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Approved by Faculty Affairs Committee: 26 September 2022

## **3.12 Procedures for Terminating Tenured Faculty**

### **3.12.1 Termination Procedures for Adequate Cause**

Termination Procedures for Adequate Cause are governed by Board Policies Governing Academic Freedom, Responsibility, and Tenure. 3.12.2 below applies in cases of unsatisfactory performance in teaching, research, or service. 3.12.3 below applies in cases of misconduct. The procedures in 3.12.2 below shall apply if the Adequate Cause grounds for termination include both (i) unsatisfactory performance in teaching, research, or service and (ii) misconduct.

#### **3.12.2. Termination Procedures for Unsatisfactory Performance in Teaching, Research, or Service**

The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for unsatisfactory performance in teaching, research, or service within the definition of Adequate Cause, 3.11.8.1c.(1), above.

##### **3.12.2.1 Suspension with Pay or Reassignment Pending Completion of Termination Proceedings**

After consultation<sup>1</sup> with the President ~~president~~ of the Faculty Senate or the Faculty Senate Executive Committee (or campus equivalent) Council, the chief academic officer ~~chancellor~~ may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of the university's termination proceedings described in Board policy, this Faculty Handbook, and campus procedures related to termination proceedings. The chief academic officer may combine action under this paragraph with any other procedures in Board policy Appendix B or this Section 3.12.

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##### **3.12.3 Termination Procedures for Misconduct**

The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for misconduct within the definition of Adequate Cause. Note: Application of this section may be adapted in cases controlled by Title IX regulations requiring a different procedure (see Policy BT0006-Appendix C-1).

###### **3.12.3.1 Suspension or Reassignment Pending Completion of Termination Proceedings**

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<sup>1</sup> Wherever president of the Faculty Senate or the Faculty Senate Executive Council appears in section 3.12, it is understood to mean that the chief academic officer will engage in meaningful discussion with Faculty Senate leaders (typically the President, immediate past-President, and President-Elect of the Faculty Senate or their designees) before making a decision regarding termination, suspension or reassignment of duties.

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The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for misconduct within the definition of Adequate Cause. The chief academic officer may combine action under this paragraph with any other procedures in Policy BT0006 - Appendix C or this section Section 3.12 of this handbook.

- a. Suspension with Pay or Reassignment of Duties: After consultation with the President ~~president~~ of the Faculty Senate or the Faculty Senate Executive Committee (or campus equivalent) Council, ~~Council~~, the chief academic officer may suspend a faculty member with pay, or change his or her assignment of duties, pending completion of the university's termination proceedings described in ~~section 3.12 of this handbook and in campus procedures incorporating this section~~ Policy BT0006, this Faculty Handbook, and any campus procedures related to termination proceedings.
  
- b. Suspension without Pay: After consultation with the chancellor, the president, and the President ~~president~~ of the Faculty Senate or the Faculty Senate Executive Committee (or campus equivalent) Council, ~~Council~~, the chief academic officer may suspend a faculty member without pay, pending completion of termination proceedings only for the following types of alleged misconduct (and only in accordance with the procedures outlined in the section 3.12.3.8 of this policy entitled "Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct").
  - (1) alleged misconduct involving:
    - (i) acts or credible threats of harm to a person or university property; or
    - (ii) theft or misappropriation of university funds, property, services, or other resources, or
  
  - (2) indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for:
    - (i) a felony; or
    - (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

If the university's final determination after either a UAPA proceeding or an ad hoc hearing committee proceeding is favorable to the faculty member and concludes both that the faculty member's employment should not be terminated for Adequate Cause and that the faculty member should not have been suspended without pay pending completion of termination proceedings, then full restitution of salary, academic position and tenure lost during the suspension without pay will be made.

In cases where a faculty member has been suspended without pay based on indictment or arrest, as described above, the Provost may – upon full acquittal of all charges – re-characterize some or all of the suspension as a suspension *with pay*, allowing payment of salary that would have otherwise accrued.

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### **3.12.3.8 Expedited Procedure for Termination or Suspension without Pay in Certain Cases of Misconduct**

In the following cases of alleged misconduct by a faculty member, the chief academic officer ~~chancellor~~, after consulting with the chancellor, the president ~~of the university~~, and the President ~~president~~ of the Faculty Senate or the Faculty Senate Executive Committee (or campus equivalent) ~~Council~~, may invoke an expedited procedure to accomplish termination or suspension without pay, with comprehensive due process procedures to be offered after termination or suspension without pay:

- a. alleged misconduct involving (i) acts or credible threats of harm to a person or university property, including, without limitation, sexual harassment or other sexual misconduct; or (ii) theft or misappropriation of university funds, property, services, or other resources, or
- b. indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration

Under the expedited procedure, the faculty member shall be offered the following process before termination or suspension without pay:

- a. ~~a written~~ notice of the charges;
- b. an explanation of the evidence; and
- c. an informal opportunity to refute the charges in a meeting with the campus chief academic officer.

After termination or suspension without pay, the faculty member shall be offered the full range of due process options available to faculty members in other Adequate Cause proceedings as set forth in section 3.12.3.7 of this handbook, except that the termination or suspension without pay shall not be stayed pending the outcome of an ad hoc hearing committee if the faculty member elects that method of contesting the action. If the university's final determination after either a UAPA proceeding or an ad hoc hearing committee proceeding is favorable to the faculty member and concludes that the faculty member should not have been suspended without pay or that the faculty member's employment should not have been/should not be terminated for Adequate Cause, then full restitution of salary, academic position, and tenure lost during the suspension without pay or termination will be made.

### **3.13 Disciplinary Sanctions Other than Termination for Adequate Cause**

This section applies only to the imposition of disciplinary sanctions when the University does not propose to terminate a faculty member for Adequate Cause.

Disciplinary sanctions other than termination may be imposed against a faculty member. If the proposed sanction is suspension without pay for a definite term (no more than one year), the procedures applicable to termination Policy BT0006-Appendices B and C, and in Section 3.12 above (as applicable and tailored to reflect that the proposed sanction is suspension without pay

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rather than termination) shall be offered in connection with the ~~prior to~~ suspension. A decision by the Chancellor on appeal shall be the final decision for the university and not appealable to the President., provided, however, that the procedures shall be modified as follows:

1. suspension without pay for a definite term (no more than one year) may be imposed as a sanction by the chancellor without further review by the president and the Board of Trustees, and

2. the chancellor may determine that the expedited procedure for suspension without pay is applicable to the conduct (see Appendix C concerning the expedited procedure)

If the proposed sanction does not involve suspension without pay, the department head shall make a recommendation to the dean, and the dean shall make a recommendation to the chief academic officer. The chief academic officer shall give the faculty member written notice of the proposed sanction and the supporting reason(s) and shall offer him or her an opportunity to respond both in writing and in person. The faculty member may appeal the proposed sanction through established appeal procedures, and the sanction shall be held in abeyance until conclusion of the appeal.

Before such disciplinary action may be taken, the department head or dean must notify the faculty member of his or her intent to take disciplinary action. This written notice shall include a detailed specification of the alleged misconduct and the nature of the proposed discipline. It shall also inform the faculty member of his or her right to appeal the proposed discipline or to request a review by the Faculty Senate Appeals Committee in accordance with the provisions of this chapter or to the president through the chancellor.