



BOISE STATE UNIVERSITY

University Policy 4550

Reduction-In-Force Appeal Procedure Tenured/NonTenured Faculty

Effective Date

July 1981

Last Revision Date

July 1999

Scope and Audience

This policy applies to all tenured and non-tenured faculty.

1. Policy Statement

Full-time faculty members who are recommended for layoff due to implementation of the Staff Reduction Procedures of the Idaho State Board of Education (hereinafter cited as the Board) shall be entitled to a prompt hearing if they request the same in writing within 15 calendar days of certified receipt of notification. Tenured faculty shall have the right to appeal in writing, if they have not exercised the option provided according to the guidelines established in Section 261 of the Personnel Rules of the State Board of Education (08.01.02). The purpose of the appeal procedure is to evaluate whether the established and approved procedures were followed and appropriate criteria applied in arriving at the decision to lay off a faculty member.

2. Responsibilities and Procedures

The intent of the appeal procedure is to resolve an appeal at the earliest possible moment. Therefore, any faculty member who intends to initiate an appeal may review the issue with his/her department chairperson, the dean of the college, and the Provost and Vice President for Academic Affairs (hereinafter cited as the Provost) on an informal basis. A faculty member may

choose to bypass the informal review steps and file a formal appeal with the Provost who will transmit the appeal to the Appeals Council.

At each informal step, the following guidelines apply:

- The specific appeal must be in writing.
- If it is determined informally that an error was made in following procedures or applying criteria in arriving at the decision to lay off the appellant, a corrective recommendation shall be made to the President of the university.

2.1 Step 1

The appellant states the complaint in writing to his or her direct supervisor. The supervisor (normally department head or director) or his/her designee shall meet with the appellant and explain the criteria applied and the procedure followed in arriving at the decision to lay off the appellant.

2.2 Step 2

The appellant may write to the next appropriate supervisor (normally dean or director) again citing the complaint. Included with the letter should be copies of previous correspondence. This supervisor or his/her designee shall meet with the appellant and explain the criteria applied and the procedure followed in arriving at the decision to lay off the appellant.

2.3 Appeals Council

Any faculty member who has received notice of layoff under the State Board Staff Reduction Procedure may file a formal appeal within 15 days of certified receipt of such notice, by transmitting the appeal in writing to the Provost. Copies of all correspondence should accompany the appeal. The Provost shall transmit the appeal documents to the Appeals Council.

The members of the Appeals Council shall make themselves acquainted with the facts of the appeal and shall meet with the appellant and shall recommend as to whether the established and approved procedures were followed and appropriate criteria applied in arriving at the decision to lay off the faculty member lodging the appeal.

Within five working days after the conclusion of the hearing, the Appeals Council will forward to the President of the University a report of its recommendations. The President will render a decision on the appeal and within ten working days after receiving that report, shall notify by certified mail the faculty member and the Chairperson of the Appeals Council of the final

decision. The President's decision may be appealed to the Board subject to its policies and procedures. The seven-member Appeals Council will be established in accordance with the following regulations:

- a. The Appeals Council shall be established within 20 calendar days after the announcement that the reduction in force is to be initiated.
- b. The elected members of the Faculty Senate will appoint three members from the full-time faculty. In no instance shall a faculty member who has received notice of layoff serve on the Appeals Council.
- c. The President of the University will appoint three members from the combined administrative faculty and staff. In no instance shall an employee who has received notice of layoff serve on the Appeals Council.
- d. The six appointees shall select a seventh person to complete the membership of the Council.
- e. Any person who participated in the decision to recommend the layoff of any employee shall not be appointed or elected to serve on the Appeals Council.
- f. The Appeals Council shall, by secret ballot, elect one of its members as the Chairperson, who will be responsible for conducting all the business of the Council, including submission of a written recommendation to the President.

2.4 Appeals Council Procedural Standards

It is the intent of the appeals process that formal adjudicative procedures not be required but that the following minimal standards be adhered to:

- a. The hearing must focus on the issues contained in the filed written appeal.
- b. Tape recordings shall be made of each hearing session, and upon written request the appellant may obtain duplicate copies.
- c. The Chairperson shall keep summary notes of the hearing.
- d. The written appeal and subsequent information presented by the appellant shall be made a part of the summary notes.

- e. An appellant shall be afforded adequate opportunity to appear before the hearing body and discuss the issues contained in the written appeal.
- f. Witnesses may be asked to appear before the hearing body by the appellant or by the hearing body chairperson and asked to give testimony that is material and directly relevant to the layoff decision.
- g. An appellant may have an advisor of his/her choice who may discuss the written appeal filed by the appellant. Cross-examination of any witness shall not be permitted.
- h. The hearing body and the appellant shall be afforded access to appropriate documentation that was used in reaching a layoff decision.
- i. It shall be the responsibility of the appellant to present to the hearing body appropriate information to convince the hearing body that the layoff decision cannot be supported.
- j. The Appeals Council shall have the power to establish its own procedural rules subject to the limitations imposed by 1-9 above.

An appellant must be afforded the opportunity to show that the decision to lay off was based upon a constitutionally impermissible reason; in that event the following procedure must be followed:

For those employees, other than classified employees, who file a written appeal and allege that the layoff decision was based on the appellant's exercise of rights guaranteed by the Constitution of the State of Idaho or the United States, the hearing body shall not continue to conduct a hearing. The written appeal and relevant information shall be immediately transmitted to the Board's Executive Director who shall bring the matter to the attention of the Board at a regular or special meeting of the Board for appropriate action. Such appeal allegations shall be heard under procedures established by the Board. The burden of proof is upon the appellant to establish at such a hearing that the layoff decision was based on his/her exercise of rights guaranteed by the Constitution of the State of Idaho or the United States.

Revision History

July 1999