review process to the unit's promotion and tenure committee. A unit might also decide to have all full-time faculty participate in the peer review process for members of that unit.

² This feedback may take the form of a rating of satisfactory/unsatisfactory on teaching, scholarship and creative activity, and service, or it may take some other form, such as feedback regarding specific performance tasks. Examples of the latter include a review of a published article or a review of a peer's teaching based upon a classroom visit.

- c. Reasonable opportunity for the faculty member to is informed that they may submit a written response to be forwarded to each subsequent level of review within five ten business days of the meeting in 6.b.
- a. d) If the faculty member receives an unsatisfactory rating in any category (teaching, scholarly and creative activity, or service), the chairperson shall provide a written recommendation for improvement and, when appropriate, a commitment of resources to be part of the subsequent year's annual evaluation.
- b. e) The faculty member and chairperson shall acknowledge that this meeting has transpired by signature.
- a. f) If the faculty member believes that an evaluation or recommendation resulting from annual review violates their rights under established university policy, may submit a written appeal to the dean. This written appeal may request consideration of the evaluation by the dean, based on specific, articulated concerns. The dean shall make the final determination on the annual review.
 - g.—If a faculty member objects within 30 days of receiving the chairperson's final evaluation of unsatisfactory in a single category, then the chairperson's evaluation shall be sent to departmental tenure committee. The departmental tenure committee shall make an evaluation independent of the chairperson for that category.
 - h.—If the chairperson evaluates the individual as unsatisfactory in 2 out of 3 categories, then the matter is referred to the departmental tenure committee who will review the previous three years' materials to assess overall performance as specified in 11.
 - i.—The evaluations of both the chairperson and the tenure committee shall be sent to the next level if the chair finds the faculty member unsatisfactory in one or more categories.

Commented [5]: Faculty Success will allow this digitally.

Commented [6]: Board policy only provides the right to appeal under specified circumstances (salary, tenure and promotion, and dismissal) and not for annual review.

Commented [7]: 4. Section 1.A.9. This section requires that each academic unit establish its own minimum criteria for satisfactory performance in each category. This language is reliant on clear and consistent governance documents that guide faculty performance through clearly documented expectations. Currently there is variability among units' governance documents across campus.

5. Section 1.A.9. This section states that if any academic unit does not have approved minimum criteria for satisfactory performance in each category, "the criteria defined in the generic department governance document shall be used." The Generic Departmental Governance Document approved by the Faculty Senate at the August 26, 2011, meeting that is posted on the UA Little Rock Faculty Governance Committee website, does not include any evaluation criteria. The document stipulates that a department's personnel committee "shall coordinate and review the development of detailed criteria and procedures for annual evaluation of faculty and submit them to the Assembly for consideration" (25).

Commented [8]: Check use of "peer review" and "annual review committee" within the document

Commented [9]: This change in section heading is inconsistent with board policy in that it inadvertently defines overall unsatisfactory for only tenured faculty members while the board policy clearly refers to both tenure track and tenured. This could be addressed with a change in the section heading and then a clarification in b) to state that "If there is a determination of overall unsatisfactory for a tenured faculty member, then post-tenure review (section II) will be initiated."

7. As long as a faculty member is employed by the University and for at least three years thereafter, the following documents shall be maintained: annual review forms, summaries of annual discussion between the chairperson and faculty member, recommendations, and all other writings used in or resulting from the annual reviews of that faculty member;

8. The following documents shall be available to each faculty member: all writings used in or resulting from the annual reviews of that faculty member including any writings relating to the peer evaluation.

9. Each academic unit shall establish minimum criteria for satisfactory performance in each category (teaching, scholarly and creative activity, service). If an academic unit does not have approved criteria, the criteria defined in the generic department governance document shall be used.

10. The chairperson shall provide at a minimum a rating of satisfactory/unsatisfactory on teaching, scholarly and creative activity, and service. The chairperson shall consider the annual review committee's evaluation when assessing annual performance.

1. Overall Unsatisfactory Rating for a Tenured Faculty Member and Post-tenure Review

a. ~~“Overall unsatisfactory performance” occurs when a faculty member’s annual performance is evaluated as unsatisfactory in teaching, scholarship and creative works, and service according to the academic unit’s criteria (section A.9). Before making a determination of overall unsatisfactory, the chairperson must take into consideration the faculty member’s assigned workload and evidence of relevant, documented efforts and outcomes within the context of that workload.~~

Commented [10]: Overall unsatisfactory performance occurs when a faculty member’s annual performance is evaluated as unsatisfactory in teaching, scholarship and creative works, or service in two or more categories (or unsatisfactory in one category two years in a row).

a. ~~The faculty member receiving an overall unsatisfactory rating may submit a written appeal to the Faculty Appeals Council following the process defined in the Promotion and Tenure Policy (403.15).~~

Commented [11]: “Board policy only provides the right to appeal under specified circumstances (salary, tenure and promotion, and dismissal) and not for annual review.”

a. ~~If there is a determination of overall unsatisfactory performance, then post-tenure review (section II) will be initiated for tenured faculty.~~

b. ~~If the faculty member is not rated overall unsatisfactory, then the faculty member is overall satisfactory.~~

a. ~~If the chairperson evaluates the individual as unsatisfactory in 2 out of 3 categories, then the matter is referred to the departmental tenure committee who will review the previous three years’ materials to assess overall performance.~~

b. ~~If the departmental tenure committee determines the individual is overall unsatisfactory, then post-tenure review (section II) will be initiated. If the department tenure committee does not determine that the faculty member’s overall performance is unsatisfactory, then the faculty member’s overall performance shall be deemed satisfactory.~~

c. ~~To determine that an individual is overall unsatisfactory, the departmental tenure committee must, at minimum, determine that the individual was unsatisfactory in 2 out of 3 categories in two consecutive years or in 3 out of the 3 categories in one year.~~

d. ~~If a faculty member objects within 30 days of receiving the chairperson’s final evaluation of unsatisfactory in a single category, then the chairperson’s evaluation shall be sent to may be appealed to the departmental tenure committee. If the departmental tenure committee shall make an evaluation independent of the chairperson for that category. The evaluations of both the chairperson and the tenure committee shall be sent to the next level. For a category evaluation to serve as a basis for a finding of overall unsatisfactory performance, the chairperson and the tenure committee must agree with respect to that category.~~ does not determine that the faculty member’s performance in the category is unsatisfactory, then the faculty member’s performance in that category shall be deemed satisfactory.

e. ~~For a departmental tenure committee to determine that an individual’s performance in any category is unsatisfactory, a minimum of sixty percent of the committee must vote in favor of a finding of unsatisfactory performance in that category.~~

f. ~~The unit’s operating procedures shall specify the scope of materials for review, the voting procedures, and the method of voting.~~

B. Criteria for Faculty Evaluation

Each faculty member shall render service to the University by the standards of the UALR Faculty Handbook and shall behave in a professional and ethical manner. Each faculty member

shall be evaluated based on his or her achievements with respect to assigned duties and the areas of teaching (or professional performance for faculty members with non-teaching appointments), scholarly or creative activity, and academically-related service.

Competency in teaching (or professional performance) is a minimum criterion for satisfactory annual review. However, each unit (department) may allow flexibility in identifying the relative importance of each area. In addition, off-campus duty assignments, and research, and administrative assignments shall be taken into account when establishing individual criteria for a specific review period.

Commented [12]: "Competency in teaching (or professional performance) is a minimum criterion for satisfactory annual review." What does "professional performance" mean in this statement? Can it stand in place of teaching? This statement also contradicts the consideration above that an "overall unsatisfactory" evaluation requires that a faculty member be deemed unsatisfactory in all three areas. If competency in teaching is a minimum criterion for satisfactory annual review, it follows that an unsatisfactory in teaching would trigger an overall unsatisfactory performance.

The programmatic learning outcomes data collected from an individual faculty member shall not be used in annual reviews for that person. Evidence, qualifying activities, and artifacts to be used in evaluating teaching, scholarly or creative activity, and service are defined in the Promotion and Tenure policy (403.15).

II. Post-Tenure Review

Post-tenure review is a mechanism to ensure that the university can maintain a faculty capable of fulfilling the university's mission effectively. It should encourage productivity, reward exceptional performance, and offer correction of unsatisfactory performance without changing the rights of faculty as enumerated in the current UA Little Rock Faculty Handbook.

Commented [13]: The first paragraph refers to "the rights of faculty as enumerated in the current UA Little Rock Faculty Handbook." Where in the handbook are these rights specifically enumerated?

Annual review is conducted for all faculty. Criteria, standards and procedures are specified in policies set forth by the trustees, UALR administration, faculty senate, and academic units. The reviews, as provided for in section I of this policy, are used for determining salary increases, promotion, tenure, and assisting faculty in professional development. Faculty also have appeal processes as outlined in departmental governance documents and the UA Little Rock Faculty Handbook.

Annual reviews for tenured faculty will be used for post-tenure review. Academic units will define criteria for overall unsatisfactory performance for tenured faculty. If a tenured faculty member receives two unsatisfactory reviews in sequence or three such reviews in five years, If the faculty member is determined to be overall unsatisfactory (see section I. A. 11), the departmental group charged with peer review, the chair and the dean shall prepare a professional development plan supported by appropriate resources. The plan should must be developed within a reasonable time frame 30 days (recommended 30 days) of the final overall evaluation of overall unsatisfactory and must contain measurable objective benchmarks identifying what is necessary to attain meaningful progress and, separately, satisfactory performance. The plan shall cover up to three years with the possibility of a one-year extension. During the time period of the professional development plan, progress toward successful completion of the plan will become part of the annual review process for the faculty member.

Commented [14]: Per 405.1 V A 9 policy: if in the next annual review following an overall unsatisfactory performance rating, the faculty member fails either to attain an overall satisfactory performance rating or to demonstrate meaningful progress in remediating the overall performance deficiencies, the faculty member may be issued a notice of dismissal on twelve months' notice as provided for in this policy, and subject to the procedures contained in UA Board Policy 405.1.IV.C.

Commented [15]: "Academic units will define criteria for overall unsatisfactory performance for tenured faculty." Does this document define overall unsatisfactory, or does the academic unit?

~~If the faculty member receives two additional unsatisfactory reviews during the professional development plan period, the department chairperson with majority vote of the departmental group charged with peer review, and the dean, initiates the process for terminating with cause the tenured faculty member as specified in the UA Little Rock Faculty Handbook. This decision may be appealed to the Faculty Appeals Council, as set forth in the UA Little Rock constitution.~~

Commentary:

System Counsel, on behalf of the System President, recommended rejection of FS_2021_12 on several grounds related to the determination of overall unsatisfactory performance. In particular, section 11 was deemed to over-ride the chair's evaluation by the faculty of the department.

ACA-6-63-104 specifies the requirement and conditions where faculty must undergo Annual Review, as well as the purpose of this review:

(a) The president and chancellor of each state-supported institution of higher education in Arkansas shall work with the campus faculties to develop a framework to review faculty performance, including post-tenure review. The framework should be used to develop processes and procedures at each institution to ensure a consistently high level of performance of the faculty at Arkansas' publicly supported institutions of higher education. The effects of the review process of faculty performance should include rewarding productive faculty, redirecting faculty efforts to improve or to increase productivity, and correcting instances of substandard performance. The framework developed by each institution shall be reported to the House Committee on Education and the Senate Committee on Education, the Joint Interim Oversight Committee on Education Reform, and the Department of Higher Education no later than December 1, 1998, and shall be implemented on the respective campuses no later than January 1, 2001.

(b) Pursuant to subsection (a) of this section, each state-supported institution of higher education in Arkansas shall conduct a rigorous, consistently applied, annual review of the performance of all full-time faculty members. This review shall include assessments by peers, students, and administrators and shall be utilized to ensure a consistently high level of performance and serve in conjunction with other appropriate information as a basis for decisions on promotion, salary increases, and job tenure. The evaluation by students and administrative staff, shall be applicable to all teaching faculty, full-time, part-time, and graduate teaching assistants and shall include an assessment of the fluency in English of the faculty member or graduate teaching assistant. This review shall not be used to demote a tenured faculty member to a nontenured status.

(c)(1) Each college and university shall continually make efforts to identify any English fluency deficiencies of the teaching faculty and shall take reasonable measures to assist deficient faculty members in becoming proficient in English; however, the responsibility of acquiring the level of English proficiency required for the faculty member's teaching, research, or service assignments rests with the faculty member.

(2) Each college and university shall have a process for addressing concerns raised by students concerning language proficiency problems of faculty members.

(d) The department shall be responsible for monitoring the evaluation process and shall report its findings to the Arkansas Higher Education Coordinating Board and to the Legislative Council by August 1 of each year.

(e) Each state-supported institution of higher education shall require full-time faculty members of the college of education and related disciplines to work collaboratively with the accredited public schools in this state, and such faculty involvement shall be included as part of the annual review of the faculty as required by subsection (b) of this section.

In particular, the goal of the review "... should include rewarding productive faculty, redirecting faculty efforts to improve or to increase productivity, and correcting instances of substandard performance." The law further states that "This review shall not be used to demote a tenured faculty member to a nontenured status." In UA Little Rock policy prior to the revisions to Board Policy 405.1, the process of annual review could initiate an improvement plan in post-tenure review, the results of which could transition a faculty member from tenured status to untenured status (dismissed from the university).

The revisions proposed in this motion amend existing policy (including policy that counsel and chancellor have expressed uncertainty regarding the state of approval), to bring policy in line with State Law, Board Policy, and the UA Little Rock constitution.

The UA Little Rock faculty senate proposes wording adapted from the UA Fayetteville approved policy to respond to System counsel's stated concerns:

III. B. Annual Review for All Faculty at the Rank of Assistant Professor and Above

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13, Except for non-reappointment, dismissal, tenure, or promotion decisions, a faculty member claiming that an evaluation or recommendation resulting from the annual review process violates their rights under established University personnel regulations, policies, or practices, has recourse through written appeal to the dean. This written appeal may request reconsideration of the evaluation by the dean, based on specific, articulated concerns. The dean shall make the final determination on the annual review. For non-reappointment, dismissal, tenure, or promotion decisions, other University policies and procedures are applicable.

The overall unsatisfactory rating resulting from post-tenure review that leads to dismissal may be appealed to the Faculty Appeals Council, per the UA Little Rock constitution:

"All appeals and grievances involving faculty are made to the Faculty Appeals Council. This includes but is not limited to appeals and grievances about dismissal, tenure, promotion, salary, fringe benefits, working conditions, and discrimination based upon race, sex, or physical handicap."