

UNIVERSITY REVIEW COMMITTEE

Thursday, May 4, 2017
1 p.m., Hovey 102

MINUTES

Members present: Angela Bonnell, Rick Boser, Sam Catanzaro, Diane Dean, Joe Goodman, Christopher Horvath, Doris Houston (via telephone), Sheryl Jenkins

Members not present: Nerida Ellerton, Sarah Smelser

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; “ASPT 2017” and “ASPT document” refer to *Faculty Appointment, Salary, Promotion, and Tenure Policies*, Illinois State University, effective January 1, 2017; “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; “SFSC” refers to school faculty status committee; “Mennonite” refers to Mennonite College of Nursing at Illinois State University; and “Milner” refers to Milner Library at Illinois State University.

I. Call to order

Chairperson Diane Dean called the meeting to order at 1:02 p.m. A quorum was present.

II. Continuation of discussion regarding Article XIII: Suspensions

Dean reported that URC, at its April 25, 2017 meeting, completed its review of the draft suspensions article up to the section regarding appeals. She noted that URC has decided to consolidate the appeals sections from the sanctions, suspensions, and dismissals articles into a single appeals section that will be added to the appeals policies and procedures article of the ASPT document (Article XIII of ASPT 2017). Dean circulated a draft of the consolidated section to committee members (see attached). She said she will ask the committee to discuss the draft after it has completed its review of the draft sanctions, suspensions, and dismissals articles.

Dean then directed the committee discussion to the dismissals article template distributed with the meeting agenda (see attached).

III. Discussion regarding Article XIV: Dismissal

Dean yielded the floor to the subgroup charged with making recommendations to the committee regarding the dismissals article. Subgroup members include Angela Bonnell, Rick Boser, and Doris Houston. Boser initiated the subgroup report. Bonnell and Houston contributed their comments and suggestions throughout the discussion.

Boser said Dean’s draft is well organized and logical overall and appears to reflect the thinking and deliberations of URC members to date. Boser added that Dean’s draft generally aligns with content of the September 2016 version of the article referred to URC by the Caucus. He said one difference between the Caucus version and Dean’s draft is inclusion by the Caucus of the President in the dismissal process, as one more independent reviewer before dismissal occurs. Bonnell noted that involvement by the President in dismissal deliberations is not included in ASPT 2017 either. Boser said the subgroup does not have a recommendation whether the President should be involved in dismissal.

Boser said the subgroup has discussed how consideration of sanctions would occur for faculty members from colleges without a department (Mennonite College of Nursing and Milner Library). He said the subgroup

suggests that FRC rather than CFSC review such cases and make recommendations to the Provost and that FRC also consider appeals filed in such cases. He suggested having FRC establish one subcommittee to review disciplinary cases and make recommend regarding sanctions and another subcommittee to consider an appeal if one is filed. Horvath noted that such an alternative process for Mennonite and Milner will also be needed in the case of sanctions and suspensions. Bonnell concurred, noting the numerous purple-shaded boxes labeled “CFSC” in the “Reviews and Recommends” column of the flow chart developed by URC.

Bonnell reported having asked some Milner Library colleagues whether the Milner CFSC should be charged with recommending disciplinary actions in cases involving a Milner Library faculty member or if a FRC subcommittee should instead be charged with doing so. She said the colleagues she consulted expressed support for having FRC charged with the review but also expressed concern about taking the responsibility for making decisions in disciplinary cases away from the college. Bonnell further noted that charging the CFSC at Milner Library with making recommendations regarding dismissal could be problematic due to recusal rules observed by the CFSC; she explained that it is possible that only one CFSC member would be permitted to vote on a dismissal recommendation and that person could be the Dean. Horvath recommended that URC draft disciplinary policies that apply to the five colleges at the University with multiple departments and then provide for consideration by URC of requests for waivers of those policies from Mennonite and Milner. Bonnell asked Horvath if he recommends permitting Mennonite and Milner to request a waiver from URC in each disciplinary case that arises. Horvath said he is not recommending that approach, rather he is recommending permitting Mennonite and Milner to each request a waiver that would apply to all disciplinary cases involving faculty members in the college.

Boser said one alternative to consider is electing adjunct members to FRC who would serve only in disciplinary cases, much like the Panel of Ten at the University. He added that the need for adjunct members to serve would likely only occur every five or 10 years. Horvath said that approach would be similar to how AFEGC functions. Catanzaro explained that AFEGC forms panels of three or five persons selected from its membership (of up to 30 faculty members) to consider appeals filed by faculty members. AFEGC panels make recommendations to the Provost, Catanzaro said, adding that a faculty member is permitted to appeal the Provost’s decision to the President.

Dean returned to the question raised by Boser regarding who should be charged with making final decisions in disciplinary cases. She reminded committee members that they have at various times during discussion of the disciplinary articles considered involving the President in some disciplinary decisions. Horvath agreed. He pointed out that URC discussed having the Provost confer with the President. Boser asked who makes final decisions at the University regarding hiring faculty members, the Provost or the President. Catanzaro responded that the President does so, explaining that the Board of Trustees has ceded authority to the President to make final decisions regarding faculty appointments. Bonnell said she would consider it odd if the President hires faculty but the Provost dismisses faculty, adding that she is not necessarily suggesting that the President be involved in disciplinary cases. Horvath noted that whatever URC decides, legal counsel will review and, if necessary, correct the process recommended by URC. Dean agreed.

Catanzaro reported having consulted legal counsel a few years ago to draft steps in the dismissal process. At that time, he said, legal counsel found it acceptable to charge the Provost with making final decisions in dismissal cases and permitting the faculty member to appeal the Provost’s decision to the President. Dean said her personal view is that a faculty member would probably want the opportunity to appeal to the President; she asked if providing for an appeal to the President in dismissal cases would necessitate URC reconsideration of sanctions and suspensions processes, to allow for an appeal to the President in those disciplinary actions. Boser said that need not be case, noting that there are different processes for different actions in the ASPT document. Sheryl Jenkins opined that it seems just and symmetrical if the President both hires and fires, whether the act is symbolic or actual. She added that the President need not make final decisions in sanctions and suspensions cases, because those disciplinary actions are not as serious as dismissal. Goodman agreed. He said it is important that URC decide processes that will protect the University, adding that if that means the President should be part of the process, so be it. Dean closed the discussion of this issue by stating she will include the President in the dismissal process as the person who makes the final decision. There were no objections from committee members.

Referring to Section XIV.A.2 of the draft dismissal article, Horvath expressed concern regarding vagueness of the terms “malfeasance,” “extraordinary,” and “egregious.” But, he said, if legal counsel has determined that those terms are the appropriate legal terms to use, he can accept them. Catanzaro said the terms may have been introduced by the Caucus; he recommended that URC agree on wording of the section and then ask legal counsel to determine if the terms are acceptable from a legal perspective. Boser suggested making a note of committee concerns regarding the terms and moving to other issues in the document. Committee members agreed.

Horvath then noted the phrase “performance problems or issues” in Section XIV.B.2 of the draft dismissal article. He said it was his understanding that references to performance as a reason for disciplinary actions were to be removed from the disciplinary articles, to focus instead on behavior. Dean said her recollection is that URC decided that a probationary faculty member could be dismissed for either performance or behavioral issues. [Catanzaro left the meeting at this time.] Horvath noted other concerns regarding Section IV.B.2, including vagueness of the phrase “problems or issues in the faculty member’s responsibilities that have not been ameliorated through sanctions or suspensions” and appropriateness of the clause “repeated violation of laws pertinent to the faculty member’s responsibilities.” Horvath also questioned the appropriateness of the phrase “lack of fitness to continue to perform in the faculty member’s professional capacity as a teacher or researcher”; he said concerns related to health conditions should not be handled through disciplinary processes. After further discussion of the section, committee members agreed to replace Section XIV.B.2 of the draft dismissals article as follows: “The DFSC/SFSC may initiate dismissal proceedings as the next step in a progressive disciplinary process when there is evidence of adequate cause, such as continued behavior problems that have not been ameliorated through sanctions or suspensions.”

Referring to Section XIV.B.2.b, Horvath said it is unclear to him what role each party cited in the section may play; he asked if the attorney for the University, if present, may speak. Dean said she wondered about that also. Horvath said the section permits the Dean, Provost, or administrative designee to be present at the meeting if they have information pertinent to the matter, which, he said implies that those persons will be allowed to speak. Horvath pointed out the word “may” in the section (“may also be present”), asking who decides which parties are allowed to attend the meeting.

Bonnell said the draft dismissals article contains considerable detail; she asked why detail is provided in the dismissals article but not in other parts of the ASPT document. Bonnell pointed out that Article XIII of the ASPT document (Appeals Policies and Procedures) describes very similar processes; she asked if those same processes need to be set forth twice in the ASPT document. Bonnell also expressed concern about the intended relationship between processes described in the Appeals Policies and Procedures article of ASPT 2017 and the draft dismissal article; she said it is unclear to her when provisions of the Appeals Policies and Procedures article apply and when provisions of the dismissals article apply.

Boser proffered a broader question whether the disciplinary articles should be part of the ASPT document. He said the current ASPT document is largely encouraging and supportive of faculty members, while the proposed disciplinary articles are not. He expressed concern about the potentially negative impact the disciplinary articles may have on new faculty members receiving the ASPT document. Horvath noted that because the ASPT document permits faculty members to govern themselves, it is appropriate to include the disciplinary articles in the document. He said publishing the disciplinary articles as a separate volume of the ASPT document might be a way to address Boser’s concerns.

Dean brought the discussion to a close by thanking members of the dismissal subgroup for their review of the draft dismissals article and for the issues subgroup members have raised. Dean said she has made notes of issues not yet resolved, for discussion at subsequent committee meetings. She said she plans to revise the dismissal article to incorporate changes made by the committee at this meeting and will send the revised document to URC members before the next committee meeting. Dean said that by the end of the next meeting (the last planned for the academic year) committee members will need to decide how and where to end this year-long discussion of the disciplinary articles, since the committee will not likely be ready to submit the articles to the Caucus.

IV. Other business

There was none.

V. Approval of minutes

Bruce Stoffel noted that URC needs to review and accept CFSC annual reports, the FRC annual report, and yet-to-be-approved URC minutes before the end of the academic year. He announced that he has uploaded those documents to a Sharepoint site (<https://vpaa.sharepoint.illinoisstate.edu/URC/>) for review by committee members. He recommended that the committee approve the documents via email prior to the end of the spring term. There were no objections from committee members.

VI. Adjournment

Boser 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 2:15 p.m.

Respectfully submitted,
Joe Goodman, Secretary
Bruce Stoffel, Recorder

ATTACHMENTS:

Appeals Procedures Related to Disciplinary Actions, drafted by Diane Dean, April 27, 2017

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

Appeals Procedures Related to Disciplinary Actions

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 disciplinary recommendation (sanction, suspension or dismissal) concerning that faculty member.
2. Upon receipt of a sanction, suspension, or dismissal recommendation from the CFSC or a notice of suspension or dismissal from the Provost, the faculty member may appeal the recommendation or decision to the Faculty Review Committee (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 must notify the Chairperson of the FRC in writing of an intention to appeal within 5 business days of receipt of the disciplinary recommendation or notice.
4. The Chairperson of the FRC will respond to the faculty member within 5 business days following the receipt of a written intent to appeal, and will 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. The faculty member, within 5 business days of submitting an intent to appeal, must submit to the FRC a written statement of appeal as defined in XII.D.1, including information or documentation supporting the request. To prepare an appeal, 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. A copy of the faculty member's appeal will be provided to the CFSC and the party initiating the disciplinary action (DFSC / SFSC or Provost).
6. In order to effect a just and efficient appeal, the FRC shall be provided any documents used in the process of the disciplinary review and recommendations. The FRC may request the involved parties 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.
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 the disciplinary action. 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 [DD1]: Note: These will be moved to the ASPT Article on Appeals Policies & Procedures.

Comment [DD2]: Note: We will need to change sections in ASPT III. "Faculty Review Committee" to reflect this new responsibility.

Comment [DD3]: 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?

ARTICLE XIV: DISMISSALS

Draft for consideration & 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 disciplinary dismissal of a probationary or tenured faculty member shall refer to the definitions, conditions, and faculty rights set forth in Article XI (General Considerations) in addition to this Article XIV.
2. A disciplinary dismissal of a faculty member may be considered for adequate causes such as:
 - a. A next step in the progressive disciplinary process, when other recourses of disciplinary action have been exhausted without effect;
 - b. Upon notification from a law enforcement or judiciary body or other entity external to the University of a substantiated finding of malfeasance;
 - c. Upon notification of a substantiated finding of a repeated, extraordinary or egregious violation imposed on a faculty member by an office or entity external to the ASPT system; or
 - d. In an extraordinary or egregious circumstance involving harm or credible threat of imminent harm to the University including students, university employees, or university property.
3. A faculty member shall be afforded due process in the dismissal 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, or where there is no harm or credible threat thereof, a dismissal shall be effected only after all appeals are exhausted.
 - b. In circumstances involving harm or credible threat thereof, or when necessitated by compliance with pending criminal/legal investigations, proceedings or determinations, a dismissal may be effected prior to the start of appeal proceedings.
4. The standard for disciplinary dismissal of a 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 why the faculty member should be retained). Evaluation records may be admissible but may be rebutted as to accuracy.
5. Except for such simple announcements as may be required, public statements about the case should be avoided by the faculty member; the initiating, reviewing or adjudicating bodies; and other university employees. University statements about the case, whether during proceedings or after a final decision has been made, may only be made through the President's Office.

B. Procedural Considerations Related to Dismissal

Disciplinary dismissal 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, CFSC, or Provost may extend these deadlines for good reason, and involved parties may request consideration for doing so. The DFSC / SFSC, CFSC, or Provost will communicate any timeline extensions in writing to all involved parties.
2. Dismissal Proceedings Initiated by the DFSC / SFSC.

The DFSC / SFSC may initiate dismissal proceedings as the next step in a progressive disciplinary process when there is evidence of adequate cause, such as: continued behavior or performance problems or issues in the faculty member's responsibilities that have not been ameliorated through sanctions or suspension(s); failure to perform assigned duties in a manner consonant with professional standards; repeated violation of University policies; repeated violation of laws pertinent to the faculty member's responsibilities; or lack of fitness to continue to perform in the faculty member's professional capacity as a teacher or researcher.

Dismissal proceedings initiated by the DFSC / SFSC are directed to and reviewed by the CFSC.

- a. The DFSC / SFSC will first request in writing to meet with the faculty member to discuss the alleged misconduct and the potential for dismissal. Such consultation will include a review of relevant documentation / information. The purpose of such consultation is to reconcile disputes and to develop a mutually agreeable solution. The faculty member's right to seek counsel must be honored and facilitated through reasonable scheduling of the meeting.
- b. When appropriate, the Dean, Provost or 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.
- c. When appropriate, the DFSC / SFSC may also meet with any person having information or relevant documentation pertinent to the matter. Any such individuals consulted and the resultant information or documentation shall be made known to the faculty member.
- d. If a mutually agreeable solution is found, it shall be documented in writing and signed by the DFSC / SFSC and faculty member within 5 business days of the meeting. However, this five-day period may be extended if both parties agree that additional time for deliberation would lead to a mutually agreeable solution. The DFSC will communicate any timeline extensions to the faculty member in writing within 5 business days of the initial meeting. The details of the timeline extension must be stated.
- e. If a mutually agreeable solution does not result, 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 5 business days of the initial meeting, if there is no timeline extension; or within 5 business days of the expiration of any extension. The notification will include: the alleged misconduct, the evidence supporting the charges, relevant documentation / information, and the reasons why disciplinary dismissal may be warranted. The notification will also include: a statement regarding the outcome of the

preliminary meeting with the faculty member, and information regarding the faculty member's procedural rights. The DFSC/SFSC will also direct this information to the CFSC, with a request for its review and recommendation, with a copy submitted to the Provost.

- f. Formal proceedings as described in XIV.B.4 will then commence.

3. Dismissal Proceedings Initiated by the Provost.

The Provost, in consultation with the Dean, may initiate dismissal proceedings in extraordinary or egregious circumstances when there is evidence of adequate cause, such as: of a substantiated finding of malfeasance by a law enforcement or judiciary body or other entity external to the University; a substantiated finding of a repeated, extraordinary or egregious violation imposed on a faculty member by an office or entity external to the ASPT system (such as those described in Article #####); or an extraordinary or egregious circumstance involving harm or credible threat of imminent harm to the University including students, university employees, or university property.

- a. In circumstances where there is no threat of imminent harm to the University, dismissal proceedings initiated by the Provost are directed to and reviewed by the CFSC.
 - i. The Provost, in consultation with the Dean, reviews the alleged misconduct, the evidence supporting the charges, relevant documentation / information, and the rationale for why a disciplinary dismissal may be warranted.
 - ii. The Provost will notify the faculty member in writing that dismissal proceedings are being initiated. This notification will be made within 5 business days of the Provost's consultation with the Dean and will include: the alleged misconduct, the substantiated findings of violation supporting the charges, the office or entity issuing the findings, relevant documentation / information, and the reasons why disciplinary dismissal may be warranted. The notification will also include information regarding the faculty member's procedural rights. The Provost will also direct this information to the CFSC, with a request for its review and recommendation, with a copy submitted to the DFSC/SFSC.
 - iii. Formal proceedings as described in XIV.B.4 will then commence.
- b. In circumstances where there is harm or credible threat of imminent harm to the University, including students, University employees or University property; or where necessitated by compliance with pending criminal investigation, legal proceedings or determinations, dismissal proceedings initiated by the Provost also will be reviewed by the Provost. The process is intended to quickly mitigate or eliminate the possibility of further harm.
 - i. An immediate suspension may be imposed according to the procedures set forth in Article XIII.##.
 - ii. The Provost, in consultation with the Dean, reviews the alleged misconduct, the evidence supporting the charges, relevant documentation / information, and the rationale for why an immediate dismissal may be warranted. The Provost may

Comment [DD1]: In the 04.25 meeting, we realized that a process for dismissals originating from the Provost and reviewed through CFSC was needed. We did not have one in our resultant working flow chart.

Comment [DD2]: In our 04.25 meeting, we discussed whether we need or want a process for dismissals that originates from the Provost and is reviewed and decided there in an expedited way, without a faculty panel review.

We realized that even in the worst-case scenarios, where an individual truly needs to be quickly gone from campus; the University would want to suspend the individual first and then move forward with dismissal proceedings that incorporate a review and hearing opportunity.

For now, both are left in the template. We will look forward to your thoughts.

review any other obtainable relevant information and/or interview any other person who may have relevant information.

- iii. The Provost, after the aforementioned consultation and review, will make a decision regarding whether the faculty member should be dismissed. If the decision results in a dismissal, the Provost will notify the faculty member in writing with a copy submitted to the CFSC and DFSC/SFSC. The notification will clearly state the grounds for dismissal, including: the charges of misconduct, the substantiated findings of violation supporting the charges, the office or entity issuing the findings, and relevant documentation / information. The notification will also include the effective date of dismissal and information regarding the faculty member's procedural rights.
- iv. A faculty member dismissed under the rationale of harm / imminent harm, or criminal / legal compliance retains the right to academic due process. S/he may file a grievance with the Academic Freedom, Ethics and Grievance Committee (AFEGC) if s/he believes his or her academic freedom has been violated or if the code of ethics has been violated, and may appeal the decision to the Faculty Review Committee (FRC) following the provisions in (Article #####). Dismissals will remain in effect while any grievance or appeal is adjudicated.

Comment [DD3]: URC may want to add a similar statement to the suspensions article.

Comment [DD4]: What about details for provisions such as returning keys, vacating offices and labs, etc?

Comment [DD5]: Do we need to state a timeline for this action? N days within what event/step?

4. Commencement of Formal Proceedings by the CFSC

- a. The formal proceedings will commence with a written notification from the CFSC addressed to the faculty member within 5 business days of the CFSC's receipt of the referral from the DFSC/SFSC. The notice will acknowledge receipt of the disciplinary referral, inform the faculty member of his or her procedural rights, and inform the faculty member that a hearing will be conducted by the CFSC at a specified time and place to determine whether s/he should be removed from the faculty position on the grounds stated unless s/he wishes to waive the hearing. The hearing date should be set at least 10 but not more than 20 business days from the date of the notification, to allow sufficient time to permit the faculty member to prepare a defense
- b. No later than 5 business days before the date set for the hearing, the faculty member must state in a written reply whether or not s/he wishes a hearing.
- c. If a hearing is requested, the faculty member will provide a written response to the charges and submit this document to the CFSC no later than 5 business days before the date set for the hearing. Hearings will then follow the procedures described in XIV.B.5
- d. If no hearing is requested, the faculty member 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 to the CFSC no later than 5 business days before the date that was set for the hearing.
- e. In absence of a hearing, the CFSC will review each allegation in the referral; the evidence, documentation and information regarding the allegation(s); the rationale for why disciplinary dismissal may be warranted; and the DFSC/SFSC's statement regarding the outcomes of the preliminary proceedings (if applicable). The CFSC will also review the faculty member's written response to the charges (if submitted). The CFSC will have

the authority to review any other obtainable relevant information, and to interview any other person who may have relevant information.

- f. The CFSC will then deliberate and recommend whether the faculty member should be dismissed. The CFSC's recommendation will clearly state the basis on which it finds grounds or no grounds for dismissal. The CFSC may recommend other disciplinary or corrective actions in lieu of dismissal. A CFSC recommendation shall be based on a majority vote of the members of the committee. The CFSC will report its recommendation in writing to the faculty member, DFSC/SFSC, and the Provost within 10 business days of the date that was set for the hearing.
- g. The faculty member may file a grievance with the AFEGC if s/he 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, CFSC, and DFSC/CFSC.
- h. The faculty member may appeal the CFSC's recommendation to the FRC, following the provisions in (###).

5. Hearings by the CFSC

- a. If the faculty member has requested a hearing, the CFSC shall hold a hearing. The CFSC, in consultation with the faculty member, will decide whether the hearing is public or private. Ordinarily ASPT matters, including dismissal proceedings are conducted confidentially and in private, but the CFSC may exercise its discretion on this matter.
- b. The faculty member shall have the option of assistance from counsel or an advisor, whose role shall be limited to providing advice to the faculty member rather than presenting or actively engaging in the proceedings. The faculty member's right to seek counsel must be honored and facilitated through reasonable scheduling of the hearing.
- c. The Provost or a designee will attend the hearing (Ordinarily, the Provost's designee will not be an attorney for the University, through there may be exceptions). Members of the DFSC/SFSC or a designee will attend the hearing. 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.
- d. The CFSC will determine the order of proof, conduct the questioning of witnesses, and secure the presentation of evidence important to the case. The proceedings will be audio or video recorded at the expense of the University, and a copy provided to the faculty member at no cost. The CFSC may have the proceedings transcribed; if so, a copy shall be provided to the faculty member at no cost.
- e. The faculty member and the referring party (DFSC/SFSC, Provost, or attending designee) may be asked to present information salient to the determination. The CFSC may request written briefs from both parties. The CFSC may question both parties.
- f. If facts are in dispute, testimony of witnesses should be taken and/or other evidence received. Appropriate procedures for the participation of witnesses will be determined by

Comment [DD6]: NOTE: This provision for an "observer" was added by FC. Keep?

the CFSC. The faculty member shall have the assistance of the CFSC in securing the participation of witnesses of his or her choosing.

- g. The CFSC may reschedule the hearing if both it and the faculty member agree that additional time is needed for the collection of information or evidence, the coordination of witnesses, or the faculty member's preparation to respond. However, because the CFSC cannot compel the participation of a witness, ordinarily the proceedings shall not be delayed by the unavailability of a witness. The CFSC will communicate any timeline extensions to the faculty member in writing within five (5) business days of the initial hearing. The details of the timeline extension must be stated.
- h. The faculty member, referring party or designee, and the CFSC shall have the right within reasonable limits to question all witnesses who testify orally. When witnesses cannot appear or decline to appear, written testimony may be submitted. Copies of any written testimony and the identity of the authoring witness shall be provided to the faculty member.
- i. The faculty member and referring party or designee will have an opportunity to respond to the testimony of witnesses. The CFSC may exercise its discretion in allowing a reasonable amount of time for each party's response. The CFSC may, at its discretion, grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
- j. The CFSC will permit a closing statement by the faculty member and the referring party or designee. The CFSC may exercise its discretion in allowing a reasonable amount of time for each statement.
- k. The CFSC will then deliberate and recommend whether the faculty member should be dismissed. The CFSC's recommendation will include a full written report of the hearing and will clearly state the basis on which it finds grounds or no grounds for dismissal. The CFSC may recommend other disciplinary or corrective actions in lieu of dismissal. A CFSC recommendation shall be based on a majority vote of the members of the committee. The CFSC shall report its recommendation in writing to the faculty member, DFSC / SFSC, and the Provost within 20 business days of the conclusion of the hearing.
- l. The faculty member may file a grievance with the AFEGC if s/he 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, CFSC, and DFSC / SFSC.
- m. The faculty member may appeal the CFSC's recommendation to the FRC, following the provisions in (###).

6. Provost's Consideration of CFSC's Recommendation

The Provost will review the disciplinary recommendations made by the CFSC, the full written report of any hearing, 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 10 business days of receipt of the CFSC's recommendation, if there is no appeal; or within 5 business days of the receipt of the

Comment [DD7]: NOTE: The URC originally said both parties could only question witnesses through presenting their written questions to the CFSC. The FC's revisions allowed for active, verbal questioning.

Should the procedures call for verbal or written questioning?

Comment [DD8]: Should the details of the adjournment be stated in writing, as for timeline extensions?

Comment [DD9]: Provision of the FC. Keep?

FRC's recommendation\, if there is an appeal. If the decision results in a dismissal, the notification will clearly state the grounds for dismissal and the effective date.

7. An overview of the dismissal process is found in Appendix #

Comment [DD10]: What about details for provisions such as returning keys, vacating offices and labs, etc?

Comment [DD11]: What about if the decision does NOT result in dismissal?

What about alternate disciplinary or corrective actions that may have been proposed by the CFSC?

Comment [DD12]: NOTE: The FC had included "If disciplinary dismissal is effected, the faculty member will receive one year of notice or severance salary, unless the grounds for dismissal legally prohibit such a provision." Keep?

APPENDIX ##

Overview of the Dismissal Process

