

purchase of agricultural products grown, produced, or processed in this state.

(c) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

Added by Acts 1995, 74th Leg., ch. 473, § 1, eff. Sept. 1, 1995.
Renumbered from V.T.C.A., Education Code § 51.940 by Acts 1997, 75th Leg., ch. 165, § 31.01(23), eff. Sept. 1, 1997.

§ 51.942. PERFORMANCE EVALUATION OF TENURED FACULTY. (a)
In this section:

(1) "Governing board" has the meaning assigned by Section 61.003.

(2) "Institution of higher education" means a general academic teaching institution, medical and dental unit, or other agency of higher education, as those terms are defined by Section 61.003.

(3) "Neglect of duty" means continuing or repeated substantial neglect of professional responsibilities.

(b) Each governing board of an institution of higher education shall adopt rules and procedures providing for a periodic performance evaluation process for all faculty tenured at the institution. The governing board may design its rules and procedures to fit the institution's particular educational mission, traditions, resources, and circumstances relevant to its character, role, and scope, in addition to other relevant factors determined by the governing board in the rules adopted pursuant to this section. The governing board shall seek advice and comment from the faculty of the institution before adopting any 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) In addition to any other provisions adopted by the governing board, the rules shall include provisions providing that:

(1) each 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 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 process be directed toward the professional development of the faculty member;

(4) the process incorporate commonly recognized academic due process rights, including notice of the manner and scope of the evaluation, the opportunity to provide documentation during the evaluation process, and, before a faculty member may be subject to disciplinary action on the basis of an evaluation conducted pursuant to this 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 incompetency, neglect of duty, or other good cause is determined to be present.

(d) A faculty member subject to termination on the basis of an evaluation conducted pursuant to this section must be given the opportunity for referral of the matter to a nonbinding alternative dispute resolution process as described in Chapter 154, Civil Practice and Remedies Code. If both parties agree, another type of alternative dispute resolution method may be elected. The governing board must give specific reasons in writing for any decision to terminate a faculty member on the basis of an evaluation conducted pursuant to this section.

(e) A governing board may not waive the evaluation process for any faculty member granted tenure at an institution.

(f) A governing board may not award tenure to an administrator in any way that varies from the institution's general policy on the award of tenure.

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

Added by Acts 1997, 75th Leg., ch. 1017, § 1, eff. Jan. 1, 1998.

§ 51.943. RENEWAL OF FACULTY EMPLOYMENT CONTRACTS. (a)

In this section:

(1) "Contract" means an agreement between an institution of higher education or its authorized agent and a faculty member that establishes the terms of the faculty member's employment, including the faculty member's responsibilities and salary, for an academic year.

(2) "Faculty member" means a person who is employed full time by an institution of higher education as a member of the faculty whose primary duties include teaching or research. The term does not include:

(A) a person employed in the classified personnel system of the institution or a person employed in a similar type of position if the institution does not have a classified personnel system;

(B) a person who holds faculty rank but who spends a majority of the person's time for the institution engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

(3) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) Except as provided in Subsection (c), an institution of higher education that determines it is in its best interest to reappoint a faculty member for the next academic year shall offer the faculty member a written contract for that academic year not later than 30 days before the first day of the academic year.

(c) For the purposes of this section, an institution of higher education is not required to provide an annual contract to tenure or tenure-track faculty, but must provide tenure and tenure-track faculty with any written notification required in the institution's tenure policy of a change in a term of employment according to the policies of the institution, but no later than the 30th day prior to the change.

(d) If the institution of higher education is unable to comply with Subsection (b), the institution shall:

(1) provide the faculty member with written notification that the institution is unable to comply with Subsection (b);

(2) include in the written notification reasons for its inability to comply with Subsection (b); and

(3) specify in the written notification a time by which it will offer a written contract to the faculty member for the applicable academic year.

(e) If the institution does not offer the faculty member a written contract before the 61st day after the first day of the academic year and the institution retains the faculty member for that academic year without a written contract, the institution must retain the faculty member for that academic year under terms and conditions, including terms governing the faculty member's compensation, that are at least as favorable to the faculty member's employment for the preceding academic year, unless the institution and the faculty member subsequently enter into a