

## UNIVERSITY REVIEW COMMITTEE

Tuesday, October 18, 2016  
2 p.m., Hovey 105

### MINUTES

Members present: Angela Bonnell, Rick Boser, Diane Dean, Joe Goodman, Christopher Horvath, Sheryl Jenkins, Sarah Smelser

Members not present: Sam Catanzaro, Doris Houston

Others present: Bruce Stoffel (recorder)

Note: In the minutes that follow, "Caucus" refers to the Faculty Caucus of the Academic Senate at Illinois State University, "AFEGC" refers to the Academic Faculty Ethics and Grievance Committee at Illinois State University, and "AAUP" refers to the American Association of University Professors.

#### I. Call to order

Chairperson Diane Dean called the meeting to order at 2:00 p.m. A quorum was present.

#### II. Approval of minutes from the October 6, 2016 meeting

Christopher Horvath suggested that two references to "progressive termination" in the fifth paragraph on page three of the draft minutes be replaced with the phrase "progressive discipline." Joe Goodman agreed, noting that he had used the phrase "progressive discipline" in his comments at that point in the meeting.

Horvath moved approval of the minutes as distributed prior to the meeting but with replacement of the phrase "progressive termination" with the phrase "progressive discipline" in the fifth paragraph on page three of the draft minutes. Rick Boser seconded the motion. The motion carried on voice vote, with five ayes and two abstentions (Angela Bonnell and Sarah Smelser).

#### III. Proposed ASPT disciplinary articles

##### News and updates

Dean reported having talked with Caucus Chairperson Susan Kalter about current and proposed AFEGC policies. Dean then distributed AFEGC policies and related documents provided by Kalter (see attached).

Dean reminded committee members that URC has formed a working group to study involvement of AFEGC in ASPT matters including proposed disciplinary actions. Dean explained that, because proposed AFEGC involvement in disciplinary actions would constitute a change in the role of AFEGC, the working group will need to review both ASPT policies and AFEGC policies. Dean said that Horvath and Goodman have volunteered for the working group and welcomed other committee members interested in joining the working group to contact her.

Horvath said that it would be better for the working group to first consider ASPT policies and then address AFEGC policies, but the Caucus seems to want URC to address AFEGC policies first. He said the review can be done in that order but it may be more difficult.

Boser asked how the proposal for AFEGC involvement in ASPT disciplinary actions came about. Bruce Stoffel reported that Kalter authored the proposed revisions to the disciplinary articles over the summer and then reviewed them with the Caucus in September (2016). Kalter has stated that involvement of a faculty ethics and grievance committee like AFEGC in disciplinary actions is recommended by AAUP, Stoffel said. Dean said an appellate body will be need in dismissal cases and suggested that the working group

investigate whether ethics and grievance committees like AFEGC are involved in disciplinary actions at other universities.

Goodman asked how often AFEGC hears alleged ethics violations. Horvath responded that during his service with AFEGC the committee had about a dozen cases. He reported that all cases were resolved informally; only one hearing committee was formed but the case was resolved before the hearing was held. Goodman asked Horvath if AFEGC decisions are binding. Horvath explained that AFEGC decisions are recommendations to the Provost. He clarified that AFEGC does not have the power to resolve, only to encourage parties to resolve conflicts so they need not be resolved at a higher level. Goodman asked whether ASPT and AFEGC policies will need to be revised to provide that AFEGC actions in dismissal cases are binding. Horvath responded that URC will need to carefully consider doing so, because AFEGC decisions are not binding in any other instance. Horvath also noted that because AFEGC may have already been involved in a disciplinary case, the proposed AFEGC role as appellate body in dismissal proceedings may instead need to be assumed by a different body and operate with different procedures.

Angela Bonnell asked Horvath about the need for improvements to AFEGC policies. Horvath said AFEGC procedures are fuzzy especially with respect to formal proceedings, perhaps because it is expected that cases will be resolved before formal proceedings are necessary. It is also unclear what matters are covered by AFEGC and what matters are not, he said. Horvath explained that much of AFEGC activities while he served on the committee involved resolving conflicts between chairpersons and faculty members over chairpersons' authority and not specifically over ethics. Bonnell asked about the role the ombudsperson plays in conflicts before they are reviewed by AFEGC. Horvath said having the ombudsperson mediate a resolution before AFEGC involvement is one option for the faculty member filing the complaint.

Dean concluded the discussion, noting that it will provide a good foundation for future URC discussions regarding dismissal policies and procedures. Dean suggested that committee members think about what existing bodies might be involved in dismissal proceedings and also whether a new body should be established to fulfill that role.

#### Discussion of non-disciplinary termination

Dean directed the discussion to passages in the revised disciplinary articles regarding non-disciplinary termination, beginning on page 13 (see attached). She reminded committee members that they had agreed to separate passages regarding disciplinary termination and non-disciplinary termination. Stoffel noted the added reference in Section XI.A.1 to "regulations of the Board of Trustees and the ISU Constitution." He disseminated copies of the two documents (see attached) to committee members, who then reviewed passages in both documents pertaining to faculty termination.

Dean noted that, while the constitution refers to "discharge for cause," it does not distinguish between disciplinary and non-disciplinary discharge. Bonnell asked how often the constitution is changed. Boser noted that the version of the constitution that has been disseminated was approved in 2003. Horvath noted that the Board of Trustees apparently has the final say regarding the constitution.

Stoffel referred committee members to Section XI.A.4 on page 2 of the revised disciplinary articles, in the article titled "General Considerations." He noted that the section may aid URC discussion of a framework for passages regarding dismissal. Noting that section, Dean suggested that it might be helpful for the committee to begin its discussions regarding the proposed disciplinary articles by reviewing the "General Considerations" article. Committee members agreed.

#### Discussion of general considerations

Discussion ensued regarding the construction, content, meaning, intent, and style of Section XI.A on page 1 of the revised disciplinary articles. Questions were raised by committee members regarding recording of oral reprimands, the meaning of the term "recorded reprimand," the intent of the passage "violations of felony and ethics laws pertinent to a faculty member's responsibilities or of University policies, including the Code of Ethics and its appendices," and what is meant by "ethics laws."

Horvath noted the difference in sentence construction between Sections XI.A.1 and XI.A.2. Sarah Smelser concurred and suggested a rewrite of XI.A.2. Regarding sanctions listed in Section XI.A.2, Goodman said it is common in personnel matters that informal dialogue would not be considered part of the formal disciplinary process and that, in the case of an oral reprimand, the fact that one has been given is recorded in the personnel record but not its content. Boser asked what is meant by “recorded reprimand.” Goodman responded that he does not know, adding that recorded reprimand is not mentioned in standard human resource policies. Horvath suggested consulting AAUP guidelines for references to that term and then removing it from the draft disciplinary articles if the term is not used by AAUP. While the discussion among committee members continued, Goodman consulted AAUP guidelines and reported that the term “recorded reprimand” appears in them but is not defined.

Dean noted that the additional wording proposed in Section XI.A.2 (“pertinent to a faculty member’s responsibilities”) is intended to keep offenses like traffic violations from triggering disciplinary actions. Sheryl Jenkins asked whether the reference to “violations” is intended to mean charged or accused, violated or convicted; she said introduction of the phrase “pertinent to a faculty member’s responsibilities” leaves the passage open to interpretation. She also said it is unclear what ethics laws would apply. Horvath said that he is deeply troubled by the term “felony” laws. He also questioned the intent of the term “ethics laws,” noting that it might refer to ethics guidelines that are the subject of annual state-mandated ethics training for university employees. He said guidelines covered in the annual training are not laws.

Discussion turned to the degree to which the committee should wordsmith the disciplinary articles received from the Caucus. Bonnell noted that many of the revised passages are written in a style different from the style used in the ASPT document that was approved by the Caucus in spring 2016. Jenkins added that if URC does not wordsmith the revisions, they will not be clear. Dean said she is open to wordsmithing. She suggested inviting Kalter to a URC meeting to explain her rationale for the changes.

Horvath said that, if the committee follows the same pattern as the rest of the ASPT document when revising the disciplinary articles, the committee should first set forth definitions, then procedures, and then appeals procedures. He said the revised “General Considerations” article appears to set forth definitions, while procedures are addressed later in the disciplinary articles. Dean noted that detailed procedures begin on page 5 (in the proposed “Sanctions” article).

Goodman noted that many passages proposed to be added to the disciplinary articles have been used verbatim from AAUP guidelines and asked about the appropriateness of doing so. He also noted that it may be more appropriate for URC to consult the 2005 edition of the AAUP guidelines regarding disciplinary actions rather than the earlier edition that had apparently been used to draft the revisions being considered by the committee.

Dean brought the discussion to a close, stating that the committee will continue discussion of “General Considerations” at its next meeting. Smelser asked what documents committee members should review to prepare for that discussion. Jenkins suggested reviewing the ISU constitution and the governing document of the Board of Trustees. Dean said she plans to study the transcript of the September 14, 2016 Caucus meeting. She and Boser suggested studying the AAUP guidelines as well. Goodman said he will email committee members a link to the latest edition of them. Dean said she will also work with Stoffel to draft a schedule of URC discussions and actions for the remainder of the fall semester.

#### IV. Other business

There was none.

V. Adjournment

Goodman moved that the meeting adjourn. Boser seconded the motion. The motion carried on voice vote, all voting in the affirmative. The meeting adjourned at 3:04 p.m.

Respectfully submitted,  
Joseph Goodman, Secretary  
Bruce Stoffel, Recorder

ATTACHMENTS:

Documents related to AFEGC:

Email dated October 7, 2016, from Susan Kalter to Diane Dean re URC 2016-2017 charge and timeline, with the AFEGC policy current as of October 7, 2016 attached

Faculty Caucus Agenda, October 12, 2016 with the following information items: 10.05.16.01 Proposed changes to 3.3.8 main AFEGC policy, 10.05.16.02 Proposed changes to 3.3.8A AFEGC policy, 10.05.16.03 Proposed changes to 3.3.8B AFEGC policy, 10.05.16.04 Proposed changes to 3.3.8C AFEGC policy, and 10.05.16.05 Proposed changes to 3.3.8D AFEGC policy

Disciplinary actions: Articles XI-XIV as considered by Faculty Caucus on September 14, 2016 (including comments and proposed revisions by Susan Kalter)

*Illinois State University Constitution*, April 23, 2003

*Governing Document of the Board of Trustees*, Illinois State University, Revised January 12, 2013

**From:** [Kalter, Susan](#)  
**To:** [Dean, Diane](#)  
**Cc:** [Stoffel, Bruce](#); [Catanzaro, Salvatore](#)  
**Subject:** Re: URC 2016-17 charge and timeline  
**Date:** Friday, October 07, 2016 4:57:03 PM  
**Attachments:** [FCAgenda10-12-16.zip](#)

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Diane,

That seems like no problem, since those documents are now open to campus under Open Meetings Act rules.

Here first is the current policy: <http://policy.illinoisstate.edu/employee/3-3-8.shtml>

Attached are the contemplated revisions. We broke the policy into 5 parts last year, but that hasn't happened on the website yet.

Finally, just know that several other contemplated revisions are tentatively scheduled for 2017-18, depending on what legal research and other conversations with various interested parties bring up. We're finding that once a critical mass of contemplated revisions is in a marked-up draft, it is best to vote those up, down or sideways, get a new, clean draft, and then keep at the improvements. Hopefully they are mostly improvements.

Best,  
Susan

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### [3.3.8 Faculty Academic Freedom Ethics and Grievance ...](#)

[policy.illinoisstate.edu](http://policy.illinoisstate.edu)

Jump over the site's section navigation. 3.1 General; 3.2 Faculty, AP, & Civil Service Policies; 3.3 Faculty Members; 3.4 Administrative Professionals

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3.1 GENERAL

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## 3.3.8 Faculty Academic Freedom, Ethics And Grievance



### I. Authority

Initiating body: Academic Senate

The authority to create this Faculty Academic Freedom, Ethics, and Grievance Committee ("AFEGC") is established by the Illinois State University Constitution.

Contact: Vice President and Provost (309-438-7018)

The AFEGC is an external committee of the Illinois State University Academic Senate and is responsible to the Senate for the faithful execution of this policy and for upholding all policies associated with it.

Revised on: 4/2016

For the purposes of this document, faculty is defined as including tenured, probationary tenure-track, unionized and non-unionized non-tenure-track faculty (NTT) and faculty associates. The inclusion of NTT faculty in this document does not create or add any new rights beyond those which may already exist in the NTT negotiated agreement; specifically, the NTT negotiated agreement for union members requires that its members can only bring academic freedom grievances through the AFEGC process.

### II. Jurisdiction, Exemptions and Malicious Charges

The AFEGC shall have Faculty jurisdiction over the following:

**A. Jurisdiction:** The AFEGC has faculty jurisdiction over the following:

#### Referrals

1. A referral from the Faculty Review Committee ("FRC"), pursuant to Article XIII.G.3 of the Faculty Appointment Salary Promotion and Tenure Policies ("ASPT"), in promotion and tenure cases where "the FRC believes that the basis of the appeal is an academic freedom or ethics violation."

2. A referral from the College Faculty Status Committee ("CFSC"), pursuant to Article XIII.I.I of the ASPT, in performance evaluation cases where "the CFSC believes that the basis of the appeal is an academic freedom or ethics violation."

#### Complaints

3. A complaint by a faculty member that the action of some person or persons, acting in an official capacity as an ISU employee or member of the Board of Trustees, has violated the faculty member's academic freedom in teaching, research, publication, and/or shared governance. A complaint alleging violation of academic freedom must be consistent with the Illinois State University Constitution, Article III.
4. A complaint by a faculty member, an administrator, or an administrative body alleging that a faculty member or an administrator has violated the Faculty Code of Ethics.
5. A complaint by a probationary faculty member, who has received a notice of dismissal for cause prior to the expiration of the faculty member's contract term, alleging that the basis of the dismissal is an academic freedom or ethics violation. See ISU Constitution, Article III, Section 4.B.1.
6. A complaint by a probationary faculty member, who has received a notice of non-reappointment, alleging that the basis of the non-reappointment is an academic freedom or ethics violation. See ASPT, XIII.K.4.
7. A complaint by a faculty associate against a faculty member or a non-laboratory-school administrator, or a complaint by a faculty member or non-laboratory-school administrator against a faculty associate which is an allegation of an ethics or academic freedoms violation.
8. A grievance in the form of a complaint by a probationary, tenured/tenure-track, or non-unionized NTT faculty member that is not based in academic freedom concerns or the Code of Ethics. A grievance is defined as any dispute with respect to the meaning, interpretation, or application of University policy (including College and Department/School bylaws) or any dispute arising from deviation from long-standing past practice. Board of Trustees Regulations and By-Laws, their meaning and/or interpretation may not be grieved.

**B. Exemptions:** Except for those cases provided for in II.A.1-2 and II.A.5-6 above, the ASPT guidelines and other university policies provide that the AFEGC has no jurisdiction in the following cases:

1. Faculty complaints in promotion, tenure, or performance evaluation matters, where a faculty member "believes that there has been a misinterpretation, misjudgment, or procedural error relating to a promotion, tenure, or performance evaluation recommendation concerning the faculty member." ASPT,XIII.C
2. Cases involving the "dismissal of a tenured faculty member." ASPT,III.E.
3. All cases heard under the Integrity in Research and Scholarly Activity Policy.
4. All cases alleging violations of University Policy 1.2.1 Anti-Harassment & Non-Discrimination Policy.

**C. Malicious Charges:** Bringing unfounded charges motivated by malice, or failure to treat colleagues and students fairly, with respect, civility and decency, without exploitation and without discrimination based on irrelevancies, constitutes malicious charges and is a violation of the Code of Ethics. Where appropriate, the Report of the Hearing Committee and/or the

Report of the Appeals Hearing Committee will state explicitly whether there was a reasonable basis in fact and honest belief for making charges.

If either Report should determine that the making of the original charges or the testimony of any person was maliciously motivated, that finding shall be communicated to the Provost and to the respondent and that person can then decide whether to pursue a grievance/counter-complaint. The Provost may enter a finding of malicious conduct in the person's personnel file and communicate the finding to the person, the person's Dean and Department Chair/School Director/Unit Director. Such a finding may be the basis for disciplinary action or other personnel decisions in accordance with University rules and regulations.

## 3.3.8A Academic Freedom, Ethics, And Grievance Committee ("AFEGC")

### Creation and Composition of the Committee

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#### A. Committee chairperson

Since AFEGC terms will coincide with the beginning of the academic year, at the call of the preceding Chairperson, the Chair and Vice-Chairperson will be elected within the first month of classes for one-year terms. In the event the preceding AFEGC chair is no longer serving on the committee, a meeting of the AFEGC will be called by the Chair of the Academic Senate for the sole purpose of electing a chair for AFEGC. The Chairperson and Vice-Chairperson of the AFEGC shall be tenured faculty members.

#### **The Chairperson's duties shall include the following:**

1. To inform the university faculty concerning the jurisdiction of the AFEGC and its policies and procedures in AFEGC matters (see AFEGC Flowchart)
2. To inform all university faculty members about the grievance process by providing them annually by e-mail the website for the AFEGC Policies and Procedures and the Code of Ethics.
3. To call and preside over meetings of the AFEGC
4. To ensure that proper procedure is followed in the handling of AFEGC matters, including the timely processing of complaints and referrals
5. To initiate, when deemed appropriate, the informal conciliation of complaints filed with the AFEGC as provided in Policy 3.3.8C.
6. To provide training to members. In order to increase consistency in decision-making when the committee turns over, at the beginning of each year the chairperson of the AFEGC shall provide a summary of all cases of the last five years (those resolved informally and those resolved in a formal Hearing). No individual, department, or college names shall appear in the summaries. These summaries shall be drawn up at the end of each year by that year's chairperson. The cases shall be presented as scenarios for discussion by the new members.
7. To extend deadlines as needed to provide for equitable due process, in consultation with and on agreement of all parties concerned. A



committee may petition the chairperson of the AFEGC for an appropriate extension of deadlines.

8. To oversee the election of committee members other than the Chair to serve as voluntary conciliation facilitators, with duties as outlined in Policy 3.3.8C

## B. Members

The AFEGC will consist of thirty-three (33) members defined below. Each year, the faculty members of every department shall nominate by election within the Department one faculty member with tenure. University personnel in the following positions shall NOT be eligible to serve on the AFEGC:

- College deans
- Department chairpersons
- Academic Senate members
- Faculty Review Committee members
- University Review Committee
- College Faculty Status Committee members
- Administrative Personnel
- Civil Service Personnel

Department/School Faculty Status Committee members may not serve on cases involving their own departments. A faculty member with tenure may petition to be included as an addition to the departmental/school nominees by indicating willingness to serve on the annual Senate external committee form.

## C. Procedures for electing members

The Academic Senate Faculty Caucus shall elect the AFEGC during the Spring Semester prior to the seating of newly elected Senators using the following procedures.

**Tenured faculty:** In each year of an election, the six (6) faculty with the highest number of votes shall be declared elected for a three-year term. Any vacancy occurring between elections shall be filled by the first eligible person of those who, at the last election, received the next highest number of votes. The position on the AFEGC of anyone who will be or has been absent from regular duties for one semester or longer shall be declared vacant. A member named to fill any vacancy shall serve the remainder of the unexpired term.

**NTT Faculty:** The NTT faculty members of each college who are covered by the NTT negotiated agreement will elect a non-tenure-track faculty member from their college and covered by the NTT negotiated agreement to a pool. The pool shall be elected annually each fall. A different member will be chosen from this pool for each committee (hearing, appeals) for cases where a complainant or respondent is a non-tenure-track faculty member covered by the NTT negotiated agreement. These NTT pool members will only serve in cases regarding NTT complainants or respondents covered by the NTT negotiated agreement.

It is understood that two college (Mennonite College of Nursing and Milner Library) have no NTTs covered by the negotiated agreement.

Non-tenure-track faculty members not covered by the NTT negotiated

agreement in Mennonite College of Nursing and Milner Library shall each elect two (2) non-tenure-track faculty members not covered by the NTT negotiated agreement to a pool. The pool shall be elected annually each spring, with members elected by the NTT faculty of their own college. A different member will be chosen from this pool for each committee (hearing, appeals) for cases where a complainant or respondent is a non-tenure-track faculty member not covered by the NTT negotiated agreement. These NTT pool members will only serve in cases regarding NTT complainants or respondents not covered by the negotiated agreement.

**Faculty Associate:** The faculty associates at Metcalf School and University High School will each elect three (3) faculty associates to a pool. The pool shall be elected annually each spring, with members elected by the faculty associates of their own laboratory school. A different member will be chosen from this pool for each committee (hearing, appeals) for cases where a complainant or respondent is a faculty associate. These faculty associate pool members will only serve in cases regarding faculty associate complainants or respondents.

If a member of the AFEGC is engaged in a hearing or other process related to a complaint or referral, the member will continue to serve regarding that matter until the matter is terminated, even though such service may thereby extend beyond the expiration of the member's term of office.

## 3.3.8B Types Of Cases & Procedures For Cases

### Complaints, Grievances, and FRC or CFSC Referrals

#### General Procedures for Complaints and Referrals

Complaints and referrals will be filed with the Chairperson of the AFEGC, or in his/her absence, the Vice-Chairperson. Upon receipt of the complaint or referral, the Chairperson or Vice-Chairperson shall confirm in writing to the complainant or referee receipt of the complaint or referral and the date of filing within five (5) business days. The Chairperson or Vice-Chairperson shall also transmit a copy of the complaint or referral to the appropriate respondent(s).

In this and subsequent matters, members of the AFEGC shall use only confidential campus mail envelopes to transmit items related to complaints and referrals, unless the Chairperson of the AFEGC has received signed permission from all parties and committee chairpersons that email or another electronic transmission mode is acceptable.

#### Referrals

A referral to the AFEGC shall be defined as a referral either from the FRC, as described above in II.A.1, or a referral from a CFSC, as described above in II.A.2. A referral shall at a minimum include:

1. A written statement by the FRC or CFSC describing the basis for the referral;
2. Forwarding of any documentation from the FRC or CFSC pertinent to the referral;
3. Indication from the FRC or CFSC as to the timelines by which the

AFEGC is to submit its report back to the FRC or CFSC.

### Procedures in Referral Cases

Where a case is referred to the AFEGC by the FRC or a CFSC, the Chairperson of the AFEGC shall call a meeting of the tenured members of the AFEGC to determine, by majority vote, whether a hearing is warranted. If no hearing is warranted because a decision can be rendered with the materials at hand, the AFEGC reports its decision to the original referring committee - FRC or CFSC.

If a hearing is warranted in the case, the AFEGC shall proceed directly to an appeal hearing. The Chair of the AFEGC shall form an Appeal Hearing Committee (AHC). As outlined in the ASPT, XIII.G.3 and XIII.I.1, the report of the AFEGC, shall offer recommendations to the FRC or CFSC so that they may exercise their ASPT responsibilities.

In the case of an appeal of an Appeal Hearing Committee (AHC) decision by either the complainant or respondent, copies of the decision by the AFEGC AHC will be forwarded to the original referring committee and to the Chairperson of the Academic Senate.

The Executive Committee of the Faculty Caucus will then review the decision within five (5) working days of receiving the AHC decision on appeal. The Executive Committee of the Faculty Caucus may decide that an AHC decision warrants a hearing by the Faculty Caucus of the Academic Senate or it may file a report directly to the original referring body and to the Provost.

Within ten (10) working days, the Faculty Caucus of the Academic Senate will submit its decision to the original referring body and to the Provost.

If the deadline for action by the original committee has passed during any part of this process, the chair of the AFEGC will forward the decision by the AFEGC appeals committee to the President, the Provost, and the original referring committee (for tenure and/or promotion cases) or to both the CFSC and DFSC in performance evaluation cases.

### Complaints and Grievances

A complaint shall be defined as a written statement alleging a matter within the jurisdiction of the AFEGC, as defined above by II.A.3-II.A.8.

A grievance shall be defined as a written statement alleging a matter within the jurisdiction of the AFEGC, as defined above by II.A.8.

A complaint or grievance shall at a minimum include:

1. The jurisdictional basis of the complaint or grievance, by specification of the subsection II.A which provides for the jurisdiction of the AFEGC;
2. A written statement detailing the basis of the complaint or grievance, including a narrative of the facts which the complainant believes could be proven if a formal hearing were to take place;
3. For complaints, a statement of the section(s) of the Code of Ethics the complainant believes has been violated, if applicable;
4. For grievances, a statement of the policy or past practice the complainant believes has been violated;

Complaints and grievances may also include as attachments any

documentation believed to be relevant to the complaint.

### Procedures in Complaint Cases

In cases of complaints filed by a faculty member, the Chairperson shall consult the Provost's Office as to the appropriate respondent, who shall be designated by agreement of the AFEGC Chairperson and the Provost. In the absence of an agreement between the AFEGC Chairperson and the Provost, the faculty members of the Senate Executive Committee shall determine the appropriate respondent.

Members of the Senate Executive Committee from the complainant's and respondent's own department(s) shall recuse themselves from these decisions and shall not be made aware of the case. For cases from the Senate Chair's own department, the Senate chair will recuse him/herself and hand over the case documentation and the chairing of the decision to the Senate Secretary (if from a different department) or the senior member of the Executive Committee (in years of service on Exec and then years of service on the Senate).

In cases of complaints alleging ethics violations, the appropriate respondent is the person accused of the ethics violation. In appropriate cases, such as where discrimination or sexual harassment is alleged, the Chairperson shall notify the Affirmative Action Officer.

## 3.3.8C Voluntary Conciliation

### Encouragement of Voluntary Informal Conciliation Efforts with Complaint Cases

As a matter of general policy, the Academic Senate and the AFEGC hereby encourage but do not require any complainant, before filing a complaint, to seek informal conciliation and resolution of the perceived grievance.

Such informal conciliation can take many forms. Usually a prospective complainant confers with a representative of the administration who would normally respond to the complaint (if filed by a faculty member); or an administrator considering an ethics complaint against a faculty member confers with that faculty member.

The parties involved in this informal conciliation conference typically seek to resolve the complaint voluntarily, in order to preclude the necessity of filing a complaint.

If such voluntary informal conciliation efforts fail, or if one or more of the parties in the dispute refuse informal conciliation, for whatever reason, they may consult with the University Ombudsperson Council prior to filing a formal complaint with the AFEGC.

If, in exceptional circumstances, a complainant or respondent is concerned about or unwilling to work with a University Ombudsperson in pursuing an informal and voluntary resolution to the issue of concern, that person may contact an AFEGC member who has been elected by the committee to serve as a voluntary conciliation facilitator. The parties may work with this designated committee member in pursuing an informal resolution to the case at any stage.

The complainant may still file a formal complaint with AFEGC after the appropriate Ombudsperson or a voluntary conciliation facilitator elected by the committee has been consulted, if the case remains unresolved.

## 3.3.8D Hearing Committees, Appeals, And Reports

### Faculty Hearing Committee (HC)

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In cases of complaints where a conciliation effort is not deemed appropriate by the Ombudsperson or AFEGC voluntary conciliation facilitator, or where such an effort has been unable to resolve the matter, and in all cases of referrals, the Chairperson shall appoint, from the members of the AFEGC, a three (3) member HC for each case that necessitates a hearing. The appointment shall normally take place within five (5) working days of a referral or of a decision that a hearing is warranted.

In cases where the complainant or respondent is a non-tenure-track faculty member, the Chairperson shall appoint two (2) of its T/TT members of the AFEGC to the HC and one (1) non-tenure-track member from the non-tenure-track pool made up of members from each college.

1. The HC shall elect a chairperson from its own membership.
2. The Chairperson of the AFEGC shall supervise the election procedure after deciding that a HC needs to be formed.
3. No member of the AFEGC shall serve on a HC who: (1) is the Chairperson of the AFEGC; (2) is a member of the same department/school as the person for whom the hearing will be held; or (3) for good reason believes he/she cannot or should not serve (e.g., actual or apparent conflict of interest, such as those who have served on a DFSC/SFSC, CFSC, or FRC that has been involved with the complaint). Representatives of Mennonite College of Nursing, Milner Library, Metcalf School and University High School may not serve on a HC of a proceeding in which the complainant or respondent is from the same unit.
4. In the event of vacancies making it impossible to staff a HC with appropriate representatives as established above, the Chairperson may appoint any member of the AFEGC who is not a member of the same unit as the complainant or respondent to the HC.
5. The Hearings shall be conducted according to the following procedures:
  - a. Proceedings shall be conducted in good faith;
  - b. Formal hearings shall be closed unless both parties consent to an open meeting or an open meeting is required by law;
  - c. The chairperson of the Hearing committee or a designee shall, at the outset of the hearing, state the issues in the proceedings to all involved parties;
  - d. Subject to applicable law, the privacy of confidential records and proceedings in the hearing process shall be respected;
  - e. Members serving on hearing panels should scrupulously avoid any conflict of

interest and must notify the Chairperson of the AFEGC if any such conflict exists;

f. Except as modified below, the principal parties should be accorded the right to see all documents considered by the HC, to hear opposing statements, to present evidence, to call witnesses, and to be accompanied by a technical or informal advisor.

## Hearing

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Within ten (10) working days of the constitution of the committee, the chairperson of the HC shall set a hearing date, unless this timeline is extended by mutual agreement of the chairperson, complainant, and respondent. Within these ten (10) days, the Chairperson of the AFEGC and Chairperson of the HC will schedule a meeting of the HC membership to provide training to review procedures, standards and confidentiality with the HC membership.

The hearing shall be conducted according to the following procedures:

A. The complainant shall be given five (5) working days prior to the scheduled hearing to submit any documentation the complainant deems relevant to the HC. The complainant must also provide the respondent with:

- o A written position statement detailing the basis of the complaint, including a narrative of the facts which the complainant believes could be proven if a formal hearing were to take place;
- o Any documentation the complainant deems relevant.

B. The HC has an obligation to transmit all documentation to the respondent within one working day. If this timeline cannot be met for any reason, the timeline for the respondent's response shall be lengthened by as many days as it took the HC to transmit the information to the respondent.

C. Within ten (10) working days of receipt of the submission by the complainant, the respondent shall submit to the HC and the complainant:

- o A written statement detailing the response to the complaint, including a narrative of the facts that the respondent believes could be proven in a formal hearing.
- o Any documentation the respondent deems relevant.

D. Assuming the timeline outlined in B and C of this section is met, a Hearing shall take place within twenty (20) working days of the formation of the HC.

E. At the scheduled hearing, the HC will:

- o Allow the complainant and the respondent, or their representatives, if they so elect, to make oral presentations supplementing their written submissions;
- o Ask the complainant and the respondent any questions the HC deems relevant regarding their written submissions and/or oral presentations.
- o The HC will inquire into the situation only to the extent necessary to enable the Committee to make a recommendation or to effect a resolution. Presentation and examination of witnesses will take place when the HC deems it to be appropriate in a particular case. The proceedings will be tape-recorded. The HC may limit the oral presentations to any time length that it deems appropriate, but each side will have the same amount of time, not to be less than 20 minutes.

F. Within ten (10) working days after the hearing is conducted, the HC will

issue its written report and recommendation, approved by a majority vote, to the Chairperson of the AFEGC regarding the complaint, which will take one of the following forms:

- The HC may recommend dismissal of the complaint;
- The HC may conclude that there are disputes of material fact such that a further hearing is warranted and necessary, or that a further hearing is warranted for any reason the HC deems appropriate in order for the AFEGC to come to a recommendation regarding the complaint
- The HC may conclude that it has sufficient information to move to a decision and issue its final recommendation regarding the complaint.

The written report shall include:

- A summary of findings of fact;
- A summary of the rationale for reaching a conclusion or holding a further hearing;
- A recommendation of action to the Provost, unless a further hearing by the HC has been recommended.

#### **For written reports containing the HC's final recommendation:**

In academic freedom violation cases, the conclusion of the report and recommendation shall follow the format:

"The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_."

In ethics violation cases, the conclusion of the report and recommendation shall follow the format:

"The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ which dealt with section ( ) of the Code of Ethics has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_."

The Chairperson of the AFEGC shall communicate the HC's recommendation to the complainant and the respondent and inform them of their right to appeal. Within five (5) working days after receiving the HC recommendation, the complainant or respondent may appeal the recommendation of the Hearing Committee. The written request will explain the basis for the request.

## **Appeal Hearings**

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If, after a hearing, the AFEGC receives a request for an appeal hearing, or on referral from a College Faculty Status Committee (CFSC) or the Faculty Review Committee (FRC), then the Chairperson shall constitute an Appeal Hearing Committee (AHC) with new members. The AHC shall consist of five (5) members.

In the case that both claimant and respondent are tenured or probationary faculty members, the five members shall be drawn from the tenured faculty on the AFEGC. In the case that a claimant or respondent is a non-tenure track member, the AHC shall consist of three (3) tenured faculty AFEGC

members and two (2) non-tenure-track members drawn from the non-tenure-track or faculty pool. If the claimant or respondent is a non-tenure-track member and covered by the NTT negotiated agreement, the AHC shall consist of three (3) tenured faculty AFEGC members, one non-tenure-track faculty member and a non-tenure-track faculty member not covered by the NTT negotiated agreement who did not serve on the HC. In the case that a claimant or respondent is a faculty associate, the AHC shall consist of three tenured faculty AFEGC members, one non-tenure-track faculty member, and a faculty associate who did not serve on the HC.

The Chairperson of the AHC shall schedule the appeal hearing within ten (10) days after the AHC formation. This timeline may be extended by mutual agreement of the chairperson of the AHC, the complainant, and the respondent. The parties will be given written notice of the date, time, place, and purpose of the hearing. In constituting the AHC, the following procedures shall apply:

The AHC shall elect a chairperson from its own membership.

The Chairperson of the AFEGC shall supervise the election procedure after deciding that an AHC needs to be formed.

No member of the AFEGC shall serve on an AHC who (1) is the Chairperson of the AFEGC; (2) is a member of the same department/school as the person for whom the hearing will be held; or (3) for good reason believes he/she cannot or should not serve (e.g., actual or apparent conflict of interest, such as those who have served on a DFSC/SFSC, CFSC, or FRC that has been involved with the complaint)

Representatives of Mennonite College of Nursing, Milner Library, Metcalf School and University High School may not serve on an AHC of a proceeding in which the complainant or respondent is from the same unit.

In the event of vacancies making it impossible to staff an AHC with appropriate representatives as established above, the Chairperson may appoint any member of the AFEGC who is not a member of the same unit as the complainant or respondent to the AHC.

Appeals Hearing shall be conducted according to the following procedures:

Proceedings shall be conducted in good faith;

Hearings shall be closed unless both parties consent to an open meeting or an open meeting is required by law;

The chairperson of the AHC or a designee shall, at the outset of the hearing, state the issues in the proceedings to all involved parties;

Subject to applicable law, the privacy of confidential records and proceedings in the hearing process shall be respected;

Members serving on hearing panels should scrupulously avoid any conflict of interest and must notify the Chairperson of the AFEGC if any such conflict exists;

Except as modified below, the principal parties should be accorded



the right to see all documents considered by the AHC, to hear opposing statements, to present evidence, to call witnesses, and to be accompanied by a technical or informal advisor.

The chairperson of the AHC shall be responsible for conducting the hearing and has the complete authority, in consultation with the other members of the AHC, to control all aspects of the proceedings, including process, the hearing of testimony, and the introduction of other evidence as deemed necessary and appropriate. The AHC will not be bound by any formal rules of federal or state court procedure and evidence, and may consider whatever evidence it deems relevant and give such evidence any weight it deems appropriate in the considered and collective judgment of the committee's members.

The AHC will admit into the record of the proceedings the position statements and any documentation presented by the parties in the hearing, and may accept any additional documentation or evidence from the parties, so long as new allegations or charges are not raised. The AHC will provide reasonable aid, within its ability, in securing attendance of witnesses through its status as an approved university committee. The AHC will afford each party an opportunity to examine all witnesses whose appearance it has approved.

The AHC may determine that the testimony of suggested witnesses is either not relevant or cumulative, and may call witnesses on its own motion. The AHC will afford each party in the dispute an opportunity to be heard by the AHC and to be accompanied by an advisor or representative of their choice. The parties shall normally speak for themselves, but the AHC has the discretion to authorize either party's advisor or representative to examine witnesses or present oral or written arguments.

In all cases, the complainant shall have the burden of proof throughout the hearing by a "preponderance of the evidence" standard. Oral arguments shall be limited to ten minutes, except at the discretion of the Chair.

The written report shall include:

- a summary of findings of fact;
- a summary of the rationale for reaching a conclusion;
- a recommendation of action to the Provost.

In academic freedom violation cases, the conclusion of the report and recommendation shall follow the format:

"The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_."

In ethics violation cases, the conclusion of the report and recommendation shall follow the format:

"The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ which dealt with section ( ) of the Code of Ethics has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_."

The AHC shall issue its final report and recommendation by a majority vote within 10 days of the completion of the formal appeal hearing.

### Special Cases

- In cases dealing with grievances, with the exception of cases described in the next bullet below, at the conclusion of a formal appeal hearing the AHC shall file a written report and recommendation on a grievance matter with the Provost.
- In cases referred to AFEGC from a CFSC or FRC the AHC will file its written report and recommendation with the body that referred the case to AFEGC.
- In cases dealing with ethics or academic freedom, the AHC shall file a written report and recommendation with the Chairperson of the Academic Senate.

The Chairperson of the Academic Senate shall distribute the report to the faculty members of the Senate Executive Committee.

The report and recommendations will be forwarded to the Provost if no faculty member of the Executive Committee requests that the report be considered by the joint faculty members of the Executive Committee. Otherwise, the joint faculty members of the Executive Committee will decide whether to forward the report to the Provost or to send it to the Faculty Caucus.

If the faculty members of Senate Executive Committee decide to forward the report to the Faculty Caucus, the Faculty Caucus will make a recommendation to the Provost on whether the AHC report should be accepted or rejected. This recommendation will be based entirely on whether the report adheres to the Faculty Ethics Code or to the principles of academic freedom cited in Article III, Section 1.A. of the Illinois State University Constitution.

Within 25 working days of the Senate Chairperson's receiving the AHC written report and the results of a possible appeal, the Faculty Caucus shall forward its recommendation to the Provost. If a recommendation is not made within 25 academic working days, the written report will go directly to the Provost without recommendation.

At the request of either party, a copy of the tape recording of the formal hearing shall be made available.

## Provost's Reply to AFEGC Reports and Recommendations

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After receiving the Final Report of the HC and, when applicable, the written report of an Appeals Hearing Committee and the recommendation of the Faculty Caucus, the Provost shall inform the AFEGC whether or not the report and recommendation are acceptable and, if applicable, inform the AFEGC of the nature of any redress. This notification shall be in writing, within 25 administrative working days, and shall be sent to the complainant, the respondent, and the chair of the AFEGC. If the recommendation of the FHC or AHC has been rejected, the notification must include a rationale supporting that decision.

## Appeals to the President

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The complainant or the respondent may appeal a decision by the Provost to the President. The appeal shall take the form of a written statement to the President, filed within 5 working days of the Provost's decision, explaining the basis for the appeal. Unappealed decisions of the Provost, or decisions of the President in appealed cases, shall constitute final resolution of the complaint, and shall not be subject to any further appeal.

Links:

Flow Chart: [AFEGCFlowchart2006-04-03.ppt](#)

[Policy 1.17 Code of Ethics and appendices](#)

[Policy 1.17A Professional Relationships](#)

[3.1.44 Consensual Relations in the Instructional Context and Outside of the Instructional Context](#)

[3.3.12A Appendix to Code of Ethics: Faculty Responsibilities to Students](#)

[3.3.12B Appendix to Code of Ethics: Consensual Relations in Instructional Settings](#)

[3.3.12C Appendix to Code of Ethics: Involvement in Political Activities](#)

[3.3.13 Academic Freedom Policy](#)



*Faculty Caucus Agenda  
October 12, 2016  
Old Main Room, Bone Student Center  
Immediately Following the Academic Senate Meeting*

*Information Items:*

*10.05.16.01 Proposed changes to 3.3.8 main AFEGC policy*

*10.05.16.02 Proposed changes to 3.3.8A AFEGC policy*

*10.05.16.03 Proposed changes to 3.3.8B AFEGC policy*

*10.05.16.04 Proposed changes to 3.3.8C AFEGC policy*

*10.05.16.05 Proposed changes to 3.3.8D AFEGC policy*

*Adjournment*

## 3.3.8 Faculty Academic Freedom, Ethics and Grievance

### I. Authority

The authority to create this Faculty Academic Freedom, Ethics, and Grievance Committee ("AFEGC ") is established by the Illinois State University Constitution.

**Comment [c1]:** Add a link to the ISU Constitution, if possible

The AFEGC is an external committee of the Illinois State University Academic Senate and is responsible to the Senate for the faithful execution of this policy and for upholding all policies associated with it.

For the purposes of this document, faculty is defined as including tenured, probationary tenure-track, unionized and non-unionized non-tenure-track faculty (NTT) and faculty associates. The ~~inclusion of reference to negotiated~~ NTT faculty in this document is for the express purpose of academic freedom and the Code of Ethics and does not create or add any new rights beyond those which may already exist in the NTT negotiated agreement. ~~s~~ Specifically, the NTT negotiated agreement for union members provides that its members requires that its members can only bring to the AFEGC academic freedom grievances complaints as defined in II.A.3 below and/or Code of Ethics complaints as defined in II.A.4 below through the AFEGC process. The AFEGC will not hear complaints that: 1) relate to the subject matter of a filed or future grievance as defined in the NTT negotiated agreement; 2) that meet the definition of a grievance in the NTT negotiated agreement; or 3) that are specifically noted as not subject to the grievance process in the NTT negotiated agreement.

**Comment [SK2]:** It was brought to the attention of the Faculty Caucus Exec by the NTT union president (and the AFEGC chair) that this sentence needs clearly to include NTT rights to file non-union-related ethics complaints (as against other NTTs or TTs), as the negotiated agreement does not have a process for ethics complaints and faculty nationally have rights to academic due process in such matters.

Please note that the NTT negotiated agreement needs to have an addendum added to clarify that the third sentence of this paragraph is indeed the case! Currently, this statement is not strictly true.

### II. Jurisdiction, Exemptions and Malicious Charges

**A. Jurisdiction:** The AFEGC has faculty jurisdiction over the following:

#### Referrals

1. A referral from the Faculty Review Committee ("FRC"), pursuant to Article XIII.G.3 of the Faculty Appointment Salary Promotion and Tenure Policies ("ASPT"), in promotion and tenure cases where "the FRC believes that the basis of the appeal is an academic freedom or ethics violation."
2. A referral from the College Faculty Status Committee ("CFSC"), pursuant to Article XIII.I.1 of the ASPT, in performance evaluation cases where "the CFSC believes that the basis of the appeal is an academic freedom or ethics violation."

**Comment [c3]:** The question of referrals and individual complaints related to *post-tenure review* cases has been referred to URC (through Bruce Stoffel on May 25, 2016 from the Senate chair) since changes to ASPT policy need to happen in sync with changes to AFEGC policy with regard to any specification of this jurisdiction. I believe post-tenure review came in after AFEGC policy was written, and it hasn't been taken up as a question in revision cycles for AFEGC policy following its adoption in ASPT policy since.

## Complaints and Grievances

3. A complaint by a faculty member that the action of some person or persons, acting in an official capacity as an ISU employee or member of the Board of Trustees, has violated the faculty member's academic freedom in teaching, research, publication, ~~and/or~~ shared governance or extramural activity. A complaint alleging violation of academic freedom must be consistent with the Illinois State University Constitution, Article III.
4. A complaint by a faculty member, an administrator, or an administrative body alleging that a faculty member or an administrator has violated the ~~Faculty~~ Code of Ethics.
5. A complaint by a probationary faculty member, who has received a notice of dismissal for cause prior to the expiration of the faculty member's contract term, alleging that the basis of the dismissal is an academic freedom or ethics violation. See ISU Constitution, Article III, Section 4.B.1.
6. A complaint by a probationary faculty member, who has received a notice of non-reappointment, alleging that the basis of the non-reappointment is an academic freedom or ethics violation. See ASPT, XIII.K.4. Complaints must be filed within 5 business days of the date that the faculty member received the official notice of non-reappointment.
7. A complaint by a faculty associate against a faculty member or a non-laboratory-school administrator, or a complaint by a faculty member or non-laboratory-school administrator against a faculty associate which is an allegation of an ethics or academic freedoms violation. Complaints alleging ethics or academic freedom violations that are related to dismissal, non-reappointment, or resignation under duress must be filed 30 days prior to the date of termination of employment, 30 days after the receipt of the notice if less than 30-days notice was given, or by September 30 if notice was received between May 16 and August 15.
8. A grievance in the form of a complaint by a probationary, tenured/tenure-track, or non-unionized NTT faculty member that is not based in academic freedom concerns or the Code of Ethics. A grievance is defined as any dispute with respect to the meaning, interpretation, or application of University policy (including College and Department/School bylaws) or any dispute arising from deviation from long-standing past practice. Board of Trustees Regulations and By-Laws, their meaning and/or interpretation may not be grieved.

**B. Exemptions:** Except for those cases provided for in II.A.1-2 and II.A.5-6 above, the ASPT guidelines and other university policies provide that the AFEGC has no jurisdiction in the following cases:

1. Faculty complaints in promotion, tenure, or performance evaluation matters, where a faculty member "believes that there has been a misinterpretation, misjudgment, or procedural error relating to a promotion, tenure, or performance evaluation recommendation concerning the faculty member." ASPT, XIII.C.
2. Cases involving the "dismissal of a tenured faculty member." ASPT, III.E.
3. All cases heard under ~~the~~ University Policy 1.8 Integrity in Research and Scholarly Activity ~~Policy~~.

**Comment [c4]:** This accords with current ASPT policy.

9/8/16: Senator Horst as the Rules Committee representative suggested adding the sentence: "This notice will contain language explaining this timeline." She also noted: "CFSC language like XIII.I.1 in ASPT needs to be added to ASPT XIII.K.3. Also a note: "CFSC appeal referral in non-reappointment case not considered."

I would recommend against adding the first sentence here, as it would be better for it to be in ASPT policy and not duplicated. This policy set is already very, very long. Will ask Senator Horst what the other notes meant. Some have been referred to URC for consideration and others may need to be.

**Comment [c5]:** The effort here is to set reasonable limits while accounting for lags due to the different academic calendars of the lab schools and ISU and the greater likelihood that lab school faculty will not be immediately aware of their rights to file AFEGC complaints.

**Comment [SK6]:** This exemption may change if certain changes to the ASPT dismissal policy are made by the Faculty Caucus in 2016-17.

4. All cases alleging violations of University Policy 1.2.1 Anti-Harassment & Non-Discrimination ~~Policy~~

**C. Malicious Charges:** Bringing unfounded charges motivated by malice, or failure to treat colleagues and students fairly, with respect, civility and decency, without exploitation and without discrimination based on irrelevancies, constitutes malicious charges and is a violation of the Code of Ethics. Where appropriate, the Report of the Hearing ~~Committee Panel~~ and/or the Report of the Appeals Hearing ~~Committee Panel~~ will state explicitly whether there was a reasonable basis in fact and honest belief for making ~~charges~~.

If either Report should determine that the making of the original charges or the testimony of any person was maliciously motivated, that finding shall be communicated to the Provost and to the respondent and that person can then decide whether to pursue a grievance/counter-complaint. The Provost may enter a finding of malicious conduct in the person's personnel file and communicate the finding to the person, the person's Dean and ~~the person's~~ Department Chair/School ~~Director~~/Unit Director. Such a finding may be the basis for disciplinary action or other personnel decisions in accordance with University rules and regulations.

**Comment [SK7]:** The AFEGC members requested that we change all names of subsidiary groups (HC and AHC) to Hearing Panel (HP) and Appeals Hearing Panel (AHP).

**Comment [c8]:** Remove stray mark between "School" and "Director."

10.05.16.02  
From Faculty Caucus Chair (by way of Rules Committee 2014-16)  
Dist. Executive Committee 10/3/16  
Information Item 10/12/16

## 3.3.8A Academic Freedom, Ethics, and Grievance Committee (“AFEGC”)

### Creation and Composition of the Committee

#### A. Committee Chairperson

Since AFEGC terms will coincide with the beginning of the academic year, at the call of the preceding Chairperson, the Chair and Vice-Chairperson will be elected within the first month of classes for one-year terms. In the event the preceding AFEGC chair is no longer serving on the committee, a meeting of the AFEGC will be called by the Chair of the Academic Senate for the sole purpose of electing a chair for AFEGC. The Chairperson and Vice-Chairperson of the AFEGC shall be tenured faculty members. The Chairperson and the Vice-Chairperson must hold tenure in different colleges; neither shall handle any case originating from their own department.

#### The Chairperson's duties shall include the following:

1. To inform the university faculty concerning the jurisdiction of the AFEGC and its policies and procedures in AFEGC matters (see AFEGC Flowchart)
2. To inform all university faculty members about the grievance-referral, complaint and grievance processes by providing them annually by e-mail the websites for the AFEGC Policies and Procedures and the Code of Ethics
3. To call and preside over meetings of the AFEGC
4. To ensure that proper procedure is followed in the handling of AFEGC matters, including the timely processing of complaints and referrals
5. To initiate, when deemed appropriate, the informal conciliation of complaints filed with the AFEGC as provided in Policy 3.3.8C
6. To provide training to members. In order to increase consistency in decision-making when the committee turns over, at the beginning of each year the chairperson of the AFEGC shall provide a summary of all cases of the last five years (those resolved informally and those resolved in a formal Hearing). No individual, department, or college names shall appear in the summaries. These summaries shall be drawn up at the end of each year by that year's chairperson. The cases shall be presented as scenarios for discussion by the new members. This summary shall be filed with the Academic Senate chairperson, who will keep the information contained therein in strict confidence.
7. To extend deadlines as needed to provide for equitable due process, in consultation with and on agreement of all parties concerned. A committee may petition the chairperson of the AFEGC for an appropriate extension of deadlines.
8. To oversee the election of committee members other than the Chair to serve as a voluntary conciliation facilitators, with duties as outlined in Policy 3.3.8C

**Comment [c1]:** AFEGC Flowchart should be hyperlinked here: An update to the Flowchart will be needed. We may need to wait for staff support before considering the flow chart revision.

**Comment [c2]:** This language was added to respond to AVP Catanzaro's suggestion that a copy of the summary of cases should go to the Provost. It is not appropriate for the summary of cases to go to the Provost, as many of them are resolved informally (as stated in this paragraph) and should not rise to the attention of the academic officer through whom all faculty are appointed, salaried, tenured, promoted, etc. by the President. However, if there is a wish for greater continuity, this suggested language would be the most appropriate, since historically there have been breaks in continuity among AFEGC chairs/committees. It could also be filed with the Academic Senate clerk if people are uncomfortable with the Senate Chair seeing it. This matter can be debated in the Faculty Caucus before being finalized.

Martha Horst suggests that any cases that actually do rise to the Provost's attention during the course of a given year should be kept in some sort of file by the Provost's office so that there is continuity from Provost to Provost with regard to sanctions imposed for like offenses. To some extent, the new ASPT disciplinary articles \*might\* help with some of that, but it is a good idea. It might be more of an internal Provost's office practice, so such wording—if in AFEGC policy—should task it in that way rather than making it a responsibility of the AFEGC. Also, it should be noted that in the past there have been AFEGC cases that are legally sealed against opening except by a court order or the consent of the Board of Trustees. Such cases cannot be kept by the Provost's office.



## B. Members

The AFEGC will consist of ~~thirty one (31)~~thirty-three (33) members defined below. Each year, the faculty members of every department shall nominate by election within the Department one faculty member with tenure. University personnel in the following positions shall not be eligible to serve on the AFEGC:

- College deans
- Department chairpersons
- Academic Senate members
- Faculty Review Committee members
- University Review Committee members
- College Faculty Status Committee members
- Administrative Personnel
- Civil Service Personnel

Department/School Faculty Status Committee members may not serve on cases involving their own departments. A faculty member with tenure may petition to be included as an addition to the departmental/school nominees by indicating willingness to serve on the annual Senate external committee form.

Only persons holding full-time faculty appointments (tenure-line or non-tenure-line) or full-time faculty associate appointments may serve as members of AFEGC.

## C. Procedures for electing members

The Academic Senate Faculty Caucus shall elect the AFEGC during the Spring Semester prior to the seating of newly elected Senators using the following procedures.

**Tenured faculty (18):** In each year of an election, the six (6) faculty with the highest number of votes shall be declared elected for a three-year term. Any vacancy occurring between elections shall be filled by the first eligible person of those who, at the last election, received the next highest number of votes. The position on the AFEGC of anyone who will be or has been absent from regular duties for one semester or longer shall be declared vacant. A member named to fill any vacancy shall serve the remainder of the unexpired term.

**NTT Faculty (9, consisting of 5 negotiated and 4 non-negotiated):** The NTT faculty members of each college who are covered by the NTT negotiated agreement will elect ~~a one (1) full-time~~ non-tenure-track faculty member with status from their college and covered by the NTT negotiated agreement to a pool. The pool shall be elected annually each ~~fall~~spring ~~through the~~ Senate office. A different member will be chosen from this pool for each committee (hearing, appeals) for cases where a complainant or respondent is a non-tenure-track faculty member covered by the NTT negotiated agreement. These NTT pool members will only serve in cases regarding NTT complainants or respondents covered by the NTT negotiated agreement.

**Comment [c3]:** Suggesting change to spring, as even though an NTT may need to be replaced by fall if s/he is not offered a contract, being elected in fall does not allow the NTTs to attend the first meeting of AFEGC each year.

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It is understood that two colleges (Mennonite College of Nursing and Milner Library) have no NTTs covered by the negotiated agreement.

Non-tenure-track faculty members not covered by the NTT negotiated agreement in Mennonite College of Nursing and Milner Library shall each elect two (2) full-time non-tenure-track faculty members with at least eight consecutive semesters of service with no more than one one-semester break in service and not covered by the NTT negotiated agreement to a pool. The pool shall be elected annually each spring through the Senate office, with members elected by the NTT faculty of their own college. A different member will be chosen from this pool for each committee (hearing, appeals) for cases where a complainant or respondent is a non-tenure-track faculty member not covered by the NTT negotiated agreement. These NTT pool members will only serve in cases regarding NTT complainants or respondents not covered by the negotiated agreement.

NTT members serve a one-year renewable term.

**Faculty Associate (6):** The faculty associates at Metcalf School and University High School will each elect three (3) tenured faculty associates to a pool. The pool shall be elected annually each spring through the Senate office, with members elected by the faculty associates of their own laboratory school. A different member will be chosen from this pool for each committee (hearing, appeals) for cases where a complainant or respondent is a faculty associate. These faculty associate pool members will only serve in cases regarding faculty associate complainants or respondents.

Faculty Associate members serve a one-year renewable term.

If a member of the AFEGC is engaged in a hearing or other process related to a complaint or referral, the member will continue to serve regarding that matter until the matter is terminated (i.e. any appeals elected by the parties have been exhausted), even though such service may thereby extend beyond the expiration of the member's term of office. Terms extend for three full years (tenured faculty) or one full year (NTT, FA) from the beginning of the academic year on August 16, and may occasionally include service between May 15 and August 16 if a matter is not terminated by May 15 or if urgent need arises.

## 3.3.8B TYPES OF CASES & PROCEDURES FOR CASES

### Complaints, Grievances, and FRC or CFSC Referrals

#### General Procedures for Complaints and Referrals

Complaints and referrals will be filed with the Chairperson of the AFEGC, or in his/her absence or if the complaint or referral arises from the department/school of the Chairperson, with the Vice-Chairperson. Upon receipt of the complaint or referral, the Chairperson or Vice-Chairperson shall confirm in writing to the complainant or referee receipt of the complaint or referral and the date of filing within five (5) business days. The Chairperson or Vice-Chairperson shall also transmit a copy of the complaint or referral to the appropriate respondent(s).

In this and subsequent matters, members of the AFEGC shall use only confidential campus mail envelopes to transmit items related to complaints and referrals, unless the Chairperson of the AFEGC has received signed permission from all parties and committee chairpersons that email or another electronic transmission mode is acceptable.

#### Referrals

A referral to the AFEGC shall be defined as a referral either from the FRC, as described above in II.A.13, or a referral from ~~the~~ a CFSC, as described above in II.A.24. A referral shall at a minimum include:

1. A written statement by the FRC or CFSC describing the basis for the referral;
2. Forwarding of any documentation from the FRC or CFSC pertinent to the referral;
3. Indication from the FRC or CFSC as to the timelines by which the AFEGC is to submit its report back to the FRC or CFSC.

#### Procedures in Referral Cases

Where a case is referred to the AFEGC by the FRC or a CFSC, the Chairperson of the AFEGC shall call a meeting of the tenured members of the AFEGC —except for any members from the department(s) from which the case originates or having other conflicts of interest— to determine, by majority vote, whether a hearing is warranted. If no hearing is warranted because a decision can be rendered with the materials at hand, the AFEGC reports its decision to the original referring committee – FRC or CFSC.

If a hearing is warranted in the case, the AFEGC shall proceed directly to an appeal hearing. The Chair of the AFEGC (or the Vice Chair if the Chair is from a department from which the case originates) shall form an Appeal Hearing Committee Panel (AHP~~C~~). As outlined in ~~the~~ ASPT,

**Comment [SK1]:** 9/9/16: Here and wherever timelines are indicated, the AFEGC has requested that the Caucus create REALISTIC deadlines for the Hearing Panels and Chair duties. They are finding that the practicalities of cases often mitigate against meeting 5-day deadlines, especially if electronic communication is refused. I indicated that the Caucus would try to find a happier medium between the complainant/respondent need for an expeditious process and the committee need for a realistic one. In effect, currently, the AFEGC chair is constantly having to invoke the consent to extend deadlines.

We will need to talk about whether the timing of such changes needs to be decoupled from this current policy revision.

**Comment [c2]:** Vickie Kiser editorially cleaned up several of these areas requiring only editorial rechecking from the Spring 2016 revisions, following a meeting with Senator Kalter regarding mistakes she neglected to catch in the finalized copy.

XIII.G.3 and XIII.I.1, the report of the AFEGC, shall offer recommendations to the FRC or CFSC so that they may exercise their ASPT responsibilities.

In the case of an appeal of an Appeal Hearing ~~Committee Panel~~ (AHPC) decision by either the complainant or respondent, copies of the decision by the AFEGC AHPC will be forwarded to the original referring committee and to the Chairperson of the Academic Senate.

The ~~elected members of the~~ Executive Committee of the Faculty Caucus ~~—except for any members from the department(s) from which the case originates or having other conflicts of interest--~~ will then review the decision within five (5) ~~working-business~~ days of receiving the AHPC decision on appeal. The Executive Committee of the Faculty Caucus may decide that an AHPC decision warrants a hearing by the Faculty Caucus of the Academic Senate or it may file a report directly to the original referring body and to the Provost.

**Comment [c3]:** See comment in 3.3.8D, as some of these numbers are cumulative in 3.3.8D.

~~If a hearing is held by the Faculty Caucus of the Academic Senate, W~~within ten (10) ~~working business~~ days, the Faculty Caucus ~~of the Academic Senate~~ will submit its decision to the original referring body and to the Provost. ~~Members of the Faculty Caucus from the department(s) from which the case originates or having other conflicts of interest shall not participate in the hearing or receive materials regarding the case.~~

**Comment [c4]:** Cross-check the deadlines here. I believe that in 3.3.8D, this is 25 business days rather than 10.

If the deadline for action by the original committee has passed during any part of this process, the chair of the AFEGC will forward the decision by the AFEGC appeals ~~hearing committee panel~~ (AHP) to the President, the Provost, and the original referring committee (for tenure and/or promotion cases) or to both the CFSC and DFSC in performance evaluation cases.

### Complaints and Grievances

A complaint shall be defined as a written statement alleging a matter within the jurisdiction of the AFEGC, as defined above by II.A.3-II.A.78.

A grievance shall be defined as a written statement alleging a matter within the jurisdiction of the AFEGC, as defined above by II.A.87.

A complaint or grievance shall at a minimum include:

1. The jurisdictional basis of the complaint or grievance, by specification of the subsection II.A which provides for the jurisdiction of the AFEGC;
2. A written statement detailing the basis of the complaint or grievance, including a narrative of the facts which the complainant believes could be proven if a formal hearing were to take place;
3. For complaints, a statement of the section(s) of the Code of Ethics the complainant believes has been violated, if applicable.
4. For grievances, a statement of the policy or past practice the complainant believes has been violated.

Complaints and grievances may also include as attachments any documentation believed to be relevant to the complaint.

### **Procedures in Complaint Cases**

In cases of complaints filed by a faculty member, the Chairperson shall consult the Provost's Office as to the appropriate respondent, who shall be designated by agreement of the AFEGC Chairperson and the Provost. In the absence of an agreement between the AFEGC Chairperson and the Provost, the faculty members of the Senate Executive Committee shall determine the appropriate respondent.

Members of the Senate Executive Committee from the complainant's and respondent's own department(s) shall recuse themselves from these decisions and shall not be made aware of the case. For cases from the Senate chair's own department, the Senate chair will recuse him/herself and hand over the case documentation and the chairing of the decision to the Senate Secretary (if from a different department) or the senior member of the Executive Committee (in years of service on Exec and then years of service on the Senate).

In cases of complaints alleging ethics violations, the appropriate respondent is the person accused of the ethics violation. In appropriate cases, such as where discrimination or sexual harassment is alleged, the [AFEGC](#) Chairperson shall notify the [Affirmative Action Officer/Office of Equal Opportunity and Access](#).

10.05.16.04  
From Faculty Caucus Chair (by way of Rules Committee 2014-16)  
Dist. Executive Committee 10/3/16  
Information Item 10/12/16

### **3.3.8C Voluntary Conciliation**

#### **Encouragement of Voluntary Informal Conciliation Efforts with Complaint Cases**

As a matter of general policy, the Academic Senate and the AFEGC hereby encourage but do not require any complainant, before filing a complaint, to seek informal conciliation and resolution of the perceived grievance.

Such informal conciliation can take many forms. Usually a prospective complainant confers with a representative of the administration who would normally respond to the complaint (if filed by a faculty member); or an administrator considering an ethics complaint against a faculty member confers with that faculty member.

The parties involved in this informal conciliation conference typically seek to resolve the complaint voluntarily, in order to preclude the necessity of filing a complaint.

If such voluntary informal conciliation efforts fail, or if one or more of the parties in the dispute refuse informal conciliation, for whatever reason, they may consult with the University Ombudsperson Council prior to filing a formal complaint with the AFEGC.

If, in exceptional circumstances, a complainant or respondent is concerned about or unwilling to work with a University Ombudsperson in pursuing an informal and voluntary resolution to the issue of concern, that person may contact an AFEGC member who has been elected by the committee to serve as a voluntary conciliation facilitator. The parties may work with this designated committee member in pursuing an informal resolution to the case at any stage.

A voluntary conciliation facilitator who works with parties to pursue an informal resolution may neither serve on nor appoint any hearing panel or appeals hearing panel related to the case without the consent of all parties.

The complainant may still file a formal complaint with AFEGC after the appropriate Ombudsperson or a voluntary conciliation facilitator elected by the committee has been consulted, if the case remains unresolved.

### 3.3.8D Hearing ~~Committees~~Panels, Hearings, Appeals, and Reports

#### Principles applicable to all hearings

Hearings shall be conducted according to the following procedures:

- a. Proceedings shall be conducted in good faith;
- b. Formal hearings shall be closed unless both parties consent to an open meeting or an open meeting is required by law;
- c. The chairperson of the Faculty Hearing ~~Committee~~Panel (FHPC), Appeals Hearing ~~Committee~~Panel (AHPC), or the Faculty Caucus, or a designee shall, at the outset of the hearing, state the issues in the proceedings to all involved parties;
- d. Subject to applicable law, the privacy of confidential records and proceedings in the hearing process shall be respected;
- e. Members serving on hearing and appeals panels should scrupulously avoid any conflict of interest and must notify the Chairperson of the AFEGC if any such conflict exists or arises;
- f. Except as modified below, the principal parties should be accorded the right to see all documents considered by the hearing or appeals panel, to hear opposing statements, to present evidence, to call witnesses, and to be accompanied by a technical or informal advisor ~~who may be present only to advise the party and not to participate.~~

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#### Faculty Hearing ~~Committee~~Panel (FHPC)

In cases of complaints where a conciliation effort is not deemed appropriate by the complainant, the AFEGC Chairperson, an Ombudsperson or an AFEGC voluntary conciliation facilitator, or where such an effort has been unable to resolve the matter, ~~and in all cases of referrals, the~~ Chairperson shall appoint, from the members of the AFEGC, a three (3) member Faculty Hearing Panel (FHPC) for each case that necessitates a hearing. The appointment shall normally take place within five (5) ~~working-business~~ days of a referral or of a decision that a hearing is warranted. The AFEGC Chairperson shall make every effort to avoid seating members from the complainant's and respondent's own college(s) in cases that may involve college-level issues, but may do so if other AFEGC members are not available.

Comment [c1]: Referrals go straight to an AHP if hearing is warranted

In cases where the complainant or respondent is a non-tenure-track faculty member or faculty associate, the Chairperson shall appoint two (2) ~~of its T/TF~~ tenured members of the AFEGC to the FHPC and one (1) non-tenure-track or faculty associate member from the ~~non-tenure-track appropriate~~ pool ~~made up of members from each college of NTT or faculty associate~~ members of AFEGC.

1. The FHPC shall elect a chairperson from its own membership.
2. The Chairperson of the AFEGC shall supervise the election procedure after deciding that an FHPC needs to be formed.
- ~~3. No member of the AFEGC shall serve on a FHPC who: (1) is the Chairperson of the AFEGC; (2) is a member of the same department/school/unit as the person(s) for whom the hearing will be held; or (3) for good reason believes he/she cannot or should not serve (e.g., actual or apparent conflict of interest, such as those who have served on a DFSC/SFSC, CFSC, or FRC that has been involved with the complaint). Representatives of Menomonie College of Nursing, Milner Library, Metcalf School and University High School may not serve on a HC of a proceeding in which the complainant or respondent is from the same unit.~~
- 4.3 In the event of vacancies making it impossible to staff a FHPC with appropriate representatives as established above, the Chairperson may appoint any member of the AFEGC who is not a member of the same department/school/unit as the complainant or respondent to the FHPC.
- ~~5. The Hearings shall be conducted according to the following procedures:
 
  - a. Proceedings shall be conducted in good faith;
  - b. Formal hearings shall be closed unless both parties consent to an open meeting or an open meeting is required by law;
  - c. The chairperson of the Hearing committee or a designee shall, at the outset of the hearing, state the issues in the proceedings to all involved parties;
  - d. Subject to applicable law, the privacy of confidential records and proceedings in the hearing process shall be respected;
  - e. Members serving on hearing panels should scrupulously avoid any conflict of interest and must notify the Chairperson of the AFEGC if any such conflict exists;
  - f. Except as modified below, the principal parties should be accorded the right to see all documents considered by the HC, to hear opposing statements, to present evidence, to call witnesses, and to be accompanied by a technical or informal advisor.~~

**Comment [c2]:** Given that other clauses state that you cannot appoint people to an FHP from the same unit no matter what, this clause is unnecessary.

**Comment [c3]:** Moved to common principles section above

## Hearing

Within ten (10) working days of the constitution of the committee, the chairperson of the FHPC shall set a hearing date for the hearing, unless this timeline is extended by mutual agreement of the chairperson, complainant, and respondent. Within these ten (10) days, the Chairperson of the AFEGC and Chairperson of the FHPC will schedule a meeting of the FHPC membership to provide training and to review procedures, standards and confidentiality with the FHPC membership.

The hearing shall be conducted according to the following procedures:

- A. The complainant shall be given five (5) working days prior to the scheduled hearing to submit any documentation the complainant deems relevant to the FHPC. Through the chair of the FHP, the complainant must also provide the respondent with:



- A written position statement detailing the basis of the complaint, including a narrative of the facts which the complainant believes could be proven if a formal hearing were to take place;
  - Any documentation the complainant deems relevant;
  - A list of proposed witnesses, if relevant;
  - Notification of intent to bring a technical or informal advisor who in rare circumstances may be an attorney, and notification of the name of that advisor.
- B. The chairperson of the FHPC has an obligation to transmit all documentation, names of witnesses tentatively agreed to by the full FHP, and names of advisors to the respondent within one (1) working day. If this timeline cannot be met for any reason, the timeline for the respondent's response shall be lengthened by as many days as it took the chairperson of the FHPC to transmit the information to the respondent.
- C. Within ten (10) working days of receipt of the submission by the complainant, the respondent shall submit to the FHPC and the complainant, through the chairperson of the FHPC:
- A written statement detailing the response to the complaint, including a narrative of the facts that the respondent believes could be proven in a formal hearing.
  - Any documentation the respondent deems relevant;
  - A list of proposed witnesses, if relevant;
  - Notification of intent to bring a technical or informal advisor who in rare circumstances may be an attorney, and notification of the name of that advisor.
- ~~D~~D. Within one (1) working day of receipt of the materials from the respondent, the chairperson of the FHP has an obligation to transmit all documentation, names of witnesses tentatively agreed to by the full FHP, and names of advisors to the complainant. If this timeline cannot be met for any reason, the timeline for the succeeding steps shall be lengthened by as many days as it took the chairperson of the FHP to transmit the information to the complainant.
- ~~D~~E. Assuming the timeline outlined in B, ~~and C~~ and D of this section is met, a Hearing shall take place within twenty (20) working days of the formation of the FHPC.
- ~~E~~F. At the scheduled hearing, the FHPC will:
- Allow the complainant and the respondent, or their representatives, if they so elect, to make oral presentations supplementing their written submissions;
  - Ask the complainant and the respondent any questions the FHPC deems relevant regarding their written submissions and/or oral presentations.
  - The FHPC will inquire into the situation only to the extent necessary to enable the Committee to make a recommendation or to effect a resolution. Presentation and examination of witnesses will take place only when the FHPC deems it to be appropriate in a particular case. The proceedings will be audiotape-recorded. The FHPC may limit the oral presentations to any time length that it deems appropriate, but each side will have the same amount of time, not to be less than 20 minutes.
- ~~F~~G. Within ten (10) working days after the hearing is conducted, the FHPC will issue its written report and recommendation, approved by a majority vote, to the Chairperson of the AFEGC regarding the complaint, which will take one of the following forms:
- The FHPC may recommend dismissal of the complaint;

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- o The **FHPC** may conclude that there are disputes of material fact such that a further hearing is warranted and necessary, or that a further hearing is warranted for any reason the **FHPC** deems appropriate in order for the AFEGC to come to a recommendation regarding the complaint.
- o The **FHPC** may conclude that it has sufficient information to move to a decision and issue its final recommendation regarding the complaint.

The written report shall **include**:

- A summary of findings of fact;
- A summary of the rationale for reaching a conclusion or holding a further hearing;
- A recommendation of action to the Provost, unless a further hearing by the **FHPC** has been recommended.

**For written reports containing the **FHPC**'s final recommendation:**

In academic freedom violation cases and grievance cases, the conclusion of the report and recommendation shall follow the format for each separate charge in the complaint:

“The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_.”

In ethics violation cases, the conclusion of the report and recommendation shall follow the format for each separate charge in the complaint:

“The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ which dealt with section ( ) of the Code of Ethics has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_.”

Once the FHP has delivered its final written report either dismissing the complaint or reporting its decision and making recommendations, the Chairperson of AFEGC shall review that report, flag any areas of concern, and ask the FHP to clarify it in writing as necessary. The Chairperson of the AFEGC shall then communicate the **FHPC**'s recommendation to the complainant and the respondent and inform them of their right to appeal. Within five (5) working days after receiving the **FHPC** recommendation, the complainant or respondent may appeal the recommendation of the Faculty Hearing Committee Panel. The appellant's written request will explain the basis for the request appeal.

## Appeal Hearings

If, after a hearing, the AFEGC receives a request for an appeal hearing, or on referral from a College Faculty Status Committee (CFSC) or the Faculty Review Committee (FRC) deemed to warrant a hearing by an AHP, then the Chairperson shall constitute an Appeal Hearing

**Comment [c4]:** Senator Horst suggests “shall be limited to.”

What are the pros and cons of changing this long-standing language? Has there been a chronic problem of FHP reports going far beyond this scope? Would this language possibly shut down beneficial elements of a written report as needed in specific cases?

The present chairperson of the AFEGC recommends against this change, given the wide variation in cases.

~~Committee Panel~~ (AHP) with ~~new~~ members who did not serve on any FHP in the case. The AHP shall consist of five (5) members.

In the case that both ~~claimant-appellant~~ and ~~the~~ respondent to the appellant are tenured or probationary faculty members and/or administrators, the five members shall be drawn from the tenured faculty on the AFEGC. In the case that ~~an~~ claimant-appellant or respondent to the appellant is ~~a~~ non-tenure track member, the AHP shall consist of three (3) tenured faculty AFEGC members and two (2) non-tenure-track members drawn from the appropriate non-tenure-track ~~or~~ faculty pool. ~~If the claimant or respondent is a non-tenure-track member and covered by the NTT negotiated agreement, the AHC shall consist of three (3) tenured faculty AFEGC members, one non-tenure-track faculty member and a non-tenure-track faculty member not covered by the NTT negotiated agreement who did not serve on the HC.~~ In the case that ~~an~~ claimant-appellant or respondent to the appellant is a faculty associate, the AHP shall consist of three tenured faculty AFEGC members, ~~one non-tenure-track faculty member~~, and ~~two~~ faculty associates ~~who did not serve on the HC~~.

The Chairperson of the AHP shall schedule the appeal hearing within ten (10) days after the AHP formation. This timeline may be extended by mutual agreement of the chairperson of the AHP, the ~~complainant-appellant~~, and the respondent to the appellant. The parties will be given written notice of the date, time, place, and purpose of the hearing. In constituting the AHP, the following procedures shall apply:

- ~~1.~~ The AHP shall elect a chairperson from its own membership.
- ~~2.~~ The Chairperson of the AFEGC shall supervise the election procedure after deciding that an AHP needs to be formed.
- ~~3.~~ No member of the AFEGC shall serve on an AHP who (1) is the Chairperson of the AFEGC; (2) is a member of the same department/school/unit as the person for whom the hearing will be held; or (3) for good reason believes he/she cannot or should not serve (e.g., actual or apparent conflict of interest, such as those who have served on a DFSC/SFSC, ~~CFPSC~~, or FRC that has been involved with the complaint) ~~Representatives of Mennonite College of Nursing, Milner Library, Metcalf School and University High School may not serve on an AHC of a proceeding in which the complainant or respondent is from the same unit.~~
- ~~4.~~ In the event of vacancies making it impossible to staff an AHP with appropriate representatives as established above, the Chairperson may appoint to the AHP any member of the AFEGC who is not a member of the same department/school/unit as the complainant-appellant or respondent to the AHCappellant.

~~Appeals Hearing shall be conducted according to the following procedures:~~

~~Proceedings shall be conducted in good faith;~~

~~Hearings shall be closed unless both parties consent to an open meeting or an open meeting is required by law;~~

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Comment [c5]: Given that other clauses state that you cannot appoint people to an AHP from the same unit no matter what, this clause is unnecessary.

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~~The chairperson of the AHC or a designee shall, at the outset of the hearing, state the issues in the proceedings to all involved parties;~~

~~Subject to applicable law, the privacy of confidential records and proceedings in the hearing process shall be respected;~~

~~Members serving on hearing panels should scrupulously avoid any conflict of interest and must notify the Chairperson of the AFEGC if any such conflict exists;~~

~~Except as modified below, the principal parties should be accorded the right to see all documents considered by the AHC, to hear opposing statements, to present evidence, to call witnesses, and to be accompanied by a technical or informal advisor.~~

The chairperson of the AHPE shall be responsible for conducting the [appeals](#) hearing and has the complete authority, in consultation with the other members of the AHPE, to control all aspects of the proceedings, including process, the hearing of testimony, and the introduction of other evidence as deemed necessary and appropriate. The AHPE will not be bound by any formal rules of federal or state court procedure and evidence, and may consider whatever evidence it deems relevant and give such evidence any weight it deems appropriate in the considered and collective judgment of the committee's members.

The AHPE will admit into the record of the proceedings the position statements and any documentation presented by the parties in the hearing, and may accept any additional documentation or evidence from the parties, so long as new allegations or charges are not raised. The AHPE will provide reasonable aid, within its ability, in securing attendance of witnesses through its status as an approved university committee. The AHPE will afford each party an opportunity to examine all witnesses whose appearance it has approved.

The AHPE may determine that the testimony of suggested witnesses is either not relevant or cumulative, and may call witnesses on its own motion. The AHPE will afford each party in the dispute an opportunity to be heard by the AHPE and to be accompanied by an advisor or representative of their choice. The parties shall normally speak for themselves, but the AHPE has the discretion to authorize either party's advisor or representative to examine witnesses or present oral or written arguments.

In all cases, the [complainant-appellant](#) shall have the burden of proof throughout the hearing by a "preponderance of the evidence" standard. Oral arguments shall be limited to ten minutes, except at the discretion of the Chair.

The written report shall [include](#):

- a summary of findings of fact;
- a summary of the rationale for reaching a conclusion;
- a recommendation of action to the Provost.

Comment [c6]: See c19 above

In academic freedom violation cases and grievance cases, the conclusion of the report and recommendation shall follow the format for each separate charge in the complaint:

"The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_."

In ethics violation cases, the conclusion of the report and recommendation shall follow the format for each separate charge in the complaint:

"The AFEGC finds that the evidence presented in the complaint of \_\_\_\_\_ which dealt with section ( ) of the Code of Ethics has (substantiated) (not substantiated) the charge against \_\_\_\_\_. The AFEGC recommends to the Provost that the following action be taken: \_\_\_\_\_."

The AHPC shall issue its final report and recommendation by a majority vote within 10 days of the completion of the formal appeal hearing.

Once the AHP has delivered its final written report, the Chairperson of AFEGC shall review that report, flag any areas of concern, and ask the AHP to clarify it in writing as necessary. The Chairperson of the AFEGC shall then communicate the AHP's recommendation to the complainant and the respondent and inform them of their right to appeal. Within five (5) working days after receiving the AHP recommendation, the complainant or respondent may appeal the recommendation of the Appeals Hearing Panel. The appellant's written request will explain the basis for the appeal.

### ~~Special Cases~~

## AFEGC Reports and Recommendations

- ~~In all cases dealing with academic freedom complaints, ethics complaints, or grievances, with the exception of cases described in the next bullet below sentence, at the conclusion of a formal appeal hearing, the FHP or AHPC shall file thea written report and recommendation on thea grievance matter with the Provost and the Chairperson of the Academic Senate: at the conclusion of the hearing, if no appeal, or at the conclusion of the appeals hearing, if the FHP report is appealed.~~
- In cases referred to AFEGC from a CFSC or FRC the AHPC will file its written report and recommendation with the body that referred the case to AFEGC.
- ~~In cases dealing with ethics or academic freedom, the AHC shall file a written report and recommendation with the Chairperson of the Academic Senate.~~

In the case of an appeal of the AHP final report and recommendations, the Chairperson of the Academic Senate shall distribute the report to the elected faculty members of the Senate Executive Committee. Members of the Executive Committee and of Faculty Caucus from the parties' department(s) and those who have an actual or apparent conflict of interest, such as those

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Comment [SK7]: Recommend reformatting this bulleted set into a regular paragraph. Too messy to do so in "Track Changes" now, but if approved, will reformat in that way.

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who have served on a DFSC/SFSC, CFSC, or FRC that has been involved with the complaint shall not be included in this distribution or in any deliberations.

The report and recommendations will be forwarded to the Provost if there is no appeal or if in the case of an appeal no faculty member of the Executive Committee requests that the report be considered by the joint faculty members of the Executive Committee. Otherwise, the joint faculty members of the Executive Committee will decide whether to forward the report to the Provost or to send it to the Faculty Caucus. If the joint faculty members of the Executive Committee decide to forward the report to the Provost, they may/may not append their written comments regarding the final report and recommendations. This comment may not be in the form of a recommendation to accept or reject the AHP report and must be based entirely on observations regarding procedure and policy interpretation.

**Comment [c8]:** We need to decide this. Good reasons for and against, particularly given 2015-16 cases.

If we decide "may not", the next sentence stays out of the policy revision. Same with the addition in the next major section below (Provost's Reply...) referring to Exec.

If the elected faculty members of Senate Executive Committee decide to forward the report to the Faculty Caucus, the Faculty Caucus will meet to discuss the appeal and will make a recommendation to the Provost on whether the AHP report should be accepted or rejected. This recommendation will be based entirely on whether the report adheres to the Faculty Ethics Code, to the relevant policy at issue in any grievance, or to the principles of academic freedom cited in Article III, Section 1.A. of the Illinois State University Constitution. Ordinarily, the Faculty Caucus will not hold a formal hearing with the parties in attendance, but may vote to do so if circumstances warrant such a hearing. The recommendation to the Provost from the Faculty Caucus shall occur only after any such hearing.

Within 25 working-business days of the Senate Chairperson's receiving the AHP written report and the results of a possible appeal, the Faculty Caucus shall forward its recommendation to the Provost. If a recommendation is not made within 25 academic working-business days, the written report will go directly to the Provost without recommendation.

**Comment [c9]:** It is a complete mystery what this phrase is supposed to refer to if not to the results of the Faculty Caucus's own deliberations!!!

Thus, should it not be struck?

At the request of either party, a copy of the tape-audio recording(s) of the-any formal hearing(s) shall be made available to them.

**Comment [c10]:** I have left in the term "academic" as it seems to be an effort to say that fall or spring semester must be in session rather than just any old business day. It is unclear whether summer session is included, but I would recommend that it not be, even though extraordinary cases or circumstances may require the Caucus to meet during the summer on an urgent case.

## Provost's Reply to AFEGC Reports and Recommendations

After receiving the Final Report of the FHPC and, when applicable, the written report of an Appeals Hearing ~~Committee~~Panel, the comment of the elected faculty members of the Executive Committee, and the recommendation of the Faculty Caucus, the Provost shall inform the AFEGC whether or not the report and recommendation are acceptable have been accepted and, if applicable, inform the AFEGC of the nature of any redress. This notification shall be in writing, within 25 administrative working-business days, and shall be sent to the complainant, the respondent, ~~and~~ the chair of the AFEGC, and the chair of the Academic Senate, in the case of appeals of the AHP report. If the recommendation of the FHPC or AHP or Faculty Caucus has been rejected, the notification must include a rationale supporting that decision.

**Comment [c11]:** Remove this addition if the Caucus feels it inadvisable to allow Exec comments/observations on the FP and/or AHP process, procedures, policy interpretation.

## Appeals to the President

The complainant or the respondent may appeal a decision by the Provost to the President. The appeal shall take the form of a written statement to the President, filed within 5 working days of the Provost's decision, explaining the basis for the appeal. Unappealed decisions of the Provost, or decisions of the President in appealed cases, shall constitute final resolution of the complaint, and shall not be subject to any further appeal.

Links:

Flow Chart: [AFEGCFlowchart2006-04-03.ppt](#)

**Policy 1.17 Code of Ethics and appendices:**

**Policy 1.17A Professional Relationships**

**Policy 3.1.44 Consensual Relations in the Instructional Context and Outside of the Instructional Context**

**Policy 3.3.12A Appendix to Code of Ethics: Faculty Responsibilities to Students**

**Policy 3.3.12B Appendix to Code of Ethics: Consensual Relations in Instructional Settings**

**Policy 3.3.12C Appendix to Code of Ethics: Involvement in Political Activities**

**Policy 3.3.13 Academic Freedom Policy**

**Comment [c12]:** It may be a good idea to move these links, or some of them, to 3.3.8main; or to include them on the 3.3.8 that is most appropriate

**Comment [c13]:** We'll need to check this and add the new chart according to Billy Lim's requested revisions (for normal flowchart symbols).

## Disciplinary Actions

### XI. General Considerations

#### A. Types of Disciplinary Actions; Conditions under which they may be applied

1. Faculty may be subject to discipline of varying levels. Disciplinary actions include Sanctions, Suspension, and Dismissal.
2. Sanctions: As defined by the American Association of University Professors' 1971 guidelines regarding progressive discipline, sanctions that can be imposed upon a faculty member are: oral reprimand, written reprimand, recorded reprimand, requirement to make restitution, loss of prospective benefits for a stated period, fine, reduction in salary for a stated period, and disciplinary suspension for a stated period without other prejudice.

Sanctions may be imposed for such ~~adequate causes~~ reasons as violations of felony and ethics laws pertinent to a faculty member's responsibilities or of University policies, including the Code of Ethics and its appendices.

Specific policies related to sanctions are provided in ASPT XII.

3. Suspension: Suspension occurs when a faculty member, as a result of disciplinary findings or allegations, is:
  - a. temporarily relieved of academic duties, such that the faculty member is not engaged in any teaching, research, or service activities at the University and is excluded from all or parts of campus and its privileges (e.g. access to email services); or
  - b. temporarily relieved of academic duties, such that the faculty member is not engaged in any teaching, research, or service activities at the University but is not excluded from campus; or
  - c. reassigned out of one or more of these three categories of faculty activity, with or without exclusion from campus or parts thereof; or
  - d. reassigned out of some portion thereof (e.g. reassignment out of a particular class for the remainder of a semester; exclusion from a laboratory space). ~~The faculty member could be on paid or unpaid status.~~

~~Specific policies related to suspensions are provided in ASPT XIII.~~

~~It is understood that suspension (with or without pay)~~ Suspension of faculty members will only be contemplated (i) in circumstances when there is a

**Comment [SC1]:** This entire major section, which comprises Articles XI through XIV, is almost entirely new. Initiated at the request of former Academic Senate Chair Dan Holland, these articles have been through several iterations over two academic years (2013-14 and 2015-16) with feedback from both Faculty Affairs Committee of the Senate and University Review Committee and input from General Counsel.

Flow Charts for Sanctions, Suspensions, and Tenured Faculty Dismissals added as Appendices 5 through 7, respectively.

**Comment [SK2]:** This draft reflects changes recommended by the Faculty Caucus during the 2015-16 academic year. Note that in SC1 above, 2015-16 is a typo for 2014-15.

**Comment [SK3]:** It seems wise to isolate the use of the term "cause" to the sections on dismissal.



reasonable threat of imminent harm to ~~the University, including~~ the faculty member in question, students, ~~and~~ other employees or university property, or (ii) as a sanction under Article XII for a stated period without other prejudice, or when credible evidence of adequate cause for dismissal is available. The administration of the University will inform the faculty member of its rationale for judging that suspension is indicated.

Specific policies related to the first type of suspension are provided in ASPT XIII. The second type of suspension follows the same process as described for dismissal in ASPT XIV, with due consideration to the protections provided for in ASPT XIII, and may be proposed as an alternative to dismissal or as a penalty unrelated to dismissal.

4. Dismissal as a disciplinary action: Dismissal is the termination of the appointment of a probationary or tenured faculty member for cause. Dismissal for cause of a probationary faculty member must be distinguished from non-reappointment for academic reasons and follows different procedures.

Dismissal as a type of disciplinary action is one form of dismissal that may be effected by the University under extraordinary circumstances.

As noted in the AAUP Statement on Procedural Standards in Faculty Dismissal Proceedings (last updated in 1990), “A dismissal proceeding is a symptom of failure; no amount of use of removal process will help strengthen higher education as much as will the cultivation of conditions in which dismissals rarely, if ever, need occur.” The statement goes on to indicate that a “necessary precondition of a strong faculty is that it have first-hand concern with its own membership [which] is properly reflected both in appointments to and in separations from the faculty body” and that the “faculty must be willing to recommend the dismissal of a colleague when necessary. By the same token, presidents and governing boards must be willing to give full weight to a faculty judgment favorable to a colleague.”

Dismissal of a probationary or tenured faculty member may be effected by the University for such adequate causes as lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher; failure to perform assigned duties in a manner consonant with professional standards; malfeasance; or demonstrable University financial exigency or program termination.

Specific policies related to ~~termination of tenured faculty appointments~~ dismissal are provided in ASPT XIV, the ISU Constitution (Article III, Section 4.B), ISU Board of Trustees Governing Documents

**Comment [SC4]:** This text appears in the Beige Book as ASPT Policy XI.B.1.

and all applicable policies including the right of appeal.~~B.~~

5. Note regarding dismissals that might be considered under non-disciplinary circumstances: Termination of a faculty member's appointment due to financial exigency or program termination will follow the process outlined in ASPT XIV, the ISU Constitution (Article III, Section 4.B.2), ISU Board of Trustees Governing Documents, and all applicable policies including the right of appeal, and must not be used, construed or disguised as a disciplinary action process. Faculty may appeal termination proceedings on the basis that disciplinary issues are being alleged in order to effect a dismissal for reasons of financial exigency or program termination, or vice versa.

Non-disciplinary termination of a faculty member's appointment on the grounds either of lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher or failure to perform assigned duties in a manner consonant with professional standards also follows the process outlined in ASPT XIV, the ISU Constitution (Article III, Section 4.B), ISU Board of Trustees Governing Documents, and all applicable policies including the right of appeal.

#### B. Faculty Rights

1. Disciplinary actions (including suspension or ~~termination~~dismissal for disciplinary reasons) or the threat thereof may not be used to restrain faculty members' exercise of academic freedom. Faculty members shall retain their right to file a grievance with the Faculty Academic Freedom, Ethics, and Grievance Committee, if they believe that their academic freedom or the Code of Ethics has been violated. See the ISU Constitution, Article III, the Academic Freedom Ethics and Grievance policy and the Proceedings in Academic Freedom, Dismissal, and Non-reappointment Cases policy.
2. Suspension, as defined in XI.A.3, shall not be effected without a recommendation to the President from a three-member hearing committee of the Academic Freedom, Ethics, and Grievance Committee convened by the chairperson of that committee. The written recommendation from the hearing committee shall including i) a recommendation for or against suspension, ii) a recommendation regarding the length of any recommended suspension, and iii) recommendations regarding other aspects of any recommended suspension, including the nature and scope of the suspension (e.g. restriction only from a single course, banishment from campus pending felony criminal investigation, etc.). If immediate action must be taken due to a reasonable threat of imminent harm, consultation with the AFEGC must occur within 24 hours and a preliminary written recommendation formulated within 3 business days. The faculty member shall have the same rights to a full hearing and set of appeals as in other AFEGC cases.

3. In all disciplinary proceedings, faculty members have the rights to academic due process, to timely notice, to seek advice, and to respond to developments in the disciplinary process, ~~and~~. Faculty members also have the right to have an advisor present and/or to have counsel present at discussions, hearings, and appeals. Such advisor/counsel is advisory to the faculty member ~~only~~ and to no other party.

**Comment [SK5]:** Place here the right to have counsel speak in suspension cases or just in general? Perhaps "The faculty member shall normally speak for themselves, but may elect to authorize their advisor or representative to present oral or written arguments."

~~Faculty members' duties may be reassigned temporarily while possible causes for disciplinary actions are being investigated or while the due process for a disciplinary action is being followed. The reasons for such reassignment of duties will be provided to the faculty member. Such reassignments shall be made to prevent reasonable threats of harm to the University, the individual faculty member, or other members of the University community; when required by law; or when necessitated by pending criminal investigation or legal proceedings.~~

**Comment [SK6]:** I don't think we will need to come back to this one, as the University Counsel may always advise the President upon his/her receipt of AFEGC recommendation. The President's role is to weigh legal advice against the advice of the faculty and to determine which should carry the most weight if there is any conflict.

4. Probationary faculty who face disciplinary actions and are either whether exonerated or not ~~or required to complete corrective actions~~ may request a one year "stop-the-clock" extension of their probationary period, as described in IX.B.3.

**Comment [SK7]:** AAUP strongly recommends against the "corrective actions" idea, since they can create conditions of indefinite suspension without academic due process, and therefore become tantamount to dismissal once again. In any case, if someone is required to complete corrective actions, they have been found to be sanctionable, so just make this a general statement.

5. The records of the disciplinary process, including documentation of exonerated and completion of any required corrective actions ~~and/or imposition of sanctions~~, may not be reviewed in the tenure and/or promotion process except when necessary to affirm exoneration or imposition of sanctions, and then only as it bears on the faculty member's performance in teaching, research, and service. The purpose of such review will be to ensure that only the documented facts of the individual's exonerated and/or ~~corrective actions~~ sanctions are considered and not held against the faculty member.

**Comment [SK8]:** Problem of double jeopardy, see minutes from Sept 23, 2016, page 15, Senate chair's comment

- 4-6. Only in cases of alleged criminal misconduct shall uniformed police or security officers be engaged in enforcing a preliminary suspension or a suspension recommended or reviewed and affirmed by the Academic Freedom, Ethics, and Grievance Committee. Faculty shall not be denied access to materials stored on campus property that they might need to exonerate themselves; if access to such material poses a high risk to campus security, alternative arrangements shall be made to provide the faculty member with all reasonable access to materials to be used in his or her defense.

This wording "and not held against the faculty member" is not quite right. Can we find wording that prevents tenure denial as a type of dismissal for cause after a person has already been disciplined in a lesser way and corrected their behavior, but that allows consideration of a continuing pattern of unacceptable behaviour?

## XII. Sanctions

A. Sanctions shall be considered in order from the most minor (oral reprimand) to the most major (limited term suspension without other prejudice, including temporary reassignment). The American Association of University Professors' 1971 guidelines regarding progressive discipline shall be followed, which rank sanctions in minor to major order as follows: ~~include oral and written reprimand, fines, reduction in salary, and requirement of corrective action.~~

1. Oral reprimand
2. Written reprimand
3. Recorded reprimand
4. Restitution
5. Loss of prospective benefits for a stated period
6. Fine
7. Reduction in salary for a stated period
8. Suspension for a stated period without other prejudice

The fifth sanction in this guideline regarding progressive discipline—loss of prospective benefits for a stated period—applies only to benefits provided by the department/school, college, or university and cannot be applied to pension, healthcare, or other benefits provided by the state of Illinois.

The eighth sanction in this guideline regarding progressive discipline—suspension for a stated period without other prejudice—may only be effected through the procedures described in XIV with regard to dismissal and must include recommendations by a hearing committee of the Academic Freedom, Ethics, and Grievance Committee. The President has final authority in all such cases.

Demotion in rank may only be considered as a possible sanction through a due process proceeding, generally following similar committee steps as the promotion or appointment, if promotion to or appointment at the associate professor level was found to have been obtained by fraud or academic dishonesty. Such cases as involve fraud or dishonesty in scholarly and creative productivity should be adjudicated through the Integrity in Research and Scholarly Activities policy.

In general, effort should be made to apply the most minor sanction likely to effect a change of behaviour; repeated cause for discipline will in certain circumstances merit increased severity of sanction, though it should not be assumed that it will in every case.

While chairs/directors may engage in informal instructional or corrective conversations with faculty in their departments/schools, formal oral reprimands are the purview of the ASPT process, may not be issued without DFSC/SFSC approval, and will be conducted in the presence of the DFSC.

Sanctions may be initiated by the appropriate College Dean or the Provost, or by a DFSC/SFSC.

**Comment [SK9]:** The 2015-16 Faculty Caucus deliberated oral discipline at length on February 3. The recommendation at that time was to remove “oral reprimand” from the list of sanctions. We could do so. However, it seems better in retrospect to this Senate chairperson to maintain consistency with the AAUP and to differentiate informal oral instructive or corrective one-on-one conversations from formal oral reprimands through the presence of the DFSC as witness/deliverer of any formal reprimand. Individual departments/schools may choose never to invoke the oral reprimand and can move directly to written reprimand on the first offense that rises to that level. Leaving the option in for this lowest level formal sanction would help protect faculty members from having an inappropriately high level of sanction applied.

Senator Clark asked after the meeting if oral directives as distinct from oral reprimands could be clarified, as they would fall under “informal” conversations. It is not clear, however, whether these would be considered “instructional” or merely “corrective,” as a “directive” implies that the chair as a supervisor can prohibit a faculty member from doing something or require that person to do something. We’ll need to discuss further to see what Faculty Caucus, URC, and Legal think, as well as whether that language (“oral directive”) needs to be added to the informal side of the equation here.

~~The Dean or Provost may initiate sanctions upon receipt of a substantiated finding of violation from University Ethics Officer, for violations of the State Ethics Act and other relevant laws; the Academic Freedom, Ethics, and Grievance Committee, for violations of academic freedom or the Code of Ethics; the Office of Equal Opportunity, Ethics, and Access, for violations of the Anti-Harassment and Anti-Discrimination Policy; or the Associate Vice President for Research, for violations of the Integrity in Research and Scholarly Activities policy. Disciplinary action will not be implemented until all appeals as provided for in the relevant policies are exhausted. When the recommendation to initiate disciplinary action comes from the Dean or the Provost, the faculty member and the DFSC/SFSC shall be informed in writing of the disciplinary action and its rationale. In such cases, the DFSC/SFSC may choose to communicate, in writing, a non-binding advisory recommendation to the Dean or Provost on the matter.~~

~~The DFSC/SFSC may recommend sanctions whenever it becomes aware of evidence of cause for such action, as described in XI.A.2. In such cases, the DFSC/SFSC shall inform the faculty member and communicate its recommendation to the appropriate Dean and the Provost. The Provost may implement disciplinary action after consultation with the Dean.~~

B. A proposal to deliberate the appropriateness of a sanction may be presented to the DFSC/SFSC by its chairperson under the following circumstances.

1. Receipt from the University Ethics Officer of a substantiated finding of violation of the State Ethics Act and/or other relevant laws, following opportunity to appeal the finding to the relevant state agency (e.g. Office of the Executive Inspector General for State Ethics Act violations);
2. Receipt from the Office of Equal Opportunity, Ethics, and Access of a substantiated finding of violation of the Anti-Harassment and Anti-Discrimination Policy, following opportunity to exhaust all university and state-level appeals;
3. The chairperson has otherwise become aware of credible evidence potentially substantiating cause for a sanction as described in XI.A.2, unrelated to suspension due to reasonable threat of imminent harm and short of dismissal.

Following notice to the faculty member and deliberations, including a meeting with the faculty member, the DFSC shall provide to the faculty member their decision regarding whether a sanction should or should not be imposed, including any minority reports. Unless no reprimand or an oral reprimand is recommended, this notification shall be in writing. Should suspension as defined in XI.A.3 be recommended, a hearing committee of the Academic Freedom, Ethics and Grievance Committee must confirm this recommendation prior to its being effected.

**Comment [SK10]:** The AFEGC process has already provided for academic due process, so should not be included here as though the judgment of their body or bodies can be readjudicated by a DFSC. If needed, place in the AFEGC policy mention of power of HC, AHC, and FC to recommend minor and major sanctions to the Provost. If needed, place in this policy the ability for the Provost to obtain other advice regarding recommended sanctions, but we should exercise caution here as the entire AFEGC process up to this point has excluded parties from the faculty member's college involved in the complaint.

**Comment [SK11]:** The IRSA policy provides for thorough academic due process, so should not be included here as though the judgment of those bodies can be readjudicated by a DFSC. Mention of who has the power to recommend sanctions is already in the IRSA policy. Possibly we might need to consider adding that appeal of sanctions (only) to AFEGC on academic freedom grounds is permissible, suspension required to go through AFEGC, and dismissal required to go through DFSC/IRC/FRC.

~~A.C.~~ No sanctions may be implemented until all appeals relevant to the policies in question are exhausted. The appeals procedure for sanctions short of suspension and dismissal shall follow the same steps as the appeals procedure for performance evaluations, with a similar timeline and including provisions for appeal to the Academic Freedom, Ethics and Grievance Committee initiated by the CFSC or the faculty member.

~~B.D.~~ Once academic due process leading to a sanction short of suspension or dismissal has been exhausted, the ~~A~~ application of any sanctions other than oral reprimand will be communicated to the faculty member in writing by the Chair/Director of the Department/School, who shall also convey this written communication to the Dean and the Provost in writing. If a DFSC has received a finding according to XII.B.1 or XII.B.2 and imposed no sanctions or an oral reprimand, the chair will verbally communicate that result to the Dean. In such cases, the Dean may initiate a review of the decision of the DFSC by the CFSC and the CFSC may either demote or increase the recommended sanction if it is widely inconsistent with university standards. The final results of all department/school and college deliberations regarding findings under XII.B.1 and XII.B.2 shall be reported to the Provost and copied to the personnel/ASPT file, by the Provost, who shall also inform the Chair/Director and Dean. If the sanctions include corrective actions, the requirements of these corrective actions, including timeline and acceptable documentation will be described in the same written communication and copied to the personnel/ASPT file. The faculty member may request, and shall receive, clarification of such requirements.

**Comment [SK12]:** We may soon be making changes based on URC recommendations to Policy 3.1.29 Right of Access to Personnel Files. This line should be conformed to any relevant changes.

### XIII. Faculty Suspensions

A. All parties involved in a proposed faculty suspension should refer to the definitions in Section XI.A.3 and to the faculty rights listed in Section XI.B.

~~A.B.~~ Because suspension without academic due process is tantamount to summary dismissal, only the President of the University may authorize the full or partial suspension of a faculty member. Faculty members may only be suspended for a specified time period, and upon a written recommendation by the Academic Freedom, Ethics, and Grievance Committee, or with requirements of corrective action to be completed prior to reinstatement, or as a preliminary step toward termination of appointment/dismissal for cause (see XIV). If the President determines that a suspension is warranted despite a recommendation against it by the Academic Freedom, Ethics, and Grievance Committee, he or she must furnish a written rationale to the faculty member, the AFEGC hearing committee, and the AFEGC chairperson.

~~B. A faculty member in the suspension process is afforded due process. This right is balanced against the University's responsibility to prevent harm to students, other employees, and the institution itself.~~

**Comment [SK13]:** This is already stated in XI.B.3. No need to restate.

**Comment [SK14]:** The ability to protect people and property against imminent harm is already stated in XI.B.2. No need to restate.

C. A suspension may only be imposed upon a faculty member prior to the start of academic due process proceedings under the conditions described in Section XI.B.2.

D. Ordinarily, suspensions will be paid suspensions. Suspensions without pay will only occur after the process described in XIII.E.D, or in XIV, if applicable, is completed and all appeals or related grievances are adjudicated. In extraordinary cases when there is evidence that the faculty member has abandoned professional duties or is unable to fulfill such duties, a temporary suspension without pay may be instituted prior to completion of the University's process. Individuals suspended without pay and subsequently exonerated may seek compensation.

~~C.E.~~ Procedural Considerations Related to Suspension

1. Each step in the procedures described below should be completed as soon as is practicable, and normally in the time frame indicated in XIII.E.2 through XIII.E.6. However, the Chairperson of the Academic Freedom, Ethics, and Grievance Committee ~~President or Provost~~ may extend these deadlines for good reason, and concerned parties may request consideration for doing so. The ~~President, Provost, or their designee~~ Chairperson of the Academic Freedom, Ethics, and Grievance Committee will communicate extensions of the normal timelines provided below in writing to all concerned parties. Such extensions shall not constitute a procedural violation of this policy.
2. Within 5 business days of an allegation that might lead to suspension or has led to suspension under XI.B.2, there shall be informal discussion

between the faculty member, and either the Chair/Director, the Dean, ~~and the~~ Provost, or their ~~Provost's~~ designees. Ordinarily, an attorney for the University will not be present; whether or not the presence of University Counsel is also deemed necessary, the faculty member's right to counsel must be honored and facilitated through reasonable scheduling of the informal discussion(s). ~~the Provost's designee will not be an attorney for the University, though there may be exceptions.~~ The intention of this discussion will be to develop a mutually agreeable solution that ensures safety for the University community and educational success of students. This mutually agreeable solution could result in a suspension ~~or a re-assignment of duties~~ as defined in Sections XI.A.3.i, XI.A.3.ii, XI.A.3.iii, or XI.A.3.iv.

3. Suspension will only be in effect during the informal discussion stage upon recommendation by the Academic Freedom, Ethics, and Grievance Committee, subject to the terms listed under XI.A.3, XI.B.2, and XIII.B. ~~While discussion is ongoing, the University reserves the right to temporarily re-assign a faculty member from any or all duties, including teaching, in order to prevent harm to the University or members of its community; when required by law; or when necessitated by pending criminal investigation or legal proceedings. (See XI.C.)~~
4. If a mutually agreeable solution is found, it shall be documented in writing and signed by the faculty member and appropriate administrative officers of the university. A mutually agreeable solution should be finalized within 5 business days of initiation of discussion. However, if the parties mutually agree in writing, this period may be extended if such extension would make agreeing to a solution likely. Such an agreement will be communicated to the Dean and Provost within 5 business days of the initiation of discussion.
5. If a mutually agreeable solution cannot be found, whether or not ~~and if the~~ President following the preliminary consultation with the hearing committee of the Academic Freedom, Ethics, and Grievance Committee has determined ~~is determined~~ that suspension is necessary or should be extended, then the following process will take place ~~a full hearing with the AFEGC with opportunity to appeal shall take place.~~
  - ~~The Chair/Director will consult with DFSC/SFSC. Such consultation will entail informing the DFSC/SFSC of the areas of concern and the reasons why suspension is indicated. Such consultation will include review of relevant documentation/information (e.g., past performance evaluations; investigation report) and/or advice of Legal Counsel.~~
  - ~~The faculty member shall be notified in writing of the consultation with the DFSC/SFSC, including the reasons why suspension is indicated. The faculty member shall have the opportunity to present reasons why suspension should not occur, in writing, to the DFSC/SFSC. The faculty member's written~~



~~statement shall be submitted within 5 business days of notification of the consultation with the DFSC/SFSC.~~

~~There shall be documentation of the consultation with the DFSC/SFSC. The elected members of the DFSC/SFSC may make a non-binding advisory recommendation to the Chair/Director. Consultation with the DFSC/SFSC, documentation of such, and any recommendations made by the DFSC/SFSC, shall be completed within 10 business days.~~

~~Following DFSC/SFSC consultation, the Chair/Director shall consult with the Dean and Provost and provide written notice of a decision to the faculty member, Dean, and Provost within 5 business days. The DFSC/SFSC shall be informed of the decision. If the reasons for the suspension also constitute adequate cause for dismissal as described below and in XIV.B.1, the written notice shall so indicate, and the dismissal procedures delineated below shall commence.~~

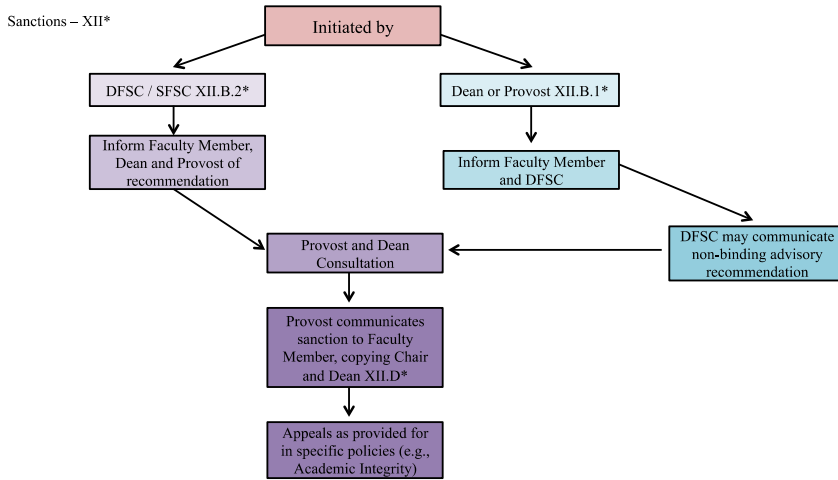
6. A suspended faculty member may appeal through the ordinary AFEGC process, which includes appeal to the President as a final step, within 10 business days of the written notice from the Chair/Director. Such appeal must be made in writing, with copies provided to the Chair/Director, Dean, and Provost. Appeals may be based on substantive or procedural grounds. The President shall rule on the any final appeal or final recommendation within 21 business days.

~~7. Suspended faculty members shall retain their right to file a grievance with the Faculty Academic Freedom, Ethics, and Grievance Committee, if they believe that their academic freedom or the Code of Ethics has been violated. Suspensions will remain in effect while such grievances are adjudicated.~~

7. A faculty members who are may be suspended during dismissal proceedings only if the imminent harm standard in XI.A.3 applies. Faculty members will retain their right to academic due process throughout the dismissal proceedings, which shall follow the principles and steps described below independently with respect to suspension proceedings and dismissal proceedings.

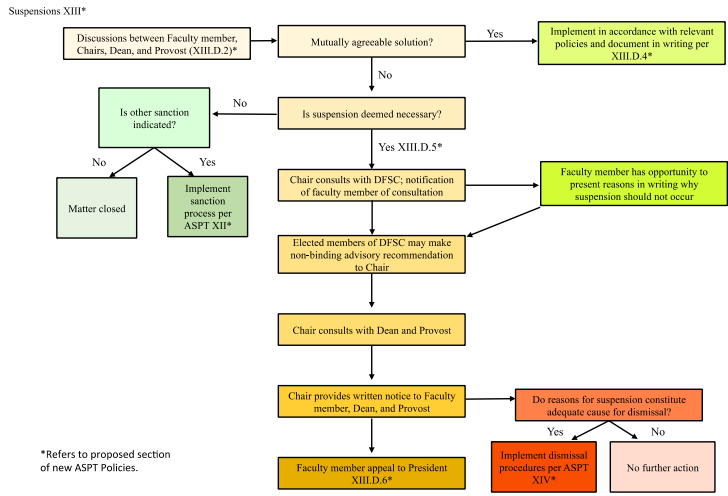
~~D.F.~~ Suspensions may not be of indefinite duration and their duration may not be contingent upon the faculty member performing other corrective actions. Suspension must be followed by reinstatement unless the faculty member has been dismissed following the academic due process described in XIV. Ordinarily, a suspension shall be for no longer than 6 calendar months.

**APPENDIX 5  
Overview of the Sanctions Process**



\*Refers to proposed section of new ASPT Policies.

**APPENDIX 6  
Overview of the Suspension Process**



XI. Termination of Appointment of Probationary and Tenured Faculty

A. Non-reappointment of a Probationary Faculty Member

1. A recommendation for the non-reappointment of a faculty member during the probationary period must follow the regulations of the Board of Trustees and the ISU Constitution. Recommendations for non-reappointment prior to a tenure decision shall be made by the DFSC/SFSC in consultation with the Dean and the Provost. The Chairperson/Director of the DFSC/SFSC shall communicate the recommendation of non-reappointment in writing to the faculty member, the Dean, and the Provost. Non-reappointment can also be the result of a negative tenure recommendation. Official notices of non-reappointment, whether issued prior to a tenure decision or as a result of a negative tenure decision, are issued from the Office of the Provost.
  - a. Upon notice of non-reappointment other than a negative tenure recommendation, a probationary faculty member may request an oral statement of reasons for non-reappointment from the Chair/Director.
  - b. Following the oral statement of reasons for non-reappointment under XI.A.1.a., a probationary faculty member may request a written statement of reasons for non-reappointment from the Chair/Director. The Chair/Director shall advise the probationary faculty member of the pros and cons of obtaining such a statement in writing. If the probationary faculty member still wishes a written statement, the Chair/Director shall provide the requested written statement.
  - c. Appeals of non-reappointment other than those following a negative tenure decision shall ~~be governed by~~ follow the provisions of Article XIII.K.
  - d. Appeals of non-reappointment following a negative tenure recommendation shall follow the provisions of Article XIII.G and XIII.H.
2. Notice of termination shall be given as follows:
  - a. Except for appointments that terminate during an academic year, not later than March 1 of the first academic year of service; ~~or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination;~~ not later than February 1 of the second academic year of service; ~~or, if the~~

**Comment [SK1]:** The first question that we need to resolve is whether XI should become XIV (which could imply that all Termination is disciplinary, when it is not) or whether proposed articles XI, XII and XIII should become XII, XIII, and XIV (or some other solution to termination – non-reappointment & dismissal) out from under the disciplinary-only heading, such as alternate formatting of the proposed new table of contents and associated internal section breaks).

~~appointment terminates during an academic year, at least six months in advance of its termination; and~~ at least twelve months before the termination of an appointment after two or more years of service.

~~a.b.~~ For appointments that terminate during an academic year, at least three months in advance of its termination during the first year of service; at least six months in advance of its termination during the second year of service; and at least twelve months before the termination of an appointment after two or more years of service.

B. Dismissal of a Probationary or Tenured Faculty Member:

1. Dismissal of a probationary or tenured faculty member may be effected by the University for such adequate causes as lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher; failure to perform assigned duties in a manner consonant with professional standards; malfeasance; or demonstrable University financial exigency or program termination.
2. Procedures and standards for dismissal shall be according to ~~University policies XI.C; any changes shall be~~ approved by the Faculty Caucus of the Academic Senate, which. These procedures and standards, and any changes to them, will~~should~~ adhere to the principles set forth in the American Association of University Professors' documents (as of January 1, 1999) regarding principles of academic freedom and tenure and procedural standards in dismissal proceedings.
3. ~~3.~~ — The standard for dismissal of a probationary or tenured faculty member is that of adequate cause. The burden of proof shall be upon the institution. Negative performance-evaluation ratings shall not shift the burden of proof to the faculty member (to show cause why the faculty member should be retained). Evaluation records may be admissible but may be rebutted as to accuracy.

C. Procedures and Standards for Dismissal of a Probationary or Tenured Faculty Member

1. Each step in the procedures described below should be completed as soon as is practicable, and normally in the time frame indicated. However, the President or Provost may extend these deadlines for good reason, and concerned parties may request consideration for doing so in writing. The President, Provost, or their designee shall

communicate extensions of the normal timelines provided below in writing to all concerned parties. Such extensions shall not constitute a procedural violation of this policy. Probationary faculty members may invoke their stop-the-clock rights under General Considerations, B. Faculty Rights.

**Comment [SK2]:** Substitute in the appropriate Article/Section numbers once that is decided. Too confusing right now to say Section XI.B, since there are two article XIs in play!

2. Preliminary Proceedings

- a. If potential evidence of adequate cause for dismissal of a probationary or tenured faculty member arises, including financial exigency or program termination, there shall be informal discussion between the faculty member and the Chair/Director. When appropriate, the Dean, the Provost, or an administrative designee with information pertinent to the matter (such as the University Ethics Officer) may also be present. Ordinarily, an attorney for the University will not be present; whether or not the presence of University Counsel is deemed necessary, the faculty member's right to counsel must be honored and facilitated through reasonable scheduling of the informal discussion(s). The intention of this discussion will be to develop a mutually agreeable solution.
- b. If a mutually agreeable solution is found, it shall be documented in writing and signed by the faculty member and appropriate administrative officers of the university and approved by the President. If requested, the faculty member may meet with the President.
- c. If a mutually agreeable solution does not result, the DFSC/SFSC shall be charged with the function of inquiring into the situation, to effect an adjustment, if possible, and, if none is effected, to determine whether in its view formal proceedings to consider the faculty member's dismissal should be initiated. Section V.C.3 provides for initiation of dismissal proceedings by the DFSC/SFSC. The DFSC/SFSC should meet with the faculty member and any person who may have relevant information, and may have access to any relevant documentation. The DFSC/SFSC shall provide a formal written recommendation to the faculty member and the Provost, with notification to the Dean, within 20 business days of the failure to effect voluntary adjustment.
- d. If the DFSC/SFSC recommends that dismissal proceedings should be begun, action should be commenced and a statement with

reasonable particularity of the grounds proposed for the dismissal should then be jointly formulated by the Provost and the DFSC/SFSC, with notification to the Dean.

- e. If the Provost, even after considering a recommendation of the DFSC/SFSC favorable to the faculty member, expresses the conviction that further review is necessary, action should be commenced and the Provost or the Provost's representative should formulate a statement with reasonable particularity of the grounds proposed for dismissal and provide it to an Independent Review Committee (IRC), convened according to XI.C.2.f, along with the DFSC/SFSC's recommendation against the commencement of proceedings. This statement shall be provided to the DFSC and the Dean.
- f. If XI.C.2.d or XI.C.2.e is invoked, the Provost shall direct, in writing, the Faculty Caucus of the Academic Senate to select an Independent Review Committee (IRC) of seven faculty members not previously concerned with the case or its circumstances. This written direction shall be made within 5 business days of date of the DFSC/SFSC's recommendation. The choice of members of the hearing committee should be on the basis of their objectivity and competence and of the regard in which they are held in the academic community. Prospective members shall be disqualified for bias or interest and shall recuse themselves voluntarily or at the faculty member's request. The faculty member and the Provost's representative shall also each be permitted to exercise challenges to two proposed members of the committee without having to state cause. The Faculty Caucus should meet in executive session within 20 business days of the date of the Provost's written direction to select the Independent Review Committee members. Members of the Faculty Caucus from the faculty member's department may not participate in the selection of the IRC. Once formed, the IRC will elect its own chair.

### 3. Commencement of Formal Proceedings

- a. The Provost shall communicate in writing to the faculty member: (1) the statement of grounds for dismissal; (2) information regarding the faculty member's procedural rights; and (3) a statement informing the faculty member that, at the faculty

member's request, a hearing will be conducted by the Independent Review Committee (IRC) to determine whether s/he should be removed from the faculty position on the grounds stated. This communication to the faculty member shall be delivered within 5 business days of the date of the statement. The hearing date should be far enough in advance to permit the faculty member to reasonably formulate and prepare a defense, and at least 20 business days from the date of the Provost's letter communicating the decision to the faculty member.

b. The faculty member should state in reply no later than 5 business days before the time and date set for the hearing whether s/he wishes a hearing. If a hearing is requested, the faculty member shall answer the statements in the Provost's letter in writing and submit this document to the Provost and the IRC no later than 5 business days before the date set for the hearing. If no hearing is requested, the faculty member may respond to the charges in writing at any time before the date set for the hearing.

#### 4. Independent Review Committee Proceedings

a. The Independent Review Committee (IRC) shall consider the statement of grounds for dismissal already formulated, the recommendation of the DFSC/SFSC, and the faculty member's response before the hearing.

b. If the faculty member has not requested a hearing, the IRC may consider the case on the basis of the statement of grounds, the DFSC/SFSC recommendation, the faculty member's response, and any other obtainable information and decide whether the faculty member should be dismissed.

c. If the faculty member has requested a hearing, the IRC must hold a hearing. The IRC, in consultation with the faculty member and the Provost, shall decide whether the hearing is public or private. Generally speaking, ASPT matters, including dismissal proceedings, are conducted confidentially and in private, but the IRC may exercise its discretion on this matter.

d. With the consent of all parties, the IRC may hold joint prehearing meetings with the parties to simplify the issues, effect stipulations of



facts, provide for the exchange of documentary or other information, and achieve such other appropriate objectives as will make the hearing ensure fair, effective, and expeditious.

e. The Provost or a designee may attend the hearing and choose an appropriate representative to assist in developing the case. A member of the Faculty Caucus, elected by the Faculty Caucus, will attend the hearing as an observer. Members of the Faculty Caucus from the faculty member's department may not serve as the elected observer.

f. Ordinarily, an attorney for the University will not be present; whether or not the presence of University Counsel is deemed necessary, the faculty member's right to counsel must be honored and facilitated through reasonable scheduling of the hearing and any pre-hearing meetings. The faculty member shall have the option of assistance from counsel and/or an academic advisor, whose functions will be similar to those of the representative chosen by the Provost. The faculty member will also have the procedural rights set forth in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure.

g. The IRC will determine the order of proof, conduct the questioning of witnesses, and secure the presentation of evidence important to the case. The proceedings shall be recorded by audiotape or videotape at the expense of the University, and be made available to the faculty member at no cost at the faculty member's request.

h. If facts are in dispute, testimony of witnesses should be taken and other evidence received. The faculty member shall have the assistance of the committee in securing the attendance of witnesses. Both the faculty member, or his/her counsel/advisor, and the Provost's representative have the right within reasonable limits to question all witnesses who testify orally. The faculty member shall have the opportunity to be confronted by all adverse witnesses. Because the committee cannot compel the participation of a witness, the proceedings shall not be delayed by the unavailability of a witness. Where unusual and urgent reasons move the hearing committee to withhold the right to question and be confronted by all witnesses, or where the witness cannot appear, the identity of the witness, as well as the statements of the witness, should nevertheless be disclosed to the faculty member. Subject to these safeguards,

**Comment [SK3]:** AAUP is quite clear on this point: The faculty member should have the option of assistance by counsel, whose functions should be similar to those of the representative chosen by the president [in our case the provost, since our Board does not play a role in dismissal for cause]. The faculty member should have the additional procedural rights set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, and should have the aid of the committee, when needed, in securing the attendance of witnesses. The faculty member or the faculty member's counsel and the representative designated by the ~~president~~ provost should have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member should have the opportunity to be confronted by all adverse witnesses. Where unusual and urgent reasons move the hearing committee to withhold this right, or where the witness cannot appear, the identity of the witness, as well as the statements of the witness, should nevertheless be disclosed to the faculty member. Subject to these safeguards, statements may, when necessary, be taken outside the hearing and reported to it. All of the evidence should be duly recorded. Unless special circumstances warrant, it should not be necessary to follow formal rules of court procedure.

statements may, when necessary, be taken outside the hearing and reported to it.

- i. The Provost's representative and the faculty member, or his/her counsel/advisor, shall present any information helpful to the determination. Each may request the committee in writing to ask witnesses to answer specific questions. Appropriate procedure shall be determined by the IRC. The IRC will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
- j. The IRC shall permit a statement and closing by both the Provost's representative and the faculty member, or his/her counsel/advisor. The IRC may exercise its discretion in allowing a reasonable amount of time for each statement.
- k. The IRC may request written briefs by the parties.
- l. The IRC shall reach its decision promptly in conference, on the basis of the hearing if one was held, or it may await the availability of a transcript of the hearing if its decision would be aided thereby. The burden of proof will be satisfied only by clear and convincing evidence in the record considered as a whole. The IRC must make explicit findings with respect to each of the grounds of dismissal presented, present a reasoned opinion, and submit a full written report to the Provost and the faculty member. The report may recommend dismissal or penalties short of dismissal. The written report shall be submitted to the Provost within 20 business days of the hearing. A record of any hearing should be made available to the Provost and to the faculty member.
- m. The faculty member may appeal the report and its recommendation to the FRC as provided in III.E. The FRC may refer the case to the AFEGC, or the faculty member may file a complaint with the AFEGC, if an academic freedom concern is raised. Any report by the AFEGC, including appeals reports, will be provided to the Provost and by the Provost to the President with the reports in XI.C.5.a.

5. Consideration by the President

- a. The Provost shall review the full report of the IRC stating its decision, and if relevant, the full report and the decision on the

**Comment [SK4]:** Current ASPT policy has only probationary faculty being able to file a complaint with AFEGC regarding dismissal. Tenured faculty currently only get the DFSC step and an appeal to FRC, though the policy is contradictory in its vagueness at current XI.B.2

It is unclear where the institutional memory lies regarding the rationale for this differentiation. In general, AAUP recommendations favour review of serious cases by the institution's academic freedom committee, so we may wish to consider a change here. It would be especially appropriate for cases where a suspension is NOT put into effect while dismissal proceedings are underway. It would seemingly be important in both disciplinary and non-disciplinary dismissal cases, unless I am missing something.

We may also want to state this right to review by the AFEGC earlier than C.4.m

appeal by the FRC, and transmit them to the President. Acceptance of the IRC's decision is normally expected, unless the FRC has sustained the faculty member's appeal. In that case, acceptance of the FRC's decision is normally expected.

- b. If the President chooses to review the case, that review should be based on the record of the previous hearing(s), accompanied by opportunity for argument, oral or written or both, by the principals at the hearing(s) or their representatives.
- c. The decision of the FRC (or the IRC, if no appeal) should either be sustained or the proceedings be returned to the final committee with objections specified. In such a case, the committee in question should reconsider, taking account of the stated objections and receiving new evidence if necessary. It should frame its decision and communicate it in the same manner as before.
- d. Only after study of the final committee's reconsideration, if any is requested, should the President make a final decision to sustain or overrule that committee. The President may decide in favor of dismissal or for penalties short of dismissal.
- e. The President shall communicate the final decision to the faculty member, the Provost, Dean, DFSC/SFSC, IRC, and, if applicable the FRC, within 20 business days of the final report of the FRC (or IRC, if no appeal).
- f. If dismissal for cause is effected, the faculty member must receive one year of notice or severance salary, unless the grounds for dismissal legally prohibit such provision.
- g. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements about the case by either the faculty member or administrative officers should be avoided so far as possible until the proceedings have been completed. Announcement of the final decision must be made only through the President's office and must include a statement of the FRC's original decision, if this has not previously been made known.

## ILLINOIS STATE UNIVERSITY CONSTITUTION

### PREAMBLE

Illinois State University was established by the Legislature in 1857 as the first public institution of higher education in the State. Today it operates as a free-standing institution governed by the Board of Trustees, which has adopted this Constitution to provide for the University's internal organization, governance and processes by which representative advice on educational policies is provided to the President. The Board and the University are committed to the students, faculty, and staff who comprise the University community. The University affirms its dedication to the teaching-learning process through which it serves its students, the body of scholars, and the general public.

### ARTICLE I.

#### External Governance and the University Community

##### Section 1. External Governance

The Illinois General Assembly representing the people of the State, exercises ultimate control over Illinois State University by virtue of its authority to enact and amend laws pertaining to the University and to appropriate funds for the continued operation and expansion of the University.

The Board of Trustees, established by law and appointed by the Governor by and with the advice and consent of the Illinois Senate, is directly responsible to the Governor and the General Assembly for the management, operation control, and Illinois State University. The powers and duties of the Board of Trustees are detailed in the BOARD OF TRUSTEES GOVERNING DOCUMENT. The Board of Trustees is responsible for the governing of the University, but it may properly delegate authority with commensurate responsibility to the President of the University and to the Academic Senate. While it cannot divest itself of ultimate responsibility and reserves to itself the power to act on its own initiative in all matters affecting the University, the Board ordinarily will not act on any matter for which its governing document calls for participation of the University community without first obtaining its advice and recommendations. Such advice shall be obtained from representatives of the Academic Senate and the Campus Communication Committee, and transmitted by the President in accordance with the Board of Trustees Governing Statutes VII.B. When acting on curriculum, instruction, faculty appointment, salary, promotion and tenure procedures, academic freedom issues, faculty ethics and grievance procedures, the Board shall receive and ordinarily follow the advice of the Academic Senate as recommended to it by the President.

The Board of Higher Education exists to facilitate the coordination of the total higher educational system in Illinois. It is authorized to approve or disapprove proposals of major new academic programs and units of instruction. It is directed to analyze and make recommendations to the Governor, the Legislature, and the public regarding institutional requests for operating and capital funds, as prepared by the University and recommended by the Board of Trustees.

Within the framework of statutory provisions of the State of Illinois, with the approval of the Board of Higher Education where applicable, and with the approval of the Board of Trustees, Illinois State University is charged with the responsibility of providing quality higher education programs involving teaching, scholarly productivity, and public service responsive to the needs of the State and the People of Illinois. In fulfilling its assigned mission, the University shall be governed and will operate within the framework of this Constitution including such By-Laws and legislation as are later adopted by the Academic Senate as stipulated in the Board of Trustees Governing Document.

##### Section 2. University Community Membership

The University community shall include faculty and administrative/professional employees, students,

civil service, and other employees as defined in the University Policies and Procedures Manual. The academic community shall include students and those holding faculty rank. The University shall maintain personnel files adequate to provide at any time an accurate listing of persons as defined.

Illinois State University is committed to non-discrimination and equal opportunity in programs, activities, and employment for students and employees regardless of race, color, religion, sex, national origin, sexual orientation, ancestry, age, marital status, physical or mental disability, unfavorable discharge from military or status as a disabled veteran or veteran of the Vietnam Era or other factors prohibited by law. Further, Illinois State University is committed to a comprehensive program of Affirmative Action to insure access, equity and fairness in educational programs, related activities and employment for minorities, women, disabled persons, disabled veterans, and veterans of the Vietnam Era.

## ARTICLE II

### Students

Any person admitted to the University who is currently enrolled for University academic credit shall be defined as a student.

#### Section 1. Student Rights and Responsibilities

##### A. Student Rights

Among the goals of the University are the transmission of knowledge, the pursuit of truth, the development of its members, and improvement of the general well-being of society. Academic freedom in the form of freedom of inquiry and freedom of expression is indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. The standards of academic freedom of students detailed in this article are essential to any community of scholars. Student freedom to learn and faculty freedom to teach are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. University students are expected to exercise their freedom with responsibility, but the responsibility to secure and respect students' freedom to learn is shared by all members of the University community.

##### B. Student Responsibilities

The academic community requires a system of order to support the educational process, which is the purpose of the University. Preservation of the system of order depends on the individuals who make up the group. Implicit in the community's recognition of the rights of students is their obligation to accept their responsibilities toward the community.

1. The primary responsibility of students is to advance their own education.
2. The obligation of students to fellow students requires conduct which shows respect for the opinions and rights of all. In seeking to effect change, students rely on reasoned argument and utilize procedures which do not interfere with the opportunity of other students to pursue their education.
3. Students' responsibilities toward their instructors include the obligation to fulfill assignments, to participate in discussion and other activities, to increase their scholarly competence in the discipline being studied, and to work creatively and independently. Through fairness and courtesy, they invite respect for themselves and the entire student community.
4. The obligation of students to the University is to be effective participants in the teaching-learning process. They observe the rules of the University, yet guard their right to criticize. They speak or act on

their own behalf, not as a representative of the University. They accept their share of responsibility for the University governance.

5. The responsibility of students to the community beyond the University is to be good citizens. While recognizing that complying with laws and rules cannot of itself make one good, students should obey national, state, and local laws. If the processes of the law have been exhausted without achieving substantial justice, then those who have violated the law in the name of justice must be prepared to accept the consequence of their violation.

## Section 2. Student Admission Policy

Consistent with the University's commitment to diversity, equal opportunity, and affirmative action, admission to Illinois State University shall not be denied because of race, color, religion, sex, national origin, sexual orientation, ancestry, age, marital status, physical or mental disability, unfavorable discharge from military, or status as a disabled veteran or veteran of the Vietnam Era, or other factors prohibited by state or federal law. The University's stance on diversity, equal opportunity, and affirmative action extends beyond the scope of state and federal legislation

## Section 3. Classroom Relationships

### A. Protection of Freedom of Expression

Students shall be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled. The professor in learning environments and in conference shall encourage free discussion, inquiry, and expression.

### B. Protection Against Improper Academic Evaluation

Students shall have the protection through established procedures against prejudiced or capricious academic evaluation. Students' performance shall be evaluated in a course solely on the basis of success in meeting reasonable standards established and communicated by the instructor for that course. When called upon to participate in rating faculty, students are under an obligation to rate with the same degree of fairness to which they are entitled as students.

### C. Protection Against Improper Disclosure

While judgments of an individual student's ability and character may be provided under appropriate circumstances, information about student views, beliefs, and political associations which members of the academic community acquire in the course of their work as instructors, administrators, advisors, and counselors shall be considered confidential. Improper disclosure of such confidential information about students shall be considered a breach of professional ethics. The Academic Senate shall recommend policy concerning student permanent educational records and students disciplinary records which shall specify the conditions of disclosure of information contained in these records.

## Section 4. Student Activities and Affairs

### A. Freedom of Association

Students are free to organize and join associations to promote their common interests.

### B. Freedom of Inquiry and Expression

Students are entitled to academic freedom as it relates to student activities as well as in the classroom.

1. Students individually and collectively are free to examine and to discuss all questions of interest to

them including questions relating to University policies and to express opinions publicly and privately. They are free to support causes by an orderly means which do not disrupt the operations of the University. They may participate, through regularly established channels, in the formulation and application of the regulations which govern them. It shall be understood and made clear to the University and larger community that in their public statements or demonstrations, students or groups of students speak only for themselves and not the total University community.

2. Students shall be allowed to invite and hear any person of their own choosing. Routine procedures required by the University before a guest speaker is invited to appear on campus shall be designed only to insure that there is orderly scheduling of facilities and adequate preparation for the event, and that the occasion is to be conducted in a manner appropriate to an academic community. It shall be made clear to the University and larger community that the presence of guest speakers does not necessarily imply approval or endorsement of the views expressed, either by the sponsoring group or the University.

#### C. Student Participation in Academic Governance

As essential constituents of the academic community, student members shall be free to express their views on issues of institutional policy and on matters of special interest to the students. Students shall be provided a voice in the formulation of University policy by representation on the Academic Senate.

#### D. Student Communications Media

The Academic Senate shall recommend policy concerning the principles and procedures governing student publications and other communications media. Editorial freedom shall be guaranteed to all student publication and other communications media.

### Section 5. Student Citizenship

#### A. Student Exercise of Rights of Citizenship

University students enjoy the same freedom of speech, peaceful assembly, and right to petition that any other citizen enjoys. As members of the academic community, they are subject to the special responsibilities of the student.

Faculty members and administrative officials shall not employ institutional powers to inhibit such intellectual and personal development of students as may be promoted by the exercise of their rights of citizenship both on and off campus.

#### B. University Authority and Civil Penalties

At all times and places a student is subject to public laws. In addition, University regulations apply to students whenever they are on University property. The University assesses penalties only for violation of its own regulations.

### Section 6. Student Code and Procedural Standards in Disciplinary Proceedings

Recognizing its obligations to formulate and communicate clearly and in advance standards of behavior which are considered essential to its educational mission and community life, the University shall publish a student code which shall be reviewed periodically by the Academic Senate and made available to all students.

## ARTICLE III.

### Faculty

#### Section 1. Faculty Rights and Responsibilities

##### A. Faculty Rights

It is the policy of the University to maintain and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication and to protect members of the academic community against influences, from within or without the University, which would restrict them in the exercise of these freedoms. The University exists for the common good and not for the promotion of the narrow interests of a segment of the faculty, the institution as such, or any given orthodoxy of content or method. The University shall ensure that each member of the faculty and instructional staff has freedom in teaching, research and publication as well as in the expression of opinion on University affairs. Academic freedom carries with it responsibilities correlative with rights. A concomitant of academic freedom is the faculty's adherence to standards of professional ethics which define its highest ideals of conduct.

##### B. Faculty Responsibilities

Faculty members, guided by a deep conviction of the worth and dignity of their service to the advancement of knowledge, recognize the special responsibilities placed upon them. They accept the obligation to exercise critical self-discipline and judgment in gathering information, in using it, and in transmitting it.

1. Faculty members' primary responsibility to their subject is to seek and to state the truth as they see it. To this end they devote their energies in developing and improving their scholarly competence. They practice intellectual honesty and shun irrelevancy. They avoid conflict of interest that may restrict their freedom of inquiry and teaching.

2. Faculty members' responsibility to their students is to teach them according to the best scholarly standards of their discipline. By rigorous self-scrutiny, by fairness and courtesy, and by attention to the details of their professional conduct, they strive for a deportment that will invite respect for themselves and their profession. In their teaching they maintain an atmosphere of free and unhampered inquiry and they encourage independence and originality of thought. They adhere closely to their role as intellectual guide and counselor, avoid exploitation of students for their private advantage, acknowledges significant assistance from students, and protects student academic freedom.

3. Faculty members' obligations to their professional colleagues derive from common membership in the community of scholars. They seek to be supportive in their diverse relations with colleagues. In exchange of criticism and ideas they show respect for the opinions of others. They acknowledge their academic debts and their professional judgments of colleagues are impartial. They accept their share of faculty responsibility for University governance.

4. The faculty members' responsibilities to the University are teaching, scholarly productivity and service. They are encouraged to participate actively in the shared governance of the University. Faculty members observe stated rules and regulations of the University, yet guard rigorously their right of criticism. When they speak or act as a private person, they avoid creating the impression that they speak or act for their department, college, or the University. They determine the amount and character of work they do outside the University with due regard to their paramount responsibilities within the institution and in case it is for remuneration, with the knowledge of the University. When considering the interruption or termination of their service, they weigh the effect of their decision upon the academic program of the University.



5. The faculty members' obligations to the community, like their rights within the community, cannot be less than those of any citizen. They measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, and to their University. As a citizen engaged in a profession that depends upon freedom, the professor has a special obligation to promote conditions of free inquiry and to further, in the civil community, the understanding of academic freedom.

## Section 2. Terms and Conditions of Faculty Appointments

### A. Statement of Terms of Appointments

The terms and conditions of faculty appointments are governed by written contract between the Board of Trustees of Illinois State University as employer and the faculty member as employee. Any extension of or change in the terms and conditions of employment will be achieved through an addendum to contract or through a subsequent contract of employment. The Board of Trustees of Illinois State University has delegated to the President full authority to act on its behalf in all matters relating to faculty appointments, promotion and tenure (see ASPT document January 1, 2000, Section I. A., page 5).

### B. Types of Faculty Appointments

All full time appointments for faculty holding academic rank shall be one of two types (1) tenure appointments, (2) probationary tenure track appointments. Non-tenure-track appointments do not hold academic rank. The continuation of all appointments shall be contingent upon the availability of appropriated funds. The definition of the three types of faculty appointments is included in the University Policies and Procedures web site. The Appointment, Salary, Promotion and Tenure (ASPT) document contains relevant policy and procedure for tenure and probationary tenure-track faculty.

Tenure appointments shall be for an indefinite term and may be terminated only by (1) retirement, (2) acceptance of resignation, (3) demonstrable financial exigencies, (4) discharge for cause, or (5) the reduction or elimination of a department or program. No appointment shall entail tenure unless the appointment explicitly so states.

Appointments to a faculty position at Illinois State University shall be made without regard to race, color, religion, sex, national origin, sexual orientation, ancestry, age, marital status, physical or mental disability, unfavorable discharge from military, or status as a disabled veteran or veteran of the Vietnam Era or other factors prohibited by state or federal law.

## Section 3. Academic Freedom and Tenure

### A. Academic Freedom

All members of the faculty have academic freedom in conformance with nationally recognized standards. Dismissal of a faculty member with tenure at any time and of a faculty member on probationary tenure or non-tenure-track appointment before the end of the specified term of appointment shall be in substantial conformity with the procedure for handling faculty academic freedom and tenure cases as outlined in the University ASPT Document. If a faculty member on probationary appointment alleges that considerations violative of academic freedom significantly contributed to a decision not to reappoint him or her, the case shall be considered in accordance with the procedure for handling faculty academic freedom and tenure cases as outlined in the University

ASPT Document. If a non-tenure track faculty member alleges that considerations violative of academic freedom significantly contributed to a decision not to reappoint him or her, the case shall be considered in accordance with the procedure for handling faculty academic freedom cases as outlined in the Academic Freedom, Ethics and Grievance Document.

## B. Faculty Tenure

Tenure status confers on its holder: (1) protection against arbitrary dismissal through abrogation of their freedom in teaching, scholarly productivity and service and (2) a sufficient degree of economic security to make the profession of college teaching in general and a teaching career at Illinois State University in particular attractive to persons of ability. Freedom and economic security as provided by tenure, are indispensable to the success of the University in fulfilling its obligations to its faculty members and students and to society. After the completion of a successful probationary period faculty shall have permanent or continuous tenure under the terms and conditions set forth in the University ASPT document.

No administrative assignment, including that of department chairperson or head, entails tenure. All persons serve in administrative posts at the pleasure of the President. While serving in an administrative post, however, a person shall not sacrifice the rank and tenure they held as a faculty member. Upon leaving an administrative post and provided that they are deemed qualified by their department, faculty members with tenure may resume a teaching research faculty position in the department where they hold rank. Upon the recommendation of an academic department for good reasons stated in writing, the President may recommend to the Board of Trustees that a new faculty appointment at either of the two higher professional ranks be made with tenure.

## Section 4. Termination of Faculty Appointments

### A. Termination of Appointment by the Faculty Member

Faculty members may terminate their appointments effective at the end of an academic year, provided that they give notice in writing at the earliest possible opportunity, but not later than May 15, or thirty days after receiving notification of their appointment for the coming year, whichever date occurs later. Faculty members may properly request a waiver of this requirement of notice in case of hardship or in a situation where they would otherwise be denied substantial professional advancement or other opportunity.

### B. Termination of Appointment by the University

Termination by the University of a faculty member's appointment shall be accomplished only under the following conditions:

1. Termination of a tenure appointment, or of a probationary or non-tenure track appointment before the end of a specified term, may be effected by the University for adequate cause. Cause for dismissal shall be related, directly and substantially, to the fitness of faculty members in their professional capacity as teachers or researchers, and may be deemed to exist when faculty members can no longer be relied upon to perform their University duties and functions in a manner consonant with professional standards. These standards are set forth in Section 1 of this Article and in legislation enacted by the Academic Senate. If termination takes the form of dismissal, it shall be pursuant to the procedures specified in Section 5 of this article.

2. Where termination of appointment is based upon demonstrable financial exigency, or bona fide reduction or elimination of a program or department, Section 5 will not apply, but faculty members shall be able to have the issue reviewed by the Academic Senate, the President or both. In all such cases the faculty member being displaced will be given notice as soon as possible after the decision to reduce or eliminate has been made. Such notice shall be given to tenured faculty at least twelve months before the end of the academic year in which the faculty member is to be terminated. Notice for non-tenure

appointments shall be given according to the dates established in Article III, Section 2. B. 2. Before terminating an appointment because of the bona fide reduction or elimination of a program or department, the University will make every effort to place affected faculty members in another suitable position or one in which they may become professionally qualified. If an appointment is terminated before the end of a period of appointment, because of demonstrable financial exigency, or because of the bona fide reduction or elimination of a program or department, the released faculty member's position will not be filled by a replacement within a period of two years, unless the replaced faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

3. Termination for medical reasons for a tenured appointment, or a probationary appointment before the end of the period of appointment, will be based on clear and convincing medical evidence which shall, if the faculty member so requests, be reviewed by the Faculty Review Committee before a final decision is made by the Board of Trustees on the recommendation of the President.

## Section 5. Procedural Standards in Faculty Ethics, Grievance, Academic Freedom and/or Due Process Tenure Procedures

### A. Faculty Grievance Procedures

The Academic Senate shall adopt legislation which shall provide for faculty grievance committees and procedures.

### B. Faculty Academic Freedom and Tenure Procedures

The Academic Senate shall adopt a procedures for handling faculty academic freedom, tenure, and dismissal cases, which guarantee academic due process and which conform to nationally recognized standards.

## Section 6. Faculty Activities and Affairs

### A. Faculty Participation in Academic Governance

As essential constituents of the academic community, faculty members are free to express their views on academic processes and procedures, other issues of special interest for which faculty have expertise, and matters of institutional policy. Faculty members shall be provided a voice in the formulation of University policy by representation on Academic Senate.

### B. Faculty Assembly

A Faculty Assembly may be established by a referendum of the faculty.

### C. Faculty Meetings

A meeting of the faculty will be convened at any time the President, the Provost, or the Chairperson of the Academic Senate so designates, or upon petition of five per cent of the members of the faculty. Except in case of emergency declared by the President, or in his or her absence the Provost, each member of the faculty will be notified by mail at least two weeks in advance of a meeting of the faculty. Such notice will include information on the purpose of the meeting. Ten per cent of the members of the faculty constitutes a quorum for a faculty meeting. The Chairperson and the Secretary of the Academic Senate serve the same offices for meetings of the faculty. The faculty at any meeting may take action advisory to any committee of the University, the Academic Senate, the President, or the Board of Trustees, but legislative authority shall be exercised or delegated only by the Academic Senate.

### D. University Review Committee

The Academic Senate shall adopt legislation which shall provide for a University Review Committee to

recommend detailed policies on the handling of faculty appointment, promotion, salary and tenure matters with such policies being approved by the Academic Senate and the President.

Report on Faculty Status -- Specific promotion, salary and tenure recommendations shall be reviewed by the faculty members of the Academic Senate in Executive Session and forwarded to the President.

#### E. Faculty Political Activities

Faculty members, as citizens, are free to engage in political activities. When necessary on timely application, and for a reasonable period of time, leaves of absence may be given for the duration of an election campaign or a term of office. The terms of such a leave shall be set forth in writing, and the leave will not affect unfavorably the tenure status of a faculty member, except that time spent on such leave will not count as probationary service unless otherwise agreed to.

#### F. Sabbatical Leave and Leave Policy

The bylaws of the Academic Senate shall provide for faculty participation in the formulation of policies on sabbatical and other forms of faculty leave.

### ARTICLE IV

#### Administration and Academic Organization

##### Section 1. University President

###### A. Presidential Responsibilities

The President is the chief academic and administrative officer of the University, the Executive Officer of the Board of Trustees in the University, and the principal intermediary between the University and its Board. The President is accountable to the Board for every aspect of the conduct and development of the University over which he or she has authority. The President shall serve at the pleasure of the Board and shall be accountable to the Board for the operations of the University and the achievement of its mission. Members of the university community consider the following responsibilities to be those of the President:

1. Conduct of the University in accordance with the BOARD OF TRUSTEES GOVERNING DOCUMENT, relevant statutes and the provisions of this Constitution.
2. Implementation of protections afforded faculty and administrators, students, civil service and other employees in this Constitution and provision of administrative structures to serve those needs.
3. Effective communication between the Board of Trustees and the University community.
4. Preparation of University budgets as may be necessary for proper planning and reporting.
5. Transmission to the Board, with his or her recommendations, of proposals initiated within the University, including actions of the Academic Senate.
6. Recruitment and retention of a competent faculty of scholar-teachers and administrators.
7. Development of educational programs, in accordance with a flexible and evolving academic master plan for the University.
8. Development of democratic leadership within the University community.
9. Development of rapport between the University and the community in which it is located.

10. Interpretation to the public of the University and its mission.

11. Presentation of an annual "State of the University" report.

## B. Selection of University President

When a vacancy arises in the position of University President, the Board of Trustees shall establish a Presidential Search Committee to provide assistance and advice to the Board in selecting a new President of the University.

## Section 2. University Administration Organization

### A. Organizational Structure of Administration

The President under authority granted by the Board of Trustees is responsible for a viable organizational structure of University administration including the designation of administrative positions and the responsibilities of administrative officers. The President shall inform and seek the advice of the Academic Senate regarding changes in administrative positions, functions, or structure.

### B. Faculty-Student Participation in Selection of Administrators

The President shall be responsible for all appointments of administrative officers. Faculty, staff members and students shall be involved in the search process for principal administrators, including college and library deans and department chairs. The Academic Senate shall recommend procedures for the selection and appointment of administrators and forward them to the President for consideration. The President has the authority to accept, amend or reject the procedures recommended by the Academic Senate.

## Section 3. Administrative/Professional and Civil Service Staff

### A. Administrative/Professional Employees

Professional employees are essential members of the University. The definition of this employee group is included in the University Policies and Procedures Manual.

#### 1. Administrative/Professional Employees Rights

As employees of Illinois State University Administrative/Professional employees have rights similar to those of students and faculty in the pursuit of learning and in the creation of a civil and collaborative campus environment. Administrative/Professional employees have the right to express opinions as they relate to the strengthening of the campus environment, institutional policy and procedures and activities of special interest to this group. Administrative/Professional employees participate through regularly established governance channels in the formulation and application of the regulations which govern them.

#### 2. Administrative/Professional Employees Responsibilities

a. The freedom to learn and teach are inseparable facets of the academic enterprise and as such must be supported by all employees in the university environment. Administrative/Professional employees have a critical role to ensure that the campus environment is maintained in support of these freedoms. Administrative/Professional employees are essential for developing and implementing efforts to enhance the campus environment so that learning and the acquisition of knowledge can take place within multiple campus experiences.

b. Administrative/Professional employees work to support the university mission. In this commitment to service to the institution, Administrative/Professional employees recognize the special responsibilities

placed on them. They accept the obligation to exercise critical self-discipline and judgment in gathering, using, and transmitting information and providing service in support of the University mission.

c. The Administrative/Professional employees' responsibilities to the university community are productivity and service. They are encouraged to participate in the shared governance of the University. Administrative/Professional employees are full members of the University community and as such share responsibilities similar to others in the community to support and maintain the goals of their units and the University.

#### B. Civil Service Staff

Civil Service employees are essential members of the University. The definition of this employee group is included in the University Policies and Procedures Manual. The rights and responsibilities of this employee group are enumerated in the Illinois State University Civil Service Employee Handbook.

### Section 4. University Academic Organization

#### A. Academic Organization and Self-Governance

The Provost, in consultation with the President and with the advice of the Academic Senate, is responsible for developing and maintaining a viable academic organizational structure including academic units (departments, colleges, or other such units) of instruction, research, or public service.

The Provost shall inform and seek the advice of the Academic Senate before effecting a reorganization or change in the academic organization of the University, including the establishment or abolition of any academic unit. Each academic unit of the University shall be entitled to exercise a degree of self-government which does not infringe upon other academic units.

The governance process of each academic unit shall include provisions for faculty and student participation. Such governance units shall be established for the purpose of advising the unit administrator.

#### B. Colleges and Their Academic Units

Each college of the University shall formulate and adopt By-Laws providing for the governance of the college and its departments or other academic units. For purposes of this Article the University Libraries shall be considered a College. After being adopted by a majority vote of the faculty members of the college participating in the election, College By-Laws shall be subject to approval by the Academic Senate. College By-Laws shall provide for the following:

1. A method of formulating college policy and advising the dean of the college either through an elected college council or by college faculty meetings.
2. A provision for periodic meetings of the college faculty.
3. Procedures for the college council to handle curriculum and appointment-promotion-tenure matters or for college committees on curriculum, appointment-promotion-tenure, and for other committees as necessary.
4. Guidelines within which departments shall provide for their own governance.
5. A procedure for the selection of department chairpersons or heads and for periodic evaluation of academic units.
6. Appropriate representative student participation in college and department affairs.

### C. Graduate School

The Dean of Graduate Studies shall have primary responsibility for developing and maintaining a viable graduate academic program. The Graduate School shall formulate and adopt By-Laws providing for an elected Graduate Council responsible for formulating Graduate School policy and advising the Graduate Dean. The By-Laws of the Graduate School shall be subject to approval by the Academic Senate after being adopted by a majority vote of the graduate faculty members participating in the election.

### D. Academic Programs

The Provost with the assistance of the Academic Planning committee shall be responsible for drafting and periodically reviewing an Academic Plan for the University which charts the directions of future academic plans and programs. The Provost, with the participation of the Dean of Graduate Studies where graduate programs are involved, shall assist and encourage academic units in the development of plans and proposals to fulfill the objectives of the academic plan. The establishment of new academic programs, disestablishment of existing academic programs, or changes in existing academic programs shall follow procedures established by the Academic Senate and approved by the President, consistent with Board of Trustees policies. In order to insure that the academic programs of the University remain viable, the Provost shall require their periodic review.

## ARTICLE V.

### Academic Governance

#### Section 1. Academic Senate

The primary governing body at Illinois State University shall be the Academic Senate, which shall provide for faculty and student participation in academic governance. The Academic Senate shall have an Executive Committee.

#### A. Membership

The voting membership of the Academic Senate shall consist of 29 elected faculty tenure/probationary tenure faculty members, one non-tenure track faculty, one faculty associate, 20 elected student members from the Student Government Association, and the President of the Student Body. The voting membership shall also include a representative of the Administrative Professional Council and a representative of the Civil Service Council.

The ex-officio, non-voting membership shall be: the President of the University, the Vice President and Provost, the Vice President of Student Affairs, the Vice President for Finance and Planning, the Associate Vice President of Graduate Studies, Research and International Studies, the Associate Vice President of Undergraduate Studies, the Chairperson of the Chairs Council, a representative of the Deans Council and the Student Trustee.

To be eligible to serve as a member of the Senate, an undergraduate student shall have been enrolled in the University one full academic term prior to his election and be registered as a full-time student, and a graduate student shall be currently enrolled in graduate school. To be eligible to serve as a member of the Academic Senate, faculty members shall have been faculty members at the University one full academic term prior to their election, and hold a full-time appointment to the rank of instructor, assistant professor, associate professor, or professor. A member of the faculty who has an administrative appointment, other than as a department chairperson or head, is not eligible for election to the Academic Senate.

## B. Elections

The Senate shall approve rules for the conduct of elections of representatives, which shall conform to the following provisions:

1. Full time tenure and probationary tenure faculty members with the rank of assistant professor, associate professor and professor shall be eligible to vote in the election of tenure and probationary tenure faculty representatives to the Academic Senate. All full or part time non-tenure-track faculty shall be eligible to vote in the election of the non-tenure-track representative to the Academic Senate. Students in good standing shall be eligible to vote in the election of student representatives to the Student Government Association. The elected students shall also serve as student representatives to the Academic Senate.
2. Tenure and probationary tenure faculty representatives shall be elected in proportion to the number of faculty members in each College of the University. Each College shall have at least one representative on the Academic Senate. There shall be a reapportionment of seats at least every two years. Each College Council or faculty of the College in a case where a College Council does not exist, shall determine the method of nomination and election of its representatives to the Academic Senate. Provisions shall be made for nomination by petition.
3. Nominations or self-nominations for the non-tenure-track faculty representative shall be made by non-tenure-track faculty.
4. Undergraduate and graduate representatives shall be elected according to rules prescribed by the Student Government Association. The ratio of graduate to undergraduate students shall be in reasonable proportion to their current enrollment.
5. Tenure and probationary tenure faculty representatives shall serve three-year terms except that in the first regular election the terms will be staggered for one, two, and three years. The non-tenure-track faculty representative shall serve a one-year term. Student representatives shall serve one-year terms as specified in the Academic Senate Bylaws.

## C. Officers

The officers of the Academic Senate shall include a Chairperson, Vice Chairperson, and a Secretary.

1. The Chairperson and Secretary of the Senate shall be elected annually by and from the Academic Senate. The Chairperson and Secretary of the Senate shall be faculty representatives while the Vice Chairperson shall be the President of the Student Body. In the absence of the Chairperson, the Vice Chairperson shall assume the functions of the Chairperson.
2. The Chairperson of the Academic Senate shall designate a Parliamentarian to serve at his or her pleasure.

## D. Meetings

The Academic Senate shall meet at least once each month with the exception of June and July. Meetings during June and July are subject to call by the Academic Senate Executive Committee. A quorum shall consist of a majority of the membership. The Chairperson of the Senate may convene a special session of the Academic Senate when necessary and shall be obliged to call a special meeting when requested to do so by the Executive Committee, the President of the University, or in his or her absence the Provost, or a petition signed by one fifth of the members of the Academic Senate. The agenda for meetings of the Academic Senate shall be determined by the Executive Committee.

## E. Functions



Within the limits established by legislative statute and the authority delegated thereby to the Board of Higher Education and the Board of Trustees, the Academic Senate shall be the primary body to recommend educational policies of the University, including those described below, and to advise the President on their implementation. Policies recommended by the Academic Senate shall be forwarded to the President for consideration. The President may approve or disapprove them, amend them or return them to the Academic Senate for further discussion before final consideration by the President. The Senate shall:

1. Recommend policy for the admission of students to the University.
2. Recommend policy for degree requirements, and the procedures for inaugurating, changing, or terminating degree programs.
3. Recommend policy for the annual calendar of the University.
4. Recommend policy for the adoption and standards of educational and academic conduct common to all elements of the University community.
5. Recommend policy for intercollegiate programs and activities.
6. Recommend policy with respect to student life and conduct.
7. Recommend policy for the evaluation of faculty members including academic administrators in connection with their appointment, promotion, remuneration, and retention.
8. Recommend policy to insure the protection of the rights and privileges of the various elements of the academic community, and establish procedures for the hearing of grievances.
9. Recommend policy and act on report of standing and ad hoc committees of the Academic Senate. Standing Committees shall be established by the By-Laws of the Senate which shall delineate the composition of and the procedures of each committee.
10. Recommend patterns of the academic community's self-government by exercising its authority to delegate responsibility to colleges or departments or committees.
11. Participate in the formulation of capital and operating budgets and requests to be submitted to the Board of Trustees.
12. Participate in the formulation of long range academic plans including those to be submitted to the Board of Trustees.
13. Participate in the formulation of long-range plans for campus buildings and physical facilities.
14. Participate in the formulation of the academic and administrative structure of the University.
15. Advise the President on any matter, at his or her request or on the initiative of the Academic Senate.
16. Participate in the formulation of policies governing the terms under which individuals and groups can use University facilities for out-of-class activities.

## Section 2. Executive Committee

The Executive Committee of the Academic Senate shall be established by the Senate to expedite the

business of University governance. Any action of the Executive Committee shall be subject to review and confirmation by the Academic Senate.

#### A. Membership

The Executive Committee shall consist of the President and the Vice President and Provost of the University (non-voting), six faculty members and four students. The faculty and student members shall consist of the Chairperson, Vice Chairperson/Student Body President, and Secretary of the Academic Senate, the President of the Student Body, and seven members elected annually by and from the Academic Senate.

#### B. Officers

The Chairperson of the Academic Senate shall function as the Chairperson of the Executive Committee and shall preside over its meetings. In the absence of the Chairperson, the Vice Chairperson shall assume the functions of the Chairperson. The Secretary of the Academic Senate shall serve as the Secretary of the Executive Committee.

#### C. Meetings

The Executive Committee shall meet regularly, and its meetings shall be open to all members of the University community. A quorum shall consist of a majority of the membership. Any member of the Academic Senate may request floor but not voting privileges at meetings of the Executive Committee. Any student or any member of the faculty or administration may submit in writing agenda items which shall be considered by the Executive Committee. The Executive Committee may include such items on the agenda to the Academic Senate or may recommend consideration of the matter to the appropriate University board, committee or administrative officer. The Chairperson of the Academic Senate or the President of the University may convene a special meeting of the Executive Committee when necessary.

#### D. Functions

The Executive Committee of the Academic Senate shall serve to expedite the business of University governance by establishing the place and time and agenda for all meetings of the Academic Senate, by recommending faculty and administration members of all University committees which are subject to review and confirmation by the Academic Senate, by recommending items for consideration of any University committee and by performing any other duties assigned to it by resolution of the Academic Senate.

### Section 3. Campus Communication Committee (CCC)

To facilitate communication between the Board of Trustees and the various campus constituencies, a Campus Communication Committee (CCC) of 8 members shall be established. In accordance with Section A. VII. Part B: Shared Governance of the Board of Trustees Governing Document, the CCC shall consist of:

Three faculty from the Academic Senate: two faculty members nominated and elected by the Senate and the Chairperson of the Academic Senate;

One student nominated and elected by the Student Government Association;

Two Civil Service employees nominated and elected by the University Civil Service Council; and

Two Administrative/Professional (A/P) members nominated and elected by the Administrative/Professional Council.

All elected members shall serve staggered two-year terms.

## ARTICLE VI.

### Legislation and By-Laws Amendments

#### Section 1. Definitions

##### A. Legislation

Legislation is defined as a written policy statement passed by the Academic Senate. All such legislation shall be forwarded to the President for amendment and/or approval or disapproval or returned to the Academic Senate for further discussion before final consideration by the President.

##### B. By-Laws

By-Laws are defined as rules and regulations governing the structure, procedures, and functions of a University organization. (By-Laws called for in this Constitution, including the By-Laws of the Academic Senate and of each school and college of the University, shall be approved by the Academic Senate and the President.) By-Laws of the administrative/professional and civil service staff councils, including changes, shall be approved by the President of the University.

##### C. Amendments

Amendments are defined as changes in either this Constitution or in the By-Laws for which it provides. All amendments to the By-Laws shall be subject to the approval of the Academic Senate and the President.

#### Section 2. Amendments to the Constitution

An Amendment to the Constitution of Illinois State University may be initiated by a petition signed by two percent of the student currently enrolled in the University or ten percent of the faculty of the University or by a petition signed by five members of the Academic Senate. A proposed amendment shall be submitted at a regular meeting of the Academic Senate, be distributed in the Senate minutes, and be voted upon at a regular Senate meeting following distribution of the minutes. If the Academic Senate shall approve the amendment by a two-thirds vote of its members the amendment shall be transmitted to the President for concurrence and recommendation to the Board of Trustees for approval, unless within ten days of its promulgation a petition signed by ten percent of the students currently enrolled in the University or ten percent of the faculty of the University shall call for a referendum. All students and all faculty are entitled to vote in a referendum. An amendment approved by a majority of both the students voting and a majority of the faculty members voting shall be transmitted to the President for consideration. If the President approves the amendment, he or she will forward such amendment to the Board of Trustees for final consideration. If the Board of Trustees approves the amendment such amendment shall become a part of the Constitution.

An amendment to the Constitution of Illinois State University may also be initiated by the Board of Trustees. Upon motion, duly seconded and passed, a voting member of the Board of Trustees may introduce an amendment for consideration by the full Board. Such amendment shall then be published for first and second readings at consecutive public meetings of the Board before final action by the Board. The University community shall be afforded the opportunity to comment on any Board initiated amendment to the Constitution before final action by the Board.

# Governing Document of the Board of Trustees

Illinois State University

Revised January 12, 2013

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## Introduction

The governance of Illinois State University is vested by law in the Board of Trustees. Within the limits set by the State Constitution and the federal and state laws, the Board of Trustees is the final authority in all matters affecting the institution, and it exercises jurisdiction over the institution's financial, educational, and other policies and its relation with the state and federal governments. This Board of Trustees Governing Document describes the composition, powers, and duties of the Board of Trustees of Illinois State University, as defined by Illinois Statutes, and establishes policies for the performance of its functions. In the Board of Trustees Governing Document, the Board of Trustees has delegated certain responsibilities to the President in order to provide for the accomplishment of its goals. As the chief administrative officer of the University, the President is authorized by the Board to promulgate the University Policy Manual which provides interpretation and implementation of the Board of Trustees Governing Document. The Academic Senate is authorized to issue rules implementing the responsibilities delegated to it in the University Policy Manual.

## User's Guide

### Terminology

Unless otherwise specified or clearly indicated, terms used throughout the Board of Trustees Governing Document are defined as follows:

- a. Board refers to the Board of Trustees of Illinois State University.
- b. Adopted immediately following the topic title refers to the date on which the Board of Trustees first approved the material within the topic.
- c. Amended immediately following the topic title refers to the date on which the Board of Trustees modified material within the topic.

### Replacement Pages(as noted above)

The President's Office will maintain all amendments to the Board of Trustees Governing Document after adoption by the Board. Replacement pages containing a specific amendment or for all amendments adopted subsequent to publication can be obtained by

request to the President's Office. Individual users are responsible for keeping their own volume of the Board of Trustees Governing Document up-to-date.

## Interpretive Memoranda

From time to time the President's Office may issue interpretive memoranda in response to issues of interpretation which are posed by users of this document. Such interpretive memoranda will be made available to the members of the Board of Trustees and such additional persons as may be concerned. They too, will be maintained on file in the President's Office and available to any user upon request.

## Inquiries

Inquiries regarding the Board of Trustees Governing Document should be addressed to the President's Office, Illinois State University, Campus Box 1000, Normal, IL, 61790-1000.

# Section A: Government Statutes

## Power and Duties

The Board of Trustees of Illinois State University is a public corporation established by 110 ILCS 675 to "operate, manage, control and maintain Illinois State University in accordance with the rights, powers and duties now or hereafter vested by law in the Board." The Board has been given by statute the usual powers and duties of public corporations, including the power to contract; to sue and be sued; to acquire property by purchase, eminent domain or otherwise; to hold and convey real property for the benefit of the people of the State of Illinois and for the use of Illinois State University; and to expend funds appropriate to Illinois State University, with the proviso that the Board shall not create any liability or indebtedness of funds from the State Treasury in excess of the funds appropriated to Illinois State University.

The General Assembly of the State of Illinois has set a number of statutory limitations upon the Board's exercise of its powers. Included among these limitations are the powers given to the Illinois Board of Higher Education to carry out such coordinating functions as the approval or disapproval of new units of instruction, research and public service proposed by the Board of Trustees.

The Board is also directed by statute to carry out its powers and duties through the adoption of rules, regulations and bylaws and through the employment of a President and all other necessary officers and employees of the University. It is through the adoption of policies, rules, regulations and bylaws and through the employment of a President that the Board primarily acts to exercise its statutory powers. The Board is the final institutional authority and, therefore, the Board of Trustees Governing Document has precedence over the university constitution, and policies and procedures of the University. Where the Board of Trustees Governing Document conflicts with the Illinois State University Constitution or policies and procedures of the University, or policies and procedures of units of the University, the Board of Trustees Governing Document shall prevail.

In general, the Board will act to ensure that the University is administered in a manner that is in compliance with the Board of Trustees Governing Document as well as with fiscal and legal mandates and requirements, by holding the President accountable for such compliance, rather than through processes which require advance review and/or approval by the Board of university documents or administrative actions. In order to achieve and maintain this desired accountability, the Board will refrain from participating in the day-to-day management decisions and actions of the University, and it hereby delegates responsibility for the administration and management of Illinois State University to the President of the University. Except in limited instances and except when specifically provided for in university documents approved by the Board, the Board of Trustees will not serve as an appellate body for decisions made by the President or university administration.

In carrying out their statutory responsibilities, members of the Board as representatives of the State and its citizens, may exercise official Board authority only when the Board or a committee of the Board is in session or when they are acting on behalf of the Board pursuant to its direction.

## Delegation of Authority to President

The President of Illinois State University shall be the Chief Executive Officer of the University and is responsible to the Board for the operations of the University. The President is granted the necessary authority to carry out those responsibilities except for powers that are legislative or judicial in nature, which cannot be delegated pursuant to applicable law. The Board delegates to the President all authority:

1. Related to personnel of the University including the authority to hire and terminate individual employees of the University as provided for by Board policy.
2. To make final determinations with regard to promotions, tenure and sabbaticals for faculty and staff.
3. To execute all contracts, agreements, grants, warrants and other binding legal instruments presented in the name of the Board of Trustees which are necessary and appropriate to the normal operation of the institution and within the budgeted expenditures as approved by the Board of Trustees.
4. To approve capital projects and purchasing contracts up to and including \$500,000 per project or contract.
5. To enter into lease agreements of up to seven (7) years and up to \$100,000 per year per agreement.
6. To license products and inventions of the University in accordance with University policies.
7. To speak for the University before all federal, state and local government officers, boards and agencies.

## Board of Trustees Governing Statutes, Bylaws and Policies, Adoption and Amendment

The Board of Trustees Governing Document has three sections: Governing Statutes, Bylaws and Policies

Governing Statutes, Bylaws and Policies may be adopted, amended, or repealed at any regular meeting of the Board by a majority vote of the voting membership of the Board. Requests for the adoption, amendment, or repeal of Governing Statutes, Bylaws or Policies shall be submitted to the President who shall notify the Board's Chairperson of such requests. The President shall report such requests with recommendations for action to the Board. Except as specified below, the adoption, amendment, or repeal of Governing Statutes, Bylaws or Policies shall occur only after a proposal for adoption, amendment, or repeal has been presented to the Board for first reading by the President.

Board action on the proposal shall not be taken earlier than the next regular meeting following the first reading unless the Board determines that timing considerations or the nature of the subject matter requires immediate action. During the interim between first reading and Board action, the President shall distribute copies of the proposal to appropriate faculty, staff, and student groups. Up to ten days prior to the Board meeting at which action is to be taken, members of the faculty, staff, and student body may submit their views and comments in writing to the President for distribution to the Board together with the President's recommendation for action on the proposal.

The President is authorized to make nonsubstantive amendments to the Board of Trustees Policies as may be necessary for such purposes as name or title changes, correcting typographical errors and cross-references, and updating citations.

The President shall have established a process for

## Presidential Delegation of Accountability

- A. The President may delegate authority and responsibility for administration and management of the University in any manner which will ensure accountability. It is the Board's expectation that the President will make management decisions and will delegate authority and responsibility for the making of such decisions in a manner which will:
  - a. Protect the public interest in the successful achievement of the University's mission
  - b. Maximize use and conservation of university resources
  - c. Protect the University's public image as an institution of integrity and value
  - d. Assure compliance with applicable federal and state law
  - e. Assure diversity among the employees and students
- B. In the event the President advises the Board of his/her incapacity, or the Board determines that the President is incapacitated, the Vice President and Provost shall exercise the functions of the President in the absence of the appointment of an interim president by

the Board of Trustees.

## Reservation of Powers

The Board of Trustees is charged by law with full responsibility for governing Illinois State University. Although the Board properly and necessarily has delegated authority to the President, it cannot divest itself of its ultimate legal responsibility. Accordingly, the Board expressly reserves to itself the power to act on its own initiative in all matters affecting Illinois State University. It further reserves unto itself the final decision-making authority to:

1. Appoint and evaluate the President.
2. Set tuition, other registration and non-registration fees, and room and board rates.
3. Approve honorary degrees.
4. Approve the annual operating budget and any changes greater than 10% of any one line item.
5. Approve the annual appropriations request.
6. Approve capital projects and purchasing contracts in excess of \$500,000 per project or contract.
7. Establish any new unit of instruction requiring approval by the Illinois Board of Higher Education.
8. Purchase and transfer land.
9. Approve the University Constitution.
10. Alter such delegations of authority as it deems appropriate.

## Operating Philosophy

The operating philosophy describes the values and guiding principles through which the Board seeks to govern Illinois State University. Through it, the Board sets forth its expectations of its own operations upon which all of its policies and resulting university documents are based.

The Board of Trustees serves as a steward for society, and seeks to use the institution's resources wisely. It will make its fundamental decisions based on long-range objectives and goals for the University. On an annual basis, the Board will request that the President present to the Board a set of goals and objectives. Upon acceptance by the Board, these goals and objectives will serve as a guide for the efforts of both the Board and the University. Periodically the Board will assess and approve the long-range goals of the University in an effort to assure the future success of Illinois State University.

### Governing by Policy Direction

The Board seeks to work effectively with the President and to make contributions to the University by its efforts in policy direction and control. In carrying out its work, the Board expects the President to recommend sufficient policies for the Board's consideration so that it can exercise well-balanced control through policy direction.

The Board recognizes that the University exists for purposes that set it apart from other institutions: it exists to seek the truth, to improve minds, to conduct research, and to carry out its public service missions. It is a means for passing on to individuals the sum total of our knowledge, plus the attitude of seeking and valuing knowledge; and it is a place where new basic knowledge may be generated. The efforts of the Board of Trustees are therefore designed to foster these purposes.

### Governing through the President

The Board will select the President of the University to serve at the Board's pleasure. The Board will exercise its authority through the President. The President is encouraged to consult the Board before making decisions on highly sensitive matters.

### Trusteeship is a Joint Endeavor

The Board will work as a responsible corporate body taking into consideration individual interests and concerns. Board decisions and position statements will reflect the position of the Board and not any one individual. Trustees will work through the President and his/her



designated staff members to facilitate the work and the implementation of decisions by the Board.

### Individual Responsibility of Members

Individual Trustees affirm their active participation in governance by regularly preparing for Board meetings, studying thoroughly all important matters facing the future of the institution, advocating and fund raising on behalf of Illinois State University, and making decisions which assist the University in reaching its goals.

### Evaluating Results

Periodically the Board will review the goals and objectives of the University, the quality of the educational programs, use of resources and facilities and any other such topic as it may deem necessary to assure the highest quality is attained at Illinois State University.

### The Board and Planning

The Board will use a five-year planning cycle with annual updates prepared by the President for its review. Over time, the components of the plan may change but the following core elements should be included: educational, research and public service programs, enrollment trends, facilities, employees, and benefits.

## Governing Statements

### Academic Freedom

The University serves the people of Illinois and the common good through learning, teaching, research, scholarship, and public service. Fulfillment of these functions requires the preservation of intellectual freedoms of teaching, expression, research, and debate. The right to search for truth, to support a position the searcher believes is the truth, and to disagree with others whose intellect reaches a different conclusion is the fiber of America's greatness. It is, likewise, the strength of a great University, and its preservation is vital.

A teacher or researcher is entitled to freedom in research, and publication of the results of research, limited only by the precepts of scholarship and faithful performance of academic obligations.

Members of the faculty, staff and student body are entitled to freedom in the classroom in discussing academic related matters.

The Board reaffirms belief in, pledges support of, and directs all segments of the University community to sustain and follow the foregoing commitment to academic freedom. It further recognizes that tenure is a means of protecting freedom of inquiry, research, discourse, teaching, learning and publications.

### Shared Governance

The Board delegates the conduct of administration and management to the President. It entrusts the conduct of teaching and research through the President to the faculty. It recognizes that the faculty has primary responsibility in matters of student recruitment and retention, academic standards, the fundamental areas of curriculum and the necessary policies and procedures for its conduct, subject matter and methods of instruction, instructional materials, methods of research and general requirements for degrees. The Board further recognizes the appropriate role of faculty in recommending to the President faculty appointments, reappointments, promotion, tenure and salary incrementation. It encourages significant student and staff participation in decision-making processes which affect these groups when such participation can be effective.

The Board, Administration, Academic Senate, Administrative/Professional Council, Civil Service Council, Student Government Association and other representative bodies, carry out their respective responsibilities and advisory duties not as isolated entities, but as major and primary constituents of a total University organization and structure that remains mutually interdependent, and which must be supportive of the purposes, functions and obligations of the University.

In order to promote shared participation in responsible and wise decision-making and to ensure channels of communication, the University

shall provide for elected representative campus organizations, the structures of which shall be determined by the constituencies they represent, approved by the President and set forth in the University's Constitution. These organizations shall serve as the primary organizations for consultation at the institutional level. The Board shall consult with these organizations regarding the selection of the University President. (revised: February 1998: Resolution No. 1998.02/42)

The Academic Senate, as established in the University Constitution, shall serve as the primary body for consultation regarding the establishment of academic guidelines and academic procedures of the University. In the event of serious disagreement between the President and a majority of the members comprising the Academic Senate, the Senate, through established Board procedures, shall have an opportunity, through a spokesperson, to explain its views before the Board at the time the President brings the matter to the Board.

The Board expects members of the University community to develop for Board approval a University Constitution which will embody the principles and philosophies on which representative advice concerning the academic activities and programs of the University shall be provided to the decision-making processes of the University and which will be in concert with the goals, objectives and operating processes of the Board of Trustees.

To facilitate communication between the Board and the various campus constituencies, the University shall establish a Campus Communication Committee (CCC) of 8 members; 3 from the Academic Senate, 2 each from the Administrative /Professional Council and Civil Service Council, and 1 representative of the Student Government Association. The Campus Communication Committee shall provide a written report to the President's office two working days prior to the Board meeting for distribution at the Board meeting and shall present the report during the Board meeting in behalf of its constituencies. The Chairperson of the Board or the President of the University may request a meeting with the CCC at any time. The existence of the CCC does not preclude other members of the university community from addressing the Board in accordance with published Board procedures.

The President shall serve as the official medium of communication between the Board of Trustees and the Academic Senate, Administrative/Professional Council, Civil Service Council, Student Government Association, and other representative bodies, officers, individual members of the faculty and staff, and students. In this connection it shall be the President's responsibility to transmit to the Board all formal communications from these bodies and individuals along with the viewpoints of the body submitting a communication, including any minority opinions, and the President's own recommendations for action.

revised: 02/17/1998

## Mission Statement

The Board, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard the Board:

1. Shall preserve Illinois State University's independence and shall defend its right to manage its own affairs through its chosen administrators and employees
2. Shall enhance the public image of Illinois State University
3. Shall interpret the community to Illinois State University and interpret the University to the community
4. Shall nurture and encourage financial support of Illinois State University to the end that it achieves its full potential within its role and mission and
5. Shall insist on clarity of focus and mission of Illinois State University.

## Individual Rights

### 1. Equal Opportunity

Equal opportunities shall be provided for all persons throughout the University in recruitment, appointment, promotion, payment, training, and other employment practices without regard to race, color, religion, sex, national origin, sexual orientation, ancestry, age, marital status, physical or mental disability, unfavorable discharge from military, or status as a disabled veteran or veteran of the Vietnam era, or other

factors prohibited by law.

The President is responsible for the development of an affirmative action program by which full implementation of this policy can be effected in the University.

## 2. Sexual Harassment

It is the policy of the Board that sexual harassment of students, faculty, and staff is prohibited. Complaints of sexual harassment will be treated and investigated with full regard for the University's due process requirements. Definitions and procedures relative to handling complaints of sexual harassment are provided in the University Sexual Harassment Policy, the Office of Affirmative Action, and the Policies and Procedures Manual.

### Freedom of Information

Definitions and procedures relative to handling requests for public information shall be provided in the University's Operating Procedures for Implementation of Illinois State University Freedom of Information Act Policy

### Ethics Statement

The activities of the Board and those of its employees shall be consistent with the principle that there shall be no conflict between the private interests of a public official or employee and his/her official duties. Each member of the Board and each employee shall conform to the following guidelines:

1. Inform himself/herself of conflict of interest perils and remain alert to them in his/her activities;
2. Make certain that no outside activities interfere with the discharge of University obligations;
3. Freely disclose outside activities to the University regarding situations that could involve, or be construed as, conflicts of interest;
4. Consult, in advance and whenever circumstances suggest it, with the appropriate officers of the Board or of the University on outside activities undertaken in the general field of individual competence;
5. Have no substantial financial or personal interest in business transactions of the University; and
6. Not grant or make available to any person any consideration, treatment, information, or favor beyond that which is general practice to grant or make available to the public at large.

## Bylaws

### Location

#### 1. Equal Opportunity

The office of the Board of Trustees of Illinois State University shall be located in Normal, Illinois on the campus of Illinois State University.

### Meetings

#### Section 1. Regular Meetings

Regular meetings of the Board of Trustees, hereinafter referred to in these Bylaws as the Board, shall convene at least quarterly each year at Normal, Illinois on the Illinois State University campus and at such other place on a date and at a time set by the Chairperson of the Board of Trustees or by a majority of the members of the Executive Committee of the Board of Trustees. All regular sessions shall be open to the public and comply with the Illinois Open Meetings Act.

#### Section 2. Special Meetings

Special meetings may be held upon call of the Chairperson of the Board of Trustees or by a majority of the members of the Executive

Committee of the Board of Trustees or upon request of not less than four members of the Board of Trustees, or by the President of Illinois State University. Notice of any special meetings shall be posted at least 48 hours prior to such meetings. Emergency meetings may be held as provided by state law and as soon as practical following the posting of the meeting.

### Section 3. Closed Meetings

3.1 The Board may hold meetings closed to the public to discuss matters which are exempted from public discussion under the provisions of the Illinois Open Meetings Act. Closed meetings will be held upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given.

3.2 Minutes of closed meetings will be kept and will be available for inspection only after the Board determines, by periodic assessment, that confidentiality of such meetings is no longer required.

3.3 Executive sessions of the Board will be closed meetings. The President of the University shall attend all executive sessions unless excused. The Board may approve the attendance of additional administrators or others at its discretion.

### Section 4. Agenda

It is the responsibility of the President in consultation with the Chairperson to develop the proposed agenda for each Board meeting.

### Section 5. Quorum

A quorum for business shall be five (5) voting members of the Board. A quorum of the Board must be physically present at the location of the meeting. If a quorum of the Board is physically present at the location of the meeting, a majority of the Board may allow a member to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) employment purposes or the business of the public body; or (iii) a family or other emergency. "Other means" is by video or audio conference. (revised January 12, 2013: Resolution No. 2013.01/01)

### Section 6. Voting

Each member of the Board, including the Student Trustee, shall cast one vote. All votes of the Board shall be a voice vote, provided, however, any member may request a roll call vote of the membership on any question. A simple majority of the quorum present and voting is required for any action and is sufficient unless otherwise required by law. The minutes shall note those voting in favor, those voting against and those abstaining on any matter except on voice votes. (revised: July 1997: Resolution No. 97.07/33: Change effective 07/24/1998 when House Bill 2364 was signed by Governor.)

### Section 7. Communication to the Board of Trustees

Any written material to be distributed to members of the Board at a public meeting shall be submitted to the President two (2) weeks in advance of the regularly scheduled meeting. All University communications shall be transmitted through the Dean or other heads of University units to the President's Office.

### Section 8. Resolutions

All resolutions shall be submitted in writing before action is taken by the Board.

### Section 9. Board Action

All actions taken by the Board shall be printed in the Proceedings of the Board of Trustees of Illinois State University and the mailing of a copy of the Proceedings of the Board of Trustees of Illinois State University shall constitute due notice of such action. Copies of the Proceedings shall also be filed and be available electronically.

### Section 10. Addressing the Board

The Trustees of Illinois State University welcome constructive communications from members of the University community, the citizens of Illinois, and others who share the Trustees goals for the University. Mechanisms for communicating with the Board vary depending on the subject matter and nature of presentation. Faculty and staff are encouraged to provide information relative to the academic mission of the University.

10.1 The Board of Trustees requires that persons wishing to comment on agenda action items during a public meeting of the Board, request permission in writing to speak at least seventy-two (72) hours before the meeting. In the event of a special called meeting, the Board

requires a written request no less than twenty-four (24) hours before the scheduled special meeting. In the event that a regular or special meeting immediately follows a weekend or holiday, any written request to address the Board must be received by 4:00 p.m. on the last business day preceding the weekend or holiday. Such requests should be submitted to the Assistant to the President, or designee, and should provide the following information: (revised July 1998: Resolution No. 1998.07/11)

- a. Name
- b. Business or residential address
- c. Relationship to the University
- d. Topic upon which the person wishes to address the Board
- e. Statement of position, relevant facts and any appropriate written material

10.2 At the discretion of the Chairperson of the Board, persons wishing to speak on agenda items who have properly completed and submitted the required materials will be heard before a vote is taken on relevant action item. Individual audience presentations on any agenda action item will be limited to five (5) minutes. The total time for audience presentation on any single agenda action item will be limited to fifteen (15) minutes unless an extension of time is approved by the Chairperson of the Board of Trustees. If more than three persons wish to speak on any single agenda action item, the amount of time devoted to audience presentation will be divided equally among all those who wish to speak on the item. When large numbers of persons wish to speak on any single agenda action item, it is recommended they choose one or more persons to speak for them.

10.3 Persons wishing to speak on matters not on the agenda must submit the required information in Section 10.1, above, no less than 72 hours before the scheduled meeting time. In addition to the information in Section 10.1 above, those wishing to address the Trustees should submit a text or detailed outline of the issue which will be considered by the Trustees. Individuals who have submitted the required materials and are in the audience may be invited by the Trustees to respond to questions or provide additional information as requested by the Trustees.

revised: 07/29/1997

revised: 07/28/1998 following the posting of the meeting.

## Officers

### Section 1. Officers of the Board of Trustees

1.1 Officers of the Board shall be the elected Chairperson and Secretary, the appointed Treasurer and such additional officers as the Board may elect to establish.

1.2 At the first regular meeting of the University's fiscal year unless the Board elects to delay, but no more than three (3) months after the start of the fiscal year, the Board shall elect a Chairperson and Secretary from among its voting members, and shall appoint a Treasurer from the University staff. Each of these officers shall hold office for one year or until a successor is duly selected. Vacancies may be filled by the Board at any regular or special meeting and a person or persons selected shall serve for the remaining portion of the unexpired terms. (revised: October 2000: Resolution No. 2000.10/23)

1.3 Any officer may be removed with or without cause by a vote of the majority of the Board of Trustees.

### Section 2. Chairperson of the Board of Trustees

2.1 The Chairperson of the Board shall preside at all meetings of the Board and in the Chairperson's absence or in the absence of the Secretary, the Chairperson may appoint or designate a member of the Board to preside. The Chairperson, or the presiding member in the absence of the Chairperson, shall conduct all business according to parliamentary rules in Robert's Rules of Order Newly Revised (or the latest revision or amendment thereto), unless modified by standing or special rules of the Board. The Chairperson shall serve as Chairperson of the Executive Committee, but may designate the Secretary or in the Secretary's absence any member of the Board as such. The Chairperson shall appoint all regular and special committees of the Board. No committee shall have fewer than three Board members, and

the Chairperson of the Board may appoint additional members. The Chairperson shall appoint a Chairperson for each committee, and may appoint a Vice Chairperson. The Chairperson shall have the right to vote upon all questions, motions or recommendations submitted to the Board.

2.2 The Chairperson of the Board of Trustees or designee shall sign all contracts and other instruments requiring execution on the part of the Board and shall discharge any other duties usually devolving upon a presiding officer, unless it is otherwise ordered.

### Section 3. Secretary of the Board of Trustees

The Secretary of the Board shall perform all duties and have all the prerogatives set forth in Section 2 of Chapter III devolving upon the Chairperson in the Chairperson's absence, incapacity or retirement from the Board until the Chairperson resumes office or a successor has been duly elected as provided in Section 1b above. The Secretary of the Board or designee shall be custodian of the University seal and shall sign and attest with said seal all certifications of the acts of the Board and all documents, certificates, deeds, contracts and other like instruments authorized by the Board

### Section 4. Treasurer of the Board of Trustees

The Board will select from the University's staff an employee to serve as Treasurer but not as a member. The Treasurer shall serve in an ex-officio capacity and shall receive and disburse all monies and report to the Board of Trustees on the financial status and fiscal affairs of the University. The Treasurer or designee shall periodically furnish to the Board, but at least annually, an accounting for all monies received and dispersed during the preceding fiscal year.

### Section 5. Delegation of Signature Authority

The President and the Treasurer are authorized to sign documents on behalf of the Chairperson and the Secretary, provided no one official may sign both names to the same document. Change effective 07/24/1998 when House Bill 2364 was signed by Governor.)  
revised: 10/20/2000

## Personnel

### Section 1. President of the University

The President of the University shall report directly to the Board of Trustees. The President of Illinois State University shall be the Chief Executive Officer of the University. The President's duties are those prescribed by the Board. The President shall be appointed by the Board of Trustees and shall hold office subject to the pleasure of the Board. The President will serve as ex-officio non-voting member of the Board and its Executive Committee.

### Section 2. Director of Internal Audit

The Director of Internal Audit shall report directly to the President with access to the Board. The duties of the Director of Internal Audit are prescribed by the Illinois State University Internal Auditing Charter.

## Committees

### Section 1. Executive Committee

1.1 The Executive Committee shall consist of the Chairperson and Secretary of the Board, and at least one other member selected by the Chairperson of the Board. The Chairperson of the Board shall serve as Chairperson of the Executive Committee except as provided in Chapter III.

1.2 The Executive Committee shall make recommendations on all such matters not specifically assigned to another committee. By an affirmative vote of a majority of the members of the Board at any regular or special meeting, the Executive Committee may be authorized to act finally for the Board on any matter submitted to it, provided a quorum of the members of the Executive Committee present and voting. For sufficient cause, when the Board is not in session, the Executive Committee shall act for the Board. Final action taken by the Executive Committee shall be reported to the Board at its next regular or special meeting. (revised: May 1996: Resolution No. 96.05/31)

## Section 2. Audit Committee

The Audit Committee shall provide general oversight of external and internal auditing functions of the University, including review and approval of annual audit plans and staffing of audits, quarterly internal audit summaries, and University Audit Department follow-up. The committee shall also review the nature of any significant accounting and/or auditing problems, and make recommendations for changes to improve any practice or function under the committee's purview.

## Section 3. Special Committees

3.1 Special committees may be appointed by the Chairperson of the Board and shall report to the Board with recommendations the committee or committees may wish to make on the subject involved. By an affirmative vote of a majority of the members of the Board, at any regular or special meeting, a special committee may be authorized to act for the Board. When so authorized, the action taken by the committee on behalf of the Board shall be by unanimous agreement of the committee members present and voting.

3.2 Special committees shall be considered discharged when the committee's work has been reported to and acted upon by the Board, and in any case all committee assignments terminate at the time of the organizational meeting of the Board held each year as provided in Chapter III, Section 1b.

## Section 4. Selection of Committee Members

The Chairperson shall appoint members of all committees for one year terms which run concurrently with the Chairperson's. The President of the University and all members of the Board of Trustees shall serve as ex-officio non-voting members of all committees.  
revised: 05/10/1996

# Compensation & Conflict of Interest

## Section 1. Compensation

Except as provided by law, no Trustee or officer of the University as such shall transact any business or professional activity by reason of which the Trustee or officer shall receive any pecuniary award or compensation from the University or the Illinois State University Foundation funds except Board-approved compensation for the officers. All permitted transactions must be approved in advance by the Board directly or through a designated officer

## Section 2. Trustee and Presidential Conflict of Interest

2.1 Trustees and the President of Illinois State University shall at all times act in a manner consistent with their fiduciary responsibilities to the University and shall exercise particular care that no detriment to the University results from conflicts between their interests and those of

the University. If a Trustee or President believes that he/she may have a conflict of interest, the Trustee or President shall promptly and fully disclose the conflict to the Assistant to the President and shall refrain from participating in any way in the matter to which the conflict relates until the conflict question has been resolved. The minutes of the Board meeting where a disclosure of conflict or possible conflict of interest is made shall reflect the disclosure and that the Trustee or President having such, abstained from participation in the matter.

2.2 The Trustee or President is considered to have a conflict of interest when any of his/her family or associates, either (i) has an existing or potential financial or other interest which impairs or might appear to impair the Trustee's or President's independence of judgment in the discharge of responsibilities to the University, or (ii) may receive a material, financial, or other benefit from knowledge of information confidential to the University. The "family" of a Trustee or President includes his/her spouse, parents, siblings, children, and if living in the same household and sharing expenses, other individuals. An "associate" of a Trustee or President includes any person, trust, organization, or enterprise in or with which the Trustee or President has knowledge that he/she or any member of his/her family (i) is a director, officer, employee, member, partner, or trustee; or (ii) has a financial interest that represents 5% or more of his/her assets or any interest that enables him/her acting alone or in conjunction with others, to exercise control or to influence policy significantly, or (iii) has any other material association.

2.3 The Assistant to the President shall consult with the Chairperson of the Board and Board Legal Counsel regarding all conflict questions of which he/she is informed and shall report regularly to the Board of Trustees regarding any unresolved conflict questions. This policy statement is to be interpreted and applied in a manner that will best serve the interest of the University. In some cases, it may be determined that, after full disclosure to those concerned, the University's interests are best served by participation by the Trustee or President despite the conflict. The Board Legal Counsel will provide a Trustee or President, upon his/her request, a written opinion as to whether a conflict of interest situation exists

2.4 This policy incorporates by reference any obligations imposed on a Trustee, President or other university employee by state law to comply with state disclosure of outside income.

2.5 Notwithstanding anything to the contrary set forth in state law, it shall be a conflict of interest for a Trustee in any capacity to be employed by or associated with a professional service firm which directly or indirectly provides services to the University. In the event that a firm is providing services to the University prior to one of its employees becoming a Trustee, it may complete all work in progress for the University but may not be engaged for any additional work until the Trustee is no longer employed by or associated with the professional service firm.

2.6 The Assistant to the President shall distribute annually a copy of the Board of Trustees Conflict of Interest statement to each Trustee and the President.

## Amendments to the Bylaws

The Bylaws shall be added to or amended only by a vote of at least a majority of the members of the Board at a regular meeting or a special meeting duly called for that purpose. Any proposed addition or amendment shall be filed with the Assistant to the President in writing 15 days before such meeting, and it shall be the duty of the Assistant to the President forthwith to mail a copy thereof to every member of the Board.

Adopted by the Board of Trustees of Illinois State University by Resolution No. 96.01/01, January 3, 1996.

revised: 05/10/96

revised: 07/29/97

revised: 07/28/1998

revised: 10/20/2000

revised: 01/12/2013

## Policies

### Academic Programs



## University Calendar

The University shall develop an annual university calendar which shall become effective when approved by the President. Copies shall be shared with the Board.

## Degrees

### 1. Honorary Degrees

#### a. Authorization

Honorary degrees may be awarded by Illinois State University in recognition of persons who have achieved a record of major distinction at the state or national level in education, public service, literature, business, or the professions. The degrees that may be awarded are the Doctor of Law (LLD), Doctor of Science (Sc.D.), Doctor of Literature (Litt.D.), and Doctor of Humane Letters (L.H.D.). Honorary degrees may be granted only on the recommendation of the President, who shall seek the advice of the elected campus organizations concerning the possible candidates.

#### b. Restriction

Members and employees of the Board of Trustees of Illinois State University and members and employees of the Board of Higher Education are ineligible during the term of their office or employment.

### 2. Conferring of Degrees

Earned and honorary degrees shall be conferred by the President upon the recommendation of the faculty and under authority of the Board of Trustees. Although degrees normally are conferred at the scheduled commencement exercises, students, at the discretion of the President, may receive their degrees and diplomas prior to the date of commencement

## Program Approval

The approval of the Board of Trustees is required prior to the establishment of any new unit of instruction which is submitted to the Illinois Board of Higher Education for approval. These items include new degree programs, certificate of advanced study, professional development sequences, centers, institutes, departments, schools, divisions, campuses, off-campus programs, and international programs.

Program deletions, consolidations, title changes, structural modification of research or public service units, and other such administrative changes which do not require Board of Trustee approval should be provided as information items to the Board in an annual report of units of instruction, research and public services that are added or deleted.

## University Plan

The Board of Trustees reserves to itself the final adoption of the basic long-range objectives of the University. To provide the Board with the appropriate planning information, the Administration will submit annually a five-year planning document which includes specific and detailed statements on the role of the University, its long-range mission and the time period in which major changes are to be achieved. The detailed set of objectives for the University is complemented by statements of objectives for each of the colleges, library, and other operating units. Specific goals that are to be achieved within the stated time period normally will be included in this plan.

## Program Review

Each academic degree program and each research or public service unit is required to undergo periodic review, a schedule for which will be promulgated by the Illinois Board of Higher Education. The results of each review will be summarized and reported to the Board of Trustees as an information item, prior to submission to the Illinois Board of Higher Education.

## Grants and Contracts

For the purposes of this section the phrase grants and contracts shall be interpreted to include instructional, research, public service, and other academic-related activities but not student assistance, university business and capital operations, or private support from individuals and corporations generated through the Illinois State University Foundation.

The University shall establish and maintain comprehensive policies on and detailed procedures for the review and administration of grants and contracts. These procedures and policies shall ensure that the grant and contract activities engaged in are consistent with the University's academic mission, instructional commitments, and financial capabilities, and are in compliance with all applicable legal and ethical requirements.

Grants and contracts shall be accepted for the Board by the President. If there are conditions in the grant or contract which would otherwise require Board approval, the President shall submit the grant or contract to the Board for its approval.

Reports shall be made by the President to the Board concerning the receipt of grants and contracts according to the schedule established under the Board Master Ca

## Employees

### General

#### 1. Delegation of Authority to Employ Personnel

1. a. The Board, through its documents, delegates authority for personnel actions to the President. The President is encouraged to consult the Board before making decisions on highly sensitive matters.
- b. University policies and procedures governing the terms, conditions of appointment, evaluation, promotion, tenure, termination, compensation and other benefits shall be developed by the President in a manner consistent with state and federal legal requirements and with the Board of Trustees Governing Document. These University policies and procedures shall be published in employee handbooks, copies of which shall be given to Board members and affected employees and updated on a regular basis.
- c. Tenure is granted by the University under the authority granted to the President by the Board of Trustees. Tenure appointments shall be held only in academic departments or similar academic units. All changes in the locus of tenure assignment require specific approval of the President.
- d. The Board reserves to itself the right to take whatever actions it deems necessary or advisable to defend and protect itself, the University, or its members, officers, agents or employees against claims of any sort which might result in liability for the Board or the University as a result of any personnel decision or action taken by one of its agents on its behalf.

#### 2. Collective Bargaining

The Board of Trustees is the employer as defined in the Illinois Educational Labor Relations Act of all employees of Illinois State University. The Board delegates to the President the authority to negotiate with recognized employee organizations and to execute collective bargaining agreements on behalf of the Board.

All notifications and correspondence required by the Illinois Educational Labor Relations Act shall be directed to the President's Office of Illinois State University.

### 3. Use of Facilities by Employee Organizations

Employee organizations as defined by the Illinois Educational Labor Relations Act shall have access to campus facilities subject to such reasonable limitations necessary for orderly operation as established by the University. Employee organizations may use the campus mail service for the distribution of literature pursuant to University policy and procedures subject to the first priority of U.S. mail and official University mail. Employee organizations may contact employees on campus at times when employees are not working but shall respect the request of any employee who does not desire to participate in or be exposed to such contact.

### 4. Work Stoppages

In the event of a strike or work stoppage on the part of any employee of Illinois State University, the officers of the Board of Trustees are authorized to commence legal proceedings as may be appropriate. Prior to such action, the Board shall determine and declare that the strike or work stoppage is unlawful or is a clear and present danger to the health or safety of the public.

### 5. Tax Deferred Compensation

In accordance with the applicable provisions of the United States Internal Revenue Code, and "An Act in relation to payments to custodial accounts for the benefit of employees of public institutions of higher education," PA 83-261, and "An Act in Relation to State Finance," approved June 10, 1919, as amended, the Board of Trustees shall provide a tax-deferred compensation plan for the employees of the University. This plan shall be administered by the President of Illinois State University who shall have the authority to take such actions not inconsistent herewith, whereby the employees of the Board of Trustees of Illinois State University may enter into agreements with the employer to elect to receive, in lieu of salary or wages, benefits which are tax-deferred under the federal Internal Revenue Code.

### 6. Equal Opportunity and Affirmative Action

It shall be the policy of the Board of Trustees of Illinois State University that equal opportunity shall be offered in the appointment of all employees in compliance with applicable State and Federal equal employment opportunities laws, University policies and with the intent to encourage diversity. The University shall use recruitment practices aimed toward identifying, securing and maintaining equitable representation and toward seeking full utilization of minorities and women in all organizational units and job classifications. The University shall also establish affirmative action policies and procedures which shall provide for the fair, impartial and equal treatment of applicants for employment and promotion and which shall assure that the University recruits from the largest potential pool of qualified applicants.

### 7. Family Relationships

Employees are selected for employment and promotion without regard to relationship by blood or marriage in accordance with appropriate qualifications for the performance of specified duties. However, no individual shall initiate or participate in personnel decisions involving initial employment, retention, promotion, salary, leave of absence or other direct benefit to an individual employee who is a member of the same immediate family. Immediate family include an employee's spouse, parents, brothers, sisters and children.

### 8. Staff Reductions

#### Reduction in or Elimination of a Department or Similar Academic Unit

Upon the reduction or elimination of a department or similar academic unit and in a condition other than a financial exigency, the University shall give notice to faculty members who are to be displaced. In the case of a tenured faculty member, the University shall give notice at least 12 months before the end of the academic year in which the individual is to be terminated and shall seek to find an assignment for which the individual is, or may become, professionally qualified. In the case of untenured faculty, the University shall be responsible only for providing notice as soon as reasonably possible after the decision has been made to reduce or eliminate the department or similar academic unit.

#### Financial Exigency

For the purpose of this policy, financial exigency shall be defined as follows:

A financial exigency is a condition affecting the whole university. It will be considered to exist when (1) the State operating appropriation for

Illinois State University adjusted for any mandated salary increments and for the impact of inflation on non-personal service costs and excluding retirement, is expected to be less than that of the previous year or when the funds made available to operate the University are reduced in the course of a fiscal year below the level of the appropriation authorized by the Governor and General Assembly, and (2) when either type of reduction if evaluated in relation to the major program and service commitments of the University can be expected to require a reduction in the number of authorized faculty positions and the emergency layoff of tenure-track or tenured faculty.

#### a. Identification of a Financial Exigency--Advisory Financial Exigency Committee

When the President believes that a financial exigency is imminent, the President shall inform the University community and provide an explanation to the elected campus organizations or other appropriate bodies. The President shall also designate, if this has not been done previously, and begin consultation with an advisory financial exigency committee representing administrators and faculty holding academic rank, administrative/professional personnel who do not possess academic rank, civil service personnel and students. If feasible, the existing committee structure of the University shall be utilized to serve this purpose. After receiving the advice of the committee and whomever else the President deems it necessary and desirable to consult, if the President remains convinced that financial exigency is imminent, the President shall present the matter to the Board.

#### b. Board Declaration

The Board shall take up the issue of financial exigency when requested to do so by the President. It shall review all written documentation and information presented by the University and any other concerned groups or individuals. The issue shall be reviewed in open session at the earliest Board meeting possible (if necessary, one called specially for this purpose). The meeting shall be open to presentations by concerned parties from the University community. The issue shall be put to vote through a formal motion to declare a state of financial exigency at the University.

#### c. Implementation

After the Board has declared a state of financial exigency, the President shall take action to allocate necessary funding reductions among the various departments and cost centers. The President shall have the authority and responsibility to make the necessary decisions on allocating budget reductions within the University.

### 9. Retirement

The statutes, rules and regulations of the State Universities Retirement System will provide the basis for all employee retirements, unless modified for University employees by the Board. Exceptions may be granted by the President after initial discussion with the Board in executive session.

### 10. Intellectual Property Rights

The Board of Trustees in order to facilitate the useful application of knowledge, research and other creative activity, encourages and supports efforts of employees and students to develop products, inventions, and other forms of intellectual property. It is also recognized that the Board, through the University, has certain rights and interests under federal and state law with regard to intellectual property developed by employees and students. Such intellectual property includes inventions, products, computer software, literary and artistic works. The Board directs that the President develop policies and procedures to appropriately assess these rights and provide supportive services. The university policies and procedures shall be effective upon approval by the President

### 11. Educational Benefits

The President or a designated representative may grant tuition and fee waivers to or for the benefit of university faculty, administrative/professional, civil service employees and retirees.

## Faculty and Administrative/Professional Employees

## 1. Coverage

For purposes of these documents, faculty and administrative/professional employees include all faculty of Illinois State University and those administrative and/or professional personnel of the University who are not civil service employees.

## 2. Outside Employment

It is the expectation of the Board that all full-time faculty and administrative/professional employees will devote their professional time to their employment with the University. The President or his/her designee shall approve any employment involving research or consulting for any non-governmental entity.

## 3. Financial Exigency

Administrative/Professional employees shall be covered by the provisions dealing with financial exigency in preceding Section II.A.8.2.

## 4. President

### a. Housing

- i. The President shall be furnished a residence in which the President is required to live. The President's home is to serve as a university setting conducive to cultural, social and educational interchanges important to students, faculty, University-related organizations and dignitaries associated with the University community. It serves as a resource for fulfilling official, ceremonial and social functions of the President.
- ii. The maintenance and upkeep of the President's residence and grounds, including housekeeping services for the public areas, shall be borne by the University.
- iii. The University may furnish the public areas in the residence

### b. Automobile

- i. The President shall be furnished with an automobile which shall be for personal use and official business.

## 5. Board Review and Evaluation of the President

It is the policy of the Board of Trustees to review and evaluate the performance of the President on a regular basis. This review and evaluation process provides (a) a means by which the incumbent may review his/her own performance with Board members, (2) a procedure to establish new short- and long-term goals for the ensuing year, and (3) an opportunity to receive comments and ideas from Board members and others as to possible ways in which the management and planning functions of the University might be improved.

### a. The Annual Review and Evaluation

- i. The annual review and evaluation of the performance of the President shall be conducted by the Board at such time as the Board Chairperson designates. The annual review and evaluation shall be presented and discussed in a closed meeting of the Board as allowed by law.
- ii. In order to aid in the annual review and evaluation by the Board, annual goals statements shall be submitted to members of the Board by the President prior to annual review and evaluation. Any additional material such as the annual reports or other documents may be submitted at the discretion of the incumbent. The annual goals statements, related materials and appropriate position descriptions will serve as the major basis for the annual Board review and evaluation of the President.

### b. Summative Review and Evaluation

- i. A summative review and in-depth evaluation of the performance of the President shall be conducted periodically by the Board. The Board should use a variety of evaluative criteria and information from sources which include all major constituencies of the University.

## Civil Service Employees

### 1. Authority to Employ

The Board of Trustees of Illinois State University is designated by statute as the employing authority for all State University Civil Service System of Illinois (SUCSS) employees. The Board authorizes the President to appoint civil service personnel to authorized positions.

## 2. General Conditions of Employment

All civil service employees of Illinois State University are employed in accordance with the provisions of the State Universities Civil Service Act (110 ILCS 70), as amended, and the rules of the University Civil Service Merit Board, and are entitled to all the rights and subject to all the requirements contained therein.

### Student Employees

#### 1. Graduate Assistants

The University shall be empowered within the limitations of the available resources to appoint the number of graduate assistants required to accomplish its prescribed mission. Graduate assistants may be granted a tuition waiver during their period of appointment and for the preceding or following summer session.

#### 2. Student Hourly Workers

The University may employ student hourly help in accord with the needs of various departments, available authorized funds, and the provisions of the State Universities Civil Service System (SUCSS). Student employees must be enrolled or accepted for admission by the University.

#### 3. Conditions of Employment

The University shall make and publish additional rules and/or procedures appropriate to carrying out the purposes and intent of the Board Policies pertaining to graduate assistant appointments or student employment.

## Students

### Student Financial Aid

#### 1. Definition

For the purposes of the Board's Policies, student financial aid includes scholarships, grants, loans, and employment opportunities which are provided for students primarily to assist them in meeting the expense of University attendance. Student financial aid does not include forms of assistance such as waivers of tuition which are granted to Illinois State University employees as a fringe benefit to their employment or employment opportunities which are provided for students primarily to supplement their class work and study.

#### 2. General Statement

Illinois State University shares with federal and state governments the responsibility for providing residents of Illinois with equal opportunity to attend the University. Further, the University recognizes the need to attract students who do not demonstrate financial need but do possess particular qualifications which make their presence beneficial to the educational process. The University shall administer the student financial aid provided by authority of the Board of Trustees of Illinois State University, coordinate the student financial aid provided for Illinois State University students and sponsored by agencies or parties external to the University, and make and promulgate such additional rules and/or procedures as are necessary and appropriate.

#### 3. University Tuition Waivers

The President or a designated representative may grant undergraduate tuition waivers up to the amount established by statute, and graduate tuition waivers consistent with program needs and available resources. Award criteria for the granting of these waivers may include demonstrated scholarship, talent in University-related activities, classification as a foreign student, or financial need as determined by the University.

#### 4. Special Program Tuition Waivers

The President or a designated representative may grant tuition waivers to students who participate in National Science Foundation Institutes or other special programs when such a waiver is required for participation in the specific program.

### Affirmative Action

#### 1. Recruitment and Retention

The University shall use procedures and practices consistent with state and federal law aimed toward attracting and retaining equitable representation of a diverse student body including persons from socially and economically disadvantaged background.

#### 2. Academic Programs

The educational programs and materials of the University shall reflect the historical and contemporary roles and contributions of all diverse and underrepresented groups.

#### 3. Services

The University shall provide services which reflect a recognition of diverse cultural background, past educational imbalances, and the need for new opportunities both for the disadvantaged and non-disadvantaged student.

### Financial Affairs

#### Obligation of Financial Resources

The Board of Trustees is the contracting entity for all contracts involving Illinois State University. All contracts shall bear the names of the Board and the University. The financial resources of the Board of Trustees are defined to include all funds appropriated to, or lawfully received by or belonging to, the Board or the University, including those items of income received by the University and retained in its treasury in accordance with the provisions of the relevant section of the Board's enabling statutes and of "An Act in Relation to State Finance," approved June 10, 1919, as amended.

### General

#### 1. Records and Audits

The University shall prepare and maintain such financial records and reports in accordance with generally accepted principles and standards of accounting and financial reporting for colleges and universities as are necessary for sound financial management and adequate disclosure. Each year the University shall file with the Board of Trustees a copy of the annual financial report.

A copy of the audit by the Auditor General shall be filed with the Board of Trustees and shall be acknowledged by the Board as the official audit of such funds

#### 2. Insurance Protection

The Board of Trustees shall obtain and carry a blanket crime policy which extends protection to the financial assets of the University and the Board.

### 3. Payment of Wages and Benefits

Employees receiving payment of wages and benefits from non-appropriated funds, including but not limited to revenue bond operations, shall be treated on an equal basis with employees receiving payment of wages and benefits from appropriated funds.

### 4. Bond Resolutions

In the event of a conflict between the provisions of the Board of Trustees Governing Document and the requirements of specific bond resolutions adopted by the Board of Trustees, the latter shall govern.

#### Naming of Facilities

The Board shall approve the naming of all facilities of the University. The University shall develop rules to be used in recommending names to the Board.

#### Legal Representation and Indemnification

The Board of Trustees shall provide legal representation and indemnification in accordance with state statutes for a claim or action instituted against a Trustee, a former Trustee, or estate of such person which is based upon damage or injury allegedly arising from an act or omission occurring within the scope of duties on behalf of the Board of Trustees. Upon timely request of the person or the person's estate, and in the absence of representation by the Attorney General of the State of Illinois, the Board shall determine the appropriateness of providing counsel for the defense of the claim or action and indemnification for actual costs incurred as a result of such claim or action. The Board of Trustees shall provide such defense and indemnification upon a determination that the individual has acted in good faith, without malice, and within the apparent scope of his/her authority. The Board of Trustees shall not provide indemnification for a claim or action which is the result of intentional or willful and wanton misconduct. Legal representation and indemnification is subject to the Representation and Indemnification of State Employees Act.

Students participating in University authorized internships, professional practice programs, and similar work/learning opportunities shall be afforded indemnification protection consistent with this Section and other applicable State law.

#### Guidelines for Price Setting, Revenue Generation, Affordability and Use of Funds Decision-Making

The Board of Trustees of Illinois State University sets broad goals for the institution and adopts policies designed to guide the administration in achieving those goals. Implementation of the Board's Policies is delegated to the President who, in turn, charges the various administrative offices with developing specific procedures and practices. Setting the University's strategic direction through policies for student pricing is among the most important roles of the Illinois State University Board of Trustees. Adopted guidelines:

- The graduate tuition rate should reflect more appropriately the higher cost of graduate instruction.
- Differential tuition should be charged only under the following conditions: to comply with the "truth-in-tuition" statute, to differentiate state residency status, and to differentiate undergraduate from graduate instruction.
- Illinois State University's tuition should be comparable and competitive with tuition charges at competitor Illinois public universities.
- Illinois State University should continue to devote a portion of new tuition and fee revenue to assist University students who are eligible for maximum Monetary Award Program grants from the Illinois Student Assistance Commission, but whose grants fall short of the University's tuition and fee charges.
- Illinois State University should review routinely and assess the amount, use and allocation process of tuition waivers.



The revenue derived from student charges should be allocated only by the University's annual budget process to address the highest current priorities.

- Until the University is again able to address operational cost increases on a campus-wide basis, student fee increases should be limited to that necessary to support salary increases for employees in fee-supported areas.
- Room and board rates should increase to the upper quartile among Illinois residential public universities and an adequate proportion of those revenues allocated to the repair and renovation fund in order to support the current long-range housing and dining plan.
- Illinois State University should incorporate the demand for renovated spaces as part of its room and board pricing process.