



POLICY STATEMENT 109

UNSATISFACTORY JOB PERFORMANCE AND PERFORMANCE IMPROVEMENT OF TENURED FACULTY

POLICY DIGEST

Monitoring Unit: Office of Academic Affairs

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I. PURPOSE

LSU's Permanent Memorandum 35: *Review of Faculty Ranks* requires each LSU campus to establish a procedure for when a unit leader has found a tenured faculty member's job performance to be unsatisfactory in two reviews within a five-year period. This policy statement establishes that procedure for LSU. By means of peer committees, it provides a check on the unit leader's finding, assistance to the faculty member, and a means to avert the consideration of dismissal for cause. This procedure must precede any consideration of dismissal for cause based on unsatisfactory performance evaluations if the grounds consist solely of unsatisfactory job performance.

As with all personnel matters, this process requires discretion and confidentiality among all parties.

This policy is a companion to and supplements Policy Statement 36T: *Tenure-Track and Tenured Faculty: Appointments, Reappointments, Promotions, Tenure, Annual Reviews, and Enhancement of Faculty Performance* and applies only to tenured faculty. Section III of this policy establishes the procedure, as authorized by PM 35, for when a unit leader has repeatedly found a faculty member's job performance to be unsatisfactory.

II. DEFINITIONS

Advisory Board: a group of three full professors appointed by the Provost in consultation with the Faculty Senate Executive Committee; reviews faculty members' files and plans for improvement resulting in recommendations to the Provost; monitors the functioning of the processes related to findings of unsatisfactory job performance; considers issues of fairness and faculty rights as well as the effectiveness and benefit of these processes; provides guidance and advice to unit leaders and to Peer Review Committee; and makes recommendations for the improvement of pertinent policies and practices.

Faculty Advisory Committee: a peer committee commonly charged with hearing promotion and tenure cases and/or post-tenure peer review at the college level for the dean per PS 36T; the FAC per PS 109 reviews the file and unit leader's evaluation and writes an independent evaluation advisory to the dean.

New Finding: A finding is considered *new* if it is the first annual evaluation of a tenured faculty member by a unit leader that is deemed unsatisfactory; or an unsatisfactory evaluation that does not

meet the requirements for *Repeated Finding*. The designation of *New Finding* must be supported by the Provost.

Panel: a group comprised of all the tenured faculty with majority appointment in the same primary academic unit and at the same or higher rank as the faculty member under review, but not including the chair or the faculty member, except that the rules of the unit may delegate this authority to a more restricted, standing body with the same rank criteria, which has been elected. The Panel must consist of a minimum of three eligible voting faculty members. In the event there are not enough eligible voting faculty members in the department or in other circumstances for which additional members of the review committee are desired, additional members will be added through a process described below.

Peer Review Committee: a committee appointed by a faculty Panel, or by the Provost if not by a Panel; works with the faculty member during the period of time allowed for improvement; if requested by the faculty member, the Peer Review Committee will advise and assist them in the preparation of the plan and will confer with them on all matters at issue; in its interactions with the faculty member, will observe the principle of academic freedom as well as professional self-direction.

Plan: a program for improvement developed by the faculty member; includes any resources needed by the faculty member; may be developed in consultation with the Peer Review Committee; must be submitted through proper administrative channels to the Provost.

Repeated Finding: A finding is considered repeated if it is a second annual evaluation of a tenured faculty member that is deemed unsatisfactory by the unit leader within the span of five years. The designation of *Repeated Finding* must be supported by the Provost.

Unit Leader: as defined in PS 36T, the administrative position with department oversight responsibilities including chair, department head, director, dean, or otherwise-titled chief officer.

Unsatisfactory Job Performance: an evaluation by a unit leader that finds a tenured faculty member performing substantially and continually below expectations in teaching, scholarship, and/or service.

III. FINDING OF UNSATISFACTORY JOB PERFORMANCE

A. Performance Evaluation Findings

PS 36T requires that all tenured faculty members engage in scholarship, are highly competent in their assigned teaching responsibilities, and make contributions on campus and beyond that support scholarship and teaching. This is the basis upon which tenured faculty members are evaluated by their unit leaders. Job performance must be evaluated in the context of the job description, for example the percentage of effort assigned to different responsibilities including administrative responsibilities. While different units use different rating systems and descriptors for the components of the annual evaluation, an **overall** rating of *satisfactory*, *needs improvement*, or *unsatisfactory* must be assigned as a holistic evaluation.

A *satisfactory* evaluation is an indication to a faculty member that their work meets the departmental expectations of a tenured faculty member. Accolades or warnings may be present in the narrative of the evaluation, but the satisfactory rating indicates solid evidence of acceptable performance.

A needs improvement evaluation provides notice to a faculty member that their scholarship, teaching, and/or service do not meet departmental expectations of a tenured faculty member. Consequences of this rating are handled at the department level, and departments will take appropriate action to provide peer support for the faculty member. There may not be more than two consecutive needs improvement ratings. The subsequent evaluation must be either satisfactory, if there has been sufficient improvement, or unsatisfactory.

As used herein, the term unsatisfactory is defined and restricted as follows: for a finding of unsatisfactory job performance to be made, the deficiencies must be serious. That is, they must be so substantial that if they were to persist after the faculty member receives adequate notice, and after a reasonable time is allowed for improvement, then grounds would exist for the consideration of dismissal for cause under the provisions of PS 104. Unacceptable performance in **either** teaching **or** scholarship over multiple years could be grounds for an overall unsatisfactory rating regardless of performance in other aspects of the job description. Although a needs improvement evaluation may precede an unsatisfactory evaluation, it is not a prerequisite for an unsatisfactory evaluation. If a unit leader finds that a faculty member's job performance is unsatisfactory, the evaluation will explicitly state that it is "unsatisfactory as defined in Section III of PS 109." The phrase, "as defined in Section III of PS 109" may be deleted if the unsatisfactory evaluation is not upheld by the Provost after consultation with the Advisory Board. In this case, the unsatisfactory evaluation can stand but will not constitute a new or repeated finding per PS 109.

B. Process for Determination of Unsatisfactory Finding

In conjunction with the annual review defined in PS 36T, when the unit leader concludes that a faculty member's job performance has been unsatisfactory, the unit leader will offer, with reasonable advance notice, to hold a conference with the faculty member to discuss the finding and all related issues. The faculty member is free to decline the offer of a conference but must do so in writing. If it is held, the unit leader will attach a record of the conference to the evaluation. The final steps of the annual review process will then be completed no later than June 30 of the year following the calendar year being evaluated, and the following additional requirements will apply:

1. The unit leader will alert the dean of the unsatisfactory review within one week of the completion of the annual review process.
2. Within the first 30 calendar days of the fall semester, the faculty advisory committee charged with hearing cases for promotion and tenure and/or post-tenure peer review for the dean as defined under PS 36T will be convened, consider the case, and provide an evaluation. Acting independently of the unit leader, the faculty advisory committee will review the file and the chair's evaluation; offer, with reasonable advance notice, to hold a conference with the faculty member; gather additional information at its discretion; and write an evaluation of the faculty member's job performance, including specific suggestions and advice for any needed improvement, to become part of the file.
 - a. If the faculty advisory committee's report supports the conclusion of the unit leader's finding of unsatisfactory job performance, the committee evaluation and file will be forwarded to the dean.

- b. If the faculty advisory committee's report does not support the unit leader's finding of unsatisfactory job performance, then the unit leader is free either to withdraw the finding or revise the unit leader's evaluation accordingly, or to persist therein. If the evaluation by the unit leader remains unsatisfactory, the file including the committee evaluation will be forwarded to the dean.
3. Whenever the dean receives a file from the faculty advisory committee that contains a finding of unsatisfactory job performance, the dean will write a recommendation to the Provost within 10 calendar days of receiving the file, in support of or in disagreement with the finding.
4. Whenever the Provost receives a file that contains a finding of unsatisfactory job performance, the Provost will consult with the Advisory Board and the dean and render the final decision within two weeks of receiving the file.
 - a. The Provost may decide to overrule the finding. Henceforth, in that case, the finding will be of no effect and will not count as a new finding nor as a repeated finding of unsatisfactory job performance under this policy. However, strategies for improvement may still be addressed by the dean or unit leader, in consultations with the faculty member. The Provost's decision will be sent to the Advisory Board, the dean, the unit leader, the faculty member, and the Office of Human Resource Management (HRM). A copy will become part of the faculty member's personnel file.
 - b. If the Provost agrees with the unsatisfactory finding, the finding will be identified as either a new finding or a repeated finding as defined in this policy. A statement to that effect will be sent to the Advisory Board, the dean, the unit leader, the faculty member, and HRM. A copy will become part of the faculty member's personnel file.

- i. New Finding

A *new finding* is the result of the first unsatisfactory annual evaluation determined by the unit leader and supported by the Provost. The faculty member could have received a previous unsatisfactory evaluation from the unit leader that was overruled by the Provost, or the faculty member could have received a previous unsatisfactory evaluation that was not within a five-year time frame of the current evaluation. In both of these cases, the evaluation is considered a *new finding*.

As a result of a new finding, the faculty member is encouraged to seek mentorship in an effort to improve their professional responsibilities. Departments or colleges may want to establish common procedures through a faculty policy committee to use in such cases, so that there is equitable support across faculty members who make the request.

- ii. Repeated Finding

A *repeated finding* occurs when the unit leader, in conjunction with the PS 36T annual review and supported by the Provost, makes a finding of unsatisfactory job performance with regard to a faculty member for the second time within five years.

As a result of a repeated finding, a Peer Review Committee (PRC) will be established and convened, and will provide advisement and evaluation of the faculty member during the period of time allowed for improvement as defined below.

IV. PEER REVIEW COMMITTEE

The Peer Review Committee (PRC) has two functions: to work with the faculty member during the period of time allowed for improvement, and to provide progress reports to the unit leader, dean, and Provost. Responsibilities and process are as follows:

- A. A Peer Review Committee will be selected as provided in Section V.B below.
- B. The faculty member will prepare a plan for improvement, hereafter referred to as the *plan*, including a description of resources that they may require to achieve the plan's objectives. If requested by the faculty member, the PRC will advise and assist in the preparation of the plan and will confer on all matters at issue, seeking mutual agreement. In its interactions with the faculty member, the PRC will observe the principles of academic freedom as well as professional self-direction. It is suggested that the faculty member submit the plan to the PRC within six weeks after being notified by the Provost that the repeated finding has been upheld, and that the PRC and the faculty member complete any further discussions that may be desired within a further two weeks.
- C. The PRC will write a report on its interactions with the faculty member. The report will comment on the plan and make recommendations about the requested resources. The report will include specific advice as to what the faculty member must do to restore satisfactory job performance. The PRC will then send the plan and the report to the unit leader, the faculty member, HRM, and the dean who will transmit them to the Provost and the Advisory Board. A copy will become part of the faculty member's personnel file. The plan must be forwarded to the Provost no later than the final day of classes of fall semester.
- D. The Provost, after consulting with the Advisory Board, will prepare a memorandum to the faculty member. The Provost will define the period of time allowed for improvement, herein called the *term*. The term will begin on the date of the memorandum and run for two years; except in the case of exceptional circumstances, Section VI may apply, allowing the Provost certain discretion in setting the term. The memorandum will also state any University or college commitment to provide adequate resources to support the plan. The Provost will transmit the memorandum to the faculty member by the end of the fall semester (commencement), with copies to the Advisory Board, the PRC, the dean, the unit leader, and HRM. A copy will become part of the faculty member's personnel file.
- E. The PRC will continue to advise and assist the faculty member and monitor the faculty member's progress throughout the term. Each year, the PRC will write a report to be placed in the faculty member's personnel file during the annual review process. The unit leader will also make an assessment of progress as part of the annual evaluation.
- F. If at any time during the term the PRC and the unit leader both conclude that the faculty member has failed to make a good faith effort as called for by this procedure or, if at the end of the term, they both conclude that the faculty member's progress is inadequate, then the Provost will ask the President to initiate consideration of dismissal for cause. If the Provost concludes adequate progress has been made, the Provost will notify all parties and place a

statement to that effect in the faculty member's personnel file. In that event, if there is a subsequent finding of unsatisfactory job performance, the first subsequent finding of unsatisfactory performance will be regarded as a new finding.

V. CONSTITUTION OF ADVISORY BOARD AND PEER REVIEW COMMITTEE

A. Appointment of the Advisory Board to the Provost

The Advisory Board will comprise three tenured full professors, serving for staggered three-year terms. No one person may serve for more than a total of six years. No one with an administrative rank of unit leader or higher may serve. No more than one person from any one college or school may serve at one time. The Provost will make appointments to the Advisory Board after consultation with the Faculty Senate Executive Committee. The functions of the Advisory Board will be as follows:

1. To review faculty members' files and plans for improvement as provided herein, making recommendations to the Provost
2. To monitor the functioning of the processes related to findings of unsatisfactory job performance
3. To consider issues of fairness and faculty rights as well as the effectiveness and benefit of these processes
4. To give guidance and advice to unit leaders and to Peer Review Committees with regard to their duties under Section III
5. To make recommendations for the improvement of pertinent policies and practices

B. Selection of a Peer Review Committee

1. The body with authority to select a Peer Review Committee, herein called the *Panel*, comprises all the tenured faculty with primary appointment in the same academic unit and at the same or higher rank as the faculty member under review, except that the rules of the unit may delegate this authority to a more restricted, standing body with the same rank criteria which has been elected. The Panel may already have a presiding officer, but if not, will select its own. The Panel must consist of a minimum of three eligible voting faculty members. In the event there are not enough eligible voting faculty members in the department or in other circumstances for which additional members of the review committee are desired, the unit leader will forward the names of potential faculty members from other departments to the dean for consideration. The dean will consider the list, make revisions if necessary, and forward to the Provost for final approval.
2. The unit leader will notify the Panel before the start of a semester when a PRC must be selected and must at that time relay any pertinent communications from the faculty member (See 3b and 3c below). The unit leader will send a copy of the notification to the Provost through the dean.
3. The Panel will meet, discuss the case, and elect the PRC, which will be comprised of three tenured faculty members whose primary appointment is in the department and whose rank

is at least that of the faculty member in question. At the discretion of the Panel or the Provost, the PRC may be expanded to a maximum of five members. These restrictions and exceptions apply:

- a. In electing the PRC, the Panel must exclude the unit leader, the faculty member under review, and others who the Panel believes would have a conflict of interest.
 - b. Before the Panel elects the PRC, the faculty member has the right to name any person or persons who they believe ought to be excluded and to state reasons such as conflict of interest, demonstrated lack of objectivity in a pertinent matter, or other sufficient cause. The Panel must then give due consideration to such reasons and inform the faculty member in writing of the decision to grant or deny the request. The faculty member will again have that right if the Panel later fills a vacancy on the PRC.
 - c. The faculty member has the right to instruct the Panel that the PRC must include at least one tenured faculty member, with the same or higher rank, whose primary appointment is outside the department, or even outside the college. The Panel itself must do so if a PRC of three cannot otherwise be constituted. Item 3e below applies.
 - d. Should the faculty member exercise the rights stated in items 3b and 3c, it must be in writing, in timely fashion, to the presiding officer of the Panel directly or through the unit leader.
 - e. If there are to be outside members, they will be nominated by the Panel but are subject to approval by the Provost. Before granting approval, the Provost must afford the faculty member the right to challenge a nominee for cause.
4. If the selection of the PRC has not been completed within 30 days from the start of the semester, or if the Provost determines that the Panel cannot be constituted or cannot function as provided, then the Provost will perform the role of the Panel in selecting the PRC and will do so in consultation with the Advisory Board.

VI. ILLNESS AND OTHER EXCEPTIONAL CIRCUMSTANCES

In the event that a faculty member suffers from documented illness or other condition, or there is a disruption to such a degree that a job performance improvement plan cannot reasonably proceed in disregard thereof, the period of time allowed for improvement may be lengthened at the discretion of the Provost. Because of legal restrictions on the handling of medical information, such exceptions are not subject to review by or reports to the Advisory Board. See Policy Statement 59: *Employee Assistance Program*. When the faculty member requests an accommodation related to disability, such determinations will be made under the appropriate LSU policy.

VII. PRIVACY RIGHTS

The files generated under PS 109 are personnel records as indicated by PS 40: *Employee Records Confidentiality*. Confidentiality is required at every level of the processes of PS 109 except where any disclosure is required by law.

VIII. SOURCES

PM 35: *Review of Faculty Ranks*

PS 36T: *Tenure-Track and Tenured Faculty: Appointments, Reappointments, Promotions, Tenure, Annual Reviews, and Enhancement of Job Performance*

PS 40: *Confidentiality of Personnel Records of University Employees*

PS 59: *Employee Assistance Program*