

Testimony to the Senate Education Committee Subcommittee on Higher Education in
Opposition to SB 18,

Thank you, Chairman, and members of the subcommittee,

My name is Pat Heintzleman. I am a professor at a regional university in Texas and President of the Texas Faculty Association.

I am here today in both my capacity as a private citizen and on behalf of TFA to oppose SB 18.

Tenure is the cornerstone of quality and rigor in our academic disciplines. Tenure track professors must prove their value to their institutions by undergoing a rigorous process to prove their competency, work ethic, and their ability to produce work that can stand intense peer review. In the tenure process, professors are exhaustively judged as to whether they are actually qualified to continue in a career to which they have already committed years of their professional lives.

When professors earn tenure, the result is the recognition that they are fit to pursue the advance of knowledge, explore new ideas, and engage in scholarship for the benefit of their students, their institutions, their disciplines, and all of us. The employment protections of tenure are hard earned. They are designed not as some sort of arbitrary reward, but as an important system structure to allow for the advance of long-term research, protected from the danger of being derailed by short-term interests.

Tenure is not a blanket employment protection. In fact, Texas law requires that institutions adopt provisions that “a faculty member be subject to the revocation of tenure or other disciplinary action if incompetency, neglect of duty, or other good cause is determined to be present.” Simply put, tenure does not protect professors who are not doing their jobs.

Finally, TFA urges the subcommittee to consider the effect this bill would have on Texas’s competitiveness both in higher education and in general. Tenure is a long standing, broadly recognized measure of quality in higher education. It is also a strong indicator of commitment to academic freedom. Without tenure, we will not be able to compete on the same footing with other states or nations for teachers, students, and researchers. This self-crippling of our efforts to recruit and retain talent must ultimately result in Texas becoming less competitive.

We support the effort of this legislature to increase funding for research and instruction in higher education. We think that SB 18 would be completely antithetical to those initiatives and would make Texas less competitive in both the short and long term.

Thank you for the opportunity to speak with you today, and I am happy to answer any questions.

Sec. 51.942. PERFORMANCE EVALUATION OF TENURED FACULTY.

(a) In this section:

(1) "Governing board" has the meaning assigned by Section [61.003](#).

(2) "Institution of higher education" means a general academic teaching institution, medical and dental unit, or other agency of higher education, as those terms are defined by Section [61.003](#).

(3) "Neglect of duty" means continuing or repeated substantial neglect of professional responsibilities.

(b) Each governing board of an institution of higher education shall adopt rules and procedures providing for a periodic performance evaluation process for all faculty tenured at the institution. The governing board may design its rules and procedures to fit the institution's particular educational mission, traditions, resources, and circumstances relevant to its character, role, and scope, in addition to other relevant factors determined by the governing board in the rules adopted pursuant to this section. The governing board shall seek advice and comment from the faculty of the institution before adopting any rules pursuant to this section. The advice and comment from the faculty on the performance evaluation of tenured faculty shall be given the utmost consideration by the governing board.

(c) In addition to any other provisions adopted by the governing board, the rules shall include provisions providing that:

(1) each faculty member tenured at the institution be subject to a comprehensive performance evaluation process conducted no more often than once every year, but no less often than once every six years, after the date the faculty member was granted tenure or received an academic promotion at the institution;

(2) the evaluation be based on the professional responsibilities of the faculty member, in teaching, research,

service, patient care, and administration, and include peer review of the faculty member;

(3) the process be directed toward the professional development of the faculty member;

(4) the process incorporate commonly recognized academic due process rights, including notice of the manner and scope of the evaluation, the opportunity to provide documentation during the evaluation process, and, before a faculty member may be subject to disciplinary action on the basis of an evaluation conducted pursuant to this section, notice of specific charges and an opportunity for hearing on those charges; and

(5) a faculty member be subject to revocation of tenure or other appropriate disciplinary action if incompetency, neglect of duty, or other good cause is determined to be present.

(d) A faculty member subject to termination on the basis of an evaluation conducted pursuant to this section must be given the opportunity for referral of the matter to a nonbinding alternative dispute resolution process as described in Chapter [154](#), Civil Practice and Remedies Code. If both parties agree, another type of alternative dispute resolution method may be elected. The governing board must give specific reasons in writing for any decision to terminate a faculty member on the basis of an evaluation conducted pursuant to this section.

(e) A governing board may not waive the evaluation process for any faculty member granted tenure at an institution.

(f) A governing board may not award tenure to an administrator in any way that varies from the institution's general policy on the award of tenure.

(g) Each governing board shall file a copy of the rules adopted pursuant to this section, and any amendments to such rules, with the coordinating board on or before September 1 of each year.