Policy Title: Implementing Program Discontinuance

APS Number: 1015

APS Functional Area: ACADEMIC

Brief Description: Provides guidance in implementing Regent policy on program discontinuance.

Effective: April 9, 2015

Approved by: President Bruce D. Benson

Responsible University Officer: Vice President for Academic Affairs

Responsible Office: Office of the Vice President for Academic Affairs

Supersedes: APS 1015 Implementing Program Discontinuance - July 1, 2013 and APS 1010-Program Discontinuance When No Tenured or Tenure-Track Faculty Face Dismissal-July 1, 2009

Last Reviewed/Updated: April 9, 2015

Applies to: All campuses

Reason for Policy: Provides guidance in implementing Regent policy on program discontinuance.

I. INTRODUCTION

“Program discontinuance” is the formal termination of a program by the Board of Regents for educational, strategic realignment, resource reallocation, budget constraint, or combinations of educational, strategic, and/or financial reasons. In all cases, as described in Section II.B, the Board of Regents shall make the final decision with respect to program discontinuance and the termination of tenure-track or tenured faculty appointments. For purposes of this APS, "program" refers to a degree program, department or division, school or college, or other program unit. Other program units include those that are engaged in research or academic pursuits, whether or not such programs lead to a degree (for example, an institute, a laboratory, etc.)

II. POLICY STATEMENT

A. Campus Processes for Program Discontinuance

1. Each campus, in collaboration with its faculty assembly shall develop a policy and process that shall specify grounds for program discontinuance and the makeup and responsibilities of the faculty review committee. The committee shall include a non-voting member appointed by the faculty assembly.

2. Any of the following units or individuals may submit a formal written request for program discontinuance to the campus chancellor: a department, its chair, the dean, the campus program review committee, the provost, or the president or the Board of Regents. Additionally, the campus chancellor may initiate a program discontinuance review on his or her own initiative. On receipt of a written request for program discontinuance from the campus level, the chancellor may reject it as unwarranted by written notice to the requestor. In all other cases, the chancellor shall promptly notify all faculty and staff members in the affected unit. The unit’s faculty members shall have the right of reasonable participation in all phases of the process for review of the request. All phases of the process shall be open and transparent.
3. Following receipt of the initial written request for program discontinuance, the chancellor shall convene the faculty review committee (as designated in campus policy) to undertake a review and submit a written report. Using the campus policy that outlines the grounds for closure, the committee shall collect information to ascertain whether there are such grounds (Appendix A provides some suggestions that campuses may consider when developing their own policy on grounds for program discontinuance). The committee shall take input from the faculty members of the unit recommended for closure and from other faculty members, students, and administrative units affected by the possible closure. If closure is recommended, the committee shall make recommendations for faculty appointments to be terminated.

4. Based upon the committee's report, the chancellor shall prepare a written summary of findings and conclusions of the review, citing the relevant criteria in the policy. If the chancellor determines that closure is not warranted, consideration of the program discontinuance will end, unless the recommendation for closure came from the president or the Board of Regents. In that case, the written summary and recommendation shall be forwarded to the president, who shall follow the procedure outlined below in Section II.B.

5. If the chancellor believes closure may be warranted, he/she shall consult with faculty members and administrators in the affected unit, and such consultation shall address reassignment, retraining or retirement of the affected faculty. Before completing his/her report, the chancellor or provost shall offer to meet with any tenured faculty member whose appointment may be recommended for termination. If the chancellor determines that closure is warranted, he/she shall inform the affected unit and its college/school of the recommendation for closure and prepare a plan for program closure.

6. The plan for program closure shall include: (1) the rationale and timing for phasing out the program; (2) a statement of how students enrolled in the program may complete the degree in a reasonable time; (3) identification of and rationale for all faculty appointments that may be terminated; (4) analysis of other faculty and staff appointments affected by discontinuance; and (5) any other issues related to closure of the program.

7. Unless there are compelling academic reasons, no tenured faculty member shall be terminated until all faculty members without tenure in the affected program(s) have been terminated. In the event of a proposed program discontinuance, the school or college shall attempt to place each tenured faculty member being considered for termination in other organizational units if the faculty member can be shown to be capable of fulfilling the necessary educational responsibilities of that unit and the unit is willing to accept the faculty member (See II.C.1. below). These placement efforts shall be documented.

8. For the purposes of this policy, non-renewal of a tenure-track faculty appointment through the normal reappointment process shall not be considered to be a termination. As used in this policy, the "termination of a tenure-track faculty appointment" means ending the appointment prior to the end of the current contract.

9. The chancellor shall present the final recommendation for closure and the plan to the president within 120 calendar days of the start of the process (marked by the date of the initial formal written request for consideration of program discontinuance). The recommendation document shall include: (i) the chancellor's recommendation and plan, and (ii) all materials provided to the chancellor by the review committee.

B. Review by President and Board of Regents

1. Presidential Review of Program Discontinuance Recommendations Initiated at the Campus Level

If the chancellor recommends program discontinuance, where the program discontinuance review began at the campus level, the president shall review the chancellor’s recommendation and documentation. During the course of the president's review, the president shall afford each tenured faculty member whose appointment is recommended for termination, the opportunity to present written evidence/arguments in support of the continuance of the faculty member's appointment. Any such written comments shall be included with the president's recommendation to the Board. The president shall have 60 calendar days to deliver a final recommendation to the Board. The President shall include
with his or her final recommendation to the Board all documentation that the Chancellor sent to the President.

2. Presidential Review of Program Discontinuance Reviews Initiated by the President or Board of Regents

If the program discontinuance review was initiated by the president or the Board of Regents, the chancellor shall send his or her report to the president and then to the Board of Regents regardless of the chancellor’s recommendation. If, under these circumstances, the chancellor does not recommend program discontinuance and the president disagrees, the president shall submit, in writing, her/his rationale for moving forward with program discontinuance. If the Board of Regents agrees with the president, then the president, in consultation with the chancellor and any campus administrators and faculty the president deems appropriate, shall prepare a plan for program closure. This plan will include the identification of tenured or tenure-track faculty appointments recommended for termination and will be presented to the Board of Regents for review and action, if any.

3. Final Decision by the Board of Regents

The Board of Regents shall make the final decision on program discontinuance and the termination of tenured and tenure-track faculty appointments. Because the Board of Regents grants tenure, only the Board can take action to terminate an individual faculty member's tenure.

C. Information for Faculty Members Affected by Discontinuance

Following the Board of Regents' decision to terminate an academic program and its tenured faculty, the chancellor shall provide formal written notice of termination consistent with University policy. Faculty members shall be notified of the effective date of termination and whether they are entitled to severance pay.

1. Year of Notice

After formal approval by the Board of Regents, tenured and tenure-track faculty members whose appointments are to be terminated shall have one year's notice ("notice year") prior to the effective date of termination. For tenured and tenure-track faculty members with 9-month contracts, the notice year shall commence at the beginning of the next academic year. For tenured and tenure-track faculty members with 12-month contracts, it shall commence at the beginning of the next fiscal year.

During the notice year, reasonable efforts shall be made by the chancellor or chancellor's designee to find another suitable position for the faculty member within the University, subject to the requirement that intercampus or interdepartmental transfers can be made only if they are mutually acceptable to the faculty member, the receiving academic unit (by a vote of its faculty), and the chancellor(s). During the notice year the chancellor or the chancellor’s designee may provide faculty with retraining if such retraining shall not interfere with the faculty member’s assigned teaching and other professional obligations during the notice year. Eligible faculty members shall have the option to retire in accordance with University policies.

Following the notice year, if reasonable efforts to reassign, retrain, or retire have failed, the faculty member may be terminated with applicable severance pay in accordance with the Regent's policy on program discontinuance.

2. Severance Pay

Severance pay is available only to a tenured member of the faculty whose appointment has been involuntarily terminated due to program discontinuance. A faculty member who elects to resign or retire from the University may not receive severance pay pursuant to this APS. In order to be eligible for severance pay, a tenured faculty member shall fulfill assigned teaching and other professional obligations throughout the notice year. Severance pay in the amount of base salary for one academic year for tenured faculty members with 9-month contracts, and for one fiscal year for tenured faculty members with 12-month contracts shall be provided by the campus whose faculty appointments are terminated under this policy. At the discretion of the campus, severance pay shall be provided in full within 60 calendar days after the effective date of termination or paid in equal monthly amounts over a
specified period (up to a maximum of one year) commencing 30 calendar days after the effective date of termination of employment. Severance payments made over multiple fiscal years are subject to annual appropriations as required by law.

3. Reinstatement Rights of Tenured Faculty

If a program is reinstated within three years at the campus where it was discontinued, a tenured faculty member who was terminated as a result of the program's closure shall have a right to reinstatement, provided a position is available that is substantially similar in responsibilities to the one previously held by the faculty member. For the purpose of notification of reinstatement, terminated faculty members shall keep the university informed of their current address during the three-year period.

4. Untenured Tenure-Track Faculty Appointments

After the Board of Regents formally approves the termination of a program and the program’s discontinuance plan, untenured tenure-track faculty members identified in the plan for termination shall continue their employment with the University during the notice year prior to the effective date of termination, as provided under subsection II.C.1 above.

5. Non-Tenure-Track Faculty Appointments

After the Board of Regents formally approves termination of a program and the program’s discontinuance plan, the University may terminate the employment of a non-tenure track faculty member, including a faculty member who has entered a contract pursuant to the APS on multi-year contracts for non-tenure-track faculty members.

6. Faculty Rights Under COBRA

A faculty member who is terminated for reasons of program discontinuance shall be eligible to participate in the University group insurance program for 18 months following the date of termination under the conditions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) if the faculty member is enrolled in the University's group insurance program at the time of termination.

7. Employment Counseling

The campus shall provide counseling regarding employment opportunities outside of the University upon request by a faculty member whose position is being eliminated.

8. Right to File Grievance

An eligible tenured faculty member whose appointment is terminated for reasons of program discontinuance may file a grievance with the Faculty Senate Privilege and Tenure Committee under its policies and procedures. The filing of a grievance does not affect the timing of the discontinuance process outlined in this policy. The Privilege and Tenure Committee shall not rehear the basic decision to discontinue the unit.

D. Students

Consistent with university policy, reasonable efforts shall be made to allow students to complete their degree program. Program or campus transfers shall be permitted if mutually acceptable to the student and the receiving department. Students shall be provided advising assistance with respect to their academic program options. Students will be notified of program closure and timing for phasing out programs.

See Appendix: Program Closure Considerations

III. HISTORY

Initial Policy Effective: January 1, 1987
Appendix: Program closure considerations

The following are non-exclusive lists of factors that may be considered during review of a program being considered for discontinuance.

A. Educational reasons:

1. The long-term state, regional and national needs for such academic or research efforts;
2. The existence of similar academic or research efforts at other academic or research institutions;
3. The quality of the campus' program in terms of the (a) faculty and staff, (b) students, (c) accreditation or program review, or (d) research and other facilities (library collections, laboratories, field support facilities, etc.);
4. The importance of the program as a support for, or as an integral part of, other campus or University academic and research programs;
5. The importance of the program as fundamental to a university education;
6. The importance of the program to the state or region in terms of its cultural, historic, political, economic, or other social aspects;
7. The importance of the program to the state or region; or
8. Other relevant factors that indicate that the program cannot be maintained for academic reasons.

B. Budgetary constraints, resource allocation or other financial reasons:

1. Actual or projected revenues and costs of the program including both direct and indirect costs;
2. Potential cost savings from elimination of the program;
3. Efficiency of program operations in relation to revenues and expenditures (and credit hours and research dollars);
4. The program's contribution to the campus' fiscal health;
5. Performance data related to the program such as the cyclical nature of the discipline's relevance, multi-year trends and projections for enrollment, retention, completion, placements, impacts on other programs and capacity data such as student/faculty ratios, courses taught by tenure versus non-tenure track, research productivity, programmatic cost benefit analysis, ability to generate income; or
6. Other relevant factors that indicate that the program cannot be maintained due to budgetary constraints, resource allocations, or other financial reasons.

C. Strategic realignment reasons:

1. Importance of the program to the campus mission;
2. Role of the program in the campus or college strategic plan (academic master plan);
3. Ability of the program to enhance the campus' reputation in the state and nation;
4. Excellence of the program or its promise for future excellence in teaching, research, or both;
5. Cost of investing in the program to achieve and maintain excellence;
6. Uniqueness of the program to the state, CU System, and the relevant geographic area;
7. Marketplace demand for the program;
8. Program's role in supporting other key programs at the campus; or
9. Other relevant factors that indicate that the program cannot be maintained for strategic realignment reasons.