

may take into account the length and quality of service of the faculty member in determining what (if any) payments will be made beyond the effective date of dismissal.

Administrative Personnel with Academic Rank

Administrative personnel who hold academic rank are subject to the regulations in this *Francis Marion University Faculty Handbook* in their capacity as faculty members and shall also have available, with reference to the termination of their appointments as administrators, the rights conferred in Procedures for Hearing Grievances Related to Academic Freedom and Tenure, Category 7.

Voluntary Resignation by a Faculty Member

If a member of the faculty desires to resign from an existing appointment or to decline a renewal, in the absence of notice of termination or non-renewal, he or she shall give notice not less than three months, if his or her rank is instructor or assistant professor, and not less than four months, if his or her rank is higher, before the end of his or her duties during an academic year, exclusive of a summer session.

Procedures for Hearing Grievances Related to Academic Freedom and Tenure, as well as Cases Involving Dismissal for Cause

Committees for Hearing Grievances Related to Academic Freedom and Tenure

A. Academic Freedom and Tenure Grievance Committee

The Francis Marion University faculty has established and maintains an Academic Freedom and Tenure Grievance Committee consisting of six elected members, elected from the General Faculty for terms of three years. All members of the Academic Freedom and Tenure Grievance Committee shall have tenure. The committee shall elect the chair. No member of the Academic Freedom and Tenure Grievance Committee shall serve at the same time on the Faculty Grievance Committee, the Mediation Committee, or a School/College-wide or University-wide promotion or tenure committee. The Academic Freedom and Tenure Grievance Committee shall serve as a tribunal for conducting hearings as provided in the committee procedures below.

The Academic Freedom and Tenure Grievance Committee generally hears complaints from seven categories of faculty: (1) faculty who have received notification from the institution that proceedings have been initiated to dismiss them for cause, (2) tenured faculty who have received notification from the institution that proceedings have been initiated to dismiss them on grounds of financial exigency, (3) faculty who believe their nonreappointment is a violation of their academic freedom, (4) faculty who believe they have been terminated unfairly because of discontinuance of a program or department not mandated by financial exigency, (5) faculty who believe they have been terminated unfairly for medical reasons, (6) faculty who believe they have been victims of

discrimination in nonreappointment, and (7) faculty who have not been terminated but who believe that their academic freedom has been abridged. The complaints of non-tenured faculty whose terms have not expired and whose academic freedom is not at issue are more properly heard by the Faculty Grievance Committee, since neither issues of academic freedom nor of tenure are involved. In cases that do not fall clearly into one of the categories above, the Academic Freedom and Tenure Grievance Committee shall convene to determine if it has jurisdiction over the complaint.

B. Mediation Committee

The faculty provides also for a Mediation Committee designed to reduce the likelihood of the need for formal hearings. The Mediation Committee is informal in its deliberations but formal in its non-binding response to the Academic Freedom and Tenure Grievance Committee. The Mediation Committee shall consist of four elected faculty members, elected from the General Faculty for three-year terms. All members of the Mediation Committee shall have tenure. The committee shall elect the chair. No member of the Mediation Committee shall serve at the same time on the Academic Freedom and Tenure Grievance Committee, the Faculty Grievance Committee, or a School/College-wide or University-wide promotion or tenure committee. The Mediation Committee shall, when asked by the Academic Freedom and Tenure Grievance Committee, inquire into circumstances associated with revocation of tenure or abridgement of academic freedom to determine if a solution can be effected by mediation. The Mediation Committee makes its recommendations to the Academic Freedom and Tenure Grievance Committee.

Preliminary Procedures

When questions about the fitness of a faculty member, the termination of a faculty member, or the abridgment of a faculty member's academic freedom arise, the faculty member should discuss the circumstances of the case with the appropriate administrative officers. At this point the matter may be adjusted by mutual consent. However, if adjustment is not achieved, the faculty member may submit an appeal in writing to the Academic Freedom and Tenure Grievance Committee. Once the Academic Freedom and Tenure Grievance Committee has determined that the case is within its jurisdiction, it shall immediately ask the Mediation Committee to inquire informally into the situation in order to attempt to effect a resolution. If such resolution cannot be achieved, the Mediation Committee will submit a non-binding recommendation to the Academic Freedom and Tenure Grievance Committee, and the faculty member will have the right to a full hearing before the Academic Freedom and Tenure Grievance Committee.

Formal Hearing Procedures

1. In cases in which informal resolution cannot be achieved, the President of the University or an appointed representative shall revise or reaffirm the statement of reasons for dismissal.

2. Formal proceedings before the Academic Freedom and Tenure Grievance Committee may be instituted by either the President of the University or the faculty member involved through consultation with the Chair of the Faculty.
3. Service of notice of hearing with specific charges in writing will be made by the Provost at least twenty days prior to the hearing. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause (in cases of dismissal for cause) or contests the institution's actions to dismiss him or her (in cases of dismissal for reasons other than cause), the Academic Freedom and Tenure Grievance Committee will evaluate all available evidence and rest its recommendation upon the evidence of the record. The faculty member will supply at his or her own expense a copy of his or her complaint and all written evidence to each member of the committee and to each party to the complaint, as well as an additional copy for the University's records.
4. The committee, in consultation with the President and the faculty member, will exercise its judgment as to whether the hearing should be public or private.
5. During the proceedings the faculty member will be permitted to have an academic advisor of his or her choice, who may act as counsel.
6. At the request of either party or the hearing committee, a representative of a responsible educational association will be permitted to attend the proceedings as an observer.
7. A verbatim record of the hearing or hearings will be taken and a typewritten copy will be made available to the faculty member without cost, at the faculty member's request.
8. The hearing committee will grant adjournments to enable either party to investigate evidence about which a valid claim of surprise is made.
9. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration and school or department involved will cooperate with the hearing committee in securing witnesses and making available documentary and other evidence. The faculty member and the adversary will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the hearing committee determines that the interests of justice require admission of their statements, the hearing committee will identify the witnesses, disclose their statements, and if possible provide for interrogatories.
10. In the hearing of charges of incompetence, the testimony will include that of qualified faculty members from this or other institutions of higher education.
11. 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.
12. The findings of fact and the decision will be based solely on the hearing record.
13. At the end of these proceedings, the Academic Freedom and Tenure Grievance Committee shall make a written recommendation on the disposition of the case to the administration. If the Academic Freedom and Tenure Grievance Committee concludes that adequate cause for dismissal or non-reappointment has not been established by the evidence in the record, it will so report to the President. If the Academic Freedom and Tenure Grievance Committee concludes that adequate cause for a dismissal has been

established but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons. If the President rejects the report, the President will state the reasons for doing so, in writing, to the Academic Freedom and Tenure Grievance Committee and to the faculty member and provide an opportunity for response before transmitting the case to the Board of Trustees. Within 30 days of final action by the administration a petition for review of the dismissal or non-reappointment decision can be made in writing to the Board of Trustees. This petition must fully state all grounds of appeal.

1. Procedures for Cases in Category 1: Faculty Who Have Received Notification from the Institution that Proceedings Have Been Initiated to Dismiss Them for Cause

In cases involving termination for cause, the burden of proof that adequate cause for dismissal exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.

In cases involving termination for cause, a faculty member who has been notified by the Provost that proceedings have been initiated to dismiss him or her for cause should first seek informal redress of grievances according to the "Preliminary Procedures" above. Following that process, "Formal Hearing Procedures" may be followed if necessary.

2. Procedures for Cases in Category 2: Faculty Who Have Received Notification from the Institution that Proceedings Have Been Initiated to Dismiss Them on Grounds of Financial Exigency

In cases of termination because of financial exigency, termination of an appointment with continuous tenure or of a probationary appointment before the end of the specified term may occur under extraordinary circumstances resulting from a demonstrably bona fide financial exigency, i.e., an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.

The burden will rest on the administration to prove the existence and extent of a condition of financial exigency. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced. The faculty shall participate in the decision that a condition of financial exigency exists or is imminent and that all feasible alternatives to termination of appointments have been pursued. Judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary responsibility of the faculty or of an appropriate faculty body. The faculty shall also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. The responsibility for identifying individuals whose appointments are to be