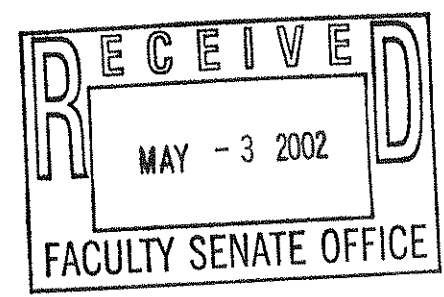


UNIVERSITY OF  
**Miami**  
FACULTY SENATE  
**MEMORANDUM**

CDFNI



**To:** Donna E. Shalala, President  
**From:** Steven Green  
Chair, Faculty Senate  
**Date:** 29 April 2002

**Subject:** Faculty Senate Legislation #2001-06(B) -- [revised] - Non-reappointment, termination, and associated issue

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The Faculty Senate, at its 28 November 2001 meeting, voted unanimously to approve the addition to Faculty Manual sections C5.3 and B4.10 pertaining to notice of termination and fault finding. In December, you sent a note to the Senate stating that while the general direction of the proposed legislation was agreed to, you were deferring approval of the legislation to allow the Provost and General Counsel to work with the Chair of the Senate to draft appropriate modifications that would be more acceptable. Below is the revised legislation that represents the wording with which the Provost, General Counsel, and I agree and was unanimously approved by the Senate at its 24 April 2002.

The changes to the Faculty Manual are shown as underlined additions and ~~strikethrough~~ deletions.

B4.10 The COMMITTEE ON PROFESSIONAL CONDUCT consists of a panel of from five to twelve senior tenured faculty members elected annually by the Faculty Senate. The committee for a particular case shall consist of three senior tenured faculty members selected by the Chair of the Senate from the panel. No member of the Committee shall be a member of the Faculty Senate. Matters involving the professional conduct of faculty members may be brought before this committee by a complainant, (a faculty member, a director of an academic program, an academic dean, the Executive Vice President and Provost, or the President) after all reasonable efforts to reach an informal settlement at the department or school level have failed. In addition, any faculty member accused of unprofessional conduct may request a hearing by the Committee if all attempts at administrative resolution have failed. Those who bring matters of professional conduct to the committee shall provide the committee with a written statement of specific charges. If the committee decides that the charges warrant further inquiry, a copy of the charges shall be forwarded to the faculty member concerned and hearings shall be held. At the hearing the faculty member shall have the right to academic or legal counsel and the right to hear all evidence presented to the committee. If the faculty member chooses legal counsel, the university shall also have the right to be represented by independent counsel. As a result of its deliberations, the committee shall inform the faculty member and the President of the opinion of the committee as to whether or not the faculty member's conduct

conforms to acceptable professional standards. If the matter cannot be resolved at this point, the committee may recommend to the Faculty Senate a specific sanction of censure. If the committee recommends that procedures for dismissal be initiated, it shall transmit this recommendation to the President for further consideration and action. If the committee recommends sanctions short of dismissal, except for censure, such recommendations will be transmitted to the President who may impose that sanction or a lesser sanction or forward the matter to the Hearing Committee provided for in Section C13 of the Faculty Policies. The period from receipt of a complaint through final recommendation by the committee shall not exceed 30 academic working days, unless an extension of fifteen academic working days is requested of and approved by the President. If the Committee on Professional Conduct, in the course of its deliberations, has reason to believe that a faculty member acting as complainant or witness has knowingly introduced evidence that has been fabricated or has knowingly given false testimony, the Committee may recommend that a charge of unprofessional conduct be brought against the individual. If the Committee has reason to believe that a person who is not a faculty member has done so, the Committee may report its view to an appropriate administrator.

**C5.3 Notice of Termination of Appointment or Intention not to Reappoint for RESEARCH FACULTY, EDUCATOR FACULTY, and LIBRARIAN FACULTY.**

- a) If the University does not intend to reappoint a member of the RESEARCH FACULTY, EDUCATOR FACULTY, or LIBRARIAN FACULTY at the end of the current contract period or if the University intends to terminate the appointment of a member of the RESEARCH FACULTY due to loss of external funding for that position, then the University's intention shall be communicated by written notice in accordance with the provisions specified in this section below. If a decision not to reappoint has a basis other than academic performance in the University environment not meeting expectations or, for RESEARCH FACULTY, loss of external funding, then the faculty member shall be informed of the justification. Faculty members so informed may appeal the decision either to the Committee on Rank, Salary and Conditions of Employment or to the Committee on Professional Conduct as provided in Section B4.10 of the Bylaws, whichever is appropriate.

(ab) RESEARCH FACULTY members are entitled to one month's notice with pay for each year or part of a year of full-time continuous service as a RESEARCH FACULTY member at the University up to a maximum of twelve months ~~for twelve or more years of service~~. The RESEARCH FACULTY member will be expected to perform normal faculty duties during the notice period and such pay will cease upon the availability of other grant support at the University or initiation of employment elsewhere. A RESEARCH FACULTY member who has received notice pay earns the right to notice pay in the future ~~Notice so used may be re-earned~~ at the rate of one month per year up to the maximum of twelve months.

~~(bc) An appointment to the EDUCATOR FACULTY or the LIBRARIAN FACULTY~~ **members** ~~may be terminated by written notice, either by the University of intention not to appoint or by the faculty member not to return. A decision not to reappoint needs no justification.~~

~~Such shall be given~~ written notice by the University **of its intention not to reappoint** ~~shall be given in accordance with the following standards:~~

- (1) No less than ninety (90) calendar days notice in the first year of academic service, if the appointment is to expire at the end of that year.
- (2) No less than one hundred and eighty (180) calendar days notice in the second year of academic service, if the appointment is to expire at the end of that year.
- (3) After two or more years of academic service, at least twelve calendar months notice before the expiration of the appointment.

~~(ed) A Notice of termination by a faculty member~~ **is expected to inform the University of a decision not to accept reappointment** ~~shall be given either six months prior to the termination end of the current term of appointment or by the time specified for the return of salary memoranda for the following year.~~

~~(de)~~ Faculty who change from a regular appointment to a Research, Educator, or Librarian appointment shall receive one year's notice after two years of service in the regular appointment.

C5.8 **Notice of Termination-Intention not to Reappoint REGULAR FACULTY of a during the Probationary Appointment**

During the probationary period, an appointment to the REGULAR FACULTY may be terminated at the close of the **current contract** term of the **probationary** appointment by written notice, ~~either by the University of its intention not to reappoint, or by the faculty member of intention not to return. Notice of termination by the faculty member shall be given prior to the expiration of the appointment.~~ Notice by the University shall be given in accordance with the following procedures:

- (a) Schools with probationary appointments for a term of one year shall observe the following notice requirements: no less than ninety (90) calendar days notice during the first appointment; no less than one hundred and eighty (180) calendar days notice during the second appointment. With the third and following appointments notice of a full calendar year is required.
- (b) Schools with probationary appointments for a term of two years shall observe the following notice requirements: no less than one hundred and eighty (180) calendar days during the first appointment and, with the second and following appointments, notice of a full calendar year is required.
- (c) Schools with probationary appointments for a term of three years shall give notice of a full calendar year.

~~(d) The justification of a decision by the University not to reappoint need not be communicated to the faculty member, but the decision shall be made in accord with established University standards.~~ **If a decision not to reappoint has a basis other than academic performance in the University environment not meeting expectations, then the faculty member shall be informed of the justification. Faculty members so informed may appeal a decision not to reappoint either to the Committee on Rank, Salary and Conditions of Employment or to the Committee on Professional Conduct as provided in Section B4.10 of the Bylaws, whichever is appropriate.**

**(e) A faculty member is expected to inform the University of a decision not to accept reappointment either six months prior to the end of the current term of appointment or by the time specified for the return of salary memoranda for the following year.**

This legislation is now forwarded to you for your action.

SG/kl

cc: Luis Glaser, Executive Vice President and Provost  
Robert Blake, Vice President, General Counsel, and Secretary of the University

CAPSULE: Faculty Senate Legislation #2001-06(B) – [revised] - Non-reappointment, termination, and associated issue

**PRESIDENT'S RESPONSE**

APPROVED:  DATE: 5-2-02  
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: Provost

EFFECTIVE DATE OF LEGISLATION: \_\_\_\_\_  
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: \_\_\_\_\_

REMARKS (IF NOT APPROVED): \_\_\_\_\_