NUMBER: 1463

TITLE: Dismissal of Faculty From Employment Due to Financial Exigency or Discontinuance of a Program of Study or a Department of Instruction

APPROVED: March 11, 1991

A. General

This policy provides for the dismissal of tenured and non-tenured faculty members from employment due to financial exigency, or the discontinuance of a program of study or department of instruction (hereinafter referred to collectively as "Extraordinary Events").

B. Authority

Only the Board of Visitors has the authority to dismiss faculty from employment due to Extraordinary Events. Dismissal of faculty shall be conducted according to the procedures provided in this policy.

C. Procedures for the Dismissal of Faculty

1. Application

a. Upon the completion of the approval university procedures for a determination of financial exigency, or discontinuance of a program of study or department of instruction, the provost and vice president for academic affairs shall determine which faculty members, if any, in the affected programs or departments will receive notices of dismissal.

b. Before deciding to issue notices of dismissal to tenured and nontenured teaching faculty, the provost and vice president for academic affairs shall give due consideration to the reduction of nonfaculty staff and administrators and to faculty reassignment, consistent with the retention of the integrity of the remaining academic programs.

c. In determining which faculty members will receive notices of dismissal, the provost and vice president for academic affairs shall first dismiss nontenured faculty in the affected program of study. Within the categories of tenured or nontenured, a criterion based on the quality of an individual's teaching, research and service may be applied to select those to be dismissed. This policy shall not be used to discriminate against women or minorities.

d. In determining which tenured faculty members will receive notices of dismissal, the provost and vice president for academic affairs shall give due consideration to any recommendation made by the tenured faculty members of the department involved.

e. In the event faculty are dismissed pursuant to this policy, a position may not be offered within a program of study or department of instruction to a new candidate within the specialty of the faculty member dismissed for three years following the effective date of the dismissal without first offering to reinstate the dismissed faculty member. The offer to reinstate shall remain open for a reasonable time.

2. Notice of Dismissal

a. The notice of dismissal provided to a faculty member shall be in writing and shall advise of (1) the terms and effective date of dismissal, (2) the substantive reason(s) for the decision, (3) the procedures followed in arriving at the decision, and (4) the procedures described herein through which a faculty member may seek review of the decision.

b. The effective date for dismissal of a nontenured faculty member shall be on the expiration date of his or her academic year contract. Notice of dismissal shall be provided not later than December 15 of the same academic year.

c. The effective date for the dismissal of a tenured faculty member shall be on the expiration date of his or her academic year contract. Notice of dismissal shall be provided to the faculty member as soon as possible following the decision of the provost and vice president for academic affairs to dismiss. In no case shall the notice be less than a full academic year.

d. For purposes of this policy, the academic year shall commence on the first day of classes of the fall semester and end on the date of spring commencement at the end of the second semester.

3. Review

a. A decision to issue a notice of dismissal to a faculty member may be reviewed as described in this section upon the grounds that the decision was arbitrary, capricious, or upon the grounds that, in making the decision, the provost and vice president for academic affairs deviated materially from the policies and procedures of the university. The burden of proof shall be on the faculty member.

b. If a dismissed faculty member requests a review of the decision, the faculty member shall provide a written request to the provost and vice president for academic affairs within fifteen (15) calendar days of the faculty member's receipt of the notice of dismissal. The written request shall describe, with reasonable specificity, the grounds for review.

c. Within seven (7) calendar days after receiving the faculty member's request for review, the provost and vice president for academic affairs shall forward a copy of the request and a copy of the notice of dismissal to the chair of the Faculty

Grievance Committee with a request that the chair initiate the applicable procedures of the committee.

d. Upon the conclusion of the procedures of the Faculty Grievance Committee and upon the provost and vice president for academic affairs' receipt of the committee's recommendation and report, the provost and vice president for academic affairs shall submit the materials to the president with a recommendation to accept, reject or modify the committee's decision. The president may decide to accept, reject or modify the recommendation of the provost and vice president for academic affairs as the president sees fit. If the president decides to reject or modify the recommendation of the committee, the president must provide reasons in writing, within fifteen (15) days of receipt of the materials from the provost and vice president for academic affairs, for that decision, both to the faculty member and the Grievance Committee. Failure to do so within the time provided (unless for good cause) shall be deemed as assent to the committee's decision.

e. If, after receiving the committee's recommendation, the provost and vice president for academic affairs decides to withdraw the notice of dismissal issued to the faculty member, the notice shall be rescinded in writing and the proceedings closed.

f. If, after receiving the provost and vice president for academic affairs' recommendation and the materials, the president affirms the notice of dismissal or if the faculty member does not make a timely request for review, the president shall forward to the Board of Visitors a recommendation that the faculty member be dismissed from university employment in accordance with the terms of the notice.

4. Consideration and Decision by the Board of Visitors

a. During its consideration of a recommendation to dismiss a faculty member, the Board, or an appropriate committee of the Board designated by Board (hereinafter "the Board"), shall review the record of the case including the recommendations of the provost and vice president for academic affairs, the president and the report of the Faculty Grievance Committee. The Board shall provide the faculty member (or his or her designated representative) and the president (or the president's designated representative) with an opportunity to make a written statement and, if either party should so choose, an oral statement. These statements shall be based upon the record of the case. The Board, in its discretion, may request additional evidence from either party, which shall be disclosed to the other party.

b. Faculty members from the same program of study, department of instruction, or college may make a collective statement before the Board if they should so choose and if desired by the Board.

c. After its consideration of a recommendation to dismiss a faculty member, the Board may decide to accept the recommendation to dismiss the faculty member, alter the terms of the recommendation, or decide not to dismiss the faculty.

d. The Board shall provide written notification of its decision to the faculty member and to the president within sixty (60) calendar days of its receipt of the president's recommendation.

e. If the Board's decision is not rendered within sixty (60) days as provided in paragraph C.4.d., such failure to act shall be deemed a decision not to dismiss the faculty member.