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I. STATEMENT OF RIGHTS AND RESPONSIBILITIES

In 1973, the university community – faculty, students, and administration – recommended to the Board of Visitors and the Board adopted the following *Statement of Rights and Responsibilities*. Amendments were made to the document in 1977 and 1991 and are included.

The unique nature of the university community suggests that its members be united in a common purpose. Because the work of each member of the institution contributes to the fulfillment of the educational mission of the university, the various constituent groups--students, faculty, and administrators--are dependent upon one another for the ultimate achievement of the university's goals. Accordingly, all should enjoy the same fundamental rights and privileges and be willing to accept the same responsibilities, except in those rare cases where either the rights and privileges or the responsibilities would be in conflict with existing law or with the goals and purposes of the university as an institution of higher education.

Students, faculty, and administrators (hereinafter the "members of the university community") shall enjoy all rights, privileges, and immunities guaranteed to every citizen of the United States and the Commonwealth of Virginia. In addition, the members of the university community shall enjoy all the fundamental rights recognized as essential to fulfillment of the special mission of an institution of higher education. The full enjoyment of these rights, however, cannot be achieved unless certain concurrent responsibilities are accepted. Members of the university community have an obligation, therefore, to fulfill the responsibilities incumbent on all citizens as well as the responsibilities inherent in their particular roles within the academic community.

The institution and those who administer its affairs have a special responsibility to ensure that, in pursuance of its functions, the rights of all members of the university community are preserved. The institution also has a right to expect, and a corresponding responsibility to ensure within the scope of its legitimate functions as an institution of higher education, that individual members of the university community fulfill their responsibilities to others as well as their responsibilities to the institution.

The *Statement of Rights and Responsibilities* is based upon the aforesaid principles and, when adopted, shall become the standard by which all rules, regulations, policies, and procedures of the university, except as otherwise prescribed by local, State, or Federal law, shall be measured. No rule, regulation, policy, or procedure which is incompatible with or which contradicts this document may be enacted; and any such rules, regulations, policies, or procedures which are in effect at the time of the enactment of this document shall be reviewed as soon as reasonably practicable to conform with this document, provided, however, that this *Statement of Rights and Responsibilities* shall not affect the powers of the Board of Visitors as provided by law.

A.

The members of the university community, as individuals, shall enjoy all rights, privileges, and immunities guaranteed every citizen of the United States and the Commonwealth of Virginia.

1. Among the basic rights are freedom of expression and belief, freedom of association and peaceful assembly, and freedom from personal force and violence, threats of violence and personal abuse.
2. Each member of the university community has a right in their dealings with the institution, and with members of the university community in the performance of their official duties, to be free from discriminatory treatment with regard to race, creed, gender, religion, national origin, or political belief.
3. Each member of the university community has the right to organize their own personal life and behavior insofar as it does not violate local, State, or Federal law, university regulations, or agreements voluntarily entered into, and does not interfere with the rights of others. The following specific rights apply:
 - a. Right to associate with any legally established group or to create such groups, professional or other, as serve legitimate interests.
 - (1) The membership, policies, and actions of an organization shall be determined by vote of those who hold membership in that organization.
 - (2) Affiliation with an extramural organization shall not disqualify an organization from institutional recognition.
 - (3) An organization shall be officially recognized after its constitution and bylaws have been approved by the appropriate body as designated by the President, or their delegated representative, and when consistent with the Bylaws of the Board of Visitors. A current list of officers, but not a membership list, may be required as a condition of recognition.
 - (4) Officially recognized organizations, including those affiliated with an extramural organization, shall be open to all on a non-discriminatory basis with regard to race, religion, creed, national origin, gender, or political belief, provided however that, to the extent permitted by law, membership in social organizations may be restricted to members of the same gender, and membership in organizations whose primary purpose is political or religious may be restricted to those members of the university community who have similar beliefs.

continued presence on the campus would constitute a threat to health or safety of the individual, other members of the community, or to the educational process. Such determination shall be made by the appropriate university authority as designated by the President.

5. Each member of the university community has a right to privacy in their dealings with the institution, including, without limitation:
 - a. The right to be free of searches and seizures except in accordance with law. Routine inspections, however, may be held periodically for the purpose of assuring fire protection, sanitation, safety, and proper maintenance of the university's buildings.
 - b. The right to expect that all records of their association with the institution are treated as confidential.
 - (1) Except as provided below, the institution may not release information about any aspect of an individual's association with the institution without the prior written consent of the individual concerned or under the compulsion of law. Within the institution, access to such records shall be restricted to authorized personnel for authorized reasons, as determined by the President or their delegated representative, and such others as are agreed to in writing by the individual concerned. To the extent permitted by law, the institution may disclose, to an alleged victim of any crime of violence (as that term is defined in Section 16 of title 18, United States Code), the results of any disciplinary proceeding conducted by the university against the alleged perpetrator of such crime with respect to such crime. The university may also release information about students which is defined as directory information under the Family Educational Rights and Privacy Act of 1974, as amended, and information about other members of the university community which is a matter of public record.
 - (2) Each member of the university community shall have the right to inspect the contents of their own records kept by the institution, other than information or records to which the member has specifically waived the right of access and letters of recommendation written by other members of the university community for the purpose of internal evaluation of a member for the award of a university honor, provided that such letters are not kept permanently by the institution and do not become a part of the official record, and may challenge any information included in the record which is believed to be inaccurate, inappropriate, or misleading. If an individual challenges any information contained in their records, the institution shall undertake to verify such

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information to the satisfaction of the individual concerned. Such decisions shall be made by the President or their designated representative. If the institution's decision is not satisfactory to the individual, the member has the right to place in their record a statement challenging the information. Subsequent authorized disclosure of the contents of the record shall indicate such challenge.

- (3) Records of the political and religious activities or beliefs of members of the university community may not be maintained except for purposes of official recognition of campus organizations as provided in Section I. A.3.a.(3).
- (4) To minimize the risk of improper disclosure from students' records, the academic record shall be maintained separately from other necessary student records. Transcripts of academic records shall contain only data essential for personal identification and information about academic performance and status. All withdrawals, whether voluntary or involuntary, may be recorded on the transcript.

Each member of the university community shall have the responsibility to respect the aforesaid rights of their associates and refrain from using the institution as a sanctuary from the general law.

B.

Each member of the university community enjoys all rights of citizenship and has a responsibility to fulfill the obligations incumbent on all citizens. Additionally, there are special rights and responsibilities inherent in membership in an academic society.

1. Each member of the university community has a responsibility, based upon the special mission of an institution of higher education, to respect the rights of others to function in an atmosphere where freedom to teach, to learn, and to conduct research and publish findings is preserved and respected, an atmosphere which includes, without limitation, the following specific rights:
 - a. Right of the instructor to academic freedom and impartial consideration for tenure in accord with the principles set forth in the Statement of Academic Freedom and Tenure, adopted jointly in 1940 by the Association of American Colleges and the American Association of University Professors, and with the standards and procedures approved by the Board of Visitors and set forth in the *Faculty Handbook*.

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- b.** Right of the instructor to determine the specific content of their course within established course definitions. Concurrently, the instructor has the responsibility not to depart significantly from their area of competence or to divert significant time to materials extraneous to the subject of the course.
 - c.** Right of the student to be evaluated entirely on the basis of academic performance and to discuss freely, inquire, and express opinions inside the classroom. The student has a responsibility to maintain standards of academic performance as set by their professors, provided, however, that the student shall have means for redress against arbitrary, unreasonable, or prejudicial standards of evaluation.
 - d.** Right to pursue normal academic and administrative activities, including the freedom of movement in the performance of such activities.
 - e.** Right to privacy in offices, laboratories, and residence hall rooms and in the keeping of personal papers and effects.
 - f.** Right to hear and study unpopular and controversial views on intellectual and public issues.
 - g.** Right of the student to expect that information about their views, beliefs and political associations which an instructor acquires in the course of their work as a teacher, advisor, or counselor of the student be held in confidence to the extent permitted by law.
- 2.** Because student publications are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and intellectual exploration on the campus, it is essential that they enjoy the following rights and responsibilities:
 - a.** Right to be free from prior censorship or advance approval of copy.
 - b.** Right to develop editorial policies and news coverage.
 - c.** Right to be protected from arbitrary punishment or suspension, or removal from their position because of student, faculty, administrative, or public disapproval of editorial policy or content. Only for proper and stated causes, as defined by the Publications Council of the university, shall editors and managers be subject to such punishment, suspension, or removal. The academic status of a student editor or manager shall not be affected, provided, however, that they shall remain subject to the provisions of Section I.A.3.c. and 4.c.
 - d.** Responsibility to make clear in writings or broadcasts that editorial opinions are not necessarily those of the institution or its members.

3. Members of the university community have a responsibility to maintain the highest standards in the performance of their duties and to respect the aforesaid rights of their associates.

C.

The university, through those who administer its affairs, has a special responsibility to ensure that, in pursuance of its functions, the rights of all members of the university community are preserved, including, without limitation, the rights of such persons heretofore specifically enumerated.

The university has a right to expect, and a responsibility to ensure, within the scope of its legitimate functions as an institution of higher education, that all members of the university community fulfill their responsibilities to others as well as their responsibilities to the university.

1. The university has the right and responsibility to set and enforce reasonable standards of academic performance and personal conduct, in order to facilitate and safeguard the educational process, and to provide for the safety of the person and property of members of the university community, the university's physical property, and the person and property of others, to the extent that they are affected by university-sponsored activities or are engaged in legitimate activities on university property.
2. The university has the right and responsibility to provide procedures for determining the validity of charges that a member of the university community is negligent or irresponsible in the performance of their duties.
3. The university has the responsibility to ensure that the members of the university community have an opportunity to be heard at appropriate levels of the decision-making process about basic policy matters of direct concern. Clearly defined means should be available to ensure this opportunity.
4. The university has the responsibility to provide and maintain leadership and administrative procedures responsive to the needs and desires of the university community, consistent with high standards of academic excellence, and to the changing goals and responsibilities of institutions of higher education, including the responsibility:
 - a. To make, from time to time, a clear statement of its purpose and goals.
 - b. To disseminate information relating to the activities of the university, financial or otherwise, subject to the provisions of the Virginia Freedom of Information Act.

Interpretation Procedure

On September 24, 1974, President Graves issued a clarifying statement concerning the interpreting mechanism for the *Statement of Rights and Responsibilities*, and his memorandum of that date is an addendum to that Statement:

"The President of the College, by virtue of his responsibility to implement and administer the policies established by the Board of Visitors, is responsible for implementing the *Statement of Rights and Responsibilities*.

The normal tasks of *implementation* are the responsibility of various offices of the university 'who administer its affairs.' These offices, whose policies and practices have been brought into conformance with the *Statement*, 'have a special responsibility to ensure that . . . the rights of all members of the College community are preserved.'

There are, however, instances in which the *Statement* must undergo occasional interpretation in the process of its continuing implementation as a document.

In the *Statement of Rights and Responsibilities*, it is the responsibility of the President or an 'appropriate College authority designated by him' to determine when an exception to a specific section of the *Statement* should be made. The *Statement* also provides that members of the university community 'should enjoy the same fundamental rights and privileges . . . except in those rare cases where . . . the rights or privileges . . . would be in conflict . . . with the goals and purposes of the College as an institution of higher education.'

Although the *Statement* does not indicate who, other than the President, the arbitrating authority should be for exceptions, or who should interpret the *Statement* when there is a difference of opinion among members of the university community or between individuals and the institution, the clear implication in both cases is that it should be the President or 'an appropriate College authority designated by him.'

Therefore, I believe that it is desirable for us to proceed ahead along the lines suggested above. If and when relevant questions or issues are raised in connection with the *Statement of Rights and Responsibilities*, such questions or issues should be brought to the attention of the President's Office as they occur. I shall take responsibility, depending on the nature and substance of a case, for determining whether I or another administrative officer, whom I would designate, should handle the case. Whoever is given that authority shall take responsibility for consulting with those whom he believes appropriate, depending on the circumstances, before reaching a decision."

On May 2, 1990, Dr. Paul R. Verkuil, President of the College, issued the following interpretation of the *Statement of Rights and Responsibilities*:

"The *Statement of Rights and Responsibilities* guarantees to members of the university community the 'right in his or her dealing with the institution and with members of the

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College community in the performance of their official duties to nondiscriminatory treatment.' It further states that 'each member of the College community has the right to organize his or her own personal life and behavior insofar as it does not violate local, state, or federal law, College regulations or agreements voluntarily entered into and does not interfere with the rights of others.' It is my determination that these words express a right to privacy which extends not only to nondiscriminatory treatment in areas specified by federal law but to nondiscrimination based on sexual orientation as well. The student judicial code already ensures nondiscriminatory treatment without regard to sexual orientation. In accordance with the resolution of the Faculty Assembly, I am now directing that official publications of the university include specific reference to this topic in any enumeration of William & Mary's nondiscrimination policies. It is also my interpretation that faculty, staff and administration should be extended the same assurances against discrimination based upon sexual orientation as the student body itself. This interpretation will be made a part of the *Statement of Rights and Responsibilities*."

On May 1, 1996, President Timothy J. Sullivan issued the following clarification of the *Statement of Rights and Responsibilities*:

"Under Sections I.A. and I.B., each member of the College community has the right to be free from all forms of discriminatory treatment as guaranteed by law. Accordingly, the enumeration of specifically protected treatment should be understood to include disability, Vietnam veteran status and all other categories ensured by the Commonwealth and by federal law. For faculty, failure to comply with federal and state non-discrimination laws and policies shall be handled in accordance with provisions in the *Faculty Handbook*, including the procedural guarantees therein outlined. Students alleging failure to comply with federal and state non-discrimination laws and policies shall contact the Dean of Students and Vice-President for Student Affairs."

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 re-election 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.¹

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, and 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 By-Laws, and include:

¹ 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 2007 Bylaws of the College of William and Mary Board of Visitors.

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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 by-laws of the respective faculties, and the constitution and by-laws 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.

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 the College of William and Mary in Virginia. They 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 Vice President for Development, a Vice President for Student Affairs, a Vice President for Administration, a Vice President for Finance, and a Vice President for Strategic Initiatives. 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

Section II.B. The President of the College

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 the College of William and Mary in Virginia 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 the College of William and Mary in Virginia, 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 the College of William and Mary in Virginia, including any and all contracts for services, supplies and equipment; construction and professional services; real estate and property, leases, capital leases,

acquisition, 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 and information technology), 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, chaired 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 salaries, appointments, and promotions of staff and faculty of the university; the filling of vacancies on the faculties; and the establishment of new positions; all subject to appropriate approval and appointment by the Board of Visitors. 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

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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 *Faculty Handbook* section III.I. 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. FACULTIES AND INSTRUCTIONAL OFFICERS

The several faculties of the university are organized as the Faculty of Arts & Sciences, and the separate faculties of the Schools of Business, Education, and Law, and of the Virginia Institute of Marine Science, which includes the School of Marine Science.

Each of the faculties is presided over by a Dean and governs itself through by-laws adopted by the respective Faculties and approved by the Board of Visitors. The Dean of the Faculty of Arts & Sciences and the Deans of the Schools shall have general responsibility for the faculty under their jurisdiction and for the direction of the work of the faculty or School. The Deans shall report to the Provost, and shall be responsible for working directly with the Provost on academic planning, curriculum, budgetary matters, faculty appointments and educational policy, for recommendation as appropriate to the President. They shall exercise leadership in the development of educational programs, and shall preside at meetings of the Faculty or School over which they have jurisdiction (except when the President or the Provost chooses to preside).

E. 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 the College of William and 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-

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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 eleven-person Executive Committee, which 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.²

The Faculty Assembly's Executive Committee is a standing committee of ten elected Assembly members, six from the Faculty of Arts & Sciences and one each from the Schools of Business, Education, Law, and the Virginia Institute of Marine Science/School of Marine Science, as well as the faculty representative to the Board of Visitors. 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 III.F.1.i.).

2. Personnel Policy Committee

The Personnel Policy Committee of the university consists of the Dean of the Faculty of Arts & Sciences, and the Deans of the Schools of Business, Education, and Law, and the School of Marine Science, the members of the Procedural Review Committee (see II.E.3.), and the Provost as chair. The Committee advises the Provost, and through the Provost the President of the university, on personnel policy; all changes to the *Faculty Handbook* must be proposed through the Personnel Policy Committee (see III.J.2.). The Personnel Policy Committee is also charged with assessing the administrative feasibility of procedures adopted by the several faculties for the evaluation, retention and promotion of faculty members.

3. Procedural Review Committee

The Procedural Review Committee shall be a standing committee of eight members and eight alternates; four shall be elected from the Faculty of Arts & Sciences, and one each from the Schools of Business, Education, and Law, and the Virginia Institute of Marine Science/School of Marine Science. Representatives shall be elected for three-year terms; alternatives shall serve for three years after their active terms expire. Each Faculty or School shall provide for means of selection and for

² The description of the Faculty Assembly is contained in the Constitution of the Faculty Assembly of William & Mary.

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alternates. The members of the Procedural Review Committee also serve on the university's Personnel Policy Committee.

The President and the Provost shall consult with the Procedural Review Committee in the various circumstances provided for by this Handbook. The Procedural Review Committee is charged with reviewing the procedures established by departments and schools regarding faculty personnel decisions for consistency with the *Faculty Handbook* and with other university policy (see III.C.). The PRC shall also attempt to mediate allegations of discrimination or violation of academic freedom in tenure and promotion cases (see III.C.1.d.i.); it shall conduct informal investigation and mediation of allegations of incompetence, neglect of duty, or misconduct (see III.F.4.b.), or of termination of an appointment for medical reasons (see III.H.1.); it shall adjudicate claims of failure to follow procedure in appeals of decisions against renewal, tenure or promotion (see III.C.1.d.ii.), and it shall adjudicate claims of failure to follow procedure in appeals of major sanction, including dismissal (see III.F.6.a.), or in appeals of unresolved grievances (see III.G.1.).

4. Faculty Hearing Committee

The Faculty Hearing Committee shall be a standing committee of eight members and eight alternates; four members shall be elected from the Faculty of Arts & Sciences, one each from the Schools of Business, Education, and Law, and the Virginia Institute of Marine Science/School of Marine Science. Representatives shall be elected for three-year terms; alternates shall serve for three years after their active terms expire. Each faculty or school shall provide for means of 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 III.C.1.d.i.); in contested cases involving major sanctions of faculty members, including dismissal (see III.F.2.d., III.F.3.e., III.F.4.c., and III.F.5.); in grievance petitions (see III.G.); and in appeals of decisions to terminate for medical reasons (see III.H.2.) or for financial exigency or discontinuance of a program or department of instruction (see III.I.3.).

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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 of William & Mary, as well as those administrators who hold an academic appointment in a program, school or department (faculty appointment categories are enumerated in III.B.1. below).³ 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.⁴

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 fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the

³ 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).

⁴ 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.

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[academic] community for proposing, conducting, or reporting research”⁵; and they must adhere to the relevant policies of any granting agency⁶ as well as of the university (see, e.g., polices on “External Paid Employment,” and “Intellectual Property”).

Freedom to teach and freedom to learn are inseparable components of academic freedom.⁷ 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 III.C.1.). 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. All appointments require approval of the Board of Visitors.

1. Faculty Position Categories

Although differences in mission and organization among the several faculties of the university 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. All tenure eligible and tenured appointments must be made in either a department or School; however, faculty members may hold one or more joint appointments with another program, department, or School (see III.B.2.c. Joint Appointments).

⁵ United States. Office of Research Integrity. “Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research.” 1995. 1 June 2008.

⁶ See “Institutional and Federal Compliance Requirements.”

⁷ 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.

Section III.B. Appointment Categories and Contracts and Notices

William & Mary is an equal opportunity employer. The university recruits, appoints, retains and promotes faculty members in accordance with all federal and state non-discrimination laws and regulations, and with the university's policies.

Definitions: All William & Mary instructional and research faculty positions fall into one of the categories listed in this section, and all individuals who instruct any for-credit course or activity at the university must have an appointment within one of these categories:

- a. Tenured and tenure-eligible (TTE) faculty positions.
- b. Non-Tenure Eligible (NTE) faculty positions. NTE faculty include all faculty who are not eligible for tenure. NTE faculty positions fall within the following categories:
 - 1) Full-Time Continuing NTE positions hold a presumption of continuation.
 - 2) Full-Time Specified-term NTE positions are NTE positions that terminate on the date specified in the contract and hold no presumption of continuation.
 - 3) Part-time NTE faculty are faculty who are paid by the course or for specific contracted services; they normally do not receive benefits. Part-time NTE positions may be designated as either continuing or specified-term.
 - 4) Post-doctoral fellows hold specified-term appointments as defined in and subject to the conditions of III.B.1.b.2. above, except that the appointments may be either full-or part-time.
 - 5) Retired faculty.
 - 6) Affiliated scholars designated under the Affiliated Scholars program hold academic credentials equivalent to those of William & Mary faculty. This designation carries no salary, university duties, or expectation of university support. (For more information, see "Affiliated Scholars Program.")

2. Creating and Filling Faculty Positions

a. Tenured and Tenure-eligible faculty

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. Tenure-eligible appointments must carry one of the following titles: Instructor, Assistant Professor, Associate Professor or Professor. Tenured

Section III.B. Appointment Categories and Contracts and Notices

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

An appointment with tenure may be terminated by the university only for adequate cause (see Section III.B.2.d.).

Faculty who hold tenure-eligible probationary appointments may be considered for tenure under the provisions of Section III.C.1.b.ii. These probationary faculty appointments may be terminated at the end of any contract period following the standards defined in III.C.1. and the procedures defined in Section III.B.2.a.

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. NTE faculty

- 1) Establishment of NTE Faculty Positions. The dean of each school establishes (or - in the case of post-doctoral fellows - approves) NTE faculty positions in consultation with the appropriate faculty body in light of course- coverage and research demands and budgets. In the interest of transparency, the dean will explain to the faculty of the school the manner in which the dean has complied with this consultation requirement. NTE positions must carry one of the following titles:

Instructor, Lecturer, Senior Lecturer, Post-doctoral Fellow, Assistant Professor, Associate Professor or Professor.

For full-time NTE faculty, this title must be modified, as appropriate, with "Research," "Teaching," "Clinical," "Visiting," "Executive," or "of the Practice," unless otherwise approved by the Provost.

For part-time faculty, this title must be modified by "part-time," "adjunct," "visiting," "executive," or "of the practice."

- 2) Recruitment, Evaluation and Retention of NTE Faculty.

a.) Application of university Policies Generally.

- i. Recruitment and hiring of NTE faculty shall be in accordance with university procedures, which are available through the Office of Equal Opportunity;

Section III.B. Appointment Categories and Contracts and Notices

- ii. NTE faculty must possess the professional education, experience, and degrees appropriate or necessary for their duties; in addition, they must meet whichever of the following criteria are appropriate to their appointment, as specified in the individual's appointment contract: conscientious and effective teaching with proper command of the material of their fields, and helpfulness to their students; and/or contributions to their fields through research, scholarly, and/or creative activity, and/or through professional service.
- b.) School-Specific Policies. The TTE faculty of 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:
- i. provide for determinations of whether a given NTE appointment is specified-term or continuing;
 - ii. 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 from the EO Office an exemption from the regular university open search procedures;
 - iii. 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;
 - iv. 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;
 - v. specify roles of the dean and the TTE and/or NTE faculty in a formal process of retention;
 - vi. indicate the voting rights and allowed service/governance roles of NTE faculty. These voting rights must exclude involvement in matters related to tenured and tenure-eligible faculty appointments, retention, promotion, and tenure.
- c.) Evaluation of NTE faculty. An individual appointed to an NTE position undergoes evaluation and may be promoted in accordance with procedures established by the school, the department or the university in accordance with b.3.C.2. and b.3.C.3 below.

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- d.) A person in an NTE position may receive a tenure-eligible or tenured appointment only as a result of a search consistent with *Handbook* III.B.1.
- e.) Annually the Provost shall submit to the Faculty Assembly a report on NTE appointments. That report shall include information (provided in such a way that no individual may be 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 determine whether the conditions pertaining to such appointments are equitable and whether the appointments are in compliance with the *Faculty Handbook*, and report its recommendations to the Provost.

c. Joint Appointments

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

- 1) Characteristics of Joint Appointments. Joint appointments are possible between any units within William & Mary, or 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 department or School except as otherwise agreed in the memorandum of understanding. A tenured or tenure-eligible faculty member's home unit is the department or School of the faculty member's tenure line.
- 2) Appointment Procedures. The home unit for any tenured or tenure-eligible joint appointment must be either a School or department of the university.

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 are 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

Section III.B. Appointment Categories and Contracts and Notices

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.

- 3) 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 III.B.2.c.3.a, III.B.2.c.3.b, and III.B.2.c.3.c.

- a) 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 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. Chairs, program directors, and deans shall be especially cautious when defining governance expectations for pre-tenured faculty holding joint appointments.

- b) 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

Section III.B. Appointment Categories and Contracts and Notices

solicit input from the host unit for annual merit evaluations and 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.

c) 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 FTE 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.

3. Retired faculty

- a. **Emeritus Faculty.** Retired faculty may be awarded "emeritus" status (see III.C.I.e.).
- b. **Retirement Transition.** Retired faculty members with at least ten years of full-time service at the university may, with the approval of the appropriate program director, department chair, and/or Dean and of the Provost, be eligible for re-employment with reduced responsibility. For all the terms of these appointments, see "Faculty Retirement and Return to Work Policy."

4. Affiliated Scholars

Certain individuals who hold academic credentials equivalent to those of William & Mary faculty may be designated Affiliated Scholars (for more information, see "Affiliated Scholars Program." Appointment as an Affiliated Scholar is non-salaried, carries no university duties, and implies no university support.

5. Contracts and Notices

Section III.B. Appointment Categories and Contracts and Notices

The terms and conditions of all initial appointments to a faculty of the university, with or without tenure, 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.

a. Notice to full-time faculty

In accordance with the definitions in Section III.B.1.a. and b. above, written notice that an appointment is not to be renewed shall be given to those faculty members having tenured, tenure-eligible, or specified-term appointments in advance of the expiration of the appointment, as follows:

- i. Not later than March 1 of the first academic year of service in that appointment, if the appointment expires at the end of that academic year.
- ii. Not later than December 15 of the second academic year of service in that appointment, if the appointment expires at the end of that academic year.
- iii. At least twelve months before the expiration of an appointment if the faculty member has held the appointment for two or more years.

The university will issue salary letters to tenured and tenure-eligible faculty members, and notify all other full-time faculty members of the terms and conditions of their renewal, as soon as possible after the Board of Visitors approves the budget for the following year. Late action by the General Assembly on the university's budget occasionally may delay this process.

b. Contract and Renewal of Part-time faculty

Contracts for part-time faculty are issued at the time of hire and specify the conditions and duration of employment (usually one or two semesters). An appointment may be renewed for a subsequent term given appropriate administrative approval of a new contract; however, there is no presumption of continuance or renewal based on prior service, and the university may decide not to renew a contract without explanation.

c. Resignation by Faculty Members

A faculty member may resign from a continuing appointment effective at the end of an academic year provided that notice is given in writing at the earliest possible opportunity, but not later than May 15, or 30 days after receiving notification of the terms of appointment for the coming year,

Section III.B. Appointment Categories and Contracts and Notices

whichever date occurs later.⁸ A part-time faculty member may resign from a continuing appointment effective at the end of an academic semester, provided that notice is given in writing at the earliest possible opportunity, but not later than December 15 of the Fall semester or May 15 of the Spring semester, or 30 days after receiving notification of the terms of appointment for the coming term, whichever date occurs later. Any faculty member may request a waiver of this requirement of notice from the Provost in case of hardship or in a situation where significant professional advancement or other opportunity would otherwise be denied.

d. **Termination of an Appointment with Tenure, or of a Non-Tenured Appointment Before the End of the Term Specified in the Faculty Member's Contract**

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

- i. 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;
- ii. Medical reasons of such a nature as to render the faculty member unable to fulfill his or her professional responsibilities; or
- iii. Bona fide financial exigency on the part of the university or discontinuance of a program, department, or school of instruction.

Standards for each of the above grounds are listed in III.F., III.H., and III.I. below.

e. **Retirement**

In accordance with the 1986 Amendments to the Age Discrimination in Employment Act (1967), there is no mandatory retirement age for any member of the instructional faculty. When possible, full-time faculty members should notify their department chair and/or Dean at least three years in advance of their projected retirement date so that they might be apprised of the full range of retirement options and benefits.

⁸ Also, see "Instructional, Administrative and Professional Faculty Clearance Policy and Procedures."

C. PROCEDURES FOR THE EVALUATION OF FACULTY

The university recognizes the fundamental principle that both colleagues and administrative officers should evaluate faculty members. Deans, chairs, and, when appropriate, program directors, shall conduct periodic evaluations of all faculty members in the program, department or school, regardless of rank. The procedures and standards for evaluation followed by each school, department or program shall be adopted by majority vote of that unit; they are subject to the approval by the appropriate Dean and by the Provost, and they must be approved by the Procedural Review Committee for consistency with university policies. Procedures become effective when ratified by the Committee on Personnel Policy of the university. The standards shall be applied in a manner that fosters each program's, department's or school's mission and serves to maintain the overall quality of the faculty.

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 program, department or school. Faculty members shall be advised in writing by the appropriate administrative officer 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;⁹ they shall have timely access to their personnel records as required by law;¹⁰ 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.

1. Tenure-eligible and Tenured Faculty

Though specific procedures and standards among the several faculties of the university 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 Section III.C.1.a. b., and c. below.

⁹ 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.

¹⁰ 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. See this page.

Section III.C. Procedures for the Evaluation of Faculty

a. Annual Merit Review

Program directors, department chairs, and Deans 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 III.C.1.a.i. below) and acknowledging good work or pointing out areas in need of improvement. As described in III.C.1.c. below, 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, and service and/or governance in accordance with the categories established for faculty evaluation in III.C.1. above. As part of this review, each faculty member shall submit an annual report in a format prescribed by the unit that summarizes teaching, research, and service and/or governance, as well as other information deemed pertinent by the relevant authorities (as appropriate, the faculty review committee, the program director, the department chair, and/or the Dean). 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. Summaries of annual merit reviews must be submitted by the department chairs and program directors, if any, to the Dean; the Dean may request additional information.

i. Salaries

Specific criteria for awarding salary increases are established by the university and may be governed by the Virginia General Assembly.

The initial responsibility for recommending merit salary increases rests with the department chair or program director in Arts & Sciences, or with the Dean, or designated associate dean, in the schools and the Virginia Institute of Marine Science. These recommendations are subject to review and adjustment by the Dean of the Faculty of Arts & Sciences, or by the Dean of the School, or by the Director of the Virginia Institute of Marine Science, and, finally, by the Provost.

b. 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 program, department, and/or school. The Dean(s) of the appropriate faculty and/or school(s) 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

Section III.C. Procedures for the Evaluation of Faculty

prepared by faculty groups given an official role in the units' procedures.¹¹ 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.

The general categories governing interim, tenure, and promotion reviews are delineated in III.C.1. Each recommending authority will consider all relevant information obtained for the evaluation, which must include students' evaluations of the candidates' teaching; tenure and promotion reviews shall include the opinion of experts outside the university.¹² The categories shall be employed in a manner that fosters each Faculty'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.

i. 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 appropriate administrative officer(s) 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.1.b.ii. below) 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 in III.C.1. above, with the procedures delineated in III.C.1.b., and with the standards and procedures adopted by the faculty member's program, department, 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.¹³

¹¹ 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.

¹² 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.

¹³ For more information, see the Provost's memo on "Promotion and Tenure Files and Interim Reviews."

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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 candidates' tenure dossiers 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 department chair and/or 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 III.C.1.d. below.

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

(A) **Timing of Tenure Review; Length of Probationary Period**

At the time of their initial appointment and again as deadlines approach, tenure eligible faculty members shall be advised in writing by the appropriate administrative officer(s) when decisions affecting their retention and their tenure and promotion to associate professor are to be made. Per AAUP guidelines, the probationary period for a faculty member in a full-time position shall not exceed seven years,¹⁴ 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 III.C.1.b. 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,¹⁵ with

¹⁴ 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: 4. 1 June 2008

¹⁵ 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.2.; such a review should begin as soon as

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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 appropriate administrative officer(s) 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 the final contract.

(1) Extension of Probationary Period

When a tenure-eligible instructional faculty member uses 120 days or more of paid or unpaid disability, medical or family leave¹⁶ 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 Chair no later than March 15 of the contract year before which the tenure review normally would occur. An untenured instructional faculty member who uses less than 120 days of paid or unpaid disability, family, infant, newly-adopted child care 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 and/or department chair. 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.

possible after the error is discovered and in no case later than the next academic year.

¹⁶ See Section III.D. on "Leaves of Absence."

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(2) 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 appropriate administrative officers, 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 III.B.2.

(B) 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 III.C.1., with the procedures delineated in III.C.1.b.,¹⁷ and with the standards and procedures adopted by a majority vote of the faculty member's program, department, 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.¹⁸

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 III.C.1.d. below; 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.

¹⁷ 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."

¹⁸ For more information, see the Provost's memo on "Promotion and Tenure Files and Interim Reviews," 2006.

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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.2.a. Should a determination be made, either by the Provost or by the Procedural Review Committee and/or the Faculty Hearing Committee, as described in III.C.1.d. below, 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.

iii. **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 Associate Professor,¹⁹ 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, chair, or Dean, 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 III.C.1., with the procedures delineated in III.C.1.b, and with the standards and procedures adopted by the faculty member's program, department, 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.²⁰

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 of the faculty or school. If the faculty member so requests, the Dean will provide the reasons for the recommendation in

¹⁹ Time in rank is not consistent across the faculties; the Law School, for example, typically requires fewer years in rank before promotion.

²⁰ 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.

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writing. Faculty members who are turned down for promotion to Professor may appeal on the procedural or substantive grounds described in III.C.1.d. below, 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.

c. **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 re-tenuring 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 program, department and/or school, subject to approval by the appropriate Dean and by the Procedural Review Committee and the Personnel Policy Committee. The standards shall be applied in a manner that fosters the mission of the relevant program, department 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 program, department, or school, as described below, or when the program director, department chair, or Dean determines, based on annual merit reviews and in accordance with the standards and procedures of the program, 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.²¹ 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, and 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 an individual unit from conducting regularly scheduled reviews of its faculty members in addition to the annual merit reviews. In order to qualify

²¹ Individuals holding administrative or professional faculty appointments—including the Provost, and the Deans of the Schools and of the Faculty of Arts and Sciences—are not subject to annual merit or to post-tenure review as long as they hold such full-time administrative appointments.

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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 program, department, 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 their 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 plan” shall be developed according to the procedures set forth below, and the Dean shall forward a report to the Provost for their 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. of the *Faculty Handbook*.

i. 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

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the date the faculty member receives notice of a finding of “unsatisfactory overall performance” as determined under the provisions of Section III.C.1.c. above, 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 or not an “individual improvement plan” is acceptable ultimately belongs to the Dean; however, in deciding whether or not 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. of the *Faculty Handbook*. Sanctions (excepting dismissal) do not obviate the need for improvement in performance; the Dean shall also order revision and resubmission of the performance plan.

ii. 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. of the *Faculty Handbook*.

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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.1.c. above),²² or implement proceedings for sanction or dismissal in accordance with Section III.F.4. of the *Faculty Handbook*.

iii. 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.

²² 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.

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d. **Appeals by Tenured or Tenure-Eligible Faculty Members of Decisions Not to Renew, Tenure, or Promote**

The university – acting through the appropriate recommending authorities – may decide not to renew the contract of, award tenure to, and/or promote a tenure-eligible faculty member, and may 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 their duties; conscientious and effective teaching with proper command of the material of their fields, and helpfulness to their students; the appropriate level of contributions to their 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.1. above).

When a decision or recommendation not to renew a contract, 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 or decision in writing by the department chair, when appropriate, and by the Dean of the faculty or school, and, upon request, will be advised of the reasons which contributed to that decision. If the faculty member so requests, the reasons explanation of the decision not to renew or to deny tenure or promotion will be confirmed in writing.

A candidate whose contract has not been renewed or who has been denied tenure or promotion may request reconsideration by the decision-making authorities. The request shall set forth the basis for reconsideration in detail. In addition, candidates may file a formal appeal on these two grounds: (i) violation of academic freedom or policies governing non-discrimination; and/or (ii) failure to follow procedure. Following the review procedures described below, should the university's Faculty Hearing Committee or the Procedural Review Committee find that a candidate has been discriminated against, that his or her academic freedom has been violated, or that there has been a failure to follow procedure in his or her case, that candidate has the right to have the decision reconsidered.

In cases in which no evidence of violation of academic freedom, discrimination, or failure to follow procedure is found, reconsideration of a decision not to renew a contract or against tenure or promotion can be undertaken only with the approval of the Provost.

i. **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

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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 thirty 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.²³

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.²⁴ 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.

- (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) determine which facts the parties can

²³ 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.1.d.i. 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 College 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.

²⁴ Following the "Recommended Institutional Regulations on Academic Freedom and Tenure." American Association of University Professors. *Policy Documents and Reports*, 10th ed. Washington, D.C., 2006: 26. 1 June 2008.

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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.

- (B) Service of notice of hearing with specified charges in writing will be made at least twenty 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.
- (C) 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.
- (D) During the proceedings, the complainant and the respondent each may have an advisor and/or lawyer of their own choice.
- (E) At the request of either party or the Faculty Hearing Committee, a representative of an appropriate educational association (such as the AAUP) 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 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.
- (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.

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- (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 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.
- (K) 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.
- (L) 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.

ii. **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

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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.

e. Emeritus Faculty

Retired faculty may be awarded "emeritus" status as recognition of their dedicated service and meritorious contributions to the university and academic community. Retired associate professors in the Faculty of Arts & Sciences may be promoted to Professor Emeritus. The award "emeritus" and/or promotion to Professor Emeritus must be approved by the department or school in which the retiree held his or her appointment (consistent with any relevant department or school procedures and with the standards enumerated in III.C.1.), by the appropriate Dean(s), and by the Provost, President, and Board of Visitors. Emeriti faculty members continue to enjoy certain privileges of active faculty members, including parking, email, and library loan privileges.

2. Specified Term and Part-time Faculty

Specified-term and part-time faculty do not have tenure, and their appointments depend on the teaching needs of the university, on research opportunities, and on available funds. However, specified-term and part-time faculty (including post-doctoral fellows) who are in continuing appointments or whose appointments are to be renewed shall undergo annual evaluations conducted by the program director, chair, or Dean, or by a faculty committee when specified in the units' procedures; or, when the appointment is created by an external granting agency, by the principal investigator holding the grant. If the evaluation is not prepared by a program director, chair, or Dean, (e.g., if it is prepared by a faculty member serving as principle investigator on a grant or by a faculty personnel committee), a summary of the annual review must be submitted to the program director, chair, or Dean; these summaries, in turn, shall be forwarded by chairs and program directors to their Dean and then by the Dean to the Provost. Throughout the university, the criteria for evaluation of specified-term and part-time faculty (including post-doctoral fellows) are as follows: individuals must possess the professional education, experience, and degrees appropriate or necessary for their duties; in addition, they must meet whichever of the following criteria are appropriate to their appointment, as specified in the individual's appointment contract: conscientious and effective teaching with proper command of the material of their fields, and helpfulness to their students; and/or contributions to their fields through research, scholarly, and/or creative activity, and/or through professional service.

D. LEAVES OF ABSENCE

1. General Leave Policies

a. Eligibility for Leave

Only members of the faculty holding full-time continuing appointments are eligible for the academic and non-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 College precludes the approval of such a leave. Persons holding one-year specified-term appointments are normally not eligible.²⁵ 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 benefit.

²⁵ Unless their contract so stipulates.

b. Benefits

It is the university's general policy to continue medical insurance, life insurance, and retirement plan payments for faculty in full-time continuing appointments receiving at least 50% of their contract salary.

c. Procedures

When faculty members on 12-month contracts take disability/sick leave for more than ten working days (cumulative) or when they take annual leave, they must report their leave to the Office of Human Resources (available under "Employee" on Banner). Tenured and tenure-eligible faculty members on nine-month contracts must comply with the guidelines described under each applicable leave below. For purposes of this policy statement, one semester is defined as the period from the beginning of the orientation period through the end of the examination period. An eligible faculty member may request and the appropriate administrative officer may recommend that the Provost grant unpaid leave to augment any of the leaves described below; however, additional academic leave taken under these circumstances will be at reduced pay or at no pay if not covered by external sources.

d. Instructional Program and Faculty Responsibilities

When an instructional faculty member takes leave of any kind, the university will strive to minimize the effect on the instructional program. The program director, department chair, and/or Dean, 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 for all of an academic term, even though a faculty member has returned to work before the semester's end or does not begin leave until after the semester has started. Whenever possible, replacements should be full-time. However, 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.

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. For a leave to be considered academic, its primary purpose must be to enhance the scholarly and/or teaching skills of the faculty member. If there is uncertainty about the primary purpose of a proposed leave, the Provost may

Section III.D. Leaves of Absence

request an opinion from the appropriate Dean or from the Faculty Research Committee.

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. In the normal course of events, research-active faculty members will receive a Scheduled Semester Research Leave every seventh year of continuous employment. Faculty who receive and accept a Scheduled Semester Research Leave shall, after the completion of the leave, submit a Leave Activity Report; failure to do so may render the faculty member ineligible for a subsequent Scheduled Semester Research Leave (see “Scheduled Semester Research Leave Policy.”)

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 travel; it may be with pay, at reduced pay, or without pay. It is the university’s general policy to continue medical insurance, life insurance, and retirement plan payments for those receiving at least 50% of their contract year salary from the university. See “Academic Leave Without Pay or At Reduced Pay.”

c. Educational Leave

Educational leave may be granted for specific courses of study related to the academic work of the faculty member. A program requiring more than twelve months in the aggregate of resident study may not be initiated without prior justification to and approval by the appropriate Dean(s), the Provost, and the Board of Visitors. Educational leaves are unpaid, provided that, if the university budget permits, a faculty member may receive a portion of salary as well as registration, laboratory, and tuition fees for work towards a degree if that degree is essential to maintain the standards of the university. Applications for such financial support must be made to the appropriate administrative officer and are subject to approval by the Provost.

d. 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 and of the Board of Visitors. Academic leaves must be at

least one semester in duration. Full-time continuing instructional faculty may take no more than two consecutive years of academic leave. Any faculty member who receives any university funding for an academic leave must return full-time to the university for at least one academic year immediately following the leave.

3. Non-Academic Leaves

a. Fully Paid Leaves

Eligible faculty members are entitled to 120 calendar days of paid leave for medical inability to work or family/medical leave, as described below. Although the need for extended leave is often unanticipated, faculty members shall notify the Office of Provost, through the appropriate Dean(s), of the need for paid leave, including paid dependent care leave as provided below, as soon as reasonably practicable. Excepting infant care or newly-adopted child²⁶ care as defined below, if the medical inability to work extends or is expected to extend beyond three weeks, a physician's statement verifying inability to work, including the date when return to work is expected, must be presented to the appropriate Dean(s) and to the Provost .

i. Disability Leave

Eligible faculty members initially shall have available to them up to 120 calendar days of paid disability leave for medical inability to work due to illness, injury, or pregnancy. Faculty members who use all or any portion of the initial 120 days of paid disability leave during any contract year²⁷ shall be credited with up to 30 additional days of paid disability leave effective the beginning of each succeeding contract year but the total number of days available may never exceed 120, and faculty members may not use more than 120 days of paid disability leave during any contract year. No severance payments will be made for unused paid disability leave. See also Section III.D.3.d. below (Long-term Disabilities).

²⁶ “Newly-adopted child” may include a child who has been brought into the faculty member’s home and whom the faculty member intends to make a permanent member of the family through adoption. The first year of adoption begins at the time the child is brought into the home, not at the time the adoption is finalized.

²⁷ The term "contract year" means, for faculty with nine-month contracts, the period from August 16 through May 15 of the succeeding year, and for faculty with twelve-month contracts, the period from July 1 through June 30 of the succeeding year.

ii. Paid Family/Medical Leave

The following kinds of dependent care leave may qualify for up to 120 days of paid leave:

- care for an ill or injured family member ("family care");
- care for the faculty member's child, including a step-child, under the age of one without regard to illness or injury ("infant care"); and
- care for a faculty member's newly adopted child under the age of seven during the first year of adoption without regard to illness or injury ("newly-adopted child care").

Paid leave for family care, infant care or newly-adopted child care leave is available only when the faculty member is the person who primarily provides for the physical care of the family member, infant or newly-adopted child. When practicable, paid leave for infant care or newly-adopted child care should be taken wholly within one semester. Disability leave associated with pregnancy and dependent care leave may be combined, provided that the total paid leave does not exceed 120 days (per III.D.3.a. above); except under exceptional circumstances and subject to approval by the Provost, instructional faculty leave must be taken during a single semester for a single pregnancy/birth.

b. Unpaid Leaves and Reduced Responsibility Contracts

i. Unpaid Disability or Family/Medical Leave

In addition to the paid leave described above, eligible faculty are entitled to up to one semester of unpaid leave each contract year for disability, family care, infant care, newly-adopted child care or parental leave (as defined below). Any faculty member who has exhausted his or her entitlement to paid leave during any contract year and who needs to begin unpaid leave shall contact the Provost as soon as reasonably practicable. Requests for unpaid leave beyond the 120 day entitlement require the approval of the Provost. Full-time continuing instructional faculty who fall below 50% of their contract salary may lose benefits (see III.D.1.b. above). See also Section III.D.3.d. below (Long-term Disabilities).

(A) Parental Care Leave

A faculty member is entitled to up to 120 calendar days or, in the case of instructional faculty, up to one full semester, of unpaid leave during a contract year to care for a dependent child, including step-children, under the age of seven. Unpaid parental care leave is available only if the faculty member certifies that he or she is the person who primarily provides for the physical needs of the child. As a matter of entitlement, parental care leave can be taken only once per child. Instructional faculty must take unpaid parental care leave for an entire semester; no partial-semester parental care leave will be granted. An instructional faculty member wishing to take unpaid parental care leave must notify the Provost of his or her intent to take such leave no later than February 15 of the contract year prior to which such leave will be taken. Administrative and professional faculty must notify the Office of the Provost at least three months in advance of such leave.

ii. Reduced Responsibility Contracts

A faculty member who becomes partially disabled, or who wishes to care part-time for an ill or injured family member, infant or newly-adopted child, or dependent child under the age of seven may 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. A reduction in responsibilities below 50% of full-time responsibilities will affect availability of benefits.

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 program director, department chair, and/or dean.

c. Employment of Both Parents

If both parents of a child or step-child hold faculty appointments, the time limitations governing paid family care for a child, infant care and newly-adopted child care leave will be combined so that the maximum paid leave period of the parents may not exceed 120 days per child during any contract year and, for such purposes, may not accrue at a combined rate of greater than 30 days per year per child in succeeding contract years. The provisions of this subsection shall not affect a faculty member's

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entitlement to paid disability leave for illness or injury, paid family care leave to care for other family members besides a child, unpaid leave of any kind, negotiation of reduced responsibility contracts, or right to seek an extension of the tenure probationary period for paid or unpaid disability, family, infant, or newly-adopted child care leave actually taken by the faculty member.

d. Long-term Disabilities

The university provides a long-term disability insurance policy for tenured and tenure-eligible faculty members.²⁸ Benefits under the insurance policy are governed by the terms of the policy in effect when a disability is incurred. The university is under no obligation to extend indefinitely unpaid leaves of absence for illness or injury but will try to accommodate lengthy illness or injury so long as, to a reasonable medical certainty, the faculty member is expected to recover and be able to return to work within a reasonable period of time. Decisions regarding granting unpaid leaves of absence for illness or injury will be made by the Provost, in consultation with the affected faculty member, and the faculty member's program director, department chair, and/or dean.

e. Unpaid Leave or Reduced Responsibility Leave to Pursue Professional or Political Activities

Provided that they meet their primary duties to the university, full-time continuing instructional faculty members may occasionally apply for unpaid leave or negotiate reduced responsibility contracts to pursue other professional work or to run for and/or hold political office. Such leaves must be for a reasonable amount of time and require the approval of the Provost and of the Board of Visitors. The terms of such leaves 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 President or Provost in writing.

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

²⁸ Certain specified-term faculty members are also provided long-term disability insurance as stipulated in their contracts.

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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").

a. Employment of family members

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. (See section III.F.2. below)

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 insure unbiased supervision or evaluation of the person supervised.

b. Consensual Amorous Relationships with Students²⁹

(i) Relationships with Undergraduate Students Prohibited

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

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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.

(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 him- 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 Deans of the School or Faculty 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 him- 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

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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 department chair or academic Dean (see III.F.4. below). 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. of the *Faculty Handbook*.

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 College 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 College'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 "Policy on External Paid Employment.")

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 evidence³⁰ 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.

³⁰"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.

iv. **General Principles and Procedures**

1. **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.

2. **Definitions**³¹

- 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 may also be made to the officers specified in the applicable complaint/investigation procedures.
 - a. 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.”³²
- 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

³¹ 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.

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

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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.

- 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.³³ 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

³³ 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 Director of Equal Opportunity.

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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 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."³⁴

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 him- 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 III.F.1.c. above on confidentiality). 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).³⁵ Absent any mutually-agreed upon solution,

³⁴ United States. Office of Research Integrity. "Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research." 1995. 1 June 2008.

³⁵ 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,

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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 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 III.F.2.c., 3.d., and 4.b. below).

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 III.F.3.e. and 4.c. below); 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;

and only with the approval of the Provost.

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- 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;
- 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.6. below).

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 College 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

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those, who have made a significant contribution; and all (co-)authors must be willing and able to defend publicly their contribution 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 particular scholarly community] 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.³⁶

- 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 program

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

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director, chair or dean of the accused; 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 III.F.1.g. above. If an individual alleging academic misconduct (hereafter, 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 ORI 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 ORI 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 III.F.3.d. below, 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. However, once the administrator finds evidence that the allegation of academic misconduct is credible and/or that any of the conditions enumerated in III.F.3.c. below obtain, the administrator shall report the matter immediately to the Provost (or his or her designee).

c. Reporting Requirements

Per Office of Research Integrity regulations,³⁷ 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.

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

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The university will take appropriate interim administrative actions during the inquiry and any investigations (subject to III.F.1.i.) 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 program director, chair, or Dean reports an allegation of academic misconduct to the Provost, he or she shall discuss the allegation with the accuser and the accused, and 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 ten 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 ten 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

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committee of any requirements of external agencies relevant to the allegation or to the way in which the informal investigation is to be conducted.³⁸ 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.³⁹ The committee may 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 ten 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 ORI 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, he/she/they may request a hearing by the Faculty Hearing Committee per III.F.5. below. The Provost (or his or her designee) shall also inform any external agencies, per their regulations, of the outcome of

³⁸ 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.

³⁹ 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.

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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 fifteen 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.5. below. 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.⁴⁰ 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.

⁴⁰ E.g., formal investigations of allegations of academic misconduct involving research supported 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.

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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.⁴¹ 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 III.F.3.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 serious error, the faculty member shall have ten 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

⁴¹ 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.

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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.
 - i. 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.
 - ii. If the Provost rejects the Committee's Formal Findings, he or she will state the reasons for doing so, in writing and within ten calendar days, to the Committee and to the faculty member, and provide the Committee and the faculty member ten 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 III.F.1.b.viii.) on procedural grounds to the Procedural Review Committee (per III.F.6.a. below) or on any other grounds first to the President and then to the Board of Visitors (per III.F.6.b. below).

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 fifteen 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 with 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.

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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, collaborators.
- State professional licensing boards.
- Editors of journals in which fraudulent research was published.
- Professional societies.
- 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 Provost's Office 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 program director, department chair, or Dean 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,⁴² 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 III.F.1.c.). No notes, reports, files, or other written documents shall be kept about the conversation. Should safety considerations require the

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

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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 s/he 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 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.

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 ten 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 ten 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.

c. Formal Investigation and Resolution

Should the Provost determine that there is sufficient evidence in support of the allegation, s/he 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 III.F.5. below; 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's member's responses (if any).

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- 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 ten 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 ten calendar days, to the Committee and to the faculty member; the Committee and the faculty member shall have ten 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 III.F.1.b.viii.) on procedural grounds to the Procedural Review Committee (per III.F.6.a. below) or on any grounds first to the President and then to the Board of Visitors (per III.F.6.b. below).
- 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 Investigation⁴³

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 him or herself from the case if she or he 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.

- 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) 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.
- ii. Service of notice of hearing with specific charges in writing will be made at least twenty 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.
- iii. 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.
- iv. During the proceedings, the faculty member will be permitted to have an advisor and/or lawyer of the faculty member's own choice.
- v. 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.

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

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- 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 burden of proof rests with the university and shall be satisfied only by clear and convincing evidence⁴⁴ 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.
- 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 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.
- xi. In the hearing of charges of incompetence, the evidence should include testimony of qualified faculty members from this or other institutions of higher education.
- xii. 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, including appeal to the Board of Visitors

⁴⁴ 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.

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- xiii. 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 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 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 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 fourteen 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

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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 III.F.1.b.viii.), the faculty member may appeal to the President within fifteen 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 fifteen 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. The decision of the Provost will either be sustained, or the proceeding 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 turpitude⁴⁵ the faculty member shall receive compensation and notice in accordance with the following

⁴⁵ 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

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schedule: at least 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 eighteen months) of service; at least one year, if the decision is reached after eighteen 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

If any full time, part time or emeritus faculty member or group of faculty members⁴⁶ 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 (hereafter, 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 of the Faculty or School, 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 faculty). 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,⁴⁷

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 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*, 10th 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.

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

⁴⁷ 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.

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explaining the basis for its decision. The Committee's decision shall be final, and may be appealed only on procedural grounds (see III.G.1. below).

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 ten 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 opportunity:

1. To submit their written statements and responses.
2. To appear before the Committee.
3. To present appropriate evidence and arguments.
4. 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.
5. To be represented by a lawyer or other person (at the petitioner's or respondent's expense).
6. To ask a representative of an appropriate educational association to attend the proceedings as an observer.
7. 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 evidence⁴⁸ 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

⁴⁸ 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.

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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 FHC 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 fifteen 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 III. J. for issues related to this *Faculty Handbook*).

1. 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

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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 fourteen 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

1. Informal Inquiry

A faculty member in a tenured or tenure-eligible position, or a faculty member in a specified term appointment who has not reached the end of his or her contract, may be dismissed for physical or mental disability only on the basis of clear and convincing medical evidence¹ that the faculty member, even with reasonable accommodation, is no longer able to perform the essential duties of the position. When a program director, department chair, or Dean finds evidence that a faculty member under his or her supervision may be unable to perform the essential duties of his or her position, that administrative officer shall discuss the problem with the faculty member or with the faculty member's representative. The administrative officer shall provide the faculty member (if necessary, via the representative) an opportunity to respond; he or she shall seek a solution that is mutually satisfactory.

Should no settlement be reached, the administrative officer shall notify the Provost in writing and provide a copy of the notification to the faculty member; the faculty member will have ten calendar days to respond. The Provost shall then submit the written statement describing the problem, framed with reasonable particularity,

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along with any response from the faculty member, to the Procedural Review Committee, which shall initiate an informal investigation. The Procedural Review Committee may, at its discretion, consult the university's Equal Opportunity Officer in order to determine whether the university has offered "reasonable accommodation." The Procedural Review Committee 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 dismissal proceedings should be undertaken, without its opinion being binding upon the Provost. The faculty member shall receive a copy of the report and shall have ten calendar days in which to submit a response to the Provost. If the Provost and the faculty member are still unable to reach a settlement and the faculty member requests a formal hearing, the Provost will initiate the formal investigation.

2. Formal Investigation

The formal investigation shall be conducted by the Faculty Hearing Committee per the procedures outlined in III.F.5. The burden of proof that the faculty member is no longer able to perform the essential duties of the position, even with reasonable accommodation, rests with the university and shall be satisfied only by clear and convincing evidence⁴⁹ in the record considered as a whole. Should the proceedings result in dismissal, the faculty member may appeal to the President or to the Board of Visitors per the procedures outlined in III.F.6. The faculty member shall receive compensation and notice in accordance with the following schedule: 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 eighteen months) of service; at least one year, if the decision is reached after eighteen months of service or if the faculty member has tenure. On the recommendation of the Faculty Hearing Committee and/or the President, the Board of Visitors, in determining what, if any, payments will be made beyond the schedule outlined above may take into account the length and quality of service by the faculty member.

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⁴⁹ 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.

⁵⁰ These standards and procedures follow the American Association of University Professors' "Recommended Institutional Regulations on Academic Freedom and Tenure." *Policy Documents and Reports*, 10th ed. Washington D.C.2006: 24-5. 1 June 2008.

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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 College.

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 membership⁵¹), 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 AAUP Guidelines "On Institutional Problems Resulting from Financial Exigency."⁵² 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).

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

⁵¹ 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.

⁵² American Association of University Professors. *Policy Documents and Reports*, 10th ed. Washington D.C, 2006: 147.

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terminating tenured faculty, except in extraordinary circumstances where a serious distortion of the College'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 thirty calendar days of receipt of notice of intent to terminate.

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

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 III.I.1. above) 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.⁵³ 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 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. The criteria may include consideration of length of service. The committee should consult all concerned programs or departments as part of its deliberations. Before

⁵³ 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.

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terminating an appointment, the committee shall make every effort to find another suitable position at the College for the faculty member, even if such an appointment requires retraining. Per AAUP 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.⁵⁴

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 thirty calendar days of receipt of notice of intent to terminate.

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

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.
- 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.

⁵⁴ American Association of University Professors. "Recommended Institutional Regulations of Academic Freedom and Tenure.," *Policy Documents and Reports*, 10th ed. Washington, D.C. 2006): 25. 1 June 2008.

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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 thirty 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 III.F.6.

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 eighteen months) of service;
- at least one year, if the decision is reached after eighteen 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

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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 they deem 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 III.J.2 and 3. Any such suspension, reassignment or limitation of access shall be with full pay and benefits.

v. Notification of Faculty Member and Right of Response

Any suspension, reassignment, or access limit imposed pursuant to 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 them in writing of the proposed action, (b) inform them of the reasons for the action, (c) inform them of the right to waive consultation with the Faculty Assembly Executive Committee (*see* 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 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

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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 Provost’s Office website. All instructional faculty will receive a print copy of the *Handbook* when they receive their initial appointment contract; however, all subsequent interpretations/amendments of the *Handbook* will be made to the version on the Provost’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 III.J.2. below.

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.

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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

- a.** 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
- b.** 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 re-submitted 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.