TO: University Senate

FROM: John E. Davidson, Chair  
Rules Committee

Douglas E. Crews, Chair  
Diversity Committee

DATE: January 18, 2007

RE: Flexible Work/Life Policy for Faculty

WHEREAS, one of the goals in the Academic Plan is to improve the faculty work environment; and

WHEREAS, making the exclusion of time from the probationary period automatic at the birth of a child or adoption of a child under the age of six will remove the perception of stigma for asking for the exclusion; and

WHEREAS, extending the maximum amount of time that can be excluded from the probationary period to three years from two will give faculty members greater flexibility and increase their ability to balance work/life needs; and

WHEREAS, the proposal was reviewed and approved by the Senate Diversity Committee at its meeting on October 19, 2006; and

WHEREAS, the proposal was reviewed and approved by the Senate Rules Committee at its meeting on January 18, 2007,

NOW THEREFORE BE IT RESOLVED that the University Senate approve the amendments to Faculty Rules 3335-6-3 and respectfully requests the concurrence of the Board of Trustees, said proposal becoming effective immediately upon approval by the Board of Trustees.
3335-6-03 Probationary service, and duration of appointments for tenure-track faculty.

(A) Probationary periods are established for regular tenure-track faculty members. During a probationary period a faculty member does not have tenure and is considered for reappointment annually.

(B) Length of probationary period.

(1) An appointment as professor or associate professor will generally entail tenure. However, a probationary period not to exceed four years may be granted by the office of academic affairs upon petition of the tenure initiating unit and college. For the petition to be approved, a compelling rationale must be provided regarding why appointment at a senior rank is appropriate but tenure is not. All appointments to the rank of associate professor or professor require prior approval of the executive vice president and provost.

An appointment to the rank of instructor is always probationary and may not exceed three years. An instructor must be approved for promotion to assistant professor by the beginning of the third year of appointment or the appointment will not be renewed beyond the end of the third year. When an instructor is promoted to the rank of assistant professor, prior service credit will be granted for time spent as an instructor unless the faculty member indicates in writing at the time of the promotion that he or she does not wish such credit. This written request must be forwarded to the office of academic affairs through the dean of the college so that tenure records may be adjusted accordingly.

An appointment to the rank of assistant professor is always probationary and may not exceed six years, including prior service credit. An assistant professor is reviewed for promotion and tenure no later than the sixth year of appointment as an assistant professor and informed by the end of the sixth year as to whether promotion and tenure will be granted at the beginning of the seventh year.

(2) Promotion and tenure may be granted at any time during the probationary period when the faculty member's record of achievement merits tenure and promotion. Similarly, a probationary appointment may be terminated at any time subject to the notice provisions of rule 3335-6-08 of the Administrative Code and the provisions of paragraphs (G), (H), and (I) of this rule.
(3) Probationary tenure-track faculty members will be informed no later than the end of the year in which their mandatory review for tenure takes place as to whether tenure will be granted by the beginning of the following year. If tenure is not granted, a one year terminal year of employment is offered.

(C) Annual review of probationary tenure-track faculty members.

(1) At the time of appointment, probationary tenure-track faculty members shall be provided with all pertinent documents detailing tenure initiating unit, college, and university promotion and tenure policies and criteria. If these documents are revised during the probationary period, probationary tenure-track faculty members shall be provided with copies of the revised documents.

(2) During a probationary period a tenure-track faculty member shall be reviewed annually in accordance with this rule and with policies of the tenure initiating unit, college and university. The annual review should encompass the faculty member's performance in teaching, in scholarship, and in service; as well as evidence of continuing development. The involvement of tenure initiating unit faculty in annual reviews is strongly encouraged. External evaluations of the faculty member's work, required for tenure and promotion reviews, may be obtained for any annual review if judged appropriate by the faculty review body or tenure initiating unit chair. The tenure initiating unit chair shall inform probationary faculty members at the time of initial appointment, and in a timely fashion each year thereafter, when the annual review will take place and provide a copy of the office of academic affairs dossier outline to be completed by the faculty member in reporting accomplishments to date. At the completion of the review the tenure initiating unit chair shall provide the faculty member and the dean of the college with a written assessment of the faculty member's performance and professional development. The assessment should include both strengths and weaknesses, as appropriate. If the chair's recommendation is to reappoint the faculty member to another probationary year of service, that recommendation shall be final. A recommendation from the chair to not reappoint the faculty member to another probationary year requires a review that follows fourth year review procedures (see paragraph (G) of this rule) and the dean shall make the final decision in the matter. All annual review letters to date shall become a part of a faculty member's dossier for subsequent annual reviews during the probationary period, including the review for promotion and tenure.
(3) When probationary tenure-track faculty receive their annual review, the tenure initiating unit chair shall inform them of their right to review their primary personnel file maintained by their tenure initiating unit and to place in that file a response to any evaluation, comment or other material contained in the file (see rule 3335-3-35 of the Administrative Code).

(4) The fourth year review of probationary tenure-track faculty shall follow the same process as the review for tenure and promotion at the tenure initiating unit and college levels with two exceptions: Solicitation of external letters of evaluation may or may not be required by the tenure initiating unit and review by the college promotion and tenure committee shall be optional in all cases where both the tenure initiating unit and the dean approve the renewal of the appointment. Renewal of the appointment of a probationary assistant professor for the fifth year requires the approval of the dean of the college. Before reaching a negative decision or a decision contrary to the tenure initiating unit's recommendation, the dean must consult with the college promotion and tenure committee.

(D) Exclusion of time from probationary periods.

(1) An untenured regular tenure-track faculty member may will have time excluded time from the probationary period in increments of one year to reflect the caregiving responsibilities associated with the birth of a child or adoption of a child under age six. Department chairs or school directors will inform the office of academic affairs within one year of the birth of a child or the adoption of a child under age six of a probationary faculty member unless the exclusion of time is prohibited by paragraph (D)(3) of this rule. Requests to exclude time from the probationary period for this reason must be made within the year following the birth or adoption and prior to the beginning of the year in which the mandatory review for tenure must occur. The probationary faculty member may chose to decline the one-year exclusion of time from the probationary period granted for the birth or adoption of a child under six years of age by so informing her/his TIU head, dean and the office of academic affairs in writing before August 1 of the new mandatory review year following granting of the declination. The exclusion of time granted under this provision in no way limits the award of promotion and tenure prior to the mandatory review year (see point 2). The maximum amount of time that can be excluded from the probationary period for the per birth of a child event or adoption of a child children under age six is one year. Requests to exclude time from the probationary
period made under the terms of this paragraph must be submitted to the chair of the tenure initiating unit for forwarding to the dean and to the office of academic affairs. Such requests will be approved unless they are prohibited by paragraphs (D)(3) or (D)(4) of this rule.

(2) A probationary tenure-track faculty member may apply to exclude time from the probationary period in increments of one year because of personal illness, care of a seriously ill or injured person, an unpaid leave of absence, or factors beyond the faculty member's control that hinder the performance of the usual range of duties associated with being a successful university faculty member, i.e., teaching, scholarship, or service. Requests to exclude time from the probationary period made under the terms of this paragraph must be submitted to the chair of the tenure initiating unit. Requests shall be reviewed by the tenure initiating unit promotion and tenure committee which shall advise the tenure initiating unit chair regarding their appropriateness. Such requests require approval by the tenure initiating unit chair, dean, and executive vice president and provost. A request to exclude time from the probationary period for any of these reasons must be made prior to the beginning October 1 of the year in which the mandatory review for tenure must occur. The extent to which the event leading to the request was beyond the faculty member's control, the extent to which it interfered with the faculty member's ability to be productive, and the faculty member's accomplishments up to the time of the request will be considered in the review of the request.

(3) A request to exclude time from the probationary period for any reason will not be granted after a nonrenewal notice has been issued nor will previously approved requests to exclude time from the probationary period in any way limit the university's right not to renew a probationary appointment.

(4) Except in extraordinary circumstances a maximum of three years can be excluded from the probationary period for any reason or combination of reasons. The maximum amount of time that can be excluded from the probationary period is one year for an instructor, two years for assistant professor, and one year for associate professor, except in extraordinary circumstances. Exceptions require the approval of the tenure initiating unit chair, dean, and executive vice president and provost.

(5) Tenure-track faculty members will be reviewed annually during their probationary periods regardless of whether time is excluded from that period for any of the above
reasons unless their absence from campus during an excluded period makes conduct of such a review impractical.

(6) For purposes of performance reviews of probationary faculty, the length of the probationary period is the actual number of years of employment at this university less any years of service excluded from the probationary period under the terms of this rule. Expectations for productivity during the probationary period cannot be increased as a consequence of exclusions of time granted under the terms of this rule.

(E) Service credit of up to three years may be granted for prior work experience at the time of the initial appointment and requires the approval of the tenure initiating unit chair, dean, and executive vice president and provost. Prior service credit shortens a probationary period by the amount of the credit and once granted cannot be revoked except through an approved request to exclude time from the probationary period. Prior service credit will not be granted for employment in any auxiliary title (such as adjunct, visiting, clinical, or lecturer), special title (such as graduate associate) or part-time position (less than fifty per cent service).

(F) Probationary regular tenure-track faculty members on less than full-time service for part or all of their probationary period may request an extension of the probationary period. The extension must be requested prior to the beginning of the year in which the normally scheduled mandatory review for tenure would take place and requires approval of the tenure initiating unit chair, dean, and executive vice president and provost. The extension shall be for an integral number of years based on the principle that the usual probationary period represents full-time service. The maximum permissible extension of a probationary period under this paragraph is one year for a probationary instructor, three years for a probationary assistant professor (including time spent at the rank of instructor) and one year for a probationary associate professor or professor.

(G) Probationary appointments may be terminated during any probationary year because of inadequate performance or inadequate professional development. At any time other than the fourth year review or mandatory review for tenure, a nonrenewal decision must be based on the results of a formal performance review conducted in accord with fourth year review procedures as set forth in paragraph (C)(3) of this rule. Notification of nonrenewal must be consistent with the standards of notice set forth in rule 3335-6-08 of the Administrative Code.
(H) Probationary appointments may be terminated for fiscal or programmatic reasons. When nonrenewal is based on fiscal or programmatic reasons, the faculty member should be advised that such nonrenewal is a possibility and formal notice of nonrenewal should be provided as soon as possible after the need for nonrenewal is established. Nonrenewal of a probationary appointment for fiscal or programmatic reasons does not entail a performance review and requires the prior approval of the executive vice president and provost. Because hiring decisions should be based on informed assumptions regarding the future availability of resources and of programmatic needs, approval of such nonrenewals will be based on the extent to which convincing evidence is provided that the fiscal or programmatic reasons for the nonrenewal could not be anticipated when the appointment was made and are expected to be long lasting.

(I) Decisions affecting the nonrenewal of a probationary appointment may not be arbitrary or capricious or carried out in violation of a faculty member's right to academic freedom. Faculty rule 3335-5-05 of the Administrative Code provides a procedural mechanism under which an aggrieved probationary faculty member can challenge a nonrenewal decision believed to have been improper. In that instance, however, the burden of proof is on the probationary faculty member to establish that the nonrenewal decision was improper. (See also rule 3335-6-05 of the Administrative Code). (B/T 10/5/84, B/T 7/10/87, B/T 11/2/90, B/T 4/8/94, B/T 7/7/95, B/T 5/3/96, B/T 4/4/97, B/T 2/6/98, B/T 6/5/98, B/T 12/4/98, B/T 7/9/2004, B/T 6/7/2005)