

PROPOSAL 21-95

(Voting Units: Academic Degree-Granting Departments)

SEPARATION POLICY

RETIREMENT, RESIGNATION, NON-REAPPOINTMENT

Retirement

There is no mandatory retirement age. In order to qualify for the Michigan Technological University Retirement Medical Benefit Plan or Retirement Severance Pay Plan, the employee must have accumulated 80 points which is age plus years of full-time service at Michigan Technological University or age 65 with 10 years of full-time service. These programs are subject to change at any time by Michigan Technological University's Board of Control.

Application for the retirement plan programs must be made with the Benefits Office three months in advance. Copies of both programs are available through the Benefits Office in the Human Resource Department.

Michigan Technological University does permit departments and schools to offer eligible faculty the option of a Retirement Furlough if the eligibility requirements are met. The Optional Retirement Furlough may be taken the last year preceding retirement during which time the faculty member is relieved of normal responsibilities in his/her field of interest. This is a pilot program to be reassessed for continuation in the Fall of 1996. The election to participate in the Optional Retirement Furlough program is irrevocable.

Resignation

Faculty members are expected to complete the academic year unless the appointment is for a shorter time or arrangements with department chair or with appropriate administrative channels have been made. Written notice of resignation should be given at the earliest possible opportunity to the appropriate chair.

Unless otherwise mutually agreed, a faculty member who terminates service without giving due notice or fails to complete an academic year or other term for which he or she may have been employed, except under extraordinary circumstances, is regarded as having broken the terms of the contract of employment with the University.

Non-Reappointment

1. Temporary/restricted - In cases of faculty members on temporary or restricted appointments for which there is no indicated opportunity for reappointment, the letter of appointment also serves as notice of termination of employment.

2. Probation - Faculty with probationary term appointments should make no presumption of reappointment, including reappointment with tenure. Non-reappointment may be determined by the department head or chair in consultation with the dean and with the advice of a departmental personnel committee or faculty development committee. The decision may stem from many factors, such as less than meritorious service, modification of programmatic emphasis or enrollment trends. Should the specification of the reason (for non-

reappointment) be helpful to the faculty member's record, the faculty member may request that it be supplied in writing.

Faculty members on probationary term appointments that will not be renewed are given notice of non-reappointment twelve months before the end of the employment year (May 15 for academic appointments).

Termination for Cause

Termination refers to the involuntary cessation of employment of a tenured or continued-appointment faculty member or of a faculty member on a fixed-term appointment prior to the end of the term. Termination for adequate cause is related directly and substantially to the fitness of faculty members in their professional capacity as teachers, researchers, and scholars. Dismissal cannot be used to restrain faculty members in their exercise of academic freedom or to restrain them from any rights enjoyed by citizens of the United States.

Reason for dismissal for adequate cause can include, but are not restricted to:

1. flagrant violation of professional ethics
2. willful failure to carry out professional obligations or assigned responsibilities
3. falsification of information relating to professional qualifications
4. violations of law constituting a felony

SEPARATION PROCEDURES: DUE PROCESS FOR DISMISSAL WITH CAUSE (Faculty on probation or with tenure)

A. Preliminary Proceedings

1. When reasons arise to question the fitness of a faculty member who is tenured or is tenure track and whose term appointment has not expired, discussions among the faculty member, the department chair/head*, the dean and the Executive Vice President/Provost will take place in personal conference. The matter may be mutually and satisfactorily settled at that point.
2. If a mutually satisfactory settlement is not achieved the matter shall be informally investigated by a standing committee appointed by the Senate. Membership of this committee is not restricted to Senators. This committee shall attempt to effect an adjustment, but if this is not possible the committee will determine whether or not, in its view, formal proceedings to dismiss the faculty member should be instituted. If the committee recommends such a course of action, the procedures stipulated in Section B. below shall be followed.
3. If the committee does not recommend that formal dismissal proceedings be initiated, the President may still proceed with such a course, again following the procedures of Section B.
4. Before formal proceedings are initiated, a statement, with reasonable particulars of the grounds proposed for dismissal should be formulated jointly by the President and the faculty committee (if they are in agreement) or by the President and his/her representatives (if the President initiates proceedings in disagreement with the recommendation of the faculty committee).

B. Commencement of Formal Proceedings.

1. The President shall communicate to the faculty member in writing the intention to dismiss, including in this communication particulars of the charges as described in A4. In addition, the letter shall remind the faculty member that he/she has a right to a formal hearing and that the faculty member should inform the President - within ten days of the receipt of the letter - if he/she chooses to exercise this right.

* If there is no department chair or head, replace with Dean.

2. If the faculty member desires to go ahead with a formal hearing by the Committee on Academic Tenure, he/she must inform the President in writing. In addition, the faculty member should answer in writing the President's statements, such a reply to be received not less than one week prior to commencement of formal proceedings. The President shall set the date for such a hearing with the Committee on Academic Tenure, taking into account the time needed by the faculty member to prepare the reply noted above; in any event, a minimum of ten days subsequent to receipt by the President of the faculty member's letter requesting formal proceedings.

C. Suspension of the Faculty Member

Suspension of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance.

D. The Committee Proceedings

1. The Committee on Academic Tenure will proceed by first considering the statement of grounds for dismissal already formulated and the faculty member's response written before the time of the hearing.
2. The committee may also hold joint pre-hearing meetings with both parties to simplify the issues, effect stipulations of facts, provide for the exchange of documentation or other information, and achieve such other appropriate pre-hearing objectives to make the hearing fair and expeditious.
3. The faculty member may waive his/her rights to appear at the hearing, instead choosing to respond to the charges in writing. In such a case, the committee will evaluate all available evidence and rest its recommendation on the evidence in record.
4. The committee, in consultation with President and the faculty member, will exercise its judgement as to whether the hearing should be public or private. However, all proceedings of the hearing shall be recorded.
5. If the faculty member exercises his/her right to attend the hearing, the faculty member also has the option of assistance by counsel. The President, too, has the option of attendance at the hearing and may designate appropriate representatives in developing the case.
6. The committee will determine the hearing format and should normally conduct the questioning of witnesses. However, the faculty member or his/her counsel and the President and his/her representatives have the right to question all witnesses as determined by the committee. Unless special circumstances warrant, it will not be necessary to follow formal rules of court procedures.

E. Committee Considerations

1. The committee should reach its decision in conference, on the basis of the hearings. In doing so, it will recognize that the burden of proof that adequate cause exists rests with the institution.
2. The committee should make explicit finding with respect to each of the grounds of removal presented, and a reasoned opinion may be desirable. The President and the faculty member will be notified of the decision in writing and will be provided with a copy of the record of the hearing.
3. If the committee concludes that adequate cause for dismissal has not been established, it will so report to the President. In such a case, the committee may recommend sanctions short of outright dismissal or may recommend no sanctions. If the President rejects such a recommendation(s), the committee and the faculty member will be so informed in writing, with reasons, and each will be given an opportunity to respond.
4. If the President decides to impose dismissal or other severe sanction, whether or not that is the recommendation of the committee, the faculty member may request that the full record of the case be submitted to the Board of Control (or a duly constituted subcommittee of the Board) for further consideration, as described in Section F.

F. Considerations by the Board of Control

1. Final decision rests with the Board of Control. The President will transmit to the Board of Control the full report of the committee with his/her recommendation. If either or both of the committee and the President recommend termination, the faculty member shall be provided the opportunity to make a final statement to the Board prior to the decision by the Board of Control.
2. The Board of Control may choose to ratify the President's recommendation if the President and committee are in agreement. If they are not, the committee has the right, through its chair, to initiate discussion of the matter with the Board of Control, or it duly constituted subcommittee. If the committee exercises this option, it is expected that the Board of Control will not act on the President's recommendation until such time as the committee has made its presentation.

SEPARATION PROCEDURES: DUE PROCESS FOR DISMISSAL WITH CAUSE (Faculty on temporary/restricted appointments)

1. When reasons arise to question the fitness of a faculty member who has a temporary/restricted appointment, discussions among the faculty member and the department chair (or dean) will take place in personal conference. The matter may be mutually and satisfactorily settled at that point.
2. If, after a thorough investigation, a dismissal is warranted, the department chair (or dean) shall communicate to the faculty member in writing the intention to dismiss, including in the communication particulars of the charges. The right to utilize the faculty grievance policy and procedures shall also be included in the correspondence.

Development of Proposal

Jan 1994: Task Force on Policies and Procedures for Separation of Faculty initiated by Faculty Handbook Steering Committee.

May 1994: Task Force completes rough draft of Separation Policy.

Oct 1994: Senate Institutional Planning Committee is requested to complete Separation Policy statement.

Jan 1995: Senate Institutional Planning Committee submits statement to the Senate President for presentation to the Senate.

Jan 1995: The statement is designated Senate Proposal 21-95 by Senate President Bornhorst to be placed on the agenda for Meeting 230.

Feb 1995: Withdrawn by Institutional Planning Committee.