

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

1 grant tenure.

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

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

10 (1) address the granting of tenure;

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

14 (A) the faculty member has:

15 (i) exhibited professional incompetence;

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

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

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

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

27 (vi) been convicted of a crime affecting

1 the fitness of the faculty member to engage in teaching, research,
2 service, outreach, or administration;

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

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

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

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

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

16 (c-2) The governing board may design its policies [~~rules~~]
17 and procedures to fit the institution's particular educational
18 mission, traditions, resources, and circumstances relevant to the
19 institution's [~~its~~] character, role, and scope, in addition to
20 other relevant factors determined by the governing board in the
21 policies and procedures [~~rules~~] adopted under [~~pursuant to~~] this
22 section. The governing board shall seek advice and comment from the
23 institution's faculty [~~of the institution~~] before adopting any
24 policies and procedures under [~~rules pursuant to~~] this section.
25 The advice and comment from the faculty on the performance
26 evaluation of tenured faculty shall be given the utmost
27 consideration by the governing board.

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

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

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

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

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

27 (5) a faculty member be subject to revocation of

1 tenure or other appropriate disciplinary action if, during the
2 comprehensive performance evaluation, incompetency, neglect of
3 duty, or other good cause is determined to be present; and

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

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

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

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

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

26 (2) requiring the designated administrator to
27 consider the faculty member's response under Subdivision (1)(B) and

1 make a written determination of whether the institution will
2 proceed with the summary dismissal of the faculty member;

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

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

8 (B) either:

9 (i) includes the effective date of the
10 dismissal and information regarding the faculty member's
11 opportunity for a post-dismissal appeal, if the designated
12 administrator's decision is in favor of summary dismissal; or

13 (ii) states that the faculty member is not
14 subject to summary dismissal, if the designated administrator's
15 decision is against summary dismissal; and

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

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

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

25 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