

# Dismissal for Cause and Severance Pay

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# Why Are We Here?

- Faculty Council is responsible for issues related to more than one campus.
- Faculty Council generally receives its feedback from elected and appointed campus representatives.
- Campus representatives should solicit feedback from campus faculty and share evolving issues with their Assemblies.
- In a few cases members of the Faculty Council have historically made presentations to campuses on important or contentious issues.

*(Constitution, intellectual property, program discontinuance, self insurance, etc.)*

# Severance Pay for Dismissal for

## • Cause - History

1. Board of Regents has acted on dismissal for cause cases only 4 times in CU's 135 year history.
2. The issue became a highly charged issued following the Ward Churchill dismissal.
3. Some time roughly in 2008, Regents asked faculty to consider modifying the language that automatically entitles all faculty to one year of severance pay if dismissed for cause.

# Severance Pay – History Cont.

4. After extended deliberations, the EPUS motion passed unanimously in committee on 2/17/11. The Personnel Committee also passed this motion unanimously.
5. Faculty Council passed the motion with two dissenting votes and forwarded it to the Board of Regents.
6. A subsequent Faculty Council motion requested the Regents grant more time to get feedback from campuses.

# Severance Pay – History Cont.

7. At the Board of Regents Laws & Policies meeting in April, 2011, some faculty expressed concern about the motion. The Regents sent the motion back to Faculty Council for further input and a single unified motion by January, 2012. They also asked University Counsel (*Dan Wilkerson*) to assist in refinement of outdated language.
8. EPUS & Personnel Committees met jointly on 8/26/11 and drafted the following amendments to Regent Law 5.C.1. The proposed amendment was approved by the joint committees 12 in favor, 5 opposed, and 2 abstaining.

# Board of Regents Meeting Minutes

*(Excerpt from August 27, 1966)*

4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. **Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.**

*On motion from Regent Bromley, seconded by Regent Bernick, the resolution as recommended was unanimously approved.*

# 1958 AAUP – Interpretive Statement on “Moral Turpitude”

- [9]The concept of “moral turpitude” identifies the exceptional case in which the professor may be denied a year’s teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year’s teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

# Current Regents Law 5.C.1

- A faculty member may be dismissed when, in the judgment of the Board of Regents and subject to the Board of Regents constitutional and statutory authority, the good of the university requires such action. The grounds for dismissal shall be demonstrable professional incompetence, neglect of duty, insubordination, conviction of a felony or any offense involving moral turpitude upon a plea or verdict of guilty or following a plea of *nolo contendere*, or sexual harassment or other conduct which falls below minimum standards of professional integrity.

# Regents Law 5.C.1 with proposed EPUS motion of 2/17/11

- A faculty member may be dismissed when, in the judgment of the Board of Regents and subject to the Board of Regents constitutional and statutory authority, the good of the university requires such action. The grounds for dismissal shall be demonstrable professional incompetence, neglect of duty, insubordination, conviction of a felony or any offense involving moral turpitude upon a plea or verdict of guilty or following a plea of *nolo contendere*, or sexual harassment or other conduct which falls below minimum standards of professional integrity. The faculty panel on Privilege and Tenure may recommend, in consideration of mitigating circumstances, that the Board of Regents vote affirmatively to give one year of severance pay to the faculty member dismissed for cause.

# Regents Law 5.C.1 with proposed EPUS/Personnel language of 8/26/11

- A faculty member may be dismissed when, in the judgment of the Board of Regents and subject to the Board of Regents constitutional and statutory authority, the good of the university requires such action. The grounds for dismissal shall be demonstrable professional incompetence, gross or repeated neglect of duties, ~~insubordination~~, conviction of a felony, ~~or any offense involving moral turpitude upon a plea or verdict of guilty or following a plea of nolo contendere, or~~ sexual harassment, or other conduct ~~which~~ that falls below minimum standards of professional integrity. The faculty panel on Privilege and Tenure may recommend, in consideration of mitigating circumstances, that the Board of Regents vote affirmatively to give one year of severance pay to the faculty member dismissed for cause.

# Concerns Raised, but resolved:

- **Question:** Will doing away with severance pay in cases of dismissal for cause also do away with severance in cases such as program discontinuance?
- **Answer:** No. Legal Counsel has assured the Faculty Council that this change will have no effect on other types of severance pay such as program discontinuance.

# Dissenting Views

- Severance pay is a faculty right. Faculty should not willingly give up their rights.
- In giving up the year of severance, faculty are giving up a bargaining chip in cases where they are being asked to resign.
- Faculty dismissed for cause need a year of severance to transition their careers and lives.

# Dissenting Views (continued)

- Faculty dismissed for cause need the year of severance in support of their legal defense if they are preparing for an appeal.
- Making severance pay discretionary creates a potential for outside political pressure to influence Regent decisions.



**Please give us your feedback**

[www.cu.edu/facultycouncil/dismissal.html](http://www.cu.edu/facultycouncil/dismissal.html)