

Date Passed Senate: April 20, 2004

Date of ESU President's Action: May 19, 2004

FSB 03016

CHRONIC LOW PERFORMANCE AND CORRECTIVE FACULTY DEVELOPMENT

Date of First Reading: April 6, 2004

Date of Second Reading: April 20, 2004

President's Action: Not Approved

Senate Sponsor: Faculty Affairs Committee

- I. Purpose:** This Bill is intended to clarify and improve the policies and procedures associated with chronic low performance and corrective faculty development by replacing FSB 96001.
- II. Previous Senate Action:** FSB 95007 (which has not been modified and is included in the text of this Bill), FSB 96001, FSB 02010 (Vetoed by the president)
- III. Rationale:** The objective of the policy is to assist tenured faculty to be successful in their academic responsibilities. If a tenured member of the faculty begins to struggle and potentially fail to fulfill his or her academic responsibilities (i.e., teaching, scholarly activity, or service), the policy seeks to encourage corrective faculty development as soon as possible.

Beyond providing a system of checks and balances, the policy also reiterates the department's role in evaluating and assisting when an allegation of failure is eminent. The emphasis is on using the department's collective wisdom to ascertain if a serious problem exists, and if it does, find an effective solution.

- IV. Guidance:** A good deal of the language of the original legislation (i.e., FSB 96001) remains in this Bill. Members of the Faculty Affairs Committee who drafted the original Bill in 1996 will probably recognize that little has been changed in the intent and spirit of this revision. Since that time, there has been some confusion about the policy and the process. What follows is an attempt to provide a step-by-step process that serves as the framework for each department to use along with its own documents related to these matters.

While this bill retains most of the language of the version that was passed by the Senate last year it attempts to address the concerns raised by the president.

1 **FSB 03016**

2 **Chronic Low Performance and Corrective Faculty Development**

3
4 I. Related Principles and the Definition of Chronic Low Performance

5
6 A. Related Principles

7
8 Emporia State University is committed to recruiting only those faculty who show
9 clear promise of success in the academic setting. The University is committed to
10 the principles of academic freedom and, within those principles, to the system of
11 tenure. Tenure is an important part of academic freedom but does not accord
12 freedom from accountability. Just as the university is committed to recruit
13 excellent faculty and to ensure the excellence of their performance, so too, is the
14 university dedicated to faculty renewal and development. Thus, the concept of
15 regular, rigorous faculty review is a part of the university's commitment to
16 providing support to every faculty member.

17
18 B. Definition of Chronic Low Performance (FSB 95007)

19
20 Chronic low performance of a tenured faculty member is demonstrated when the
21 faculty member fails in his or her professional responsibility as identified in
22 annual evaluations. Continued low performance, despite all assistance provided,
23 may be considered an adequate cause for dismissal.

24
25 II. Statement of Policy

26
27 The Faculty Senate of Emporia State University hereby recognizes the university
28 requires adequate performance of certain duties by the faculty member. While tenure,
29 in its protection of academic freedom, shields faculty from discriminatory, unfair,
30 arbitrary, or capricious dismissal, it is not designed to shield them from the
31 consequences of inadequate performance or non-performance of their duties.

32
33 Every faculty member's performance is subject to review to determine whether each
34 faculty member has fulfilled his or her duties. Sustained failure of a faculty member
35 to carry out his or her academic responsibilities, despite the opportunities for
36 university-supported faculty development or other appropriate interventions, is cause
37 for consideration of dismissal from Emporia State University, by due process.

38
39 III. Implementation

40
41 A. Evaluation Process

42
43 The annual evaluation document used by each department will include: (1) a
44 statement of the overall acceptable level of faculty performance, (2) a definition
45 of failure for each area of faculty responsibility (i.e., teaching, scholarly activity,

46 and service), (3) a provision for faculty development, and (4) a statement of a
47 faculty member's right to due process in the event any disagreement should arise
48 in the course of the evaluation. Each department shall review its evaluation
49 process at least once every five years and any changes shall be adopted by a
50 faculty vote and approved by the dean of the appropriate school/college/library
51 and by the Vice President for Academic Affairs. Any request for a secret ballot
52 must be honored when changing this evaluation process. A current copy of each
53 department's evaluation process shall be kept on file in the office of the Vice
54 President for Academic Affairs.

55
56 B. Individualized Expectations

57
58 Consistent with the Regents' policy, Emporia State University's policy provides
59 for differential allocations of effort among tenured faculty in the areas of their
60 academic responsibilities. The individual's performance responsibilities and
61 expectations for the period are determined by the allocation of effort and the
62 departmentally-established responsibilities in an academic area. These
63 responsibilities and expectations will serve as the basis for the individual's Annual
64 Evaluation.

65
66 C. Annual Evaluation

67
68 1. (Typical) Annual Evaluation by the Department Chair

69
70 The department chair using criteria and methods appropriate to that
71 department for teaching, scholarship, and service shall evaluate each faculty
72 member annually. The faculty member will provide relevant information for
73 the purposes of evaluation. Multiple sources of information used to evaluate
74 the teaching component will include students' ratings of instruction and such
75 other information as may be appropriate.

76
77 2. (Special) Annual Evaluation by the Department

78
79 Beyond the department chair's responsibility for the evaluation of each faculty
80 member, the department's tenured faculty share the responsibility in
81 evaluating tenured faculty who might be considered failing in any area of
82 responsibility (i.e., teaching, scholarly activity, or service) as defined in the
83 department's annual evaluation document. It is important to note, this Special
84 Annual Evaluation is not tantamount to a reapplication for tenure. Instead,
85 this process is intended to ensure professional self-direction and the success of
86 faculty who already have earned tenure. It encourages the department to
87 exercise its collective wisdom in determining if serious problems actually
88 exist and seeking effective solutions when they occur.

89

90 a. Department's Annual Evaluation by the Chair and the Department's
91 Evaluation Committee when a Tenured Faculty Member Might be
92 Considered Failing
93

94 If a tenured faculty member could be considered failing in any of his or
95 her responsibilities as a faculty member, he or she must be informed of the
96 concerns. Subsequently, an *Evaluation Committee*, composed of tenured
97 faculty, will conduct an independent evaluation as part of this evaluation
98 process (i.e., the chair and tenured faculty will both be involved in this
99 annual evaluation process). Throughout this process, allegations of failure
100 must be substantiated with clear and convincing evidence to which the
101 tenured faculty member has a right to respond. The burden of
102 demonstrating adequate cause rests with those who contend a tenured
103 faculty member has failed in his or her professional responsibility.
104

105 b. Composition of the *Evaluation Committee*
106

107 Although this *Evaluation Committee* may coincide with another
108 democratically-constituted committee such as a promotion committee, it
109 might also be a committee of all tenured faculty in the department, or a
110 democratically-constituted committee expressly for this purpose. In any
111 case, it may include neither non-tenured individuals nor anyone who is an
112 associate chair or above (e.g., chair, associate dean, dean, vice president).
113

114 c. Independence of the Evaluation Committee
115

116 It is expected that the Evaluation Committee will act independently. For
117 example, it is expected the tenured members of the faculty in a department
118 understand what constitutes a failing performance of a tenured faculty
119 member from the annual evaluation document mentioned above. The
120 Evaluation Committee's initial charge is to conduct an independent
121 evaluation of the material used in the annual evaluation process.
122

123 d. Access to Information and Input from the Faculty being Evaluated
124

125 The faculty member shall have access to all pertinent information.
126 (Although there are a variety of ways to ensure the faculty member has the
127 opportunity to see information in a timely fashion, often this can be
128 accomplished by simply including the faculty member as a recipient of
129 electronic copies at the same time the Evaluation Committee receives such
130 information, for example.) Furthermore, copies of any (or all) documents
131 shall be provided to the faculty member upon request. The faculty
132 member shall have the right to respond to any of these documents.
133

134 The faculty member shall have the right to provide input to any
135 committee, comment in response to its evaluations, and to request the

136 record be corrected when inaccurate. Furthermore, the faculty member
137 shall have the right to invite a representative to participate in any
138 discussions with an administrator (e.g., department chair) or any hearings
139 by a committee.
140

141 e. Delivery of the Draft of the Evaluation Committee's Contribution to the
142 Annual Evaluation to the Faculty Member

143
144 The Evaluation Committee's independent evaluation shall be provided to
145 the faculty member in writing at least five (class) days prior to its final
146 adoption. The faculty member has the right to respond to the Evaluation
147 Committee's independent evaluation and the Committee may modify its
148 evaluation. If the Committee modifies the evaluation, the faculty member
149 once again, shall have at least five (class) days to respond.
150

151 f. Delivery of the Independent Evaluation to the Department Chair

152
153 The Evaluation Committee's contribution to the Special Annual
154 Evaluation shall be delivered to the department chair. The department
155 chair may change any aspect of his or her evaluation after receiving the
156 Evaluation Committee's contribution to the Annual Evaluation, or may
157 choose not to do so.
158

159 g. Delivery of the Draft of the Department's Evaluation by the Chair and the
160 Evaluation Committee to the Faculty Member

161
162 The chair shall include the Evaluation Committee's independent
163 evaluation as part of a draft of the Annual Evaluation and provide it to the
164 faculty member within five (class) days of the receipt of the Evaluation
165 Committee's independent evaluation. It is important to recognize that the
166 Annual Evaluation of a faculty member who is alleged to be failing in his
167 or her professional responsibilities must be a combined product of the
168 chair and the Evaluation Committee. Although these may seemingly
169 appear to be two separate documents, together they form the department's
170 evaluation.
171

172 h. Review by School/College/Library Faculty Committee (Optional)

173
174 Within five class days of the receipt of draft of the Department's
175 Evaluation (i.e., the final adoption of the Evaluation Committee's
176 independent evaluation and the Chair's evaluation mentioned immediately
177 above), the faculty member may appeal to a faculty committee designated
178 to hear such matters in the school/college/library. (Hereafter, this is called
179 the Appeals Committee, which is different from the Evaluation Committee
180 above.) The faculty member will have the right to strike preemptively any

181 member (or members) of the Appeals Committee who also served on the
182 department's Evaluation Committee.

183
184 Within twenty class days of the faculty member's request for this appeal,
185 the Appeals Committee shall issue a non-binding (written)
186 recommendation on the appropriateness of the conclusion(s) in the draft of
187 the department's annual evaluation to the department chair and copies will
188 be provided to the faculty member and the Evaluation Committee. The
189 department chair may change any aspect of his or her evaluation after
190 receiving the appeals committee's decision, or may choose not to do so.

191
192 **i** Completed (Special) Annual Evaluation

193
194 The completed Special Annual Evaluation consists of the Department's
195 Evaluation (i.e., the chair's entire contribution to the evaluation and the
196 entire report of the Evaluation Committee). Additionally, when an
197 Appeals Committee has been involved, the Appeals Committee's report
198 shall be attached to the Department's Evaluation and become a permanent
199 part of the faculty member's personnel files.

200
201 IV. Appropriate Interventions, Including Faculty Development Options

202
203 Faculty development is the term used for the university's investment in its faculty.
204 While primarily relied upon to promote development, it may be utilized for corrective
205 action. Effective faculty development in this context is intended to refresh and
206 restore vitality and it may develop, expand, or enhance other talents. Early and
207 accelerated faculty development is encouraged, when a tenured member of the faculty
208 begins experiencing difficulty in any area of responsibility. Such corrective action
209 need not wait for the annual evaluation to be implemented.

210
211 If the annual evaluation indicates that a tenured faculty member has failed in any of
212 his or her professional responsibilities (i.e., teaching, scholarly activities, or service),
213 a written plan of action to improve the faculty member's performance shall be
214 developed as a product of mutual negotiation. This corrective faculty development
215 plan should have the objective of raising the faculty member's performance to
216 acceptable levels or beyond within three years. It shall respect academic freedom and
217 professional self-direction, and it shall be flexible enough to allow for subsequent
218 alteration or even its own abandonment. Good faith is expected from all parties
219 which includes a commitment to improve by the faculty member and adequate
220 support of that improvement by the university. The plan should not require a literal
221 fulfillment of a set of nonnegotiable demands or rigid expectations by any party,
222 quantitative or otherwise. The Evaluation Committee shall assist by offering
223 recommendations and/or reviewing the plan. If a mutually agreeable plan cannot be
224 developed, the faculty member may appeal to the college/school/library Appeals
225 Committee, the dean, or the Vice President for Academic Affairs to assist in the
226 development, and provision of additional resources, of such a plan. Beyond

227 appropriate provisions for faculty development, such as a sabbatical (if eligible),
228 campus opportunities for faculty continued renewal and development, a change in
229 teaching assignments, or reassigned time dedicated to improvement, the plan may
230 seek other appropriate interventions away from campus, including funding for
231 professional travel to participate in workshops, seminars, conferences, or other
232 opportunities that might be expected to help the faculty member develop. Non-
233 academic options may be part of the plan when appropriate (e.g., counseling or
234 medical leave).

235

236 Normally, a corrective plan should be approved by the faculty member to whom it
237 applies, department chair, Evaluation Committee, and others who are to provide
238 resources for such a plan (e.g., dean or Vice President for Academic Affairs). The
239 plan normally should provide continuous faculty development for three years. The
240 faculty member may reject an approved plan recommended to aid performance levels,
241 but the faculty member must understand that a sustained overall failure in his or her
242 professional responsibilities is a basis for dismissal.

243

244 V. Determination that Academic Responsibilities Are Not Being Met

245

246 The determination that the individual failed in his or her professional responsibility as
247 a faculty member requires concurrence by both the department chair and the
248 Evaluation Committee in the department's Special Annual Evaluation. These
249 concurring statements must be based on overwhelming evidence that clearly identifies
250 the failure in teaching and either scholarly activity or service.

251

252 Department chairs shall consult with the academic dean, and the dean shall consult
253 annually with the Vice President for Academic Affairs, on the progress of any faculty
254 member who falls within the category of overall failure to meet his or her
255 professional responsibilities.

256

257 VI. Recommendation for Dismissal

258

259 Based upon the evidence that there has been a sustained overall failure in teaching
260 and either scholarly activity or service (i.e., failing in teaching and at least one other
261 area), for three consecutive years or four out of six years, the department chair and
262 the departmental Evaluation Committee may recommend to the dean that a tenured
263 faculty member be dismissed provided the faculty member has had the opportunity
264 for corrective faculty development for the commensurate amount of time (i.e., for
265 three consecutive years or four out of six years). The dean may forward such
266 recommendation to the Vice President for Academic Affairs. In making this
267 determination, the department chair and Evaluation Committee must state the nature
268 of the failure, the reasons for this failure, the number of years that the faculty member
269 has failed, the level of discernible improvement in the faculty member's performance
270 after being notified of any failure in performance, and the extent to which the faculty
271 member has complied with the terms of an approved plan developed to improve the
272 faculty member's performance. If the Vice President for Academic Affairs, upon

273 reviewing the recommendations, agrees with these recommendations, he/she may
274 recommend to the President that the faculty member be dismissed. If the President
275 agrees and wishes to recommend dismissal, the faculty member may proceed to the
276 dismissal policy.

277
278 Should any recommendation to dismiss be brought against a tenured faculty member
279 based on grounds of sustained failure, the reports of the Evaluation Committee(s),
280 Appeals Committee(s), the annual written evaluations concerning the faculty
281 member, any outside evaluations, and any written response by the faculty member to
282 the charges shall be made available to the faculty committee charged with hearing the
283 dismissal case and any subsequent dismissal or grievance committee.

284
285 The finding of failure must neither abuse academic freedom nor be used as a cover
286 for discriminatory, unfair, arbitrary, or capricious dismissal. If a dismissal or
287 grievance committee concludes that such factors were considered in formulating the
288 recommendation to dismiss, the committee shall recommend to the President that the
289 proceeding to dismiss be terminated.

290
291 Provide comments about this bill to your Department's Senator or to Faculty President
292 Marvin Harrell harrellm@emporia.edu.
