

Proposition: 02-17/18

Title: A proposal to update and revise Rule 5.87 as companion revision to Rule 5.90 (Promotion and Tenure)

Date Submitted: 8/8/2017

Sponsor(s): Stuart Munson-McGee (ACES); Rolfe Sassenfeld (Engineering); Christopher Brown (A&S)

Assigned Committee:

DRAFT REVISED RULE 5.87 as NEW 5.91 - POST-TENURE REVIEW

The proposed revisions to current Rule 5.87, re-numbered as Rule 5.91 - Post Tenure Review:

1. Streamlines the process into 3 steps, intended to be user friendly by all involved parties;
2. Clarifies the legally required 2 year “probationary and re-evaluation period’ for teaching deficiencies and distinguishes from similar process for deficiencies in other areas;
3. Adds provisions to explain how due process is provided between this Rule and Rule 5.47, which contains the additional levels of review that would follow should the deficiencies not be addressed over the 2-3 period of enhanced reviews.
4. Reformats per the ARP formatting as a Rule.

A compare version showing the changes from the current Rule 5.86 to the rewritten new Rule 5.91 is also attached.

5.91 - Post-Tenure Review v030117

PART 1: PURPOSE

The purpose of this rule is to ensure the quality of teaching, research and service of the tenured faculty for the benefit of NMSU students and the institution, and to provide a process to address serious deficiency(ies) in performance in compliance with New Mexico law relating to post-tenure review. (*See* NMSA 1978 §21-1-7).

PART 2: ANNUAL PERFORMANCE EVALUATION

At NMSU, the annual performance evaluation of faculty, conducted in accordance with Rule 5.86 - Performance Evaluations, provides a First Level Post-Tenure Review. Faculty members who demonstrate exceptional performance may be identified and recognized in a manner determined by each college or community college. Similarly, deficient job performance may be identified in any of the four areas of faculty effort: 1) teaching and advising; 2) scholarship and creative activity; 3) service; and 4) extension and outreach activities. In cases where deficiency(ies) are identified, this rule provides a mechanism to assist the faculty member in remediating the deficiency(ies). As required by state law, student evaluations must be considered as at least one factor when evaluating the faculty member’s teaching.

PART 3: SECOND LEVEL REVIEW

A. Goal: After any annual review in which a tenured faculty member shows a serious deficiency(ies) in one of the four areas of faculty effort, a Second Level Post-Tenure Review will be conducted, over the subsequent annual evaluation period. The primary purpose of the Second Level Review is to provide an opportunity to the Faculty member to remediate the identified deficiency(ies).

B. Process:

1. The Second Level Review will commence with a meeting between the department head or equivalent supervisor (hereinafter referred to as “department head”) and the faculty member to discuss the areas which need improvement and develop a performance improvement plan. The performance improvement plan shall include actions to be taken, criteria for evaluating progress, and a reasonable timetable. This meeting will occur within 4 weeks of the annual performance evaluation showing the deficiency(ies) and will be

documented, with a copy of the performance improvement plan provided to the faculty member and to the dean of the college or equivalent director (hereinafter referred to as “dean”).

- a. If the deficiency(ies) relates to the faculty member’s teaching, recommended actions might include participation in programs offered by the Teaching Academy, mentoring by a recipient of teaching awards, intensive study of videotaped classroom sessions, etc.
 - b. When research and publication is the area of deficiency(ies), collaboration with another faculty member and participation in workshops on publishing might be indicated.
2. At the next annual performance evaluation, the faculty member’s performance will be evaluated on the faculty member’s work in the four areas of faculty effort regardless of whether or not the faculty member

agreed with the need for the plan or executed the recommendations contained in the plan.

3. If the deficiency(ies) relates to the faculty member's teaching, then for the purposes of state law (NMSA 1978, Section 21-1-7.1, Section E), the two year probation and reevaluation period is deemed to commence on the date the performance improvement plan was received by the faculty member.
- C. Determination by Department Head: At the annual performance evaluation following initiation of a Second Level Review, the department head shall determine whether: (1) a successful remediation of the deficiency(ies) was accomplished and the second level review is concluded; (2) a second year of Second Level Review is warranted or required; or (3) serious deficiency(ies) persist and a Third Level Review is appropriate. The department head's Determination shall be communicated to the faculty member in writing.
 - D. Persistent Deficiency(ies): If the only identified area of serious deficiency(ies) is teaching, an additional year of Second Level Review will automatically commence and serve as the second year of the probationary period prescribed by state law. If a serious deficiency(ies) has not been remedied at the conclusion of the Second Level Review, the department head will initiate a Third Level Review.

PART 4: THIRD LEVEL REVIEW

- A. Goal: The Third Level Post-Tenure Review provides a peer review of the faculty member's performance focusing on identifying strengths and weaknesses of the faculty member in the four areas of faculty effort, and evaluating whether the record supports a finding of a serious performance deficiency(ies).
- B. Process: The Third Level Review shall be conducted as follows:
 1. Within 4 weeks following a determination that a Third Level Review is appropriate, the department head shall notify the dean in writing of the need for a Third Level Review, with a copy to the faculty member.
 2. The dean shall review the performance evaluations and other relevant documentation from the post-tenure review and, within 4 weeks of receiving the department head or equivalent's either overrule the finding of serious deficiency(ies), or request that the college promotion and tenure committee chair convene a meeting and conduct the Third Level Review. The committee shall be provided with the performance evaluations and other relevant documentation from the post-tenure review, as well as any additional material that the faculty member and department head may provide in support of their respective positions. All information submitted to the committee shall be made available to the faculty member.
- C. Determination: The college promotion and tenure committee shall, after due consideration of the materials provided, make a determination as to whether the faculty member's performance suffers a serious deficiency(ies). The committee's determination, including a statement of the vote, shall be transmitted in writing to the dean.
 1. If the committee determines that the faculty member's performance was not seriously deficient, the dean shall notify the department head and faculty member in writing, and a statement of the finding will be placed in the faculty member's personnel file.
 2. If the committee determines that the faculty member's performance is seriously deficient, despite the notice and opportunity for remediation as provided in this Rule, the dean will issue a Determination, based on the evidence, finding that the faculty member will be involuntary terminated from employment, subject to the right to appeal provided in Part 5 below and Rule 5.47 - Faculty Discipline and Appeals. The dean may provide the faculty member with the opportunity to resign in lieu of involuntary termination.

PART 5: INVOLUNTARY REVOCATION OF TENURE/TERMINATION OF EMPLOYMENT

The faculty member will be provided with due process as set forth in this Rule, and in Rule 5.47 - Faculty Discipline and Appeal Processes, as modified herein.

- A. Pre-Determination Process: The lengthy notice of performance deficiency(ies) and opportunity for remediation provided by this Rule, consideration by both a department head and college level faculty peer review, culminating with a Determination issued by a dean that a serious performance deficiency(ies) persists shall constitute the pre-determination process in lieu of that described in Section M. of Rule 5.47.
- B. Post-Determination Right to Appeal: A Determination issued by the dean which revokes tenure and terminates

employment pursuant to the provision of this Rule may be appealed to the Executive Vice President and Provost, and to the Chancellor pursuant to Sections N. and O. of Rule 5.47 - Faculty Discipline and Appeal.

Rule Administrator:	Executive Vice President and Provost
Scope:	NMSU System
Effective Date:	September 8, 2006
Revision History:	xx.yy.zz Amendment recommended by FS (FSP 20-15/16); aa.bb.cc recommended by UAC; and BB.CC.DD approved by Board of Regents. 10.21.15: Board of Regents approved Policy 5.87 as initial Rule 5.87. <i>Prior History as Policy 5.87: 05.04.06 Adoption Policy recommended by FS (FSP Prop 22-05/06); 09.08.06 ratified by Board of Regents.</i>