

Sec. 5.09. Procedures in Cases of Dismissal, Demotion, or Terminal Appointment ~~(revised April 2011)~~for Tenured and Tenure-Track Faculty

Applicability. The procedures prescribed in this section shall be followed ~~(a)~~ before recommendation is made to the Board of Regents of dismissal or demotion of:

1. a tenured faculty member of the university teaching staff; or of any
2. a tenure-track faculty member of the teaching staff during the term for which any member of the teaching staff is appointed; or (b) before recommendation is made to the Board of Regents of dismissal, demotion, or terminal of their appointment of ; or
3. a teaching staff tenure-track faculty member holding who has held appointments with the university University for a total of ten years in the rank of full-time instructor or higher. Subject to pursuing these procedures, a

A recommendation of dismissal, demotion, or terminal appointment may be made for causes accepted by university usage, properly connected with the improvement and efficiency of the faculty, and consistent with on the basis of demonstrated misconduct in teaching or research, substantial and manifest neglect of duty, and/or personal conduct that substantially impairs the individual's fulfillment of institutional responsibilities; this includes acts involving moral turpitude or professional or scholarly misconduct. This recommendation must be supported by clear and convincing evidence, subject to the procedures contained in this Bylaw. The process should never be employed to enable harassment or persecution for political or religious belief, or on the grounds of racial, gender, or sexual identity, or any other form of prohibited discrimination, or the diminishment of academic freedom and free speech.

In cases where it is not possible to continue the appointment of a tenured faculty member due to program discontinuation, the character of the tenure involved procedures under this Bylaw are applicable.

Initiation of Proceedings. Proceedings ~~which that~~ may result in a recommendation of dismissal, demotion, or terminal appointment may be initiated by the provost and executive vice president for academic affairs or by the executive authority (dean, director, or executive committee) of the school, college, or other unit (hereinafter called the administrative unit) in which the affected faculty member is employed. Before initiating proceedings under this Bylaw, the president, the provost, and executive authority of the unit must all be notified in writing and the president shall refer the case to SACUA. In exceptional cases ~~which, in the judgment of the president, threaten,~~ where the alleged misconduct of a faculty member as presented in the complaint threatens direct and immediate injury to ~~the public reputation one~~ or more members of the University community or to the essential functions of the ~~university~~ University, the president may direct that the affected faculty member be relieved of some or all of his ~~or~~ her/their university duties and responsibilities, without prejudice and without loss of compensation except as provided below, pending the final disposition of the case.

Suspension of Pay. In cases in which the president has relieved the affected faculty member of some or all his/her/their duties under this Bylaw, and a basis for the initiation of dismissal proceedings is that the affected faculty member has been charged with or convicted of a felony

involving violence, including but not limited to, murder, manslaughter, rape, robbery, aggravated assault (or the attempt to commit any of these offenses), the president may invoke this pay suspension process to suspend the affected faculty member's pay during the pendency of the dismissal proceeding. The president may also invoke the pay suspension process in cases of job abandonment.

The pay suspension process may be invoked at the time the president relieves the faculty member of some or all of his/her/their duties, or at a later point in the proceeding, but may not be invoked more than once. Further, no other steps under this Bylaw are delayed by the steps in the pay suspension process.

To initiate the pay suspension process, the president will appoint a committee of three (3) tenured faculty members at or above the rank of the affected faculty member to advise on the question of pay suspension, after consulting with SACUA and the executive authority of the administrative unit regarding the membership of the Committee. The president will inform the affected faculty member of the committee membership.

Coincident with appointing the Pay Suspension Committee the president will provide the affected faculty member and the Pay Suspension Committee all evidence upon which the president is relying for the pay suspension determination. Within seven (7) days of receipt of this information, the affected faculty member shall provide to the Pay Suspension Committee all information the affected faculty member wishes the Pay Suspension Committee to consider.

The Pay Suspension Committee will have seven (7) days from receipt of all information to provide the president and the affected faculty member with its written recommendation as to whether there is clear and convincing evidence that the affected faculty member either (1) committed the violent crime identified as a basis for the initiation of dismissal proceedings under this Bylaw, or (2) abandoned his/her/their job such that pay should be suspended. The affected faculty member will have seven (7) days to provide a written response to the Pay Suspension Committee's recommendations. Within five (5) days of receipt of the affected faculty member's response, the president will determine whether pay will be suspended and the effective date of pay suspension.

In the event pay is suspended, the affected faculty member will continue to receive the same university contributions to health, dental, and vision insurance as those that were in place prior to pay suspension. In addition, if the proceedings under this Bylaw do not result in dismissal, the faculty member shall receive all compensation he/she/they would otherwise have received during the period of pay suspension.

The university will not disclose the pay suspension decision, nor the recommendation of the Pay Suspension Committee, to the Hearing Committee.

~~Proceedings Dependent on Classification of Case. Cases involving matters concerning primarily the administrative unit in which the affected faculty member is employed shall be subject to the procedures provided for by subsection 4 of this section. Cases involving matters of general university concern shall be subject to the procedures provided for by subsection 5 of this section. The provost and executive vice president for academic affairs, before initiating action with respect to a faculty member, shall notify the president, SACUA, and the executive authority~~

~~of the administrative unit. The president, after consulting with SACUA and the executive authority of the administrative unit, shall determine whether the case shall be handled under subsection 4 or subsection 5 of this section. The executive authority of an administrative unit, before initiating action with respect to a faculty member, shall notify the president and SACUA, and the president, after consulting with SACUA, shall determine whether the case shall be handled under subsection 4 or subsection 5 of this section. The president's determination shall be communicated in writing to SACUA and the executive authority of the administrative unit. Procedure in Cases Referred to the Executive Authority of the School or College.~~

~~a. Upon referral by the president of a case to the executive authority of an administrative unit, the executive authority shall promptly give written notice thereof to the faculty member affected and to SACUA. The notice shall state with reasonable particularity the charges which the executive authority proposes to investigate and shall advise the faculty member that the faculty member may, upon making written request not more than ten days after receipt of the notice, have the right to a hearing.~~

~~b. The executive authority shall promptly investigate a case referred to it; and, if the faculty member has requested a hearing, shall provide for a hearing either (1) before the executive committee of the administrative unit or (2) before a special ad hoc faculty committee appointed by the executive authority with the approval of the executive committee or the governing faculty of the administrative unit. The affected faculty member may (1) have an adviser of the faculty member's own choosing who may act as counsel; (2) be present at all sessions of the hearing committee at which evidence is received or argument is heard; (3) call, examine, and cross examine witnesses; and (4) examine all documentary evidence received by the hearing committee. A full stenographic record of the hearing shall be taken, and the hearing committee shall, with reasonable promptness, file a written report on the case, together with a transcript of the record of the hearing, with the executive head of the administrative unit, SACUA, and the president. The report shall contain the hearing committee's conclusions and recommendations and the reasons therefor. If dismissal, demotion, or terminal appointment is recommended, the report shall contain a specific statement of the deficiencies or acts of misconduct on which the recommendation is based, and a copy of the report shall be delivered to the faculty member.~~

~~c. If the hearing committee recommends that adverse action be taken against the faculty member, the executive authority of the administrative unit, before considering the matter further, shall advise the faculty member in writing that the faculty member may have a review of the case by the standing subcommittee on tenure appointed by the Senate Advisory Committee on University Affairs as provided in subparagraph (d) of this subsection. If the hearing committee recommends that adverse action should not be taken against the affected faculty member, but the executive head of the school or college, upon review of the hearing committee's report and the record, disagrees with its recommendation and concludes that the executive head of the school or college should recommend adverse action against the faculty member, the executive head of the school or college shall notify the faculty member in writing of his or her recommendation, and with reasonable particularity of the reasons therefor, and shall advise the faculty member that the faculty member may have a review of the case as provided in subparagraph (d) of this subsection.~~

~~d. The request of the faculty member for review of the faculty member's case by the review committee shall be presented in writing to the chair or secretary of SACUA within ten days after receipt by the faculty member of the notice from the executive head or authority of the administrative unit that adverse action against the faculty member has been recommended. The request for review shall be referred to the standing Subcommittee on Tenure appointed by SACUA and designated by it as the review committee. The review committee shall promptly, but upon not less than ten days' written notice to the faculty member and to the executive head of the administrative unit, conduct a hearing in the matter, of which a full written record shall be taken. The review committee shall review the record, reports, and recommendations transmitted by the hearing committee and may in addition receive new evidence. The faculty member, either in person or through a representative or both, and the executive head of the administrative unit shall have the right to appear, to comment on the proceeding before the hearing committee and on its findings, conclusions, and recommendations, and to examine and rebut any new evidence received by the review committee. A full record shall be kept of the review proceeding.~~

~~e. In conducting its review of the case, the review committee shall take account of all relevant factors, including consideration of the questions (1) whether the hearing committee observed the procedure prescribed in this subsection, (2) whether the hearing committee accorded a fair hearing, (3) whether the deficiencies or acts of misconduct on which the hearing committee's recommendations are based are related to the charges stated in the first instance as the basis for investigation, (4) whether the proceeding as it developed before the hearing committee involves matters of general university concern, and (5) whether the weight of the evidence, as it appears in the record and as supplemented by any further evidence by the review committee, supports the hearing committee's findings and recommendations. In determining what its recommendation shall be, the review committee shall be free to make any recommendation appropriate to its findings and conclusions respecting either the procedural or meritorious aspects of the case.~~

~~f. Within thirty days following its hearing, the review committee shall file a written report with the affected faculty member, the executive head of the administrative unit, the president, and SACUA. The report shall contain the committee's conclusions, recommendations, and the reasons therefor. There shall be filed with the report a transcript of the record of the hearing conducted by the review committee.~~

~~g. The faculty member and SACUA may, within ten days after receiving the review committee's report, file written comments thereon with the president and, in the case of the faculty member, with the executive head of the administrative unit. Within twenty days after it receives the hearing committee's report, the executive authority of the administrative unit shall notify the president of its final recommendations in the case.~~

~~h. The president shall thereafter review the record in the case and shall formulate his or her own recommendations and the reasons therefor. The affected faculty member and SACUA shall be furnished copies of the president's recommendations and may, within ten days after receiving~~

the same, submit to the president written comments respecting the recommendations. The full record of the case, including the recommendations of the president and any comments by the affected faculty member or SACUA, shall then be transmitted by the president to the board for final action.

Procedure in Cases Referred to SACUA

a. Upon referral of a case by the president to SACUA, the committee shall designate its standing Subcommittee on Tenure to serve as a hearing committee and shall refer the case to it for hearing. The hearing committee shall promptly give written notice to the faculty member affected. The notice shall state with reasonable particularity the charges (as prepared by the provost and executive vice president for academic affairs) which the committee proposes to investigate, and shall advise the faculty member that the faculty member may, upon making written request not later than ten days after receipt of the notice, have the right to a hearing before the committee.

b. The hearing committee shall promptly investigate a case referred to it, and may call upon any member of the university faculty or staff for relevant information.

Proceedings.

1. Notice of Charges and Hearing Committee Members. Immediately upon the referral of a case to SACUA, the affected faculty member shall be given written notice, stating with reasonable particularity the charges (as prepared by the provost and executive vice president for academic affairs or executive authority of the administrative unit). Not later than seven (7) days after receipt of the notice, the affected faculty member has the right to request a hearing before a Hearing Committee to be appointed by SACUA. Not later than seven (7) days after the affected faculty member has requested a hearing, SACUA must appoint and provide the affected faculty member with the names of a Hearing Committee, which will consist of five (5) tenured faculty at rank or above rank of the affected faculty member, with three (3) from a Standing Judicial Committee appointed by SACUA and two (2) from a list provided by the administrative unit of the affected faculty member. The affected faculty member may, with clear and sufficient reasons for potential bias, request the removal and replacement of one or more members of the Hearing Committee. Any such request shall be made by the affected faculty member, and resolved by SACUA, within seven (7) days of the day the affected faculty member receives the names.
2. Submission of Evidence. The provost and executive vice president for academic affairs or the executive authority (dean, director, or executive committee) of the school, college, or other unit shall present all evidence to be used at the hearing to the affected faculty member within seven (7) days of the issuance of the Charge Letter. The affected faculty member shall present to the provost or executive authority all evidence to be used at the Hearing within 30 days after receiving those materials.
3. The Hearing. Under ordinary circumstances, the Hearing Committee shall conclude the hearing no later than 58 days after the issuance of the Charge Letter, or 21 days after the affected faculty member presents to the provost or executive authority all evidence to be

used at the Hearing, whichever occurs sooner. The provost and executive vice president for academic affairs, or a representative, as well as the executive authority of the administrative unit in which the affected faculty member is employed, or a representative, may be present at ~~all meetings of the committee, and may present such evidence as the provost and executive vice president for academic affairs deems appropriate.~~ The executive authority of the administrative unit in which the affected faculty member is employed may be the committee hearing, and may present or represented at all meetings of the committee, and if it wishes to make any recommendations, such evidence as was submitted prior to the hearing, as described in 2. herein. In addition, they may (1) have an adviser of their choosing who may act as counsel; (2) be present at all sessions of the Hearing Committee at which evidence is received or argument is heard; (3) call, examine, and cross-examine witnesses; (4) examine documentary evidence received by the Hearing Committee, and may present such evidence as was submitted to prior to the hearing, as described in 2. herein. If they wish to make any recommendations, they shall make them to the ~~committee~~Hearing Committee prior to the conclusion of the ~~committee's investigation, hearing,~~ whereupon such recommendations shall become a part of the ~~committee's record in the case.~~ Hearing Committee's record in the case. If the affected faculty member requests a hearing before the committee, a full ~~stenographic record of the hearing shall be taken.~~ Hearing Committee's record in the case. The affected faculty member may (1) have an adviser of the faculty ~~member's~~member's own choosing who may act as counsel; (2) be present at all sessions of the ~~committee~~Hearing Committee at which evidence is received or argument is heard; (3) call, examine, and cross-examine witnesses; ~~and~~ (4) examine ~~all~~ documentary evidence received by the ~~hearing committee~~Hearing Committee; and may present such evidence as was submitted to prior to the hearing, as described in 2. herein. A full record of the hearing shall be taken.

4. c. Within a reasonable period~~Written Report~~ of time after the referral of the case to the hearing committee, the committee~~Hearing Committee's Recommendation.~~ The Hearing Committee shall file a written report with SACUA-, the affected faculty member, the Executive Authority of the affected faculty member's unit, the Provost, and the president within 14 days of completion of the hearing. The report shall contain the ~~committee's~~Hearing Committee's conclusions, recommendations, and the reasons therefor. If dismissal, demotion, and/or terminal appointment ~~is~~are recommended, the report shall contain a specific statement of the conduct on which the recommendation is based. There shall be filed with the report the complete written record in the case, including the recommendations, if any, made to the ~~committee by the executive authority of the school or college~~Hearing Committee and a transcript of the record of any hearings conducted by the ~~committee~~Hearing Committee.

5. d. SACUA Review of the Hearing Committee Report. If the ~~committee~~Hearing Committee recommends that adverse action be taken against the affected faculty member, SACUA shall immediately advise the affected faculty member ~~affected that the faculty member they~~ may request ~~the Senate Advisory Committee to,~~ within five (5) days, that SACUA review

the proceeding conducted by the ~~hearing committee. The~~ Hearing Committee. If the affected faculty ~~member's request for~~ member requests a review, in conducting this review, SACUA shall ~~be presented in writing to the chair or secretary of SACUA within ten days thereafter. Upon receipt~~ take account of this request SACUA may in its discretion conduct a hearing ~~for the purpose~~ all relevant factors, including consideration of ~~determining the questions~~ (1) whether the ~~hearing committee granted a fair hearing and followed~~ Hearing Committee observed the procedure prescribed by this subsection. If such a review hearing is granted, ~~the faculty member in this subsection,~~ (2) whether the Hearing Committee accorded a fair hearing, (3) whether the deficiencies or acts of misconduct on which the Hearing Committee's recommendations are based are related to the charges stated in the first instance as the basis for investigation, and (4) whether the weight of the evidence, as it appears in the record, supports the Hearing Committee's findings and recommendations. This review will be based solely on the full record of the Hearing Committee's proceedings. In determining its recommendation, SACUA shall be free to make any recommendation appropriate to its findings and conclusions respecting either the procedural or substantive aspects of the case. The faculty member, either in person or through a representative or both, shall have the right to appear before SACUA and to comment on the Hearing Committee's proceeding before the hearing committee. A full record shall be kept of the ~~review proceeding~~ SACUA review. This hearing will take place within 21 days of the request for review from the affected faculty member.

~~6. e. If SACUA determines that the hearing committee failed to grant a fair hearing or to follow the prescribed procedure, it shall set aside the committee's findings and conclusions and remand the case to the committee for a new hearing in accordance with the procedure prescribed by this subsection.~~ SACUA Report. A written report of the ~~action taken~~ conclusions made by SACUA, together with the record of ~~it~~ the review proceeding, shall be filed with the affected faculty member, the executive head of the administrative unit, the provost and executive vice president for academic affairs, and the president. within seven (7) days of the completion of the SACUA review hearing. SACUA may also include its comments on the Hearing Committee's findings, conclusions, and recommendations.

~~7. f. If the hearing committee recommends that adverse action should not be taken against the affected faculty member, or if it recommends that adverse action be taken and the affected faculty member does not request a review by SACUA, or if in case a review~~ dismissal is requested and granted it is determined that the hearing committee granted a fair hearing and followed the prescribed procedures, SACUA shall file the hearing committee's report and recommendations together with the complete written record in the case with the affected faculty member, the president, the provost and executive vice president for academic affairs, and the executive authority of the administrative unit. In filing the report and record with the president, SACUA may also include its comments on the hearing committee's findings, conclusions, and recommendations. recommended. The affected faculty member, the executive authority of the administrative unit, and the provost and executive vice president for academic affairs may, within ~~ten~~ seven (7) days after

receiving copies of the ~~hearing committee's~~SACUA report and the record, file written comments with the president.

8. If dismissal is not recommended or if the affected faculty member does not request a SACUA review. The affected faculty member, the provost and executive vice president for academic affairs and/or the executive authority of the administrative unit may, within seven (7) days after receiving the Hearing Committee report, file written comments with the president.

9. ~~g.~~President's Recommendation and Parties' Response. The president shall thereafter review the record in the case and shall formulate his ~~or /her/~~their own recommendations and the reasons therefor. ~~The affected faculty member and SACUA shall be furnished copies of the president's recommendations and may,~~ within ~~tenseven~~ seven (7) days ~~after~~of receiving the ~~same,~~ submit to the president~~parties'~~ written comments ~~respecting the recommendations.~~ The full record of the case, including the recommendations of the president ~~and any comments by the affected faculty member or SACUA,~~ shall then be transmitted by the president to the board for final action. All parties to the proceeding shall receive copies of the president's recommendations.

10. Removal of Tenure/Dismissal or Demotion shall be discussed and voted upon no later than the next regularly scheduled board meeting for which all materials have been provided.

Sec. 5.10. Severance Pay

Applicability. ~~Academic personnel with indeterminate tenure who are dismissed in accordance with~~ If the provisions of dismissal under Sec. 5.09 ~~shall be entitled to severance pay~~ is for one academic year following written notification of dismissal except: ~~Where because of the character of the employee's conduct, the university is prohibited by law from making such payment; or Where there is competent evidence to establish beyond reasonable doubt that the employee has been guilty of a felony, or a serious misdemeanor in connection with students or directly~~ cause involving the university; or ~~Where there has been an~~ moral turpitude or scholarly or professional misconduct including intentional refusal, expressed or implied by conduct, to perform properly assigned academic duties; ~~no severance will be paid and the faculty member's compensation will end on the date that he or she receives written notice of dismissal. Faculty members with indeterminate tenure who are dismissed under Sec. 5.09 for reasons other than those listed above, such as program discontinuation, shall be entitled to severance pay following written notice of dismissal, and on the conditions described below. The Hearing Committee, established pursuant to Sec. 5.09, shall include in its report a recommendation regarding the payment of severance consistent with this Bylaw provision.~~

1. Amount of Severance Pay for a Dismissed Faculty Member on Indeterminate Tenure. Severance pay in the case of ~~an employee~~ a faculty member on indeterminate tenure means regular monthly payments, equal to the ~~employee's~~ faculty member's monthly salary ~~during~~ at the beginning of the appointment year of dismissal. ~~The appointment year of dismissal begins on the date the faculty member receives written notification of dismissal, covering a period following written notification of dismissal equal to one and equals one (1) appointment year, except where the employee~~ faculty member during such year secures other employment. In the latter event, from the time such other employment begins, the monthly payments under this Bylaw provision shall not exceed the difference between the amount of the monthly payments otherwise provided herein and the ~~employee's~~ faculty member's monthly compensation from such other employment.
2. Severance Pay for a Dismissed Faculty Member Under Contract for a Determinate Period. Severance pay in ~~the case of~~ academic personnel ~~faculty members~~ faculty members under contract for a determinate period shall be the same as for ~~personnel~~ faculty members on indeterminate tenure, except where the period remaining under ~~any~~ the faculty member's contract ~~following~~ at the time the faculty member receives written notification of dismissal is less than ~~one~~ the appointment year ~~of dismissal~~. In such case, the monthly payments ~~otherwise provided herein~~ under this Bylaw provision shall extend ~~at least~~ to the regular terminal date of the faculty member's contract.