

Rules Concerning Regents' Bylaw 5.09, Tenure, Tenure Review, and Joint or Partial Tenure Appointments

201.13

This SPG incorporates former SPG 201.13, *Rules concerning acquiring the protection of Regents' Bylaw 5.09 by accumulating years of Service*; SPG 201.21, *Appointments Specifically Designated "Without Tenure;"* SPG 201.39-1, *Principles and Practices Governing Tenure for Faculty Members with Divided or Partial Appointments*; and SPG 201.50, *Guidelines Related to Tenure Reviews and Reappointment Reviews*.

Tenure is granted to certain eligible faculty members at the ranks of associate professor and professor by the Regents of the University upon recommendation of the appropriate departmental chair, dean, executive committee, the provost, and at the University of Michigan-Dearborn and the University of Michigan-Flint by the chancellor, and by the president (Regents' Bylaw 5.08[4]).

Unless otherwise specified, a faculty member with tenure is presumed to hold tenure in his or her department, if the school or college is so organized; in the school or college; and in the University of Michigan, except pursuant to Regents' Bylaws 5.08 and 5.09 or the Program Discontinuance Guidelines. Faculty rights conferred by the university with respect to tenure are described in Regents' Bylaws 5.08 and 5.09 and the Program Discontinuance Guidelines. The schools and colleges maintain information about the tenure status of their faculty.

Because the university is large, decentralized, and heterogeneous, the views and needs of its various schools and colleges differ; therefore, considerable latitude in procedures and criteria for tenure and reappointment review is desirable. For example, upon recommendation of the appropriate faculty, each school or college decides on its own presumptive time to tenure review, within the parameters set by Regents' Bylaw 5.09. While recognizing the diversity of academic and educational cultures in an institution as complex as the university, and the need for individual schools and colleges to adopt and articulate promotion and tenure guidelines that work for them, it is also important for the university to articulate an institution-wide set of norms and expectations. The purpose of this policy is to articulate those university-wide rules and practices, to which school and college procedures must align.

I. Rules Concerning Regents' Bylaw 5.08, Regents' Bylaw 5.09, and SPG 601.02 (Program Discontinuance Guidelines)

Regents' Bylaw 5.09 prescribes procedures that must be followed before certain members of the faculty may be dismissed or demoted. A faculty member¹ acquires a right to these procedures when the Board of Regents awards indeterminate tenure to him or her or when he or she has accumulated ten years of full-time regular instructional faculty appointments at the University of Michigan in the rank of instructor or higher,² under the conditions explained in this policy and other applicable university policies.

As described more fully below, the university's policy on notice of non-reappointment³ effectively shortens this ten-year requirement to approximately nine years.

Year-to-year fluctuations in actual assignments across different appointing schools and colleges do not change the school or college's responsibility for the fractional appointment(s) a faculty member holds "with tenure," although such assignment shifts may affect the source of funds used to support that faculty member's salary. If an appointing school or college that has awarded tenure to a faculty member subsequently agrees with the faculty member to a reduction in his or her appointment, upon request by the faculty member the appointing school or college must reestablish the appointment at the original fractional level. The only circumstances under which a school or college may choose not to reestablish the tenured faculty member's appointment at the original fractional level are: when the usual understanding has been modified through mutual agreement, pursuant to the Program Discontinuance Guidelines or through actions taken in accordance with Regents' Bylaws 5.08 or 5.09.

II. University Policies Governing Tenure and Tenure Review

A. Counting of Time Toward the Acquisition of Regents' Bylaw 5.09 Protections

The rules below specify the conditions under which the university counts a term of appointment toward the ten years needed to acquire the protections of Bylaw 5.09 by the accumulation of years of service. Hence, they set an outer limit on how long a school or college may use the services of certain members of the instructional faculty without giving them notice of non-reappointment or recommending them for tenure. The rules in this section (II.A) became effective on July 1, 1986, but do not apply to persons holding associate and full professor appointments that were specifically designated "without tenure" before this date.

The time a faculty member spends in a university appointment will be counted toward the acquisition of the protections of Regents' Bylaw 5.09 by the accumulation of years of service if, and only if, each of the conditions below for title, rank, appointment fraction, and service are met:

Title and Rank. The appointment of a tenure-track faculty member consists of a regular instructional faculty appointment at the rank of instructor or higher. This includes any appointment as a regular instructor, assistant professor, associate professor, or professor, including such appointments designated as "without tenure." It does not include lecturer appointments or adjunct, clinical, research, or visiting appointments.

Appointment Fraction. The appointment must be "full-time" within the university. Within the context of Bylaw 5.09, "full-time" means an academic year or academic term appointment fraction of 80% or more, even if the total fraction is split between two or more appointments.⁴ For the 80% or more total to be achieved through two or more concurrent appointments, each of the appointments must satisfy the title and rank conditions above, and the service conditions below.

Service. The appointment must be spent in one or more of the activities described below:

- in residence at the University of Michigan; or
- on paid duty off-campus (SPG 201.90); or
- on Scholarly Activity Leave (SPG 201.30-4) for one year or less, or for a longer period but only if the faculty member and the school or college agree in writing to an exception to this provision at the time the leave is granted and such exception is approved in writing by the provost and executive vice president for academic affairs on the Ann Arbor campus, or by the provost and vice chancellor for academic affairs on the Dearborn or Flint campus; or
- on other forms of paid or unpaid leave, unless the faculty member and the school or college agree in writing when the leave is granted that the time the faculty member will be on leave will not count toward the acquisition of the protections of Regents' Bylaw 5.09 and that such agreement is approved in writing by the provost and executive vice president for academic affairs on the Ann Arbor campus, or by the provost and vice chancellor for academic affairs on the Dearborn or Flint campus.

Changes in Appointment or Service. With the exceptions specified below, any change in title, rank, appointment fraction, or service that stops or starts the accumulation of years of service relevant to Bylaw 5.09 requires the prior written approval of the provost and executive vice president for academic affairs on the Ann Arbor campus, or by the provost and vice chancellor for academic affairs on the Dearborn or Flint campus. The only exceptions are those pertaining to childbirth and dependent care described in SPG 201.92 *Tenure Probationary Period: Effects on Tenure Clock of Childbearing and Dependent Care Responsibilities*; notice to the provost that such exclusions have been approved is required, but prior written approval of the provost is not necessary.⁵

B. Timing of Tenure Reviews

Each school and college must specify a probationary period with a presumptive time at which a faculty member will be considered for tenure. This period may be shorter than the time specified by Bylaw 5.09 but, under that Bylaw, tenure review must be initiated no later than the end of the first semester of the faculty member's⁶ ninth year of university appointments,⁷ with the expectation that one (and only one) additional year⁸ of employment will be available if tenure is denied.

At the time of hiring, individual faculty should be informed in writing of the school or college's presumptive time to tenure and of the specific year in which the individual will be considered. The school or college should inform all untenured faculty annually of the year in which they individually will be reviewed for tenure, or make

such information easily available. If there is a change in the expected timing for any reason, that change should be communicated to the affected faculty member as soon as possible.

The chair or dean or a duly authorized elected or appointed faculty committee may, where consistent with the standards of the school or college, initiate a tenure review at any time before or after the school's presumptive tenure review year. A review that departs from the school's presumptive clock requires the specific concurrence of the faculty member. The criteria for tenure do not vary when a review is scheduled at some time other than the presumptive time.

A faculty member may request a tenure review at any time, but the decision to conduct such a review is within the discretion of the chair or dean and must be made, where applicable, in accordance with the policy of the school or college, as well as consistently with the notice requirements of SPG 201.88.

The provost's office expects that a school or college will produce a complete casebook, including letters from external reviewers, and forward those materials to the provost for review (a) whenever the school or college is recommending that tenure be granted, (b) whenever the school or college has reached a final decision that tenure will not be recommended,⁹ or (c) whenever the school or college is recommending that a tenured faculty member be promoted to full professor. If the school or college dean seeks an exception to this policy (for example, wishes to forward a review that does not include external letters), that exception must be discussed with the provost prior to October 31st of the penultimate year of the faculty member's probationary period.

In cases of a negative tenure decision, it is the University's expectation that, except in unusual circumstances, the faculty member will be given a terminal year following the year in which the negative decision is reached. Non-reappointment notification deadlines are specified in SPG 201.88 *Notice of Non-reappointment*.¹⁰

If a school or college decides to dismiss a tenure-track faculty member without a tenure review, the faculty member should be informed in writing by October 31st of the penultimate year of the school or college's probationary period.¹¹ If an untenured faculty member is in his or her penultimate year and notice consistent with SPG 201.88 is not given, the school or college is obliged to conduct a tenure review during that year (and no later than the ninth year of the faculty member's University tenure-track appointments).

C. Guidelines regarding University of Michigan Policies that Govern Time to Tenure Review ("The Tenure Clock") and Related Matters" (Ann Arbor Campus)

To help clarify university policies in the area of tenure review--with a focus on "the tenure clock"--the office of the provost and executive vice president for academic affairs has

developed Guidelines on Tenure Review Timing. These guidelines are available at http://www.provost.umich.edu/faculty/tenure_review/policies.html.

The office of the provost strongly encourages each school and college to develop and make known its own tenure procedures that are consistent with these guidelines.

D. Procedures to be Followed in Making Recommendations to Grant or Deny Tenure and to Reappoint or Not Reappoint Regular Instructional Staff Members with the Rank of Full-time¹² Instructor or Higher

The common principles articulated below include University requirements, as well as "best practices" that may be adopted by the schools and colleges. Unless so specified, they are not mandatory but are intended to be adapted to the needs of each school and college in the creation of its own tenure procedures.

Schools and colleges must conduct an interim performance review of untenured faculty no later than the third year of the probationary period. If the tenure probationary period established by the school or college is longer than seven years, a second less formal review should be conducted in the fifth or sixth year to provide feedback about progress toward tenure and promotion.

1. Schools and colleges must establish written criteria for promotion and tenure evaluation¹³ and make them available to all untenured faculty. If the school or college permits early or late review, or a second review, the school or college is encouraged to make that explicit and, where possible, to articulate criteria for early or late review. Principles of academic freedom must be respected in evaluating the candidate for tenure.
2. The tenure review must include a careful examination of the candidate's credentials and performance by a committee of the faculty. Unless an exception is agreed to by the provost, the review must include external

evaluations; internal evaluations are encouraged but not required.

3. Tenure recommendations to the dean must be made by a committee, the majority of whom are tenured members of the school or college faculty. Tenure recommendations that are to be forwarded to the Regents must proceed according to Regents' Bylaws 5.08.
4. When the dean of the school or college decides to recommend or not to recommend a faculty member for tenure, or if a decision is made to defer and conduct a second review, that decision must be communicated to the candidate in writing in a timely fashion. When a file is transmitted to the provost, the faculty member should be told that there will be no further school or college review unless required by the provost. It is also the responsibility of the school or college to communicate to the faculty member when the school or college has been informed that a negative recommendation from the school or college has been affirmed or rejected by the provost.

In certain circumstances, the dean or provost or a duly authorized elected or appointed faculty committee may, where consistent with the policies of the University and the school or college, decide that a second review is appropriate and the tenure decision should be deferred; that second review must be completed within the time limits established by Regents' Bylaw 5.09.

E. University Policies On Joint or Partial Tenure Appointments¹⁴

With respect to members of the faculty who hold tenured regular instructional appointments in more than one school or college of the university, or who hold part-time appointments with tenure, a general governing principle is that the tenure rights the university confers on faculty are indivisible. That is, no faculty member holding tenure may be dismissed from the University of Michigan, demoted, or have his or her appointment reduced below the level at which tenure was awarded except pursuant to the Program Discontinuance Guidelines (SPG 601.02) or Regents' Bylaws 5.08 and 5.09. At the same time, if the university has awarded tenure to a faculty member for a less than a full-time, fractional appointment, the university is not obliged to increase that appointment (e.g., to full-time).

For each faculty member who holds tenure-track but untenured appointments in more than one school or college, the appointing schools and colleges must select a "primary home" for the faculty member--unless otherwise mutually agreed upon by all parties (the faculty member and the dean, director, or chair of each of the appointing schools and colleges). The policies and practices of that primary home will then govern any subsequent decisions leading to a recommendation concerning the awarding of tenure to that faculty member. In such cases, the tenure granted may be associated with only one of the fractional appointments. In instances where tenure could be awarded in more than one school or college, the policies and practices of each school or college will govern any decision(s) leading to a recommendation concerning the awarding of tenure in that school or college.

F. Relation between University and School or College Policies for Tenure and Promotion Reviews

University practice permits each school and college to adopt policies concerning promotion and tenure reviews for full- and part-time members of its "regular tenure track instructional faculty."¹⁵ As described above, each school or college must establish its own probationary period after which candidates for tenure are evaluated and are recommended for tenure, given notice of non-reappointment,¹⁶ or given the option to have a second review under school or college policies.¹⁷ SPG 201.92 *Tenure Probationary Period: Effects on Tenure Clock of Childbearing and Dependent Care Responsibilities* requires the exclusion, upon request of the faculty member, of one year for each childbirth (up to a total of two years) from the countable years of service that constitute a tenure probationary period. In total, the schools and colleges may approve up to two years' extensions of the tenure probationary period for childbirth and/or dependent care, as long as the resulting probationary period remains consistent with Bylaw 5.09. The school or college must notify the provost annually and in writing of all exclusions and exceptions it has granted. Any extension that would place review beyond the University probationary period requires the permission of the provost. Each school or college may develop policies on whether or not to count time spent on various leaves¹⁸ toward the school or college probationary period. The criteria for tenure do not vary but remain the same whether or not the candidate has received an extension of the tenure clock.

The maximum length of each school and college probationary period is limited by Regents' Bylaw 5.09 and the university's policy on notice of non-reappointment, as described above in section II.B. and also in SPG

201.88 *Notice of Non-reappointment.*

The procedures and criteria of each school or college should be articulated in writing to each faculty member at the time of his or her initial appointment. The standards for tenure should not vary according to the length of an individual faculty member's probationary period, but should be applied consistently in all tenure decisions made by a school or college.

G. Guidelines for Modifying the Tenure Probationary Period within the Schools and Colleges

The presumptive tenure probationary period of a school or college must fall within the maximum permitted by the University clock. The presumptive probationary period of a school or college may be set and modified in compliance with the policies of the school or college. The school or college must specify the faculty to whom the change in the clock will apply. Normally, the new period would apply to all untenured faculty currently on the tenure track, as well as future faculty.

When a school or college modifies its clock, it should review and, if necessary, change its related policies. Before final adoption, the modification and proposed revisions must be reviewed and approved by the provost.

- ¹ Non-tenured faculty have the right to the procedures specified in Regents' Bylaw 5.09 when the University seeks dismissal during the term of appointment specified in the employment contract.
- ² See SPG 201.34-1 *Classification and Appointment of Instructional Faculty.*
- ³ For information regarding notice of non-reappointment, see SPG 201.88 *Notice of Non-reappointment* and footnote 12 below.
- ⁴ No more than one year (two academic terms) may be accumulated in a twelve-month period.
- ⁵ SPG 201.92 *Tenure Probationary Period: Effects on Tenure Clock of Childbearing and Dependent Care Responsibilities* specifies that a woman shall, upon written request to the dean, be granted an exclusion of one year for each event of childbirth, up to a maximum of two years. It also permits a dean, upon written request from the faculty member, to exclude up to two years for dependent care. However, no more than two years can be excluded from the tenure clock under SPG 201.92 for any one faculty member.
- ⁶ As used herein, "faculty member" shall mean non-tenured regular instructional faculty member with the rank of instructor or higher.
- ⁷ Years of appointment are counted according to "Rules Concerning Acquiring the Protection of Regents' Bylaw 5.09 by Accumulating Years of Service" (Regents' Proceedings, September 1985).
- ⁸ Any employment as a member of the faculty beyond one terminal year must be approved in writing by the provost of the appropriate campus.
- ⁹ When a school or college decides to defer a tenure decision until a subsequent year within the probationary period specified by Regents' Bylaw 5.09, the Provost's Office does not need to be notified of the decision to defer.
- ¹⁰ Where a faculty member's appointment is to conclude at the end of the Winter Term of the current academic year, SPG 201.88 requires that the faculty member be given notice of termination by September 15 of that year. Where the appointment will be terminated at some time other than the end of the Winter Term, the faculty member must receive nine months' advance notice and be no later than the tenth year of employment.
- ¹¹ If the penultimate year of appointment expires at a time other than the end of the Winter Term, the notice must be given no later than a date nine months prior to the termination date of the penultimate year and no later than the ninth year of employment.
- ¹² "Full-time" is defined in the "Rules Concerning Acquiring the Protection of Regents' Bylaw 5.09 by Accumulating Years of Service" (Regents' Proceedings, September 1985, and SPG 201.13).
- ¹³ See "Principles for Tenure Review" [http://www.provost.umich.edu/faculty/tenure_guidelines.pdf].
- ¹⁴ For further information, see Guidelines for Joint Academic Appointments at the University of Michigan [http://www.provost.umich.edu/faculty/joint_appointments/Joint_Appts.html].
- ¹⁵ Titles specified as "regular instructional faculty" are defined in SPG 201.34-1 *Classification and Appointment of Instructional Faculty.*
- ¹⁶ See SPG 201.88 *Notice of Non-reappointment.*
- ¹⁷ If the tenure decision is deferred, the notice of non-reappointment can be given either concurrently with the deferral or after the second review.

¹⁸ Leaves are defined in the Standard Practice Guide (e.g., SPG 201.30 Leaves of Absence; SPG 201.30-1 Leaves of Absence Without Salary; SPG 201.30-2 Sabbatical Leave; SPG 201.30-4 Scholarly Activity Leave).

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