4.3.7 Rules of General Application

Formerly Known As Policy Number: 4.3.G

(1) The Advisory Board may delegate to a subcommittee of its members any of its functions except deciding if there should be an Evidentiary Hearing, what material issues of historical fact are in dispute, whether the Hearing Officer’s findings of historical fact are supported by substantial evidence, whether professional misconduct has occurred, and, if so, what sanctions are appropriate.

(2) The burden of proof by clear and convincing evidence is upon the University in hearings before the Hearing Officer to prove the factual elements of the charge. The faculty member has the burden of proof by a preponderance of the evidence on any affirmative defenses raised by the faculty member.

(3) The faculty member has the right to have an advisor of his or her choice accompany him or her during the hearings, the rights of confrontation and cross-examination, and the right to refuse to testify in the hearings.

(4) The faculty member may choose either private or public hearings. Both the Advisory Board and the Hearing Officer, however, may entertain motions (from either party) that all or part of the hearings be held in private.

(5) Formal rules of evidence do not apply.

(6) The faculty member may request from the University, in writing, information regarding any matter, not privileged, which is relevant to the material issues of historical fact, or which appears reasonably calculated to help the faculty member learn of admissible evidence. The University will provide this information or will inform the Hearing Officer as to its reasons for not providing the information. After consideration of those reasons, the Hearing Officer may order the University to provide such information. The University shall not be required to disclose information prepared for the purpose of litigating the case. Even in the absence of a request by the faculty member, the University must disclose any information it believes to be exculpatory of the faculty member.

(7) The University may request disclosure of any non-privileged tangible evidence from the faculty member. Upon application by the University describing such evidence, the Hearing Officer may order the faculty member to produce it.

(8) The proceedings of the Hearing Officer and the Advisory Board will be as expeditious as possible.

(9) A record will be maintained of all hearings under this Statement.

(10) Once charges are forwarded to the Advisory Board, both the Provost and the faculty member are to provide copies to each other of all written communications to the Board or the Hearing Officer.

(11) At the request of the faculty member, and if he or she can demonstrate that his or her own financial resources have been exhausted, the Advisory Board may recommend to the Provost that the University provide funds to pay for what the Board regards as essential for an adequate defense.

(12) The time guidelines contained in these procedures may be modified by the Hearing Officer or the Advisory Board if warranted by the circumstances.