

VI. TERMINATION OF EMPLOYMENT - RESEARCH SCIENCE STAFF

A. POLICY

Termination of employment for research science staff includes both voluntary and involuntary terminations. Unless otherwise specified, each AURA Center will adopt such procedures and processes necessary to execute this policy. Appropriate provisions of the general Termination of Employment policy with respect to exit procedures are incorporated by reference in this policy.

Policies and procedures for the termination of scientific staff are generally guided by the 1940 Statement of Principles on Academic Freedom and Tenure of the American Association of University Professors (AAUP) and the Association of American Colleges (AAC) and on Interpretive Comments approved by the AAUP in April, 1970.

I. Voluntary Termination

- A. Resignation - A scientific staff member may voluntarily terminate his/her appointment. It is generally expected that the scientific staff member will provide a minimum of a three (3) month notice. The scientific staff member may properly request a waiver of this notification in case of hardship or in a situation when he/she would otherwise be denied substantial professional advancement or other opportunity. Approval of the waiver is at the discretion of the Center Director.
- B. Retirement - An election by an employee to retire is considered a voluntary resignation.
- C. Project Relocation – If the work/project/mission to which a research staff member is assigned is moved to another location, or the work is required to be performed at another location, and the staff member refuses to work at this new location, the research staff member shall be considered to have resigned their position with AURA.
- D. Phased Retirement - AURA may allow research science staff members to begin a phased retirement process at any time after age 60, subject to Center needs. Phased retirement could have a staff member reduce his/her employment incrementally, over time, until she/he retires fully. This phased retirement period should generally be no more than three (3) years. Specific arrangements tailored to the needs of the Center as well as the individual's needs may be worked out in consultation with the Center Director or designee.

II. Involuntary Termination

A. Non-Tenured Scientists on Probationary, Term or No-Term Appointments

- 1) Term appointments shall terminate at the end of the specified term unless notice of intent to renew or renewal is provided by the Center. Intent to renew and/or renewal will normally be provided no less than six (6) months prior to the end of the term.
- 2) Term appointments may be terminated prior to the end of the term, or at any time for probationary or no-term appointments, by the Center Director for reasons including, but not limited to, reduction in force; dismissal for cause including poor performance (also see AURA Policy B-XXII – *Performance Counseling and Discipline*), violation of law, willful misconduct, moral turpitude and the like; and/or the individual's prolonged (at least six (6) months) inability to perform, with or without reasonable accommodation, the duties required for the position for medical reasons.
- 3) Severance pay or notice of termination in lieu of severance pay, will vary with the nature of the termination and normally will not exceed:
 - (a) three months during the first year of employment,
 - (b) six months during the second year of employment, and
 - (c) twelve months during the third and succeeding years.
- 4) In cases of dismissal for cause, neither notice nor severance will be provided.
- 5) Exceptions to paragraphs (2), (3) and (4) above will be at the discretion of the Center Director.

B. Tenured Scientists –

- 1) For Cause
 - (a) Termination of tenured appointments at any AURA Center must be approved by the AURA Board of Directors based on a recommendation by the Center Director in consultation with the AURA President.

(b) Termination of tenured appointments can be conducted for cause which includes poor performance or lack of performance in the member's professional capacity at the Center (also see AURA Policy B-XXII – *Performance Counseling and Discipline*), incompetence, neglect of duty, willful misconduct, insubordination, unethical conduct; violation of AURA's policies, and moral turpitude.

(c) Moral turpitude includes, but is not limited to, violation of law, or such behavior that rises to a level that would evoke condemnation by the academic community or bring AURA into disrepute, including sexual-based or other harassment and discrimination, or which results from a court ruling against the individual.

(d) Pending a final disposition by the Center Director and/or a Science Hearing Committee and a final decision by the AURA Board of Directors, the tenured staff member may be:

(i) Assigned to other duties in lieu of suspension.

(ii) Suspended if his/her continuance would create a risk of harm to him/herself or others, including AURA or its Centers, pose an immediate health hazard; endanger federal funds or equipment; risk harm to the interests of person(s) making allegations, the individuals who are the subject of the allegations, or to others.

(iii) Before suspending a tenured staff member, the Center Director generally will consult with the Center's Scientific Personnel Committee, Head of Science and/or senior scientific (astronomer and science track) staff responsible for oversight of the research staff concerning the propriety, the length, and the other conditions of the suspension, including whether salary and benefits will or will not be continued. The Center Director will render the final decision.

2) For Other Than Cause

(a) Termination of tenured appointments can be conducted for reasons other than cause which includes the following prolonged (at least six (6) months) inability to perform, with or without reasonable accommodation, the duties required for the position for medical reasons.

3) Severance or Notice in Lieu of Severance

(a) Generally, termination of tenured staff for cause requires payment of severance equivalent to 12 months' salary or 12 months' notice in lieu of severance payment and is triggered as of the date of notification of intent to dismiss by the Center Director to the tenured staff member.

(b) In the case of an action brought for dismissal on the grounds of moral turpitude, the individual will be prohibited from receiving severance pay or notice in lieu of severance at termination.

4) Dismissal Procedures

(a) Dismissal of tenured personnel under any of the categories cited above will be carried out within the following guidelines. Dismissal may be preceded by informal inquiry by the Center's Scientific Personnel Committee and/or Head of Science, which may render an opinion as to whether dismissal proceedings should be undertaken, without its opinion being binding upon the Center Director or the AURA Board of Directors.

(b) A candidate for dismissal shall be notified by the Center Director and will be presented with a written statement of the basis for termination. A copy of the written statement will be furnished concurrently to the AURA President. The candidate may be placed on suspension, either with or without pay, during this time pending final action(s).

(c) A Science Hearing Committee will be appointed by the Center Director and will be composed of no fewer than three (3) senior scientific staff members. These senior scientific staff members may be selected from the Center or from other AURA Centers as required. This committee will be a separate committee from other standing Center scientific committees. The procedures governing proceedings of the Science Hearing Committee will be established by the Center Director, or designee, and maintained with other procedures related to scientific staff at the Center.

(d) The candidate will have the right to reply to the charges, in writing, or to request a hearing before the Center's Science Hearing Committee to present a rebuttal to the dismissal statement, such other statements as he/she desires, and/or to call witnesses to present evidence on his/her behalf. The candidate must provide the written reply or notify the Center Director, in writing, of his/her intent to request a hearing, within five (5) business days from the receipt of the dismissal notification.

(e) No Request for Hearing

(i) If the candidate does not respond within five (5) business days following receipt of the notification of termination as indicated above, or elects not to have a formal hearing of the charge(s) before the Science Hearing Committee, the Center Director may either:

a) proceed with a recommendation to the AURA President for presentation to the AURA Board of Directors for action, or

b) request that the Science Hearing Committee evaluate the available record and provide a recommendation to the Center Director based on the record.

(ii) If the case is referred to the Committee and the Committee's recommendation supports that of the Center Director, the termination recommendation will stand without further appeal. The Center Director may then proceed with a recommendation to the AURA President for presentation to the AURA Board of Directors for action.

(iii) If, after a review of the record, the Committee's decision differs from the Center Director, the case will be referred to the President of AURA who may consult with the Center Director, the Science Hearing Committee and/or the Board of Directors if he/she feels it necessary before reaching his/her own decision and if appropriate submitting the recommendation for final action by the Board of Directors.

(iv) Final approval (or disapproval) of dismissal will be made by the Board of Directors and will be communicated in writing to the candidate along with the Center Director by the President.

(f) Request for Hearing

(i) If the candidate requests a hearing before the Science Hearing Committee, the Center Director will furnish to that Committee a copy of the written statement of reasons for termination.

(ii) In the event of a hearing, all parties may request that legal and/or procedural advisors be present.

(iii) The Science Hearing Committee may, with the consent of both the staff member and the Center Director, hold joint pre-hearing meetings with the parties in order to;

- a. simplify the issues,
- b. effect stipulations of facts,
- c. provide for the exchange of documentary or other information, and
- d. achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious

(iv) The Science Hearing Committee will convene a hearing (with notice given in writing) no later than thirty (30) days following

receipt of the written request from the candidate. The Science Hearing Committee will report to the Center Director who will convey that report to the President of AURA.

(v) Hearings before the Science Hearing Committee will be private and confidential to the extent possible.

(vi) Following a hearing, the Science Hearing Committee will render an opinion and make a recommendation to the Center Director. If the Committee's recommendation supports that of the Center Director, the termination recommendation will stand without further appeal. The Center Director may proceed with a recommendation to the AURA President for presentation to the AURA Board of Directors.

(vii) If the Science Hearing Committee's recommendation differs from that of the Center Director, the case will be reviewed by the President of AURA who may consult with the Center Director, the Science Hearing Committee or the Board of Directors if he/she feels it necessary before reaching his/her own recommendation.

(viii) Final approval (or disapproval) of the dismissal recommendation will be made by the Board of Directors and will be communicated in writing to the candidate along with the Center Director by the President.

C. Research Science Staff - Financial Exigency

- 1) If an imminent financial crisis arises or a succession of severe budget cuts or restrictions imposed over several years threatens the viability of a Center, the AURA President shall consult the AURA Board of Directors concerning a declaration of financial exigency and a recommendation for approval by the AURA Board. Prior consultation by the President with the Center Directors should also take place to ascertain that all possible alternatives have been explored before the declaration of financial exigency. The declaration of financial exigency will be made by the AURA Board of Directors upon recommendation of such action by the President.
- 2) Non-renewal of AURA's contracts or cooperative agreements with NSF, NASA or other funding organizations may result in termination of tenured appointments at the affected Centers.
- 3) Following the declaration by the Board, the AURA President will inform the Center Directors of that action. The Center Directors will then proceed with all necessary actions to alleviate the financial crisis, i.e., elimination of programs, closing of telescopes, salary cuts, reduction in non-tenured staff, termination of tenured staff, etc.
- 4) The Center Director shall consult the scientific staff, or a committee thereof, with regard to the best way to achieve the cuts imposed by the declaration of financial exigency,

including selection criteria for the release of tenured staff.

- (a) These criteria may include length of service, performance evaluations, scientific productivity, adequacy of service, etc., but ultimately must take into account the long-term health of the Center.
 - (b) Generally, non-tenured scientific appointments may be terminated before tenured appointments except in extraordinary circumstances which would result in a serious distortion of the Center programs.
 - (c) Reappointment of full-time incumbents to part-time status, early or phased retirement, also should be considered as viable options.
 - (d) The criteria for the release of tenured staff must be approved by the AURA Board of Directors.
 - (e) The AURA President must then notify, in writing, the Center Director and all tenured staff members of the affected Center of the Board's actions, before release notices are sent to any staff members.
- 5) Once terminations have been made because of financial exigency, new appointments will not be made except under extraordinary circumstances, which would otherwise result in a serious distortion of the Center's program. Appointments into similar positions as held by terminated staff will not be made for a period of three (3) years without first offering the position to a terminated staff member provided that person has remained in active layoff status. To be eligible for re-appointment, a terminated tenured staff member must inform the Center Director no later than one (1) year after termination and annually thereafter of the desire to return in the event the financial exigency is removed.
- 6) In the case of financial exigency, individual arrangements for early and/or phased retirement are encouraged.