# **Faculty Senate Town Hall** KBOR update, in consideration of Pandemic Policy implementation at ESU

September 19, 2022

### KBOR Policy Pandemic Amendment Feb 2021 further amended April 2022; deadline extended June 2022

## Emporia Rationale

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### As reported in Emporia Gazette

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I pressures placed on

the state universities due to the COVID-19 pandemic, decreased program and university enrollment, and state fiscal issues, effective immediately through December 31, 2022 and notwithstanding any other Board or institutional policy, any state university employee, including a tenured faculty member, may be suspended, dismissed, or terminated from employment by their respective university. Such terminations, suspensions, or dismissals shall follow the procedure set forth below. Declaration of financial exigency and the processes associated with the declaration of financial exigency shall not be a prerequisite to any suspension, dismissal, or termination authorized by this provision, and no being



## Emporia Procedure

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statement that this action is being taken pursuant to this policy, the reasons for the action being taken, the effective date of the action, and shall also include any considerations to be provided by the University to the affected employee (such as severance pay, payouts, retirement options, etc.).

2. Appeal. The employee may appeal the action taken pursuant to this policy through the Board of Regents office to the Office of Administrative Hearings. Any action taken that is not being taken pursuant to this policy shall have solely those appeal rights provided by existing university policy or other applicable procedures.

3. Appeal, Time and Content of. The employee must submit an appeal to the Board office within 30 days of receiving notice of the action. The appeal must include a copy of notice of the action received by the employee and a written statement with any relevant supporting evidence describing why the employee believes the decision for the action: (a) -making framework approved by the Board; (b) was the result of unlawful bias or discrimination; or (c) was otherwise unreasonable, arbitrary or capricious. In the employee shall provide a copy of their appeal documents to the President at the same time they are submitted to the Board office.

4. Response to Appeal by President. The President shall have 30 days from receipt of the appeal to respond in writing to the appeal. This response shall include any supporting evidence or documentation. This response with supporting evidence or documentation shall be sent to the Board office with a copy sent to the employee at the same time. This 30 day period can be extended for good cause as determined by the Board President and CEO.

eal, the Board office shall refer the appeal to the

Office of Administrative Hearings. The Office of Administrative Hearings shall provide a hearing and decide the appeal based on

ministrative Hearings.

6. Hearing before the Office of Administrative Hearings. The burden of proof is on the employee. No discovery will be permitted. The review shall be based on the written materials submitted, along with any oral presentation to the administrative hearing officer by the employee and the University. The employee and the Universit

## Sept. 7, 2022 WSU Message from the president



### ESU Faculty Response (slide 1/4) September 9, 2022

### FACULTY RESPONSE TO THE PROPOSED ESU FRAMEWORK FORWORKFORCE MANAGEMENT

Presented to: President Hush, the ESU Leadership Team, and the Kansas Board of Regents

From: Emporia State University Faculty Senate Executive Committee

Summary: Most faculty recognize the need for change with the challenges facing higher education. Up to this point, faculty, a

development and learning to become educated citizens and skilled members of the Kansas workforce. Emporia State University faculty have concerns with the draft of the Framework for Workforce Management presented to them on September 7, 2022, after business hours.

The first and most egregious affront is that faculty were only provided two business days to respond to the draft.

The second issue with the framework is termination criteria are so general that they could be used to release any employee at ESU.

At the faculty level, the suspension of tenure is a very serious action that violates the trust faculty have in the university. If the termination of employees, especially tenured faculty, is indeed strategic, that strategy should be transparent. This includes how programs and curriculum will be evaluated (cost, enrollment, etc.).

# ESU Response (slide 2/4)

The Framework Termination Factor Concerns

1. The factors for dismissal are vague, and all terminology needs to be dearly defined. For example, what

and termination?

- 2. There is no ranking of factors for termination. Which are primary factors for termination? Are cost of operations and conduct of the employee used equally to make decisions?
- 3. If workforce reduction is necessary to meet restructuring needs, then the framework should provide

4.

- 5. If employees with similar positions are potential candidates for workforce reduction, how are performance records ranked since every department has different evaluation metrics and inconsistency of use?
- 6. If restructuring is criteria for dismissal, executive committees of shared governance or those assigned or elected by those committees should be involved in decision making.

## ESU Response (slide 3/4)

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Issues if the Framework is Utilized

1. Appeal The lack of appeal at the institutional level is inconsistent with the practice of dismissing/terminating tenured faculty. Faculty should be allowed to present evidence and appeal against the decision locally before moving the appeal to the Board level. Any ruling on an appeal at the university level should be reviewed by an appeals committee that includes faculty, students, and staff. The composition of the committee should not include more than 50% of its members from the administrative level.

## ESU Response (slide 4/4)

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Faculty Grievances about the Process

- 1. President Hush and his team have spent eight months on the proposal. Faculty were given two business days to respond to the proposed Framework. This timeframe is unreasonable to assemble faculty and provide well thought-out responses. It is difficult to imagine there is any intent to sincerely consider faculty input.
- 2. The proposed framework is not a framework for strategic realignment of resources. In its current form, it allows for carte blanche dismissal of faculty. The factors for termination are so broad, vague, and ill-defined that it could be used to terminate any employee at ESU. This process for dismissal is unprecedented in higher education and creates a dangerous precedent. We cannot imagine that the Kansas Board of Regents intended to give such broad and sweeping power to remove tenured faculty. We expected a proposal with substantial detail. The draft ESU Framework for Workforce Management provided to the university community on September 7, 2022, should be rejected.
- 3. The ESU leadership team has not disclosed any supporting data for reorganization. The curriculum at institutions of higher learning is driven by the faculty. Faculty are very open to modifying existing programs, creating new programs, and eliminating existing programs to meet student and workforce needs. There are countless instances of this across campus. The leadership team should involve a diverse group of faculty in identification of need areas and how we can help meet those needs.

## WSU Faculty Senate Resolution

September 12, 2022

As the Wichita State University Faculty Senate, we express support for our colleagues

positions. We urge the leadership of Emporia State to work with faculty to find alternative responses to ongoing financial challenges that predate the Covid 19 pandemic and instead utilize established financial exigency policies. Faculty who earn tenure commit to the long-term education and research missions of the universities and can be partners in a transparent process of faculty governance.

We thank our President and Executive Team at WSU for their fiscal management of our university and choice to refrain from invoking this emergency policy.

https://www.wichita.edu/academics/facultysenate/documents/ay2223/WichitaStateUniversityFaculty SenateResolution.pdf

### CoFSP Statement to the Regents September 14, 2022

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We, the Kansas Council of Faculty Senate Presidents (CoFSP), express support for our

We urge the Kansas Board of Regents to work with the students, staff, and faculty at Emporia State to address the difficult situation on campus.

To that end, we request the following:

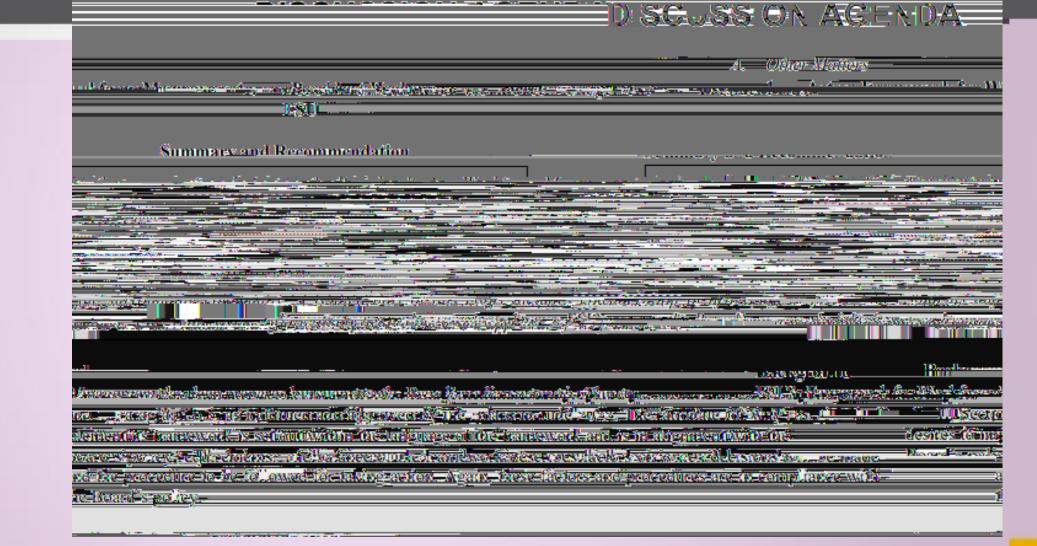
- 1. We request a timeline that allows for feedback and the involvement of all governance bodies.
- 2. We request that the decision-making process be as open and transparent as possible regarding any structural changes so that all impacted parties understand and may take part in the process.

Hopefully by working together, all members of the Emporia State University community will have the opportunity to minimize the long-term impacts of the current financial situation.



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The Regents voted unanimously in favor of accepting the proposed framework.





Dr. Castro's position (not representative of all faculty or WSU) Academic Freedom is the Original Estate

What is tenure for?

Academic freedom is not a special privilege or an individual license to do whatever

How so?

We all learn in K-12 that we have three branches of government to provide checks and balances.

serves to balance power in a healthy democracy.

Education is the origin of functional citizens, including professional journalists. We are on a slippery slope, but the Regents intended to provide a guard rail. Now we have work to do. That will take many forms.