

Faculty Handbook Amendment: “Academic Tenure”

Part Three, Sec. III, page 15

Paragraph after "Academic Tenure"

“Retirement for age” is noncompliant language. John Carroll University does not force retirement at any age. The AAUP, in a statement in 1989, explained the continued use of the phrase as, “Thus the 1940 Statement must in the future be read to mean that retirement terminates tenure, but retirement cannot be “for age.” [Faculty Tenure and the End of Mandatory Retirement Source: *Academe*, Vol. 75, No. 5 (Sep. - Oct., 1989), p. 48] Rather than quote a second document, the Handbook Committee will the reference to “retirement for age” and footnot that in the Faculty Handbook.

Old language

(a) After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, **except in the case of retirement for age**, or under extraordinary circumstances because of financial exigencies.

New Language

“(a) After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause¹ or under extraordinary circumstances because of financial exigencies.

¹The clause “except in the case of retirement for age,” has been omitted to avoid the possibility of its being interpreted in a way not intended by the AAUP.

Faculty Handbook Amendment: Cessation of Tenure

This amendment modifies Part Three, Section IV, Part G under TENURE (page 18); "for medical reasons" should be removed.

Part Three, Sec. IV, page 18

Old language

G. Tenure ceases for one of the following reasons: (1) active status is relinquished due to retirement, resignation, or mutual agreement, or (2) termination occurs because of discontinuance of a department or program, because of financial exigency, **for medical reasons**, or by dismissal for cause.

New language

G. Tenure ceases for one of the following reasons: (1) active status is relinquished due to retirement, resignation, or mutual agreement, or (2) termination occurs because of discontinuance of a department or program, because of financial exigency, **for inability to return from leave for a serious health condition following a Family and Medical Leave Act (FMLA) leave and/or any leave made as a disability accommodation** or by dismissal for cause.

Faculty Handbook Amendment: Conflict of Interest in Research

This section needs to be updated to be in compliance with federal law on Conflict of Interest in research (COI). It should reflect the current practice that the Research Office requires a COI form for research, and implements the COI protocol for research projects. The amendment does not change current university practice, but rather brings the handbook up to date with regard to university practice and federal law. The Conflict of interest in Research form is at <http://sites.jcu.edu/research/pages/grants/forms/>.

Old Language

Part Four, Sec. X: C. page 37

C. Policy on Conflict of Interest in Research

The increasingly necessary and complex relationships among universities, governmental agencies, and industries serve many public and educational causes. Along with the desirable benefits, however, potential hazards need to be recognized. Providing for them, the Federal Council for Science and Technology has drawn up jointly with the American Council on Education and the American Association of University Professors a statement *On Preventing Conflicts of Interest in Government-Sponsored Research at Universities* (see Appendix H), that minimizes the needs of auditing and reporting by institutions approved under it. John Carroll University endorses this statement and operates in conformity with it. It entails the following three procedural safeguards:

1. Government-sponsored research and consulting activities are to be approved in advance and in writing by the Academic Vice President.
2. Financial obligations for materials, equipment, and services in connection with government-sponsored research and consulting activities are made through official University channels.
3. The Academic Vice President serves as the officer responsible for advising the Faculty on questions related to conflicts of interest.

New Language

Part Four, Sec. X: C. page 37

C. Policy on Conflict of Interest in Research

The University recognizes the importance of conducting research and scholarship in an ethical and lawful manner, and with an absence of conflicts of interest. The University's policy is intended to protect the University, faculty, staff and students, as well as human subjects and animals in research, from conflicts of interests and to comply with applicable federal laws. All Faculty members, staff and students conducting research are obligated to follow the University's policies on conflicts of interest. All individuals are to complete a conflict of interest in research form prior to the start of any research protocol.

1. Government-sponsored research and consulting activities are to be approved in advance and in writing by the Academic Vice President.
2. Financial obligations for materials, equipment, and services in connection with government-sponsored research and consulting activities are made through official University channels.
3. The Academic Vice President serves as the officer responsible for advising the Faculty on questions related to conflicts of interest.

Faculty Handbook Amendment: Equal Employment Opportunity statement and policy

This change is necessary to be consistent with the University's EEO statement/policy. For legal compliance purposes, it is important for the updated EEO statement to be included in the Handbook, and not just in University Policies (with which the proposed change is in agreement). The change is self-explanatory.

Part Four, Sec. I, page 19

Old language

A – Policy on Equal Employment Opportunity

In keeping with its traditions, John Carroll University maintains and enforces a policy of equal opportunity.

John Carroll University **does** not discriminate **based** on race, age, **color**, sex, religion, ethnic or national origin, disability, military or veteran status, **Vietnam veteran status or special disabled veteran status**, genetic information, or any **other individual characteristic which is irrelevant to academic attainment, professional qualifications, and fulfillment of the mission and goals of the university**. John Carroll University's nondiscrimination commitment governs all policies, practices and procedures affecting Faculty and applicants for Faculty positions.

This policy, originally developed and enforced as a voluntary expression of the guiding philosophy of the University, is now required in many of its particulars by federal and state laws, to which the University is fully committed and does adhere.

New language

A – Policy on Equal Employment Opportunity

In keeping with its traditions, John Carroll University maintains and enforces a policy of equal opportunity.

John Carroll University **will** not discriminate **against any employee or applicant for employment based** on race, age, sex, religion, ethnic or national origin, disability, military or veteran status, **sexual orientation**, genetic information, or any **factor protected by law**. John Carroll University is committed to inclusion and diversity as constitutive elements of our Jesuit Catholic identity. The university values diversity and seeks talented employees from a variety of backgrounds. To this end, JCU takes affirmative action to employ qualified women, minorities, veterans, and disabled persons. John Carroll University subscribes to these provisions in hiring, placement, promotion, transfer or demotion, recruitment or advertising for employment, treatment during employment, compensation or benefits, professional development, layoff or termination and seniority or retirement. John Carroll University's nondiscrimination commitment governs all policies, practices and procedures affecting Faculty and applicants for Faculty positions.

Amendment to the Faculty Handbook: Faculty Handbook Committee Duties

Sec. IV: B, 4. Duties, pages 4-5

This proposal relates to the mandated responsibilities of the Faculty Handbook Committee. The first change is that the committee will elect officers in the spring (rather than the fall). This is important because questions regarding the Faculty Handbook do sometimes arise in summer, and, in the past, the outgoing chair was assumed to carry on over the summer. This is problematic in the case of retirement, since the outgoing chair is separated from the university before summer and is not on campus to call the first meeting of the new committee in the fall when elections took place.

The second change in this section requires an ongoing regular review of the handbook by the committee. This is a proactive charge to ensure that outdated language or provisions do not linger in the Handbook and complements the next charge that requires study of matters concerning amendments or revisions.

Part One, Sec. IV; B.4. Duties (pages 4-5)

Current language

B. The Faculty Handbook Committee

4. Duties:

- a. to elect a chairperson and a secretary from among its own members
- b. to study all matters concerning the amendment or revision of the Faculty Handbook and to submit its findings and recommendations
- c. to meet at least once each semester during the Academic Year to survey the condition of the Handbook and to consider any other business referred to it
- d. to meet more frequently:
 - i. to recommend amendments or revisions of the Faculty Handbook
 - ii. to consider proposals for amendment as outlined in the “Amendment Procedures” of the Faculty Handbook
 - iii. whenever any other question concerning the Handbook is submitted to it by any of the parties mentioned in the “Amendment Procedures” of the Handbook.
 - iv. at the call of the Chairperson or by the request of a majority of the members.

New Language

B. The Faculty Handbook Committee

4. Duties:

- a. to elect a chairperson and a secretary from among its own members **in the spring, after elections are held and before Commencement.**
- b. to conduct an ongoing review of the Faculty Handbook so that the Handbook is reviewed at least every five years.**
- c. to study all matters concerning the amendment or revision of the Faculty Handbook and to submit its findings and recommendations
- d. to meet at least once each semester during the Academic Year to survey the condition of the Handbook and to consider any other business referred to it
- e. to meet more frequently:
 - i. to recommend amendments or revisions of the Faculty Handbook
 - ii. to consider proposals for amendment as outlined in the “Amendment Procedures” of the Faculty Handbook
 - iii. whenever any other question concerning the Handbook is submitted to it by any of the parties mentioned in the “Amendment Procedures” of the Handbook.
 - iv. at the call of the Chairperson or by the request of a majority of the members.

Proposed amendment to the Faculty Handbook with regard to leaves of absence for serious health conditions.

This proposed amendment addresses leaves of absence. A "Leave for Temporary Disability" citing a leave for "illness, surgery or pregnancy", and indicating how to determine the timing of need does not conform to FMLA or ADA requirements. The classification of leaves in the same section also needs to be corrected. The actual language of this amendment is self-explanatory.

Part Four, Sec. VI, pp 33-34.

Old language

LEAVES OF ABSENCE

A. A leave of absence is a permission to be relieved of all one's service responsibilities to the University for a specified period of time while remaining a member of the Faculty. However, Faculty members on leave may choose to retain the right to vote while on leave for any of the following department personnel issues: tenure, promotion, hiring, and selection of chair.

The primary purpose of leaves of absence is to preserve or enhance the usefulness of the Faculty member to the University. This objective may relate to a variety of needs that the member has for the effective performance of duties. A leave is not an unrestricted right of the Faculty member, but one that shall be exercised within the limitations of the University's ability to provide it.

....

C. Classification of Leaves of Absence
Leave for **Temporary Disability**: This type of leave covers situations in which the Faculty member **is unable to perform assigned teaching duties for a prolonged period of time due to temporary disability. It includes situations which are related to illness, surgery, or pregnancy. The timing and compensation in each case are determined by agreement between the Faculty member and the University. This agreement is based on medical need, the requirements of the educational program, and individual circumstances. Some situations are covered by the disability insurance plan, which is an optional fringe benefit.**

New Language

LEAVES OF ABSENCE

A. A leave of absence is a permission to be relieved of all one's service responsibilities to the University for a specified period of time while remaining a member of the Faculty. However, Faculty members on leave may choose to retain the right to vote while on leave for any of the following department personnel issues: tenure, promotion, hiring, and selection of chair.

The primary purpose of leaves of absence is to preserve or enhance the usefulness of the Faculty member to the University. This objective may relate to a variety of needs that the member has for the effective performance of duties.

Except for leaves for a serious health condition or disability, a leave is not an unrestricted right of the Faculty member, but one that shall be exercised within the limitations of the University's ability to provide it.

....

C. Leave for **Serious Health Condition or Disability**: This type of leave covers situations in which the Faculty member **requires leave for a serious health condition under the Family and Medical Leave Act (FMLA) or leave or leave extension made as an accommodation for a disability. Leaves and leave extensions for serious health conditions and/or disability accommodations are granted consistent with the University's Family and Medical Leave Act Policy. Compensation in each case is determined by agreement between the Faculty member and the University.**

Faculty Handbook Amendment: Remuneration

The university no longer has a pension plan, but rather has a retirement plan. The term "pension payments" should be removed and replaced by "Contributions to the University's Retirement Plan. This language occurs in Part Four, Sec. XIV (Teaching at the University Outside of the Academic Year) under B (Remuneration).

Part Four, Sec. XIV: B

Old Language

B. Remuneration

1. **Pension payments**, by both the University and the Faculty member, continue to be based on total earnings from the University.
2. The summer session teaching stipend for a full-time Faculty member is a function of the contractual salary of the Faculty member for the Academic Year immediately preceding the summer session.
3. Payment for other services rendered outside the Academic Year is determined by mutual agreement between the Faculty member and the Academic Vice President.

New Language

B. Remuneration

1. **Contributions by the University to the University's Retirement Plan**, by both the University and the Faculty member, continue to be based on total earnings from the University.
2. The summer session teaching stipend for a full-time Faculty member is a function of the contractual salary of the Faculty member for the Academic Year immediately preceding the summer session.
3. Payment for other services rendered outside the Academic Year is determined by mutual agreement between the Faculty member and the Academic Vice President.

Faculty Handbook Amendment: Termination of Contract due to...

Amendment Two modifies Part Four, Sec. V dealing with termination of contract due to retirement. The language regarding retirement for age, for infirmity, and for medical reasons is removed. Note that language is added regarding both the possibility and lack of guarantees of post-retirement teaching contracts. This language is in accordance with current university practice, but is codified in this section. The Faculty Handbook Committee had no concerns about this language, but it does represent an introduction of new language to the handbook that is not strictly about compliance with federal law. Emeritus policy is currently under the purview of the Academic Vice President's Office, and so rights of emeritus faculty are covered by that office.

Part Four, Sec. V, Page 26
V. Termination of Contract

Old Language

The contract of a Faculty member is terminated either by retirement or by separation from the Faculty. Such separation occurs only by resignation, by mutual agreement, by nonreappointment, because of the discontinuance of a department or program, because of financial exigency, **for medical reasons**, or by dismissal for cause.

A. Termination of Contract by Retirement. **Retirement, or transfer from active to retired status on the Faculty, does not connote separation from the Faculty, but rather the termination of demanding duties and scheduled responsibilities for the Faculty member because of age, infirmity, or other valid reason. The policy on retirement provides for early retirement and for required retirement. The age of required retirement is provided by state law (and, after July 1, 1982, by federal law). It may be extended to the last day of the Academic Year if the birthday occurs within the limits of an Academic Year. Tenured Faculty members wishing to retire earlier than the required date may do so from age fifty-five on.**

New language

The contract of a Faculty member is terminated either by retirement or by separation from the Faculty. Such separation occurs only by resignation, by mutual agreement, by nonreappointment, because of the discontinuance of a department or program, because of financial exigency, **for inability to return from leave for a serious health condition following a Family and Medical Leave Act (FMLA) leave and/or any leave made as a disability accommodation**, or by dismissal for cause.

A. Termination of Contract by Retirement
Retirement does not preclude or guarantee post-retirement part-time teaching or service by the Faculty member as a non-tenured lecturer or part-time administrator. Subject to availability, as decided in the discretion of the department chair with the approval of the appropriate dean, a retired Faculty member may be appointed to teach no more than two courses per semester at a rate to be set by the Provost and Academic Vice President or designee. Retired faculty members retain rights under the Handbook and any emeritus faculty policy, as consistent with the Academic Vice President's requirements. Tenured Faculty members wishing to retire may do so from age fifty-five on.

Faculty Handbook Amendment: Termination of Contract for Medical Reasons

Amendment Four modifies Part Four, Section V (page 30), Termination of Contract for Medical Reasons. Specific time frames are not permitted by law, and reference to medical reasons needs to be removed and replaced with language regarding leaves for serious health conditions or disability. We propose to rewrite this as follows.

Part Four, Sec. V, page 30

Old language

G. Termination of Contract for **Medical Reasons**.

Termination for medical reasons shall be based upon clear and convincing medical evidence that the Faculty member cannot continue to fulfill the terms and conditions of the appointment and that this disability is expected to continue for more than three years.

New Language

G. Termination of Contract for **Inability to Return from Leave for Serious Health Condition and/or Disability**.

Termination may occur for inability to return from leave for a serious health condition following a Family and Medical Leave Act (FMLA) leave and/or any leave made as a disability accommodation.