

AN ACT

relating to the tenure and employment of faculty members at certain public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 51.942, Education Code, is amended to read as follows:

Sec. 51.942. [~~PERFORMANCE EVALUATION OF TENURED~~] FACULTY TENURE.

SECTION 2. Section 51.942(a), Education Code, is amended by amending Subdivision (1) and adding Subdivision (4) to read as follows:

(1) "Governing board" and "university system" have the meanings [~~has the meaning~~] assigned by Section 61.003.

(4) "Tenure" means the entitlement of a faculty member of an institution of higher education to continue in the faculty member's academic position unless dismissed by the institution for good cause in accordance with the policies and procedures adopted by the institution under Subsection (c-1).

SECTION 3. Section 51.942, Education Code, is amended by amending Subsections (b), (c), and (g) and adding Subsections (c-1), (c-2), (c-3), and (c-4) to read as follows:

(b) Only an institution of higher education's governing board, on the recommendation of the institution's chief executive officer and the university system's chancellor, if applicable, may grant tenure.

(c) The granting of tenure may not be construed to create a property interest in any attribute of a faculty position beyond a faculty member's continuing employment, including his or her regular annual salary and any privileges incident to his or her status as a tenured professor.

(c-1) Each governing board of an institution of higher education shall adopt policies [~~rules~~] and procedures regarding tenure. The policies and procedures must:

(1) address the granting of tenure;

(2) allow for the dismissal of a tenured faculty member at any time after providing the faculty member with appropriate due process, on a determination that:

(A) the faculty member has:

(i) exhibited professional incompetence;

(ii) continually or repeatedly failed to perform duties or meet professional responsibilities of the faculty member's position;

(iii) failed to successfully complete any post-tenure review professional development program;

(iv) engaged in conduct involving moral turpitude that adversely affects the institution or the faculty member's performance of duties or meeting of responsibilities;

(v) violated laws or university system or institution policies substantially related to the performance of the faculty member's duties;

(vi) been convicted of a crime affecting the fitness of the faculty member to engage in teaching, research, service, outreach, or administration;

(vii) engaged in unprofessional conduct that adversely affects the institution or the faculty member's performance of duties or meeting of responsibilities; or

(viii) falsified the faculty member's academic credentials;

(B) there is actual financial exigency or the phasing out of the institution's programs requiring elimination of the faculty member's position; or

(C) there is other good cause as defined in the institution's policies; and

(3) provide [~~providing~~] for a periodic performance evaluation process for all tenured faculty [~~tenured~~] at the institution.

(c-2) The governing board may design its policies [~~rules~~] and procedures to fit the institution's particular educational mission, traditions, resources, and circumstances relevant to the institution's [~~its~~] character, role, and scope, in addition to other relevant factors determined by the governing board in the policies and procedures [~~rules~~] adopted under [~~pursuant to~~] this section. The governing board shall seek advice and comment from the institution's faculty [~~of the institution~~] before adopting any policies and procedures under [~~rules pursuant to~~] this section.

The advice and comment from the faculty on the performance evaluation of tenured faculty shall be given the utmost consideration by the governing board.

(c-3) ~~[(c-3)]~~ In addition to any other provisions adopted by the governing board, the policies and procedures adopted by the governing board under Subsection (c-1) must ~~[rules shall]~~ include provisions providing that:

(1) each tenured faculty member ~~[tenured]~~ at the institution be subject to a comprehensive performance evaluation process conducted no more often than once every year, but no less often than once every six years, after the date the faculty member was granted tenure or received an academic promotion at the institution;

(2) the comprehensive performance evaluation be based on the professional responsibilities of the faculty member, in teaching, research, service, patient care, and administration, and include peer review of the faculty member;

(3) the comprehensive performance evaluation process be directed toward the professional development of the faculty member;

(4) the comprehensive performance evaluation process incorporate commonly recognized academic due process rights, including notice of the manner and scope of the comprehensive performance evaluation, the opportunity to provide documentation during the comprehensive performance evaluation process, and, before a faculty member may be subject to disciplinary action on the basis of a comprehensive performance ~~[an]~~ evaluation conducted under ~~[pursuant to]~~ this subsection ~~[section]~~, notice of specific charges and an opportunity for hearing on those charges; ~~[and]~~

(5) a faculty member be subject to revocation of tenure or other appropriate disciplinary action if, during the comprehensive performance evaluation, incompetency, neglect of duty, or other good cause is determined to be present; and

(6) for a faculty member who receives an unsatisfactory rating in any area of any evaluation conducted under this section, the evaluation process provide for a short-term development plan that includes performance benchmarks for returning to satisfactory performance.

(c-4) The policies and procedures adopted by the governing board under Subsection (c-1) may include provisions that authorize the summary dismissal of a tenured faculty member based on a finding that the faculty member committed serious misconduct, as defined by the institution's policies, at any time after providing the faculty member with appropriate due process in accordance with this subsection. The policies and procedures for summary dismissal must ensure that the institution provides the faculty member with appropriate due process, including:

(1) before summarily dismissing the faculty member, providing the faculty member:

(A) written notice of the allegations against the faculty member together with an explanation of the evidence supporting dismissal; and

(B) an opportunity for the faculty member to respond to the allegations in a hearing with a designated administrator;

(2) requiring the designated administrator to consider the faculty member's response under Subdivision (1)(B) and make a written determination of whether the institution will proceed with the summary dismissal of the faculty member;

(3) promptly providing to the faculty member a copy of the designated administrator's written determination under Subdivision (2) that:

(A) clearly indicates whether the faculty member will be subject to summary dismissal; and

(B) either:
(i) includes the effective date of the dismissal and information regarding the faculty member's opportunity for a post-dismissal appeal, if the designated administrator's decision is in favor of summary dismissal; or
(ii) states that the faculty member is not subject to summary dismissal, if the designated administrator's decision is against summary dismissal; and

(4) following a designated administrator's written determination to summarily dismiss a faculty member, providing the faculty member with the opportunity for a post-dismissal appeal in accordance with the institution's policies and procedures.

(g) Each governing board shall file a copy of the policies and procedures ~~[rules]~~ adopted under ~~[pursuant to]~~ this section, and any amendments to such policies and procedures ~~[rules]~~, with the coordinating board on or before September 1 of each year.

SECTION 4. Section 51.942(d), Education Code, is repealed.

SECTION 5. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 18 passed the Senate on April 20, 2023, by the following vote: Yeas 18, Nays 11; and that the Senate concurred in House amendments on May 27, 2023, by the following vote: Yeas 19, Nays 12.

Secretary of the Senate

I hereby certify that S.B. No. 18 passed the House, with amendments, on May 23, 2023, by the following vote: Yeas 83, Nays 61, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor