

**SOUTH DAKOTA BOARD OF REGENTS**

**Academic and Student Affairs**

**AGENDA ITEM: 6 – A**

**DATE: August 10, 2017**

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**SUBJECT: Revisions to BOR Policy 4:10 – Tenure on Appointment (Second Reading)**

Over the past two years the Board of Regents have received a number of requests seeking tenure on appointment for administrators. BOR [Policy 4:10 Tenure and Continuing Appointments](#) outlines the requirements for such requests in Section C.8 which specifies the materials that should be submitted to the Board for consideration. As these have come forward, it has also been requested that institutions advance a recommendation from the campus promotion and tenure committees to ensure the necessary review has occurred to align candidates with the specific standards documents at the individual campus. These letters of support have then been included with the recommendation (along with the resume and previous tenure appointment information) to the Board as they consider the requests in Executive Session. To address this additional step within Board policy, draft language has been included to formally establish this additional step in the review process in Section C.8.3.

8.3. Candidates recommended for appointment with tenure or continuing appointment shall have a record at least equal to that expected for tenure or continuing appointment at the institution or research center. The administration shall engage the institutional promotion and tenure committee to review the new appointments academic and scholarly record and advance a recommendation from the committee as a portion of the formal recommendation.

On a related issue, a faculty member seeking to obtain tenure on appointment are not allowed to do so under the current policy framework. Currently, individuals who enter the Regental system having earned tenure at their previous institution have the ability to request prior service credit to move up the tenure clock once they are employed. However, this makes it difficult for institutions to recruit new faculty at the associate or full professor level when prior service credit requests have traditionally been limited to one or two years. Under this model, previously tenured faculty may be required to wait two to three additional years before a tenure review could be facilitated. Section C.1.3. of the current policy does make an exemption for those faculty that have successfully earned tenure at an institution under the control of the Board of Regents. Faculty in this classification may not automatically transfer tenure, but are allowed to go up for tenure consideration at the new institution “not later than during the second year of tenure-track

(Continued)

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**DRAFT MOTION 20170810\_6-A:** I move to approve the second and final reading of the proposed revisions to BOR Policy 4:10 as presented.

appointment.” Historically, this feature was put in place to ensure that tenure granted against standards documents at one institution/department would not automatically be carried forward to the new home institution. Draft language is captured in Section C.1.3 of the policy to denote a potential avenue for institutions to allow faculty previously granted tenure the capacity to go up for review after one year of service to the institution.

- 1.3. A faculty or research faculty member who has previously received a tenure appointment at a postsecondary institution ~~under the control of the Board~~ may not automatically transfer that tenure appointment to another ~~such~~ institution controlled by the Board, but that faculty or research faculty member ~~shall~~ may be considered for a tenure appointment at the new institution ~~not later than~~ during the second year of a tenure-track appointment.

No additional changes have been made since the approval of the first reading at the May 2017 BOR meeting.

# SOUTH DAKOTA BOARD OF REGENTS

## Policy Manual

**SUBJECT:** Tenure and Continuing Appointments

**NUMBER:** 4:10

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### A. PURPOSE

To define the process, conditions and standards by which tenure and continuing appointments are awarded, as well as the procedures for non-renewal for tenure-track appointments.

### B. DEFINITIONS

None

### C. POLICY

#### **1. Tenure and Continuing Appointments Generally**

- 1.1. The major objectives of tenure and continuing appointments are to provide a faculty committed to excellence and to provide a substantial degree of security to those persons who have exhibited superior performance. The test is whether performance has been sufficiently superior to convince the Board that expected services and performances in the future justify the privileges afforded by tenure or continuing appointment.
- 1.2. A tenure or continuing appointment may be extended to a full-time faculty or research faculty member providing for re-employment from year to year until such time as the member resigns (Section 4:1, Contract Fulfillment), or retires, is terminated for cause (Section 4:14, Termination for Cause), or is terminated pursuant to a reduction in personnel, (Section 4:23, Faculty Member Reduction Procedures); provided further, in the case of continuing appointments to the research faculty, that the individual's research work continues to generate sufficient grant or contract income to cover the costs of his or her direct salary and benefits. When research faculty members on a continuing appointment fail to generate sufficient grant or contract income to cover the costs of their direct salary and benefits, their employment will terminate automatically, provided that, where income would suffice to cover all benefits costs, they may elect to continue working at reduced salary rates.
- 1.3. A faculty or research faculty member who has previously received a tenure appointment at a postsecondary n-institution under the control of the Board may not automatically transfer that tenure appointment to another such institution controlled by the Board, but that faculty or research faculty member shall may be considered for a tenure appointment at the new institution not later than during the second year of a tenure-track appointment.

- 1.4. The Board may, at its discretion and upon the recommendation of the administration of the institution, reduce the number of years of tenure track or probationary service required. Although prior service credit toward tenure or continuing appointments may be awarded at any time, the Board strongly suggests that faculty members submit requests for prior service credit toward tenure only after the faculty member has assembled a complete portfolio for tenure review. Requests for prior service credit should be submitted on a form designated by the Board.
- 1.5. The Board may approve extension of the maximum periods of time allowed for progress towards promotion to associate professor and the award of tenure by one year. Good cause for granting such an extension shall include, without limitation,
  - 1.5.1. On the occasion of the birth or adoption of that faculty member's child or adoption or placement of a foster child with that faculty member; or
  - 1.5.2. When the faculty member is a major caregiver for an immediate family member who has an extended serious illness, injury, or debilitating condition; or
  - 1.5.3. When the faculty member has an extended serious illness, injury, or debilitating condition.

The request for extension must be made in writing to the vice president for academic affairs within one year of the events giving rise to the claim and no later than May 31 preceding the year a final decision would otherwise be made on an appointment with indefinite tenure for that faculty member. If approved by the institution, the request shall be forwarded to the Board for review at its June meeting.

A faculty member may use this provision no more than two times.

For purposes of this policy, "immediate family" includes a spouse, a common law spouse, or any other adult with whom the faculty member lives and commingles assets, unemancipated natural, adopted or foster children, or persons over whose affairs the faculty member exercises the responsibilities of guardian.

## **2. Conditions of Appointment for Tenure or Continuing Appointments**

- 2.1. Not later than during the sixth year of tenure-track contract or probationary service at an institution and upon application of a faculty member, a faculty member shall be considered for a tenure or continuing appointment which would begin with the next academic year. Such consideration shall be initiated by the administration on or before such date as may be specified under institutional promotion and tenure procedures or, in the absence of such institutional procedures, October 5. The Board may, at its discretion and upon the recommendation of the administration of the institution, reduce the number of years of tenure track or probationary service required. Tenure track or probationary service credit is not earned during a period of sabbatical leave or leave of absence.
- 2.2. Special conditions and accreditation requirements of the Medical and Law schools necessitate special guidelines for promotion, tenure, minimum rank qualifications, minimum promotion eligibility criteria and in makeup of the campus Promotion and Tenure Committee. Specific guidelines for both the Medical School and the Law School are published and available to faculty at the University of South Dakota.

### **3. Tenure - Standards for Appointment**

- 3.1. An appointment with tenure is a privilege that shall not be granted automatically.
- 3.2. To be granted the privileges of tenure, faculty members:
  - 3.2.1. shall demonstrate that they currently meet institutional performance expectations in teaching, scholarship and service for associate professors and
  - 3.2.2. shall demonstrate promise that they shall, in due course, meet institutional performance standards in teaching, scholarship and service for persons who hold the rank of professor.
- 3.3. Faculty members who apply for tenure have the burden of demonstrating that their performance has met these standards.
  - 3.3.1. Evidence that faculty members have developed, maintained and implemented well defined, administratively approved plans for their own professional development in the areas of teaching, scholarship and service is relevant to demonstrating promise that they shall in due course meet institutional performance standards in teaching, scholarship and service for persons who hold the rank of professor.
  - 3.3.2. At minimum, professional development plans must:
    - address institutional standards for faculty performance,
    - chart progress towards the performance exceeding expectations in all areas of professional activity, and
    - provide reasonable assurance that the applicant will achieve extramural recognition for ongoing scholarly accomplishment and leadership commensurate with holding the rank of professor.
  - 3.3.3. When reviewing applications for tenure, administrators and promotion and tenure committees shall consider the progress towards meeting the objectives of such approved plans, and they shall heed evidence that the faculty unit member is effectively pursuing approved objectives, but they shall exercise independent judgment as to the quality of results achieved by the faculty unit member.  
  
When assessing the quality of performance, administrators and committee members shall be guided by the principles stated in Board Policy No. 4:38 as complemented by institutional policy statements.

### **4. Continuing Appointment - Standards for Appointment**

- 4.1. An appointment to a continuing appointment is a privilege that shall not be granted automatically.
- 4.2. Each institution shall establish performance standards in research achievement and productivity that compare to the highest standards in research observed nationwide.
- 4.3. To be granted the privileges of a continuing appointment, research faculty members:
  - 4.3.1. shall demonstrate that they currently meet performance expectations in research achievement and productivity for associate research professors and

- 4.3.2. shall demonstrate promise that they shall, in due course, meet performance standards in research achievement and productivity for persons who hold the rank of research professor.
- Evidence that research faculty members have developed, maintained and implemented well defined plans for their own professional development in the areas of research is relevant to demonstrating promise that they shall in due course meet performance standards in research achievement and productivity for persons who hold the rank of research professor.
- 4.4. The burden of demonstrating that these standards have been satisfied lies with research faculty members who apply for a continuing appointment.

## **5. Procedure for Awarding Tenure**

- 5.1. Tenure review is separate from promotion review.
- 5.2. Each president shall establish tenure committees appropriate to the administrative organization of the respective institution. Such committees shall be composed of faculty members and administrators. The president shall establish procedures at the institution for the selection of administrative tenure committee members.
- 5.3. Faculty members who wish to be considered for tenure will notify their immediate supervisor in writing on such date as may be specified under institutional promotion and tenure procedures or, in the absence of such institutional procedures, no later than October 5 of the sixth year of tenure track service. Such notification will allow the promotion and tenure committees access to the faculty member's personnel file and individualized professional development plans. It is the responsibility of the faculty member to prepare, assemble and submit on such date as may be specified under institutional promotion and tenure procedures or, in the absence of such institutional procedures, no later than October 5 all favorable documentation which is appropriate and upon which the faculty member relies to establish that the member has developed, maintained and implemented well defined plans for professional development in the areas of teaching, scholarship and service that demonstrate promise, as required under Section C.3 (Tenure - Standards for Appointment), that the member shall in due course meet institutional performance standards in teaching, scholarship and service for persons who hold the rank of professor. Each institution may stipulate certain desired elements or format for the documentation, which shall be made available to faculty members in written form. This documentation must accompany the request to the immediate supervisor for consideration. The immediate supervisor, and any other administrators, including the president, who review the file in order to make independent recommendations, may supplement the material assembled by the faculty member with information obtained from other sources, and they may base their recommendations upon such additional information, provided that such additional information is included in the file together with the materials assembled by the faculty member. This documentation and the recommendations of the department head (and of the departmental promotion and tenure committee, if any) will be forwarded by the department head to the administrator responsible for the process at the college/school level or institutional level, whichever is applicable, no later than November 5.

- 5.4. The tenure committees shall review the qualifications of each faculty member to determine whether the applicant has satisfied the provisions of Section C.3 (Tenure - Standards for Appointment). The institutional tenure committee shall deliver its recommendation to the president no later than January 20 of the fiscal year in which the tenure appointment is applied for. The work product of the tenure committees shall remain confidential.
- 5.5. The faculty member shall be notified, not later than April 1 of the year in which the faculty member is being considered for tenure, of what the President shall recommend to the Board regarding the faculty member's tenure status. Such notice shall indicate the institutional tenure committee's recommendation. If the President intends to recommend that tenure be denied, the President shall, upon receipt prior to April 15 of a written request, within fifteen (15) working days of the request, provide reasons in writing for the decision.
- 5.6. The president shall make a recommendation to the Board not later than April 15 of the fiscal year in which the tenure appointment is applied for. This recommendation shall be based upon the provisions of Section C.3 (Tenure - Standards for Appointment), as well as upon the other provisions and requirements of this Chapter and upon an assessment of the candidate's past contributions and promise of future contributions to the goals and missions of the institution.
- 5.7. Successful applicants will receive a tenure contract the following year. Unsuccessful applicants and faculty members who complete their sixth year of tenure track service without applying for tenure will be offered a single term contract for the appointment year following that in which tenure is denied. This term contract is not subject to renewal, and the faculty member will be ineligible for reappointment after it expires.
- 5.8. The final decision whether to grant a tenure appointment to any applicant shall remain exclusively with the Board.

## **6. Procedure for Awarding a Continuing Appointment**

- 6.1. The institution's chief research officer shall establish a promotion and continuing appointment review committee. Until such time as twelve or more research faculty members have been appointed to continuing appointments, the continuing appointment review committee membership shall comprise the chief research officers of other system institutions that host research centers, together with two additional representatives from the institution, designated by the institutional president.
- 6.2. Research faculty members who wish to be considered for a continuing appointment will notify their immediate supervisor in writing on such date as may be specified under institutional promotion and tenure procedures or, in the absence of such institutional procedures, no later than October 5. Such notification will allow the continuing appointment review committee access to the faculty member's personnel file. It is the responsibility of the research faculty member to prepare, assemble and submit on such date as may be specified under institutional promotion and tenure procedures or, in the absence of such institutional procedures, no later than October 5 all favorable documentation which is appropriate and upon which the faculty member relies for favorable action. Each institution may stipulate certain desired elements or format for

the documentation, which shall be made available to research faculty members in written form. This documentation must accompany the request to the immediate supervisor for consideration.

- 6.3. The continuing appointment review committee shall review the qualifications of each applicant for a continuing appointment to determine whether the applicant has satisfied the provisions of Section C.4 (Continuing Appointment - Standards for Appointment). To assist in the evaluation of performance, the immediate supervisor, the continuing appointment review committee or any other administrator involved in the review process may solicit outside reviews. Any such outside review will be added to the documentation that accompanies the file when submitted with recommendations for further review or consideration. The continuing appointment review committee shall deliver its recommendation to the institution's chief research officer and Vice President for Academic Affairs no later than December 15, and the research officer and Vice President for Academic Affairs will forward that recommendation, together with such additional comments as each may deem appropriate, to the institutional president by January 1. The work product of the continuing appointment review committee shall remain confidential.
- 6.4. The applicant shall be notified, not later than March 1 of the year in which the research faculty member is being considered for a continuing appointment, of what the institutional president will recommend to the Board regarding the faculty member's continuing appointment status. Such notice shall indicate the continuing appointment review committee's recommendation. If the institutional president intends to recommend that the continuing appointment be denied, the president shall, upon request, within fifteen (15) working days of the request, provide reasons in writing for the decision.
- 6.5. The institutional president shall make a recommendation to the Board not later than April 1. This recommendation shall be based upon the provisions of Section C.4 (Continuing Appointment – Standards for Appointment), as well as upon the other provisions and requirements of this Chapter and upon an assessment of the candidate's past contributions and promise of future contributions to the goals and missions of the research center program.
- 6.6. Successful applicants will receive a continuing appointment the following year. Unsuccessful applicants and faculty members who complete their sixth year of probationary service without applying for a continuing appointment will be offered a single term contract for the appointment year following that in which the continuing appointment is denied. This term contract is not subject to renewal, and the research faculty member will be ineligible for reappointment after it expires.
- 6.7. The final decision whether to grant a continuing appointment to any applicant shall remain exclusively with the Board.

## **7. Non-Renewal of Tenure-Track Appointments**

- 7.1. Non-renewal ordinarily terminates employment at the end of an annual contract term. Non-renewal is not a disciplinary action. It does not terminate rights under an existing annual contract. The decision to non-renew is discretionary with the administration,



provided that it is not based upon reasons expressly forbidden under Board policy. Non-renewal is subject only to those procedural limitations expressly set forth in this section.

- 7.2. Prior to the issuance of a written notice of non-renewal, the faculty member's immediate supervisor shall provide the opportunity for a meeting with the faculty member to apprise the faculty member of the proposed action. The faculty member shall be given five (5) working days written notice of such meeting and the faculty member may have present a witness or representative of the faculty member's choosing.
- 7.3. In order to facilitate the relocation of faculty members who are not to be rehired, the administration agrees to provide notice, including reasons, of its intent not to rehire any faculty member serving under a tenure track in accordance with the following schedule:
  - 7.3.1. A faculty member who has completed less than one (1) academic year of service under a tenure-track appointment shall receive written notice of non-renewal from the institution before March 15 of the current year of appointment.
  - 7.3.2. If a faculty member has completed more than one (1) but less than four (4) years of service under a tenure-track appointment, the institution shall provide the faculty member with written notice of non-renewal before December 15 of the current year of appointment. However, if the faculty member is currently subject to the provisions of an improvement plan, the institution shall provide the faculty member notice of non-renewal prior to March 1 of the current year of employment. The non-renewed faculty member may file a request for reconsideration with the president within ten (10) working days of receipt of the notice of non-renewal. The president, after reviewing the request, shall notify the faculty member, within ten (10) working days, of the final institutional recommendation to be forwarded to the Board.
  - 7.3.3. If a faculty member has completed at least four (4) years of service under a tenure-track appointment, the institution shall provide the faculty member with written notice of non-renewal before April 1 of the current year of appointment. Such faculty member having received written notice of non-renewal shall receive a term contract for the term of one (1) academic year, effective the subsequent academic year. The faculty member may file a request for reconsideration with the president within ten (10) working days of receipt of the notice of non-renewal. The president, after reviewing the request, shall notify the faculty member within ten (10) working days of the final institutional recommendation to be forwarded to the Board. The faculty member may file with the president a statement which shall accompany the institutional recommendation to the Board. The Board shall consider the institutional recommendation and any statement at its next regularly scheduled meeting and shall issue its binding decision which shall be deemed final at the end of ten (10) days from the date of issuance unless such faculty member shall submit a resignation prior thereto.
  - 7.3.4. Faculty members employed on tenure-track contracts who are non-renewed may be granted no more than one subsequent term contract. Nothing in this section is intended to modify the rights and limitations contained in 4:7(H)(2) hereof.

- 7.4. In order to facilitate the relocation of research faculty members who are not to be rehired after the termination of an appointment, the administration agrees to provide notice, including reasons, of its intent not to rehire any faculty member serving under probationary contracts in accordance with the following schedule:
- 7.4.1. A research faculty member who has completed less than three (3) years of service under a probationary appointment shall receive written notice of non-renewal from the research center before March 15 of the current year of appointment.
  - 7.4.2. If a research faculty member has completed more than three (3) years of service under a probationary appointment, the research center shall provide the research faculty member with written notice of non-renewal before December 15 of the current year of appointment.
  - 7.4.3. Nothing in this section is intended to modify the rights and limitations contained in 4:7(H)(2) hereof.
- 7.5. If the administration is late in providing the notice stipulated in C.7.3.1 or C.7.3.2 above, the faculty member will be entitled to receive, at the election of the administration, either (1) an additional term contract for a period of time equal to twice the number of working days by which the notice is late; or (2) a payment equal to twice the number of working days by which the notice is late times the faculty member's monthly salary divided by twenty-two (22). If the administration is late in providing the notice stipulated in C.7.3.3 above, the faculty member will be entitled to receive, at the election of the administration, either (1) an additional term contract for the following academic year; or (2) a payment equal to the base salary for the current academic year. If the institution fails to provide timely notice as stipulated in (C.7.2), above, the faculty member shall receive, at the election of the institution, either of the following:
- an additional term appointment for a period of time equal to twice the number of working days by which the notice was late; or
  - payment equal to twice the number of working days by which the notice was late, multiplied by the faculty member's monthly salary, divided by twenty-two.
- 7.6. The years of service required for the notice provisions of this section shall not be affected by any reduction of the tenure-track period granted by the Board pursuant to Section 4:1 (Tenure-Track Contract), or Section 4.10.(2), (Conditions of Appointment for Tenure).

## **8. Grant of Academic Tenure or Continuing appointment to Newly Hired Administrators or Research Faculty Members**

- 8.1. The Board may, at its discretion and upon the recommendation of the administration of the institution, when special conditions warrant, award academic tenure or continuing appointment to newly hired administrators or research faculty members. This grant of tenure or continuing appointment shall not be construed to create a property right of any sort in the administrative portion of employment, and continuing appointments at hire remain subject to the same requirements and conditions involving the generation of income that otherwise apply to such appointments. In rare and exceptional circumstances, the Board may grant a tenure appointment to a newly hired research faculty member who had such tenure status previously.
- 8.2. The administration shall provide documentation of the circumstances that warrant a new appointment with tenure or continuing appointment. Circumstances that may warrant such an appointment include documentation of current performance commensurate with the award of tenure or a continuing appointment, development of a new program, need for special expertise, or appointment to an administrative position where possession of tenure or continuing appointment is critical to effective performance of administrative responsibilities.
- 8.3. Candidates recommended for appointment with tenure or continuing appointment shall have a record at least equal to that expected for tenure or continuing appointment at the institution or research center. The administration shall engage the institutional promotion and tenure committee to review the new appointments academic and scholarly record and advance a recommendation from the committee as a portion of the formal recommendation.
- 8.4. The administration shall provide to the Board the candidate's resume and information on tenure or continuing appointment status at other institutions. The administration may provide additional information in support of the recommendation.
- 8.5. The final decision whether to grant tenure or continuing appointment hereunder upon employment shall remain exclusively with the Board.

### **FORMS/APPENDICES:**

None

### **SOURCE:**

BOR August 1979; BOR June 1987; BOR May 1991; BOR June 1993; BOR May 1996; BOR August 1996; BOR August 2004; BOR August 2008; BOR April 2009; BOR December 2010; BOR August 2017.