

## **Article X. DISCIPLINE AND DISMISSAL OF FACULTY**

The College is committed to fostering a working and learning environment in which all of its members can flourish. To that end, this Article of the *Faculty Handbook* broadly defines the standards to which the Faculty expects to hold its members and provides for peer review and appeal.

### **A. Standards of Conduct**

Members of the Faculty are expected to maintain the highest professional standards in their interactions with students, with members of the staff, with external constituents, and with one another. In particular, faculty members are held to the standards published in the *Faculty Handbook* (Part One, Article VII, Part Two, Article III, and Part Six). The obligations of department chairs and program directors are spelled out in Part One, Article XV, D, and Article XVI, D. The procedures for handling complaints of harassment or discrimination may be found in Part Six of this *Handbook*.

#### **Definition of Terms**

In the procedures that follow, the following terms are used:

***Professional Incompetence:*** the faculty member either lacks, or is unwilling to demonstrate, the skills and abilities necessary to fulfill the duties of a faculty member.

***Neglect of Duties:*** serious or habitual disregard of the duties of a faculty member as set forth in this *Handbook* and/or failure to fulfill other departmental and College duties required of a faculty member.

***Professional Misconduct:*** the violation of College policy.

***Personal Misconduct:*** this term includes, but is not limited to, any criminal act or act of moral turpitude, especially as those acts interfere with a faculty member's ability to discharge his or her professional responsibilities (which include responsible conduct toward all members of the College community) or substantially and unreasonably impair the ability of other community members to carry out their responsibilities. Moral turpitude shall be assessed according to whether the behavior would evoke condemnation by the academic community generally.

### **B. Note on Confidentiality**

To the extent possible, all those involved in the procedures that follow will endeavor to maintain the confidentiality of all parties involved. Information about the complaint is therefore provided only to those individuals within the College who have a need to know that information in order to investigate and/or resolve the complaint.

Nevertheless, the College cannot guarantee absolute confidentiality. In order to ensure compliance with College policies and federal and state laws, the College may be required to

disclose information about a complaint to agencies or to individuals not involved in the complaint. Moreover, when the complaint involves alleged acts of a criminal nature, the College may be required by law to notify law enforcement authorities. The College may also publicly divulge details of the outcome if one of the parties discloses selective portions of the proceedings or if the findings or results of the College's investigation are contested in the course of a lawsuit.

### **C. Procedures for Imposition of Sanctions Other than Dismissal**

1. When a department chair, program director, or the Associate Dean of the Faculty for Personnel, Development, and Diversity (ADOFP) receives or initiates a complaint about a faculty member involving alleged professional incompetence, neglect of duties, professional misconduct, or personal misconduct, the first step should be for faculty and administrative colleagues to determine whether the complaint appears to have merit and then to address the matter informally through conversation and mentoring, provided the nature of the complaint permits informal resolution.

Informal actions in response to a complaint may include (but are not limited to)

- clarification of the standards of conduct;
  - recommendation for counseling or mentoring;
  - monitoring of the situation;
  - support for self-help;
  - mediation by a third party.
2. If the faculty member persists in failing to correct the behavior that has elicited the complaint, or if the basis of the complaint is sufficiently serious in the judgment of the ADOFP to warrant immediate formal action, the ADOFP will provide the faculty member with written notification of the charges and then convene a meeting with the faculty member, the department chair or program director, and others if appropriate. The faculty member may have a representative (not an attorney) present during the meeting.

After this meeting, the ADOFP will have 15 work days to complete his or her inquiry and to respond in writing to the faculty member regarding the outcome and the imposition of any disciplinary sanctions.

Formal disciplinary sanctions may include (but are not limited to)

- placing a letter in the personnel file for a specified period of time;
- placing a permanent letter in the personnel file;
- requiring regular reports on the faculty member's actions to rectify the matter;
- withholding of salary increases, or stipends, or travel funds;
- denial of sabbatical;
- reduction of salary;
- suspension (with or without pay) from teaching and/or other responsibilities and privileges.

For reasons of confidentiality, any letter in a faculty member's file will be placed only in the personnel file located in Human Resources (HR). When a complaint is made against a faculty member and is found to have merit, the ADOFP will check with HR to ascertain whether the faculty member already has a letter in his or her HR personnel file before deciding on an appropriate sanction.

#### **D. Appeal against Sanctions Other than Dismissal**

If the faculty member believes that his or her academic freedom and rights have been violated, or that a formal sanction is based on insufficient evidence or is too severe, he or she may appeal in writing, within 15 work days of receipt of the ADOFP's letter regarding sanctions. Failure to appeal within the time limits stated in this section, unless such time limits are extended as provided in section I below, shall make final the decision against which the appeal is sought.

1. For appeals based on an alleged violation of academic freedom and/or rights, the faculty member may appeal to the Committee on Academic Freedom and Rights (CAFR). The CAFR will follow its operating code and will have 20 work days to convey its recommendation to the President.

or

2. For appeals based on insufficiency of evidence or excessive severity, the faculty member may appeal to the Faculty Advisory Board (FAB). For the procedure to be followed, see section E below.

If a faculty member is unsure as to which path of appeal to take, he or she may call for a meeting with the ADOFP and the chairs of both the CAFR and the FAB to make that determination.

The sanction(s) will not be applied until the appeal process is completed. If a sanction involves suspension and if the DOF/VPAA, in consultation with the ADOFP and others, finds good cause that the faculty member's continued presence on campus constitutes a threat to the safety of the faculty member or to others, or substantially and unreasonably impairs the ability of other community members to carry out their responsibilities, the faculty member may be suspended immediately. Unless legal considerations prohibit, pay and benefits will continue until the matter is resolved.

#### **E. Procedures of the Faculty Advisory Board (FAB) and the Grievance Panel (GP) in Cases Involving Sanctions Other than Dismissal**

If the faculty member appeals a sanction on the grounds that it is based on insufficient evidence or is too severe, he or she will appeal in writing to the chair of the Faculty Advisory Board (for description of the FAB, see this *Handbook*, Part Two, Article II, 15). The FAB will be convened by the FAB chair, and the three members of the Grievance Panel (GP) will be selected from the FAB as follows: all three must be tenured members of the Faculty; the ADOFP will select one panelist; the faculty member will select one panelist; and the FAB will select the third panelist. A panelist may not come from the same department or program as the faculty member (where "program" is understood as a unit whose members regularly engage with one another); any

panelist with a conflict of interest may not serve. In addition, the faculty member and the ADOFP may each make one request that the FAB chair select a replacement. The GP will select a chair from among its membership.

The ADOFP will provide the GP with the statement of charges, any other information gathered during the preliminary inquiry, and a rationale for the sanction(s) imposed. The faculty member will meet with the GP and may propose that the GP meet with others who will speak on the faculty member's behalf. The GP may also seek interviews with any persons who may have information relevant to the charges. All individuals appearing before the GP may have a representative (not an attorney) present at any meetings.

After completing its investigation and conducting its deliberations, the GP will report its recommendation, with reasons for that recommendation, in writing to the DOF/VPAA, with copies to the ADOFP and the faculty member. This recommendation must be delivered within 20 work days of receipt of the case from the ADOFP. The DOF/VPAA will then report in writing within 10 work days his or her recommendation to the President, with copies to the ADOFP, the GP, and the faculty member. The President will make the final decision regarding the sanction(s) within 10 work days.

#### **F. Dismissal of a Faculty Member**

The appointment of any faculty member, including that of a member in a non-tenure-track appointment, shall not be terminated except for cause and after investigation as provided for in this section of the *Handbook*. For the purposes of this policy, non-renewal of the appointment of a faculty member in a tenure-track appointment is governed by the procedures in Part One, Article VIII, of this *Handbook* and is not to be construed as dismissal for cause. For the purposes of this policy, non-renewal of the appointment of a faculty member in a non-tenure-track appointment is not to be construed as dismissal for cause and may not be appealed.

Cause for dismissal of a tenured faculty member or of a non-tenured faculty member before the expiration of an appointment shall be related directly and substantially to the fitness of the faculty member in his or her professional academic capacity, which includes responsible conduct toward all members of the College community. Cause for dismissal may involve alleged professional incompetence, neglect of duties, professional misconduct, or personal misconduct. Dismissal shall not be used to restrain faculty members in their exercise of academic freedom. For dismissals related to the termination of a department or program, please see this *Handbook*, Part One, Articles XVII-XIX.

If the charges against a faculty member are sufficiently grave and deemed by the ADOFP to warrant dismissal, the ADOFP shall refer the matter to a Grievance Panel (GP) consisting of three members of the Faculty Advisory Board (FAB). If the DOF/VPAA, in consultation with the ADOFP and others, finds good cause that the faculty member's continued presence on campus constitutes a threat to the safety of the faculty member or to others, or substantially and unreasonably impairs the ability of other community members to carry out their responsibilities, the faculty member may be suspended immediately. Unless legal considerations prohibit, pay and benefits shall continue until the matter is resolved.

### **G. Procedures of the Faculty Advisory Board and the Grievance Panel in Cases Involving Dismissal**

Following the referral from the ADOFP, the FAB will be convened by the FAB chair, and the three members of the Grievance Panel (GP) will be selected from the FAB as follows: all three must be tenured members of the Faculty; the ADOFP will select one panelist; the faculty member will select one panelist; and the FAB will select the third panelist. A panelist may not come from the same department or program as the faculty member (where “program” is understood as a unit whose members regularly engage with one another); any panelist with a conflict of interest may not serve. In addition, the faculty member and the ADOFP may each make one request that the FAB chair select a replacement. The GP will select a chair from among its membership.

The ADOFP shall convey to the GP the statement of charges and any other information gathered during the preliminary inquiry. The GP shall send copies of the charges in writing to the faculty member within 5 work days of receipt of the case from the ADOFP and notify the faculty member that he or she has a right to appear before the committee to present a response. The faculty member may take up to 20 work days to prepare the response and may propose that the GP meet with others who will speak on the faculty member’s behalf. The GP may also seek interviews with any persons who may have information relevant to the charges. All individuals appearing before the GP may have a representative (not an attorney) present at any meetings.

The GP shall complete its investigation and deliberations within 40 work days of receipt of the case from the ADOFP and shall immediately report its recommendation, with reasons for that recommendation, in writing to the DOF/VPAA, with copies to the ADOFP and the faculty member. The DOF/VPAA shall then report in writing within 10 work days his or her recommendation to the President, with copies to the ADOFP, the GP, and the faculty member. In the case of a non-tenured member of the Faculty, the President makes the decision about dismissal. In the case of a tenured member of the Faculty, the President will report his or her recommendation to the Board of Trustees for action. The President’s report to the Board will append the recommendation of the GP.

### **H. Appeal against Dismissal**

If the faculty member believes he or she has grounds for appeal, he or she may appeal in writing within 20 work days after receipt of the recommendation from the DOF/VPAA. Failure to appeal within the time limits stated in this section, unless such time limits are extended as provided in section I below, shall make final the decision against which the appeal is sought.

1. For appeals based on an alleged violation of academic freedom and/or rights, the faculty member may appeal to the CAFR. The CAFR will follow its operating code and will have 20 work days to convey its recommendation to the President.

or

2. For appeals based on (i) procedural error that might have affected the outcome of the decision or on (ii) new evidence, the faculty member may appeal to the President.

Whether the appeal comes through the CAFR to the President, or whether it comes directly from the faculty member, the President will decide whether the appeal has merit with respect to the appropriate criteria in each case, a review of the record, and a review of the recommendations and findings related to the charges.

The President has the options of

- denying the appeal;
- returning the case to the CAFR or the GP with specifications for further findings and recommendations;
- conducting further investigation; or
- reversing or modifying the recommendation(s).

The President will provide his or her written recommendation (with reasons for that recommendation) to the DOF/VPAA, the ADOFP, the GP, the CAFR (if applicable), and the faculty member within 10 work days after receipt of the recommendation from the chair of CAFR or within 20 work days after receipt of the appeal from the faculty member.

In the case of a non-tenured member of the Faculty, the President's decision is final. In the case of a tenured member of the Faculty, the President will report his or her recommendation to the Board of Trustees for final action. The President's report to the Board will append the recommendation of the GP.

## **I. Extension of Time Periods**

If circumstances warrant, the College reserves the right to extend any time periods identified in Article X.