

Dismissal Proceedings

Tenure and Tenure-Track Faculty

Dismissal of a ~~faculty member who has tenure or whose term appointment has not expired~~Tenured or Tenure-Track Faculty whose term appointment has not expired or a Tenured Faculty member is the most severe sanction which the University may impose. An administrative officer who intends to request that dismissal proceedings begin should do so only when there is clear evidence to show adequate cause (see Section I.a.2) for dismissal. Except in an unusually serious or sudden case of gross personal misconduct (including sexual harassment), gross neglect of duty, or unfitness in one's professional capacity, a request for dismissal proceedings should come forth only after a history of prior formal disciplinary action has been established.

I. Preliminary Proceedings Concerning Cause for Dismissal of a Faculty Member

When reason arises to consider dismissal of a faculty member, the Provost (or a representative specifically designated by the Provost) should discuss the matter with him/her in personal conference and provide him/her with a copy of this Dismissal Proceedings procedure module of the Faculty Handbook. The matter may be terminated by mutual consent at that point, a corrective disciplinary sanction may be imposed (with the faculty member retaining his/her rights under the Faculty Grievance Procedure), or a request to commence dismissal proceedings may be made by the President to the Faculty Senate Agenda Committee.

- A. In the request the President shall state, in general terms, the grounds for dismissal of the faculty member and shall state that a bill of particulars has been prepared which will be delivered to a Committee of Inquiry when it commences its investigation.
 1. At the same time that the request for dismissal proceedings is sent to the Senate Agenda Committee a copy of that request shall be delivered to the faculty member.
 2. The bill of particulars shall include:
 - a. The specific charge(s) that would establish cause for dismissal, clearly identifying the rules, regulations, policies, and/or norms of professional conduct alleged to have been violated.
 - b. For each charge alleged as the basis for dismissal:
 - i. the time or times of alleged cause;
 - ii. the place or places of alleged cause;
 - iii. the manner in which alleged cause was committed (the activity or failure to act);
 - iv. the means, if any, employed to commit the alleged cause;
 - v. the name or names of person(s), if any, other than the accused, present during commission of alleged cause and of whom the University currently has knowledge (or upon whom the University plans to rely in proof of its case).
 - c. For each charge alleged as the basis for dismissal: A statement detailing previous disciplinary action taken against the faculty member with respect to each charge alleged as the basis for dismissal.

3. At the same time that the bill of particulars is sent to the Committee of Inquiry a copy shall be delivered to the faculty member.
- B. When the Senate Agenda Committee has received the President's request, it shall appoint a Committee of Inquiry consisting of five faculty members not part of the department or equivalent academic unit to which the person under investigation belongs.¹
1. The function of the Committee of Inquiry shall be to conduct an informal inquiry into the situation specified in the bill of particulars and to determine whether, in its view, there is sufficient evidence to demonstrate probable cause for dismissal.
 2. It is the burden of the University to present the specific charges against the faculty member. The Committee of Inquiry will reach its findings solely on the basis of the charges brought, and will not formulate charges which have not already been specified in the bill of particulars.
 3. During the informal inquiry, neither the University nor the faculty member is entitled to representation by an attorney before the Committee of Inquiry. However, the faculty member is permitted to bring another faculty member, as an observer, to any meeting between him/her and the Committee.
 4. The Committee of Inquiry shall submit its findings in writing to the President with a specific finding as to each charge and a conclusion as to whether probable cause exists to justify commencing formal dismissal proceedings.
 5. When the President and the Committee of Inquiry agree that probable cause for dismissal exists, a written statement to that effect shall be jointly formulated, specifying the charges. If there is disagreement between the President and the Committee of Inquiry, the President reserves the right to proceed to a formal dismissal hearing based on a unilaterally formulated statement of charges.
 6. A communication from the President to the faculty member, together with any statement formulated in step 5) shall inform the faculty member that further action will not proceed or shall inform him/her that formal dismissal proceedings will proceed. A copy of this communication and the detailed statement of charges shall be transmitted to the Senate Agenda Committee.

II. Commencement of Formal Proceedings

- A. Upon receipt of the President's communication that dismissal proceedings shall commence, and the statement of charges, the Senate Agenda Committee shall serve notice to the faculty member that a hearing to determine whether he/she should be removed from his/her faculty position on the grounds stated will be conducted at a specified date, time and place.
- B. Notice of hearing will be served at least thirty calendar days prior to the date of the hearing. The faculty member may waive a hearing or may respond to the charges in

¹ If a Review Committee under the Sexual Harassment Procedure (adopted by the Board of Trustees, on March 24, 1982) has recommended that the faculty member be dismissed and the President concurs, the President shall request a formal dismissal proceeding without the informal inquiry steps enumerated in this subsection. The Review Committee shall be deemed to have substituted for the Committee of Inquiry, and the Review Committee's evidence, determination, and summary of reasons shall replace those which would have come from the Committee of Inquiry. In all other respects, the dismissal procedure shall be followed.-

writing at any time before the hearing. In any case, the faculty member must make a detailed and specific written response to the statement of charges not less than fourteen calendar days before the date of the hearing for the written response to be received at the considered for hearing proceedings.

- C. If the faculty member does not respond to the notice of hearing and statement of charges, the hearing will go forward with the faculty member's participation limited to offering oral testimony at the hearing, if he/she chooses to participate at all. If the faculty member denies the charges or asserts that the charges do not support a finding of adequate cause in his/her written submission prior to the hearing, but nonetheless waives a hearing, the hearing will go forward and the faculty member may participate relying on his/her previously submitted written statement and his/her oral testimony at the hearing.

III. Assistance for Committee of Inquiry and Hearing Committee

- A. In the course of preliminary proceedings and/or formal dismissal proceedings, the Senate Agenda Committee may deem it necessary to seek legal counsel on issues of process, for itself or for the Committee of Inquiry. The Agenda Committee will appoint such counsel. The University administration will provide a reasonable budget to meet the expense of such counsel.
- B. To assure impartiality of the Agenda Committee's counsel, and to assure impartiality of the hearing master, payments to these persons will be made from a budget account established by the University administration for that purpose at the commencement of dismissal proceedings, and administered by the Agenda Committee (subject to regular University budgetary procedures). In addition, this budget will cover the costs of preparing transcripts as required below.

IV. Hearing Committee

- A. The Hearing Committee will be comprised of six faculty members chosen by the Senate Agenda Committee from among its members and/or the members of the previous four Agenda Committees.
- B. A master will be appointed to facilitate the hearing process as an agent of the Hearing Committee. The master will be a legal professional with experience as an arbitrator, chosen by the Hearing Committee.

V. Committee Proceeding

- A. Representation by Counsel: During the proceedings the faculty member is entitled to counsel and an academic advisor of his/her choice. The administration's case may be offered by an administrator designated by the President and/or by designated counsel.
- B. Hearing Proceedings
1. Initial Hearing Session: The initial session of the hearing will take place on the date established by the Agenda Committee in the notice of hearing. A postponement may be granted only at the will of the Hearing Committee. This session will bring together

the parties, the Hearing Committee and the master, to place in the record the statement of charges and to deal with preliminary procedural matters. The session will be convened by the Chair of the Hearing Committee. After having been introduced to the parties, the master will then preside. Upon adjournment of the initial session, the formal hearing before the Committee will normally resume only after the master has completed the findings of fact.

2. Fact Finding: To facilitate the progress of the formal hearing, the Hearing Committee will designate the master to be its agent in determining the facts of the case. The master will hold evidentiary sessions in which the administration and the faculty member will present the evidence in the case, including testimony and cross-examination of witnesses. A verbatim transcript will be taken.

Hearing Committee members will not be required to attend these sessions.

When the presentation of evidence is concluded, the master will make the findings of fact. These findings shall be presented to the Hearing Committee, in writing. The University and the faculty member may present specific written exceptions to the findings of fact if they believe that a finding is not reasonably based on evidence in the record. The transcript of the presentation of evidence will be made available to the Hearing Committee.

3. Procedures

- a. The Hearing Committee and the master will not be bound by strict legal rules of evidence, and may admit any evidence which has a tendency to prove any fact of consequence to a determination of the issues to be decided relative to the rules, regulations, policies, and/or norms of professional conduct alleged to have been violated~~faculty member's performance of his/her obligations and responsibilities to the University.~~

Unless special circumstances warrant, it should not be necessary to follow formal rules of court procedure. The Hearing Committee, in consultation with the master, will make rulings with regard to granting adjournment or termination of the hearing.

- b. The proceedings shall be closed unless all parties including the Hearing Committee agree that they should be open.
- c. Consistent with this policy module, the faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. To this end, the administration will cooperate with the Hearing Committee and the master in attempting to secure witnesses and making available documentary and other evidence. The master shall provide a schedule for the notice of witnesses and other evidence. Unreasonable or unexplained failure to adhere to the schedule, as determined by the master, risks forfeiture of availability to present witnesses and other evidence.
- d. The faculty member and the administration will have the right to confront and cross-examine all witnesses unless the faculty member has been excluded from

doing so under the terms of II.B. and II.C. above. Where witnesses cannot or will not appear, but the master or the Hearing Committee determines that the interests of justice require admission of their statements, the witnesses will be identified; the master will conduct an interview, if possible, and will read a report of the interview into the record.

d.e. In the hearing ~~of charges of incompetence on the bill of particulars~~, the testimony may include that of experts including qualified faculty members from this or other colleges or universities.

e.f. A verbatim transcript of the fact-finding sessions and of the hearing will be taken. Once the transcript has been received from the stenographer, a copy will be made available to the faculty member at his/her request.

4. Formal Hearing

When the formal hearing resumes, the Hearing Committee will receive the master's findings and any exceptions thereto, and will hear oral argument by both sides.

If circumstances warrant, the Hearing Committee may request documentary evidence or the appearance of witnesses other than those presented by the faculty member or the administration. The Hearing Committee or the master (at its request) may reexamine witnesses heard during the fact-finding.

If the Hearing Committee feels that written briefs would be helpful, it may request them.

VI. Consideration by Hearing Committee

- A. The Hearing Committee will reach its decision in conference without assistance of counsel or the master. The findings of fact and the decision will be based solely on the hearing record. The burden of proof that adequate cause exists rests with the administration and will be satisfied only by ~~a preponderance of~~ clear and convincing evidence in the record considered as a whole.
- B. The Hearing Committee will make explicit findings with respect to each of the charges presented. It may, at its discretion, prepare a reasoned opinion. If the Hearing Committee decides that the facts establish adequate cause for some form of discipline, but not for dismissal, it may recommend a disciplinary sanction other than dismissal. If a faculty member has previously been suspended without pay, such a suspension may not be recommended by the Hearing Committee.
- C. Publicity concerning the Hearing Committee's decision should be withheld until final consideration has been given to the case by the Board of Trustees. Any release to the public should be made through the President's Office.

VII. Consideration by the Board of Trustees

The President will transmit to the Board of Trustees the full report of the Hearing Committee, stating its action. If the Board of Trustees, or a duly authorized committee thereof, chooses to review the case, its review will be based on the record of the committee hearing, and it may provide opportunity for argument, oral, written or both, by the principals at the hearing, or by their representatives. The decision of the Hearing Committee should either be sustained or the proceeding returned to the Committee with objections specified. If the Board of Trustees has objections regarding limited aspects of the Hearing Committee decision, the decision may be returned to the Hearing Committee for reconsideration limited to those specified issues.

The Committee will then reconsider, taking into account the stated objections and receiving new evidence if necessary according to procedures (section V.B. of this module) the Committee provides in writing to the principals from the hearing, or to their representatives. It should frame its decision and communicate it in the same manner as before. The Board of Trustees will make a final decision only after study of the Committee's reconsideration.

The Faculty Grievance Procedure shall not apply to this Dismissal Procedure or any final action taken pursuant to it.

VIII. Suspension of the Faculty Member during Proceedings

The University may institute suspension of the faculty member during the proceedings only if immediate harm to the faculty member or to others is threatened by continuing his/her employment responsibilities. Unless legal considerations forbid, any such suspension shall be with pay.

IX. Publicity

Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements about the case by the faculty member, administrative officers, Hearing Committee members, or legal counsel shall be avoided so far as possible until the proceedings have been completed. Announcement of the final decision shall be made by the President. If the final decision differs from the Hearing Committee's recommendation, the announcement shall include a statement of that recommendation.