4.4.6 Dismissal

Formerly Known As Policy Number: 4.4.F

(1) a. Where the University proposes to dismiss an academic appointee or to penalize the faculty member by a discriminatory reduction of salary for reasons of substantial and manifest incompetence, as specified in Section 4.4.2(1)a, the individual shall first be notified (confidentially, if possible) of the charges and given an opportunity to reply. If the matter cannot be settled by agreement and if the individual wishes to contest the charges, the individual may demand a formal hearing before the Advisory Board. If such a demand is made, the President shall submit a formal statement of the charges in writing to the chair of the Advisory Board, with a copy to the individual. The chair of the Advisory Board shall set a time and place for a hearing of the charges, giving notice to the individual and allowing him or her sufficient time to submit a written reply to the charges and to prepare a defense. The hearing shall be private unless either the individual faculty member demands a public hearing or the Advisory Board, by majority of the whole Board, after consultation with the parties, decides upon a public hearing. If facts are in dispute, the Advisory Board shall take the testimony and receive evidence. Both parties may have the assistance of counsel and shall have the right of confrontation of witnesses and cross examination. However, technical rules of legal evidence need not be strictly applied. A stenographic record of the hearing shall be kept and copies made available to both parties. Oral arguments may be made by both sides after the evidence has been submitted and, if the Advisory Board desires, supplementary written briefs may also be submitted. The Advisory Board shall make a written decision including express findings upon all disputed matters of fact and should make an explicit ruling in the light of the evidence as to the sufficiency or insufficiency of each of the alleged grounds for dismissal. If the decision is not unanimous, that fact should be stated and the grounds of dissent indicated. Copies of the decision should be forwarded promptly to both parties, but the Advisory Board should not make its decision public until the case has been considered by the President.

b. The Advisory Board shall submit to the President its decision and the transcript of the hearings. If the President does not accept the decision of the Advisory Board, the President shall resubmit the case to the Advisory Board for reconsideration with a statement of questions or objections. The Advisory Board shall then reconsider the case in the light of such questions or objections, holding further hearings and receiving new evidence, if necessary, and rendering a new decision in the same manner as before. Only after study of the reconsidered decision of the Advisory Board may the President make a final decision overruling the Advisory Board. In such case, the President will give the reasons to the Advisory Board and to the faculty member concerned. In case the decision of the President is to terminate employment, such decision shall not become effective until it has been reported to and concurred in by the Board of Trustees.

c. The transcript of the hearing shall not be made public by the University except upon decision of the Advisory Board, made by majority vote of the whole Board, and concurred in by the President.

(2) Disciplining of faculty members pursuant to the Statement on Faculty Discipline shall be governed by the procedures provided therein.

(3) Dismissals by reason of disability, or protracted absence without leave, or extraordinary financial emergencies under Section 4.4.2(1) c or d, shall be made by the President only after consultation with the
Advisory Board and after appropriate advance notice to the faculty member concerned, but no formal hearings shall be required.

(4) Suspension of a faculty member during proceedings under Sections 4.4.6(1), (2), or (3) of this article is justified only if immediate harm to the faculty member or others is threatened by continuance in his or her regular duties. Any such suspension shall be with pay.

(5) This Statement governs the terms and conditions of individual academic appointments. It shall not be construed to limit the power of the Board of Trustees, upon recommendation by the President after consultation with the Advisory Board, to determine what academic activities may from time to time be initiated, modified, or discontinued. This power is a necessary corollary of the Board of Trustees' duty to oversee the academic programs of the University. This power shall not be invoked as a substitute for the dismissal provisions of Section 4.4.2(1) and Sections 4.4.6(1),(2),(3) hereof. In the event of modification or discontinuance of an academic activity in circumstances other than those of extraordinary financial emergency, the University will make every effort to reassign tenured members of the faculty. If reassignment is impossible, the University will provide every possible assistance in obtaining new positions and will give the individuals concerned at least twelve months' notice before severance.

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