

The awarding of tenure at Northern Kentucky University is the culmination of a rigorous process that requires a probationary faculty member to demonstrate their contributions to the university and community in the areas of teaching, research, and service. This process is not taken lightly, and the process is stringent. Tenure provides stability to university programs and research; this continuity improves the quality of programs and the teaching and research in those programs. Ultimately, in the quest to produce highly qualified graduates, tenure is vital.

Accordingly, the Northern Kentucky University Faculty Senate affirms its commitment to tenure protections for all faculty members and academic freedom for all in the university community. The NKU Faculty Senate calls on President Vaidya and the NKU Board of Regents to honor the provisions and processes delineated in the *Faculty Handbook* and to issue a statement affirming this commitment.

Background:

On May 4, 2018, the Northern Kentucky University Faculty Senate passed a resolution requesting a public statement from the NKU Board of Regents supporting tenure and committing to following the policies and procedures contained in the *Faculty Handbook*. Unfortunately, no public statement supporting tenure was ever made by the NKU President or Board of Regents. Because tenure remains important to the continued excellence of higher education in Kentucky, this resolution renews the call for public support of tenure and its protections for faculty at NKU.

The American Association of University Professors (AAUP) and the Association of American Colleges and Universities (AAC&U) jointly formulated the “1940 Statement of Principles on Academic Freedom and Tenure.” The statement explains that “[i]nstitutions of higher education are conducted for the common good” and that “[t]he common good depends on the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research.” Tenure protects academic freedom while providing an incentive for highly skilled workers to remain in academia and is still relevant today. More than 250 scholarly and education groups have endorsed the AAUP statement on tenure.

The AAUP statement defines academic tenure in this way: “After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.” Furthermore, the AAUP statement states that “[t]eachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.” Only in the most severe cases would a tenured faculty member be removed immediately.

Unfortunately, the Kentucky budget for the 2018-2019 biennium, HB 200, in Part III, General Provisions, section 27, Faculty Employment removes the tenure protections for faculty members at a “state-funded university.”

27. Faculty Employment: Notwithstanding KRS 164.230 and 164.360, each Board of Regents or Board of Trustees of a state-funded university or the Kentucky Community and Technical College System may reduce the number of faculty, including tenured faculty, when the reduction is a result of the Board discontinuing or modifying an academic program upon determining that program changes are in the university's or college's best interest due to low enrollment, financial feasibility, budgetary constraints, or declaration of financial exigency.

Notwithstanding KRS 164.230 and 164.360, when a faculty reduction occurs pursuant to this section, the board shall provide ten days' notice in writing to the faculty member or members being removed as a result of the reduction stating the Board's reasoning. The provisions of this section supersede any and all policies governing the faculty employment approved by a Board of Regents or Board of Trustees.

The bill's provision allows for the reduction in the number of faculty, including tenured faculty, upon a simple determination that the changes are in the "best interest" of the university. Furthermore, the board only need to give ten days written notice. The bill expressly states that the section supersedes all policies governing faculty employment. Accordingly, there are now no tenure protections in Kentucky.

According to the *Faculty Handbook*, tenure provisions have always allowed for tenured faculty to be terminated for adequate cause, program reduction, or financial exigency. Importantly, financial exigency has been understood to be limited to circumstances of crisis that affect the university as a whole and threaten its ability to carry out its fundamental mission. By contrast, in HB 200 the "best interest" requirement, while somewhat limited by "low enrollment, financial feasibility, budgetary constraints, or declaration of financial exigency," is a low and ambiguous standard. Furthermore, there is no requirement that the board follow a process for these determinations. It is not difficult to imagine situations where a firing in the "best interest" is applied to any faculty member problematic to the board or administration. The faculty member is afforded no due process, no right to appeal, and no opportunity to find other employment. It is unprecedented that a faculty member could be removed with only ten days' notice except in the most extreme of circumstances, such as being a danger to self and others.

The provisions in HB 200 will severely impact the ability to recruit and retain high quality faculty in Kentucky and will have a chilling effect on academic freedom. Indeed, the Coalition of Senate and Faculty Leadership (COSFL), which represents Kentucky's public universities and the Kentucky Community and Technical College System (KCTCS), strongly opposed the budget bill, stating that the proposed changes "will cripple universities as engines for growth and development in our communities. The devastating harm to our students and state will reverberate for decades to come."