

NOTICE REQUIREMENTS AND OPTIONS

This note outlines the options within current board and university policies 1) for non-classified employees, and 2) for the regular non-tenured faculty ranks described in FSH 1565D. The policies attempt to strike a fair balance between the competing interests of the institution in severing the employment relationship when to its advantage, and those of the employee in maintaining stable and predictable employment. The options are intended to maintain that balance while complying with the policies.

Current policy

1. Non-renewal of contracts for non-classified employees requires 60 days' notice under Board policy II.F.5.a, incorporated into FSH 3900B-1: "The employee must be notified at least 60 days before the end of the existing period of employment." (note that the 60 days depends upon the specific termination date of each employee's contract; some non-faculty employees have contracts that end on a date that does not coincide with the fiscal year, for instance contracts having terms less than a full year. The 60 day time frame for notification of non-renewal will depend on the specific term of each contract.)

Temporary or special project non-classified employees, such as lecturers, **with** a contract fall under the category of non-classified contract employees entitled to 60 days' notice under FSH 3900 B-1 and Board policy IIF.5.a (as above). If employed **without** a contract, they are considered to serve at the pleasure of the President and may be dismissed at any time without notice. See Board policies IID.2.d, IIF.1.a, FSH 3900B-1 and FSH 3080D-2.a.

2. Requirements for notice of non-renewal for non-tenured FSH 1565D professors, associate professors, assistant professors, senior instructors, and instructors, including those professors, associate professors, assistant professors, senior instructors, and instructors whose titles have distinguished, research, extension, clinical or visiting designations, e.g., "assistant research professor" and "visiting associate professor" are set by Board policy II.G.5.a, as incorporated into FSH 3900B-2:

B-2. A nontenured faculty member, as "faculty" is defined in FSH 3520B-4, must be notified:

- a. Not later than March 1 of the first full academic year of service if the appointment is not to be renewed at the end of the academic year or, if a one-year appointment terminates during an academic year and is not to be renewed, at least three months in advance of its termination.
- b. Not later than December 15 of the second full academic year of service if the appointment is not to be renewed at the end of that year or, if the appointment terminates during an academic year and is not to be renewed, at least six months in advance of its termination.
- c. Not later than July 15 preceding the academic year at the end of which the appointment is to be terminated; or if the appointment terminates during an academic year and is not to be renewed, at least twelve months in advance of its termination.

Options under current policy.

1. The university responded to the need/desire to be able to end employment for lack of funding prior to the end of a contract period by permitting units to state in the offer letter and initial salary agreement that employment in the position is contingent on continued funding, and that the university can terminate the salary agreement prior to the end of the contract period with 60 days' notice. An employee who accepts these terms agrees by contract that the notice provisions of FSH 3900B do not apply.

The 60 day period is long enough to give the employee reasonable advance notice of termination, and the unit should know at least 60 days in advance that funding for the position will end. It strikes a reasonable balance between fairness to the employee and the needs of the unit.

2. If the unit's funding is less predictable, it may state a shorter notice period in the offer letter and salary agreement; however, there should be sound justification for doing so. The university has not used a notice period shorter than 60 days for contract employees.
3. For short term positions, Board policy and the FSH recognize a category of "temporary or special project non-classified employees" that includes:
 - a. Employees appointed to positions that are either temporary or for special projects and who meet specific position requirements for (a) grants or contracts of specified duration or (b) part-time teaching or other responsibilities;
 - b. Employees who are appointed to fulfill the responsibilities of continuing positions on an emergency or temporary basis.

An employee in this category who is employed **without a written employment contract** may be dismissed at any time without notice and without cause. The university has rarely used this category, but does not oppose its use in appropriate circumstances.

Conversion of an existing position from one that requires notice under FSH 3900B to one that can be terminated for lack of adequate funding requires planning in advance. The unit must first give notice of nonrenewal of the current contract within the time limits of FSH 3900B, and the new contract must then include language under "other conditions" stating that it is contingent on continued funding and subject to termination with 60 days' notice. The employee should be informed at all stages.

You are encouraged and welcomed to contact the Office of the Provost & Executive Vice President or Office of General Counsel for assistance prior to implementing any of these options.