

## UNIVERSITY REVIEW COMMITTEE

Tuesday, November 1, 2016  
3 p.m., Hovey 401D

### MINUTES

Members present: Angela Bonnell, Sam Catanzaro, Diane Dean, 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, and “AAUP” refers to the American Association of University Professors.

#### I. Call to order

Chairperson Diane Dean called the meeting to order at 3 p.m. A quorum was present.

#### II. Approval of minutes from the October 18, 2016 meeting

Christopher Horvath asked for a correction to the minutes, in the sixth paragraph of the agenda item titled *Proposed ASPT disciplinary articles*, in the section of that item headed *News and updates*. Horvath asked that the fourth sentence in that paragraph be replaced as follows.

FROM: Horvath explained that much of AFEGC activities while he served on the committee involved resolving conflicts between chairpersons and faculty members when it was not understood that chairpersons were doing what they were supposed to be doing.

TO: Horvath explained that much of AFEGC activities while he served on the committee involved resolving conflicts between chairpersons and faculty members over chairpersons’ authority and not specifically over ethics.

Joe Goodman moved approval of the minutes as distributed prior to the meeting but with that change. Sheryl Jenkins seconded the motion. The motion passed on voice vote, all voting in the affirmative.

#### III. Tentative schedule of URC discussions and actions, 2016-2017

Dean distributed copies of a document titled “Schedule of Discussions and Actions, University Review Committee, Academic Year 2016-2017, Effective November 1, 2016” (see attached) and then reviewed the document with committee members. She noted that the schedule may change as the academic year progresses.

Addressing Dean, Angela Bonnell asked to whom emails have been sent regarding submission to URC of revised college (ASPT) standards for review by URC prior to the end of the calendar year. Dean reported that she has sent an email reminder to each dean. She noted that she subsequently received a thank you email from Milner Library Dean Dane Ward. Dean said she has not yet received any revised college standards for review by URC and might not, since the changes made to the ASPT document by the Caucus might not necessitate changes to college standards. One exception, she noted, might be Mennonite College of Nursing, because provisions in the 2012 ASPT document regarding composition of ASPT committees in that college have either been deleted or revised.

#### IV. Proposed ASPT disciplinary articles: General Considerations

Dean reported having met with Caucus chairperson Susan Kalter to ask about her rationale for the changes she has proposed to the disciplinary actions articles. Dean said her impression from her conversation with Kalter is that Caucus members concur with the numerous references to AAUP guidelines added by Kalter because the Caucus wants the articles to be well grounded and well researched. Dean said she is not fully comfortable using passages from AAUP documents verbatim in the disciplinary articles. She reported having obtained disciplinary policies adopted by the University of Michigan, Northwestern University, and the University of New Mexico because they have been cited in an AAUP document as examples other institutions might want to follow. She noted that none of the policies quotes AAUP guidelines verbatim, and each policy is different.

Goodman reported that he has sought the version of the disciplinary articles originally sent by URC to the Caucus and has located a version discussed at a February 2015 URC meeting. He said that version may not be as concise as it could be but it flows with the rest of the ASPT document better than the revised version URC has received from the Caucus. Goodman said he prefers the URC version, noting that it is less legalistic in tone.

Sam Catanzaro joined the meeting at this point in the discussion. Dean recapped the discussion for him.

Horvath asked Goodman if he thinks URC should work from the February 2015 version of the disciplinary articles when preparing recommendations for the Caucus rather than from the revised version the Caucus has sent to URC. Goodman said URC should consider doing so. Catanzaro cautioned that he will need to compare the version found by Goodman with the version sent to the Caucus in August 2015. Catanzaro said he thinks the two documents should be about the same if not identical.

Catanzaro noted that the disciplinary articles recommended to the Caucus in August 2015 represent the combined work of the Faculty Affairs Committee and URC over about two and a half years. He added that extensive revision of the disciplinary articles by the Caucus raises questions regarding the respective roles of the Caucus and URC in writing ASPT policies. Catanzaro said it is clear that the Caucus makes the final recommendation to the President regarding university-wide ASPT policies but it is not clear what role URC should play in the process. Horvath said it is his understanding that URC is responsible for writing ASPT policies and that the Caucus is responsible for reviewing and approving them. Jenkins asked if it is appropriate for URC to proceed with its review of the disciplinary articles as rewritten by the Caucus if it is the role of URC to write ASPT policies. Dean responded that she recommends proceeding with the review by working from the version of the disciplinary articles originally submitted by URC to the Caucus rather than working from the revised version sent to URC by the Caucus.

Goodman cautioned that, in trying to remove ambiguity from the document, the changes might be worse. Catanzaro agreed, suggesting that the committee strive for a balance between ambiguity and clarity. He said URC cannot prescribe every aspect of ASPT policies and that members of ASPT committees need to be free to exercise professional judgement to some extent. Horvath said he generally agrees with Catanzaro that ASPT committees should be trusted to make the right decision but that a greater degree of specificity in ASPT policies may be appropriate in disciplinary matters given their importance to faculty members. Goodman said he perceives a greater level of mistrust toward administration in the tone of the revised disciplinary articles compared to the version originally recommended by URC. He suggested adopting a less negative tone in the version URC sends back to the Caucus.

Sarah Smelser suggested that reviewing disciplinary actions policies from other universities might help URC with its task. Dean said she will circulate those policies to URC members prior to the next committee meeting.

Dean then referred committee members to the first proposed disciplinary actions article, Article XI General Considerations, as revised by the Caucus (see attached). Dean said the Caucus seems to feel that what URC has labeled "Types of Disciplinary Actions" are instead conditions under which the types apply. She said the Caucus seems to want the article to define each disciplinary action and to describe circumstances in

which each action should be taken. Dean said she believes URC can revise the passage it originally recommended to the Caucus to address Caucus concerns but in doing so should not feel constrained by the Caucus recommendations.

Dean asked about the Caucus recommendation to add the subtitle, “Conditions under they may be applied,” to the title of Section XI.A. Committee members agreed that the subtitle is unnecessary.

#### Section XI.A.1

Dean then read Section XI.A.1, which is the same in the version recommended by URC and the version returned to URC by the Caucus. Dean reported that a disciplinary policy from another university categorizes disciplinary actions as minor or major. Catanzaro recalled that the qualifier “minor” had been used with the term “sanctions” in an early draft of the disciplinary articles; he said the qualifier was subsequently omitted from the draft because it was thought that no sanction should be characterized as “minor.” URC members agreed to leave Section XI.A.1 unchanged.

#### Section XI.A.2

Goodman noted that the introductory paragraph added by the Caucus to Section XI.A.2 is from an AAUP document. Horvath said that the reference in the added paragraph to “disciplinary suspension” as a type of sanction is inconsistent with the prior section (XI.A.1), which cites suspension as a level of discipline separate from sanctions.

Dean asked whether a definition should be included in Section XI.A.2. Jenkins noted that wording added by the Caucus to Section XI.A.2 purports to be a definition but is not. Dean suggested adding the following definition instead: “Sanctions are minor disciplinary actions of varying degrees undertaken to address behavioral or performance problems or issues. Sanctions are intended to be formative.” Committee members concurred.

Discussion ensued regarding the content of Section XI.A.2, including whether the section should cite types of sanctions and, if so, which ones. Horvath suggested that URC consider explaining the point of sanctions and other disciplinary actions in Section XI.A and consider laying out what sanctions are. He recommended deleting the introductory paragraph added to that section by the Caucus and reverting to the version of Section XI.A.2 that had been recommended by URC. Committee members agreed.

Dean asked if types of sanctions should be cited after the definition. Smelser said, while examples do not define, they help clarify. She added that it would be helpful to include examples but suggested that examples other than those cited by the Caucus be considered. Dean agreed. Horvath cautioned that if examples are listed they may become de facto sanctions and are likely to be the only types considered. Horvath added that, if examples are cited, it should be made clear that types of sanctions other than those listed can be considered. He questioned whether “oral reprimand” should be cited and asked about the meaning of the term “recorded reprimand.” He also asked if the University can legally prevent a faculty member from receiving prospective benefits. Goodman responded that COBRA (Consolidated Omnibus Budget Reconciliation Act) is about the only benefit the University can legally deny someone who has been dismissed. Dean said she senses from the discussion that committee members prefer not to cite examples of sanctions with the definition, noting that examples are cited in the separate sanctions article that follows.

Dean then asked for feedback regarding revisions proposed by the Caucus to the paragraph URC originally proposed for Section XI.A.2. She asked whether committee members agree with adding the phrase “felony and ethics” to qualify the word “laws.” She said that the phrases “felony and ethics” and “pertinent to a faculty member’s responsibilities” have been recommended by the Caucus in an attempt to provide greater specificity. Horvath suggested that a key issue with that sentence is what constitutes “violations.” He said he does not believe that any type of discipline should occur before a hearing is held on the allegation. Dean agreed. She added that if a violation is not pertinent to faculty responsibilities, it would be so determined through the hearing process. Horvath suggested replacing the phrase “adequate causes” with the word “reasons,” as recommended by the Caucus.

Dean then summarized the committee discussion of Section XI.A.2. She said she understands that committee members prefer to revert to the version of the section originally recommended by URC to the caucus, to exclude examples of sanctions from Section XI.A.2 but to consider including examples in the separate sanction article that follows, and to add a definition of “sanctions.” Committee members agreed. Dean explained that the committee has not taken formal action regarding Section XI.A.2 and can reconsider the section at a later date.

### Section XI.A.3

The discussion then turned to Section XI.A.3. Horvath noted that URC has established a precedent for the content of XI.A subsections in the way it has dealt with Section XI.A.2. He suggested defining “suspension.” He offered two reasons for suspension: either to deal with a person who is disruptive or dangerous or to deal with a person who did not get the message when sanctioned. Catanzaro cited a disciplinary case at another university in which someone was dismissed but was on paid leave for three years before the dismissal was final. He asked Horvath whether his second reason for suspension would apply to the case if the university had considered the faculty member as being suspended. Horvath responded that the second category would clearly apply. He added that because the situation may have escalated to being disruptive, both categories might be said to apply.

Dean brought the discussion to a close. She said the discussion will continue at the next committee meeting, at which committee members will work from both versions of the disciplinary articles (i.e., the version originally recommended by URC and the version with revisions recommended by the Caucus).

#### V. Other business

Bonnell reported that Milner Library faculty is engaged in discussions regarding the culture of the library as it relates to faculty evaluation. She asked if she may share with Milner Library faculty the report regarding faculty evaluation compiled by a URC subgroup in spring 2016. Dean responded that because URC has approved that report, it is considered a public document available for review by other members of the university community even though it has not yet been sent to the Caucus. Catanzaro suggested first giving the authors of the report the option to rewrite the report in a different voice or to write a summary for sharing with library faculty. Bonnell agreed, saying she will contact report authors Jenkins and Rick Boser before sharing the document.

#### VI. Adjournment

Horvath moved that the meeting be adjourned. Bonnell seconded the motion. The motion carried on voice vote, all voting in the affirmative. The meeting adjourned at 4:02 p.m.

Respectfully submitted,  
Joseph Goodman, Secretary  
Bruce Stoffel, Recorder

#### ATTACHMENTS:

*Schedule of Discussions and Actions, University Review Committee, Academic Year 2016-2017, Effective November 1, 2016*

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

## **SCHEDULE OF DISCUSSIONS AND ACTIONS**

### **University Review Committee, Academic Year 2016-2017**

Effective November 1, 2016

#### **Tuesday, September 20, 2016, 2-3, Hovey 401D**

Organizing for the academic year

#### **Thursday, October 6, 2016, 2-3, Hovey 105**

Organizing for discussion of the proposed disciplinary articles

Disciplinary articles: Discussion of the structure of article(s) regarding dismissal and termination

#### **Tuesday, October 18, 2016, 2-3, Hovey 105**

Disciplinary articles: Discussion of documents related to dismissal (incl. AAUP, ISU Constitution, Governing Document of the Board of Trustees)

Disciplinary articles: General Considerations

#### **Tuesday, November 1, 2016, 3-4, Hovey 401D**

Disciplinary articles: General Considerations

#### **Tuesday, November 15, 2016, 2-3, Hovey 401D**

Disciplinary articles: Sanctions

Disciplinary articles: Faculty Suspensions

Review of college standards (if requested)

#### **Tuesday, November 29, 2016, 1-2, Hovey 401D**

Disciplinary articles: Termination of Appointment of Probationary and Tenured Faculty (article structure)

Review of college standards (if requested)

Approval of ASPT calendar for 2017-2018

#### **Tuesday, December 13, 2016, 2-3, Hovey 401D**

Disciplinary articles: Termination of Appointment of Probationary and Tenured Faculty (article content)

Review of college standards (if requested)

Discussion of process and schedule for review of college standards under ASPT 2017

#### **Spring 2017**

Monitoring of equity review committee work (ongoing throughout the semester)

Organize working group regarding service assignments (January)

Discussions of AFEGC and ASPT policies led by working group (January-February)

Finalize recommendations to Faculty Caucus regarding disciplinary articles and AFEGC policies (March)

Discussions of student reactions to teaching performance led by working group (April)

Review of University Policy 3.2.4: Salary Adjustments (April)

Report from working group regarding service assignments (May)

Review of CFSC annual reports (May)

Review of Faculty Review Committee annual report (May)

## Disciplinary Actions

### XI. General Considerations

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

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

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

Specific policies related to sanctions are provided in ASPT XII.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### B. Faculty Rights

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



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

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

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

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

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

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

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

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

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

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

## XII. Sanctions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### XIII. Faculty Suspensions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

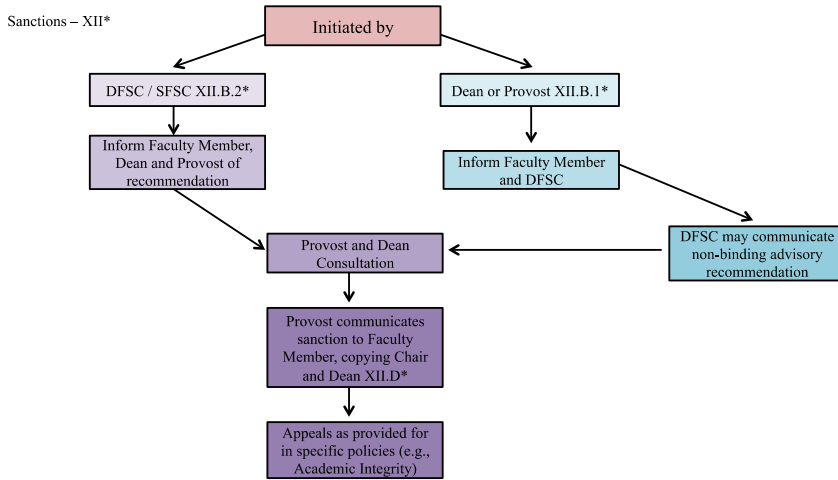
6. A suspended faculty member may appeal through the ordinary AFEGC process, which includes appeal to the President as a final step, within 10 business days of the written notice from the Chair/Director. Such appeal must be made in writing, with copies provided to the Chair/Director, Dean, and Provost.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

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

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

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

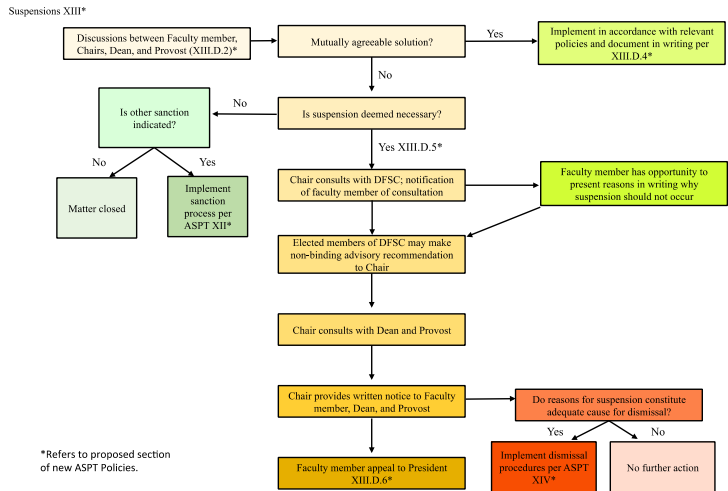
**APPENDIX 5  
Overview of the Sanctions Process**



\*Refers to proposed section of new ASPT Policies.



**APPENDIX 6  
Overview of the Suspension Process**



XI. Termination of Appointment of Probationary and Tenured Faculty

A. Non-reappointment of a Probationary Faculty Member

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

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

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

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

B. Dismissal of a Probationary or Tenured Faculty Member:

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

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

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

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

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

## 2. Preliminary Proceedings

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

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

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

### 3. Commencement of Formal Proceedings

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

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

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

#### 4. Independent Review Committee Proceedings

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

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

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

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

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

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

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

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

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

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

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

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

5. Consideration by the President

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

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

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

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



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

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