

# Procedural Standards for Faculty Concerns, Sanctions and Dismissals

**Policy number:** 2.17

**Policy section:** Academic Affairs

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## 1. Definitions

Definitions of capitalized terms used herein are set forth in Appendix A.

## 2. Policy Statement

The University is committed to the principle that a necessary pre-condition of a strong faculty is that it have first-hand concern with its own membership. This is properly reflected in faculty engagement in decisions about the appointment to faculty positions, as well as about involuntary separations from the faculty body.

On rare occasions a faculty member may be accused of misconduct or inappropriate behavior serious and/or repeated enough to warrant sanctions, including dismissal for cause. When such accusations arise, it is the policy of the University to attempt to find a mutually satisfactory resolution of the matter through a personal conference between the faculty member and an Appropriate Administrator based on a review of the severity and/or persistence of the behaviors. Absent a resolution, at the final level of the review process, the dean can request that the Faculty Senate Committee on Ethics and Tenure conduct an informal inquiry and make a recommendation to the Provost about whether to proceed with a formal hearing. If the Provost determines that a hearing is needed, a Hearing Committee will be established to review further evidence and make a recommendation to the President regarding its findings.

## 3. Purpose

The purpose of this policy is to outline the process and procedures under which a member of the faculty can incur the imposition of either a Minor or a Severe Sanction, which can result in dismissal from the University. This policy does not apply when a faculty member is accused of research misconduct, which is covered by University Policy 10.6, Standards for Addressing Research Misconduct.

## 4. Basis for Dismissal or Sanctions

Adequate cause for dismissal or sanctions will be related, directly and substantially, to the expectations for faculty in their professional capacity as a teacher, advisor, researcher, supervisor or colleague, as outlined in University Policy 2.1, Professional Code of Ethics. As detailed in University Policy 2.1, dismissal or sanctions cannot be used to restrain faculty members in their exercise of academic freedom.

## 5. Process for Determining Appropriate Actions

- a. When reasons arise to address potential Faculty Misconduct, the Appropriate Administrator, beginning with the rank closest to the faculty position, will discuss the matter with the faculty member in a personal conference. The Appropriate Administrator may at this point reach a mutually satisfactory resolution with the faculty member or may impose a Minor or Severe Sanction under the procedures specified in Section 6 of this policy. In either case, written documentation of the conference that specifies the potential misconduct and resolution must be shared with the faculty member and a copy kept in the office of the dean and Provost.
- b. If the matter cannot be resolved by mutual consent or by use of a Minor or Severe Sanction, the Appropriate Administrator may refer the matter to the next level of administration. If the matter is not resolved at this next level, the dean or Provost can request an informal inquiry by appointees of the Ethics and Tenure Committee (Faculty Grievance Committee), which may either (1) effect a mutually satisfactory resolution between the Appropriate Administrator and the faculty member or (2) recommend to the Provost that proceedings be undertaken for a formal hearing. All deliberations of the Faculty Senate Committee on Ethics and Tenure are kept on file in the faculty member's file in the Provost's Office, with a copy provided to the faculty member.
- c. If the Provost, after considering the recommendation of Faculty Grievance Committee or after a review of any other resolution of the matter, determines that further proceedings should be undertaken, a hearing should be commenced under the procedures specified in Section 6. At this stage, an initial written statement of charges shall be provided to the faculty member concerned.

## **6. Procedures for Imposition of Minor Sanctions**

- a. If after initial consultation and evaluation of the faculty member's alleged conduct, the Appropriate Administrator believes a Minor Sanction is recommended, the faculty member will be notified in writing of the basis for the sanction within twenty-one (21) business days of the decision.
- b. If the faculty member believes that a Minor Sanction has been unjustly imposed, he or she may appeal the sanction to the next highest level of academic administration or request review by the Faculty Grievance Committee. Such appeal of a Minor Sanction must be made in writing within twenty-one (21) business days of the notification of a pending sanction.
- c. The appeal of the imposition of a Minor Sanction will be reviewed by either the Advanced Administrator or Faculty Grievance Committee within twenty-one (21) days of submission. A final disposition of the matter, with either an imposition of a Minor Sanction or a recommendation for a modified resolution, will be shared with the faculty member and copy will be kept on file in the Office of the Provost and in the employment file of the faculty member.

## **7. Procedures for Imposition of Severe Sanctions or Dismissal**

- a. Following a determination by the Provost under Section 5(c), a Hearing Committee shall be established by the Faculty Senate Committee on Ethics and Tenure that shall not include

members of the department(s) involved. These proceedings are confidential, and the Hearing Committee members will be asked to sign a non-disclosure agreement.

b. While a final decision by the President is pending, the faculty member will either be suspended or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by their continuance. Before suspending a faculty member pending an ultimate determination of their status by the President, the Appropriate Administrators will consult with the Faculty Senate Committee on Ethics and Tenure concerning the propriety, length, and other conditions of the suspension. Salary will continue during the period of the suspension.

c. The Hearing Committee may, with the consent of the parties concerned, hold joint pre-hearing meetings with the parties in order to (1) simplify the issues, (2) effect stipulations of facts, (3) provide for the exchange of documentary or other information, and (4) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

d. Service of notice of hearing with a specific final statement of charges in writing will be made at least twenty-one (21) business days prior to the hearing. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges against them, or asserts that the charges do not support a finding of adequate cause, the Hearing Committee will evaluate all available evidence and rest its recommendation upon the evidence in the record.

e. During the Hearing Committee's proceedings, the faculty member will be permitted to have an academic advisor and counsel of his/her own choice.

f. At the request of either party or the Hearing Committee, a representative of a responsible educational association will be permitted to attend the proceedings as an observer.

g. A verbatim record of the hearing or hearings will be taken and a written copy will be made available to the faculty member without cost, at the faculty member's request.

h. The burden of proof that adequate cause for sanctions or dismissal exists rests with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

i. The Hearing Committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

j. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the Hearing Committee in securing witnesses and making available documentary and other evidence.

k. The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where witnesses cannot or will not appear but have made or will make a written statement relating to the matter, the Hearing Committee may determine that the interests of justice require admission of such statement. In such instance, the Hearing Committee will identify the witnesses, disclose their statements, and if possible, provide for interrogatories to be

submitted to the witnesses for response in order to clarify any remaining issues relating to the witnesses' statements.

l. In the hearing of charges of incompetence, the testimony will include that of qualified faculty members from this or other institutions of higher education.

m. The Hearing Committee will not be bound by strict rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

n. The findings of fact and the decision will be based solely on the hearing record.

o. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided insofar as is possible until the proceedings have been completed. The President and the faculty member will be given a copy of the record of the hearing.

p. If the Hearing Committee determines that adequate cause for dismissal or Severe Sanctions has been established by the evidence in the record, it will so report to the President. If the Hearing Committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons.

q. If the President rejects the report, he/she will state the reasons for doing so, in writing, to the Hearing Committee and to the faculty member, and provide an opportunity for response. Otherwise, the President may sustain the report or return the proceedings to the Hearing Committee with specific objections. The President may, in the process of his/her review, provide opportunity for oral and/or written argument by the principals or their representatives who participated in hearings before the Hearing Committee. If the proceedings are returned to the Hearing Committee, the Hearing Committee will reconsider the matter, taking into account the objections stated by the President and receiving any new evidence if necessary. The Hearing Committee will return a written recommendation after reconsideration to the President, whose decision on the matter, after review of the Hearing Committee's reconsideration, will be final. The faculty member will be notified of the final decision in writing and will be given a copy of the record of the hearing.

## **8. Publicity**

Any release of information to the public by the University will be made through the President's office.

## **9. Remarks**

Nothing in this policy precludes the responsibility of the corporate officers of the University to take such actions as they deem necessary to protect the interests of the University's faculty, staff, and/or students.

## **10. Questions**

Questions regarding this policy should be directed to the Office of the Provost.

## Appendix A: Definitions

**“Appropriate Administrator”** Means the following faculty leadership roles, progressing from the role most proximal to the rank of the faculty member: department chair, dean, Provost and President, for issues related to faculty when accusations arise that might result in minor or severe sanctions or dismissal of a faculty member. **In the case that the Respondent of the complaint serves in one of these administrative roles or has a conflict of interest (e.g., has a spousal/partnership relationship with the Respondent, see Policy 1.4), either the faculty member (or Respondent) can ask an Appropriate Administrator at the next highest rank to appoint a delegate or delegate at the same or next highest rank as the Respondent (e.g., the dean can appoint an associate chair, assistant chair, or associate dean for a department chair who is a Respondent; the Provost can appoint a different dean or Provost Office for a dean who is a Respondent). In the case that the Respondent of the complaint is the Provost, concerns should be taken to the President.**

**“Faculty Grievance Committee”** means the confidential committee appointed by the Faculty Senate Committee on Ethics and Tenure which can conduct an informal inquiry if requested to do so by a dean or the Provost. It shall not include members of the department(s) involved or any faculty with a conflict of interest with any of the relevant faculty or faculty administrators. It reports directly to the Provost who shall determine appropriate actions after reviewing the Faculty Grievance Committee’s recommendations.

**“Faculty Misconduct”** means any combination of acute or repeated behaviors, actions, and/or communications by faculty members that are unacceptable based on violations of University Policy 2.1, Professional Code of Ethics. Under this policy, misconduct includes, but is not limited to, incompetent or inefficient service; bullying or discrimination; sexual or discriminatory harassment; a pattern or practice of breaching the employment contract; substantial neglect of duties; persistent or willful violation of standards of faculty conduct and university policy; making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance; breach of established rules governing confidentiality in personnel procedures; intentional misrepresentation of personal views as a statement of the University’s position; deliberately not following the procedures of established faculty search and recruitment processes; participating in or deliberately abetting disruption, interference, or intimidation in the classroom; violation of scholarly integrity; and/or violations of criminal law.

**“Hearing Committee”** means the confidential committee established by the Faculty Senate Committee on Ethics and Tenure and shall not include members of the department(s) involved. It reports directly to the President who shall determine appropriate actions after reviewing the Hearing Committee’s recommendations.

**“Minor Sanction”** means the imposition of a sanction for behaviors or actions that the Appropriate Administrator determines do not rise to the level of a hearing. These minor sanctions can include, but are not limited to, the following: ensuring that the person against

whom the complaint is made is not called upon to write letters of recommendation or make academic judgments about the person making the complaint or any other decision that affects the academic or professional career of the reporting party or witness; changing advisers, graders, the line of supervision, or physical locations of work; action to remedy harm to the reporting party or witnesses; counseling of the individual by the individual's supervisor(s), such as the chair, dean, Vice Provost, or Provost, about the individual's behavior; referral to required support sessions by the Center for Teaching Excellence; oral or written warning of the individual, with a record in the individual's personnel file, that the individual's behavior constitutes a violation of the University's Policy 2.1, Professional Code of Ethics.

**“Severe Sanctions”** means the imposition of sanctions which may be imposed through the process described in 6(b\_-6(c) and 7 above, which begin with an informal inquiry by the Faculty Senate for Ethics and Tenure and can include either a determination by the President or a formal hearing. Severe Sanctions include, but are not limited to: reductions in salary; embargo on the consideration of salary increases for a specified period of time; prohibition of making proposals through the sponsored research or other grants for a specified period of time; censure; denial or postponement of promotion; revocation of tenure; demotion in rank; a period of suspension (with or without pay); public apology to the university community; or dismissal for cause.