



WILLIAM & MARY

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# FACULTY HANDBOOK

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## TABLE OF CONTENTS

I. Preamble .....	1
II. Administrative Organization .....	1
A. The Board of Visitors.....	1
B. The President of the University .....	3
C. The Provost .....	4
D. The Deans .....	5
E. Faculties and Instructional Officers.....	6
1. Structure of the Faculties.....	6
2. Officers of Instruction .....	6
3. Definition of Terms.....	6
F. Self-Governance of the Faculties .....	7
1. The Faculty Assembly .....	7
2. Procedural Review Committee.....	7
3. Personnel Policy Committee .....	8
4. Faculty Hearing Committee.....	8
III. Policies Affecting the Faculties.....	9
A. Academic Freedom and Professional Ethics.....	9
B. Appointment Categories and Contracts and Notices.....	10
1. Faculty Appointment Categories .....	10
a. Tenured and Tenure-Eligible (TTE) .....	11
b. Non-Tenure-Eligible (NTE).....	11

2.	Faculty Position Titles .....	12
a.	Tenured and Tenure-Eligible Faculty Positions.....	12
b.	Non-Tenure-Eligible Faculty Positions.....	12
3.	Establishing and Renewing Faculty Positions .....	13
a.	Tenured and Tenure-Eligible Faculty .....	13
b.	Full-time Faculty Not Eligible for Tenure .....	13
c.	Part-time NTE Faculty .....	16
d.	Emeritus Faculty .....	16
4.	Searching for Faculty Positions.....	17
5.	Written Documentation .....	17
6.	Early Termination.....	17
7.	Joint Appointments.....	17
C.	Procedures for the Evaluation of Tenured and Tenure-eligible Faculty .....	20
1.	Due Process .....	20
2.	Annual Merit Review .....	21
3.	Interim, Tenure, and Promotion Reviews .....	21
a.	Interim Reviews .....	22
b.	Reviews for the Award of Tenure and Promotion to Associate Professor.....	23
c.	Reviews for Promotion to Professor .....	25
4.	Post-tenure Review .....	26
a.	Finding of Unsatisfactory Performance/Individual Improvement Plans.....	28
b.	Follow-up Reviews.....	28
c.	The Role of the Provost in Post-tenure Review .....	29

5. Appeals by Tenured or Tenure-eligible Faculty Members of Decisions Not to Retain, Award Tenure, or Promote .....	29
a. Appeal on Grounds of Violation of Academic Freedom or of Discrimination.....	31
b. Appeal on Grounds of Failure to Follow Procedure .....	33
D. Leaves of Absence .....	34
1. General Leave Policies .....	34
a. Eligibility for Leave.....	34
b. Benefits .....	35
c. Instructional Program and Faculty Responsibilities .....	35
2. Academic Leaves .....	35
a. Scheduled Semester Research Leave.....	35
b. Other Academic Leave .....	36
c. Restrictions .....	36
3. Non-academic Leaves.....	36
a. Fully Paid Leaves.....	36
b. Unpaid Leaves and Reduced Responsibility Contracts .....	37
c. Long-term Disabilities .....	38
e. Other Leaves .....	38
E. Conflicts of Interest.....	38
1. Contracts .....	38
2. Consensual Amorous Relationships .....	39
a. Consensual Amorous Relationship with Colleagues.....	39
b. Consensual Amorous Relationship with Students.....	39

3. External Paid Employment .....	41
F. Allegations of Violations of Policy .....	41
1. General Principles and Procedures.....	42
a. Purview.....	42
b. Definitions.....	42
c. Confidentiality.....	43
d. Protection against Retaliation.....	43
e. Failure to Act in Good Faith .....	44
f. Conflict of Interest .....	44
g. Inquiries.....	44
h. Informal Investigation and/or Mediation .....	44
i. Formal Investigation and Resolution .....	45
j. Remedies and Sanctions.....	45
k. Appeals of Major Sanctions .....	46
l. Faculty Notification and Access to Files .....	46
2. Academic Misconduct in Scholarly Activity or Research.....	46
a. Definitions of Academic Misconduct .....	46
b. Inquiry .....	47
c. Reporting Requirements.....	48
d. Informal Investigation and Mediation.....	48
e. Formal Investigation .....	50
3. Incompetence, Neglect of Duty, or Misconduct.....	53
a. Inquiry .....	53

b. Informal Investigation and Mediation.....	54
c. Formal Investigation and Resolution .....	55
4. University Procedures for Formal Investigation .....	56
5. Appeal of Major Sanctions .....	58
a. Appeal on Grounds of Failure to Follow Procedure .....	58
b. Appeal to the President and to the Board of Visitors.....	59
G. Grievances.....	60
1. Process .....	60
2. Appeal on Grounds of Failure to Follow Procedure.....	62
H. Termination of an Appointment for Medical Reasons.....	63
I. Termination of an Appointment for Financial Exigency or Discontinuance of a Program or Department of Instruction .....	63
1. Financial Exigency .....	64
2. Discontinuance of a Program or Department of Instruction.....	65
3. Faculty Hearing Committee Review of Terminations.....	66
J. Interim Suspension or Reassignment of Faculty.....	67
1. Provost’s Authority to Suspend, Reassign, and/or Limit Access .....	67
2. Notification of Faculty Member and Right of Response .....	68
3. Executive Committee Consultation .....	68
4. Suspension, Reassignment, and Access Limitations Subject to Grievance .....	68
Procedures	
K. Interpretation and Amendment of the Faculty Handbook .....	69
1. Interpretation of the Faculty Handbook Sections II and III .....	69
2. Amendment of the Faculty Handbook Sections II and III .....	69

## **I. PREAMBLE**

The Faculty Handbook describes the fundamental rights, privileges, and responsibilities of faculty members in William & Mary's academic community. It is rooted in the core concept of shared governance between administrators and faculty, and it has been approved by the Board of Visitors.

The provisions of the Faculty Handbook set forth the faculty-specific policies and procedures and other key university-level policies and procedures that govern the university and individual faculty members. Faculty and academic administrators should therefore regularly consult the Faculty Handbook and be familiar with its contents. As employees of the university, faculty and academic administrators are subject to university employment policies, some of which are linked in the text below for ease of consultation.

While the Faculty Handbook does not detail every single university policy governing faculty, it is intended to guide faculty as they implement the teaching, research, and service mission of the university. The Handbook affirms the foundational concept of academic freedom, including the [Statement of Rights and Responsibilities](#).

As an institution of higher education in the Commonwealth of Virginia, William & Mary is governed by its Board of Visitors as established in the Code of Virginia. Nothing in this Handbook shall be interpreted as creating any right or benefit that is contrary to any law, rule, or regulation of the Commonwealth of Virginia or the United States.

## **II. ADMINISTRATIVE ORGANIZATION**

### **A. THE BOARD OF VISITORS**

The Board of Visitors of the College of William and Mary in Virginia is a corporation established by the General Assembly of Virginia. It is the governing authority charged with the responsibility of establishing policies and supervising the operation of the College of William and Mary and of Richard Bland College in Petersburg.

As described in the Code of Virginia (Title 23, Chapter 5, Section 23-44), the Board of Visitors "shall be vested with all the rights and powers conferred by the provisions of this chapter and by the ancient royal charter of the College of William and Mary in Virginia, insofar as the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth. The Board shall control and expend the funds of the colleges and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the colleges, and generally direct the affairs of the colleges."

The Board of Visitors consists of seventeen members, appointed by the Governor, four of whom may be non-residents of Virginia. The four-year terms of office are staggered to maintain a reasonable continuity of membership, and individuals may serve two full successive terms. Board members serve without compensation.

The Code of Virginia provides that the Governor may appoint Board members from a list of qualified persons submitted by the alumni of the university, through the Society of the Alumni.

Each such list must contain at least three names for each vacancy to be filled. The Governor is not limited to the names on this list in his or her appointments.

The Board elects from its members a Rector, a Vice Rector, and a Secretary of the Board. Each officer shall hold office for a term of two years, or until a successor in office shall be elected and qualified. Each officer shall be eligible for reelection to that office for one additional term. In case of absence or inability of the Rector to discharge the duties of the office, the Vice Rector shall act as Rector.<sup>1</sup>

The Board's Bylaws provide for the Board to meet in regular session four times each year at times designated by the Rector, the last meeting in the academic year being designated the regular annual meeting. Special meetings may be called by the Rector or, in his or her absence or disability, by the Vice Rector, or shall be called on request of any five members of the Board.

The specific responsibilities of the Board, with regard to the College of William and Mary and Richard Bland College, are designated in the William & Mary Board of Visitor Bylaws, and include:

1. the appointment of the President, and the appointment of administrative officers, professors, agents, and certain employees;
2. the determination of degrees to be conferred;
3. the determination of general admission policies;
4. the establishment or elimination of schools;
5. the approval of the bylaws of the respective faculties, and the constitution and bylaws of the Faculty Assembly;
6. the approval of rules and regulations governing the university, including Section III of this Handbook;
7. the supervision of all property, property rights, duties, contracts, and agreements;
8. the direction and control of financial affairs, including the submission and approval of any and all budgets;
9. the setting of tuition, fees, and other charges; and
10. the election of an honorary Chancellor.

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<sup>1</sup> The subsequent descriptions of the Board of Visitors' duties and of the offices of President, Provost and of other administrators and of the instructional officers are found in the 2024 By-laws of the College of William and Mary Board of Visitors.



## **B. THE PRESIDENT OF THE UNIVERSITY**

The President of the university, under the authority and direction of the Board of Visitors, is placed in charge of the administration and courses of instruction of William & Mary. The President shall be the authorized means of communications between the Board of Visitors and faculties, the Board and the students, and the Board and the various officers of instruction and administration employed in the university. The Board of Visitors, as the governing authority, delegates to the President operating responsibility and accountability for the administrative, fiscal, academic, and other program performance of the university.

The President, while remaining responsible for the overall administration of the university, shall be assisted in the performance of duties by a Provost, a Senior Vice President of University Advancement, a Senior Vice President for Student Affairs & Public Safety, and an Executive Vice President for Finance & Administration. The President shall establish, with the approval of the Board of Visitors, such faculty positions and other administrative offices as deemed necessary for carrying out the work of the university. The President shall recommend appointments of all persons to serve in such other administrative positions and on the faculties of the university, subject to appointment by the Board of Visitors. The President may appoint committees from members of the administrative staff and, upon recommendation of the Faculty Assembly, from members of the faculties of the university as in the President's judgment may be needed.

The President shall represent the university on public occasions, and shall confer all properly authorized degrees, with the exception of honorary degrees, which shall be conferred by the Rector of the university or the Rector's duly authorized agent.

It shall be the duty of the President to direct the operation of the university and to supervise the work of the faculties and staff. The President is charged particularly with responsibility for the internal order and discipline of the university, and to this end shall hold all Deans and members of the faculties to the faithful and efficient discharge of their duties. The President may, when the President deems it advisable, preside over any meetings of the faculties.

As the chief administrative officer of the university, the President may attend all meetings of the Board of Visitors or any committee meetings of the Board, except as otherwise designated by the Board, and participate in the discussions of such committees, and submit recommendations on matters falling within the purview of such committees as may be appropriate.

The President, with the advice of administrative officers and the Faculty Assembly as appropriate (see Article III of the Faculty Assembly Constitution), will formulate plans and operating policies and objectives covering all phases of operation of the university and will develop and maintain a plan of organization, through which these operating policies may be implemented, directed, and controlled.

The President shall cause reports of the fiscal and other affairs of the university to be prepared and submitted to the Board of Visitors and to its committees and shall be responsible for planning, implementing, coordinating, and evaluating the university's communications, information, and community relations and public service programs.

The President or the Vice President for Finance shall have the authority to transact business in the name of William & Mary to include the transfer, conversion, endorsement, sale, purchase, assignment, conveyance, and delivery of any and all shares of stocks, bonds, debentures, notes, and subscriptions warrants, cash or equivalent assets, evidence of indebtedness, property, equipment, or other securities or assets now or hereafter standing in the name of or owned by the Board of Visitors of William & Mary, or any similar designation indicating ownership by the university, to make, execute and deliver, under the official seal of this body, any and all written instruments of assignment and transfer necessary or proper to effectuate the authority hereby conferred.

The President or the Vice President for Administration shall have the authority to transact business or to sign corporate resolutions in the name of William & Mary, including any and all contracts for services, supplies and equipment; construction and professional services; real estate and property; leases; capital leases; acquisition; and sale and any other type of property conveyance, including easements, stating the authority of those persons authorized to conduct business on behalf of the Board of Visitors and the university.

It is the duty of the President to bring to the attention of the Rector and the Board of Visitors all matters within the President's knowledge that in the President's opinion are in the interest of the university and require consideration by the Board.

In case of the death or resignation of the President, the Board of Visitors shall designate as promptly as possible an Acting President to serve until a President shall have been elected by the Board and shall have assumed office.

### **C. THE PROVOST**

The Board of Visitors will, on recommendation of the President of the university, appoint a Provost who shall serve as the senior administrative and chief academic officer of the university under the President. The Provost shall administer the affairs of the university during the temporary absence or disability of the President, except as otherwise directed by the Board.

The Provost, under the direction of the President and in accordance with policies established by the Board of Visitors, has general purview over all educational and research programs (including libraries), personnel, and policies of the university; the Provost is responsible for enrollment (including admissions and financial aid).

Under the direction of the President, and with the advice of the Faculty Assembly, the Provost is responsible jointly with the Vice President for Finance for budget planning and for recommendations to the President regarding university resource allocation and expenditure budgets. In the discharge of their joint budgetary responsibility, the Provost, the Vice President for Finance, and the Vice President for Administration shall constitute the Administrative Budgetary Group, led by the Provost.

The Provost is responsible for working directly with the Deans and with the Faculty Assembly and/or pertinent faculty committees (see Article III of the Faculty Assembly Constitution) on academic planning, curriculum, budgetary, personnel, and educational policy matters, for recommendation as appropriate to the President. In accordance with the provisions of the Faculty Handbook and the Code of Virginia and upon recommendation of the appropriate Dean or administrative officer, the Provost shall make recommendations to the President regarding academic tenure, promotions, and emeritus status of faculty of the university, all subject to appropriate approval and appointment by the Board of Visitors. The President approves the salaries, appointments, promotions, and dismissals of members of the staff and faculties of the University. The Provost may, when he or she deems it advisable, preside over any meetings of the faculties.

The Provost shall serve as the accreditation officer of the university. The Provost shall establish, under the direction of the President and in consultation with the appropriate Deans and Vice Presidents, and the Faculty Assembly and/or pertinent faculty committees, priorities regarding the university's needs for new financial resources for educational purposes.

The Provost shall recommend to the President the calendar of the university, the curriculum of the faculties of the university, and the inauguration of new programs or elimination of existing ones, the latter being subject to Section III.I of the Faculty Handbook and approval by the Board of Visitors. Any such recommendation shall be formulated with due regard to the roles of the respective faculties, the Faculty Assembly, the educational mission of the university in the Virginia system of higher education, and budgetary and administrative feasibility.

#### **D. THE DEANS**

On recommendation of the President, the Board of Visitors appoints Deans of all schools and the Faculty of Arts & Sciences. Deans serve as chief administrative and educational officers for those schools. The Deans have general responsibility for the faculties under their jurisdiction and for the direction of the work of the schools. Deans also exercise any additional authority conferred upon them by this Handbook, faculty or school bylaws approved by the Board of Visitors, and other applicable written policies a faculty or school may adopt.<sup>2</sup> The Deans report to the Provost and advise the Provost in the formation of the faculty of their respective schools.

The Deans shall be responsible for working directly with the Provost on academic planning, budgetary matters, and faculty appointments for recommendation as appropriate to the President.<sup>3</sup>

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<sup>2</sup> Throughout this Handbook, the term "applicable written policies" shall refer to standing written policies, approved as needed by the appropriate body (*e.g.*, the Personnel Policy Committee) that a relevant unit has adopted to govern specified matters within the jurisdiction of the unit. Additional authority is conferred upon the Dean of the Batten School of Coastal and Marine Sciences from the Commonwealth of Virginia.

<sup>3</sup> The Dean of the Batten School of Coastal and Marine Sciences also serves as the Director of the Virginia Institute of Marine Science. In that dual capacity, the Dean and Director works through the Secretary of Education of Virginia and the State Council of Higher Education of Virginia to establish the budget for the Virginia Institute of Marine Science.

They shall lead in the development of educational programs and shall preside at meetings of their units (except when the President or the Provost chooses to preside).

## **E. FACULTIES AND INSTRUCTIONAL OFFICERS**

### **1. Structure of the Faculties**

The several faculties of the university are organized as the Faculty of Arts & Sciences and the separate faculties of the Raymond A. Mason School of Business; the School of Computing, Data Sciences, and Physics; the School of Education; the Law School; and the Batten School of Coastal and Marine Sciences.

Each of the faculties is presided over by a Dean and governs itself through its own bylaws (which are approved by the Board of Visitors) as well as its own applicable written policies.

Subject to the approval of the Board of Visitors, each school may further organize itself by creating, in its bylaws, departments or programs that carry out a portion of the school's academic mission. A school's bylaws and applicable written policies may delegate to the departments and/or programs specific authority that this Handbook confers upon the schools. For instance, a school may delegate certain portions of the tenure review process and the merit review process to departments and/or programs that the school has established.

### **2. Officers of Instruction**

Subject to the legal obligations of the university, and except as the Board of Visitors' bylaws otherwise provide, the respective faculties are responsible for actual instruction, including such matters as the curriculum, educational policy, degrees offered, and academic requirements.

Faculty members are responsible for design and delivery of instruction, including conduct of classes, syllabus content, assignments, advising and mentoring, and assessment of student work per published policies in each school.

### **3. Definition of Terms**

**Schools:** For ease of exposition, henceforth, this Handbook refers to the Faculty of Arts & Sciences as a "school."

**Departments:** For ease of exposition, this Handbook refers to subunits of schools as "departments." This organizing unit may include other titles such as sections/areas.

**Deans and their Designees:** Each school through its bylaws and written policies may create "administrative officers" who report to the Dean and who are delegated certain authority and responsibilities by the Dean. These administrative officers include, but are not limited

to, the positions of Vice Dean, Associate Dean, Assistant Dean, Department Chair, and Program Director.

## **F. SELF-GOVERNANCE OF THE FACULTIES**

The following are the faculty committees that have been established to help formulate university policy and procedures and/or to negotiate and/or adjudicate in cases dealing with appeal, sanction, dismissal, and grievance.

### **1. The Faculty Assembly**

The Faculty Assembly consists of elected representatives of the Faculties of William & Mary, along with the faculty representative to the Board of Visitors; its purpose is to advise the President and Provost on matters affecting the welfare of the university as a whole. Representatives are elected for three-year terms; approximately one-third of the members are elected each year. The Assembly normally meets monthly during the academic year. The officers are the President, the Vice President, and the Secretary, who serve one-year terms. The officers are members of the Executive Committee, whose membership is defined in the Constitution of the Faculty Assembly. The Executive Committee serves as the Faculty Liaison Committee to the Board of Visitors, the President of the university, and the Provost. The Faculty Assembly is governed by its Constitution and Bylaws. In performance of its duties, the Assembly receives the agendas of the Board of Visitors, reports of university-wide committees, and preliminary drafts of university budgets.

The President and the Provost shall consult with the Faculty Assembly's Executive Committee in the various circumstances provided for by this Handbook. One important charge of this committee is to consult with the Provost concerning the propriety, length, and other conditions of suspension for a faculty member with tenure, or a faculty member whose current contract has not expired, when an allegation of violation of policy has been made against that faculty member (see Section III.F).

### **2. Procedural Review Committee**

The Procedural Review Committee (PRC) shall be a standing committee of nine members; four shall be elected from the Faculty of Arts & Sciences and one each from the Raymond A. Mason School of Business; the School of Computing, Data Sciences, and Physics; the School of Education; the Law School; and the Batten School of Coastal & Marine Sciences. Representatives shall be elected for three-year terms. Each school shall provide for means of electing members and of alternates when needed.

The PRC shall attempt to mediate allegations of discrimination or violation of academic freedom in retention, tenure, and promotion cases (see Section III.C.5.a); it shall conduct informal investigation and mediation of allegations of incompetence, neglect of duty, or misconduct (see Section III.F.3); it shall adjudicate claims of failure to follow procedure in appeals of decisions against retention, tenure, or promotion (see Section III.C.5.b); and it shall adjudicate claims of failure to follow procedure in appeals of major sanction,

including dismissal (see Section III.F.5.a), and in appeals of unresolved grievances (see Section III.G.1).

### **3. Personnel Policy Committee**

The Personnel Policy Committee (PPC) consists of the Deans of the schools, the members of the Procedural Review Committee (see Section II.F.2), and the Provost, who serves as chair.

- a. The committee reviews and ratifies all proposed revisions to the Faculty Handbook before transmitting them to the Faculty Assembly (see Section III.K.2).
- b. The PPC also reviews any proposed change to a school's personnel policies, which this Handbook defines as procedures and standards governing the evaluation, retention, tenure, and promotion of faculty members. Such review shall consist of an assessment of whether the unit complied with its own procedures when adopting the proposed change and whether the proposed change is consistent with the Faculty Handbook and the Statement of Rights and Responsibilities. The PPC does not review proposed changes to personnel policies of individual departments or programs, except as described in Section II.F.3.c.
- c. Upon petition by an interested faculty member or academic administrator, the committee shall review any proposed change to a department's or program's personnel policies.<sup>4</sup> Here again, the committee will assess whether the unit complied with its own procedures when adopting the proposed change and whether the proposed change is consistent with the Faculty Handbook and the Statement of Rights and Responsibilities.

Policies in departments and programs become effective after adoption by the relevant faculty unit and approval by the appropriate Dean or Dean's designee. An interested faculty member or academic administrator may request PPC review of such a change at any time. However, the PPC will ordinarily not conduct review of a change in a department's or program's policy that it has already considered and approved.

### **4. Faculty Hearing Committee**

The Faculty Hearing Committee shall be a standing committee of nine members and nine alternates; four members shall be elected from the Faculty of Arts & Sciences, one each from the Raymond A. Mason School of Business; the School of Computing, Data Sciences, and Physics; the School of Education; the Law School; and the Batten School of Coastal & Marine Sciences. Representatives shall be elected for three-year terms; alternates shall serve for three years after their active terms expire. Each school shall provide for means of

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<sup>4</sup> Interested faculty members shall include any faculty member with a full-time appointment within the unit that has purported to adopt the proposed change. Interested academic administrators shall include any Dean, Vice Dean, Associate Dean or other full-time administrator who also holds an academic appointment.

selection of members and alternates. The Faculty Hearing Committee is charged with hearing evidence and argument in appeals of decisions against renewal, tenure, or promotion on grounds of discrimination or violation of academic freedom (see Section III.C.5.a); in contested cases involving major sanctions of faculty members, including dismissal (see Sections III.F.2.e, III.F.3.c, III.F.4, and III.F.5); in grievance petitions (see Section III.G); and for financial exigency or discontinuance of a program or department of instruction (see Section III.I.3).

### III. POLICIES AFFECTING THE FACULTIES

This section of the Faculty Handbook details the policies and procedures by which William & Mary protects those rights of instructional faculty members and ensures that faculty members fulfill those responsibilities enumerated in Section I. The term “faculty” as used in Section III designates those persons who have teaching and/or research responsibilities and who hold academic appointments in a department, program, or school, as well as those administrators who hold an academic appointment in a department, program, or school (faculty appointment categories are enumerated in Section III.B.1).<sup>5</sup> Any professional faculty members who are required to conduct research or who are directly involved in the education of students are subject to all relevant Handbook policies.

#### A. ACADEMIC FREEDOM AND PROFESSIONAL ETHICS

William & Mary subscribes to the Statement of Principles on Academic Freedom and Tenure, adopted jointly in 1940 and interpreted in 1970 by the Association of American Colleges and by the American Association of University Professors. According to these principles, the purpose of academic freedom is to ensure the “common good” by encouraging the “advancement of truth” via the cultivation of academic inquiry in both research and teaching. To that end, faculty members must be free to conduct research and to publish the results of the research, subject to the adequate performance of their other academic duties and compliance with university policies. Because controversy is often at the heart of academic inquiry, they must also be free to foster open discussion, but with the understanding that they should be careful not to introduce into their teaching controversial matters that have no relation to course content.<sup>6</sup>

The faculty member’s right to academic freedom entails the concomitant ethical responsibility to foster an environment conducive to the advancement of knowledge. The creation of new knowledge is one of the intrinsic functions of the university; research extends faculty members’ knowledge and sets an example of proper academic inquiry for colleagues and students. Faculty members must maintain the highest ethical standards when conducting research: they must “avoid

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<sup>5</sup> When a tenured or tenure-eligible faculty member is also an administrator, the policies governing the administrative appointment are set forth in *Policies and Procedures Regarding Employment and Performance Review of Administrative and Professional Faculty* (as may be amended).

<sup>6</sup> American Association of University Professors. “1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments.” Policy Documents and Reports, 10th ed. Washington, D.C., 2006: 3. 1 June 2008.

fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the [academic] community for proposing, conducting, or reporting research,”<sup>7</sup> and they must adhere to the relevant policies of any granting agency<sup>8</sup> as well as of the university (see policies on “External Paid Employment” and “[Intellectual Property](#)”).

Freedom to teach and freedom to learn are inseparable components of academic freedom.<sup>9</sup> Faculty members should encourage free discussion, inquiry, and expression. Faculty members must adhere to their proper professional roles as instructors and counselors, and must ensure that their evaluation of students’ performance is fair and impartial. Student performance should be evaluated solely on an academic basis and not on opinions or conduct in matters unrelated to academic standards. By the same token, every faculty member can expect to be evaluated — and shall accept responsibility for evaluating colleagues, administrators, and other personnel — based solely on those individuals’ appropriately assigned duties (and for tenured and tenure-eligible faculty, see Section III.C). All members of the university community are protected from illegal or unconstitutional discrimination, including discriminatory harassment.

Faculty members are also entitled to their political rights and should be free from institutional censorship or discipline for exercising them; however, their special position in the community imposes special obligations. As members of a learned profession and officers of an educational institution, when representing that institution, they should at all times endeavor to be accurate in their assertions, they should exercise appropriate restraint, they should show respect for the opinions of others, and they should make every effort to indicate that they are not institutional spokespersons.

## **B. APPOINTMENT CATEGORIES AND CONTRACTS AND NOTICES**

All appointments incorporate, and are subject to, the policies of the Board of Visitors.

### **1. Faculty Appointment Categories**

William & Mary’s mission of teaching, learning, and research requires a faculty with expertise in creating inclusive communities of learning and scholarly practice. The university is an Equal Opportunity/Affirmative Action employer and does not discriminate on the basis race, religion, creed, national origin, color, sex, gender, sexual orientation, gender identity, pregnancy, physical or mental disability (or perceived disability), citizenship status, age, marital status, or veteran or military status.

Annually the Provost shall submit to the Faculty Assembly a report on the composition of the faculty, including tenured, tenure-eligible, and non-tenure-eligible appointments. That report shall include information (provided in such a way that no individual may be

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<sup>7</sup> United States. Office of Research Integrity. “Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research.” 1995. 1 June 2008.

<sup>8</sup> See “Institutional and Federal Compliance Requirements.”

<sup>9</sup> American Association of University Professors. “Joint Statement on Rights and Freedoms of Students.” *Policy Documents and Reports*, 10th ed. Washington, D.C., 2006: 273. 1 June 2008.



identified) on teaching loads, salary ranges, the provision of benefits to those having such appointments, and other relevant financial and instructional information. The Faculty Assembly, or its designated university-wide committee(s), shall review the report to understand the state of the faculty, to consider whether the appointments are in compliance with the Faculty Handbook, and to report its recommendations to the Provost.

All William & Mary instructional or research faculty positions fall into one of the appointment categories listed in this section, and all individuals (except graduate students) who are instructors of record in any for-credit course or activity must have an appointment within one of these categories.

**a. Tenured and Tenure-Eligible (TTE)**

All tenure-eligible and tenured appointments must be made by a department or school; however, faculty members may hold one or more joint appointments with another program, department, or school (see Section III.B.7).

- i. Tenured faculty are those without term.
- ii. Tenure-Eligible faculty are those on the tenure track and who are eligible for tenure pursuant to the policies set forth in this Handbook.

**b. Non-Tenure-Eligible (NTE)**

NTE are a comprehensive category of faculty who are not eligible for tenure. These appointments are integral to the university's mission and enhance teaching, research, service, and community engagement. NTE faculty positions fall within the following categories:

- i. Full-Time NTE Faculty: This category includes full-time positions with a clearly defined contract term that is intended to provide more stability and career growth within the university. These positions are renewable based on satisfactory performance; university needs, including curricular needs; and resource availability. These positions therefore carry a requirement that the unit affirmatively notify the incumbent of non-renewal. See Section III.B.3.b.v.
- ii. Full-Time Visiting NTE Faculty: This category includes full-time positions with a clearly defined contract term tailored to meet specific academic, research, and operational needs. These positions are not expected to renew and therefore do not carry a requirement to notify of non-renewal.
- iii. Part-time NTE Faculty: This category includes roles compensated per course or for specific contracted services, generally without benefits. These positions are designated as part-time based on the terms of the contract.

- iv. Post-doctoral Fellows: These positions are for a specified period and not expected to renew. They may be full- or part-time. Though these positions are often research-heavy, post-doctoral fellows may teach, subject to the terms of their contracts and the policies of their units, schools, or funding bodies. When the post-doctoral fellowship is funded by an external granting agency, the evaluation of the post-doctoral fellow may be conducted by the principal investigator holding the grant. Post-doctoral fellows may be employed for a period not expected to exceed five years. Post-doctoral fellows are afforded the same protections of academic freedom as provided to other faculty in this Handbook.

## 2. Faculty Position Titles

Although differences in mission and organization among the schools necessitate variations in procedures, the university recognizes the critical role of providing common categories for faculty positions.

### a. Tenured and Tenure-Eligible Faculty Positions

William & Mary accepts the principle of tenure and adheres to it as a moral, professional, and legal obligation. Tenured faculty members are those persons who have been expressly confirmed in such status by action of the Board of Visitors on recommendation of the President subsequent to appropriate peer and administrative review.

Tenured positions must carry one of the following titles: Associate Professor or Professor.

Tenure-Eligible positions must carry one of the following titles: Assistant Professor or Associate Professor.

### b. Non-Tenure-Eligible Faculty Positions

Full-time NTE positions are not eligible for tenure and must carry one of the following titles: Assistant Professor, Associate Professor, or Professor. All full-time faculty positions that are not eligible for tenure must also have a modifier, specifically “Research,” “Teaching,” “Clinical,” “Executive,” or “of the Practice,” unless otherwise approved by the Provost. Those terms are differentiated as follows:

- **Research:** for faculty whose primary contribution is in the field of research
- **Teaching:** for faculty dedicated predominantly to instructional roles
- **Clinical:** for faculty applying practical and/or clinical expertise in their teaching and research
- **Executive:** for faculty with significant experience in their fields

- **Of the Practice:** a flexible descriptor that can be adapted by different schools and departments to signify the practical and professional nature of the faculty's role

For part-time faculty not eligible for tenure, the title is Adjunct Professor. For full-time visiting NTE faculty, the appropriate title listed above must be preceded by “Visiting.” For post-doctoral fellows, the title is Post-doctoral Fellow.

### **3. Establishing and Renewing Faculty Positions**

Although differences in mission and organization among the schools necessitate variations in procedures, the university recognizes the fundamental principle that both faculty members and administrative officers should participate in the recruitment and appointment of faculty.

#### **a. Tenured and Tenure-Eligible Faculty**

- i. **Establishing Positions.** Tenured faculty members are those persons who have been expressly confirmed in such status by action of the Board of Visitors on recommendation of the President subsequent to appropriate peer and administrative review.

Faculty who hold tenure-eligible probationary appointments may be considered for tenure under the provisions of Section III.C.3.b. These probationary faculty appointments may be terminated at the end of any contract period following the procedures and standards defined in Section III.C.3.

- ii. **Annual Updates.** Tenured and tenure-eligible faculty shall receive an annual salary letter as soon as possible after the Board of Visitors approves the budget for the following year.
- iii. A faculty member holding a tenured or tenure-eligible appointment at William & Mary shall not hold a tenured position at any other college, university, or institution of higher learning. The Provost may make an exception when an individual is sufficiently distinguished to make such an appointment beneficial to the university. The Provost shall report to the Faculty Assembly when any such appointments are made.

#### **b. Full-Time Faculty Not Eligible for Tenure**

- i. **Establishing Positions.** The Dean of each school establishes, with approval from the Provost, NTE faculty positions in light of course coverage and research demands and budgets.

- ii. Contracts for All NTE Faculty. Each NTE faculty member shall receive a contract that clearly specifies the term of the appointment, salary, benefits, the course load/workload, whether the contract is potentially renewable, and (if it is potentially renewable) the timeline for notice of renewal or non-renewal.
- iii. Length of Contracts. Faculty positions not eligible for tenure may have contracts of varying lengths. The length of a contract will take into consideration the needs of the school in the areas of teaching, research, and service. When the enrollment, teaching, or research needs of a unit are steady and predictable, the contract should typically be longer. When the enrollment, teaching, or research needs of a unit are episodic and unpredictable, the length of a contract may be shorter.
- iv. Evaluation of Full-time NTE Faculty. The university recognizes the fundamental principle that both colleagues and administrative officers should evaluate faculty members. The procedures and standards of evaluation followed by each unit must be approved by a majority vote of the unit. The standards shall be applied in a manner that fosters each unit's mission and serves to maintain the overall quality of the faculty. If the evaluation is prepared by someone other than the Dean, a summary of the review must be submitted to the Dean. The Dean shall forward the review to the Provost along with a recommendation whether to renew the appointment.

Schools are encouraged to conduct annual merit evaluations of NTE faculty whose contracts are renewable, in accordance with their units' respective approved procedures, to help guide the faculty members' professional development and as a basis for merit-based salary increases.

Throughout the university, the criteria for evaluation of NTE faculty are as follows: conscientious and effective teaching with proper command of the material of their fields; helpfulness to their students; and/or contributions to their fields through research, scholarly, and/or creative activity, and/or through professional service.

At the appropriate time, a unit may request renewal of the contract of an NTE faculty member whose renewable contract is due to expire. In that case, the Dean or the Dean's designee will conduct a review of the faculty member's performance over the period of the current contract. The procedures and standards for evaluation followed by each unit shall be approved by a majority vote of that unit as well as the department or program's Personnel Policy Committee.

- v. Notice of Renewal or Non-renewal. For renewable contracts of two or more years, decisions and written notice of renewal or non-renewal should occur

at least one year before the conclusion of the current term. For contracts of one year in length, faculty members shall receive written notice that an appointment will not be renewed no later than March 1.<sup>10</sup>

- vi. Search Process Required for a NTE Faculty Moving to a Tenured or Tenure-eligible Appointment. A person in an NTE faculty position may ordinarily receive a tenure-eligible or tenured appointment only as a result of an open search process. In exceptional circumstances, the Provost may grant a waiver of the search process.
  
- vii. School-specific Policies. Each school will establish procedures for the recruitment, evaluation, promotion, and retention of NTE faculty members. Each school may, in its bylaws, allow the NTE faculty to participate in establishing these procedures. These procedures shall be submitted for approval to the Procedural Review and Personnel Policy committees. School-specific procedures shall:
  - (A) provide for determinations of whether a given NTE appointment is renewable or non-renewable;
  - (B) specify roles of the Dean and the TTE and/or NTE faculty members of the employing unit in the formal processes for recruitment via open searches, including providing a role for the Dean and the TTE faculty in any decision to request an exemption from the regular university open search procedures;
  - (C) specify roles of the Dean and the TTE and/or NTE faculty members of the employing unit in the formal processes for evaluation of NTE faculty against appropriate standards;
  - (D) specify roles of the Dean and the TTE and/or NTE faculty members of the employing unit in the formal processes for promotion of NTE faculty;
  - (E) specify roles of the Dean and the TTE and/or NTE faculty in a formal process of retention;
  - (F) and indicate the voting rights and allowed service/governance roles of NTE faculty. These voting rights must exclude all part-time, adjunct, or visiting NTE faculty voting in matters related to tenured and tenure-eligible faculty retention, promotion, and tenure.

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<sup>10</sup> NTE faculty who were hired prior to August 1, 2022 who have not received new appointments will retain the terms of their initial appointment, including the period of notice of non-renewal.

- viii. Promotion of NTE faculty. An individual appointed to an NTE position may be promoted in accordance with university-approved procedures established by the schools.

**c. Part-Time NTE Faculty**

Contracts for part-time faculty are issued at the time of hire and specify the conditions and duration of employment (usually one semester). Part-time fixed-term contracts are limited appointments that will not renew; however, consecutive appointments may be awarded given appropriate administrative approval of a new contract.

**d. Emeritus Faculty**

The title of “emeritus” faculty member is an honorific. It may be conferred upon any retiring full-time faculty member deemed to have provided dedicated service and meritorious contributions to the university and/or the broader academic community. Emeritus faculty are not employees or agents of the university and have no official duties. As a consequence, they do not vote on university matters, serve in official university capacities, or represent the university in their statements or opinions.

The process for awarding emeritus status originates with a request by the retiring faculty member to be awarded emeritus status. Requests may be made up to one year following an eligible faculty member’s formal notice of retirement by submitting a letter to the home unit in which the faculty member holds an appointment. Thereafter, the unit will hold a vote to advance or not advance the request to the relevant Dean. Thereafter, the relevant Dean, after reviewing the faculty member’s file, will make a determination whether to advance the matter to the Provost and the President, who must concur in order to bring the recommendation to the Board of Visitors for approval. The award of emeritus status to any faculty member will be at the retiring faculty member’s current rank. The Board of Visitors has the right to revoke emeritus status for cause at any future date.

Retired faculty who have been awarded emeritus status are entitled to certain privileges not afforded to other retired faculty, which may vary by school policy. University-wide and school-specific privileges (established by the Provost in consultation with the Faculty Assembly and then as approved by the Board) are listed below.

1. Library privileges (including borrowing privileges)
2. Continued use of a university email account
3. The option to purchase a parking permit
4. Use of the Recreation Center
5. Additional privileges specified by the schools

However, the schools may not confer any voting rights on emeritus faculty.

#### **4. Searching for Faculty Positions**

Full-time faculty positions should ordinarily be filled through an open search process. Each school shall establish policies and procedures for conducting searches to fill full-time faculty positions. Each unit shall follow the policies and procedures of its school when filling full-time faculty positions.

In some instances, unusual circumstances may present themselves. When a unit is presented with such a circumstance, it may request that the Dean apply to the Provost for a search waiver. The Provost shall have discretion to grant or deny a search waiver as the circumstances dictate, and the Provost shall apply a consistent standard across schools in making such determinations. Search waivers shall be the exception and not the rule.

#### **5. Written Documentation**

The terms and conditions of all appointments shall be stated in a written contract, one signed copy of which must be in possession of the university and the other in the possession of the faculty member before the appointment is effective. The most recent edition of the Faculty Handbook is incorporated by reference into all the appointments, subject to the lawful authority of the Board of Visitors.

#### **6. Early Termination**

Termination of an appointment of tenure or before the end of the period specified in the faculty member's current contract may be effected only for adequate cause. Adequate cause is defined as:

- a. incompetence, neglect of duty, or misconduct of such a nature as to render the individual unfit to continue as a member of the faculty. Adequate cause for dismissal must be related directly and substantially to the fitness of faculty members in their professional capacity as academicians. Dismissal shall not be used to restrain faculty members in their exercise of academic freedom or other rights of U.S. citizens;
- b. bona fide financial exigency on the part of the university or discontinuance of a program, department, or school of instruction (see Section III.I).

#### **7. Joint Appointments**

Faculty members may hold appointments in more than one unit of the university, such as when they are significantly engaged in teaching, scholarship, and/or governance in more than one unit.

- a. Characteristics of Joint Appointments. Joint appointments are possible between any units within William & Mary, and between William & Mary and other external institutions. An individual with a joint appointment will hold a position in a primary

unit, designated the home unit, with a joint appointment (generally at the same rank) in a secondary unit, designated the host unit. Faculty members holding joint appointments will have full rights and privileges of the home unit or school except as otherwise agreed in the memorandum of understanding.

- b. Appointment Procedures. A tenured or tenure-eligible faculty member's home unit is the department, program, or school of the faculty member's tenure line. A non-tenured faculty member's home unit is the department, program, or school in which the faculty member has the greatest workload obligation.

A joint appointment may be a new or replacement position that is conceived as a joint appointment before a search commences. If the home and host units of the position are designated prior to the search, then the basic terms of the appointment, including the home and host units, are negotiated and clearly articulated as part of the position description. Search and appointment processes are governed by policies and procedures in the home unit with the host unit represented on the search committee according to the terms agreed upon during negotiation for the position.

If either the home or host unit is not designated at the time of the search, the search will be conducted by the unit authorized to search according to that unit's policies and procedures, with appropriate modifications as approved by the Dean(s). Once finalists are selected and possible home or host units identified, the basic terms of the joint appointment will be negotiated and clearly articulated before any on-campus interviews are conducted. Candidates recommended for appointment must be acceptable to both units.

Joint appointments may also be initiated for current TTE and NTE faculty members. These appointments may be initiated by the home or host units to meet program needs or by individual faculty members to accommodate their teaching and research interests. The basic terms of the appointment, including the home and host units, are negotiated and clearly articulated as part of a memorandum of understanding. Both the home and host units must agree to the joint appointment.

- c. Specific Considerations for Joint Appointments. For each joint appointment, a memorandum of understanding shall stipulate expectations for the faculty member in the areas of teaching, scholarship and service; procedures for faculty evaluation; and agreements regarding the allocation of resources. This memorandum of understanding shall be signed by the faculty member and relevant department chair(s), program director(s), and Dean(s). Agreements naturally change over time. To protect all interested parties, the memorandum of understanding should indicate a default timeframe (e.g., every three years) for regular review of the memorandum's expectations. If any of the conditions of appointment are renegotiated, a revised memorandum of understanding shall record the changes and signatures of the individual and appropriate administrators of the home and host units. Specifically, each memorandum of understanding shall address the items in Sections III.B.7.d.i, III.B.7.d.ii, and III.B.7.d.iii.



- d. Expectations for Faculty
  - i. Teaching. Teaching assignments for individuals with joint appointments shall be clearly articulated at the time of appointment and renegotiated by home and host units as appropriate.
  - ii. Scholarship. Expectations with respect to allocation of effort among scholarly domains, if appropriate, shall be articulated clearly at the time of appointment and renegotiated as appropriate.
  - iii. Governance. The memorandum of understanding shall clarify the governance responsibilities of faculty holding joint appointments with respect to their rights and obligations within the home and host units. Deans and their designees shall be especially cautious when defining governance expectations for pre-tenured faculty and NTE faculty holding joint appointments.
- e. Faculty Evaluation Procedures. Faculty holding joint appointments shall be evaluated in a collaborative manner. The memorandum of understanding at the time of appointment must specify the method(s) that will be used to solicit input from the host unit for annual merit evaluations. The memorandum of understanding for TTE faculty will also include specifics on the process for input from the host unit for tenure, promotion, and post-tenure reviews. The home unit is then responsible in each review for actively seeking input from the host unit and submitting it with the report. For all evaluations, the weighting of performance criteria shall be consistent with the specific expectations articulated in the memorandum of understanding for the individual's joint appointment.
- f. Allocation of Resources
  - i. Office Space and Operating Support. The nature and extent of teaching, scholarship, and service expectations shall determine the need for office space, computers, telephones, and other support in the home and host units. The provision of resources by the home and host units shall be stipulated at the time of appointment and renegotiated as appropriate.
  - ii. Student-generated Full-time-equivalent Accrual. For courses taught by faculty holding joint appointments, the credit hours generated by student enrollments shall accrue to the departments or schools listing the courses unless otherwise agreed.
  - iii. Funded Projects. When faculty holding joint appointments seek external funding for their projects, the appropriate administrators of both the home and host units shall sign the proposals unless otherwise agreed. The

allocation of overhead recoveries shall be agreed upon in advance of proposal submission.

### **C. PROCEDURES FOR THE EVALUATION OF TENURED AND TENURE-ELIGIBLE FACULTY**

The university recognizes the fundamental principle that both faculty and administrative officers should participate in the evaluation of faculty related to retention, tenure, promotion, and post-tenure review.<sup>11</sup> Deans or their designees shall conduct periodic evaluations of all faculty members in the schools, regardless of rank, based on their units' respective annual merit policies. Schools may elect to involve faculty in such evaluations according to procedures adopted for this purpose. The procedures and standards for evaluation followed by each school, department, or program shall be adopted by majority vote of that unit and are subject to the approval by the appropriate Dean. Standards and procedures followed by each school must further be approved by the Personnel Policy Committee (see Section II.F.3) for consistency with university policies. The standards shall be applied in a manner that fosters each school's mission and serves to maintain the overall quality of the faculty.

Specific criteria for awarding salary increases are established by the university and may be governed by the Virginia General Assembly. The Deans (with approval of the Provost) have ultimate responsibility for setting the salaries of faculty in their schools. The deans have authority to delegate the recommendation of salary increases to their designees.

#### **1. Due Process**

By delivery of a copy of this Faculty Handbook with their initial appointment contract, faculty members will be advised of the criteria and procedures generally employed in evaluations across the university; they will also receive a written copy of the procedures and of any special criteria adopted by the faculty member's department, program, or school. Faculty members shall be advised in writing by the Dean or the Dean's designee when evaluations of their performance are to be conducted; they shall be afforded reasonable opportunity to present in writing, and, if the unit's procedures allow, in person, all relevant information;<sup>12</sup> they shall have timely access to their personnel records as required by law;<sup>13</sup> they shall be afforded an opportunity to respond to any material considered; and they shall receive a written copy of all formal evaluations, another copy of which shall be placed in their personnel files.

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<sup>11</sup> See AAUP Statement on Government of Colleges and Universities (1966) (noting the "primary responsibility" of faculty for such matters).

<sup>12</sup> At all times, faculty members shall have the right to present in person information of a highly sensitive nature that they do not wish to have included in the written record.

<sup>13</sup> Per Code of Virginia section 2.2-3806; however, per a memo from the Provost endorsed by the Faculty Assembly April 25, 2006, review committees for tenure and promotion shall provide candidates with access to the reviews, but redact the name of the reviewer and any other information that might identify the reviewer.

Though specific procedures and standards among the schools vary, the criteria for retention, tenure, promotion, and annual merit evaluation of tenure-eligible and tenured faculty members throughout the university shall include possession of the professional education, experience, and degrees appropriate or necessary for their duties; conscientious and effective teaching with proper command of the material of their fields, and helpfulness to their students; significant contributions to their fields through research and scholarly or creative activity, and through professional service; and responsible participation in university governance. Further criteria and procedures specific to the type of review are set forth in Sections III.C.2-4.

## **2. Annual Merit Review**

Deans or their designees shall complete annual merit reviews of each of their faculty members, in accordance with their unit's approved procedures (which may call for consultation with a faculty committee), for purposes of determining salary increases (see Section III.C) and acknowledging good work or pointing out areas in need of improvement. As described in Section III.C.4, annual merit reviews may result in post-tenure review of the faculty member.

Annual merit reviews shall evaluate a faculty member's performance in the areas of teaching, research, service, and/or governance in accordance with the categories established for faculty evaluation in Section III.C.1. As part of this review, each faculty member shall submit an annual report in a format prescribed by the unit that summarizes teaching, research, service, and/or governance, as well as other information deemed pertinent by the unit's policies. The annual merit review may also consider, as appropriate, factors that extend beyond a single year, such as long-term research projects, teaching enhancement projects, and/or contributions to service and/or governance. If the annual review is conducted by a designee of the Dean, that designee shall provide a summary of the annual review to the Dean, and the Dean may request additional information. The Dean is ultimately responsible for merit determinations.

## **3. Interim, Tenure, and Promotion Reviews**

All reviews for retention, tenure, and promotion of tenure-eligible and tenured faculty members shall begin with a report from a faculty committee, as identified in the procedures of the department, program, and/or school. The Deans shall submit all recommendations regarding retention, tenure, and promotion to the Provost. Each submission to the Provost shall contain the following: the comments and recommendations of the Dean(s), as well as of the chair or program director where appropriate, and all reports and votes prepared by faculty groups given an official role in the unit's procedures.<sup>14</sup> The Provost, in turn, shall submit his or her decision to the President; the President's decision is final, subject to approval of positive recommendations for tenure and promotion by the Board of Visitors.

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<sup>14</sup> For example: elected personnel committees; faculty members eligible to vote on retention, tenure and promotion in the program department, or school; elected advisory committees to the Dean. See also the Provost's memo on "Promotion and Tenure Files and Interim Reviews," 2006.

The general categories governing interim, tenure, and promotion reviews are delineated in Section III.C.3. Each recommending authority will consider all relevant information obtained for the evaluation, which must include students' evaluations of the candidate's teaching; tenure and promotion reviews shall include the opinion of experts outside the university.<sup>15</sup> The categories shall be employed in a manner that fosters each school's particular mission as well as improvement in the overall quality of the faculty. Each case shall be judged on its own merits and not on comparisons with previous decisions.

**a. Interim Reviews**

At the time of their initial appointment and again as deadlines approach, tenure-eligible faculty members shall be advised in writing by the Dean or the Dean's designee when decisions affecting their retention and their tenure and promotion to Associate Professor are to be made. A faculty member whose tenure review is scheduled for the sixth year of his or her tenure-eligible appointment at the university shall undergo an interim review normally no earlier than the fourth semester and no later than the sixth semester of the appointment; faculty members with shorter probationary periods (see Section III.C.3.b.i) shall undergo interim review at the time designated in the initial appointment, unless the tenure review is scheduled within the first three years of the appointment.

Interim reviews shall be conducted in accordance with the general categories delineated above, with the procedures delineated in Section III.C.3, and with the standards and procedures adopted by the faculty member's department, program, and/or school. The information considered shall include the candidate's curriculum vitae, self-evaluation, and student evaluations, as well as some evaluation of the candidate's teaching based on at least one method other than student evaluation.<sup>16</sup>

Interim reviews shall result in a decision to continue or to terminate the faculty member's appointment. The recommending authorities may also acknowledge good work and/or point out areas in need of improvement. A positive interim review does not guarantee a positive tenure decision. In fact, a program, department, or school may include interim review reports in a candidate's tenure dossier only when the unit's procedures specifically stipulate.

When a recommendation or decision to terminate an appointment has been reached, the faculty member will be informed of that decision in writing by the Dean. If the faculty member so requests, the Dean will provide the reasons for the

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<sup>15</sup> Per a memo from the Provost endorsed by the Faculty Assembly April 25 2006, review committees for tenure and promotion shall provide candidates with access to the reviews, but redact the name of the reviewer and any other information that might identify the reviewer.

<sup>16</sup> For more information, see the Provost's memo on "Promotion and Tenure Files and Interim Reviews."

recommendation in writing. Grounds and procedures for appeal are described in Section III.C.5.

**b. Reviews for Award of Tenure and Promotion to Associate Professor**

**i. Timing of Tenure Review; Length of Probationary Period**

At the time of initial appointment and again as deadlines approach, tenure eligible faculty members shall be advised in writing by the Dean or the Dean's designee when decisions affecting their retention and their tenure and promotion to Associate Professor are to be made. Per American Association of University Professors guidelines, the probationary period for a faculty member in a full-time position shall not exceed seven years,<sup>17</sup> including full-time service at another accredited institution of higher learning (except as noted in the following paragraph), and including authorized leaves of absence (except as discussed in "Extension of the Probationary Period," below). All recommendations for the granting or denial of tenure must be submitted to the Provost by March 15 of the penultimate year of probationary service, normally the sixth year.

Under no circumstance shall tenure be awarded until a tenure review has been conducted and a positive recommendation made by the President to the Board of Visitors following the procedures outlined in Section III.C.3. Subject to a positive review and the approval of the Board of Visitors, tenure shall be granted to any full-time faculty member who has attained the rank of Assistant Professor or higher upon that faculty member's appointment beyond seven years,<sup>18</sup> with the following exception: if part of the seven years is represented by service at another accredited institution of higher learning or in a professional position relevant to the faculty member's academic appointment at the university, the faculty member and the Dean or the Dean's designee may agree in writing upon a probationary period of as much as four years at the university immediately before tenure is granted, even if the total full-time service thereby exceeds seven years. The terms of such a probationary period will be stated at the time of initial appointment, both in the letter of intent and in the final contract.

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<sup>17</sup> American Association of University Professors. "1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments." *Policy Documents and Reports*, 10<sup>th</sup> ed. Washington, D.C., 2006: 4. 1 June 2008

<sup>18</sup> Should there be an error in determining applicable years of service for any appointment, tenure will not be awarded until a tenure review has been conducted and a positive recommendation made by the President to the Board following the procedures outlined in III.C.; such a review should begin as soon as possible after the error is discovered and in no case later than the next academic year.

(A) Extension of Probationary Period

When a tenure-eligible instructional faculty member uses the maximum amount or more of their paid or unpaid disability, medical, or family leave<sup>19</sup> during any consecutive two-year period, the tenure probationary period will be extended by one year. Extension of the probationary period is not required: faculty who elect not to extend the tenure probationary period by one year must inform their Dean or the Dean's designee no later than March 15 of the contract year before which the tenure review normally would occur. An untenured instructional faculty member who uses fewer than their maximum amount of paid or unpaid disability, family, infant, or newly adopted-child parental care leave during any consecutive two-year period but who has, nonetheless, taken a significant amount of such leave prior to consideration for an award of tenure, or who has experienced circumstances which, at the faculty member's election, could have resulted in a significant period of such leave, may petition the Provost for an extension of the probationary period. The decision to grant an extension of the probationary period under such circumstances shall be made at the sole discretion of the Provost, after consulting with the faculty member's Dean. The petition to the Provost to extend the probationary period by one year must be made no later than March 15 of the contract year before which the tenure review would occur. If the probationary period is extended, the faculty member thereby waives the requirement that a decision regarding the award of tenure be made within seven years. Generally, no faculty member will be granted more than two such extensions. Any extension of the probationary period will not affect the standards applied to the tenure review.

(B) Reduction of Probationary Period

Normally, recommendations regarding the award of tenure shall be made during the fall semester of the penultimate year of applicable service, usually the sixth year. In certain circumstances, a reduction in the time of the probationary period may be made with the written agreement of the faculty member, the Dean, and the Provost. In such cases, before a tenure review commences, the candidate must also agree in writing that such review shall represent the only evaluation for tenure, notwithstanding earlier contracts or letters of intent, and that a decision not to grant tenure shall result in termination of the probationary faculty member's service in accordance with notice requirements in Section III.B.3.

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<sup>19</sup> See Section III.D. on "Leaves of Absence."

ii. Procedures and Criteria for Tenure Review and Promotion to Associate Professor

Tenure and promotion reviews shall be conducted in accordance with the general criteria delineated in Section III.C.3, with the procedures delineated in Section III.C.3.b<sup>20</sup> and with the standards and procedures adopted by a majority vote of the faculty member's department, program, and/or school (and approved by the Procedural Review Committee and the Personnel Policy Committee). The information considered shall include the candidate's curriculum vitae, self-evaluation, and student evaluations, as well as some evaluation of the candidate's teaching based on at least one method other than student evaluation.<sup>21</sup>

No faculty member will be awarded tenure or promoted to Associate Professor without the approval of the Board of Visitors. When a recommendation to terminate an appointment has been made, the faculty member will be informed of that recommendation in writing by the Dean of the faculty or school. If the faculty member so requests, the Dean will provide the reasons for the recommendation in writing. Grounds and procedures for appeal are described in Section III.C.5; the faculty member may begin the appeal process only upon receipt of the letter from the Provost informing the faculty member of the decision to terminate.

In the case of a negative decision on tenure, the faculty member shall receive, normally in the spring of the year in which the decision is made, a terminal appointment for the next academic year, in accordance with the notice requirements set forth in Section III.B.3. Should a determination be made, either by the Provost or by the Procedural Review Committee and/or the Faculty Hearing Committee, as described in Section III.C.5, that a new tenure evaluation should be conducted, the faculty member will still receive a terminal appointment. However, should reconsideration result in a positive decision on tenure, the terminal appointment will be superseded.

c. **Reviews for Promotion to Professor**

The specific procedures for review for promotion to the rank of Professor among the several faculties of the university vary: in some units, the review begins at the request of the candidate; in others, the review begins with the designated administrative authority. However, candidates for promotion to the rank of Professor shall normally have completed at least six years of service at the rank of

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<sup>20</sup> Per the Provost's memo on "Promotion and Tenure Files and Interim Reviews," 2006, "untentured faculty may not participate in decisions on promotion and tenure in any formal way."

<sup>21</sup> For more information, see the Provost's memo on "Promotion and Tenure Files and Interim Reviews," 2006.

Associate Professor,<sup>22</sup> whether at the university or at another accredited institution of higher learning or in a professional position relevant to the faculty member's academic appointment at the university. When the review is initiated by a faculty committee, a Dean, or a Dean's designee, eligible faculty members shall be advised in writing by the appropriate administrative officer(s) when the review is to be conducted.

Reviews for promotion to Professor shall be conducted in accordance with the general categories delineated in Section III.C, with the procedures delineated in Section III.C.3, and with the standards and procedures adopted by the faculty member's department, program, and/or school. The information considered shall include the candidate's curriculum vitae, self-evaluation, and student evaluations, as well as some evaluation of the candidate's teaching based on at least one method other than student evaluation.<sup>23</sup>

When a recommendation not to promote a faculty member has been reached, the faculty member will be informed of that recommendation in writing by the Dean. If the faculty member so requests, the Dean will provide the reasons for the recommendation in writing. Faculty members who are turned down for promotion to Professor may appeal on the procedural or substantive grounds described in Section III.C.5, but only upon receipt of the letter from the Dean or Provost informing the faculty member of the decision.

No faculty member will be promoted to Professor without the approval of the Board of Visitors.

#### **4. Post-tenure Review**

The purpose of the post-tenure review is to provide a mechanism for faculty peers to review and evaluate a colleague's work and to assist those faculty members whose performance is found to require improvement. It is not a retenuring process, and faculty members, once tenured, are not required to meet periodically what may be an evolving standard for tenure. Rather, post-tenure review is designed to ensure that all members of the faculty, regardless of status or length of service, are performing their duties conscientiously and with professional competence.

Post-tenure reviews shall be conducted in accordance with standards and procedures adopted by each department, program, and/or school, subject to approval by the appropriate Dean and by the Procedural Review Committee and the Personnel Policy Committee. The

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<sup>22</sup> Time in rank is not consistent across the faculties; the Law School, for example, typically requires fewer years in rank before promotion.

<sup>23</sup> For more information, see the Provost's memo on "Promotion and Tenure Files and Interim Reviews;" 2006. Per a memo from the Provost endorsed by the Faculty Assembly April 25 2006, review committees for tenure and promotion shall provide candidates with access to the reviews, but redact the name of the reviewer and any other information that might identify the reviewer.



standards shall be applied in a manner that fosters the mission of the relevant department, program, or school; serves to maintain the overall quality of the faculty; and identifies any member in need of improvement.

Post-tenure reviews are conducted when dictated by the procedures of a department or school, as described below, or when the Dean or the Dean's designee determines, based on annual merit reviews and in accordance with the standards and procedures of the department and/or school, that a faculty member's performance during the most recent three-year period has been unsatisfactory overall. The post-tenure review shall be conducted by the appropriate faculty review committee.<sup>24</sup> The post-tenure review shall commence by or before the beginning of the next academic year and be completed by the end of the fall semester; it shall consider the faculty member's performance in the areas of teaching, research, service, and/or governance over the six years preceding the review. The basic standard for appraisal shall be whether the faculty member under review discharges conscientiously and with professional competence the duties appropriately associated with his or her position. This policy does not prohibit the home department or school from conducting regularly scheduled reviews of its faculty members in addition to the annual merit reviews. In order to qualify as post-tenure reviews, these reviews must follow the procedures specified in this policy.

Post-tenure reviews shall result in a determination of either "satisfactory overall performance" or "unsatisfactory overall performance." The appropriate faculty review committee will consider current curricula vitae; merit reviews during the period under review; and any other relevant information deemed appropriate according to the procedures of the relevant department, program, or school. The committee's report should approximate the depth of tenure or promotion reports, except that it need not include external reviews. The committee shall submit the report of its findings to the program director or department chair, if any, and to the Dean. Where appropriate, the program director or department chair may request additional information or may append comments to the report; he or she shall evaluate the performance as "satisfactory overall" or "unsatisfactory overall" and submit the report to the Dean. The Dean may also request additional information or append comments.

- Where the appropriate faculty review committee; the department chair or program director, if any; and the Dean are in agreement that the performance is "satisfactory overall," the decision is final. The Dean shall forward a report to the Provost for the Provost's information.
- Where the appropriate committee; the department chair or program director, if any; and the Dean are in agreement that the performance is "unsatisfactory overall," the decision is final, subject to appeal as described below. An "individual improvement

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<sup>24</sup> Individuals holding administrative or professional faculty appointments—including the Provost, and the Deans of the Schools are not subject to annual merit or to post-tenure review as long as they hold such full-time administrative appointments.

plan” shall be developed according to the procedures set forth below, and the Dean shall forward a report to the Provost for the Provost’s information.

- Where the appropriate committee; the department chair or program director, if any; and/or the Dean disagree, the Dean shall forward the reports to the Provost for decision.

A faculty member who receives a finding of “unsatisfactory overall performance” may pursue a grievance according to the procedures set forth in Section III.G.

**a. Finding of Unsatisfactory Performance/Individual Improvement Plans**

When a faculty member’s post-tenure review results in a finding of “unsatisfactory overall performance,” the faculty member, in consultation with the appropriate personnel committee; the department chair or program director, if any; and the Dean, shall develop an “individual improvement plan” to address the area(s) of deficiency. The plan must be acceptable to the committee; the department chair or program director; if any; and the Dean. Unless, upon the recommendation of the Dean, the Provost grants an extension, the plan must be accepted no later than 45 calendar days from the date the faculty member receives notice of a finding of “unsatisfactory overall performance” as determined under the provisions of Section III.C.4, or 45 calendar days from the date the faculty member receives notice that an appeal of such a finding has been denied, whichever last occurs. Where agreement cannot be reached, the final determination of whether an “individual improvement plan” is acceptable ultimately belongs to the Dean; however, in deciding whether to approve the plan, the Dean shall apply the standards of the specific program, department, and/or school for “satisfactory overall performance.” A copy of the approved plan shall be included in the faculty member’s personnel file.

If a faculty member fails to submit in a timely fashion and in writing an acceptable improvement plan, the Dean, after consulting with the appropriate faculty review committee and the department chair or program director, if any, may seek impositions of sanctions, including dismissal, for misconduct or neglect of duty in accordance with Section III.F.4. Sanctions (excepting dismissal) do not obviate the need for improvement in performance; the Dean shall also order revision and resubmission of the performance plan.

**b. Follow-up Reviews**

During the second semester after an approved individual improvement plan is in place (not counting the semester during which the plan is approved), the appropriate faculty review committee and the department chair or program director, if any, will assess, and report to the Dean, the progress made in implementing the individual improvement plan. This preliminary assessment shall be in writing and shall describe the extent to which the faculty member to date has implemented the plan and corrected the area(s) of deficient performance. The preliminary assessment may

also contain recommendations to improve progress on the individual improvement plan. A copy of the preliminary assessment shall be given to the faculty member and to the Provost and shall be included in the faculty member's personnel file.

If at any time during the term of the individual improvement plan the appropriate faculty review committee; the department chair or program director, if any; and the Dean agree that the faculty member has failed to make a good-faith effort to implement the individual improvement plan, the Dean may seek to impose sanctions, or, in extreme cases of recalcitrance, and with the Provost's approval, may institute dismissal proceedings for neglect of duty or misconduct, in accordance with Section III.F.4.

During the fourth semester after an approved individual improvement plan is in place (not counting the semester in which the plan was approved, and excepting those extreme cases in which dismissal has been sought), the appropriate faculty review committee will conduct a compliance review. If the appropriate faculty review committee; the department chair or program director, if any; and the Dean concur that the faculty member has satisfied the conditions of the performance plan and maintained "satisfactory overall performance," the report is entered into the faculty member's personnel file. If the faculty member has not satisfied the conditions of the performance plan or if his or her performance is found to be "unsatisfactory overall," the Provost, in consultation with the appropriate faculty review committee; the department chair or program director, if any; and the Dean, will either order the creation of a new individual improvement plan for the faculty member (per Section III.C.4)<sup>25</sup> or implement proceedings for sanction or dismissal in accordance with Section III.F.4.

**c. The Role of the Provost in Post-tenure Review**

Insuring the integrity of the post-tenure review process is a duty of the Provost. To that end, each Dean shall present an annual report to the Provost about the functioning of the post-tenure review process in the Dean's academic unit. In addition to the duties described above, the Provost may grant an extension of any deadline in the process upon recommendation of the Dean; the Provost also has the authority to postpone the post-tenure review process for an individual faculty member if the Provost decides that it is in the university's interest to do so.

**5. Appeals by Tenured or Tenure-eligible Faculty Members of Decisions Not to Retain, Award Tenure, or Promote**

The university — acting through the appropriate recommending authorities — may decide not to retain, award tenure to, and/or promote a tenure-eligible faculty member, and may

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<sup>25</sup> If the faculty review committee, the chair, the program director, and/or the Dean disagree, the Provost shall determine whether or not the faculty member has or has not satisfied the conditions of the performance plan.

decide not to promote a tenured faculty member, due to lack of any of the following: the professional education, experience, and degrees appropriate or necessary for the faculty member's duties; conscientious and effective teaching with proper command of the material of the faculty member's fields, and helpfulness to the faculty member's students; the appropriate level of contributions to the faculty member's fields through research and scholarly or artistic activity, and through professional service; and responsible participation in departmental, faculty, and college governance (see Section III.C).

When a recommendation not to retain, not to award tenure, or not to promote has been reached by the appropriate faculty group or administrative officer, the faculty member will be informed of that recommendation in writing by the department chair, when appropriate, and by the Dean of the faculty or school, and, upon request, will be advised in writing of the reasons that contributed to that recommendation.

When the Provost decides that a faculty member should not be retained or recommends that a faculty member shall not be granted tenure or promotion, the faculty member may appeal or petition for reconsideration. The petition shall set forth the basis for reconsideration in detail. Such a faculty member may file a formal appeal on three different grounds, each of which is described in greater detail below:

- The negative decision was or resulted from a violation of academic freedom.
- The negative decision was or resulted from discrimination against the faculty member.
- The negative decision resulted from a failure to follow the procedures governing the consideration of the faculty member for retention, tenure, and/or promotion.

Should the faculty member prevail in one or more of these appeals, the university shall reconsider the decision not to retain, tenure, and/or promote the candidate.

The faculty member may also petition the Provost for an order of reconsideration based on good cause shown. "Good cause" does not include violations of academic freedom, discrimination, or a failure to follow procedure, as the formal appeals described above are the exclusive means of assessing such claims.<sup>26</sup> Instead, good cause consists of the existence of new information that a reasonable member of the recommending authorities would have considered relevant in light of the standards governing the decision. The faculty member bears the burden of proving the elements of good cause by a preponderance of the evidence. If the Provost orders reconsideration, the Provost shall designate the recommending authority at which such reconsideration should begin.

A petition to the Provost for reconsideration must be filed no later than 30 calendar days after receipt of the letter from the Provost informing the faculty member of the decision.

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<sup>26</sup> Nothing in this section alters the Provost's obligation to report any claim of discrimination to the Office of Compliance and Equity.

**a. Appeal on Grounds of Violation of Academic Freedom or of Discrimination**

If a faculty member alleges that the decision against renewal or promotion was based on considerations constituting (1) violations of academic freedom or (2) discrimination in violation of university non-discrimination policy, the allegation shall be given preliminary consideration by the Procedural Review Committee, in consultation with the Chief Compliance Officer with respect to allegations of discrimination. The allegation, with supporting information, may be filed with the Procedural Review Committee only after receipt of the letter from the Provost or President informing the faculty member of the decision; the allegation must be filed no later than 30 calendar days after receipt of such letter. The allegation shall be accompanied by a statement that the faculty member agrees to the presentation, for the consideration of the faculty committees, of such reasons and evidence as the university may assert in support of its decision. Requests for reconsideration of an interim review or a tenure or promotion case on grounds of violation of academic freedom or of discrimination may be filed only with the Procedural Review Committee and with no other university committee.<sup>27</sup>

The Procedural Review Committee shall review the charges; consult with the Chief Compliance Officer with regards to allegations of discrimination; determine whether all parties appear to be acting in good faith (as defined in Section III.F.1.b.iv); and, if the Procedural Review Committee deems a settlement to be possible and appropriate, seek to settle the matter to the satisfaction of all concerned. If the matter cannot be settled, the Procedural Review Committee will determine whether there is reason to believe the allegation that the decision against renewal or promotion was based on considerations constituting discrimination. The Procedural Review Committee will report its determination to the Chief Compliance Officer for investigation in accordance with the Discrimination Procedure. If the Procedural Review Committee determines that there is reason to believe the allegation of violation of academic freedom, the matter will be heard by the Faculty Hearing Committee in the following manner.<sup>28</sup> If a faculty member appeals on both bases, the Provost shall determine which manner of resolution is to be pursued first, without prejudice about a subsequent appeal on the other basis.

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<sup>27</sup> These procedures are not intended to impair or limit the right of anyone to seek remedies available under state or federal law. Since federal and state procedures require that complaints of discrimination be filed within specific deadlines, individuals who pursue the internal complaint procedures described in III.C.5.a. may fail to meet state and federal guidelines for filing a complaint. Accordingly, a complaint may be filed with an external agency in order to meet state and federal agency deadlines without jeopardizing one's right to a university hearing. However, if relief is sought outside the university, the university is not obliged to continue processing a request for reconsideration while the case is being considered by an outside agency or criminal/civil court.

<sup>28</sup> Following the "Recommended Institutional Regulations on Academic Freedom and Tenure." American Association of University Professors. *Policy Documents and Reports*, 10<sup>th</sup> ed. Washington, D.C., 2006: 26. 1 June 2008.

- i. The Faculty Hearing Committee may, with the consent of the parties concerned, hold joint pre-hearing meetings with the parties in order to (1) simplify the issues; (2) determine which facts the parties can agree upon; (3) provide for the exchange of documentary or other information; and (4) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.
- ii. Service of notice of hearing with specified charges in writing will be made at least 20 calendar days prior to the hearing. The recommending authorities who made the decision not to renew or promote the faculty member may waive their right to participate in the hearing and may respond to the charges in writing at any time before the hearing. If the responding party or parties waive their hearing rights but deny the charges or assert that the charges do not support a finding of a violation of academic freedom, the Faculty Hearing Committee will evaluate all available evidence and rest its recommendation upon the evidence in the record.
- iii. The Faculty Hearing Committee, in consultation with the President, the faculty member making the complaint, and the responding party or parties, will exercise its judgment as to whether the hearing should be public or private.
- iv. During the proceedings, the complainant and the respondent each may have an advisor and/or lawyer of their own choice.
- v. At the request of either party or the Faculty Hearing Committee, a representative of an appropriate educational association (such as the American Association of University Professors) shall be permitted to attend the proceedings as an observer.
- vi. A verbatim record of the hearing or hearings will be taken, and a transcript will be made available to the faculty member, without cost, at the faculty member's request.
- vii. The faculty member making the complaint is responsible for stating the grounds of the allegations and shall bear the burden of proof. If the faculty member presents sufficient evidence to prove that the decision not to renew, tenure, and/or promote was based on considerations violating academic freedom, it is incumbent upon those who made the decision to come forward with evidence in support of their decision. The Faculty Hearing Committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Reasonable effort will be made to obtain the most reliable evidence available.

- viii. The Faculty Hearing Committee may grant adjournments to enable either party to investigate material evidence for which a valid claim of surprise is made and to prevent prejudice.
- ix. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence; however, the parties bear the burden of arranging for the presentation of witnesses and documentary or other evidence. The administration will cooperate to the extent practicable with the Faculty Hearing Committee in securing witnesses and making available documentary and other evidence.
- x. The faculty member making the complaint and the responding party or parties will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the Faculty Hearing Committee determines that the interests of justice require admission of their statements, the Faculty Hearing Committee will identify witnesses; disclose their statements; and, if possible, provide for written interrogatories.
- xi. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the cases by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed.
- xii. The Faculty Hearing Committee shall render a judgment based upon the evidence admitted at the hearing or hearings. The findings of fact and the decision shall be based solely on the record as a whole and shall be in writing.

If the Faculty Hearing Committee concludes that a violation of academic freedom has occurred, it will so report in writing to the faculty member and to the President. If the President rejects the report, the President will, in a timely manner, state the reasons for doing so, in writing, to the Faculty Hearing Committee and to the faculty member, and will provide an opportunity for response from the faculty member and/or the committee. If the President accepts the report, the President shall indicate the point in the process at which reconsideration is to begin and shall recommend to the relevant administrative authorities, in writing and with supporting reasons, appropriate relief.

If the Faculty Hearing Committee concludes that a violation of academic freedom has not occurred, it will so report in writing to the faculty member and to the President. The committee's decision shall be final.

**b. Appeal on Grounds of Failure to Follow Procedure**

If the faculty member alleges that the decision not to renew, tenure, or promote was based on failure to follow procedure, the Procedural Review Committee shall

review the allegation and determine whether the decision was the result of proper procedures in terms of the relevant standards of the university or the faculty member's department or school. The term "failure to follow procedure" refers to procedural rather than substantive issues. It requires that the decision be arrived at conscientiously; that evidence bearing on the relevant performance of the candidate be considered; that there be adequate deliberation by the department and administration over the import of the evidence in the light of the relevant standards; that irrelevant and improper standards be excluded from consideration; and that the decision be a bona fide exercise of professional academic judgment. The standard of failure to follow procedure does not permit the Procedural Review Committee to substitute its judgment on the merits of the case for that of the recommending authorities.

Allegations of failure to follow procedure, with supporting information, may be filed with the Procedural Review Committee only after receipt of the letter from the Provost or President informing the faculty member of the decision; the allegation must be filed no later than 30 calendar days after receipt of such letter.

The Procedural Review Committee shall provide a written report of its findings to the faculty member, the faculty and administrative bodies involved, and the President not later than 45 calendar days after the date of the individual's request for reconsideration is filed with the Committee. If the Procedural Review Committee finds that there was a failure to follow procedure in a candidate's case, it shall indicate in its report the respects in which it believes the procedures were not followed and the point in the process at which reconsideration is to begin.

If the Procedural Review Committee finds that the decision being appealed was reached in accordance with proper procedures, that determination shall be final.

## **D. LEAVES OF ABSENCE**

### **1. General Leave Policies**

#### **a. Eligibility for Leave**

- i. Academic Leaves: Only members of the faculty holding full-time appointments are eligible for the academic leaves described below. Such faculty members' eligibility is not based on the source of the funding for their position, unless the funding source or a contractual obligation of the university precludes the approval of such a leave. In the event of ambiguity, the Provost, on authority delegated by the bylaws of the Board of Visitors, shall determine a faculty member's eligibility for a requested leave.
- ii. Non-academic Leaves: Full-time faculty members may be eligible for the non-academic leaves described below. In limited circumstances, part-time faculty members who have accumulated sufficient hours in the past 12



months of employment may also be eligible for certain non-academic leaves, pursuant to university policies.

**b. Benefits**

The university provides benefits to full-time and part-time faculty based on their employment status. Those benefits can be found on the [university's Human Resources website](#). Full-time faculty with reduced workload but who are working for at least 50% of their contracted salary remain eligible for medical insurance, life insurance, and retirement benefits. However, the university's employer contribution to those benefits may be decreased or eliminated depending on the percentage reduction in workload.

**c. Instructional Program and Faculty Responsibilities**

When an instructional faculty member takes leave of any kind, the unit and the university will ensure continuity of the instructional program. The Dean or the Dean's designee, in consultation with the Provost and the affected faculty member, will develop a plan for dealing with the faculty member's absence from the classroom, which may include provisions for substitute instruction. When substitute instruction has been secured for the term or balance of the term (thereby relieving the faculty member of teaching responsibilities), the faculty member, when he or she returns to work or until he or she begins leave, shall be expected to fulfill all non-teaching responsibilities and may be assigned to other appropriate duties or teach a one- or two-credit course for a portion of the semester.

**2. Academic Leaves**

The university encourages academic leaves because such leaves offer opportunities for faculty to develop professionally and to acquire new ideas to share with the university community. The primary purpose of academic leaves is to benefit the university by enhancing the scholarly and/or teaching skills of the faculty member. Some academic leaves follow standard calendars (described below).

**a. Scheduled Semester Research Leave**

The university offers regularly Scheduled Semester Research Leave with pay to full-time tenured faculty members who are "research-active" according to the definitions adopted by the faculty member's program, department, and/or school, and these guidelines are subject to approval by the Faculty Research Committee. In the normal course of events, research-active faculty members will receive a Scheduled Semester Research Leave every seventh year of continuous employment. For further information on the application and approval process, see "[Scheduled Semester Research Leave Policy](#)," which is incorporated here by reference.

**b. Other Academic Leave**

An academic leave may involve such things as teaching at another institution; employment in a government or comparable agency; research supported by a grant, by another institution or by the faculty member; and/or specific courses of study related to the academic work of the faculty member. It may be with pay, at reduced pay, or without pay. It is the university's policy to continue medical insurance, life insurance, and retirement plan payments for those receiving at least 50% of the contract-year salary from the university. For further information, see "[Academic Leave Without Pay or At Reduced Pay.](#)"

**c. Restrictions**

With the exception of leaves taken as part of the university's Scheduled Semester Research Leave program, all academic leaves require the approval of the Provost. Academic leaves must be at least one semester in duration. Full-time tenured/tenure-eligible faculty may normally take no more than two consecutive years of academic leave. No academic leave shall be granted unless the faculty member has clearly indicated a commitment to return to the university for at least one academic year immediately following the leave.

**3. Non-Academic Leaves**

**a. Fully Paid Leaves**

In certain situations, the university provides fully paid disability leave and fully paid family or medical leave. The extent of any fully paid leave is based on the election of benefits a faculty member entered into at the time of initial employment, as well as governing law and University Human Resources policies. Faculty members should work with University Human Resources to determine whether they are eligible for paid leave and, if so, the length of such leave.

Although the need for extended leave is often unanticipated, faculty members shall notify the Office of Provost, through the appropriate Dean(s), of requests for paid leave as soon as reasonably practicable.

University Human Resources will consult with the Personnel Policy Committee and Faculty Assembly about any upcoming changes to the paid leave plans.

**i. Disability Leave**

Faculty members may be eligible for paid disability leave for medical inability to work due to illness, injury, or pregnancy. The length of the available disability leave will depend on the benefits plan the faculty member has entered into as well as governing law and any applicable University Human Resources policies. Faculty should consult with

University Human Resources, which will work with the faculty member to explain the coverage provided by the policy they elected. No severance payments will be made for unused paid disability leave. See also Section III.D.3.b.

ii. Paid Family/Medical Leave

The university may provide paid family/medical leave in order for a faculty member to care for a dependent. The qualifying circumstances depend on governing law as well as the benefits plan the faculty member has entered into and any applicable University Human Resources policies. Faculty should consult with University Human Resources, which will work with the faculty member to explain the available coverage. Depending on their leave balances, eligible faculty on the University Sick/Disability and Paid Dependent Leave plan are entitled to a maximum of one academic semester or up to 696 hours of paid family leave. Eligible faculty on the Virginia Sickness and Disability Program are entitled to a maximum of 320 hours of paid family leave, depending on their leave balances.

For further information, see [“9-Month Professionals, Professional Faculty, Instructional Faculty, & Postdocs Leave”](#) or [“12-Month Professionals, Professional Faculty, Instructional Faculty Leave.”](#)

**b. Unpaid Leaves and Reduced Responsibility Contracts**

i. Unpaid Disability or Family/Medical Leave

In addition to the paid leave described above, faculty may be eligible for unpaid disability or family/medical leave. To understand the situations when unpaid leave may be taken and the applicable steps to request the leave, faculty should work with University Human Resources. Requests for unpaid leave may require the approval of the Provost. Full-time instructional faculty who fall below 50% of the contract salary may lose benefits (see Section III.D.1.b). See also Section III.D.3.c.

ii. Reduced Responsibility Contracts for Disability or Family Reasons

A faculty member who becomes partially disabled, or who wishes to care part-time for an ill or injured family member, may be entitled to negotiate a reduced-responsibility contract under which the faculty member, in return for reduced teaching, research, and/or governance responsibilities, will accept a corresponding reduction in salary. Because reduced responsibility contracts may implicate the Family and Medical Leave Act and/or other governing laws, and because a reduction in responsibilities below 50% of full-time responsibilities will affect availability of benefits, faculty should

consult with University Human Resources promptly in order to maximize their opportunities for unpaid leave.

A reduced-responsibility contract, if sought, will be granted at the sole discretion of the Provost, after consultation with the affected faculty member and the faculty member's Dean or the Dean's designee.

iii. Unpaid Leave or Reduced Responsibility Leave to Pursue Other Work

Provided that they meet their primary duties to the university, full-time instructional faculty members may apply for unpaid leave or negotiate reduced-responsibility contracts to pursue other work. If granted, such leave must be for a predetermined amount of time. If granted, the terms of such leave of absence will be set forth in writing, and the leave will not affect unfavorably the tenure status of a faculty member, except that the time spent on such leave will not count as probationary service unless otherwise agreed to by both the faculty member and the Provost in writing. Faculty requesting leave to pursue other work shall apply to the Provost. The granting of such leave is not an entitlement; it is within the discretion of the Provost.

**c. Long-term Disabilities**

The university provides tenured and tenure-eligible faculty members (as well as NTE faculty members whose contracts specify as such) with the option to elect a [long-term disability policy](#). The terms of those policies are governed by the plan the faculty member selected. For further information, see the "Long Term Disability Policy." Additionally, faculty may be entitled to an accommodation under the Americans with Disabilities Act. See [ADA Accommodation Requests](#). Faculty should work with University Human Resources to make an accommodation request.

**d. Other Leaves**

In certain situations, faculty may be entitled to other leaves of absence not specified in the sections above. If a faculty member believes he or she may be entitled to a leave of absence not described above, please review the policies' webpage on the University Human Resources website and/or contact University Human Resources directly.

**E. CONFLICTS OF INTEREST**

**1. Contracts**

Pursuant to the Virginia State and Local Government Conflict of Interest Act, Code section 2.2-3106 et seq., no employee of the university may have a "personal interest" in a contract with the university other than his or her own contract of employment. A "personal interest,"

for example, might entail an employee's financial interest in a company that does business with the university. The code contains exceptions to this prohibition, including one determined by the size of the employee's financial interest. Any faculty member who may have such a personal interest in a contract with the university other than his or her own contract of employment should report the potential conflict of interest to the Provost (see "Financial Conflict of Interest").

If a faculty member or administrator is in a position to hire, supervise, evaluate, or make personnel decisions about a family member, that family member's contract could be one in which the faculty member or administrator has a "personal interest." The employment of family members is permitted, provided that an employee does not exercise any control over the employment or employment activities of the member of his or her immediate family and is not in a position to influence those activities. In the event the employee is in a position to influence the employment or employment activities, the family member may be hired only with the approval of the Board of Visitors, provided appropriate safeguards are established.

## **2. Consensual Amorous Relationships**

The relationships described below are mutually consenting ones. Unsolicited and unwelcome advances of a sexual nature may violate the university's discriminatory harassment policy.

### **a. Consensual Amorous Relationships with Colleagues**

Because amorous relations between administrators or faculty members and other faculty members or support staff whom they supervise may create the appearance of a conflict of interest, administrators and faculty members are advised against participating in amorous relationships with those whom they supervise. Similarly, faculty members should avoid situations requiring them to supervise those with whom they currently have an amorous relationship. Whenever such a situation arises or is foreseen, the faculty member shall report the situation promptly and seek advice from an appropriate administrative officer, who should take steps to ensure unbiased supervision or evaluation of the person supervised.

### **b. Consensual Amorous Relationships with Students<sup>29</sup>**

#### **i. Relationships with Undergraduate Students Prohibited**

The university prohibits any faculty member, including part-time faculty, from knowingly engaging in a consensual romantic and/or sexual relationship with any undergraduate student enrolled in a degree-seeking program.

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<sup>29</sup> Relationships that started before appointment of the faculty member and/or the student's enrollment may qualify for an exemption under III.E.2.b.iii.

ii. Relationships with Graduate or Professional Students

The university prohibits any faculty member, including part-time faculty, from knowingly engaging in a consensual romantic and/or sexual relationship with any graduate or professional student enrolled in a degree-seeking program in the school or, in the case of Arts & Sciences, any department or program in which the faculty member has taught, plans to teach, or holds an appointment.

The university also prohibits such relationships between those graduate or professional students with whom the faculty member has, at the time the relationship begins, any evaluative, collaborative, or supervisory role, whether this role is direct or indirect. The phrase “evaluative, collaborative, or supervisory role” refers to many faculty roles, both within and outside the classroom, and in all college-sponsored academic, co-curricular, and extra-curricular activities, including but not limited to teaching research collaboration; employment of research assistants; academic advising; coaching (athletics, drama, etc.); advising student activities; service on evaluation committees that confer or recommend the conferral of awards, prizes and other forms of recognition; and thesis committees. A faculty member who is involved in a consensual amorous relationship that does not otherwise violate this policy (including a relationship the appropriate Dean has exempted from this policy) shall recuse himself or herself from any subsequent activity that entails any evaluative, collaborative, or supervisory role as defined above with respect to such student.

iii. Exemptions

The Dean of the school where a faculty member has a primary appointment may grant an exemption from this policy for good cause shown, but only after the Dean has ensured that the relationship so exempted does not impair the education of any student(s) and does not give rise to a conflict of interest. Any such exemption must be in writing and must specify any conditions the Dean has imposed to ensure satisfaction of the criteria listed in the previous sentence. A faculty member who has been granted such an exemption must recuse himself or herself from any evaluative, collaborative, or supervisory role that may arise during the existence of the relationship.

When determining whether there is good cause, the Dean shall consider various factors including the actual or possible connection, if any, between the faculty member’s official duties and the student’s program of study; the feasibility of imposing conditions that prevent any conflict of interest or other detriment to the educational function; and whether the faculty member and student are in a marriage or involved in a committed relationship that

predated the appointment of the faculty member and/or the enrollment of the student in the relevant degree-seeking program.

Members of the university community who believe that violations of this policy have occurred may initiate a complaint with the appropriate Dean or the Dean's designee (see Section III.F.4). A complaint alleging that a Dean or other academic administrator has violated this policy may be filed with the Provost or President. Complaints must be filed no more than two years after an alleged violation.

Violations of this policy will be considered misconduct on the part of a faculty member and will be subject to institutional sanctions, including possible termination of the faculty member's appointment. Treatment of allegations and imposition of sanctions will be governed by procedures specified in Sections III.F.1 and III.F.4.

### **3. External Paid Employment**

The participation of faculty, administrative, and professional staff members in external professional activities (whether paid or not) can enhance the skills of these individuals, and also make important contributions to the strength and vitality of this institution. However, the university also recognizes the need to guard against excessive or inappropriate involvement in outside activities. In order to ensure that external paid employment does not interfere with the university's activities or create any conflicts of interest, all requests for external paid employment must be approved in writing by the President or by the Provost as delegated by the President (see "[External Employment Approval Form](#)").

## **F. ALLEGATIONS OF VIOLATIONS OF POLICY**

This section of the Faculty Handbook describes the procedures by which the university investigates alleged violations of university policy and imposes sanctions should clear and convincing evidence<sup>30</sup> support the allegation. In certain cases, violation of university policy may also entail violation of the policies of external organizations; consequently, cases alleging discrimination, discriminatory harassment, or misconduct in scholarly activity or research require special procedures to ensure compliance with external agencies and regulations. Nevertheless, the following general procedures and principles apply for all allegations of violation of university policy.

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<sup>30</sup> "Clear and convincing evidence" does not require evidence that is beyond a reasonable doubt; rather, it is defined as that degree of proof which will produce a firm belief in the allegations sought to be established. Clear and convincing evidence thus is an intermediate standard requiring more than a preponderance of evidence, but less than the certainty required by evidence that is beyond a reasonable doubt.

## 1. General Principles and Procedures

### a. Purview

The procedures spelled out in this section of this Faculty Handbook and the Discrimination Procedure shall be the sole method for investigating and/or resolving any complaint against a faculty member.

### b. Definitions<sup>31</sup>

- i. “Allegation” means any written or oral complaint of violation of university policy made to an appropriate administrative officer.
- ii. The Administrative Officers empowered to receive allegations and to initiate inquiries are the program director, chair, and/or Dean to whom the faculty member reports and the Provost. (Allegations of discrimination or discriminatory harassment also may be made to the officers specified in the applicable complaint/investigation procedures.)
- iii. The Discrimination Procedure is the Employee Discrimination, Harassment, and Retaliation Grievance/Complaint Procedure as initially approved by the Provost and the Faculty Assembly and further amended according to its terms from time to time.
- iv. A good-faith allegation is one made with the honest belief that a violation may have occurred. An allegation is not made in good faith “if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.”<sup>32</sup>
- v. “Inquiry” describes the stage in which the administrative officer suspects or receives an allegation of violation of policy, determines the validity of the allegation, and seeks resolution of the problem.
- vi. An “informal investigation and/or mediation” occurs when preliminary attempts to resolve the matter fail or when the allegation makes private resolution impossible (for example, because of the gravity of the situation or because a granting agency requires at least informal investigation). Informal investigations gather and dispense information, attempt to mediate the complaint, and/or determine whether a formal investigation is warranted.

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<sup>31</sup> The following definitions have been adapted from the Office of Research Integrity’s “Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research.” US. Department of Health and Human Services, 1995. 1 June 2008.

<sup>32</sup> United States. Office of Research Integrity. “Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research.” 1995. 1 June 2008.



- vii. “Formal investigation and resolution” describes the adjudicating committee’s examination and evaluation of the evidence supporting the charge and the determining officer’s decision based on the committee’s findings.
- viii. Major sanctions are normally limited to dismissal, suspension, reduction in pay, reduction in rank or status, or removal from a research project. Minor sanctions carry lesser or short-term consequences.
- ix. “Retaliation” refers to any action taken by the university or by a faculty member or group of faculty members against an individual or individuals because the latter have, in good faith, made or provided evidence in support of an allegation.

**c. Confidentiality**

In all proceedings, it is essential that confidentiality be maintained. The mere suspicion of wrongdoing, even if totally unjustified, is potentially damaging to an individual’s career. Thus, information concerning any investigation should be available only to those with a right or a need to know.<sup>33</sup> An unwarranted reference to an exonerated case may in itself constitute misconduct.

Should a complainant wish a conversation with the administrative officer about an alleged violation by a faculty member to remain confidential and should the complainant believe that the administrator’s discussion with the faculty member would reveal the complainant’s identity, the administrative officer will, if at all possible, end the inquiry with no further action taken against the faculty member. No notes, reports, files, or other written documents shall be kept about the conversation. However, should external regulations — e.g., those of the Office of Research Integrity — or concerns about community safety require an administrator to confront the accused, the administrator shall so inform the complainant in person and explain the reasons for having to confront the accused. Should external regulation or safety concerns require the administrative officer to pursue an inquiry and/or investigation, the complainant’s identity will be kept confidential to the extent possible, but the faculty member shall be apprised of the allegation and have access to any written documents produced by university officials or committees.

**d. Protection against Retaliation**

In all instances, the university is obliged to protect persons giving information in good faith against retaliation. Retaliation of any kind against a person who in good

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<sup>33</sup> Allegations of academic misconduct in scholarly activity or research may require a report to an external agency; allegations of discrimination/discriminatory harassment require a report to the Title IX Coordinator.

faith reports or provides information about suspected or alleged misconduct is itself a form of misconduct.

Retaliation claims shall be investigated and resolved under the Discrimination Procedure, but only if the alleged retaliation relates to a claim otherwise subject to the Discrimination Procedure.

**e. Failure to Act in Good Faith**

It is misconduct to make an allegation “with reckless disregard for or willful ignorance of facts that would disprove the allegation.”<sup>34</sup>

**f. Conflict of Interest**

The university shall seek to avoid any conflict of interest in the investigation of any allegation of violation of policy.

**g. Inquiries**

When the appropriate administrative officer receives an allegation that a faculty member has violated university policy, or when that administrative officer himself or herself finds evidence that a faculty member under his or her supervision has violated university policy, that administrative officer shall discuss the allegation and/or offending conduct with the faculty member (see Section III.F.1.c). Should the administrative officer determine that there is reason to proceed, he or she shall define the violation and explain relevant policy and procedures in writing. The administrative officer shall provide the faculty member an opportunity to respond. The administrative officer shall seek a solution that is mutually satisfactory to all parties involved (e.g., an agreement to stop the offending conduct, and/or amelioration or remediation).<sup>35</sup> Absent any mutually agreed-upon solution, the administrative officer may impose a minor sanction, in which case the process ends at this stage, except that the faculty member may then file a grievance per Section III.G.

**h. Informal Investigation and/or Mediation**

Should no settlement be reached or should the appropriate administrative officer believe that action beyond the imposition of a minor sanction is called for, the administrative officer shall deliver written notice of the allegation to the accused

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<sup>34</sup> United States. Office of Research Integrity. “Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research.” 1995. 1 June 2008.

<sup>35</sup> A chair or program director may negotiate a settlement involving a minor sanction; however, only academic officers at the level of Dean or higher may impose more serious sanctions, and only with the approval of the Provost.

faculty member and to the Provost; the Provost will then normally initiate an informal investigation. The general purpose of the informal investigation is to review the charges, to educate the parties where appropriate, to attempt to resolve the issue when possible, and/or to determine whether a formal investigation is warranted. The bodies conducting the informal investigation and the procedures followed will vary according to the type of alleged offense (see Sections III.F.2, 3, and 4).

**i. Formal Investigation and Resolution**

Formal investigation of charges may ensue when no settlement is reached during informal investigation and mediation, and/or when the appropriate officer and/or the body conducting the informal investigation concludes that the alleged violation is sufficiently grave and the evidence supporting the allegation is sufficiently convincing to warrant major sanction, as defined in Section III.F.1.b.viii.

The investigation will be conducted by the Faculty Hearing Committee (see Sections III.F.2 and 3); the committee will find for or against the faculty member and may, in the latter instance, recommend a sanction.

**j. Remedies and Sanctions**

Remedies and sanctions may include but are not limited to:

- a warning not to repeat the offending conduct and/or special monitoring of teaching or research;
- separation of the parties involved;
- required participation in an educational program (for example, about discrimination);
- a letter of reprimand;
- removal from a research project (including long-term disbarment), suspension of access to laboratories, or other reassignment of duties;
- loss of office, travel funds, research funds, etc.;
- denial of a pay increase;
- reduction in rank or salary or loss of endowed chair;
- probation
- suspension with or without pay;
- and dismissal.

**k. Appeals of Major Sanctions**

Should a faculty member, at the end of a formal investigation, receive a major sanction (as defined in Section F.1.a.viii), he or she may appeal to the Procedural Review Committee on grounds of failure to follow procedure and/or to the President and the Board of Visitors on any other grounds (see Section III.F.5).

**l. Faculty Notification and Access to Files**

Nothing concerning allegations against a faculty member shall be kept in writing by any committee, officer, or office of the university unless the faculty member is notified of the existence of and provided access to the written material (be that notes, reports, files, etc.). The faculty member shall also be afforded the opportunity to respond to the allegation and to have that response added to the written record. (This standard does not apply to conversations or discussions that do not result in further inquiry or investigation and/or enduring notes, reports, files, or other written documents).

**2. Academic Misconduct in Scholarly Activity or Research**

It is the responsibility of faculty and administrators at the university to create and sustain an atmosphere where honesty and integrity are paramount in the conduct and dissemination of research and scholarly and creative activity; this responsibility extends to documentation prepared for the purpose of securing assistance in the pursuit of scholarly activity or research. It is the particular responsibility of individual scholars and researchers to ensure that the quality of published works is maintained: products must be carefully reviewed prior to publication; the accomplishments of others must be recognized and cited; contributors must be given full acknowledgement; co-authorship must be conferred to those, and only those, who have made a significant contribution; and all (co-)authors must be willing and able to defend publicly their contributions to the published results.

It is also the responsibility of the university administration and faculty to make undergraduate and graduate students aware 1) of the university policies governing the conduct of scholarly activities and research, and 2) that students as well as faculty members are held to these policies while conducting research.

**a. Definitions of Academic Misconduct**

Although it may be more specifically defined by the discipline and/or in the school or department, academic misconduct is broadly defined to include fraudulent behavior such as “fabrication, falsification, plagiarism, [misappropriation,] or other practices that seriously deviate from those that are commonly accepted within [the discipline] for proposing, conducting, or reporting research [or other scholarly

endeavors]. It does not include honest error or honest differences in interpretations or judgments” of results of scholarly activity.<sup>36</sup>

- Falsification ranges from fabrication to deceptively selective reporting and includes the purposeful omission of conflicting data with the intent to condition or falsify results.
- Plagiarism and misappropriation involve willfully appropriating the ideas, methods, or written words of another, without acknowledgement and with the intention that they be taken as one’s own work, as well as the unauthorized use of privileged information (such as information gained confidentially in peer review).

Academic misconduct also includes material failure to comply with legal requirements governing research, including requirements for the protection of researchers, human subjects, or the public, or for ensuring the welfare of laboratory animals.

**b. Inquiry**

Any member of the university community who suspects academic misconduct in scholarly activity or research is strongly encouraged to report it. Normally, the first step should be to attempt to resolve the issue as confidentially as is possible with the party or parties involved. Should direct consultation be inappropriate or unsuccessful, allegations of misconduct should be made to the appropriate administrative officer: to the Dean or the Dean’s designee, or, if the accused is a program director, chair, or Dean, to the immediate supervisor of the accused or to the Provost (or his or her designee). The administrative officer shall discuss the allegation or offending conduct with the accused, following Section III.F.1.g. If an individual alleging academic misconduct (the complainant) does not want the accused to know the complainant’s identity, and believes that notifying the accused would reveal the complainant’s identity, the administrative officer, if permitted by Office of Research Integrity regulations, will end the inquiry with no further action taken against the faculty member. No notes, reports, files, or other written documents shall be kept about the conversation. Should Office of Research Integrity regulations require the administrative officer to pursue an investigation, the complainant’s identity will be kept confidential to the extent possible, but the faculty member shall be apprised of the allegation per Section III.F.2.d and shall have access to any written documents produced by any university office, administrator, or committee.

If the administrative officer determines that the allegation results from honest error or a difference of interpretation, he or she may seek a mutually satisfactory solution.

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<sup>36</sup> United States. Office of Research Integrity. “Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research.” 1995. 1 June 2008.

However, once the administrator finds evidence that the allegation of academic misconduct is credible and/or that any of the conditions enumerated in Section III.F.2.c apply, the administrator shall report the matter immediately to the Provost (or his or her designee).

**c. Reporting Requirements**

Per Office of Research Integrity regulations,<sup>37</sup> the Provost (or his or her designee) will notify any appropriate funding agencies if, during the inquiry or investigations, any administrator or committee member discovers:

- an immediate health hazard involved;
- an immediate need to protect sponsored funds or equipment;
- an immediate need to protect the interests of the individual(s) making the allegations or of the accused or any co-investigators and associates;
- the probability that the alleged incident is going to be reported publicly;
- or a reasonable indication of possible criminal violation. If there is a reasonable indication of possible criminal violation, the Provost (or his or her designee) must notify any appropriate funding agencies within 24 hours of obtaining that information.

The university will take appropriate interim administrative actions during the inquiry and any investigations to protect from misuse any public or private funds supporting the research and scholarly activity, and to ensure that the purposes of the financial assistance are being carried out. The university will undertake diligent efforts, as appropriate during the inquiry and any investigations, to protect the positions and reputations of those who, in good faith, make allegations of academic misconduct. Even if the accused leaves the university before the case is resolved, the university has the responsibility to bring the investigation of the allegation to resolution; the university should continue to cooperate with any other institutions involved. If the university should consider terminating an investigation for any reason before its resolution, the Provost (or his or her designee) shall first report the reasons that the university wishes to terminate the investigation to the appropriate funding agency.

**d. Informal Investigation and Mediation**

When a Dean or their designee reports an allegation of academic misconduct to the Provost, he or she shall discuss the allegation with the accuser and the accused, and

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<sup>37</sup> United States. Office of Research Integrity. "Sample Policies and Procedures for Responding to Allegations of Research Misconduct. 2007: 8. 1 June 2008.

will review any evidence collected by the administrative officer. Should no external agency require further investigation, the Provost may attempt further mediation. If no settlement can be reached, or should the requirements of an external agency so mandate, the Provost shall deliver written notice to the accused and to the accuser that an informal investigation should be initiated; the notice should spell out the nature of the alleged offense. The accused shall have 10 calendar days to respond to the Provost.

The Provost will appoint an informal investigation committee. The committee will consist of three tenured faculty members: one selected by the Provost; one selected by the Faculty Affairs Committee of Arts & Sciences or by an equivalent body from the school in which the accused is a faculty member (or by the Executive Committee of the Faculty Assembly should no such body exist); and one selected by the accused. To ensure appropriate expertise for the informal investigation, the Provost may request that a tenured faculty member in the specific discipline from outside the university serve in an advisory capacity. The selection of these committee members must be completed within 10 calendar days unless the Provost approves an extension.

The Provost will provide the committee a written charge as well all available information pertaining to the alleged misconduct (including any response from the accused). The committee will convene, elect a chair, and investigate the charges. The Provost (or his or her designee) will inform the committee of any requirements of external agencies relevant to the allegation or to the way in which the informal investigation is to be conducted.<sup>38</sup> The informal investigation will afford all affected individual(s) an opportunity to comment on all allegations and subsequent findings of the inquiry. The informal investigation may include interviews of witnesses and collection of additional information.

The committee shall determine whether there is reason to believe the allegation of academic misconduct, and it shall attempt to resolve the issue to the satisfaction of all parties involved. The informal investigation is to be completed within 45 calendar days of its initiation (i.e., the receipt of the written charge to the committee by the Provost) unless circumstances clearly warrant a longer period, in which case the report of the informal investigation shall include the reasons for exceeding the 45-day period.

The informal investigation committee's report shall include evidence reviewed, interview summaries, and the committee's recommendation.<sup>39</sup> The committee may

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<sup>38</sup> E.g., informal investigations of allegations of academic misconduct involving research supported by or applications for Public Health Service grants, contracts, or cooperative agreements should follow the Office of Research Integrity's "Sample Policies and Procedures for Responding to Allegations of Research Misconduct. 2007: 8. 1 June 2008.

<sup>39</sup> Should the investigation disclose evidence that academic misconduct has occurred in areas not specific to this particular investigation (for example, should the committee uncover violations of regulations

recommend that a formal investigation is warranted, that one is not warranted, or that some other action should be taken if the committee believes further investigation is not warranted. The committee's recommendation is not binding on the Provost. The accused shall receive a copy of the report and shall have 10 calendar days to respond to the Provost.

The Provost shall determine whether the findings from the informal investigation warrant further formal investigation; normally, that decision shall be made within 60 days of the first meeting of the informal investigation committee (that is, within 15 days of the time the Provost receives the committee's report). Should the Provost determine no further investigation is warranted, or if he or she is unable at this point to negotiate a settlement consistent with Office of Research Integrity recommendations and/or the requirements of any external funding agency, he or she shall inform the accused of the decision in writing, including a description of any institutional action to be taken (including minor sanction); should the accused believe the action is unwarranted, they may request a hearing by the Faculty Hearing Committee per Section III.F.4. The Provost (or his or her designee) shall also inform any external agencies, per their regulations, of the outcome of the investigation; to the extent appropriate, the Provost should also inform accusers, witnesses, and committee members of any public outcome of the investigation. Should the case not proceed to formal investigation, the confidential record of the informal investigation will be retained in the Provost's office for five years; at the end of the five years, the record shall be destroyed. If the accused has been exonerated, nothing shall be placed in his or her personnel files.

**e. Formal Investigation**

Should the Provost determine that there is sufficient evidence in support of the allegation to warrant a formal investigation, he or she shall inform the accused, the accuser, and the Faculty Hearing Committee in writing within 15 calendar days of the receipt of the informal investigation report. The Provost shall submit to the committee the written statement of charges, accompanied by the records compiled during the informal investigation. The Provost (or his or her designee) shall inform the appropriate funding agencies (if any) that a formal investigation has been initiated on or before the date the investigation begins.

The Faculty Hearing Committee will conduct a formal investigation in accordance with the procedures outlined in Section III.F.4. The Provost (or his or her designee) will inform the committee of any requirements of external agencies relevant to the allegation or to the way in which the formal investigation is to be conducted.<sup>40</sup>

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about the treatment of laboratory animals discrete from the original allegation, say, of fabrication), the Faculty Hearing Committee shall inform the Provost in writing. It is incumbent on the Provost to take appropriate action in such instances.

<sup>40</sup> E.g., formal investigations of allegations of academic misconduct involving research supported



Should the investigation disclose facts that may affect current or potential funding for the accused, or information that funding agencies need to know to ensure appropriate use of funds and otherwise protect the public interest, the committee shall promptly notify the Provost (or his or her designee), who in turn shall promptly advise the appropriate funding agencies.

The formal investigation shall be completed no later than 45 calendar days from the date the Faculty Hearing Committee receives its charge from the Provost. If, during the investigation, it becomes evident that completion of the formal investigation cannot be accomplished within 45 days, the Provost will promptly be given the reasons in writing, an interim report of the work accomplished thus far, and a request for a reasonable extension. If the Provost approves the extension, he or she (or his or her designee) shall notify the appropriate funding agencies of the reasons for the delay.

On completion of its formal investigation, the Faculty Hearing Committee shall issue a written report containing its Formal Finding and any recommendation of action to be taken by the university.<sup>41</sup> The Formal Finding shall reflect the majority opinion of the Faculty Hearing Committee, shall include a summary of the proceedings and deliberations, and shall conclude one of the following:

- that the accused is guilty of academic misconduct as defined in Section III.F.2.a;
- that the accused committed no academic misconduct but did commit serious errors;
- or that the accused committed no academic misconduct or serious error and should be exonerated.

The report shall also include a description of the policies and procedures under which the investigation was conducted; how and from whom information was obtained relevant to the investigation; the basis for the formal finding; and, if appropriate, a recommendation about disciplinary action. It will also include any response of the accused to the charges. The Provost and the accused shall receive a copy of the report and, should either one request it, a copy of the record of the hearing. Upon receipt of a report finding the accused guilty of misconduct or

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by or applications for Public Health Service grants, contracts, or cooperative agreements should follow the detailed “Model Procedures for Responding to Allegations of Scientific Misconduct,” citation & URL.

<sup>41</sup> Should the investigation disclose evidence that academic misconduct has occurred in areas not specific to this particular investigation (for example, should the committee uncover violations of regulations about the treatment of laboratory animals discrete from the original allegation, say, of fabrication), the Faculty Hearing Committee shall inform the Provost in writing. It is incumbent on the Provost to take appropriate action in such instances.

serious error, the faculty member shall have 10 calendar days to submit a response to the Provost.

- i. If the Faculty Hearing committee finds that sufficient evidence **has been** established to prove academic misconduct or that serious errors were committed, it shall so report in writing to the Provost.
  - (A) Should the Provost **agree** with the committee's Formal Findings and recommendation about disciplinary action, he or she shall so inform the faculty member, the committee, and the President in writing, formalizing what action, if any, is to be taken.
  - (B) Should the Provost **disagree** with the committee's findings and/or recommendation about disciplinary action, the Provost will determine the appropriate action to be taken by the university only after consulting with the Faculty Hearing Committee. The Provost shall then inform the faculty member, the committee, and the President, in writing, of the action to be taken.
- ii. If the Faculty Hearing Committee finds that sufficient evidence **has not** been established to prove academic misconduct or that serious errors were committed, it will so report in writing to the Provost.
  - (A) If the Provost agrees with the committee's Formal Findings, he or she shall then inform the faculty member, the committee, and the President in writing.
  - (B) If the Provost rejects the committee's Formal Findings, he or she will state the reasons for doing so, in writing and within 10 calendar days, to the committee and to the faculty member, and provide the committee and the faculty member 10 calendar days in which to respond before submitting his or her final decision (including any action to be taken), along with any response from the faculty member and/or the Faculty Hearing Committee, to the President.
- iii. The faculty member may appeal a major sanction (as defined in Section III.F.1.b.viii) on procedural grounds to the Procedural Review Committee (per Section III.F.5.a) or on any other grounds first to the President and then to the Board of Visitors (per Section III.F.5.b).

In any case, any decision to remove a privilege pursuant to a grant or contract from an agency or sponsor shall be made only after consultation with that agency or sponsor.

Within 15 calendar days of delivering his or her decision to the accused and the committee, the Provost shall also submit a copy of that decision, along with the

report of the Faculty Hearing Committee, to any agency or sponsor previously notified of the investigation. If the accused has been sanctioned and chooses to appeal to the Board of Visitors, the Provost shall so inform the agencies or sponsors. To the extent appropriate, the Provost shall also inform accusers, witnesses, and appropriate administrative officers of any outcome of the case that would manifest itself publicly.

A full report, including the outcome of any appeal, shall be submitted to the appropriate agencies and/or sponsors within 120 calendar days of the initiation of the formal investigation. If the university cannot complete the investigation within 120 days, the Provost (or his or her designee) shall submit a written request for an extension to the appropriate funding agencies, with an explanation for the delay, a report on progress to date, an outline of what remains to be done, and an estimated date of resolution.

Where academic misconduct is established, the Provost may take steps necessary to clarify the public record (e.g., public announcements, published retractions, withdrawal or correction of published papers or abstracts, etc.). As appropriate, the Provost may also notify other concerned parties not previously aware of the case, including:

- co-authors, co-investigators, and collaborators;
- state professional licensing boards;
- editors of journals in which fraudulent research was published;
- professional societies;
- and law enforcement authorities.

If misconduct or serious error is not established, all records and other written material associated with the inquiry, informal investigation, and formal investigation shall be retained in the Office of the Provost for five years; at the end of the five years, the records shall be destroyed. However, if the accused is exonerated, nothing shall be placed in his or her personnel file. The university, in consultation with the exonerated individual(s), shall determine whether a public announcement would be harmful or beneficial in restoring any reputations that may have been damaged; an exonerated individual has the right to prevent any public announcement of the results of the investigation as they relate to that individual.

### **3. Incompetence, Neglect of Duty, or Misconduct**

#### **a. Inquiry**

When a Dean or a Dean's designee receives an allegation or finds evidence that a faculty member under his or her supervision may be guilty of incompetence, neglect of duty, or misconduct,<sup>42</sup> that administrative officer shall discuss the allegation and/or offending conduct with the faculty member. Should a complainant wish a conversation with the administrative officer about an alleged violation by a faculty member to remain confidential, and should the complainant believe that the administrator's discussion with the faculty member would reveal the complainant's identity, the administrative officer shall end the inquiry with no further action taken against the faculty member (subject to the conditions of Section III.F.1.c). No notes, reports, files, or other written documents shall be kept about the conversation. Should safety considerations require the administrative officer to pursue an inquiry and/or investigation, the complainant's identity will be kept confidential to the extent possible, but the faculty member shall be apprised of the allegation and have access to any written documents produced by university officials or committees.

Should the administrative officer determine that there is reason to proceed, he or she shall define the alleged or perceived violation and explain relevant policy and procedures in writing, and he or she shall provide the faculty member an opportunity to respond. The administrative officer shall seek a solution that is mutually satisfactory to all parties involved (e.g., an agreement to stop the offending conduct). A Dean or a Dean's designee may negotiate a settlement involving a minor sanction; however, only academic officers at the level of Dean or higher may impose more serious sanctions, and only with the approval of the Provost.

**b. Informal Investigation and Mediation**

Should no settlement be reached during the inquiry, the appropriate administrative officer shall deliver written notice of the allegation of incompetence, neglect of duty, or misconduct to the accused faculty member and to the Provost; the faculty member will have 10 calendar days to respond. The Provost shall then submit the written statement of charges, framed with reasonable particularity, along with any response from the faculty member, to the Procedural Review Committee, which shall initiate an informal investigation and mediation. The Procedural Review Committee shall determine whether there is reason to believe the allegation, and it shall try to negotiate a settlement; should no settlement be reached, the committee shall prepare a written report of its investigation, indicating whether in its opinion a formal investigation or any other action should be undertaken. The committee's opinion is not binding upon the Provost. The accused faculty member shall receive a copy of the report and shall have 10 calendar days in which to respond to the Provost. If the Provost and the faculty member are still unable to reach a settlement, the accused faculty member may request or the Provost may initiate the formal investigation.

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<sup>42</sup> Other than discrimination or academic misconduct in scholarly activity or research (see III.F.2. and 3 above).

**c. Formal Investigation and Resolution**

Should the Provost determine that there is sufficient evidence in support of the allegation, he or she shall inform the accused and the complainant within 15 days of the receipt of the Procedural Review Committee's report. The formal investigation shall be conducted by the Faculty Hearing Committee in accordance with the procedures outlined in Section III.F.4; the Provost shall submit to the Faculty Hearing Committee the written statement of charges, the written report prepared by the Procedural Review Committee, and the faculty member's responses (if any).

- i. If the Faculty Hearing committee concludes that sufficient evidence has been established to prove the allegation, it may include in its Formal Finding a recommendation for appropriate action by the university (which might include major sanction or dismissal). Upon receipt of the committee's Formal Finding, the faculty member shall have 10 calendar days to submit a response to the committee's findings to the Provost.
  - (A) Should the Provost **agree** with the committee's Formal Finding and recommendation about disciplinary action, he or she shall so inform the faculty member, the committee, and the President, in writing, formalizing the action to be taken, and particularly of any sanction (including dismissal).
  - (B) Should the Provost **disagree** with the committee's Formal Findings and/or recommendation about disciplinary action, the Provost will determine the appropriate action to be taken by the university only after consulting with the Faculty Hearing Committee. The Provost shall then inform the faculty member, the committee, and the President, in writing, of the action to be taken, and particularly of any sanction (including dismissal). The Provost shall include the findings and/or recommendation of the Faculty Hearing Committee in his or her report.
- ii. If the Faculty Hearing Committee concludes that sufficient evidence **has not** been established to prove the allegation, it will so report in writing to the Provost. If the Provost rejects the committee's formal findings, he or she will state the reasons for doing so, and describe any proposed action, in writing and within 10 calendar days, to the committee and to the faculty member; the committee and the faculty member shall have 10 calendar days in which to respond before the Provost submits his or her final decision, along with any response from the faculty member and/or the Faculty Hearing Committee, to the President.

- iii. The faculty member may appeal a major sanction (see Section III.F.1.b.viii) on procedural grounds to the Procedural Review Committee (per Section III.F.5.a) or on any grounds first to the President and then to the Board of Visitors (per Section III.F.5.b).
- iv. If misconduct is established, the Provost may take steps necessary to clarify the public record (e.g., public announcements, etc.). As appropriate, the Provost may also notify other concerned parties not previously aware of the case, including law enforcement authorities.

#### **4. University Procedures for Formal Investigation<sup>43</sup>**

This section outlines the common procedures used for the formal investigation of any allegation of violation of university policy by a faculty member. The formal investigation shall be conducted by the Faculty Hearing Committee. The Provost shall submit the written statement of charges, the report prepared by the relevant faculty committee or investigative team, and the faculty member's response (if any). The accused faculty member and the Provost will each have a maximum of two challenges to the composition of the Faculty Hearing Committee, without stated cause. Any member of the Faculty Hearing Committee should remove himself or herself from the case if he or she has or could be perceived to have a bias or a conflict of interest. To prevent the perception of bias or conflict of interest, any member will step down at the request of a majority of the members of the Faculty Hearing Committee who have not been removed by a challenge.

- a. The Faculty Hearing Committee may, with the consent of the parties concerned, hold joint pre-hearing meetings with the parties in order to (1) simplify the issues, (2) effect stipulations of facts, (3) provide for the exchange of documentary or other information, and (4) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.
- b. Service of notice of hearing with specific charges in writing will be made at least 20 calendar days prior to the hearing. The faculty member may waive a hearing and may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing but denies the charges, the Faculty Hearing Committee will evaluate all available evidence and rest its recommendation upon the evidence in the record.
- c. The Faculty Hearing Committee, in consultation with the President and the faculty member, will exercise its judgment as to whether the hearing should be public or private.

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<sup>43</sup> These procedures have been adopted from the "Recommended Institutional Regulations on Academic Freedom and Tenure." American Association of University Professors. *Policy Documents and Reports*, 10<sup>th</sup> ed. Washington, D.C., 2006: 26. 1 June 2008.

- d.** During the proceedings, the faculty member will be permitted to have an advisor and/or lawyer of the faculty member's own choice.
- e.** At the request of either party or the Faculty Hearing Committee, a representative of an appropriate educational association shall be permitted to attend the proceedings as an observer.
- f.** A verbatim record of the hearing or hearings will be taken and a transcript will be made available to the faculty member without cost, at the faculty member's request.
- g.** The burden of proof rests with the university and shall be satisfied only by clear and convincing evidence<sup>44</sup> in the record considered as a whole. The Faculty Hearing Committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Reasonable effort will be made to obtain the most reliable evidence available.
- h.** The Faculty Hearing Committee may grant adjournments to enable either party to investigate material evidence for which a valid claim of surprise is made and to prevent prejudice.
- i.** The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence; however, the parties bear the burden of arranging for the presentation of witnesses and documentary or other evidence. The administration will cooperate to the extent practicable with the Faculty Hearing Committee in securing witnesses and making available documentary and other evidence.
- j.** The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the Faculty Hearing Committee determines that the interests of justice require admission of their statements, the Faculty Hearing Committee will identify witnesses; disclose their statements; and, if possible, provide for written interrogatories.
- k.** In the hearing of charges of incompetence, the evidence should include testimony of qualified faculty members from this or other institutions of higher education.
- l.** Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the cases by either the faculty member or administrative officers will be avoided so far as

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<sup>44</sup> Clear and convincing evidence does not require evidence that is beyond a reasonable doubt. Rather it is defined as that degree of proof which will produce a firm belief in the allegations sought to be established. Clear and convincing evidence thus is an intermediate standard requiring more than a preponderance of evidence, but less than the certainty required by evidence that is beyond a reasonable doubt. Clear and convincing evidence does not require that certainty.

possible until the proceedings have been completed, including appeal to the Board of Visitors.

- m.** The Faculty Hearing Committee shall render a Formal Finding based upon the evidence admitted at the hearing or hearings; the Formal Finding shall be based solely on the record a whole, and shall be in writing. The Formal Finding shall reflect the majority opinion of the Faculty Hearing Committee, and shall contain a summary of the committee's proceedings and deliberations. It should also describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings. The Provost and the faculty member shall receive a copy of the Formal Finding and, should either one request it, a copy of the record of the hearing.

## **5. Appeal of Major Sanctions**

### **a. Appeal on Grounds of Failure to Follow Procedure**

If the faculty member alleges that a decision resulting in a major sanction (see Section III.F.1.b.viii) resulted from a failure to follow procedure, the Procedural Review Committee shall review the allegation and determine whether proper procedures were followed in reaching the decision. The term "follow procedure" refers to procedural rather than substantive issues. It requires that the decision be arrived at conscientiously; that all relevant evidence be considered; that there be adequate deliberation by the appropriate committees and administrative officers over the import of the evidence in the light of the relevant policies; that irrelevant and improper standards be excluded from consideration; and that the decision be a bona fide exercise of professional academic judgment. The standard of failure to follow procedure does not permit the Procedural Review Committee to substitute its judgment for those of the committees or administrative officers.

Allegations of failure to follow procedure, with supporting information, may be filed with the Procedural Review Committee only after receipt of the letter from the Provost imposing the sanction (including dismissal); the allegation must be filed no later than 14 calendar days after receipt of such letter.

The Procedural Review Committee shall provide a written report of its findings to the accused faculty member, the appropriate committees and administrative officers involved, and the President not later than 30 calendar days after the date of the accused's request for reconsideration is filed with the committee. If the Procedural Review Committee finds that the accused's case was not handled in accordance with applicable procedure, it shall indicate in its report the respects in which it believes procedure was not followed and the point in the process at which reconsideration is to begin. If the Procedural Review Committee finds that the accused's case was handled in accordance with applicable procedure, the committee's determination shall be final.



**b. Appeal to the President and to the Board of Visitors**

In the case of dismissal or other major sanction (see Section III.F.1.b.viii), the faculty member may appeal to the President within 15 calendar days of receipt of the written sanction from the Provost; should the President determine that a major sanction is warranted, the faculty member may appeal to the Board of Visitors within 15 calendar days of receipt of the letter from the President.

- i. If the faculty member appeals to the President, the Provost will transmit to the President the record of the case. The President's review will be based on the record of the formal hearings, and it shall provide opportunity for argument, oral or written or both, by the parties at the hearings or by their representatives. Either the decision of the Provost will be sustained or the proceeding will be returned to the Provost or the Faculty Hearing Committee, depending on where the earliest disagreement occurs, with specific objections and/or instructions. The Provost or the Faculty Hearing Committee will then reconsider, taking into account the President's stated objections and receiving new evidence if necessary. The President will make a final decision only after study of the report of reconsideration; the decision will be transmitted to the faculty member in writing.
- ii. If a faculty member appeals to the Board of Visitors, the President will transmit to the Board of Visitors the record of the case. The Board of Visitors' review will be based on the record of the formal hearings, and it shall provide opportunity for argument, oral or written or both, by the parties at the hearings or by their representatives. The decision of the President may be sustained; the sanction may be reduced; or the proceeding may be returned to the President, the Provost, or Faculty Hearing Committee (depending on where the earliest disagreement occurs), with specific objections and/or instructions. The Faculty Hearing Committee will then reconsider, taking into account the Board of Visitors' stated objections and receiving new evidence if necessary. The Board of Visitors will make a final decision only after study of the report of the Faculty Hearing Committee's reconsideration.

Except in cases of dismissal involving moral turpitude,<sup>45</sup> the faculty member shall receive compensation and notice in accordance with the following schedule: at least

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<sup>45</sup> The American Association of University Professors interprets moral turpitude in the following manner: "The concept of moral turpitude identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons

three months if the decision is reached by March 1 (or three months prior to the expiration) of the first year of service; at least six months if the decision is reached by December 15 of the second year (or after nine months but prior to 18 months) of service; at least one year if the decision is reached after 18 months of service or if the faculty member has tenure. On the recommendation of the Faculty Hearing Committee, the President or the Board of Visitors, in determining what payments will be made beyond the effective date of dismissal, may take into account the length and quality of service by the faculty member.

## G. GRIEVANCES

### 1. Process

If any full-time faculty member, part-time faculty member, or group of faculty members<sup>46</sup> feels that he, she, or they have cause for grievance in any matter not governed by other procedures in the Faculty Handbook, he, she, or they may petition the Faculty Hearing Committee for redress. The petition shall set forth in detail the nature of the grievance, parties grieved against (the respondent(s)), and the relief sought. The petition should contain all information that the petitioner deems pertinent to the case. The Faculty Hearing Committee shall consider a petition only after the petitioner has sought relief from all other appropriate committees and/or administrators (e.g., a department personnel committee or chair, the Dean, etc.).

The committee shall first determine whether the petitioner has demonstrated adequate cause. "Adequate cause" means the petition is made in good faith and the actions being grieved, if substantiated, would give rise to a valid grievance. Petitioners may grieve only actions that have an adverse effect on them directly and personally (they may not grieve on behalf of a third party or on behalf of a larger group, program, department, or school). If the committee determines that the petition does not demonstrate adequate cause, then it shall notify the petitioner(s) in writing within 30 days of its receipt of the petition,<sup>47</sup> explaining the basis for its

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in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally" (American Association of University Professors. "1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments." *Policy Documents and Reports*, 10<sup>th</sup> ed. Washington, D.C., 2006: 3. 1 June 2008. While the AAUP does not define moral turpitude precisely, for purposes of the Faculty Handbook, the university interprets the concept broadly to include various forms of egregious misconduct such as flagrant violations of university policies, gross neglect of duty, or serious violations of local, state, and federal law.

<sup>46</sup> This policy applies to administrators who hold academic rank, but only in their capacity as faculty members.

<sup>47</sup> The time limits delineated in this section of the Handbook do not apply when the university is not in session; in any case in which the university is closed during any portion of the time period, the time period will commence on the first day the university reopens.

decision. The committee's decision shall be final and may be appealed only on procedural grounds (see Section III.G.2).

If the committee determines that the petitioner has demonstrated adequate cause, the committee shall deliver a copy of the petition to all respondents named and allow them 10 calendar days to respond. The committee shall then seek to mediate a settlement satisfactory to all parties. If the mediation is not successful, the committee shall formally hear the grievance. The hearing shall provide the petitioner(s) and respondent(s) the opportunities:

- to submit their written statements and responses.
- to appear before the committee.
- to present appropriate evidence and arguments.
- to obtain necessary witnesses and documentary or other evidence, with the understanding that the administration will cooperate to the extent practicable with the committee in securing witnesses and making available documentary and other evidence. Where the witnesses cannot or will not appear, but the Faculty Hearing Committee determines that the interests of justice require admission of their statements, the Faculty Hearing Committee will identify witnesses, disclose their statements, and if possible provide for written interrogatories.
- to be represented by a lawyer or other person (at the petitioner's or respondent's expense).
- to ask a representative of an appropriate educational association to attend the proceedings as an observer.
- and to be present during testimony and to cross examine those who testify.

The committee shall keep a verbatim record of any oral evidence taken during the hearing. The committee, in consultation with the parties, shall determine whether the hearing will be public or private.

The burden of proof rests with the petitioner(s) and shall be satisfied only by clear and convincing evidence<sup>48</sup> in the record considered as a whole. The Faculty Hearing Committee will not be bound by strict rules of legal evidence, and may

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<sup>48</sup> Clear and convincing evidence does not require evidence that is beyond a reasonable doubt. Rather it is defined as that degree of proof which will produce a firm belief in the allegations sought to be established. Clear and convincing evidence thus is an intermediate standard requiring more than a preponderance of evidence, but less than the certainty required by evidence that is beyond a reasonable doubt.

admit any evidence which is of probative value in determining the issues involved. Reasonable effort will be made to obtain the most reliable evidence available.

The committee shall ordinarily resolve the matter by mediation, settlement, or decision on the merits within 60 calendar days from the date it receives the petition. If at any point following the committee's receipt of the petition, the committee has reason to believe that the issue cannot be resolved or the hearing completed within 60 days, the committee will promptly submit the reasons in writing to the petitioner(s), to the respondent(s), and to the Provost (or the President, if the Provost is a respondent), along with an interim report of the work accomplished thus far and a request for a reasonable extension. Normally, the committee shall seek such an extension only when the extension is necessary to negotiate a settlement, to prevent undue hardship to parties or witnesses, and/or to improve the prospect of reaching an accurate result. The Provost (or President) shall normally respond to such a request within three working days.

The Faculty Hearing Committee shall render a Formal Finding based upon the evidence admitted at the hearing or hearings, and recommend, if appropriate, action by the university. The Formal Finding and recommendation shall be based solely on the hearing record as a whole and shall be in writing. The Formal Finding shall reflect the majority opinion of the Faculty Hearing Committee and shall contain a summary of the committee's proceedings and deliberations. It should also describe how and from whom information was obtained by the committee and the basis for the finding. The petitioner(s) and the respondent(s) shall receive a copy of the Formal Finding and, should either one request it, a copy of the record of the hearing. The Faculty Hearing Committee's finding — that is, that there is cause for the grievance or not — is final and may be appealed only on procedural grounds (see below).

A Formal Finding that includes a recommendation for action by the university shall also be submitted to the Provost, or to the President if the Provost is a respondent. Within 15 calendar days, the Provost or President shall deliver a written copy of his or her decision, specifying any action to be taken by the university, to the petitioner(s), the respondent(s), and the Faculty Hearing Committee. If the Provost or President rejects the committee's recommendations, he or she shall state the reasons in writing to the committee and to all parties.

If a grievance raises policy or procedural issues, the Faculty Hearing Committee will report these issues to the Faculty Assembly and/or to the appropriate committees in a faculty or school (and see Section III.K for issues related to this Faculty Handbook).

## **2. Appeal on Grounds of Failure to Follow Procedure**

Appeals shall be considered only on procedural grounds, not substantive ones. Should the petitioner believe that the Faculty Hearing Committee or, in cases in

which the university is to take action, the Provost or President, did not follow the procedures of the Faculty Handbook, he or she may appeal to the Procedural Review Committee on grounds of failure to follow procedure. The term “failure to follow procedure” refers to procedural rather than substantive issues. It requires that the decision be arrived at conscientiously; that all relevant evidence be considered; that there be adequate deliberation by the Faculty Hearing Committee or by the Provost or President over the import of the evidence in the light of the relevant policies; that irrelevant and improper standards be excluded from consideration; and that the decision be a bona fide exercise of professional academic judgment. The standard of failure to follow procedure does not permit the Procedural Review Committee to substitute its judgment for that of the Faculty Hearing Committee or the Provost or President.

Allegations of failure to follow procedure, with supporting information, may be filed with the Procedural Review Committee only after receipt of the letter from the Faculty Hearing Committee, or, in cases in which the university is to take action, from the Provost or President; the allegation must be filed no later than 14 calendar days after receipt of such letter.

The Procedural Review Committee shall provide a written report of its findings to the petitioner, the Faculty Hearing Committee, and to the Provost or President should they be involved not later than 30 calendar days after the date that the allegation is filed with the committee. If the Procedural Review Committee finds that a failure to follow procedure affected the outcome in the petitioner’s case, it shall indicate in its report the respects in which it believes procedure was not followed and the point in the process at which reconsideration is to begin. If the Procedural Review Committee finds that the outcome was not affected by a failure to follow procedure, the committee’s determination shall be final.

## **H. TERMINATION OF AN APPOINTMENT FOR MEDICAL REASONS**

*The current Section III.H is no longer in use. Revisions to this section were outside the scope of the Board of Visitors’ original charge and are pending further work. Reference to compliance with the Americans with Disabilities Act and a related Fitness for Duty Policy will replace prior language — after the normal internal review and approval process that includes the Personnel Policy Committee and Faculty Assembly. Other sections of the Handbook may subsequently reference this new language as appropriate. An updated Section III.H will be presented to the Board of Visitors at its February 2025 meeting.*

## **I. TERMINATION OF AN APPOINTMENT FOR FINANCIAL EXIGENCY OR DISCONTINUANCE OF A PROGRAM OR DEPARTMENT OF INSTRUCTION<sup>49</sup>**

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<sup>49</sup> These standards and procedures follow the American Association of University Professors’ “Recommended Institutional Regulations on Academic Freedom and Tenure.” *Policy*

Termination of a tenured or tenure-eligible appointment, or of a probationary or specified-term appointment before the end of the term specified in the contract, may occur (a) under extraordinary circumstances because of financial exigency that threatens the university as a whole, or (b) because of the discontinuance of a specific program or department of instruction within the university.

## **1. Financial Exigency**

Financial exigency is an imminent financial crisis that threatens the university as a whole and that cannot be alleviated by less drastic means than termination of academic appointments. The existence of a condition of financial exigency and the criteria for selecting the appointment(s) to be terminated shall be determined by the Faculty University Priorities Committee (or subsequent budget and planning committee with elected faculty membership<sup>50</sup>), as set forth in the following paragraphs. However, ultimate authority over these decisions rests with the President and the Board of Visitors.

Once the President and the Faculty University Priorities Committee have determined the substantive standards for financial exigency (as defined above) have been met, but before any faculty appointment is terminated, the Provost will meet with the Faculty Assembly and ask the Faculty Assembly to affirm that a condition of financial exigency exists. Although the Faculty Assembly's response is not binding on the President, should the Faculty Assembly determine that the substantive standards have not been met, that opinion will be entered into the record and forwarded to the Faculty Hearing Committee and, if necessary, to the Board of Visitors should the faculty member(s) whose positions have been reassigned or terminated appeal the decision.

The Faculty University Priorities Committee shall determine the criteria for identifying the individuals whose appointments are to be terminated. The criteria may include consideration of length of service. The committee should consult all concerned programs or departments as part of its deliberations and follow to the extent possible the American Association of University Professors guidelines "On Institutional Problems Resulting from Financial Exigency."<sup>51</sup> Before recommending termination of an appointment, the committee shall make every effort to find another suitable position at the university for the affected faculty member(s).

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*Documents and Reports*, 10<sup>th</sup> ed. Washington D.C.2006: 24-5. 1 June 2008.

<sup>50</sup> Consistent with AAUP's recommendation that such judgments should be the "primary responsibility . . . of an appropriate faculty body," "Recommended Institutional Regulations on Academic Freedom and Tenure," p. 24.

<sup>51</sup> American Association of University Professors. *Policy Documents and Reports*, 10<sup>th</sup> ed. Washington D.C, 2006: 147.

If the university terminates appointments because of financial exigency, it will not at the same time make new appointments or retain non-tenured faculty while terminating tenured faculty, except in extraordinary circumstances where a serious distortion of the university's academic program would otherwise result.

If the administration issues written notice to a particular faculty member of the intention to terminate his or her appointment because of financial exigency, the faculty member may appeal the decision to the Faculty Hearing Committee within 30 calendar days of receipt of notice of intent to terminate.

The hearing will be governed by the hearing procedures set forth in Sections III.F.5 and III.I.3.

## **2. Discontinuance of a Program or Department of Instruction**

A decision to terminate academic appointments resulting from the discontinuance of a program or department of instruction not compelled by financial exigency (as defined in Section III.I.1) must reflect long-range institutional judgments that the educational mission of the university as a whole will be enhanced by the discontinuance. The determination that it is in the best interest of the university's educational mission to discontinue the program or department, and the identification of the criteria for selecting the appointment(s) to be terminated or reassigned, shall be made by the Faculty University Priorities Committee (or subsequent budget and planning committee with elected faculty membership) as described below.<sup>52</sup> However, ultimate authority over these decisions rests with the President and the Board of Visitors.

Once the President and the Faculty University Priorities Committee have determined that the substantive standards for discontinuance of a program or department have been met (as defined above), but before any faculty appointment is terminated, the Provost will meet with the Faculty Assembly and ask the Faculty Assembly to affirm that the discontinuance of a program or department of instruction reflects long-range institutional judgments that the educational mission of the university as a whole will be enhanced. Although the Faculty Assembly's response is not binding on the President, should the Faculty Assembly determine that the substantive standards have not been met, that opinion will be entered into the record and forwarded to the Faculty Hearing Committee and, if necessary, to the Board of Visitors should the faculty member(s) whose positions have been reassigned or terminated appeal the decision.

The Faculty University Priorities Committee shall determine the criteria for identifying the individuals whose appointments are to be terminated or reassigned.

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<sup>52</sup> Consistent with AAUP's recommendation that such judgments should be the "primary responsibility . . . of an appropriate faculty body," "Recommended Institutional Regulations on Academic Freedom and Tenure," p. 24.

The criteria may include consideration of length of service. The committee should consult all concerned programs or departments as part of its deliberations. Before terminating an appointment, the committee shall make every effort to find another suitable position at the university for the faculty member, even if such an appointment requires retraining. Per American Association of University Professors guidelines, if the university plans to discontinue a program or department of instruction for reasons other than financial exigency, it should likewise plan to bear the costs of relocating or retraining affected faculty members placed in another position within the university.<sup>53</sup>

If the administration issues notice to a particular faculty member of an intention to terminate or reassign his or her appointment because a program or department of instruction is to be discontinued, the faculty member may appeal the decision to the Faculty Hearing Committee within 30 calendar days of receipt of notice of intent to terminate.

The hearing will be governed by the hearing procedures set forth in Sections III.F.4. and III.I.3.

### **3. Faculty Hearing Committee Review of Terminations**

The committee shall make findings of fact, conclusions, and recommendations in a timely manner and issue a written report to the Provost and the faculty member(s). The findings of the Faculty Assembly shall be introduced. The Faculty Hearing Committee shall consider:

- a.** Whether the administration followed the procedures set forth above (the Faculty Hearing Committee may consult with the Procedural Review Committee as needed); if the Faculty Hearing Committee discovers a procedural irregularity, it shall indicate to the Provost in writing the nature of the irregularity and the point at which the process should resume.
- b.** The existence and extent of the condition of financial exigency or the conclusion that the educational mission of the university as a whole will be enhanced by the discontinuance of a program or department of instruction, if the Faculty Assembly has not affirmed the decision of the administration and the Faculty University Priorities Committee. In that case, the burden shall rest with the administration to demonstrate its case. If the Faculty Assembly has affirmed the decision, the Faculty Hearing Committee shall not reevaluate the decision.

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<sup>53</sup> American Association of University Professors. "Recommended Institutional Regulations of Academic Freedom and Tenure.," *Policy Documents and Reports*, 10<sup>th</sup> ed. Washington, D.C. 2006): 25. 1 June 2008.



- c. The validity of the educational judgments and criteria used to determine which appointments are to be terminated.
- d. Whether the criteria are being properly applied in the individual case.

If the committee (i) finds no procedural irregularities meriting reconsideration of the administrative decision to terminate, (ii) does not disagree with (or does not reevaluate) the decision as to the existence of financial exigency or that discontinuance will enhance the educational mission, (iii) does not find invalid the judgment and criteria for selecting appointments for termination, and (iv) does not find misapplication of those criteria in the case at hand, its decision shall be final, subject to appeal as described below. In all other cases, within 30 calendar days of receipt of the report, the Provost shall (1) provide an opportunity for written response by the faculty member, (2) accept or reject the recommendation of the Faculty Hearing Committee report, and (3) state the reasons for acceptance or rejection in writing to the Faculty Hearing Committee and the faculty member. If the committee or the provost recommends termination, the faculty member will then have 30 calendar days after receipt of notice from the committee or Provost, respectively, to appeal the decision to the President and the Board of Visitors per the procedures outlined in Section III.F.5.

If terminated, the faculty member shall receive compensation and notice in accordance with the following schedule (that is, termination shall not be effective until the relevant notice period has expired or the date indicated in the notice of termination, whichever is later):

- at least three months if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of service
- at least six months if the decision is reached by December 15 of the second year (or after nine months but prior to 18 months) of service
- at least one year, if the decision is reached after 18 months of service or if the faculty member has tenure

Notice shall be deemed given when the faculty member is initially informed of the administration's intent to terminate, regardless of any appeal.

The released faculty member's position will not be filled by a replacement for at least three years, unless the released faculty member has been offered reinstatement at the same rank and under comparable terms of employment, and a reasonable time within which to accept or decline it.

## **J. INTERIM SUSPENSION OR REASSIGNMENT OF FACULTY**

### **1. Provost's Authority to Suspend, Reassign, and/or Limit Access**

If the Provost determines that a faculty member poses a likely threat of harm to one or more members of the university community and the likely conduct posing such a threat would violate university policy, the Provost may suspend the faculty member from some or all of the faculty member's duties at the university; assign the faculty member to other faculty duties; or limit the person's access to university facilities, information systems, or activities. The Provost may include as part of such a suspension, reassignment, and/or access limit any conditions he or she deems reasonably necessary to protect other members of the university community from threatened harm. Any such action taken pursuant to this paragraph shall be subject to the provisions of Sections III.J.2 and 3. Any such suspension, reassignment, or limitation of access shall be with full pay and benefits.

## **2. Notification of Faculty Member and Right of Response**

Any suspension, reassignment, or access limit imposed pursuant to Section III.J.1 will typically constitute an interim measure pending an investigation pursuant to Section III.F of this Handbook. Whatever the context of the suspension, reassignment, and/or access limit, the Provost shall, unless there are exigent circumstances, contact the faculty member in advance and (a) notify the faculty member in writing of the proposed action, (b) inform him or her of the reasons for the action, (c) inform him or her of the right to waive consultation with the Faculty Assembly Executive Committee (see Section III.J.3), and (d) provide the faculty member with an opportunity to respond. If exigent circumstances prevent the Provost from contacting the faculty member in advance of suspending, reassigning, or limiting a faculty member's access, the Provost shall notify the faculty member and provide an opportunity for response as soon as reasonably practical.

## **3. Executive Committee Consultation**

Except when the Provost determines that the threat of harm authorizing action under Section III.J.1 is imminent, the Provost shall consult with the Faculty Assembly Executive Committee, before suspending, reassigning, or limiting the access of a faculty member, concerning the propriety, length, and conditions of these interim measures, unless the faculty member has waived the right to consultation. Any such waiver must be in writing. If there is no such waiver and the Provost does not consult with the Executive Committee before ordering such a suspension, reassignment, or access limit, the Provost shall consult with the Executive Committee within 24 hours after ordering such a measure. Such interim measures cannot continue indefinitely. If the Provost believes that the suspension, reassignment, access limitations, and any accompanying conditions should continue beyond 120 days, the Provost must consult the Executive Committee regarding the propriety, length, and conditions of the continuing suspension, reassignment, or access limits before each 30-day extension until the matter is resolved.

**4. Suspension, Reassignment, and Access Limitations Subject to Grievance Procedures**

A faculty member may seek review pursuant to Section III.G (“Grievances”) of any suspension, reassignment, or access limitation imposed pursuant to Section III.J.

**K. INTERPRETATION AND AMENDMENT OF THE FACULTY HANDBOOK**

The official version of the Faculty Handbook is located on the [Office of Faculty Affairs’s website](#). Every instructional faculty member will receive a print copy of the Handbook when receiving an initial appointment contract; however, all subsequent interpretations/amendments of the Handbook will be made to the version on the Office of Faculty Affairs’s website, and the website version shall repeal and supersede all previous versions. Amendments/interpretations made subsequent to July 1, 2008, will be dated within the text.

Nothing in this Faculty Handbook limits the Board of Visitors’ power as the ultimate institutional authority for the university.

**1. Interpretation of the Faculty Handbook Sections II and III**

Should an academic dean or one of the committees designated in Section II.E discover an ambiguity in this Handbook, the responsibility for resolving such ambiguities lies with the Provost and the Personnel Policy Committee in consultation with the university’s legal advisors. When such an interpretation is required, it shall normally be incorporated into the Handbook through the amendment process outlined in Section III.K.2.

**2. Amendment of the Faculty Handbook Sections II and III**

All proposed amendments to the Faculty Handbook Sections II or III shall be submitted in writing to the university’s Personnel Policy Committee, which shall then:

- a. forward the proposed amendment as is; or
- b. forward its modification of the amendment with a written explanation of the changes; or
- c. forward the amendment with a written explanation of why it rejects the amendment,

to the President of the Faculty Assembly, with a request that the proposal be brought before the Assembly for a vote. Members of the Assembly shall have at least four weeks to review the proposal before the vote. Assembly ratification of proposed changes to the Faculty Handbook Sections II and III shall require a two-thirds vote of the full Assembly membership. The results of the vote shall be reported to the Personnel Policy Committee by the President of the Faculty Assembly.

Should the Assembly reject the amendment, the Personnel Policy Committee may either accept that rejection, in which case the amendment fails, or attempt to address the Assembly's concerns and return a revised proposal to the Assembly for further consideration and another vote (again, the Assembly shall have at least four weeks to review the proposal before the vote).

Should the Assembly vote to accept an amendment that the Personnel Policy Committee rejected, or should it modify an amendment that the Personnel Policy Committee forwarded as is or with modifications, the Assembly shall explain its actions and, if appropriate, attempt to address the Personnel Policy Committee's concerns; the Personnel Policy Committee shall then either:

- accept the Assembly's modification(s) or affirmative vote, in which case the approved amendment shall be forwarded to the President of the university as described below; or
- attempt to address the Assembly's concerns and return a revised proposal to the Assembly for further consideration and another vote (again, the Assembly shall have at least four weeks to review the proposal before the vote).

The Faculty Assembly and the Personnel Policy Committee must concur for an amendment to be made to this Handbook. Should the Assembly not ratify subsequent proposals from the Personnel Policy Committee, the process outlined above shall continue until the Assembly and the Personnel Policy Committee reach mutual consent.

Once an amendment has been approved by both the Faculty Assembly and the Personnel Policy Committee, it shall be forwarded to the President of the university. If the amendment is to Section III, the President shall forward the proposal to the Board of Visitors for consideration; the change shall not be official unless and until the Board of Visitors approves it. If the amendment is to Section II, the proposal shall be forwarded through the Provost to the President for approval; the change shall not be official unless and until the President approves it. If the President or Board of Visitors modifies an amendment, it shall be resubmitted to the Personnel Policy Committee.

All amendments shall bear the date of their approval; the Provost's office shall then amend the official version of the Handbook on the Provost's website and shall notify all instructional faculty of the change.