

**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION  
POLICY MANUAL**

**SUBJECT:** PERSONNEL

**EFFECTIVE:** December 6, 2018

**Section:** 605.1 Academic Freedom and Tenure; Academic Appointments

1. An institution is a forum for ideas, and it cannot fulfill its purpose of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. Academic freedom and tenure are both important in guaranteeing the existence of such a forum. This policy is intended to enable institutions under the authority of the SBHE to protect academic freedom.
2. The purpose of tenure is to assure academic freedom. Academic freedom applies to all scholarly pursuits. Freedom in scholarship is fundamental to the advancement of knowledge and for the protection of the rights of the faculty members and students. It carries with it duties and responsibilities correlative with rights. These duties and rights are set forth in SBHE Policy 401.1, relating to academic freedom, and the 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments (Rev. 1990), adopted by the American ~~association~~ Association of ~~university~~ University Professors and the ~~association~~ Association of American ~~colleges~~ Colleges. These policies apply to all institution faculty unless otherwise indicated.
3. Tenure is awarded by the SBHE upon recommendation of the Chancellor, following review and recommendations made pursuant to the procedures established at the institution and a recommendation by the institution's president to the Chancellor. A favorable recommendation means that the applicant meets the prerequisites and criteria and the award of tenure is consistent with the sound fiscal management and academic priorities of the institution and the system of education under the control of the SBHE. Tenure recommendations submitted to the SBHE shall include a brief summary of the candidate's qualifications and reasons for the recommendation. Tenure is not an entitlement, and the granting of tenure requires an affirmative act by the SBHE. Tenure is limited to the academic unit or program area in the institution in which tenure is granted and shall not extend to an administrative or coaching position.
4. For purposes of SBHE Policies 605.1, 605.2, 605.3 and 605.4:
  - a. "Academic year" means the period, approximately nine months in duration, starting with the beginning of the fall semester and ending following completion of the spring semester.
  - b. "SBHE" means the North Dakota state board of higher education.

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- c. "Faculty" means all members of the academic staff, excluding coaches and administrators in their capacities as coaches or administrators.
  - d. "Receipt" means either actual or constructive receipt. Constructive receipt means the sending party has taken all reasonable steps to ensure that the receiving party has received actual notice.
5. Because of the variety of scope and organizational structure of the institutions under the control of the SBHE, the faculty governance structure at each institution shall recommend procedural regulations to the president to implement SBHE Policies 605.1, 605.2, 605.3 and 605.4, in accordance with SBHE Policy 305.1:
- a. Institution procedural regulations must include
    - i. Procedures for continuing evaluation of both probationary and tenured faculty members; and
    - ii. Criteria and procedures by which faculty members are evaluated and recommended for tenure.
  - b. The criteria for tenure evaluation and continuing evaluation of probationary and tenured faculty shall include scholarship in teaching, contribution to a discipline or profession through research, other scholarly or professional activities, and service to the institution and society. Institutions may adopt additional criteria. The regulations defining these criteria shall be consistent with the nature and mission of the institution.
    - i. Institutions shall establish various tenure plans appropriate to the diverse missions of individual institutions, designed to encourage emphasis on research, scholarship in teaching, service, and other areas of emphasis. Scholarship in teaching may include the use of technology or other innovative teaching methods. Service may include technology transfer and economic development. Institution regulations shall include guidelines for determining the proper weight distribution of the criteria for tenure evaluation and continuing evaluation. The guidelines shall provide for varying emphases on the enumerated criteria based upon the faculty member's plan, the needs of the institution and the background, abilities and interests of the faculty member.
    - ii. Tenured and probationary faculty contracts shall identify the faculty member's tenure plan and describe the faculty member's duties and goals. The contracts shall specify the distribution of the criteria used for evaluating performance. The contract provisions shall be reviewed and, when appropriate, revised as a part of the faculty member's periodic evaluations.
  - c. Eligibility for tenure requires a probationary period of six years of continuous academic service to the institution, during which the faculty member is evaluated at

least annually according to an evaluation process designed to foster continuous improvement. The term may be extended beyond six years or the continuous service requirement may be waived in exceptional circumstances. Institutions shall establish procedures for granting extensions or waivers of the continuous service requirement in exceptional circumstances, including maternity or parental leave and appropriate accommodations for faculty members with disabilities. Institution procedures may define additional exceptional circumstances including family emergencies or extended illness.

- d. An institution may decline to renew the contract of a probationary faculty member without cause at any time during the probationary period, subject to procedural requirements in SBHE Policies 605.1, 605.2, 605.3, and 605.4.

6. Faculty appointments shall be probationary, tenured or special.

- a. Probationary appointments are renewable annually and yield credit toward tenure. The probationary term is limited to six years of continuous academic service, excluding extensions to the term or exceptions to the continuous service requirement granted in exceptional circumstances.
  - i. An individual with previous professional experience may, at the discretion of the institution, be given tenure credit not to exceed three years for this experience, with such credit to be regarded as academic service to the institution for the purpose of these regulations. The faculty member shall be informed in writing of this policy and the institution's decision before or at the time of appointment.
  - ii. Time spent on leave of absence or developmental leave may be counted, up to a maximum of two years, as academic service for the purposes of these regulations. The amount shall be determined, and the faculty member informed in writing, including any applicable conditions, before authorization of the leave.
- b. Tenured appointments recognize a right, subject to SBHE policy, to continuous academic year employment in an academic unit or program area as defined by an institution and stated on the contract. A faculty member shall qualify to be recommended for a tenured appointment by satisfying the criteria for tenure developed in accordance with SBHE Policy 605.1(5).
  - i. The following persons are not eligible for tenured appointment:
    - 1. Faculty members with a part-time or temporary appointment. However, faculty members who have been awarded part-time tenure as established by previous SBHE policy and those who accept a part-time appointment after being awarded tenure in a full-time position shall continue to have such tenure recognized.

2. An institution's president, except under subdivision 6(b)(ii).
- ii. The Board may, following review and recommendations made pursuant to the procedures established at an institution award tenure in exceptional circumstances, defined by the institution's procedures, to an institution's chief academic officer or to any other person appointed to the faculty who has not met the eligibility requirement of subdivision 5(c) of this policy, provided that the person, at the time tenure is granted, has:
    1. held a tenured appointment at another institution, or
    2. been a faculty member at the institution for at least one prior academic year.
  - iii. The SBHE may award tenure to an institution's current chief executive officer if they have held a tenured appointment at another institution. If a chief executive officer granted tenure under this subdivision resigns their position or is terminated, that individual may request appointment as a tenured faculty member. If such a request is received, the SBHE shall determine whether to offer that individual a tenured faculty position at their former institution. The compensation for such a tenured faculty position shall be commensurate with similar positions in the department, and such compensation shall be paid from the institution's general funds, rather than a departmental budget.
  - iv. The SBHE may award tenure to any individual appointed to the faculty who has not met the eligibility requirements of subdivisions 5(b) and 5(c) of this policy in exceptional circumstances, defined by the institution's procedures, following review and recommendation made pursuant to the procedures established at an institution. The individual shall possess a documented record of outstanding achievement and consistent excellence in a discipline or profession gained through research, scholarly or professional activities, or service.
- c. Special appointments do not involve either tenure credit or status. Special appointments are all appointments except tenured or probationary appointments, including:
    - i. Courtesy adjunct appointments awarded in accordance with SBHE policy to professional people who contribute to the academic or research program of the institution;
    - ii. Visiting appointments for people holding academic rank at another institution of higher education;
    - iii. Appointments of retired faculty members on special conditions;

- iv. Initial appointments supported wholly or partially by other than state appropriated funds;
  - v. Appointments clearly limited to a brief association with the institution, as defined by the institution;
  - vi. Terminal appointments given with notice of nonrenewal to faculty members who were previously on probationary appointment. A terminal appointment with notice of nonrenewal must be given to a faculty member no later than the end of the sixth year of probationary appointment if the decision is made to deny tenure;
  - vii. Part-time faculty;
  - viii. Lectureship appointments, which shall be for performance of specifically assigned academic duties only, without general faculty responsibilities;
  - ix. Graduate teaching assistant appointments;
  - x. Postdoctoral fellowships and clinical appointments; and
  - xi. Other faculty appointments, not probationary or tenured, that are designed to help fulfill the institution's mission or meet long-term needs. The appointments shall be subject to an agreement describing the faculty member's duties and goals, criteria and weight distribution for evaluation criteria. The term of an appointment and agreement, or renewal thereof, may not exceed three years. The faculty member's performance and achievement of goals shall be evaluated during the final year of an appointment. An appointment may be renewed only if the evaluation demonstrates satisfactory performance.
7. The general terms and conditions of appointment shall be provided the appointee in a written contract. The contract shall state whether the appointment is probationary, tenured or special. The term of a contract, except contracts made pursuant to subdivision 6(c)(xi), shall generally not exceed one year. A multiple-year contract is subject to termination upon discontinuance of the program in which the faculty member is employed, non-appropriation or loss of funds, or other financial exigency. For faculty on nine- or ten-month contracts covering the traditional academic year, institutions shall, not later than June thirtieth each year, provide notice of renewal terms with a contract, agreement or appointment letter to be signed by both parties. Absent good cause or agreement extending or establishing a different deadline, faculty shall sign and return a contract or other document indicating acceptance of contract terms not later than July twentieth. Institutions shall establish procedures providing that failure to return a signed contract or other document indicating acceptance of contract terms by July twentieth constitutes a resignation resulting in termination of employment, effective July twentieth, except for good cause shown by the faculty member or unless the institution has granted an extension. Before the end of the spring semester each year, institutions shall provide notice to faculty summarizing the process and deadlines for contract renewal, including information on extending deadlines to accommodate faculty who may be

traveling or not able to readily receive and respond to communications during summer months.

8. The institutional process for evaluation of faculty, the criteria and minimum expectations for promotion and for tenure, and provisions concerning required notices, shall be made known to the appointee at the time of appointment. This disclosure may be accomplished by a published description of the process, criteria, and expectations in a faculty handbook or similar document. Such provisions are subject to change according to processes established for adoption or amendment of SBHE and institutional policies. Institution procedures shall provide for annual evaluation of all full-time faculty. The procedures shall include provisions requiring that evaluations are completed in a timely and appropriate fashion and that the institution takes appropriate remedial action in response to unsatisfactory evaluations. Evaluation criteria shall relate to a faculty member's duties and goals and be appropriately weighted in accordance with the terms of the faculty member's contract. Evaluations of all teaching faculty must include significant student input.

**REFERENCE:** SBHE Policy 305.1, 401.1, 605.1 through 605.4; NDUS Procedure 605.1

**HISTORY:** Replaces portions of Policy 605, SBHE Minutes April 25, 1995; Amendment, SBHE minutes, September 19, 1996; Amendment, SBHE minutes, February 17-18, 2000; Amendment, SBHE minutes, May 30, 2001; Amendment, SBHE minutes, November 16, 2001; Amendment, SBHE minutes, March 19, 2009; Amendment, SBHE minutes, June 16, 2011; Revised by legal, July 16, 2018; Amendment, SBHE minutes, December 6, 2018.