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OREGON UNIVERSITY SYSTEM

DIVISION 21

CONDITIONS OF SERVICE

580-021-0005

Appointment Procedures

(1) Each person to be appointed or reappointed as a member of the faculty shall be sent written notification of appointment and conditions and terms thereof for each period of employment. The notification shall be signed by the president or, for noninstitutional personnel, by the Chancellor or a designee. All appointments for a period in excess of one year must be authorized by the Chancellor.

(2) The notice of appointment shall include, but not be limited to, the following:

- (a) Effective date of appointment;
- (b) Description of position offered (including references to any unusual duties);
- (c) Academic rank and title offered;
- (d) Duration of appointment;
- (e) Tenure status, including the nature of any restrictions on eligibility for tenure (e.g., limited term or temporary appointments or appointments funded by grant funds beyond institutional control);
- (f) Compensation;
- (g) Other conditions of employment.

(3) The faculty member shall be provided written information concerning duties, responsibilities and institutional expectations. Such written information shall be provided with the initial notice of appointment and whenever significant changes occur. The written information shall include:

- (a) Specific expectations relating to the particular position;
- (b) General institutional expectations as to professional standards, obligations and responsibilities to be met by faculty members, including but not limited to the following:
 - (A) Criteria to be used in evaluating the faculty member in connection with renewal of appointment, promotion, tenure (if faculty member does not have indefinite tenure) and post-tenure review (if the faculty member has indefinite tenure);
 - (B) Procedures to be used in application of the evaluative criteria, including identification of officers responsible for accumulating the information and data necessary to the evaluation, making the evaluation, counseling with the faculty member concerning performance and areas of desirable improvement and such additional information as is necessary to outline clearly the procedures to be used;
 - (C) Kinds of information that will be gathered by the institution as the basis for evaluating the faculty member;
 - (D) A reference to Board and institutional rules relating to faculty records;
 - (E) The nature of the institutional staff career support program, with specific reference to

institutional assistance available to assist the faculty member in improving teaching and other scholarly activities;

(F) A reference to the agreement required by OAR 580-021-0110 concerning the extent to which prior experience will be credited as a part of the probationary period of employment;

(G) A reference to any exceptions agreed to as provided in OAR 580-021-0130.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0006

Affirmative Action Goals: Employment

(1) Each institution president shall establish affirmative action goals and procedures for the purpose of increasing the proportion and effective utilization of minorities and women employed in administrative, technical and faculty positions in programs and departments where minorities or women are underrepresented.

(2) For purposes of this rule, "minorities" refers to Black African Americans, Hispanic Americans, Asian/Pacific-Island Americans and American Indians/Alaskan Natives.

(3) The goals and procedures established under this rule shall be reviewed by the institution president for adequacy and effectiveness at the end of each biennium and modified accordingly. A report of this biennial review shall be submitted to the Chancellor.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 8-1986, f. & cert. ef. 3-19-86; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0010

Consultative Procedures

The president shall establish written procedures through which faculty, department heads and deans shall have the opportunity for effective participation in deliberations leading to recommendations for appointment, reappointment, tenure or promotion of faculty. The procedures established shall also provide for consideration of information from other appropriate sources, including, but not limited to, student evaluations of faculty.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0015

Terms of Service of Faculty

(1) Academic staff may be appointed on the academic-year basis, the fiscal-year basis or on such other basis as may be arranged in individual cases.

(2) An academic year is normally the three-term period of service extending from September 16 of one calendar year through June 15 of the next calendar year, or for a comparable period of service within the fiscal year, whichever best serves the particular type of work involved, as may be required by the president. Nothing in this regulation shall be construed to prevent a staff member employed on an academic-year basis from being employed during the remainder of the fiscal year, in the summer sessions or in other service for any of the institutions, provided responsibilities for the regular academic year have been fulfilled to the satisfaction of the department head and the dean or director of the division.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0020

Working Hours

The varied nature of the work of faculty members whose duties are administrative, instructional, research or extension makes it impractical to define the exact number of working hours. All

such faculty members are required to give the institution their undivided efforts. Determination of time of service is the responsibility of the president. However, this provision shall not apply to Department employees who are subject to state or federal overtime compensation requirements.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0025

Outside Employment and Activities; Conflict of Interest

(1) No full-time employee of the Department or of any of the institutions or divisions shall engage in any outside employment that substantially interferes with duties. See also IMD 4.005 and 4.010, Board and Institution Policy on Outside Activities and Related Compensation.

(2) Institution employees shall provide written reports to their president regarding potential conflicts of interest as defined under ORS 244.020(8). Other Department employees shall provide the same reports to the Chancellor. Complaints by any person regarding potential conflicts of interest may be referred for investigation to the president, Chancellor or Director of Internal Audit who shall investigate the complaint.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 6-1991, f. & cert. ef. 10-9-91; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0026

Participation in a Voluntary FTE Reduction Program

During the period that any employee participates in a voluntary FTE reduction program authorized by OUS, leave accruals and other benefits administered under this division will be calculated based upon the employee's FTE immediately prior to program participation and will not be reduced to reflect the reduction in FTE caused by the employee's participation in the program.

Stat. Auth.: ORS 351.070

Stat. Implemented: ORS 351.070

Hist.: OSSHE 8-2009, f. & cert. ef. 10-12-09

580-021-0028

Fellowship Leave

(1) A fellowship leave is leave available to faculty who have received certain fellowships that support research, writing, advanced study or travel related to scholarly or professional activities, including, but not limited to, Fulbright, NEA, NEH, Guggenheim, or other comparable federal or private fellowships, payable only to the faculty member.

(2) Any unclassified employee appointed at .5 FTE or more may be granted a fellowship leave upon approval of an institution president or designee. In addition, an institution president or designee may authorize continuation of institutional health care coverage and payment of employer contribution toward health care or other personnel expenses during a fellowship leave.

(3) Each faculty member, in applying for a fellowship leave, shall sign an agreement to return to the institution for a period of at least one year's service on completion of the leave. If the faculty member fails to fulfill this obligation, the faculty member shall repay the full cost of benefits paid by the institution during the leave. This amount is due and payable three months following the date designated in the institution's fellowship leave agreement for the faculty member to return to the institution.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351

Hist.: OSSHE 5-1999(Temp), f. & cert. ef. 9-24-99 thru 3-17-00; OSSHE 1-2000, f. & cert. ef. 2-23-00

580-021-0029

Career Development Leave

Career development leave is available to unclassified, faculty, and classified employees of Oregon University System institutions as leave without pay, subject to the approval of the

employing institution.

Stat. Auth.: ORS 351.070 & 238A.025

Stats. Implemented:

Hist.: OSSHE 3-2005(Temp), f. & cert. ef. 3-14-05 thru 9-6-05; OSSHE 4-2005, f. & cert. ef. 8-24-05

580-021-0030

Vacations

(1) Eligibility. Vacation means absence from work permitting rest and recreation for a specified period of time during which regular compensation continues. Unclassified employees gain vacation privileges only if employed at .50 FTE or more on a 12-month appointment.

(2) Computation. Eligible unclassified employees accrue vacation on a monthly basis, beginning the first of the month following date of hire or on the first of the month if an employee is hired the first working day of the month. Vacation accrues on the last day of the month and is available for use the first day of the next month subject to the restrictions in section (3) of this rule. A 9-month employee appointed to a 12-month contract may receive credit for the previous 9-month contract, on a pro-rata basis. Eligible employees with a 12-month, 1.0 FTE contract accrue 15 hours of vacation per month; eligible employees on a .50 FTE or more contract accrue vacation in proportion to their FTE. An employee who terminates OUS employment before completing the 6-month wait period receives no vacation, and is not entitled to compensation for vacation accrued. On February 28, 1998, eligible employees shall be credited with vacation leave on a pro-rata basis at a rate of 14.67 hours per month as if monthly accrual had begun on their last vacation anniversary date or, for those employed fewer than 11 months, on their date of hire.

(3) Wait Period and Maximum Balance. Vacation accrual is available to the unclassified employee for use six months after vacation accrual begins. Until September 1, 1999, there will be no maximum on the amount of vacation leave that an employee can accrue. However, effective September 1, 1999, no employee may accrue in excess of 260 hours, and any accrued vacation leave in excess of this cap will be forfeited.

(4) Transfer.

(a) Inter-institutional/Unclassified to Unclassified. If an eligible unclassified employee transfers to another unclassified position within the Department and remains eligible for vacation accrual, the employee shall transfer all accrued vacation leave to the new position. However, if there is a break in service for more than 30 days, all accrued vacation pay will be paid off by the sending institution and the employee will be considered a new hire in the position. Moving from position to position within the same institution shall not be considered a transfer or a break in service for purposes of this rule.

(b) For purposes of this Rule, OHSU shall be considered an institution within the Department whereby an OHSU unclassified employee who "transfers to unclassified position within the Department and remains eligible for vacation accrual," may, subject to approval by the receiving department or institution, transfer all accrued vacation time from OHSU to an institution within the Department; upon such a transfer, the vacation benefits of a former OHSU employee shall be administered in accordance with 580-021-0030.

(c) Classified to Unclassified Appointment. If a classified employee of the Department receives an unclassified appointment within the Department and is eligible for vacation leave, the employee may bring up to 80 hours of accrued vacation leave; the receiving department or institution may accept up to 250 hours maximum. The former classified employee shall receive cash compensation from the sending department or institution for any remaining accrued vacation leave. The former classified employee may use accrued vacation without serving a 6 month wait period.

(5) The accrual of vacation leave is reduced on a pro-rata basis for the period of leave without pay, sabbatical leave, and educational leave. Vacation leave is accrued during other periods of paid leave.

(6) Payment for Accrued Vacation Leave. Unclassified employees are not entitled to payment for unused vacation leave except upon termination of employment or upon transfer within the Department to another unclassified position not eligible for vacation benefits. Unclassified employees who transfer to a classified position within State of Oregon employment are subject to applicable OUS rules or collective bargaining agreements governing payment for accrued vacation. The maximum number of hours that can be paid upon termination or transfer is 180 hours.

(7) Scheduling and Use of Vacation Leaves. Vacation leaves are scheduled with the approval of the employee's supervisor and should be planned cooperatively with the employee. Vacation leave should be scheduled in such a manner as to minimize disruption to the organization.

Supervisors must be reasonable in allowing the use of vacation leave and may not unreasonably deny vacation requests where the result would be the forfeiture of accrued vacation. For purposes of calculation, one normal work day is the equivalent of eight hours of vacation leave for a full-time employee.

(8) Record Keeping. Each institution is responsible for maintaining the individual records of vacation accrual and use.

(9) Vacation Donation. The transfer of vacation time, for use by another employee, classified or unclassified, is not permitted.

(10) Vacation Borrowing. Employees are not permitted to borrow against vacation that is not yet accrued. (Section 12, relating to interim provisions for employees moving from Management Service to Unclassified Service, was repealed December 1, 1999.)

(11) Notwithstanding section (6) of this rule, from the period December 1, 2013 through June 30, 2015, unclassified employees of the Office of the Chancellor, upon termination or transfer as described in this rule, may receive cash payment for up to 260 hours of accrued vacation leave.

Stat. Auth.: ORS 240 & 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 11-1984, f. & ef. 11-9-84; HEB 10-1990, f. & cert. ef. 7-26-90; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 4-1996, f. & cert. ef. 10-24-96; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 2-1998, f. & cert. ef. 2-25-98; OSSHE 7-2001(Temp), f. & cert. ef. 12-5-01 thru 5-1-02; OSSHE 2-2002, f. & cert. ef. 5-1-02; OUS 8-2013(Temp), f. & cert. ef. 11-20-13 thru 3-13-14; Administrative correction, 3-18-14; OUS 1-2014, f. & cert. ef. 3-21-14

580-021-0035

Absence Due to Illness

Reassignment of the work of a staff member incapacitated by illness over a period longer than one month must have the approval of the president or division head.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0040

Sick Leave Plan for Academic Personnel

(1) Eligibility. All full-time academic staff will be credited with eight hours of sick leave for each full month of service, or two hours for each full week of service less than one month. Part-time academic staff employed .50 FTE appointment or more will be credited pro rata amount. Graduate assistants are not eligible to accrue or to use sick leave. An academic staff member whose appointment is less than .50 FTE is not eligible to accrue sick leave, but is eligible to use a prorate of sick leave accrued but unused while previously employed .50 FTE or more. In addition, sick leave is not earned or used during sabbatical leave, educational leave or leave without pay. Sick leave credit shall be earned during sick leave with pay and during other periods of paid leave. There is no limit on the amount of sick leave that may be accrued.

(2) Earned Sick Leave Use. Academic staff who have earned sick leave credits must use the credits for any period of absence from service that is due to the employee's illness, injury, disability resulting from pregnancy, necessity for medical or dental care, exposure to contagious disease or attendance upon members of the employee's immediate family (employee's parents, spouse, children, brother, sister, grandmother, grandfather, son-in-law, daughter-in-law or another member of the immediate household) where employee's presence is required because of illness or death in the immediate family of the academic staff member or the academic staff member's spouse. As an alternative, the academic staff member can request to be on sick leave without pay. The institution may require a physician's certificate to support the sick leave claim for any absence in excess of 15 consecutive calendar days or for recurring sick leave use. The institution may require a physician's certificate before allowing return to work to certify that the return would not be detrimental to the academic staff member or to others.

(3) Recordkeeping. At the time and in the manner prescribed by the Chancellor, each academic staff member covered by these provisions shall certify to the officer designated the amount of sick leave earned and the amount of sick leave with pay used. Sick leave records will be maintained in an appropriate file at the institution.

(4) Sick Leave Without Pay. The institutional president or designee may grant sick leave without pay for up to one year when the academic staff member has used all accrued sick leave with pay. The academic staff member must submit a written request for leave and shall be required to submit a physician's certificate. Extensions beyond one year may be granted on a

year-by-year basis.

(5) Unearned Sick Leave Advance. The purpose of this section is to provide salary continuance for up to 90 calendar days of absence due to illness through a combination of accrued and advance sick leave. Each full-time academic staff member is entitled to receive a sick-leave-with-pay advance as needed to provide the difference between sick leave earned as of the onset of the illness or injury and 520 hours; part-time staff are eligible to receive a sick-leave-with-pay advance proportional to FTE to provide the difference between sick leave earned as of the onset of the illness or injury and a prorate of 520 hours. As sick leave is earned, the amount shall replace any sick leave advanced until all advanced time is replaced with earned time. No more than a 520-hour sick leave advance is available during a seven-year period that begins with the first sick leave advance. More than one sick leave advance is possible as long as the total advance does not exceed 520 hours during a seven-year period. Sick leave that may have been advanced, but unused, cannot be considered for purposes of computing retirement benefits. Academic staff on fixed term appointment cannot receive an advance that extends beyond the end date of the fixed term appointment except upon written approval of the institution president or designee.

(6) Transfer and Termination. An academic staff member is entitled to transfer in unused sick leave earned with any other agency of the State of Oregon including sick leave earned in the classified service provided the break in service upon transfer does not exceed two years. An academic staff member who leaves employment with the State of Oregon and then returns is entitled to reinstate the previous unused, accrued sick leave. An academic staff member who terminates employment is not entitled to compensation for unused sick leave except in the calculation of the Public Employees' Retirement System (PERS) retirement benefit as provided in ORS 237.153. As used in this subsection, and for these purposes only, the term "any other agency of the State of Oregon" shall include and apply to the Oregon Health & Science University (OHSU).

(7) Summer Appointments. Regular nine-month academic staff employed half-time or more to teach summer session or to work on summer wage appointments are eligible to accrue and to use sick leave during the period of such appointment. Regular nine-month staff employed less than half-time during summer session are not eligible to accrue sick leave, but are eligible to use a prorate of sick leave earned but unused while previously eligible to accrue leave. Other summer session teaching staff hired only to teach summer session are not eligible to accrue or to use sick leave.

(8) Workers' Compensation Integration. The purpose of this section is to insure that an academic staff member who receives a workers' compensation payment for lost time resulting from a compensable job-related illness or injury and salary paid for the same period of time does not exceed the academic staff member's regular salary for that period, and that paid leave is not charged for the payment received from workers' compensation:

(a) Salary paid for a period of sick leave that is taken as the result of a job-related illness or injury compensable under workers' compensation shall be equal to the difference between the worker's compensation benefit for lost time and the academic staff member's regular salary for the period for which the benefit is being paid. An academic staff member who is receiving workers' compensation time loss benefits can choose to use a prorated amount of accrued sick leave or a prorated amount of other accrued paid leave or sick leave without pay. Should an academic staff member elect to use other accrued paid leave for this purpose, instead of sick leave, the salary paid for this period shall be the difference between the workers' compensation benefit paid for lost time and the academic staff member's regular salary for the period for which the benefit is being paid. In such instances prorated charges will be made against the accrued paid leave;

(b) An academic staff member is not entitled to keep both salary, including paid leave, and workers' compensation benefits if the total exceeds the employee's regular salary. Each institution is responsible for coordinating the proration of salary, including sick leave or other paid leave, with workers' compensation lost time benefits. The institution is entitled and is responsible to recover any salary overpayment that may have occurred. An academic staff member who receives a regular salary payment and a workers' compensation lost time benefit payment shall immediately notify the institutional payroll or other designated officer of such overpayment and shall return promptly to the institution the amount of the salary overpayment. The institution shall recover the amount of salary overpayment through payroll deduction or by cash payment according to existing institutional procedures.

Stat. Auth.: ORS 240 & ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 6-1984, f. & cert. ef. 7-16-84; HEB 2-1985, f. & cert. ef. 3-4-85; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 6-2001(Temp), f. & cert. ef. 12-5-01 thru 5-1-02; OSSHE 3-2002, f. & cert. ef. 5-1-02

580-021-0041

Transfer of Accumulated, Unused Sick Leave

(1) OUS academic and administrative unclassified staff may transfer unused accumulated leave balances between the OUS and state agencies, subject to sick leave transfer provisions in (3) and (4), and applicable collective bargaining agreements.

(2) For purposes of this rule, a "state agency" includes all state agencies in the executive, judicial, or legislative departments of the State of Oregon. Special government bodies, including community colleges, school districts, education service districts, are not considered state agencies for purposes of this rule. Local government public employers other than state agencies are likewise ineligible to transfer unused leave to or from the OUS.

(3) Assumption of Funding Liability. Hiring agencies and departments assume funding liability for sick leave transferred under the provisions of this rule.

(4) Sick Leave. The full amount of accumulated, unused sick leave available at the time an employee separates from service may be transferred to an OUS institution or state agency when the employee is hired. Unearned, advanced sick leave that results in a negative sick leave balance is neither transferred nor accepted by OUS institutions.

(a) Accumulated, unused state agency sick leave earned during employment with a state agency, including leave earned in classified service, may be transferred to the hiring OUS institution if the break in service does not exceed two years, subject to approval of the hiring institution.

(b) Accumulated, unused sick leave earned during employment with an OUS institution shall be transferred to the hiring state agency if the break in service does not exceed two years, subject to the rules of the state agency.

Stat Auth: ORS 351.070

Stats. Implemented:

Hist.: OSSHE 1-2004(Temp), f. & cert. ef. 4-6-04 thru 10-2-04; OSSHE 8-2004, f. & cert. ef. 9-29-04

580-021-0044

Use of Employees' Social Security Numbers

(1) The Oregon University System and each institution within the system shall comply with the requirements of Section 7 of the Privacy Act of 1974 when requesting disclosure of an employee's Social Security Number. Pursuant to the authority of the Oregon University System to implement personnel systems and exercise payroll authority, the Chancellor's Office and each institution within the Oregon University System may request that employees furnish valid Social Security Numbers for mandatory and voluntary uses, subject to the use and disclosure provisions of the Privacy Act.

(2)(a) An institution may require disclosure of an employee's Social Security Number for mandatory uses as provided for under Section 7(a)(2) of the Privacy Act, including:

(A) Use and disclosure for certain program purposes, including disclosure to the Internal Revenue Service, the Social Security Administration, the Federal Parent Locator Service, the Department of Veterans Affairs, the Bureau of Citizenship and Immigration Services, Aid to Families with Dependent Children, Medicare and Medicaid, Unemployment Insurance, Workers Compensation, and, in appropriate cases, epidemiological research.

(B) Administration and accounting purposes including the payment of state, federal and local payroll taxes; withholdings for FUTA and FICA; calculation and applicable reporting of pre-tax salary deductions for benefits including, but not limited to, IRC 117 and IRC 127 scholarship and educational assistance programs; IRC 457 deferred compensation and IRC 403(b) tax-sheltered annuity plans; IRC 401(a) retirement plans; IRC 132 pre-tax parking and transit plans, IRC 125 flexible spending account or cafeteria plans; or IRC 105 or 106 health reimbursement arrangements.

(C) To the extent required by federal law, an employee's Social Security Number may be provided to a foreign, federal, state, or local law enforcement agency for investigation of a violation or potential violation of a law for which that entity has jurisdiction for investigation or prosecution.

(b) An institution may request voluntary disclosure and consent to use an employee's Social Security Number for the following purposes: internal verification and identification for personnel administration, employment-related background checks, payroll records, enrollments or elections for participation in campus programs and services provided by the public universities.

(c) An institution may request voluntary disclosure and consent to use the Social Security Number of an employee or the spouse, partner or dependent of the person requesting participation, as required by the administrator of each record-keeping system, benefit, program or service.

(3) A request for disclosure of an employees' Social Security Number will notify the employee:

(a) Whether disclosure is mandatory or voluntary;

(b) Under what statutory or other authority the social security number is requested;

(c) What specific use or uses will be made of the number; and

(d) What effect, if any, refusal to provide the number or to grant consent for a voluntary use as described above in (2)(b) and (c) will have on an individual.

(4) An employee's Social Security Number may not be put to a voluntary use as described above in (2)(b) and (c) unless the employee has granted consent for that use. If, after having provided notice and received consent to use an employee's Social Security Number for specified purposes, an institution wishes to use the Social Security Number for additional purposes not included in the original notice and consent, the requesting entity must provide the employee notice and receive the employee's consent to use the number for those additional purposes.

(5) An employee's refusal to permit a voluntary use of his or her Social Security Number will not be used as a basis to deny the employee a right, benefit, or privilege provided by law.

(6) The Office of the Chancellor will develop a model disclosure and consent form for use by institutions in the Oregon University System. An institution may use a disclosure and consent form that differs from the model form only if:

(a) The differences are required to satisfy specific programmatic requirements or the entity's particular administrative needs, and

(b) The form complies with all requirements of the Privacy Act of 1974 and this rule.

Stat. Auth.: ORS 351.070, 292.043-292.180 & 192.502(3)(a)

Stats. Implemented:

Hist.: OSSHE 4-2003(Temp), f. & cert. ef. 12-1-03 thru 5-21-04; OSSHE 3-2004, f. & cert. ef. 4-8-04

580-021-0045

Conditions of Employment on Gift, Grant and Contract Funds

(1) The president of each institution shall determine whether unclassified personnel whose employment is financed primarily by gifts, grants or contracts shall be subject to *Administrative Rule* provisions regarding vacations, sick leave, tenure, promotion, sabbatical leave and timely notice of nonrenewal or termination of employment.

(2) *Administrative Rules* that do not apply to a particular employee, and any substitute provisions, shall be specifically identified in the notice of appointment.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 2-1980, f. & cert. ef. 4-18-80; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0050

Grievance Procedures

(1) The institutions shall adopt, in consultation with faculty advisory committees including female and minority faculty and representatives of certified bargaining units, if any, appropriate grievance procedures, in accordance with the rulemaking procedures of the Administrative Procedure Act. The grievance procedures shall apply to all unclassified academic employees with faculty rank.

(2) For purposes of this rule and OAR 580-021-0055:

(a) "Grievance" means a complaint by an academic employee that the employee was wronged in connection with compensation, tenure, promotion or other conditions of employment or the employee's rights were denied as to reappointment;

(b) "Other conditions of employment" shall include, but not necessarily be limited to: violations of academic freedom; discriminatory employment practices; nondiscriminatory employment

practices; and laws, rules, policies, and procedures under which the institution operates. However, challenges to disciplinary actions or procedures shall be raised under OAR 580-021-0320;

(c) "Days" mean calendar days unless expressly designated otherwise.

(3) The institutions' grievance procedures shall:

(a) Set out the details of a grievance procedure appropriate to the institution;

(b) Include both informal and formal steps. The formal steps shall include an appropriate administrator, a faculty committee (at the option of the grievant) and the institution president. The institution may (at its option) provide a grievance officer. However, a grievance may be resolved at any step. In a formal grievance, all complaints, responses and decisions must be in writing;

(c) Establish time limits within which a grievance must be filed and for each step that will permit timely resolution of issues. Informal grievances shall receive a response within 15 days. In no instance shall the length of time between the presentation of the written grievance and the final institutional decision be more than 180 days, unless agreed to by the grievant. In the event a decision is not made at any level within the designated time limit, the grievant may submit the grievance to the next step;

(d) Provide for a hearing, at the option of the grievant, by a faculty committee selected by the faculty at the institution.

(e) Provide for the appointment by the president of an administrative officer, or officers, (grievance officer) to receive and act upon the recommendations of the faculty committee. The institution may, alternatively, opt to have the president receive and act upon the recommendations of the faculty committee.

(4) The institution may elect not to proceed with a grievance if the grievant also seeks resolution in another forum.

(5) The institution shall adopt rules of procedure for the faculty committee that allow for:

(a) A meaningful opportunity for the grievant to be heard;

(b) An opportunity for each party to present evidence, argument and rebuttal;

(c) The right to representation for each party at that party's expense;

(d) A hearing open to the public at the option of the grievant to the extent allowed by law;

(e) Written conclusions, based only upon evidence presented at the hearing; and

(f) Access by each party to a complete record of the hearing.

(6) The faculty committee shall make recommendations regarding the disposition of the grievance to the grievance officer or president (depending on the institution's election).

(7) Unless the grievance is resolved at a lower level, the president or grievance officer (depending on the institution's election), shall review the recommendations of the faculty committee, if any, and the president or grievance officer shall issue a decision.

(8) If the president or grievance officer (depending on the institution's election) rejects or modifies the recommendations of the faculty hearing committee, the reasons shall be stated in writing, and a copy provided to the grievant and to the hearing committee.

(9) Where the institution has opted to use a grievance officer, the grievant may appeal the decision of the grievance officer to the president pursuant to OAR 580-021-0055.

(10) Under either option as set forth above, and except as set forth herein, the decision of the president shall be final, and shall be an exhaustion of grievant's administrative remedies with the institution and the State Board of Higher Education. If the grievance involves the president or where the president is the immediate supervisor of the grievant, then the appeal, set forth in section 9, shall be to the Chancellor of the Oregon University System (all other provisions of this rule shall otherwise apply).

(11) Nothing contained in this administrative rule shall be construed to limit the right of the State Board of Higher Education to make such inquiry and review into personnel actions as it may from time to time deem, in its sole discretion, appropriate.

(12) Where collective bargaining agreements or administrative rules exist at an institution in which grievance procedures are specified and such procedures exceed the standards in this rule, such agreements or administrative rules shall control, to the extent not inconsistent with

the rule.

(13) After consultation with the appropriate faculty committees and approval of the Chancellor's Office, each institution shall adopt its rules by October 1, 2001.

(14) Each institution shall report annually to the Board beginning July 2002, on the number, basis and outcome of all formal grievances filed under the rules herein required.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 5-1987, f. & cert. ef. 6-5-87; HEB 7-1987, f. & cert. ef. 12-11-87; HEB 6-1988, f. & cert. ef. 7-5-88; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 2-2001, f. & cert. ef. 4-27-01

580-021-0055

Appeal of Grievance Decisions

(1) Where an institution has opted to utilize the process of decision by a grievance officer as set forth in OAR 580-021-0050(3)(e), a grievant may request review by the institution's president of a decision described in OAR 580-021-0050(7). The president shall review the record of the grievance. The president shall decide, based on his/her own review, whether to support the grievance officer's decision. The president's decision must be reached within 90 days of the date on which the request is received in the President's Office.

(2) A request for review by the president shall be in writing and must be received in the President's Office within 15 days of the grievant's receipt of the grievance officer's decision. The request shall briefly state the basis for the request for review and the specific facts that would support action by the president consistent with section(4) of this rule. The request shall include a copy of the grievance officer's decision.

(3) Review by the president shall consist of an examination of the record of the grievance. The president may elect to receive additional written or oral presentations from the grievant and the grievance officer.

(4) The president shall not reverse a decision of a grievance officer unless:

(a) Procedural error was committed by the institution during the grievance procedure and the error resulted in prejudice to the grievant;

(b) The decision of the grievance officer is not supported by substantial evidence; or

(c) The decision is in conflict with applicable rules or law.

(d) The president's decision shall be in writing and shall be sent to the grievant and the grievance officer.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 7-1988, f. & cert. ef. 7-5-88; HEB 1-1993, f. & cert. ef. 2-5-93; OSSHE 2-2001, f. & cert. ef. 4-27-01

Tenure and Promotion

580-021-0100

Kinds of Appointments

(1) Appointments authorized in Department institutions are: fixed-term appointments, tenure-related appointments (annual tenure and indefinite tenure) and extendible contract appointments as permitted by subsection (1)(c) of this rule:

(a) Fixed-term appointments:

(A) Fixed-term appointments are appointments for a specified period of time, as set forth in the notice of appointment. The faculty member thus appointed is not on the tenure track and the timely notice provisions do not apply;

(B) Fixed-term appointments may be made and are renewable at the discretion of the president;

(C) Fixed-term appointments are designed for use at the discretion of the president in such cases as, but not limited to, appointments of visiting faculty (or similar category); academic staff members whose support wholly or principally comes from gift, grant or contract funds, the cessation of which funding would eliminate the budget base for the position in question; part-time faculty; administrative staff with faculty rank; and faculty appointments during an initial probationary period where an institutional policy has been adopted or negotiated that

establishes such probationary period. Fixed-term appointments offered to visiting faculty or similar category shall not exceed a total of seven years;

(D) Institutional staffing plans shall define the characteristics, proper use and appropriate limits on use of visiting faculty or similar category.

(b) Tenure-related appointments:

(A) Annual tenure appointments are appointments given to faculty employed .50 FTE or more whom the institution considers to be on the tenure track, in that, on completion of an appropriate probationary period, they will be evaluated and considered for appointment to indefinite tenure. If the initial annual tenure appointment or successive annual tenure appointments are to be terminated otherwise than for cause or for financial exigency, timely notice shall be given the faculty member;

(B) Indefinite tenure appointments are appointments given selected faculty members having an appointment of .50 FTE or more. Such appointments are made by the president in witness of the institution's formal decision that the faculty member has demonstrated such professional competence that the institution will not henceforth terminate employment except for cause, financial exigency, or program or department reductions or eliminations.

(c) Extendible appointments:

(A) Southern Oregon State College may use an extendible contract that is defined as a contract having a term of not more than three years and that permits, following the first year of the contract term, the term of the contract to be extended an additional year if required conditions have been met, leaving the faculty member at the beginning of each year with a contract having the same term as the original contract;

(B) Such appointments at Southern Oregon State College may be made only after an institutional policy has been adopted following faculty consideration through established governance mechanisms, or negotiated with the exclusive bargaining representative of the faculty. The policy or negotiated agreement must establish the probationary period to be served prior to an extendible contract appointment, describe the procedures and criteria for attaining such an appointment and describe the conditions under which contracts may or may not be extendible;

(C) The use of such extendible contracts is not to result in the abolishment of tenure at Southern Oregon State College.

(2) "Tenured" faculty, as referred to in Board policies and *Administrative Rules*, are faculty who have been awarded indefinite tenure.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 7-1981(Temp), f. & cert. ef. 9-15-81; HEB 12-1981, f. & cert. ef. 11-20-81; HEB 5-1983, f. & cert. ef. 12-1-83; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0105

Eligibility for Indefinite Tenure

(1) Indefinite tenure may be awarded to faculty employed on appointments of .50 FTE or more as senior instructor, assistant professor, associate professor or professor, if otherwise qualified in accordance with institutional criteria and the Board's *Administrative Rules*.

(2) When indefinite tenure is awarded, there shall be a statement in the faculty member's personal file that the tenure appointment relates only to that FTE level specified in the notice of appointment for the year indefinite tenure is to become effective. For the indefinite tenure appointment to take effect, the statement concerning indefinite tenure must be signed by the faculty member and by the institutional officer authorized by the president to sign such statements. Alteration in the initial commitment may be by mutual consent of the faculty member and the institution or by action provided for elsewhere in the Board's *Administrative Rules*.

(3) Standards of performance and scholarly quality shall be the same for part-time and full-time faculty members.

(4) Faculty members on a full-time tenure appointment may, by mutual agreement of the faculty member and the president or a designee, be given reduced appointments of less than 1.0 FTE under terms and conditions mutually agreed to in writing by the faculty member and the president or a designee.

(5) Indefinite tenure shall be awarded to faculty of demonstrated professional competence by the president under terms and conditions set forth in the Board's *Administrative Rules* and

policies and in applicable institutional rules.

(6) Tenure is reaffirmed as being institutional. Faculty having achieved tenure status in one Department institution cannot thereby claim tenure in other Department institutions. Probationary years of service in one Department institution may be counted toward probationary service requirements in another Department institution only with the latter's written approval.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0110

Initial Appointment and Probationary Service for Faculty on Tenure-Related Appointments

(1) All faculty members on tenure-related appointments of .50 FTE or more, except as provided below, shall be appointed initially on one-year appointments.

(2) Awarding of tenure to full-time faculty, except as provided below, shall involve assessment of the faculty member's performance each year during the probationary period, and assessment of performance over not less than five consecutive years (counting the year at the end of which tenure is granted). An additional probationary year may be required by the president, following that, if the faculty member is not awarded tenure, terminal notice shall be given, except as provided elsewhere in these *Administrative Rules*.

(3) The probationary period for regular part-time faculty employed .50 FTE or more in a tenure-related appointment shall be the same as for full-time faculty, except that it shall be calculated in terms of FTE years rather than calendar years.

(4) Notwithstanding sections (2) and (3) of this rule, the president may in special circumstances consider for tenure any probationary faculty member of the rank of assistant professor or higher, prior to completion of the normal probationary period, when, following a performance evaluation of the faculty member, a finding is made that such an early award of tenure would be to the advantage of the institution. In no event will the first consideration for tenure occur later than in the fifth year.

(5) Faculty members given an initial appointment at the rank of full professor may be granted tenure on appointment, at the discretion of the president. In unusual cases, and only when specifically approved by the Chancellor, associate professors may be given tenure on initial appointment.

(6) At the time of initial appointment, a mutually acceptable written agreement shall be reached between the faculty member and the president or a designee, subject to delegation of authority under the Board's *Administrative Rules* or policies, as to the extent to which prior experience of the faculty member shall be credited toward the probationary period required before the faculty member may be considered for tenure. The terms of the agreement shall be included in the notice of appointment.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0115

Consecutive Annual Appointments

A series of annual appointments shall be considered consecutive whether or not interrupted by one or more official leaves of absence. An official leave of absence does not count as a year of service for purposes of tenure, nor does it prejudice the staff member's right to consideration for tenure for service actually rendered.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0120

Seventh Annual Appointment

A full-time faculty member on annual tenure for a sixth consecutive year shall be awarded indefinite tenure commencing the seventh consecutive year or given notice of termination effective at the end of the seventh year.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0125

Appointment of Regular Part-Time Faculty Beyond the FTE Equivalent of the Sixth Consecutive Year

A faculty member on a part-time annual tenure appointment of .50 FTE or more during each full academic year for a sufficient number of years to equal six or more years of full-time service may be reappointed under one of the following conditions:

- (1) With indefinite tenure at the FTE level specified in the notice of appointment for the year indefinite tenure is to become effective;
- (2) With notice of termination effective at the end of the next year.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0130

Exceptions

The provisions of OAR 580-021-0105, 580-021-0110, 580-021-0115, 580-021-0120, and 580-021-0305 shall apply to all tenure-related appointments unless in individual cases there is a specific written agreement to the contrary between the institution and the faculty member. The agreement to the contrary shall be incorporated or referred to in the notice of appointment.

Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0135

Criteria for Faculty Evaluation

(1) Criteria for faculty evaluation, developed with the participation of appropriate faculty and institutional councils, shall be established in each institution:

(a) As a guide in evaluating faculty in connection with decisions on reappointment, promotion, and tenure;

(b) As a basis for assessing those aspects of the faculty member's performance in which improvement is desirable, whether the faculty member is tenured or nontenured, with a view to stimulating and assisting the faculty member toward improvement through the resources available under the institution's staff career support plan.

(2) The criteria shall reflect the primary functions for which the Department was established, namely:

(a) Instruction;

(b) Research accomplishments and other scholarly achievements, or where relevant, other creative and artistic achievement;

(c) Professionally related public service, through which the institution and its members render service to the public (i.e., individuals, agencies, or units of business, industry, government);

(d) Institutional service, including, but not limited to, contributions made toward departmental, school or institutional governance, service to students through student welfare activities such as individual student advising, advising with student organizations or groups and similar activities.

(3) The criteria shall provide guidelines for sources and kinds of data that are appropriate as a basis for effective faculty evaluation at each administrative level (e.g., department, school, institution) and in each area (e.g., teaching, research, scholarly activity, service, etc.) where faculty evaluations are required. Specific provision shall be made for appropriate student input into the data accumulated as the basis for reappointment, promotion, and tenure decisions, and for post-tenure review. Sources of such input shall include, but need not be limited to, solicitation of student comments, student evaluations of instructors and opportunities for participation by students in personnel committee deliberations.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0140

Post-Tenure Review

(1) Tenured faculty members shall be evaluated periodically and systematically in accordance with guidelines developed by each institution.

(2) The purposes of post-tenure review are to:

(a) Assure continued excellence in the academy;

(b) Offer appropriate feedback and professional development opportunities to tenured faculty;

(c) Clearly link the level of remuneration to faculty performance; and

(d) Provide accountability to the institution, public, and Board.

(3) Institutions shall develop post-tenure review guidelines in accordance with the objectives and guidelines promulgated in IMD 4.002, OAR 580-021-0135(3), and OAR 580-021-0005(3)(A).

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 1-1999, f. 2-24-99, cert. ef. 3-1-99

Sabbatical Leave

580-021-0200

Purposes of Sabbatical Leave

Sabbatical leave is granted to unclassified employees having academic rank for purposes of research, writing, advanced study, travel undertaken for observation and study of conditions in our own or in other countries affecting the applicants field or related scholarly or professional activities. Sabbatical leave is a privilege and not a right. It is granted only when it can be shown that the applicant is capable of using this period in a manner that will thereafter increase the applicant's effectiveness to the institution and to the state.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90; section (2) Renumbered to 581-021-0245; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0205

Eligibility for Sabbatical Leave

(1) An unclassified employee appointed at .5 FTE or more, with the rank of Senior Instructor, Assistant Professor, Associate Professor, Professor, Research Associate or Senior Research Associate may be considered for sabbatical leave:

(a) After having been continuously appointed without interruption by a sabbatical leave for 18 academic quarters (excluding Summer Session) or, in the case of 12-month faculty, 72 months; or

(b) After having accumulated the equivalent of 6.0 FTE years over an indefinite period of 9-month or 12-month appointments uninterrupted by a sabbatical leave.

(c) Prior service at the ranks of Instructor, Lecturer or Research Assistant, when leading to a promotion to a higher rank, may be considered by an institution president as part of the period of accumulated service for the purposes of the time requirement for sabbatical eligibility.

(2) A series of appointments shall be considered continuous whether or not interrupted by one or more authorized leaves of absence other than a sabbatical leave. A one-year period of appointment at less than .5 FTE will count as a period of accumulated service for purposes of the time requirement for sabbatical eligibility. An authorized leave of absence will not prejudice the staff member's eligibility for sabbatical leave. Academic staff members may be considered for subsequent sabbatical leaves after again satisfying the conditions specified in subsections (1)(a) or (b) of this rule. Cases involving mixed terms of service may be adjusted by the institutional president or the president's designee, in accordance with the principles set forth in this rule.

(3) For institutional convenience, and at the initiative and sole discretion of the institution, a

sabbatical leave may be delayed by up to two years. In such instances, the academic staff member will become eligible for a succeeding sabbatical leave after an equivalently reduced period of years. This section applies to a maximum of 14 consecutive years, covering two possible sabbatical leaves. The same agreement may be negotiated, again for institutional convenience, in subsequent 14-year periods.

(4) Sabbatical leave privileges may be granted to unclassified employees in special positions of responsibility and trust, even though they do not hold academic rank. Eligibility for this class of employees will be determined in the manner described in section (1) of this rule. Recommendations for sabbatical leave for the above-referenced unclassified staff members not otherwise qualified may be made in exceptional cases only at the discretion of institution presidents.

(5) For purposes of determining eligibility for sabbatical leave, time spent on an authorized military leave from a Department institution shall be considered as institutional service.

(6) Salary received by an academic staff member during a sabbatical shall be calculated as follows:

(a) Salary under subsection (1)(a) of this rule shall be a percentage (determined by OAR 580-021-0225 or 580-021-0230) of the academic staff member's annual rate multiplied by the average FTE at which the academic staff member was appointed during the 6.0 FTE years immediately prior to the sabbatical leave. Presidents shall have the authority and discretion to interpret special circumstances in this regard. For purposes of this subsection, eligibility years are the 18 academic quarters (excluding Summer Session) or in the case of 12-month faculty, 72 months of continuous employment at half-time or more that result in the academic staff member's eligibility for sabbatical leave under subsection (1)(a) of this rule.

(b) Salary under subsection (1)(b) of this rule shall be a percentage (determined by OAR 580-021-0225 or 580-021-0230) of the academic staff member's annual rate in effect at the time the sabbatical leave begins.

(c) If during the period of sabbatical leave the institution allocates salary increases to its academic staff members, the annual rate of the academic staff member on sabbatical leave will be increased by the appropriate amount effective on the date that the salary increase was granted.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 4-1987, f. 4-22-87, ef. 7-1-87; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0210

Approval and Revisions of Sabbatical Leave Agreements

(1) Sabbatical leave shall be granted only if approved by the president or designee.

(2) Revision of the sabbatical leave program or other terms and conditions of the agreement shall be approved by all parties to the original agreement.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0215

Sabbatical Leave Reports

At the end of the sabbatical leave, the staff member shall submit a report of the accomplishments and benefits resulting from the leave, filing copies with the department head, the dean and the president.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0220

Obligation to Return

Each academic staff member, in applying for sabbatical leave, shall sign an agreement to return to the institution for a period of at least one year's service on completion of the leave. If an academic staff member fails to fulfill this obligation, the academic staff member shall repay the

full salary paid during the leave plus the health care and retirement contribution paid by the institution on behalf of the academic staff member during the leave. This amount is due and payable three months following the date designated in the sabbatical agreement for the faculty member to return to the institution.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0225

Length of Leave for Academic-Year Staff

Staff members employed on an academic-year basis are eligible for one of the following types of leave:

(1) Academic-year staff other than the University of Oregon School of Law faculty:

(a) One academic year (three terms) on 60 percent salary during the period of sabbatical leave;

(b) Two-thirds of an academic year (two terms) on 75 percent salary during the period of sabbatical leave;

(c) One-third of an academic year (one term) on 85 percent salary during the period of sabbatical leave.

(2) Academic year staff at the University of Oregon School of Law:

(a) One academic year (two semesters) on 50 percent salary during the period of sabbatical leave;

(b) One-half academic year (one semester) on 100 percent salary during the period of sabbatical leave.

Stat. Auth.: ORS 240 & ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1983, f. & cert. ef. 1-19-83; HEB 3-1984, f. & cert. ef. 3-21-84; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0230

Length of Leave for Fiscal-Year Staff

Staff members employed on a fiscal-year basis are eligible for one of the following types of leave:

(1) One year (12 months) on 60 percent salary during the period of sabbatical leave;

(2) Two-thirds of a year (eight months) on 75 percent salary during the period of sabbatical leave;

(3) One-third of a year (four months) on 85 percent salary during the period of sabbatical leave.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1983, f. & cert. ef. 1-19-83; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0235

Cost of Sabbatical Leaves

The cost of granting a sabbatical leave shall be financed within the funds allotted to the institution that employs the staff member.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0240

Supplementing of Sabbatical Incomes

Staff members on sabbatical leave may supplement their sabbatical salaries to a reasonable degree, provided that such supplementation strictly conforms to the stated and approved purposes of the sabbatical leave.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90

580-021-0245

Policy Regarding Sabbatical Leave

The policy on sabbatical leaves shall be uniform for all Department institutions insofar as possible.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 8-1989, f. 12-11-89, cert. ef. 1-1-90; Renumbered from 580-021-0200(2); HEB 1-1993, f. & cert. ef. 2-5-93

Resignations and Terminations

580-021-0300

Resignations

Notice of resignation shall be filed in the president's office as early as possible but in no event later than one month before the resignation is to take effect.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0305

Timely Notice

(1) If any appointment of a full-time academic staff member who is on an annual tenure appointment as defined in OAR 580-021-0100(1)(b)(A) is not to be renewed for reasons other than for cause or financial exigency, timely notice of nonrenewal shall be given in writing as follows: during the first annual appointment, by March 15 for those whose contracts expire June 15, or at least three months' notice given prior to expiration of the appointment; during the second year of service, by December 15 for those whose contracts expire on June 15, or at least six months given before expiration of the appointment; in the third and subsequent years, at least 12 months' notice that may be given at any time. In the event that notice is given to faculty members who are in the first or second year of an annual tenure appointment after the prescribed deadline, they shall also receive 12 months' notice of nonrenewal.

(2) Timely notice shall be given to part-time academic staff members on annual appointments on the same basis as to full-time faculty members cited above, except that the length of timely notice for part-time faculty members shall be calculated in terms of FTE years of service rather than in calendar years.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 4-1989, f. & cert. ef. 6-20-89; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0310

Terminations

Terminations can be either for cause or not for cause. Policies regarding terminations for cause and other sanctions apply to all members of the academic staff, both those having indefinite tenure and those not having indefinite tenure.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0315

Termination Not for Cause

Termination not for cause is defined as any termination other than for cause as set forth in OAR 580-021-0320:

(1) Staff Members with Indefinite Tenure:

(a) The appointment of an academic staff member with indefinite tenure will not be terminated

for reasons other than for cause, except for financial exigency or program or department reductions or eliminations. Before the appointment of any academic staff member on indefinite tenure can be terminated for financial exigency, a bona fide determination will be made by the president that a financial exigency does exist, and that sufficient funds are not available for payment of compensation for the position concerned. Program or department reductions or eliminations may be made by the president, upon determination, pursuant to institutional procedures providing for faculty and other appropriate input, that such reductions or eliminations are consistent with institutional goals and needs;

(b) Responsibility for the decision as to whether a state of financial exigency exists, and the subsequent decision on actions necessary to meet the financial exigency, or the decision as to the necessity for program or department reductions or eliminations resulting in termination of employment of tenured faculty, shall rest with the president. In considering such matters, the president shall confer in a timely manner with appropriate faculty and other institutional councils and with the Chancellor and the Board concerning the issues involved in arriving at decisions in the foregoing areas;

(c) Institutional procedures relating to program or department reductions or eliminations shall reflect a regard for the rights of the affected academic staff member, and such procedures may not be used as a substitute for the provisions of OAR 580-021-0325 through 580-021-0385 that set forth the procedural protections to be accorded staff members;

(d) If a tenured faculty member's appointment is terminated or if the appointment of a nontenured faculty member is terminated before the end of the period of appointment because of financial exigency, or because of program or department reductions or eliminations, the released faculty member's place will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it;

(e) If the staff member cannot be retained either in the position in which presently employed or in some alternate position, maximum possible notice of termination shall be provided the academic staff member being terminated for financial exigency, and in the case of faculty terminated because of program or department reductions or eliminations not demonstrably related to a state of financial exigency, 12 months' notice shall be given.

(2) Staff Members without Indefinite Tenure. Appropriate notice of termination shall be provided staff members holding annual tenure appointments as set forth in OAR 580-021-0305. If the employment of such staff member is being terminated for financial exigency or program or department reductions or eliminations so as to render impossible the provision of notice as set forth in OAR 580-021-0305, maximum possible notice will be provided.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0318

Other Personnel Actions Not for Cause

As authorized by statute and by authority delegated to the Chancellor and the institution presidents, personnel may be transferred or reassigned within an institution in accordance with the staff needs of the institution or other units. Such personnel actions should not be considered sanctions for cause unless they result from actions described in OAR 580-021-0325.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 1-1984, f. & cert. ef. 1-13-84

580-021-0320

Termination and Other Sanctions for Cause

The appointment of a tenured or nontenured academic staff member may be terminated, or other sanctions imposed, for cause. Sanctions for cause include oral or written warning or reprimand, removal from an assigned post and reassignment, suspension for a period not to exceed one year and termination. Sanctions more severe than oral or written warning or reprimand shall be imposed in accordance with the procedure in OAR 580-021-0325 through 580-021-0385. Sanctions of oral or written warning or reprimand may be imposed in accordance with institutional procedures.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0325**Definition of Cause**

(1) "Cause" shall mean:

(a) Conviction of a felony or of a crime involving moral turpitude during the period of employment by the Department (or prior thereto if the conviction was willfully concealed in applying to the Department for employment);

(b) Conduct proscribed by OAR 580-022-0045; or

(c) Failure to perform the responsibilities of an academic staff member, arising out of a particular assignment, toward students, toward the faculty member's academic discipline, toward colleagues or toward the institution in its primary educational and scholarly functions and secondary administrative functions of maintaining property, disbursing funds, keeping records, providing living accommodations and other services, sponsoring activities and protecting the health and safety of persons in the institutional community.

(2) Evidence to demonstrate cause under the standard set forth in subsection (1)(c) of this definition of "cause" may include, but is not limited to, evidence of incompetence; gross inefficiency; default of academic integrity in teaching, research or scholarship; intentional or habitual neglect of duty and failure to perform adequately for medical reasons.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0330**Initiation of Formal Proceedings**

If the president determines that there is probable cause to impose a sanction or sanctions more severe than an oral or written warning or reprimand on an academic staff member, the president shall attempt to reach a satisfactory resolution of the matter. If no satisfactory resolution is reached within a reasonable time, the president shall authorize the preparation of formal charges in accordance with institutional procedure. The charges shall specifically state the facts believed to constitute grounds for imposition of a sanction or sanctions. The person authorized to prepare the charges shall not participate in evaluating the charges. Charges shall be filed with the president, and a copy personally delivered, or sent by certified mail, to the academic staff member within ten days after the authorization of preparation of charges. The charges or a notice accompanying the charges shall inform the academic staff member of the right to a formal hearing on the charges and of the academic staff member's duty to notify the president within ten days after the charges have been delivered or sent whether such hearing is desired.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0335**Temporary Suspension of Academic Staff Member**

No restraints shall be placed on the academic staff member between the filing of charges and the president's action on the hearing committee's report. However, if at any time during the pendency of charges against an academic staff member, the president makes a written finding stating the reason that there is a clear and present danger that the academic staff member's continued performance of duties will be harmful to the institution, to the academic staff member or to the public at large, the president may suspend the academic staff member, without loss of compensation, from some or all duties.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0340**Academic Staff Member's Request for a Formal Hearing**

Within ten days after the personal delivery or mailing of a copy of the charges to the academic staff member, the academic staff member who is so charged shall state in writing to the president whether a formal hearing on the charges is desired. This ten-day period may be reasonably extended by the president. If the academic staff member requests in writing that a formal hearing not be held, the president may impose an appropriate sanction or sanctions on

the academic staff member to be effective as determined by the president. The president shall promptly give written notice thereof to the academic staff member provided, however, that the appointment of an academic staff member shall not be terminated except as provided in OAR 580-021-0365.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0345

Hearing Committee

Unless the academic staff member requests in writing that a formal hearing on the charges not be held, such hearing shall be held before a special ad hoc committee of from three to five members. Committee members shall be selected in the following manner: the advisory council, faculty senate or other proper elective faculty body shall appoint one or more permanent panels each consisting of ten faculty members; from one, or if necessary, two, of the permanent panels, the same elective body will name from three to five to serve as the hearing committee. The academic staff member and the administration are each allowed one peremptory challenge; a committee member so challenged will then be replaced from the same panel or panels of ten each by the elective body initially charged with impaneling. The committee shall be constituted promptly and shall complete the hearing and its report within 30 days of its constitution, if possible. The hearing committee shall elect a chair from among its members.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0350

Conduct of Hearing

(1) The committee shall set a date for the hearing, giving the academic staff member and the administration sufficient time to prepare the case. The academic staff member and the administration shall have the option of assistance by counsel, both in preparing for and at the hearing. Not less than one week before the hearing date, the academic staff member shall file with the committee any written statement regarding the case. The committee shall review the charges and the academic staff member's statement, if any, prior to the hearing.

(2) The committee shall consider the case on the basis of the obtainable information and decide what, if any, sanction or sanctions it will recommend be imposed on the academic staff member. The academic staff member shall have the option of a public or private hearing. The conduct of the hearing shall be under the control of the committee chair, subject to the requirements of this chapter and the procedure of the committee. The committee chair shall have the powers of a hearing officer as defined in OAR 580-021-0425.

(3) A verbatim record of the hearing shall be kept. At the hearing, the committee shall receive the testimony of witnesses, on oath or affirmation, and other evidence concerning any disputed facts. The administration shall have the burden of proving its formal charges against the academic staff member, and the committee findings shall be according to the preponderance of the evidence.

(4) The committee shall not be bound to follow court procedures or rules of evidence, except as otherwise required by law. The academic staff member shall have the right to appear, to participate in the hearing, and to present relevant evidence to the committee. The academic staff member may be represented by counsel with or without being present. The academic staff member and the administration shall have the right to confront and cross-examine all witnesses. Insofar as possible, the administration will secure the cooperation, for attendance at the hearing, of witnesses requested by the academic staff member. The academic staff member and the administration shall be given reasonable opportunity to submit rebuttal testimony or other evidence. At the conclusion of the testimony, the committee may permit each side to make an oral or written summation; if the privilege is extended to one side, it must be extended to the other side. When the committee is satisfied that all pertinent and available evidence has been received, and that such summations as it deems appropriate have been presented, the hearing will be adjourned. The committee will then go into executive session for the purpose of deliberation.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0355

Committee's Report

The committee, by agreement of a majority of the members thereof, shall make explicit findings based on the hearing record with respect to each specification in the formal charges lodged against the academic staff member. Within ten days following determination of its findings, the committee shall recommend, by agreement of a majority of its members what, if any, sanction or sanctions shall be imposed on the academic staff member. The president and the academic staff member shall be given copies of the findings and recommendation. The verbatim record of the hearing shall be made available to the president and to the academic staff member. A copy shall be made available at cost on request by the academic staff member.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0360

Action by the President

If deemed necessary, the president may refer the matter back to the committee for further findings of fact. The president shall, promptly after receipt of the committee's final report and after reasonable opportunity to consult with the Chancellor and others, give the academic staff member and the Chancellor written notice of the decision. If the decision is to impose a sanction or sanctions on an academic staff member, the notice shall include the reasons therefor, and when it is to be effective, provided, however, that the appointment of an academic staff member shall not be terminated except as provided in OAR 580-021-0365.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0365

Date of Termination

If the appointment of an academic staff member is to be terminated for cause, the appointment shall neither be terminated earlier than one month nor later than one year from the date of the written notice of the president's decision, provided however, that an academic staff member having indefinite tenure whose appointment is terminated for cause other than misconduct shall continue to receive salary at the current rate for one year from the date of the written notice of the president's decision.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0370

Review by the Board

(1) The Board shall review any case involving imposition of a sanction or sanctions on an academic staff member having indefinite tenure on written notice of appeal by the academic staff member. The appeal shall be filed with the Board Secretary within ten days (or within such extension of time as permitted by the Chancellor) of the date of the written notice of the president's decision, stating grounds for the appeal, with a copy to the president. The Board may on its own initiative review any case involving the question of imposing a sanction or sanctions on an academic staff member. On receiving written notice of appeal by an academic staff member having indefinite tenure or on notice of the Board's decision to review a case, the president shall forward to the Board Secretary a copy of the charges in the case and the academic staff member's written statement, if any, in answer thereto, and the verbatim record of the hearing, and any exhibits, the committee's findings and recommendations and a copy of the notice of the president's decision.

(2) The Board may review the case on the record only; return the case to the institution from which it came for the receipt of further evidence or testimony; conduct such hearings as it deems proper for its review; refer the matter to a committee of Board members for consideration, including possible hearings, and recommendations; or refer the matter to a hearing officer for hearings and recommendation. The Board shall make such determination of the case, pursuant to its policies, as it deems just.

(3) If the Board sustains the decision to impose a sanction or sanctions on the academic staff member, the sanction or sanctions shall be effective at the date originally named by the president, or such later date as determined by the Board.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0375

Board's Initiative in Bringing Investigation or Charges

On any occasion when it appears to the Board that there is probable cause to impose a sanction or sanctions on an academic staff member, the Board may direct the president to determine whether there is such probable cause. If the president finds that there is probable cause to impose a sanction or sanctions on the academic staff member, the president shall have formal charges prepared and proceed with the case as provided in OAR 580-021-0330. If the president finds that there is not probable cause to impose a sanction or sanctions on the academic staff member, the president shall transmit such report to the Board, including a full statement of reasons for the finding. If the Board, after receipt of the report, deems that the facts of the case warrant the filing of formal charges, the Board shall provide the president with a statement explaining its exceptions to the findings and may direct the president to have formal charges prepared or, at the request of the president, the Board may direct some person within the Department to prepare the formal charges. The subsequent procedure shall be the same as if charges were initially authorized to be prepared by the president.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0380

No Reprisals

No employee of the Department shall be subject to any reprisals by the Department for appearing as a witness or for participating as a member of a committee in any of the proceedings provided for in this division.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0385

Personnel Record

No notation shall be made in the personnel record of an academic staff member of any investigation that has not resulted in formal charges being brought against the academic staff member under OAR 580-021-0320 through 580-021-0375 or that has not resulted in the imposition or a sanction of oral or written warning or reprimand in accordance with institutional procedures, as provided in OAR 580-021-0320.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0400

Construction

These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. These rules are intended to carry out the intent of the Oregon Administrative Procedure Act and are to be interpreted consistent therewith. Any situation not provided for in these rules shall be governed by the Act and, to the extent applicable, by the law applicable to suits in equity in the circuit courts of Oregon.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0405

Notice of Hearing

If a contested case hearing is to be held by the Board, or by a hearing officer designated by the Board, the Board shall ascertain the time most convenient for the hearing and shall give all parties thereto at least ten days' notice of the time, place and nature of the hearing. The time

may be shortened or extended by stipulation of all parties.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0410

Subpoenas

Subpoenas requiring attendance of witnesses or the production of documentary or tangible evidence at a hearing may be issued by the Board, when authorized by law, on request by any party to the proceeding, including the Board itself, on proper showing of general relevance or reasonable scope of the evidence sought.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0415

Assignment to Hear Proceeding

(1) The hearing shall be before the Board except in those cases assigned by the Board to a hearing officer.

(2) The word "Board" in these rules shall include hearing officer wherever applicable.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0420

Disqualification

Any party to a proceeding before the Board may file an affidavit of personal bias against any officer conducting the hearing. Any hearing officer may withdraw from the proceeding because of personal bias or for any reason deemed sufficient by the Board. The Board, in its discretion, may order a hearing on a question of disqualification of a hearing officer.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0425

Powers of Hearing Officers

(1) A hearing officer or the Board when authorized by law shall have the following powers:

(a) To give notice of and hold hearings;

(b) To administer oaths and affirmations;

(c) To examine witnesses;

(d) To issue subpoenas;

(e) To rule on offers of proof and receive evidence;

(f) To regulate the course of the hearing, including the power to eject any person who in any manner interferes with the orderly procedure of a hearing;

(g) To hold conferences, before or during the hearing, for the settlement or simplification of issues, with consent of the parties;

(h) To dispose of procedural requests or similar matters;

(i) To make initial decisions;

(j) To take any other action proper under these rules, including the making of findings of fact, and recommendations to the Board.

(2) The hearing officer's authority in each case will terminate when:

(a) The hearing officer withdraws from the case for any reason;

(b) The time for appeal has terminated.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0430

Who May Appear

(1) Each party may be represented by counsel.

(2) Any individual may appear for himself or herself, and any member of a partnership that is a party to any proceeding may appear for such partnership on adequate identification.

Stat. Auth.: ORS 351.070
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93

580-021-0435

Standard of Conduct

Contemptuous conduct by any person present at a hearing shall be grounds for exclusion from the hearing by the hearing officer.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0440

Hearing Recorder

The official record of the hearing shall be stenographically or mechanically recorded by a person or persons assigned by the Board capable of doing such recording. The method used shall be in the discretion of the Board.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0445

Transcript of Testimony

A transcript of the official record shall be furnished by the Board for the purposes of rehearing or judicial review. The cost of the record shall not be taxed to parties other than the Board except as is specifically provided in ORS 183.415(8).

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0450

Continuances and Postponements

Motion for continuance or postponement of any hearing may be granted by the Board for good cause.

Stat. Auth.: ORS 351
Stats. Implemented:
Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0455

Evidence

(1) In general:

(a) The testimony of witnesses at a hearing shall be on oath or affirmation administered by an officer of the Board authorized to administer oaths and shall be subject to cross-examination;

(b) Any witness may, in the discretion of the Board, be examined separately and apart from all other witnesses except those who are parties to the proceeding;

- (c) The Board may limit oral argument in its discretion.
- (2) The oath or affirmation taken by a witness before testimony shall be in the same form and manner as is provided by law.
- (3) Every party shall have the right to present a case or defense by oral, documentary, or other satisfactory evidence, to submit evidence in rebuttal, and to conduct such cross-examination as may be required for a full and complete disclosure of the facts.
- (4) The party having the affirmative of the issue shall have the burden of proof.
- (5) Admission and exclusion of evidence:
- (a) Evidence of a type commonly relied on by reasonably prudent persons in the conduct of their serious affairs shall be admissible, but irrelevant, immaterial, or unduly repetitious evidence shall be excluded;
- (b) Hearsay evidence shall not be admissible over an objection based on lack of opportunity to cross-examine;
- (c) The Board may limit expert and opinion evidence in its discretion.
- (6) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, that party shall state briefly the grounds of such objection, whereupon the Board shall give the party adversely affected by its ruling on the objection an automatic exception.
- (7) After first advising all parties of its intention to do so, the Board may take notice of judicially cognizable facts as is provided by law and of general, technical or scientific facts within the specialized knowledge of the Board members.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0460

Informal Disposition

Informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default, unless precluded by law.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78

580-021-0465

Record

The stenographic or mechanical record of the testimony and exhibits, together with all pleadings, motions, and rulings filed in the proceedings, all stipulations, statements of matters officially noticed, questions, and offers of proof, objections and rulings thereon, and proposed findings and exceptions, shall constitute the exclusive record for decision. The record shall also include any Board proceeding on disqualification of any hearing officer and the proposed, intermediate or final order, if any.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 5-1996, f. & cert. ef. 12-18-96

580-021-0470

Decision

- (1) Except as provided in section (2) of this rule, the Board shall render its decision within 60 days after completion of the hearing. The decision shall be accompanied by findings of fact and conclusions of law. A copy of the decision and the findings of fact and conclusions of law shall be mailed to each party.
- (2) If a majority of the Board officials has not heard the proceedings or read the transcript, a proposed decision of the Board, including findings of fact and conclusions of law, shall be mailed to each party, who shall have 15 days after receipt to submit written exceptions to the proposed decision to the Board and to request an opportunity to present argument to the Board. The Board shall grant such opportunity for argument as soon as it can reasonably be arranged.

The Board shall render its decision, accompanied by findings of fact and conclusions of law, within 60 days after presentation of the argument.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & cert. ef. 6-5-78; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

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