

UNIVERSITY REVIEW COMMITTEE

Tuesday, April 25, 2017
4 p.m., Hovey 401D

MINUTES

Members present: Angela Bonnell, Sam Catanzaro, Diane Dean, Nerida Ellerton, Joe Goodman, Christopher Horvath, Sheryl Jenkins, Sarah Smelser

Members not present: Rick Boser, Doris Houston

Others present: Bruce Stoffel (recorder)

Note: In the minutes that follow, “URC” refers to the University Review Committee at Illinois State University; “Caucus” refers to the Faculty Caucus of the Academic Senate at Illinois State University; “AFEGC” refers to the Faculty Academic Freedom, Ethics and Grievance Committee at Illinois State University; “FRC” refers to the Faculty Review Committee at Illinois State University; “CFSC” refers to college faculty status committee; “DFSC” refers to department faculty status committee; and “SFSC” refers to school faculty status committee. References in the minutes to “DFSC” are intended to refer to both DFSC and SFSC.

I. Call to order

Chairperson Diane Dean called the meeting to order at 4:04 p.m. A quorum was present.

II. Discussion of Article XII: Suspensions

Dean yielded the floor to the subgroup charged with making recommendations to the committee regarding the suspensions article drafted by Dean. The committee consists of Joe Goodman, Sheryl Jenkins, and Sarah Smelser. Goodman facilitated the discussion working from a version of Dean’s draft of the article annotated with Goodman’s comments (see attached). Jenkins and Smelser contributed their comments and suggestions throughout the discussion.

Goodman suggested an editorial change in Section XIII.A.2, from “a progressive disciplinary process” to “the progressive disciplinary process.” There were no objections from committee members.

Goodman suggested an editorial change in Section XIII.A.4, from “A faculty member shall be afforded due process” to “A faculty member will be afforded due process.” Goodman explained that, according to *Black’s Law Dictionary*, the word “will” is more definitive and, therefore, preferable to him. There were no objections.

Goodman said the second sentence of Section XIII.A.5 is unclear to him (“Suspensions may not be of indefinite duration and must be followed by reinstatement, unless the faculty member has been dismissed following the academic due process set forth in Article XIV (Dismissals)”). Dean said the sentence came right from the Caucus 2016 version of Article XIII. Jenkins said dividing parts of the sentence with a semicolon might make the sentence clearer. Catanzaro said the entire sentence seems redundant. Jenkins agreed, noting that the reference to reinstatement seems obvious. Horvath said he wants the idea to be clearly conveyed; he suggested deleting the phrase “may not be of indefinite duration” from the sentence but leaving the rest. There were no objections.

Smelser then pointed out that the first sentence of Section XIII.A.5 states that suspensions are ordinarily no longer than six calendar months, while the sanctions article (XII) states that sanctions may be imposed for up to one year. She asked about the origin of the six-month rule and why the maximum duration for suspensions and sanctions differ. She said the maximum periods of time should be consistent for sake of parity and to prevent confusion. Referring to her notes from Caucus meetings at which the disciplinary articles were discussed, Angela Bonnell reported that Susan Kalter (Academic Senate chairperson) suggested the six-month limit on suspensions, citing AAUP documents. Horvath said defining time limits by academic year would make more

sense (e.g., rather than cite six months, cite half of an academic year). Dean said month was likely used as the unit of time in the passage rather than academic year or semester so the Provost would not have to wait until a semester ends to start a suspension. Horvath noted use of the word “ordinarily” in the passage, adding that it would be up to the Provost to decide the duration. Ellerton said the word “ordinarily” gives the Provost flexibility in setting the duration of the suspension, which is preferable. Smelser suggested retaining the phrase “ordinarily no longer than six months” for now and returning to the issue later in the discussion. There were no objections.

Goodman asked what the word “their” in the second sentence of Section XIII.B.2 references. Dean responded that the word “their” is intended to reference exclusions.

Horvath directed the discussion to Section XIII.B.1 (three categories of suspensions), specifically Section XIII.B.1.c. Horvath reminded committee members that they addressed the issue of reassignments in the sanctions article (XII). Dean proposed that reassignments be addressed only in the sanctions article. Committee members agreed. Dean said Section XIII.B.1.c will be deleted and the reference to “three categories” will be changed to “two categories.”

Horvath then directed the discussion to Section XIII.B.1.b (“Temporary relief from one or more academic duties (teaching, research, and/or service)”). He asked if a faculty member receiving this type of suspension would be reassigned to some other duty to replace the duty from which the faculty member has been relieved. He added that in his view of suspension, an employee would be directed not to come to work at all rather than be reassigned to some other duty. Catanzaro said he views relieving a faculty member of one duty as tantamount to reassignment rather than suspension. However, he added, AAUP considers temporary relief from one duty a de facto suspension in that it is a violation of a faculty member’s freedom to teach. Catanzaro said he does not agree with the AAUP interpretation. Jenkins asked Catanzaro what this looks like in real life. Catanzaro said he is aware of a situation in which a faculty member was asked not to teach but was allowed to continue some research activities, some remotely, so the faculty member’s graduate students were not adversely affected by the circumstance. Catanzaro cited another instance in which a faculty member was removed from campus but was permitted to work remotely with students to finish projects; Catanzaro added that the faculty member was a member of a thesis committee but was replaced when it became clear to the chairperson that there had been no communication between the faculty member and the student regarding the thesis. This second example, Catanzaro said, was closer to being considered a suspension than the first example, although the term “suspension” was not used at the time because there were (and are) no provisions in ASPT policies for suspension. Jenkins said, in light of Catanzaro’s examples, she believes that partial relief of duties should be considered a reassignment. Horvath reiterated that the reassignment would be a sanction not a suspension. Horvath suggested that one factor that might be used to distinguish between a reassignment (sanction) and a suspension is whether the faculty member’s salary is docked. Another factor, he said, is whether the faculty member has been physically barred from campus and denied use of services like the library or email. He suggested that if a faculty member has not been barred, the disciplinary action is a reassignment; however, if the faculty member’s access to campus is restricted, that action amounts to a suspension. Smelser directed the discussion back to Section XIII.B.1.b. Horvath recommended rewording that passage to provide for temporary relief from some or all duties along with exclusion from some or all parts of campus as a category of suspension. Dean asked if a faculty member could be suspended but not excluded from all or part of campus. Committee members present all said no. Dean said that in light of the discussion, she will check references to reassignments in Article XI (General Considerations) for consistency with references to reassignments in the suspensions article.

Goodman then directed the discussion to Section XIII.B.4, regarding corrective actions. He said he believes that any communication regarding a suspension must include a timeline. Catanzaro suggested revising the passage “and should include a timeline and acceptable documentation of completion” to “and must include a timeline and acceptable documentation of completion.” All committee members agreed.

Horvath recommended that Section XIII.B.4 require that a timeline be communicated to the faculty member being suspended regardless whether corrective action is required. Dean clarified that Section XIII.B is intended to describe types of suspensions. She suggested addressing Horvath’s recommendation in a subsequent section of the article.

Catanzaro then recommended revising the clause “and acceptable documentation of completion” in Section XIII.B.4 to read “and the expectation for acceptable documentation of completion.” There were no objections. Ellerton asked if the word “acceptable” should be replaced by the word “appropriate.” Horvath said he prefers to retain the word “acceptable,” because it refers to what is acceptable to the University. Ellerton agreed.

Goodman then directed the discussion to Section XIII.C.1. He asked if the phrase “for good reason” should be clarified. Horvath asked that the phrase be retained without clarification; he explained that the phrase provides a legal point on which a faculty member could base an appeal, adding that if the phrase is deleted or clarified the faculty member might lose that opportunity. There were no objections to Horvath’s request.

Horvath proposed to delete the last sentence of the Section XIII.C.1 (“Such extensions shall not constitute a procedural violation of this policy.”). Catanzaro explained that the sentence was requested by legal counsel because a common question asked in court proceedings is whether procedures have been followed. Horvath asked if legal counsel is likely to restore the sentence to the section if URC deletes it. Catanzaro said legal counsel is likely to do so. Committee members agreed to retain the sentence.

Goodman then directed the discussion to Section XIII.C.2. He suggested replacing the phrase “will be” with the word “are” in the second sentence of the section, to read “Suspension proceedings initiated by the DFSC/SFSC are directed to and reviewed by the CFSC.” There were no objections. Regarding Section XIII.C.2.a, Goodman noted that Caucus, in its 2016 version of this article, provided that the meeting involving the DFSC and the faculty member to discuss the alleged misconduct should occur within five business days of an allegation. He asked if such a provision should be included in the URC revision of the article. He recommended not adding such a provision, so all parties have greater flexibility in arranging a meeting. There were no objections.

Regarding that same Section XIII.C.2.a, Horvath noted the parenthetical recitation of examples of “relevant documentation” (“e.g. past performance evaluations; past sanctions; investigation report; and/or advice of Legal Counsel.”). He said it has been his experience that when examples are included in this manner, the examples become de facto choices. Ellerton agreed, noting that the phrase “relevant documentation” should be sufficient. Dean said she will note that the examples in the passage would instead be communicated through training subsequently provided to ASPT bodies regarding the disciplinary articles. She asked if the same parenthetical list, in Section XIII.C.2.c should also be deleted. Goodman said it should. Ellerton said she can imagine Caucus members asking about the intent of such a list, adding that it is better to address the issue now.

Regarding the last sentence of Section XIII.C.2.a (“The faculty member’s right to seek counsel must be honored and facilitated through reasonable scheduling of the meeting.”), Horvath asked if URC has provided for counsel in the general considerations article (XI). Dean responded that the committee did so, in XI.B.2. Horvath asked if his interpretation of the term “counsel” as referring to a lawyer is correct. Dean answered in the affirmative. Horvath asked if the provision for counsel is included in the sanctions article (XII). Dean said it should be included there as well; she said will make a note to check.

Goodman continued his review of Section XIII.C.2. He suggested an editorial change to Section XIII.C.2.b, revising the phrase “if both parties agree that additional time for deliberation likely would lead to a mutually agreeable solution” to read “if both parties agree that additional time for deliberation would lead to a mutually agreeable solution.” He suggested replacing the phrase “will also be” in the last sentence of Section XIII.C.2.c and replacing it with the word “is” so the sentence reads “This information is directed to the CFSC, with a request for its review and recommendation.” He suggested replacing the word “shall” with “will” in the beginning of Section XIII.C.2.d (to read “The faculty member will have an opportunity ...”) while retaining the word “shall” in the second sentence of that section. There were no objections. Dean noted that the final version of the disciplinary articles recommended by URC will need to be scanned for consistency in use of the words “will” and “shall” before the articles are submitted to the Caucus.

Goodman asked if Section XIII.C.2.e should be revised to include the opportunity for the faculty member to meet with the CFSC or for the CFSC to request to meet with the faculty member and/or the DSFC. He suggested that such a provision not be added. There were no objections to Goodman’s suggestion.

Dean noted that Section XIII.C.2.g is the passage to which a provision should be added requiring that the timeline for suspension be communicated in writing to the faculty member. There were no objections.

Horvath suggested that another issue of parallelism is the lack of mention in Section XIII.C.2 of the right of a faculty member to appeal to AFEGC if the faculty member believes her or his academic freedom has been violated. He noted that such a provision is included in the sanctions article (XII) and should be included in Section XIII.C.2 as well. Dean pointed out that the right to file a grievance with AFEGC is addressed in Section XIII.C.6. She asked if Horvath prefers that Section XIII.C.6 be placed elsewhere in Section XIII.C. Horvath responded that it is important to provide for an appeal to AFEGC before the faculty member appeals to FRC. Ellerton agreed, pointing out that an appeal to AFEGC before the appeal to FRC is illustrated in the flow chart in the draft article. Dean suggested inserting a new Section XIII.C.2.f regarding appeals to AFEGC and moving the existing Section XIII.C.2.f regarding the right to appeal to FRC below the newly-inserted section. Horvath agreed. Dean asked if this same change should be made to Section XIII.C.3 (regarding initiation of suspension proceedings by the Provost). Horvath said the change should be made there as well.

Dean expressed concern about the last sentence of Section XIII.C.2.g, “The suspension will then take effect.” She said inclusion of the sentence at that location and with that wording suggests that imposition of suspension is assumed when that should not be the case. Horvath added that the sentence as written can be factually incorrect in that the Provost may want a suspension to take effect at some later date. He suggested deleting the last sentence of the section (“The suspension will then take effect.”). There were no objections. Dean asked if one reason for deleting the sentence is because the effective date of the suspension is included in the timeline communicated in writing to the faculty member. Smelser answered in the affirmative.

Dean asked if Section XIII.C.2.g should grant the Provost the right to decide something other than suspension or no suspension, perhaps something lesser than a suspension. Horvath recommended that the section not grant the Provost such flexibility. There were no objections to Horvath’s recommendation.

Goodman said Section XIII.C.3 (initiation of suspension proceedings by the Provost) is his biggest concern among the passages of Article XIII yet to be discussed by the committee. One specific concern regarding the section, Goodman said, is whether a faculty member suspended pursuant to the section will continue to receive her or his salary. Goodman pointed to Section XIII.B.3, which provides that “Suspensions without pay will only occur after all appeals or related grievances have been adjudicated.” He asked if the faculty member suspended pursuant to Section XIII.C.3 will continue to receive her or his salary between the time the suspension starts and adjudication of all appeals and grievances or if salary payments to the faculty member would immediately cease upon start of the suspension. Horvath said the University cannot withhold salary until allegations have been proven. Catanzaro agreed, noting that the University would not do so anyway. Ellerton said the faculty member should have the benefit of the doubt until a final decision is rendered. She added that the University will likely want that decision to be rendered quickly in such situations.

Horvath asked if Section XIII.C.4 is intended to relate to suspensions initiated by DFSC and to suspensions initiated by the Provost; if so, he said, Section XIII.B.4 is redundant and should be deleted. All committee members agreed. Ellerton cautioned that reference to “written notification” in Section XIII.B.4 should be incorporated into Section XIII.C.4 if Section XIII.B.4 is deleted.

Smelser noted insertion of the word “to” in Section XIII.C.3 (“involving credible threat of imminent harm to the University.”).

Addressing disciplinary processes on a broader level, Horvath noted that the suspensions article (XIII) sets forth processes for a DFSC to initiate suspension proceedings and, in the case of imminent harm, for the Provost to initiate an expedited process. Horvath pointed out that the sanctions article (XII) sets forth a process through which a DFSC can initiate sanctions proceedings and a process through which the Provost can initiate sanctions proceedings if an body external to the ASPT system has rendered a substantiated and fully adjudicated finding of violation by a faculty member. Horvath asked what would happen if an external body were to find a faculty member in violation and to then recommend suspension of the faculty member due to the severity of the violation. He asked if such a situation would be reviewed pursuant to Section XIII.C.3 (suspension proceedings initiated by the Provost). Catanzaro noted that the AAUP stance regarding such a situation is that it should be

handled pursuant to sanction proceedings if imminent harm is not an issue. Horvath pointed out that an external body could decide that a faculty member should be suspended for six months for a violation of ethics policies, in which case sanctioning processes would not apply. Dean suggested that, if imminent harm is not a concern in such an instance, suspension proceedings would be considered by DFSC rather than the Provost. But, Dean added, such an approach would not be consistent with procedures set forth in the sanctions article (XII). Horvath agreed. Dean noted that suspension proceedings set forth in Section XIII.C.3 (suspension proceedings initiated by the Provost) are fast tracked, so they would not fit the situation posited by Horvath. She suggested establishing a third type of suspension proceeding, initiated by the Provost when imminent harm is not an issue. Horvath said because suspension is a severe disciplinary action, he would be comfortable having such cases initiated by the Provost and reviewed by the CFSC rather than initiated by the DFSC.

Horvath suggested another scenario that might not yet be addressed in the suspensions article as drafted. He asked which type of suspension proceeding thus far set forth by URC would apply to cases involving consideration of progressive discipline (i.e., a situation in which a faculty member had been sanctioned but has not changed her or his behavior). Dean responded that such a case would be considered by the DFSC. Horvath said he is troubled that DFSC would then be a sanctioning body. He said he would be more comfortable having CFSC adjudicate such cases.

Dean then referred to the disciplinary actions flow chart prepared by URC earlier in the semester (see attached). Dean said that in response to the committee discussion at this meeting, she proposes to modify the first sanctions process by having CFSC review and recommend rather than DFSC. Dean further proposed to add a third suspension process to allow for adjudication of cases involving the question of progressive discipline by CFSC. Horvath said he supports Dean's proposal because it would address the two scenarios he has raised, one involving a recommendation for suspension by a body external to the ASPT process and one involving the question of progressive discipline. He said he would like CFSC to always be the sanctioning body. He stressed that he is not concerned that a DFSC would act improperly in disciplinary cases; he said he does not want DFSC members to be asked to stand in judgment of their colleagues. Dean agreed, adding that she wants to retain the provision that the DFSC attempt to informally resolve the matter before it is considered by CFSC.

Dean asked if she should revise the Suspensions article (XIII) and circulate the revised version to committee members prior to the next committee meeting. All committee members answered in the affirmative.

Ellerton asked Dean to also consider a change to the last sentence in section XIII.C.2.b ("The length of the timeline extension must be stated."). Ellerton asked that the sentence be revised to read "The length and the details of the timeline extension must be stated."

Regarding the Dismissal article (XIV), Dean asked if the provision for expedited dismissal in an extraordinary egregious event is needed. She said she cannot think of an instance in which the University would want to dismiss a faculty member so quickly. Horvath said a situation so severe might arise in which the public and media argue for immediate dismissal; the University would want to be able to act quickly. Dean suggested that in such a situation the Provost could immediately suspend the faculty member pursuant to the imminent harm track in suspension proceedings and then immediately initiate dismissal proceedings. Horvath agreed.

III. Other business

There was none.

IV. Approval of minutes

Approval of minutes was deferred to a future URC meeting.

V. Adjournment

Horvath moved to adjourn the meeting. Goodman seconded the motion. The motion passed on voice vote, all voting in the affirmative. Dean adjourned the meeting at 5:22 p.m.

Respectfully submitted,
Joe Goodman, Secretary
Bruce Stoffel, Recorder

ATTACHMENTS:

Article XIII: Suspensions, as distributed by Joe Goodman to the University Review Committee at its meeting on April 25, 2017
Flow Chart, ASPT Disciplinary Processes, University Review Committee, March 9, 2017

ARTICLE XIII: SUSPENSIONS

Draft for consideration & URC work groups' use, based on versions proposed by URC 2015, Faculty Caucus 2016, and the ongoing work of the URC 2017

A. General Provisions

1. All parties involved in considering suspension of a faculty member shall refer to the definitions, conditions, and faculty rights set forth in Article XI (General Considerations) in addition to this Article XIII.
2. There are three circumstances in which suspension of a faculty member may be considered:
 - a. As a next step in ~~the~~ progressive disciplinary process;
 - b. In a circumstance involving credible threat of imminent harm to the University, including the faculty member in question, students or other employees, or university property; or
 - c. When necessitated by pending criminal investigation or legal proceedings
3. A faculty member may be suspended during dismissal proceedings, if the imminent harm standard also applies, or if necessitated by pending criminal investigation or legal proceedings.
4. A faculty member will be afforded due process in the suspension proceedings. This right is balanced against the responsibility of the University to prevent harm to students, other employees, and the institution.
 - a. In circumstances involving progressive disciplinary action (XIII.A.2.a), a suspension shall be effected only after all appeals are exhausted.
 - b. In circumstances involving credible threat of imminent harm (XIII.A.2.b.), a suspension may be effected prior to the start of appeal proceedings.
5. A faculty member may be suspended only for a specified period of time, ordinarily no longer than six calendar months. Suspensions may not be of indefinite duration and must be followed by reinstatement, unless the faculty member has been dismissed following the academic due process set forth in Article XIV (Dismissals).

Comment [GJ1]: Changed "a" to "the".

Comment [GJ2]: I have reworded "shall" to "will". Shall can also mean, or be interpreted as, "may". I contend that we desire an employee's due process rights are intact. Thus, let's use a definitive word. According to Bryan Garner, the legal writing scholar and editor of *Black's Law Dictionary* wrote that "In most legal instruments, *shall* violates the presumption of consistency...which is why *shall* is among the most heavily litigated words in the English language." (Cited by FAA Language Writing Order 1000 and Bruce V. Corsino)

Comment [GJ3]: Sentence doesn't roll off of the tongue easily. Not sure what the fix is or if it's just me.

B. Types of Suspensions

1. Suspensions are of three categories:
 - a. Temporary relief from all academic duties (teaching, research, and service)
 - b. Temporary relief from one or more academic duties (teaching, research, and/or service)
 - c. Reassignment of parts of one or more academic duties (teaching, research, and/or service)
2. Suspensions may be either with or without exclusion from all or parts of campus and privileges thereof. In the case of partial suspensions (XIII.B.1.b), the rationale for the imposition of any such exclusions will be considered against their potential impediment to the faculty member's remaining non-suspended duties.
3. Suspensions may be either with or without pay. Ordinarily, suspensions will be paid suspensions, unless legal considerations forbid. Suspensions without pay will only occur after all appeals or related grievances have been adjudicated.

Comment [GJ4]: What is this pronoun referencing?

Formatted: Highlight

4. Suspensions may include corrective actions. The requirements of any corrective action, imposed on the faculty member, should be communicated with the notification of the suspension and ~~should include~~ a timeline and acceptable documentation of completion.

Comment [GJ5]: Deleted "should". We do not want to give the discretion to the punishing body. Both parties must be clear on the timetable. Should leaves the door open. Of course, if we opt to use Faculty Caucus version, this is moot.

C. Procedural Considerations Related to Suspensions

Suspension proceedings may be initiated by the DFSC/SFSC or the Provost.

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 DFSC/SFSC or Provost may extend these deadlines for good reason, and involved parties may request consideration for doing so. The DFSC/SFSC or Provost will communicate any timeline extensions in writing to all involved parties. Such extensions shall not constitute a procedural violation of this policy.
2. The DFSC / SFSC may initiate suspension proceedings as the next step in a progressive disciplinary process when there is evidence of cause, such as: continued behavior or performance problems or issues in the faculty member's responsibilities that have not been ameliorated through sanctions; repeated or egregious violation of University policies; or repeated or egregious violation of laws pertinent to the faculty member's responsibilities.

Comment [DD6]: Note : URC and Faculty Caucus differed on the right of the University to require corrective action in suspension cases.

- The URC said suspensions may include corrective actions to be completed prior to reinstatement.
- The Faculty Caucus ~~deleted~~ any reference to corrective actions.
- This statement, XIII.B.4. is a middle ground, providing for corrective actions but not stating that they may be involve requirements to complete them before reinstatement.

Question: How do we want to handle this? Leave as suggested here? Restore URC original? Delete entirely as per Faculty Caucus?

Comment [DD7]: Question: Do we need to elaborate on what may constitute "good reasons"?

Suspension proceedings initiated by the DFSC / SFSC ~~will be~~ directed to and reviewed by the CFSC.

Comment [GJ8]: How using "sufficient procedural justification(s)"?

a. ~~The DFSC / SFSC~~ will first request in writing to meet with the faculty member to discuss the alleged misconduct and the potential for suspension. Such consultation will include a review of relevant documentation / information (e.g. past performance evaluations; past sanctions; investigation report; and/or advice of Legal Counsel).The purpose of such consultation is to reconcile disputes and to develop a mutually agreeable solution that ensures safety for the University community and educational success of students. The faculty member's right to seek counsel must be honored and facilitated through reasonable scheduling of the meeting.

Comment [GJ9]: Deleted "will be" and inserted "are". The whole sentence is in the passive voice but it's following ASPT wording. "Are" fits better for me. It just seems a cleaner statement, though not wed to it.

Comment [DD10]: Note: Faculty caucus said that this meeting should occur within 5 business days of an allegation.

This would mean that if something occurs, and DFSC/SFSC doesn't do anything about it within 5 days, then they miss the window of opportunity to do anything about it.

Question: Do we want to establish parameters for a process "start" time? What is a reasonable window of time between action /allegation / proceedings?

Further, if we establish such parameters for suspensions should we also establish a "start window" of sanctions?

b. If a mutually agreeable solution is found, it shall be documented in writing and signed by the DFSC/SFSC and faculty member within five (5) business days of the meeting described in XIII.C.2.a.. However, this period may be extended if both parties agree that additional time for deliberation ~~likely would~~ lead to a mutually agreeable solution. The DFSC will communicate any timeline extensions to the faculty member in writing within five (5) business days of the initial meeting (XIII.C.2.a.). The length of the timeline extension must be stated.

Comment [GJ11]: The fluidity and nature of these types of events must be taken into consideration. In a progressive discipline system, of course we have controls and can impose timelines. For any other event, we have to consider the ease with which faculty can assemble (availability, etc.). My recommendation is to avoid a hard time line from event to initiation.

c. If the issue is not resolved through informal consultation, then the DFSC/SFSC will notify the faculty member in writing that the matter is being referred to the CFSC. This notification will be made within five (5) business days of the initial meeting, if there is no timeline extension; or within five (5) business days of the expiration of any extension. The notification will include the alleged misconduct, the evidence supporting the charges, relevant documentation / information (e.g. past performance evaluations; past sanctions; investigation report; and/or advice of Legal Counsel), and the reasons why suspension may be indicated. This information ~~will also be~~ directed to the CFSC, with a request for its review and recommendation.

Comment [GJ12]: Deleted "likely". It did not fit for me.

Comment [GJ13]: Deleted "will be also" and replaced with "is"

- d. The faculty member ~~shall will~~ have an opportunity to provide a written response to the charges, to be considered in the CFSC's deliberations. The faculty member's written statement shall be submitted within five (5) business days of the written notification from the DFSC/SFSC that the matter has been referred to the CFSC.
- e. The CFSC will review the information regarding the allegation and the faculty member's response, and recommend whether a suspension should be imposed. If the CFSC recommends imposing a suspension, the CFSC will also recommend the type and length of suspension to be imposed. A CFSC recommendation shall be based on a majority vote of the members of the committee. The CFSC shall report the recommendation in writing to the faculty member, the DFSC/SFSC and the Provost, within ten (10) business days of receiving the case for review.
- f. The faculty member may appeal the CFSC's recommendation to the FRC, following the provisions in (###).
- g. The Provost will review suspension recommendations made by the CFSC and any appeal recommendations made by the FRC, and all supporting materials, and make a decision regarding the disciplinary action. The Provost will notify the faculty member, DFSC and CFSC of the decision in writing within ten (10) business days of receipt of the CFSC recommendation, if there is no appeal; or within five (5) business days of the receipt of the FRC recommendations, if there is an appeal. The suspension will then take effect.
3. The Provost, in consultation with the Dean, may initiate suspension proceedings in circumstances involving credible threat of imminent harm to the University, including the faculty member in question, students or other employees, or university property; or when necessitated by criminal investigations or legal proceedings. As such, the process is intended to quickly mitigate or eliminate the possibility of harm.
- a. The Provost, in consultation with the Dean, reviews the alleged misconduct, relevant documentation / information (e.g. past performance or disciplinary records; investigation report; substantiated findings of any violation supporting the charges; substantiated report from the Faculty Staff Care Team; and/or advice of Legal Counsel) and the rationale for why an immediate suspension may be indicated.
- b. The Provost, after the aforementioned consultation and review, will make a decision regarding whether a suspension should be imposed. If a suspension is to be imposed, the Provost's decision will also include the type and length of suspension. The Provost will notify the faculty member, DFSC and Dean of the decision in writing within five (5) business days of the aforementioned consultation and review. The suspension is effective immediately upon serving notice to the faculty member.
- c. Faculty members suspended under the rationale of imminent harm retain their right to academic due process and may appeal the decision to the FRC following the provisions in (####). Suspensions will remain in effect while any appeal is adjudicated.
4. If the suspension includes corrective actions to be taken prior to reinstatement, the requirements of these corrective actions, including timeline and acceptable documentation will be described in the same notification from the Provost and copied to the personnel / ASPT file. The faculty member may request, and shall receive, clarification of such requirements.

Comment [GJ14]: Deleted "shall" for "will" here.

Comment [GJ15]: This one I'm leaving as "shall" because the implied "may" works.

Comment [DD16]: Question: Should this review process also include the opportunity for the faculty member to meet with the CFSC, or for the CFSC to request to meet with the faculty member and/or the DFSC/SFSC?

In the case of sanctions, we decided "no" (04.18.17), but suspensions are major disciplinary actions that may arguably warrant the features of a hearing, such as right to appear, bring witnesses, etc.

Comment [GJ17]: I say no to Diane's question.

Comment [GJ18]: Not following the wording. Should we state, "warranted". Maybe that's just me.

Comment [GJ19]: Is this suspensions with or without pay? Or am I reading this incorrectly? Was the suspension put in place while appealing? Section B:3 references suspensions without pay only occur after all appeals are exhausted and adjudicated. Are we just stating all suspensions are with pay then? Again, it's probably me reading it wrong.

Comment [GJ20]: Deleted "these"

5. If the reasons for suspension also constitute adequate cause for dismissal as described in **XIV.##**, the written notice from the Provost shall so indicate, and the dismissal procedures delineated in Article XIV shall commence.
6. The faculty member may file a grievance with the AFEGC if the faculty member believes her or his academic freedom has been violated or if the code of ethics has been violated. AFEGC shall communicate its findings and recommendations to the faculty member with copies to the Provost, the Dean, and the DFSC/CFSC.
7. An overview of the suspensions process is found in Appendix **#**

Comment [DD21]: Question: In preparing this, I noticed this statement was not included in the Sanctions article. Should it be?

Appeals Procedures Related to **Sanctions**

1. An appeal is here defined as a written statement by a faculty member that explains why a faculty member believes that there has been a misinterpretation, misjudgment, or procedural error relating to a suspension recommendation concerning that faculty member.
2. Upon receipt of a suspension recommendation from the CFSC or a notice of suspension from the Provost, the faculty member may appeal the recommendation or decision to the **FRC**. The faculty member should refer to the Academic Freedom Ethics and Grievance Committee (AFEGC) any allegations of violation that would fall within that committee's jurisdiction.
3. The faculty member shall notify the Chairperson of the FRC in writing of an intention to appeal within **five (5) business** days of receipt of the sanctioning recommendation or notice.
4. The Chairperson of the FRC shall respond to the faculty member within **five (5) business** days following the receipt of a written intent to appeal, and shall notify the Provost and the recommending CFSC, if applicable, of a faculty member's intent to appeal. The FRC shall initiate consideration of an appeal as expeditiously as possible.
5. In suspension cases, the FRC must receive from the faculty member an appeal as defined in XII.D.1, including written information supporting the request for an appeal, within **five (5) business** days of submitting an intent to appeal. This information shall also be made available to the recommending CFSC or DFSC/SFSC. The faculty member may request appropriate information regarding the case. This information shall include any official document used to support a decision regarding the case.
6. In order to effect a just and efficient appeal, the FRC shall be provided any documents used by the Provost, CFSC or DFSC/SFSC in the process of review and recommendations. The FRC may request the parties in the review to appear in **person**. The FRC may deny an appeal where there is no evidence that a substantial basis for an appeal exists. If the FRC believes that the basis of the appeal is an academic freedom or ethics violation question, then the FRC may suspend its proceedings until it receives a report from the AFEGC.

Comment [DD22]: Note: These will be moved to ASPT Article on Sanctions

Comment [DD23]: Note: We will need to change sections in ASPT III. "Faculty Review Committee" to reflect this new responsibility.

Comment [DD24]: Question: Should we state that faculty may request an extension of this timeline, if additional time is needed to seek counsel?

Comment [DD25]: Question: Should this review process also include the opportunity for the faculty member to request meet with the FRC?

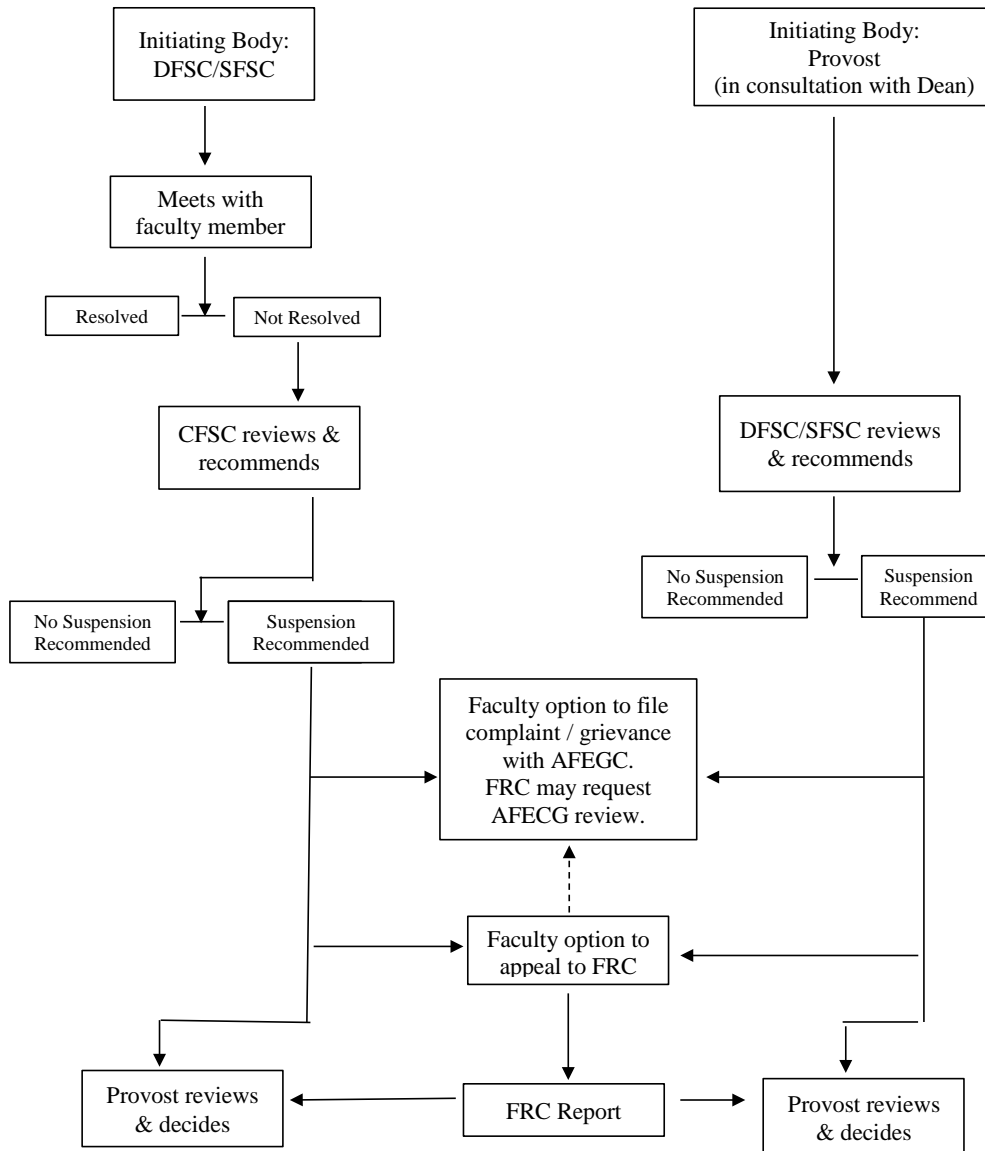
For sanctions, we said no. Suspensions, however, are major disciplinary actions that may arguably warrant the features of a hearing, such as right to appear, bring witnesses, etc.

7. Upon completion of the AFEGC hearings, if any, reports of the AFEGC, in addition to being processed as outlined in the procedures of the AFEGC, shall also immediately be forwarded to the FRC and shall become a permanent part of the FRC report. If, in the judgment of the AFEGC, a violation of academic freedom or ethics has occurred, the FRC must decide whether the violation significantly contributed to the recommendation to initiate and/or recommend sanctions. The FRC shall then complete its deliberations.
8. An FRC recommendation shall be based on a majority vote of the members of the committee. The FRC shall report the recommendation to the faculty member, the recommending DFSC/SFSC or CFSC, and the Provost

Comment [DD26]: Question: Do parameters need to be established for the FRC appeal review so that reviews are completed within a specified timeframe, such as they are for AFEGC complaints?

APPENDIX ##

Overview of the Suspension Process



**Flow Chart, ASPT Disciplinary Processes,
University Review Committee,
March 9, 2017**

AFEGC

Initiates	Reviews & Rec	Appeals	Decision	Notification
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<u>Sanctions</u>	Origin of concern = Institutional	Provost	DFSC/SFSC	FRC	Provost	Provost
		Dean				
	Origin of concern = local	DFSC/SFSC	CFSC	FRC	Provost	Provost

<u>Suspensions</u>	Origin = Imminent harm	Provost	Provost	?	FRC	Provost	Provost
	Origin = progressive	DFSC/SFSC	CFSC		FRC	Provost	Provost

<u>Dismissal</u>	Origin = extraordinary egregious event	Provost	Provost	FRC III.E	Provost	Provost
	Origin = progressive	DFSC/SFSC	CFSC	FRC	Provost	Provost