

Mid-Atlantic Christian University Academic Affairs Policy #22

SUBJECT: Separation from Employment

DATE: January 2008

REVISED: 02/13/2013, 2/2020

NEXT SCHEDULED REVIEW: The President's Leadership Team will review this policy in February of even numbered years or whenever the Faculty Handbook is being reviewed, and will make revisions as appropriate.

APPROVED BY BOARD OF TRUSTEES: May 2020

Policy for: President, Vice President for Academic Affairs, and Faculty

Procedure for: President, Vice President for Academic Affairs, and Faculty

Authorized by: Vice President for Academic Affairs

Issued by: Board of Trustees

I. Purpose

This policy deals with the policies and procedures of separation from the University.

II. Policy

A. RESIGNATION

A faculty member who intends not to continue a relationship with the University should give the University notice by March 1 for a contract beginning July 1 and September 1 for a contract beginning January 1 to enable the University to follow responsible procedures in staffing the position. It is considered a breach of professional ethics and of contractual obligation to give the University less notice. Unless otherwise negotiated in individual cases, resignation will be effective at the end of the academic year.

In consideration of the time required for responsible staffing procedures by the University to replace a faculty member who chooses not to return, it is considered a breach of professional ethics for a faculty member to give notice of intent not to return if such notice is given more than ten days from receiving the contract.

B. RETIREMENT

The University recognizes the right of each faculty member to choose the age for retirement.

The University wishes to recognize the considerable service rendered to the University by faculty who are now retired. Although in individual cases the retired faculty member might not be interested in a continuing formal relationship with the University, the University recognizes that in many cases, teaching, and other service to the University on a part-time basis may be to the advantage of both the University and the individual. Such service is not for a period longer than a semester at a time or, in some cases, an academic year.

Retired faculty, regardless of whether any service is currently being rendered to the University, have the privilege of using the Library, the Gym, and attending University professional and social functions. Retired faculty with Emeritus Status extends the additional privileges of listing in the University catalog, entitlement to participate with the faculty in all-University events (e.g., Commencement, Baccalaureate, Convocation), and attend faculty meetings, where they may discuss agenda issues but do not retain voting privileges. If available, Emeritus faculty may also be given office space. Faculty members who resign prior to retirement are not accorded these privileges except by specific permission.

C. NON-REAPPOINTMENT OF FACULTY

Renewal or non-renewal of faculty is recommended annually to the President by the Department Chair and the Vice President for Academic Affairs. The President's decision to renew or not renew is final. Notice of non-renewal is given to the first-year faculty member no later than April 1 of the preceding academic year, other faculty members no later than March 1 of the preceding academic year.

If notice is given for non-renewal after the listed dates, the faculty member will be given extended employment (or salary at the discretion of the University) for a period equivalent to the time by which the notice is deficient.

Faculty can be terminated as set forth in Academic Affairs Policy #21. The steps for such termination are outlined below.

D. DUE PROCESS

Faculty members may request due process whenever the University decides to terminate the employee before the end of the employee's contract. The following general principles apply:

1. All disagreements are resolved at the lowest level possible, and attempts are made to resolve them informally by the Department Chair and then the VPAA before formal proceedings are begun.
2. Due process shall consist of at least the following procedural rights: the right to receive a written statement of charges or grounds with sufficient specificity to be able to respond meaningfully; the right to be represented by counsel of one's own choosing at one's own cost; the right to call witnesses on one's own behalf and to cross-examine witnesses against one; the right to present other evidence on one's behalf; and the right to a disposition of the matter in a reasonable time.

E. DISMISSAL RESULTING FROM FACULTY PERFORMANCE OR BEHAVIOR

The following steps are followed when dismissal is considered for grounds set forth in Academic Affairs Policy #21:

1. Informal administrative hearing:

If questions arise as to the fitness of a faculty member to continue on the faculty, the Vice President for Academic Affairs may discuss the matter with the faculty member and with the respective Department Chair. The matter may be terminated by mutual consent at this point; if a resolution does not occur, the VPAA formulates a statement of reasons for dismissal of the faculty member.

2. Formal proceedings:

The formal proceedings begin by a letter from the VPAA to the faculty member stating the reasons for the dismissal. This letter also informs the faculty member of his/her right to appeal the dismissal to the Academic Cabinet. If the faculty member chooses to appeal, a date is set for the hearing before the Academic Cabinet to allow sufficient time (at least twenty-one [21] calendar days) for the faculty member to prepare his/her defense.

The faculty member must respond in writing to the dismissal action not less than one week before the date set for the hearing.

3. Suspension:

Suspension of the faculty member during the hearing proceedings may occur if, in the judgment of the President, the faculty member's continued employment could result in harm to self, to others, or to the integrity of the University. Any such suspension is without pay. If suspension is not upheld, then back payment may be provided.

4. Hearing Proceedings:

The Academic Cabinet conducts the formal hearing of the faculty member's appeal of dismissal. The President may attend this meeting as an observer along with an administrative designee. The Committee reviews the charges made against the faculty member, the evidence for those charges, and the written response of the faculty member concerning the charges. If any facts are in dispute, the testimony of witnesses and other evidence salient to the issue may be received by this Committee.

The Cabinet determines the order of proof and the questioning of witnesses, and, if necessary, secures the presentation of evidence salient to the case. The faculty member has the right to confront those who have brought charges against him/her, to cross-examine witnesses, and to present a defense. The faculty member has the right of counsel and the right to produce witnesses and relevant documents.

The Cabinet makes a record of the proceedings. A written transcription or audio recording may be made available to the faculty member upon request.

The Cabinet promptly communicates its decision in writing to the President along with a copy to the faculty member. The faculty member may file a brief with the President within thirty days of receipt of the Academic Cabinet's decision. The final decision rests with the President and is made within ten days of receipt of the brief.

5. A faculty member must exhaust this process before using the court system.

F. DISMISSAL RESULTING FROM COLLEGE ACTION

The following steps are followed when dismissal is considered because of circumstances of the University such as financial exigency, declining enrollment, or program termination:

1. If the University determines probable need to terminate faculty for financial exigency, shrinking enrollment, or lack of participation in a program, the VPAA consults with the Department Chair to initiate a discussion within the Department concerning the problem.
2. The Department Chair has the opportunity to discuss and offer suggestions with respect to the problem occasioning the probable cuts within the Department.
3. The VPAA, in consultation with the Department Chair, makes recommendations to the President concerning personnel reductions in the Department.
4. The University will try to reassign persons affected by program cuts if such reassignments are mutually acceptable.
5. Decisions regarding layoff shall be guided by ensuring that the essential needs of the University are met. Consideration may also be given to an employee's performance or disciplinary history; employees with the least amount of seniority; positions

- whose duties can be reassigned or allocated among other positions; and the effect elimination of the position or employee will have on University operations.
6. Faculty terminated because of financial exigency or program cuts receive salary for six months from the date of notification if not otherwise employed within that period, or for the remainder of their current contract if such period is less than six months.
 7. In cases of termination because of financial exigency or program cuts, the terminated faculty member will have first option to be reinstated at the same or better salary and rank as when cuts were made should the position be reestablished, adjusted for any across the board changes made by the University due to financial considerations. The laid off faculty member is responsible to keep the University informed of his/her current address for the purpose of this section, and notice sent to the address by the University shall be presumed received if sent by regular mail, postage prepaid. Any individual who is offered a position under this provision, and who declines the offer or fails to respond within the 30-day period, shall be removed from the reappointment list and shall lose all rights under this provision.

G. FINANCIAL EXIGENCY

Financial exigency is a serious institutional crisis presenting a critical, urgent need for the University to reorder its current monetary expenditures. If the President believes that financial exigency exists, after consultation with the Leadership Team, and the Academic Cabinet, the President shall recommend a declaration of financial exigency to the Board of Trustees. Upon recommendation of the President, the Board of Trustees shall decide whether the financial crisis meets the criteria and whether a financial exigency should be declared.

H. ACTION SHORT OF DISMISSAL

Under some circumstances the President may elect to impose a disciplinary action short of dismissal, such as temporary suspension without pay and/or withdrawal of faculty privilege.

The President may consult with the Academic Cabinet to receive nonbinding advice. If circumstances warrant, the President may take disciplinary action without previous citation or warning. A faculty member may be suspended temporarily when the President has probable cause to believe that the faculty member's continued presence at the University is highly likely to pose direct threat of harm to the University or individual members of the University community. Such suspension shall be with pay and shall last only so long as the threat of harm continues or until dismissal for cause occurs.

I. PROGRESSIVE DISCIPLINE POLICY

The University believes in redemptive action and thus uses progressive discipline as a means of addressing performance or conduct issues. When annual or special evaluation or other evaluative process leads to questions of competence, performance or neglect of duties, the faculty member involved will be contacted in writing by the administrative officer responsible for the evaluation describing the alleged problem; describing the nature of corrective action which, in the opinion of the administrative officer, will alleviate the problem; and stipulating a period of time within which the problem must be corrected. If the problem seems serious enough to warrant consideration of dismissal, the Vice President for Academic Affairs should warn the faculty member in writing that the faculty member's contract status is in jeopardy, and stipulate a time at which the record will be re-examined to determine whether it has been corrected. If the faculty member does not contest the allegation and fulfills the contractual duties, the matter is settled. If the faculty member fails to correct the problem, dismissal or a lesser sanction may be applied.

III. Procedure

Procedure is interwoven in the Policy section above.

IV. Published: Policy Manual, Faculty Handbook

V. Reason for Revision

VI. Appendices