

Each incoming academic staff member subject to continuing employment will be given a copy of this document. Questions about the interpretation of the continuing employment regulations or situations that arise that aren't covered in these regulations should be referred to the ANR Human Resources Office.

THIS DOCUMENT DOES NOT IN ANY WAY CREATE ANY NEW OR DETRACT FROM ANY EXISTING RIGHTS OR REMEDIES EXISTING UNDER ESTABLISHED MICHIGAN STATE UNIVERSITY POLICIES AS APPLIED TO MICHIGAN STATE UNIVERSITY EXTENSION.

#### CONTINUING EMPLOYMENT SYSTEM Michigan State University Extension

The purpose of this document is to state and explain the intent and procedures of the Michigan State University Extension continuing employment policy and dismissal hearing procedure (MSUE CE). The basic MSUE CE is set forth in the document approved by the Michigan State University Board of Trustees on October 20, 1972 and revised on September 26, 1975 and June 24, 1977 (contact MSUE HR for a copy). The aim of this document is to enhance understanding of continuing employment and its meaning as a job security system for the academic staff members of Michigan State University Extension (MSUE).

#### General Considerations

Continuing employment is the job security system of MSUE. Granting continuing employment insures an academic staff member's continued employment, assuming adequate funding and acceptable performance. It is a way to assure as much as possible a quality academic staff on a long term basis and to protect the best interests of Michigan State University Extension. Continuing employment is granted to a person--it does not reside in a particular position. All continuing Michigan State University Extension academic field and state staff members with at least a 50 percent appointment are subject to continuing employment. Tenured or tenure stream employees or employees subject to other job security arrangements are excluded from continuing employment.

Academic staff members eligible for continuing employment are appointed on a probationary period of three fiscal years. Reappointment for an additional three fiscal year probationary period is possible if satisfactory progress is being made. A review is held prior to the conclusion of the third full fiscal year of employment and prior to the conclusion of the sixth full fiscal year of employment. Continuing employment is granted only at the conclusion of the sixth fiscal year of employment. If continuing employment is not granted at the sixth year review, the academic staff member is dismissed. An academic staff member may be dismissed at any time for less than satisfactory performance.

Recommendations for granting continuing employment are generated by a three person panel. The committee is appointed by the director of Extension and

consists of three Extension administrators. The appropriate association president sits on the panel as an ex-officio member.

A committee recommendation --continue present status or dismiss for third year reviews; or grant continuing employment or dismiss for sixth-year reviews--is made to the director of Extension, is reviewed by the Dean of the College of Agriculture and Natural Resources and is subject to final approval by the Office of the Provost.

The data for consideration are gathered by means of a Step II Academic Status Review Application (attachment B). The form is designed to allow an academic staff member to demonstrate consistent and persistent professional improvement and accomplishment over a lengthy period of time -- the probationary period.

Review of the Step II Academic Status Review Application allows the committee to predict the long-term professional effectiveness of the academic staff member. This also provides the possibility for an in-depth assessment of the level of performance over the probationary period.

The overall goal of the continuing employment system is to enhance the strength of the Michigan State University Extension by increasing the quality of its staff. The mission and needs of Extension and the units which comprise it, as well as Extension's role within the college and the university, must also be taken into account when making continuing employment decisions.

#### Continuing Employment Count

Continuing employment can be granted only after the completion of six consecutive fiscal years of employment in an Extension academic staff position. The fiscal year count begins on July 1 following the appointment date. For example, if the appointment date was March 1, 1999, the continuing employment count would begin July 1, 1999. The first year would end June 30, 2000. If employment began on July 1 of any particular year, one year is completed the following June 30. For example, employment on July 1, 1999 means completion of one year on June 30, 2000.

Only academic staff members who have at least 50 percent Extension appointments for six consecutive fiscal years are subject to the continuing employment system. Employees (50 percent or more) need only to maintain that employment percentage to be considered for continuing employment. In other words, a part-time employee does not need to meet a six-year full-time equivalency to be considered for continuing employment.

Academic staff with less than 50% appointments are not subject to the Continuing Employment System. For an academic staff member in the

Continuing Employment System, but without Continuing Employment whose appointment is reduced to less than 50% for budgetary reasons, the Continuing Employment count stops. It resumes only at the point that the appointment is again increased to 50% or more. For a staff member with Continuing Employment whose appointment is reduced to less than 50% for budgetary reasons, the academic staff member retains Continuing Employment status.

Academic staff employees with ending dates on appointments (fixed-term) are not subject to the continuing employment system. If an academic staff employee with an ending date on an appointment either has the ending date removed or moves to a position with no ending date prior to the end of the sixth fiscal year of employment, the academic staff member will normally be considered subject to the continuing employment system from the original date of hire. If the ending date is removed prior to the end of the third fiscal year of employment, the third year continuing employment review will be conducted. If the ending date is removed following the third fiscal year of employment, but prior to the end of the fifth fiscal year of employment, a review will be held at the next regularly scheduled annual meeting of the review committee. A sixth year continuing employment review will be held according to schedule.

If an academic staff employee with an ending date on the appointment for more than six fiscal years then has the ending date removed or moves to a position with no ending date, the academic staff member will be immediately granted Continuing Employment, if a successful fixed-term six year professional development portfolio review has been completed. If for some reason a six year portfolio review has not been completed, then the academic staff member will be reviewed at the next regular meeting of the review committee for purposes of considering the granting of Continuing Employment.

A leave without pay will extend the continuing employment fiscal year count by the amount of time involved in the leave only if that time is longer than that from the continuing employment start date through the first June 30. For example, suppose a four month leave without pay is taken in the first six fiscal years of an academic staff member's appointment, and whose starting date was January 1, 1998. In this situation, the continuing employment fiscal year count would begin July 1, 1998. The sixth-year review would occur prior to June 30, 2004. In this instance, the four-month leave without pay would have no effect on the sixth year review date because the six-month period from the starting date to the first June 30 exceeds the amount of leave without pay. If the starting date had been April 1, 1998, the continuing employment review date would then be extended to a time prior to June 30, 2005 because the leave without pay time exceeds the time from the starting date to the first June 30. This latter situation suggests that a full six years could not be considered in the continuing employment review if it were held prior to June 30, 2004.

An academic staff member who leaves Michigan State University Extension

employment, but who, prior to leaving was subject to the Continuing Employment System for at least 3 full fiscal years, may be appointed to a single three year probationary period on returning to Michigan Extension employment. An academic staff member who leaves Michigan State University Extension employment, and who, prior to leaving, was not subject to the Continuing Employment System for at least 3 full fiscal years, will be treated as a new employee for purposes of Continuing Employment.

The implementation of three and six year portfolio review for all MSUE academic staff provides an identical time-frame for portfolio review regardless of an employee's fixed-term or Continuing Employment status. Though it is understood fixed-term, three and six year portfolio review procedures mirror, but are distinctly separate from the Continuing Employment review process, the two review systems do interface in circumstances where an employee enters or returns to the CE system. Individuals in the CE system, who have not yet been granted continuing employment and who voluntarily accept fixed-term assignments, are no longer in the CE system. It follows that these, now fixed term employees, would comply with the portfolio review process for fixed-term employees. These employees may return to the CE system only through mechanisms defined in CE policy. Now that any MSUE academic employee with 50% or greater FTE is on the same portfolio review pace (whether fixed-term or in the continuing system), there is no need to assume any delay in conferring Continuing Employment status should an employee enter or return to the Continuing Employment System. For example if a four year employee in the CE system accepts a fixed term appointment, that individual would have completed a 3 year review in the CE system and would complete a fixed term 6 year portfolio review in the next appropriate review cycle, at the completion of six years. This individual would receive a promotion raise and Step II status as a fixed-term employee. If that employee were to subsequently return to a CE position, s/he would be immediately granted continuing employment. Similarly, a four year employee with fixed-term status will have completed a 3 year fixed-term portfolio review and will complete a fixed-term 6 year portfolio review in the next appropriate review cycle, at the completion of six years employment. This individual would receive a promotion raise and Step II status as a fixed-term employee. If that employee were to subsequently accept an open-ended position, s/he would be immediately granted continuing employment.

Michigan State University Extension academic staff in the units listed below are subject to the continuing employment system:

Directors Office

MSUE Human Resources

Extension Public Service

Extension Area of Expertise Team Support

Extension Expanded Nutrition Program

Extension Children Youth Families and Communities

Extension - North Extension - Southeast

Extension - Southwest

Extension - Upper Peninsula

Extension - Central

Action must be taken to grant or deny continuing employment. It cannot be automatically conferred through a failure to hold a sixth year review. In the event a sixth year review is not held, the sixth year review will be conducted at the next regularly scheduled annual continuing employment reviews.

Meaning of Continuing Employment

Continuing employment means that an academic staff member will be employed by MSUE unless just cause for dismissal is established. Continuing employment status does not guarantee employment if a position is not funded. A later section, budgetary termination, addresses this issue. An Extension academic staff employee subject to the continuing employment system may be dismissed only for less than satisfactory performance. Job performance includes conduct of the responsibilities of a position, as well as personal and professional behavior that effects the conduct of those job responsibilities, on or off the job. Dismissal means the administration's removal of an academic staff employee from a position or any part of a position because of his/her performance. If dismissal action is taken, the continuing employment policy assures due process.

Dismissal Hearing

Academic staff members without continuing employment who are to be terminated for less than satisfactory performance will receive written notice of the reasons for this action at least four months prior to the date of termination. This letter must include a statement of the academic staff member's right to appeal. If at all possible, this letter should be delivered to the academic staff member in a face-to-face meeting with the responsible administrator. If the letter cannot be delivered to the academic staff member in a face-to-face meeting with the responsible administrator, the responsible administrator should telephone the employee before the letter is mailed. The academic staff member has four months from the date of the notification letter to appeal the dismissal.

Because an academic staff employee is considered on probation until continuing

employment has been granted, the burden of proof rests with academic staff employee without continuing employment to show that dismissal is not a proper course of action. Academic staff members who have continuing employment who are to be terminated for less than satisfactory performance will receive written notice of the reasons for this action at least four months prior to the date of termination. This letter must include a statement of the academic staff member's right to appeal. This letter should be delivered to the academic staff member in a meeting with the responsible administrator. If the letter cannot be delivered to the staff member in a meeting with the responsible administrator, the responsible administrator should telephone the employee before the letter is mailed. The academic staff member has four months from the date of the notification letter to appeal the dismissal.

When an academic staff employee holding continuing employment status is dismissed, the burden of proof rests with Extension administration. During the four month interim period, the academic staff member may be relieved of any or all Extension duties at the discretion of the director. In all instances, this four month period is with pay.

Due process is the guiding principle in the conduct of a dismissal hearing. Due process assures that an academic staff member being dismissed has an opportunity for a hearing; to present evidence; and to receive a reasoned decision from the hearing. In addition, due process requires an adequate statement of the charges and reasonable time to prepare a defense.

The Appeals Committee is assembled by the MSUE Associate Director/Operations. The committee consists of three members: one member is selected by the MSUE Director and one member is selected by the appellant. Members of the committee are selected from outside the region. Diversity (race, gender, ability) and demographics (urban/rural, county size and the like) need to be considered. The Chair of the committee is a neutral third party from outside CANR/MSUE and has experience in conducting such hearings. The Chair serves for a period of one year and may be renewed for successive appointments. The MSUE Human Resources Manager serves as the facilitator of the Appeals process. The committee makes one of two recommendations in writing to the director: sustain or reverse the dismissal action. The committee's supporting rationale must be included in its recommendation. The committee has five working days following the hearing to reach a majority decision.

The role of the committee is not as an advocate for the administration or the dismissed academic staff employee. The committee's charge is to be as thorough and impartial as possible in its approach to the hearing, in its deliberation and in rendering its recommendation to the Director.

The MSUE Director submits his/her recommendation within 10 working days of receiving the committee's recommendation to the Dean of the College of

Agriculture and Natural Resources for final decision.

The Dean of the College of Agriculture and Natural Resources makes the final decision regarding the employment status of a dismissed individual based on the recommendations of the hearing committee and the Extension Director. The Dean will inform the dismissed academic staff employee of the hearing results and the Deans final decision regarding the committee's and Extension Director's recommendations in a letter dated not more than 20 working days after the final day of the hearing. Prior to the final decision, the CANR Dean consults with the MSU Assistant Provost/Assistant Vice President for Human Resources regarding the recommendation/documentation/final decision. The Deans decision is final and cannot be appealed further within the University.

The MSUE Human Resources manager will serve as liaison for the dismissal hearing committee and make the necessary arrangements for the hearing. The MSUE Human Resources manager will determine a mutually agreeable time and place for the hearing. The hearing will take place as soon as possible, preferably within 30 calendar days of the date of the dismissed academic staff employee's written request for appeal. If the hearing cannot be held within the four month dismissal notification period, the academic staff appellant will receive no pay for the time between the end of that four months and the hearing. If the dismissal is reversed, the appellant will be paid retroactively.

Following is a procedural outline for a continuing employment dismissal hearing. This outline represents a situation where the burden of proof rests with the dismissed academic staff member--in other words, one without continuing employment. Where an academic staff member with continuing employment is dismissed, the order of presentation is reversed for the participants. In this latter instance, the burden of proof rests with administration.

#### I. Opening remarks - chairperson

##### A. Introduction of committee

1. Role of committee
2. Burden of proof

##### B. Introduction of administration, witnesses for administration

##### C. Introduction of academic staff appellant, witnesses for academic staff appellant

#### II. Brief opening outline of remarks

##### A. Administration

- B. Academic staff appellant
- C. Questions by committee as necessary

### III. Full presentation

- A. Administration and witnesses
  - 1. Questions by committee during presentation
  - 2. Questions by committee and academic staff appellant following presentation
- B. Academic staff appellant and witnesses
  - 1. Questions by committee during presentation
  - 2. Questions by committee and administration following presentation

### IV. Brief Summary Statements

- A. Administration
- B. Academic staff appellant

### V. Adjourn

VI. Committee deliberation to reach majority recommendation: either sustain or reverse dismissal action.

The academic staff appellant and the administration representative will submit no later than five working days prior to the hearing to the hearing committee an outline of remarks to be made at the hearing.

Documentation may be presented by both parties during their respective full presentations.

Witnesses may be produced to substantiate arguments. Though the number of witnesses is not restricted, the chairperson of the hearing committee may limit the number considering the situation and time constraints.

The chairperson of the hearing committee is in full charge of the hearing.

Operational issues regarding the hearing are resolved by majority agreement of the panel members.

The chairperson may request witnesses or the delivery of documents that he/she deems pertinent to the hearing.

The chairperson will see that both parties are allowed adequate time to present their arguments. Also, each panel member is allowed sufficient time for questioning.

The hearing will be closed. Publicity will be avoided to protect the parties concerned.

The hearing will be recorded by mutual consent. One copy of the tape is made for each of the principals involved.

Both the academic staff appellant and/or administration may be represented by legal counsel. The function of counsel is to advise the client, not to participate directly in the proceedings.

### Budgetary Termination

In the case of discontinuation or reduction of a position or positions for financial reasons, a reasonable effort will be made to avoid the termination of academic staff members with continuing employment. Separation due to lack of funds is not subject to the continuing employment dismissal hearing procedure.

The overall criterion to be used if reduction of academic staff for financial reasons becomes necessary is the continued accomplishment of Extension's mission and the program goals of its units.

The MSUE Director or Director's designee will review the financial situation of any Extension unit indicating that academic staff members in the continuing employment system are to be terminated for budget purposes. The MSUE Director or Director's designee will determine the soundness of a unit's financial rationale to take action and will establish that no alternative plan consistent with the mission, goals and funding capabilities exists to avoid the termination of, first, academic staff members with continuing employment and, second, academic staff members subject to continuing employment.

The MSUE Director or Director's designee and the appropriate regional director will advise and explain to the Michigan Council of Extension Associations (MCEA) the necessity of proposed budgetary terminations involving academic staff members with or subject to continuing employment as soon as practicable following notification to the academic staff employee. In the case of budgetary terminations that will affect a larger population of employees, the situation will be discussed with the MCEA earlier in the process.

An academic staff member who has continuing employment or is subject to continuing employment and who is terminated for budget reasons will be notified in writing of the action no later than four months prior to the effective date of the termination. The unit, with approval of the MSU Director or

Director's designee, may determine that the date of termination is the last day of available funding, however; the unit must still meet the four month written advanced notification requirement. In all instances, this four month period is with pay.

All reasonable efforts will be made to place, first, terminated academic staff members with continuing employment and, then, terminated academic staff members in a probationary status in the Continuing Employment System. A reasonable effort means that priority is given to academic staff employees terminated for financial reasons in filling vacant Extension positions, assuming an academic staff employee's ability to do the work. If more than one academic staff is terminated for financial reasons, priority in filling vacant positions is given to the academic staff member who has been granted continuing employment. If two academic staff members with continuing employment are terminated for financial reasons, the one with the longest time in continuing employment will have priority. In no way does the preceding indicate a "bump" system in which an academic staff member who is terminated for budgetary reasons replaces an employee who is not being terminated, but has lesser service. In the same way, an academic staff member with continuing employment who is terminated for budgetary reasons does not have a right to displace an employee without continuing employment.

An academic staff member who has continuing employment and who is terminated for budgetary reasons will be given preference for a period of two years following the termination date in filling positions for which the academic staff member is qualified. The MSUE Director or Director's designee will provide an academic staff employee who is terminated for budget reasons, either verbally and/or in writing at the request of the academic staff member, the detailed financial rationale used to reach the conclusion that termination must occur and the appropriate Associate Director analysis of alternative solutions to this action.

XX

January, 2009

## Q/A MSUE Continuing Employment

This question/answer explanation of the Michigan State University Extension Continuing Employment system is a brief synopsis and overview of the policy. As such, it provides a basic, un-detailed understanding of a complex subject. A more thorough, complete treatment of this topic is contained in the document "Continuing Employment System" which is available through the MSUE Human Resources unit and is contained in the Administrative Handbook.

### 1. What is continuing employment?

Continuing employment is the job security system of Michigan State University Extension. It was established October 20, 1972, with the approval of the Michigan State University Board of Trustees.

### 2. What is a job security system?

A job security system insures continued employment of an employee after a lengthy probationary period during which the employee demonstrates effectiveness in his/her job responsibilities. Continuing employment is contingent on adequate funding and acceptable job performance.

### 3. What does continuing employment as a job security system mean within Michigan State University Extension??

Continuing employment insures as much as possible that Extension will retain quality staff members on a lasting basis. Continuing employment is granted to a person -- it does not reside in a particular position. An individual with continuing employment is assured employment with Michigan Extension, assuming funding is adequate and the employee's performance is acceptable.

### 4. Who is subject to continuing employment?

All continuing Provost approved Michigan State University Extension off campus and state academic staff members (except employees in the tenure system or other job security arrangements) are subject to continuing employment.

### 5. How is continuing employment granted?

Consideration for granting continuing employment is based on a committee review of the staff member's continuing employment application and supporting materials. The committee is appointed by the Director and consists of three Extension administrators. The appropriate association president sits on the panel as an ex-officio member.

6. When can continuing employment be granted?

Continuing employment can be granted only at the sixth year review. However, a review of progress toward continuing employment is done at the third year review.

Reviews are scheduled on a fiscal year basis (July 1 - June 30) and are conducted before the completion of the third and the sixth fiscal years of employment.

7. Why should I fill out a continuing employment application at the third year if I can't be granted continuing employment until the sixth year?

The third year review is an assessment of an employee's progress toward being granted continuing employment at six years. It is more in-depth than annual performance appraisals. If problems exist, there is time to work them out prior to the sixth year review, when the only two decisions available are to grant continuing employment or to dismiss the individual from Michigan Extension. If there are no problems, this information serves to reinforce the behavior already in place.

8. How do I get feedback on my continuing employment application?

The Associate Director or Regional Director, as appropriate, notifies applicants of the continuing employment decision which is based on the review committee's recommendation. Details are available from the regional director for field staff members and from the appropriate department administrator for state staff members.

9. What if I am not granted continuing employment at the sixth year review?

Extension staff members not granted continuing employment at the sixth year review are dismissed. An appeal procedure exists to resolve disagreements about a dismissal. The staff member has four months from the date of written notification of dismissal to appeal. In all instances, this four month period is with pay. The burden of proof rests with the administration to show that its reasons for dismissal action are substantial and justified. An employee is dismissed only for proven cause.

10. Can I be dismissed prior to the sixth year continuing employment review?

Michigan State University Extension employees can be dismissed at any time for cause. If the individual is subject to the continuing employment system, an appeal procedure is available. The staff member has four months from the date of written notification of dismissal to appeal. In all instances, this four month period is with pay. If termination is for budgetary

reasons, the continuing employment dismissal hearing procedure does not apply.

11. Where can I get more information?

The MSU Extension Human Resources Office has details of this policy and procedures. An amplified explanation of continuing employment is also contained in the Administrative Handbook.