



EAST TENNESSEE STATE
UNIVERSITY

Termination of Tenure

Policy Name: Termination of Tenure

Policy Purpose

This policy specifies when tenure may be terminated.

Responsible Official, Office, and Interpretation

The Board of Trustees is responsible for the review and revision of this policy. For questions about this policy, please contact the Secretary of the Board of Trustees. The Board of Trustees, in consultation with the Office of University Counsel, has the final authority to interpret this policy.

Defined Terms

Tenure

An employment status subject to the laws of the State of Tennessee that provides a faculty member with continued employment in a specific Academic Unit until the award of tenure is terminated pursuant to the Termination of Tenure Policy or state law. Tenure is intended to protect academic freedom and may only be acquired after approval of the Board of Trustees.

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Termination of tenure may occur for one of the following reasons: (1) voluntary relinquishment or forfeiture; (2) disability; (3) misconduct; (4) curricular reasons; or (5) Board of Trustees' Declaration of Financial Exigency.

1. Termination of Tenure due to Voluntary Relinquishment or Forfeiture.

Upon a faculty member advising the University of the faculty member's intent to resign or retire, the faculty member's tenure will terminate. The faculty member's last day in a tenured status shall be the faculty member's last day of employment.

A tenured faculty member voluntarily forfeits tenure if the faculty member secures a tenured appointment at another institution. Forfeiture of tenure results in automatic termination of employment. The Provost shall give the faculty member written notice of the forfeiture of Tenure and termination of employment.

2. Termination of Tenure due to Disability.

In the event that a faculty member is disabled, mentally or physically, in such a manner that the faculty member is unable to perform their employment responsibilities and the Provost has a good-faith belief based on information from an appropriate medical authority that the faculty member will not recover and subject to any requirements under federal and state laws related to disability, the University may terminate tenure. The Provost must provide a written notice of intent to terminate employment and tenure to the faculty member and/or the faculty member's representative.

The written notice must include: (1) the date employment and tenure will be terminated; (2) the basis on which the University believes the faculty member will not recover; and (3) a ten (10) business-day period from the date of the written notice for the faculty member and/or representative to submit a written appeal to the President with evidence and/or documentation demonstrating that the disability is not permanent.

If the faculty member and/or representative does not respond to the notice, the faculty member's last day in a tenured status shall be the date indicated in the University's written notice of intent to terminate employment and tenure.

If a faculty member responds in writing by the deadline indicated in the written notice of intent to terminate, then within ten (10) business days of receipt of a response, the President will review any documentation provided by the faculty member and/or the

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faculty member's representative and issue a written determination related to the termination of employment and tenure. In the event of termination, the President's decision shall include the last day of employment. The faculty member's last day in a tenured status shall be the last day of employment. The decision of the President is final.

The University President may grant extensions to the deadlines in this section in the President's discretion.

Following termination, the faculty member shall have ten (10) business days from the effective date of termination or suspension to file a written request with the Office of the President for a contested case proceeding pursuant to the University's Contested Cases subject to the Uniform Administrative Act. A faculty member who does not request a contested case by the ten (10) business day deadline waives the right to a contested case hearing. If at the conclusion of a contested case, the outcome is favorable to the faculty member and a conclusion is reached that the faculty member should not have been terminated, then to the extent permitted by law, the University shall provide lost salary and benefits, if any, and restore the faculty member's employment position, including Tenure if applicable.

3. Termination of Tenure due to Misconduct.

If an allegation of misconduct by a faculty member is determined by the President to warrant termination after the process required by the Board of Trustees Faculty Misconduct Policy has concluded, the University may terminate the faculty member's employment and tenure. Written notice, appeals rights, and the termination process related to allegations of misconduct shall be governed by the Board of Trustees Faculty Misconduct Policy.

4. Termination of Tenure due to Curricular Reasons.

The employment of a tenured faculty member may be terminated due to curricular reasons, including: (1) the termination of a degree major, concentration, or curricular component by the University, through its normal and appropriate processes; or (2) if documented evidence shows a significant reduction in total student enrollment has occurred during three consecutive academic years in a particular major or concentration such that the rate of decrease is considerably in excess of that of the University as a whole. In the event of either situation, every effort shall first be made to offer the faculty member reassignment if possible.

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The President, upon determining that curricular reasons may warrant the termination of tenured faculty, shall inform the executive committee of the Faculty Senate. At the earliest possible date, the President or designee shall appear before the Faculty Senate to present relevant information related to the need to terminate tenured faculty positions due to curricular reasons. Senators and affected unit members shall have an opportunity to pose questions at the presentation. In addition, the Faculty Senate shall respond, in writing, within fifteen (15) business days of the date on which the President or designee appeared before the Faculty Senate.

After receipt of the Faculty Senate's response to the President and after the President has determined that all other alternatives are exhausted, the Provost shall provide each affected faculty member a written notice of intent to terminate employment and tenure. The notice must include: (1) the curricular circumstances that warranted the termination; (2) the date this information was provided to the Faculty Senate; and (3) ten (10) business-day period from the date of the written notice for the faculty member to submit a written appeal to the President.

If the faculty member does not respond to the notice, the faculty member's last day of employment in a tenured status shall be the date indicated in the University's written notice.

If a faculty member responds in writing by the deadline indicated in the written notice of intent to terminate, then within ten (10) business days of receipt of a response the President will review any documentation provided by the faculty member and issue a written determination related to the termination of employment and tenure. In the event of termination, the President's decision shall include the last day of employment. The faculty member's last day in a tenured status shall be the last day of employment.

The University President may grant extensions to the deadlines in this section in the President's discretion. The decision of the President is final.

When a tenured faculty member is terminated for curricular reasons, the position will not be filled by a new appointee with the same areas of specialization as the terminated faculty member within a period of three (3) years unless the terminated faculty member has been offered, in writing, reappointment to the position at the previous rank and salary and the terminated faculty member has declined the offer.

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5. Termination due to Financial Exigency.

In the event Financial Exigency is declared by the Board of Trustees, a faculty member's Tenure may be terminated in accordance with the Board of Trustees' Financial Exigency Policy. Written notice, appeals rights, and the termination of employment and tenure in the event of a Declaration of Financial Exigency shall be governed by the Board of Trustees' Financial Exigency Policy.

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Procedure

N/A

Authority and Revisions

Authority: T.C.A. §§ 49-8-203 et seq.; 49-7-187, et seq.

Previous Policy: N/A

The ETSU Board of Trustees is charged with policy-making pursuant to TCA § 49-8-203, et seq. This policy may only be revised by the Board of Trustees. Before a substantive change to the policy section may take effect, the requested changes must be: (1) presented to the Academic, Research, and Student Success Committee of the Board of Trustees for review and approval; and (2) if approved by the Academic, Research, and Student Success Committee presented for a vote of the Board of Trustees and approved by a majority of the Board of Trustees. The Secretary of the Board will provide a notification to the Board of Trustees if a technical revision to this policy is implemented or a revision to the procedure section is implemented.