I.   Tenure

The committee carefully considered all comments provided on tenure and have addressed these concerns to the extent feasible.

See sections 3-3.4.3

a. This policy totally destroys the concepts of tenure. Since tenure takes most people five or six years to acquire, it is reasonable that it should take a similar period to remove, except in cases of egregious misconduct. It is also reasonable that any faculty member who is, in some sense, unsatisfactory, should be an opportunity to improve and guidance in doing so

b. This policy makes it easier to be unfair and remove faculty members for reasons that may be unjustified

c. The proposal does not expressly incorporate the relevant standard of review and burden of proof on termination from UT Board of Trustees policy, which states, *"The award of tenure shifts the burden of proof concerning the faculty member's continuing appointment from the faculty member to the university."* The policy further provides that, *"[t]he burden of proof [to terminate tenure for adequate cause] rests with the university and shall be satisfied only by clear and convincing evidence in the record considered as a whole."*

d. CPR committees can damage the departmental sense of community. If one member is nominated by the faculty member and one by the department head, ultimately selected by the dean, you will almost automatically set up an adversary relationship in the committee.

e. Can the procedure on the review of documents be interpreted as being the initiation of revoking tenure? Is this a legal problem?

f. The proposed policy appears to limit safeguards for tenure by using the evaluation system as grounds for dismissal or other sanctions rather than as a tool to enhance faculty development.

g. The policy contradicts the definition of tenure by shifting the burden of proof back onto the faculty member.

h. The policy needs to have some language cleaned up. We talk about termination of tenure… does termination of tenure result in termination of employment?

i. The policy should incorporate other outcomes besides tenure, such as assigning high teaching loads to underperforming scholars, or moving the individual to the non-tenure track.

II. Triggers:

The task force was charged with revising the current CPR policy to increase its effectiveness. The task force voted on an appropriate trigger for policy implementation. A preamble was included to reinforce the concept of tenure while assuring that all tenured faculty were meeting the performance standards expected of them by the university.

See Sections: 4-4.2

a. The trigger weakens tenure
b. The change from two unsatisfactory ratings (revised to be reduced to one such rating), to trigger CPR doesn't give the faculty member the opportunity to develop and implement an improvement plan
c. The proposed policy provides no justification for shortening the triggers of CPR
d. There is anxiety among faculty concerning the trigger
e. The language in this section should be clarified to ensure the CPR trigger relates to a tenured faculty member's overall performance, and not a rating in any one particular area
f. The first step should be a warning, but not trigger the CPR review
g. The trigger should be 2 "fails to meet expectations" in 4 years or 3 "needs improvement" ratings in five years to allow evaluators to learn when to give those ratings
h. To address faculty concerns about going into CPR with no forewarning, can we say that the trigger is one "needs improvement" and one "unsatisfactory?"
i. A faculty member will not have the opportunity to remediate performance rating issues before the situation spreads outside the department
j. The proposed triggers will make department heads hesitant to give NI or U ratings as they will result in irksome bureaucratic activities. Everyone will get the same ranking, since upper administration discourages handing out "exceeds expectations" and "far exceeds expectations
k. When the policy is implemented, does everybody get a clean slate? Is it retroactive? How will the policy be implemented?
l. The trigger should be a combination of 1 or 2 needs improvements and 1 unsatisfactory in four years.
     i. The tenured faculty member should be allowed one academic year to remediate unsatisfactory or needs improvement ratings prior to the CPR committee convening. The department improvement plan should be conducted underneath the guidance and support of the CAO and

Program Chair. Under the proposed policy, the chair would lose autonomy.

m. How will someone be defined as unsatisfactory?
n. Include a rationale for the triggers
o. Unsatisfactory and needs improvement may be quite subjective and unfair
p. Process should be the same as for that of receiving tenure:
    i. 2 years unsatisfactory cumulative performance
    ii. Peer review by faculty at same or higher mark
    iii. Review by P&T committee
    iv. Recommendation of P&T committee to the Dean
q. The proposed triggers will result in more futile work for faculty asked to serve on committees.
r. Only one unsatisfactory trigger will not allow time for improvement
s. Need specific criteria that clearly distinguishes unsatisfactory behavior from behavior that does not meet expectations. Too much overlap
t. The policy's preamble should contain specific language to further clarify the tone and objectives of the EPPR policy

III.   **The Review Period**:

Comments concerning the review period were discussed by the task force and the policy was clarified.

See sections 5-5.2

a. Should the five year period be replaced by all the years that resulted in the CPR review?
b. The timelines seem hazy
c. Say "four consecutive annual ratings" rather than "annual performance ratings"
d. In the context of the full five year review period: to what is this referring exactly? Can it be removed?
e. The five year review period in section six should be changed to be consistent with the 4 year period proposed elsewhere
f. For the previous 5 years, regarding materials… how many years are they looking at for the CPR review?
g. The use of numbered years should be altered to reflect review cycles, which would make the process and the policy clearer
h. A distinction should be made regarding the time period for reviewing performance and how far back the faculty's performance will be considered
i. Time frames in general are confusing, given that performance rankings already cover three years
j. It may be a good idea to include something about the time frame in the preamble
k. Need to clarify the time of the EDO rating. What if it is being appealed? Can appeal of performance rating go to the BOT?

IV.   CPR Policy and Appeals:

The new policy clarifies that it is separate from other appeals.

See sections 9.3-9.3.3

a. What happens if the faculty member is in the process of appealing a needs improvement rating for year 1, but is triggered for CPR with another needs improvement?

b. If one unsatisfactory rating trigger CPR, how does that work if the faculty member appeals through the faculty senate? Should the FS appeals committee be allowed to provide input prior to the CPR committee making its report? The time table is probably too short for that.

c. The revised policy will not include any barriers to seeking another process simultaneously

V.   Composition of the CPR Committee:

The task force voted on the composition of the review committee and deliberated effective processes for the committee to follow. Several of the recommendations from the faculty have been incorporated into the policy.

See sections 7-7.5

a. Does the person from a different department need to be from the same college? What about the P&T committee… the same college or another?
b. Under the proposed policy, there is no requirement that CPR committee members be free from actual or potential conflicts of interest.
c. Somewhere the policy should address what happens if a committee member is unavailable after the 18-month improvement plan, and what would need to happen if the remaining members were deadlocked.
d. The policy does not talk about consulting with the faculty senate
e. The CPR committee should consider expectations *for rank*
f. It is unreasonable to ask for someone from P&T committees… they already have too much to do.
g. Should we include language for excluding faculty from serving on the CPR committee?
h. Should the faculty member be allowed to comment on the committee makeup?
i. It will be difficult to find five tenured faculty at the same or higher rank to serve on the CPR committee
j. Under required criteria, it states that committee members must be "familiar" with discipline and performance expectations, but there is no meaningful test or standard for defining this
k. There is too much overlap that will occur with three nominations. Reducing it to two will decrease the dean's ability to in effect choose the committee
l. Categorizing criteria for the CPR members as required vs expected without explanation is concerning. Expected criteria may be waived by the dean, but the faculty member is not provided with an opportunity to challenge this waiver.
m. P&T committee members would likely not volunteer to serve on the CPR committee; the Chancellor should nominate the three sitting P&T members
n. Add the following for clarification: "In the unusual event that an appropriate CPR committee cannot be assembled, the deal shall explain in writing the compelling reasons why"

o. Are the criteria for the committee members in sync with the best practices of UTs Top 25 aspirational schools?

p. Be familiar with the relevant departmental and collegiate performance expectations for faculty in the discipline

q. Is the CPR committee the best judge of whether the plan was carried out successfully? A separate body such as a faculty senate panel or neutral third party may be better positioned to make this determination

r. As a faculty member who could possibly have to serve on a CPR committee, I do not want the responsibility for having to fire one of my colleagues; this is the supervisor's responsibility

s. Most faculty members don't want to serve on these committees; it has the potential to bring about conflicts

t. The proposal prohibits abstaining and recusals, but what is the procedure at the Top 25 Aspirational institutions?

u. Even if the committee finds the faculty member failed to satisfy expectations, the faculty member's department faculty should be given the opportunity to review and vote on the question of whether termination proceedings should then be initiated.

VI.   Interviews:

Relative to interviewing the faculty member undergoing CPR/EPPR were recommendations discussed and adopted.

See sections 9.10-9.10.3

a. Interviews should be mandatory
b. Clarify the wording that would show that both parties should be given the opportunity to be interviewed, if possible
c. The proposal does not require the CPR committee to interview the tenured faculty member, nor does it provide a mechanism for addressing conflicts of interest that may arise during the process
d. Add the following sentence: If an interview cannot be scheduled due to unavailability of one or more of the participants, this should be noted in the final report including which participants were unavailable

VII.   **The Written Reports**:

Comments about the reports were discussed and recommendations were included in the policy.

See sections 9.13-9.13.4

a. The following should be added to the presentation of recommendations: the committee's written report must include the committee's findings and conclusions, the rationale for each, and the corresponding vote count, including dissenting views and reasoning, if findings are not unanimous. The committee's report, including any additional materials developed during the committee deliberations, but not previously distributed, shall be issued to the chief academic officer, the dean, the head/chair, and the faculty member under review

b. The term "rebuttal" seems unusual if the objective is to work together to identify strategies for improvement

c. Should a minority report be permissible?

d. To whom is the faculty member responding in his or her rebuttal/comment?

e. Responses from administrators should be limited to a right to respond rather than providing additional recommendations

VIII. <u>Voting</u>:

Several comments asked how the voting process was developed. The task force engaged in lengthy and thoughtful discussion and voted on the voting process.

See Sections 9.12-9.12.2, 9.13, 10.1-10.2.2, 11.4.2

a. A decision on a faculty members' failure to successfully implement an improvement plan should either (a) be unanimous, or (b) require four votes from the CPR committee

b. The proposal requires a majority vote of the committee to authorize an improvement plan, but this seems insufficient to reflect buy-in from all involved

c. Why do all votes require simple majority except for terminations which require at least four members?

d. A vote to terminate should be unanimous, not just four out of five

e. How did the committee come up with the number of votes required for various actions?

f. The policy should be made clearer to reflect that all voting refers specifically to the EPPR committee and *not* the departmental committee

IX.   Time Frames:

The time frames for all aspects of the EPPR process were discussed and ultimately voted on by the task force.

See sections 9.4-9.5, 9.13-9.13.4, 11.2, 11.4-11.4.2, 11.5.1-11.5.2, 11.6.2

a. CPR committee should review ten years... why was 5 the scope?
b. Time frames to comment on proposed improvement plan are very short
c. 14 days for rebuttal to the committee findings will be difficult for some faculty
d. A single extension of time may not allow for the committee to complete its work properly
e. It seems very difficult to demonstrate significant improvement in 18 months or less
f. Time frames seem too short overall and may place pressure on process or outcomes
g. The 75 day limit seems inadequate given that the findings may result in termination
h. Add the following: The CPR improvement plan may extend to no more than 18 months from the time it is implemented by the dean and/or the CAO
i. The CPR committee will have a hard time doing its work in the 60-75 day period; this is an inordinate demand on senior faculty
j. Is 45 days a reasonable time frame for the plan to be developed given the size of the committee plus the participation of the department head, dean, and provost?
k. A single extension of time does not seem reasonable given that findings may trigger termination
l. 18 months is a short time if you are looking for improvement

X.   Development of the Improvement Plan:

This aspect of the policy was discussed and voted on by the task force.

See sections 11.4-11.4.2

a. CPR committee should provide oversight but not draft the improvement plan. The plan should be developed by the faculty member with guidance from the department head
b. The faculty member should be included in the development of the improvement plan; it should contain clear benchmarks to evaluate the success or failure along with a potential timetable for meeting them. Quarterly assessments have been suggested
c. Why does the responsibility for developing the plan fall on the CPR committee? It seems the department head should draft it since he or she knows what needs to be done more than the CPR members
d. The faculty member should have a role in creating the CPR improvement plan
e. The faculty member should have input on the plan
f. The policy should make explicit that the department head consider the faculty member's input and point of view on the proposed improvement plan
g. What does a sample plan look like?
h. If a decision is made to terminate the faculty member, she should receive a one year notice of non-reappointment
i. If a year later, the department head deems progress unsatisfactory, only then should the CPR committee be reconvened.
j. There should be a quarterly assessment of the degree of success or failure with suggestions and a report forwarded to all parties

XI.   Role of the Chief Academic Officer:

The majority of comments centered on implementation of the EPPR policy. The task force considered all of the comments and incorporated many of the recommendations, which helped to articulate and clarify the implementation of the policy.

See sections: Footnote 1, 2.3, 4.2, 6-6.3.6, 7.3-7.5, 8-8.5, 9.1-9.3, 9.4-9.8, 9.11, 9.13.1-9.14.1, 10.2.3, 11.2, 11.4, 11.5.3, 11.6.2, 11.8

a. There is way too much authority of the dean to appoint the members of the committee and then ignore whatever the committee decides… this is stacking the deck; where is faculty representation?

b. Under the proposed revisions, the dean selects all five members, which gives rise for potential bias, particularly in colleges without department heads. Could there be a substitute procedure?

c. What if we had the CAO choose one person, the chair choose one, the faculty senate choose one, the dean choose one, and the faculty member choose one?

d. We need to be able to identify a one-off for extenuating circumstances; look at the definitions listed in the UTHSC handbook… lawful is not the same as reasonable or realistic

e. Consider having the CAO make all of the appointments, to avoid a problem for colleges without departments.

f. A revision to the policy is needed to make explicit that the CAO could prevent a trigger from taking effective if he or she determines a rating of unsatisfactory was issued in error

g. When a faculty member *requests* to undergo EPPR, the CAO would have the discretion on whether or not to grant approval

h. The policy contains no section on oversight of the CPR process; the process may be considered by the administration as a means to accelerate the achievement of the Vol Vision by terminating tenured faculty after it is judged that they have passed their years of peak performance. There should be an annual report indicating the number of CPR cases and the nature of their resolution. It should include age, race, gender, and college

i. If the CAO overrules a trigger from the dean and department head, the faculty member may choose whether to go forward with EPPR

j. The term extenuating circumstances is vague and not defined

k. What happens if the time frames are not adhered to? Is the committee disbanded?

l. There are no reasons required for the denial of an extension request, and no opportunity is provided for appealing such a denial. Perhaps the CPR committee should decide on the terms of the extension

m. Should designees be allowed?

n. Add that the CAO collects and forward the final report to the chancellor for review and action

o. Sharing the list of all CPR nominations and selections increases transparency

p. When and by whom is the faculty member notified of what is taking place?

q. What do you do if the original members of the CPR committee are not available when it is time to review the progress 18 months later?

XII.   The Role of the Chancellor –

The Chancellor is the chief executive officer of the campus and this policy does not address his decisions; rather, the EPPR policy is designed to review and assess performance.

See sections: Footnote 1, 9.13.4-9.14.1, 10.1-10.1.2, 10.2.1-10.2.3, and 11.7.1-11.8

a. The purpose of CPR is to grand administration the authority to revoke tenure. The committee has taken some care in designing a process that attempts to strike a balance between the administration and the faculty. Unfortunately, the policy invalidates the process. It gives the chancellor the authority to take further action as he/she deems appropriate. The policy should also recommend language stating the chancellor can overturn a fails to satisfy expectations recommendation by the CPR committee.

b. What happens at the end of 18 months if the CPR determines the candidate fails to satisfy the plan?

c. Add a new section: Course of action if the chancellor disagrees with the CPR improvement plan; this should be spelled out

d. The following wording is suggested: If the committee recommends "satisfies expectations," with the exception of highly unusual circumstances, the chancellor will accept the findings of the CPR committee.

e. After the Chancellor receives the CPR committee's final written report, along with any responses, s/he is required to provide a written explanation of the rationale for his/her conclusions, including for any findings that are contrary to the committee. However, this requirement is implemented inconsistently and is missing altogether in some sections.

f. The proposal does not limit a subsequent CPR process after the faculty member completes CPR review improvement plan with "Satisfies Expectations"

g. Why is the chancellor the deciding individual?

XIII. <u>General Comments</u>

a. We do not have a standardized or solid mechanism for evaluating and monitoring performance on faculty to begin with. Setting performance objectives and evaluating faculty performance must be done in a fair and consistent manner.

b. The administration has not adequately argued the need for revising the current CPR policy, and further justification is requested.

c. There is nothing in the draft policy to protect a faculty member from a department head's bad judgment, exacerbated by the department not having clear performance standards.

d. No policy will fix a department who ignores bylaws and the faculty manual, one who bases decisions on personal animosity, and a dean and provost office that rubber stamps everything

e. The proposed policy does not allow for an informal dispute of events if parties involved cannot reach a resolution via CPR.

f. Reference to a "burden of proof," although faculty will be given the chance to review subsequent changes to the termination policy as a result of EPPR

g. The business of obeying orders and lawful directive should not be allowed; it is open to interpretation. Upper administration could involve this policy for the slightest infringement. Is the administration trying to set up a police state?

h. We recommend education of the trustees on the importance of tenure and that the report be forwarded to the trustees

i. A change in leadership in the department or college can result in an unsatisfactory rating which has little to do with the faculty member's performance. The policy should speak to the need for auditable paper trail relative to the performance reviews/ratings.

j. Until all departments have clearly articulated performance standards, it's wrong to initiate CPR

k. The BOT should set a mandatory review process for policy... consider setting an automatic expiry of policies not reviewed after 5 to 7 years