AGENDA

1. Call to order

2. Approval of agenda

3. Approval of minutes of November 15, 2017 meeting

4. Remarks
   - M. Dease, Chair
   - T. Curry, Associate Provost and Associate Vice President for Academic Human Resources

5. Potential changes to the Discipline and Dismissal of a Tenured Faculty for Cause policy – Kristine Zayko

6. Office of the Provost’s recent application of the automatic extension of the tenure clock policy provisions

7. Interpretation of operating principle #5

8. Annual appointment, reappointment, promotion and tenure memorandum

9. Election/Nomination of 2018-19 Chairperson

10. Other

11. Adjournment
DRAFT
University Committee on Faculty Tenure
Wednesday, November 15, 2017 @ 3:30 p.m.
443 Administration Building

MINUTES


Absent: S. Dunn, S. Konstantopoulos, I. Kozlenkova, J. Steinhardt, C. Waters

Call to Order
Chairperson Michael Dease called the meeting to order at 3:36 pm

Approval of Agenda
F. Villaruel/L. Fleck moved to approve the agenda as presented. Motion carried.

Approval of Minutes of October 4, 2017
Max Donovan/Connie Hunt moved to approve the minutes as presented. Motion carried.

Remarks
M. Dease had no remarks at this time.

T. Curry, Associate Provost and Associate Vice President for Academic Human Resources had no remarks at this time.

User’s Guide: Discipline and Dismissal of Tenured Faculty for Cause Policy
Presented by: Kristine Zayko, Deputy General Counsel

- We combined the policies that deal with discipline and dismissal;
- UCFT deals with dismissal; UCFA deals with discipline
- The policy serves us well; however in implementation of the discipline portion of the policy we discovered that we needed a user’s guide that more clearly outlines the responsibilities and procedures for using the policy.
- We also developed a user’s guide for the dismissal process based upon procedural items that occurred during the last dismissal case.
- Recommendation was made to more clearly define the headings in the 2 documents so that it is clear that the first 2 pages are for the discipline process and that page 3 is specifically for dismissal.
- Also, a recommendation was made to spell out the acronyms.
- Recommendation was made to put it both in the Appendix and the User’s guide
Form D feedback review
- T. Curry shared the feedback on improving Form D; he wants to share it with the UCFA, the Deans, and the VPRGS
- Max Donovan – His Dean’s office states that his college (Social Science) has abolished the use of Form D;
- Dalen Agnew – We would likely be more apt to be happy with Form D if someone else fills it out for us; Perhaps a checklist is more appropriate for completion of the application for promotion/tenure.
- T. Curry remarked that different items are of different concern/importance at different levels in a college as well as across the university (diverse disciplines).
- T. Curry will send the feedback electronically after all feedback has been gathered.
- Michael Dease – Does the Office of the Provost find Form D helpful?
- T. Curry commented that it is a bit clunky, but also that he does not have to fill it out (he’s just reading it).

Other
- Max Donovan – Announced that he is graduating in December and that this will likely be his last meeting.
- M. Dease – At the last Steering Committee Meeting, Dr. Laura McCabe voiced a concern that the UCFT policies on the website are outdated; The annual memo regarding RPT from Provost Youatt lists 2016 as the date of the memo; Melanie Trowbridge will make sure that all items are up to date.
- Hunt – Do we need as much detail as is typically included in these requests? The level of detail is often too much.
- Agnew – we do need some level of specificity to review the request that is being presented to the department/dean, etc. If we don’t have this full picture, our role as UCFT may be a waste of time.; Same point agreed to by Strasburg;
- T. Curry – perhaps a compromise is that YES, the faculty member provides the detail, but is only seen by the Chair/Dean;
- Hunt – stated that she would be more in favor of that compromise. I don’t need to know more, other than “a serious medical condition”;
- Agnew – perhaps the less important information is the name of the individual and the department;

Personnel Actions
1. Hunt/Kingry moved to approve extension. Motion carried.
2. Hunt/Fleck moved to approve extension. Motion carried. (Hunt – I hope that the faculty member is receiving the assistance he needs to get back on track)
3. Hunt/Smith moved to approve extension. Motion carried.
4. Hunt/Fleck moved to approve extension. Motion carried.
5. Hunt/Fleck moved to approve extension. Motion carried.

Adjournment
The meeting was adjourned at 4:35 p.m.
Faculty Handbook

**Discipline and Dismissal of Tenured Faculty for Cause**

Last updated: 12/18/2015

**IV. ACADEMIC HUMAN RESOURCES POLICIES (Cont.)**

The following policy was approved by the Board of Trustees on March 16, 1967 and revised on May 5, 2006 and December 18, 2015.

**Preamble**

The University’s commitment “to promote the welfare of mankind through teaching, research, and public service” is furthered by the intellectual integrity and professional honesty of faculty members mindful of their rights and responsibilities. Essential to sustaining an environment of mutual trust and respect is the need for impartial investigation of alleged violations of policies related to faculty conduct; due process; and, when necessary, disciplinary action up to and including dismissal for cause. Discipline, dismissal, or the threat of either action, may not be used to restrain faculty members in their exercise of academic freedom.

**I. CONFIDENTIALITY**

All proceedings and records with regard to disciplinary action or dismissal for cause proceedings shall be kept confidential to the degree permitted by the law. The Board of Trustees will decide on a case by case basis whether action taken by the Board pursuant to the dismissal portion of this Policy will identify the affected faculty member by name.

**II. MAILING OF NOTICES UNDER THIS POLICY**

In matters involving minor discipline, notices required by this Policy will be sent to the faculty member by email to the faculty member’s msu.edu account, with a courtesy copy sent to the faculty member by first class mail to the address of record. It is the faculty member’s responsibility to regularly review the msu.edu email account for departmental and other University communications.

In matters involving serious discipline or dismissal, the faculty member shall be sent the notices required by this Policy by certified mail to his/her address of record filed with the University. However, if delivery by certified mail is not possible or if the faculty member refuses or waives delivery of certified mail, mailing notices to the faculty member at his/her address of record by first class mail will be considered sufficient. An email will also be sent to the faculty member’s University email address notifying him/her of the fact that a notice required by this Policy has been sent by one of the methods described above.

**III. PARTICIPATION OF ADVISORS, OBSERVERS, OR COUNSEL**

Faculty members are entitled to bring an advisor or observer to any meeting regarding disciplinary action referenced in this policy. The advisor or observer must be a member of the University community (faculty, staff, or administrator), including emeriti. The advisor or observer may be present during the meeting, but will have no voice or formal role in the meeting. Unless otherwise specified in this Policy, faculty members are entitled to bring an advisor of their choice, including
legal counsel, to any meeting or hearing conducted during dismissal for cause proceedings. During those proceedings, the advisor has voice and is granted full participation.

IV. GROUNDS FOR DISCIPLINE AND DISMISSAL

A faculty member may be disciplined, or dismissed, for cause on grounds including but not limited to (1) intellectual dishonesty; (2) acts of discrimination, including harassment, prohibited by law or University policy; (3) acts of moral turpitude substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration; (4) theft or misuse of University property; (5) incompetence; (6) refusal to perform reasonable assigned duties; (7) use of professional authority to exploit others; (8) violation of University policy substantially related to performance of faculty responsibilities; and (9) violation of law(s) substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration.

V. TYPES OF DISCIPLINE

Disciplinary action is normally iterative and falls into two general categories: minor discipline and serious discipline. Minor discipline includes but is not limited to: verbal reprimand, written reprimand, mandatory training, foregoing salary increase, restitution, monitoring of behavior and performance, and/or reassignment of duties; Serious discipline includes suspension with or without pay or temporary or permanent reduction in appointment. A full suspension without pay may not exceed six months. In egregious cases of wrongdoing, or where attempts at discipline have not successfully remedied performance concerns, a faculty member may be Dismissed for cause.

In matters where the Dean and the Office of the Associate Provost concur that a faculty member’s continued performance of faculty duties poses a significant risk of harm to persons or property, the faculty member may be relieved of duties and suspended with pay during the pendency of the review panel process.

In all faculty discipline, the University bears the burden of proof that adequate cause exists; it will be satisfied only by clear and convincing evidence unless a different standard is required by law. The faculty member’s record should be considered as a whole when contemplating imposition of disciplinary action.

In cases of both minor and serious discipline (1) faculty members retain the right to grieve disciplinary actions that have been implemented under the regular terms of the Faculty Grievance Procedure and (2) the faculty member may submit a letter of exception to the imposition of discipline, disputing the grounds for the unit administrator’s decision, to be included in the faculty member’s personnel file.

VI. PROCESS TO INITIATE MINOR OR SERIOUS DISCIPLINE

A. MINOR DISCIPLINE

Where the unit administrator seeks to impose minor disciplinary action, the unit administrator shall first meet with the faculty member to discuss the administrator’s concern and the potential for discipline. The administrator will notify the faculty member during that meeting of the right and opportunity to request a consultation with the department/school faculty advisory committee, its chair, or the chair of the UCFA personnel subcommittee before the administrator proceeds with any
disciplinary action. The purpose of such informal consultation is to reconcile disputes early and informally, when that is appropriate, by clarifying the issues involved, resolving misunderstandings, considering alternatives, and noting applicable bylaws.

The unit administrator and faculty member, if requested by the faculty member, will consult with the department/school faculty advisory committee, its chair, or with the chair of the UCFA personnel subcommittee in a prompt fashion to discuss the administrator’s concern and the potential for discipline.

Should the unit administrator still wish to proceed with disciplinary action after that consultation, the administrator must consult with the Dean and the Office of the Associate Provost to discuss the proposed disciplinary action. If the proposed discipline is authorized by those offices, the unit administrator shall provide the faculty member with written notice of the cause for disciplinary action in sufficient detail for the faculty member to address the specifics of the charges, and an opportunity to respond in writing prior to the imposition of any disciplinary action, within seven (7) days of receipt of the unit administrator’s written notice. The written response, if any, will be provided to the Dean and the Office of the Associate Provost for further comment.

The unit administrator, in consideration of the written response and further comments, if any, shall make a decision regarding the disciplinary action and notify the faculty member in writing. The discipline will then take effect.

B. SERIOUS DISCIPLINE

Where the unit administrator seeks to impose serious disciplinary action, the unit administrator shall first meet with the faculty member to discuss the administrator’s concern and the potential for discipline. Because it is in the interest of the University, the unit, and the faculty member that attempts be made to resolve serious disciplinary issues early and informally, the unit administrator and faculty member are encouraged to meet with the chair of University Committee on Faculty Affairs (UCFA) to discuss the matter.

If that meeting does not resolve the issue, the unit administrator shall consult with the Dean and the Office of the Associate Provost to discuss the proposed disciplinary action. If the proposed discipline is authorized by those offices, the unit administrator shall provide the faculty member with written notice of the proposed disciplinary action in sufficient detail for the faculty member to address the specifics of the charges.

The faculty member shall have seven (7) days after receiving the notice of proposed disciplinary action to (1) file a written statement with the unit administrator regarding the proposed discipline, or (2) request a meeting with a disciplinary review panel of the UCFA. A request to meet with the review panel should be made to the unit administrator, who will forward it promptly to the Chair of the UCFA. If the faculty member does not submit a written response or request a meeting with the disciplinary review panel within the seven-day period, the discipline will take effect.

1. Review Panel Selection and Composition

The Chair of the UCFA, in consultation with the Office of the Provost, shall annually establish a three-person review panel made up of current members of the UCFA to meet with unit administrators and faculty members regarding potential serious disciplinary action. The members

https://www.hr.msu.edu/policies-procedures/faculty-academic-staff/faculty-handbook/tenur... 4/9/2018
of the review panel will serve until their replacements are selected the following academic year. A list of three alternates will also be maintained in the event that a panel member is unavailable. The Office of the Provost will arrange training about academic personnel actions and policies for the review panel and alternates.

2. Meeting with the Review Panel

Upon receipt of a request to meet, the Chair of the UCFA will schedule a meeting with the unit administrator, faculty member, and disciplinary review panel. That meeting will take place no later than the second regularly scheduled meeting after the request is received, but not to exceed 21 days during those periods when the UCFA is not regularly meeting. Except in unusual circumstances, meetings of the disciplinary review panel will take place before, during, or after the regularly scheduled meeting time of the UCFA and both the unit administrator and the faculty member will be expected to adjust their schedules to attend the meeting. If either party cannot personally attend for good cause, as determined by the Chair of UCFA, that individual may participate through alternate communication methods (e.g., telephone, video conference) or send a representative to the meeting.

No member of the review panel shall participate in a meeting involving a faculty member from the same college in which the panel member is appointed. The faculty member may also request that any member of the panel recuse himself/herself if a conflict of interest exists. If the panel member refuses to recuse himself/herself, the Chair of the UCFA will determine whether, in light of the challenged person’s knowledge of the case or personal or professional relationships with a party, the challenged person would be able to fairly and impartially participate in the meeting and make a fair and impartial recommendation.

3. Recommendation of the Review Panel

Following its meeting, the review panel will provide its recommendation to the unit administrator, with a copy to the faculty member, within seven (7) days about whether the proposed serious discipline should be imposed, lesser discipline should be substituted, or no discipline should be imposed. The recommendation is not binding on the unit administrator but shall be given all due consideration. If the unit administrator does not take the advice of the review panel, he/she will provide a detailed reply to its recommendation for consideration and possible amendment by the panel within seven (7) days, copying the faculty member. If the panel decides to amend its original recommendation, it must do so within seven (7) days, copying the faculty member. This documentation will form a part of the permanent record of the discipline process.

4. Imposition of Disciplinary Action

After receiving the response (and amendment, if any), the unit administrator shall make a decision regarding the disciplinary action and notify the faculty member in writing. If the review panel recommended against imposition of serious discipline, or recommended lesser discipline, the unit administrator must meet with the Dean and the Office of the Associate Provost before proceeding with disciplinary action.

VII. DISMISSAL FOR CAUSE PROCESS

A. INFORMAL RESOLUTION/PRELIMINARY CONFERENCE STAGE
1. Dismissal for Cause Review Officer's Recommendation

A Dean (“charging party”) proposing to initiate dismissal for cause proceedings against a faculty member must file a written request with the Provost that provides the reasons for considering dismissal in sufficient detail for the faculty member to address the specifics of the charges, if necessary, and provides copies of all relevant documentation, including copies of any past disciplinary action or warnings to the faculty member that his/her conduct might lead to dismissal.

Upon receipt of such a request, the Provost shall notify the faculty member of the request and ask the Dismissal for Cause Review Officer (see Appendix III) to review the matter and to provide a confidential report and recommendation to the Provost as to whether dismissal for cause proceedings should be initiated.

The review process is intended to provide an opportunity for informal resolution of the matter. Accordingly, meetings between the faculty member and the Review Officer and between the faculty member and the Provost during the review process are informal, confidential, and will proceed without counsel present. At any stage during the review process, the faculty member may elect to forgo meeting or talking with the Review Officer or the Provost.

The Review Officer shall review the reasons for considering dismissal and the evidence in support of dismissal with the charging party. The Review Officer shall also talk with the charging party, faculty member, and the faculty member’s department chair or school director, prior to making a recommendation to the Provost.

In reaching his/her recommendation, the Review Officer should consider what steps have been taken to achieve informal resolution of the matter; whether, in cases involving a pattern of conduct, the faculty member had any warning that the conduct might lead to dismissal; and whether any measures might be taken to resolve the matter short of instituting dismissal for cause proceedings. The Review Officer’s report and recommendation should be forwarded to the Provost within thirty (30) days of the Review Officer’s selection by the President, unless an extension of time is approved by the Provost.

2. Determination by the Provost

The Provost shall review the report and recommendation of the Review Officer and determine whether the matter is of sufficient seriousness to warrant the initiation of dismissal for cause proceedings. In reaching his/her decision, the Provost may discuss the matter with the Review Officer, charging party, and/or faculty member. The confidential report and recommendation of the Review Officer is advisory to the Provost and shall not be available to either party or become part of the record if dismissal for cause proceedings are instituted.

3. Conference with the Faculty Member

If the Provost determines that dismissal for cause proceedings are warranted, he/she shall notify the faculty member and the charging party (the “parties”) of that decision in writing, providing a copy of all documentation provided by the dean to the Review Officer, and offer the faculty member an opportunity for a personal meeting. No formal charges shall be filed until 30 days after this notification, unless an extension of time is approved by the Provost. The matter may be
resolved informally during this time, including by the faculty member’s resignation. If the faculty member is not available for a personal meeting during the 30-day period, the Provost may communicate with the faculty member electronically or by correspondence that provides the faculty member with a reasonable opportunity to confer informally with the Provost.

B. INITIATION OF FORMAL PROCEEDINGS

If the Provost determines that the matter is serious enough to warrant initiation of dismissal for cause proceedings, the Provost shall provide written notice of that determination to the President, along with a recommendation as to whether the faculty member should be relieved from some or all of his/her duties during the dismissal for cause proceedings. The parties should receive a copy of this notice. If the President decides to relieve the faculty member from all of his/her duties, the faculty member shall be placed on a leave of absence with pay during the pendency of the dismissal for cause proceedings.

Following written notification by the Provost to the President, the charging party may initiate dismissal for cause proceedings against a faculty member by filing written charges with the President and Chair of the University Committee on Faculty Tenure (UCFT). The charges must contain: (1) the allegations; (2) the names of the witnesses, insofar as then known, who will testify in support of the allegations; and (3) the nature of the testimony likely to be presented by each of these witnesses.

The Chair of the UCFT shall promptly send a copy of the written charges to the faculty member.

1. Meetings between the Presiding Officer and the Parties

As soon as practicable following the filing of formal charges, the Chair of the UCFT shall meet with the parties. The purposes of such meetings include:

a. Challenges to any members of the Hearing Committee for conflict of interest (see Appendix I).

b. Exchange of documents and witness lists between the parties.

c. Stipulations by the parties on any relevant matters of fact. Any stipulation shall be reduced to writing and signed by both parties and the Presiding Officer.

d. Rulings by the Presiding Officer on any proposed revisions to the charges that might be offered or requested.

The Chair of the UCFT may ask legal counsel to attend these meetings. The Chair of the UCFT shall arrange that recordings of these meetings are made and included in the complete case record. These meetings will take place during regularly scheduled meeting times for the UCFT and the relevant administrator and faculty member will be expected to adjust their schedules to attend.

2. The Hearing

1. Service on the Hearing Committee shall be a high priority University responsibility for the duration of the hearing. Accordingly, administrators of units shall take all reasonable
measures to reduce the Hearing Committee members’ other responsibilities. Unit administrators are encouraged to provide additional support (such as graders and graduate assistants) to Hearing Committee members for the duration of their service.

2. The Secretary for Academic Governance shall make available to the Chair of the Hearing Committee any necessary secretarial and clerical assistance.

3. Legal counsel to the Hearing Committee shall arrange for a full stenographic record to be made of the hearing. If any party requests additional copies of the record or an expedited copy of the record, the additional costs of that request shall be paid by the requesting party.

4. The Chair of the Hearing Committee shall request the presence of any witness or the delivery of any University document germane to the hearing. University administrators are expected to cooperate with such requests.

5. The Chair of the Hearing Committee shall schedule the hearing within a reasonable time (usually not to exceed 21 days) after the faculty member is provided notice of the charges against him/her, due consideration being given to the faculty member’s opportunity for the preparation of a defense.

6. The hearing shall be closed, except that the Hearing Committee may consider a request from the faculty member to open the hearing. If such a request is made, the Hearing Committee shall hear the views of both parties on the question and shall determine whether the hearing sessions are to be open or closed. Regardless of the faculty member’s request, the Chair of the Hearing Committee may, in the interest of orderly and equitable proceedings, rule that a given session or portion of a session be closed. Sessions or portions of sessions that will involve student testimony or testimony that includes personally identifiable student information must be closed. Sessions that will involve non-student witness testimony may also be closed at the discretion of the Chair of the Hearing Committee.

7. The Chair of the Hearing Committee shall conduct the hearing in accordance with the procedures stipulated in Appendix II.

8. The charging party or his/her representative shall be present at all sessions of the Hearing Committee at which evidence is presented or arguments are heard, and may (1) present evidence, (2) call, examine, and cross-examine witnesses, and (3) examine all documentary evidence received by the Hearing Committee. The charging party’s advisor or legal counsel (if any) may also be present at the request of the charging party.

9. The faculty member and/or his/her representative may be present at all sessions of the Hearing Committee at which evidence is presented or arguments are heard, and may (1) present evidence, (2) call, examine, and cross-examine witnesses, and (3) examine all documentary evidence received by the Hearing Committee. The faculty member’s advisor or legal counsel (if any) may also be present at the request of the faculty member. If the faculty member cannot be present at a hearing session due to circumstances beyond the faculty member’s control, the Chair may grant permission for the faculty member to participate through alternate communication methods, reschedule the hearing session, or
choose to conduct the hearing session in the absence of the faculty member.

10. If the faculty member chooses not to be present, the Chair shall conduct the hearing sessions in the absence of the faculty member.

11. The Provost (or his/her designee) shall be available to the Hearing Committee to provide guidance on policy or procedural questions. In the event that a policy or procedural question is at issue in the dismissal for cause proceedings, the Provost may choose to file a position statement with the Hearing Committee regarding the policy or procedural issue. In those cases, the Provost (or his/her designee) will not serve in an advisory capacity to the Hearing Committee regarding policy or procedural questions.

12. Except as provided below, only those members of the Hearing Committee who have been present at all sessions in which evidence has been presented or arguments have been heard shall have the right to vote. An exception to this attendance requirement shall be made by the Chair of the Hearing Committee for a member who has missed, for good cause, no more than one session and who has informed the Chair in writing that he/she has read the official transcript of that session. This attendance requirement may also be waived by unanimous consent of the parties.

13. Within a reasonable time following final arguments (usually not to exceed 14 days), the members of the Hearing Committee will vote to determine whether cause has been established. If they determine that cause has been established, they shall recommend either dismissal or other disciplinary action(s). If a majority of the Hearing Committee determines that cause has not been established, the matter is closed.

3. Processing the Record and Rendering Judgment

   a. Hearing Committee Report.

      1. Within 30 days following the final arguments, the Hearing Committee shall submit its written report to the parties. If additional time is needed, the Chair of the Hearing Committee shall request an extension of time from the Chair of the UCFT.

      2. The Hearing Committee report must include an explanation of its determination as to whether cause has been established. If the Hearing Committee determines that cause has been established, the report must also include an explanation of its recommendation for either dismissal or some other disciplinary action(s). A report which recommends dismissal for cause or other discipline must state that at least one of the charges made against the faculty member has been proven by clear and convincing evidence.

      3. Subject to subsection 4 below, all members of the Hearing Committee shall sign the report attesting that they have read it and that it constitutes the findings and recommendations of a majority of the Hearing Committee.

      4. Any member(s) of the Hearing Committee may file and sign a minority report, which shall become part of the Hearing Committee report.

   b. Appeals.
1. Grounds for appeal are limited to whether the Hearing Committee committed a prejudicial violation of the required procedures (see Appendix II) during the hearing process.

2. Either party may appeal the decision of the Hearing Committee to the then-current members of the UCFT, excluding the Presiding Officer and any members of the UCFT who served on the Hearing Committee. The remaining UCFT members shall constitute an appellate body (“the Appeal Panel”) and shall select a Chair by majority vote.

3. A party wishing to appeal (“appellant”) must submit a written appeal to the Chair of UCFT within 15 days after the date that the Hearing Committee report was mailed. The Chair of UCFT will transmit the appeal and a copy of the Hearing Committee report to the Appeal Panel and the appellee.\textsuperscript{15}

4. The appeal must be in writing and must specify the claimed procedural violation(s) on which the appeal is based.

5. The appellee may submit a written response to the appeal. The response must be sent to the Chair of the UCFT and the party who initiated the appeal no later than 15 days after the date the appeal was mailed to the appellee.

6. The Appeal Panel will convene to decide the appeal. The Appeal Panel will usually decide the appeal based on the written materials presented and in the absence of the parties. If necessary, the Appeal Panel may request that both parties present oral argument and/or respond to questions regarding the appeal. The Appeal Panel may impose reasonable limits on the time allotted for oral arguments.

7. The Appeal Panel shall render a decision on the appeal within ten days of receiving all arguments. A decision will be made by a simple majority vote. In rendering a decision, the Appeal Panel may not amend the findings or the recommendations of the Hearing Committee. The Appeal Panel may reach one of the following determinations:

   i. No violation found. The Hearing Committee did not commit a prejudicial violation of the required procedures during the hearing process.

   ii. Harmless Error. Although a violation of the procedures occurred, it did not materially harm the appellant’s ability to present his/her case fully.

   iii. Rehearing. The Hearing Committee committed a prejudicial violation of the procedures during the hearing process which can and should be corrected by the original Hearing Committee.

   iv. Rehearing/New Hearing Committee. The Hearing Committee committed a prejudicial violation of the procedures during the hearing process which has tainted the hearing to an extent that correction by the original Hearing Committee is impossible. A new Hearing Committee must be established to rehear the case.

c. Final Hearing Committee Report.
1. After appeals and rehearings, if any, are concluded, the Hearing Committee’s report shall be considered final and shall be sent to the President, the Provost, and the parties.

2. A copy of the complete transcript of the hearing shall be sent to the faculty member.

3. The Chair of the Hearing Committee shall file the complete record of the case with the Office of the Provost. The complete record shall contain: (i) the final Hearing Committee report, (ii) any Appeal Panel decision, (iii) meeting minutes, (iv) the record required by part 11 of Appendix I, and (v) the transcript of the hearing. The complete record shall be held for review in the Provost’s Office and shall be available to the President, the Provost, the Board of Trustees, and the parties, for their review, in a place designated by the Provost.

4. If the Hearing Committee finds cause, the Provost and the parties may, within 15 days of the date of the mailing of the Hearing Committee’s report, review the record and file written comments with the Chair of the Hearing Committee and the President.

d. The President, within 15 days of the date of receipt, unless an extension of time has been granted by the Chair of the Hearing Committee, will review the Hearing Committee’s report and provide his/her preliminary response in writing, accompanied by supporting rationale, to the Chair of the Hearing Committee, the Provost, and the parties.

e. The Provost, the parties, and the Hearing Committee, through its Chair, may, within 15 days of the date that the President’s preliminary response was mailed, submit written comments to the President about his/her preliminary response.

f. Following the 15 day period for submitting written responses, the President will, within 15 days, issue a final report on the charges against the faculty member. Copies of the President’s final report will be provided to the Chair of the Hearing Committee, the Provost, and the parties. If the Hearing Committee and the President both determine that there is cause for disciplinary action but not dismissal, the President’s final report will conclude the matter and the disciplinary action recommended by the President will be imposed.

g. If either the Hearing Committee (by majority vote) or the President recommends dismissal, the President shall submit the following materials to the Board of Trustees: the final Hearing Committee report (along with any written comments), the preliminary response of the President, and the final report of the President. Any Trustee may have access to the complete record of the case.

h. The Office of the Provost shall provide notice to the parties of the date and time that the Board of Trustees is expected to take action on the matter.

i. After reviewing the relevant materials, the Board of Trustees may: (1) dismiss the faculty member for cause, (2) impose discipline other than dismissal, or (3) determine that cause has not been established and close the matter.
Footnote:

1 Limitations of this Policy: (1) A faculty member who fails to return to the University within a reasonable time after a term break, sabbatical, or other leave of absence shall forfeit rights to further employment and shall be considered as having resigned; in such cases, the faculty Leaves of Absence policy shall be followed. (2) A tenure-system faculty member’s material misrepresentation made to the University in obtaining employment shall be addressed by the Policy and Procedure for Rescission.

2 This Policy also applies to the discipline and dismissal of untenured faculty appointed in the tenure system prior to the expiration of the term of appointment.

3 The term “incompetence” refers to professional incompetence, as defined in the Interpretation of the Term “Incompetence” by the University Committee on Faculty Tenure.

4 This would include violations of criminal or civil (e.g., anti-harassment or discrimination) laws that have a nexus with the faculty member’s professional responsibilities.

5 For purposes of this Policy, “Dean” refers to separately reporting Directors as well.

6 For purposes of this Policy, “Associate Provost” refers to the Associate Provost and Associate Vice President for Academic Human Resources.

7 “Clear and convincing” means the standard of proof that is beyond a mere preponderance (i.e. more probable than not) but below that of “beyond a reasonable doubt.” The “clear and convincing” standard would be met when those making the determination have a firm belief that the facts in issue have been established.

8 If the chair is not tenured, the chair may request that a tenured member of the personnel subcommittee fill this role.

9 Unless otherwise noted, references to “days” in this Policy refer to calendar days.

10 If the chair is not tenured, a tenured member of UCFA may fill this role at the request of the chair, the unit administrator, or the faculty member.

11 The unit administrator shall consider the written statement of the faculty member and confer with the Dean and the Office of the Associate Provost, after providing copies of the faculty member’s statement to both, before proceeding with disciplinary action.

12 The faculty member retains the right to have an observer present.

13 The decision of the Provost as to whether the matter is serious enough to warrant initiation of dismissal for cause proceedings is not a determination regarding the merits of the charges against the faculty member and shall not be viewed as the Provost’s agreement or disagreement with the charges against the faculty member.
The Provost shall not comment on any information contained in the confidential report of the Review Officer at any stage of the dismissal for cause proceedings unless that information is also contained in the record of those proceedings. The report will be maintained confidentially to the maximum extent permitted by law.

The “appellee” is the party of the original dispute who did not file the appeal.

When provided an opportunity to comment, the Provost and parties are expected to confine their comments to the record and not introduce new information. However, the Provost may comment on procedural or policy issues at any time.

Disciplinary action implemented under this Policy may not be challenged through the Faculty Grievance Procedure.

Appendices I, II, III

User's Guide: Discipline and Dismissal of Tenured Faculty for Cause Policy

Back to Faculty Handbook

©
Extending the Reappointment/Promotion/Tenure Review Timeline (Extending the Tenure Clock)

Last updated: 12/9/2015

IV. ACADEMIC HUMAN RESOURCES POLICIES (Cont.)

The following statement was endorsed by the University Committee on Faculty Tenure; it was issued by the Office of the Provost on June 1, 1990 and revised on April 24, 1996, March 24, 1999, January 10, 2001, April 13, 2005, November 28, 2012, January 16, 2013, and December 9, 2015.

Automatic Extensions

The tenure system probationary appointment for the next reappointment/promotion/tenure review is extended automatically (i.e., no faculty request or UCFT review needed) for one year for the following reasons:

1. Leaves of absence with or without pay that are one semester to twelve months.
2. Changes in appointment to 50% time or less for one year.
3. Immigration/visa status that does not permit the award of tenure for candidates who have been recommended for tenure.
4. An extension recommended as an outcome of a hearing and/or appeal conducted pursuant to the Faculty Grievance Policy.

Extensions Granted Automatically Upon Faculty Request

In addition to the automatic extensions (1-4) described above, faculty can request an extension of the reappointment/promotion/tenure review for the birth or adoption of a child. Extensions for this reason are limited to two separate one-year extensions during the entire probationary period. The request for an automatic one-year extension for the birth or adoption of a child must be submitted within two years of the birth/adoption, but no later than the due date for the submission to the department/school of the dossier for the next reappointment/promotion/tenure review.

Note: Receipt of an automatic extension for any of the reasons above does not preclude consideration for reappointment or promotion with tenure at the normal time. However, if the extension for the first probationary appointment is waived by the faculty member, the extension does not carry over to the second probationary appointment. In addition, a faculty member is bound to the outcome of the reappointment review if unsuccessful.

Extensions Reviewed by the University Committee on Faculty Tenure

Additional extensions of the probationary appointment may be requested from the University Committee on Faculty Tenure (UCFT) for reasons related to childbirth, adoption, the care of an ill and/or disabled child, spouse, or parent; personal illness; to receive prestigious awards, fellowships, and/or special assignment opportunities; or other such serious constraints.

In such cases, UCFT considers evidence bearing on the question of whether the circumstances justify exceptions to the standard procedures governing the tenure system. UCFT’s role is not to evaluate the substantive issues recommended at the departmental or unit level, but to determine whether, given the circumstances of each case, the proposed decisions are consistent with the general interest of preserving the integrity of the tenure system.

To request an extension of the probationary appointment, the department chair or unit administrator must submit a memorandum to the Associate Provost and Associate Vice President for Academic Human Resources that includes the following information:

1. the specific reason delineated in this policy that justifies an exception to the standard procedures governing the
tenure system;
2. clear explanation of the impact of the specified condition on the normal activities of the faculty member;
3. what is expected to be achieved at the end of the requested extension, including the prospects for success, and a description of the resources and/or proposed changes that will be made to facilitate success;
4. a current curriculum vitae and a one-page summary of prior assignments in teaching, research, outreach, and administrative duties during the previous three years for the faculty member seeking the extension;
5. endorsement and signatures of the faculty member, department chair or unit administrator, and dean.

Additionally, the department chair or unit administrator must provide written documentation from the department or school peer review committee that they reviewed the extension request and had an opportunity to render advice as appropriate. The committee's approval is not necessary.

Requests endorsed by the Office of the Provost will be considered by UCFT according to the standards specified herein.
It is our belief that the policy provision applies only in the first scenario (for probationary faculty who left the tenure system). The review conducted by the University Committee on Faculty Tenure in these situations is to ensure the preservation of the integrity of the tenure system in the event the faculty member requests to return to a position in the tenure system.

It is important to note in all cases where a faculty member is being recommended for hire (or rehire) with tenure, the faculty member will undergo a tenure review within the college and within the Office of the Provost.

Enclosures
March 27, 2018

TO: The University Committee on Faculty Tenure (UCFT)

FROM: Theodore H. Curry II, Associate Provost and Associate Vice President for Academic Human Resources

SUBJECT: Interpretation of Principle # 5 of Operating Principles of the Tenure System

I write to seek your agreement on the interpretation of Operating Principle #5 in follow-up to the committee’s discussion at its September 6, 2017 meeting. The Operating Principles of the Tenure System policy outlines a set of established principles related to faculty appointments within the tenure system.

Operating Principle #5 specifically states, “A tenure system faculty member who is not reappointed or resigns may not be appointed in the tenure system, except as approved by the University Committee on Faculty Tenure upon written request by the faculty member, department/school and college.”

The Office of the Provost interprets this provision to apply to probationary tenure system faculty, who over the course of their probationary period(s), leave the tenure system either voluntarily or involuntarily.

The Office of the Provost does not interpret this policy provision to apply to faculty who held a tenured position during the course of their employment at MSU and voluntarily resigned from the university. It is not unusual for a faculty member to accept a tenured position elsewhere and be recruited back to MSU over the course of their career.

The circumstances between these two scenarios are drastically different. In the first scenario, the faculty member had not yet achieved tenure. This could be due to reasons such as a negative reappointment decision, voluntary resignation due to an impending negative reappointment decision, or a voluntary resignation for other reasons wholly unrelated to the reappointment action.

In the second scenario, the faculty member went through a rigorous review process to be appointed/promoted with tenure at MSU. In this case, the faculty member met the standards for tenure at that time.
It is our belief that the policy provision applies only in the first scenario (for probationary faculty who left the tenure system). The review conducted by the University Committee on Faculty Tenure in these situations is to ensure the preservation of the integrity of the tenure system in the event the faculty member requests to return to a position in the tenure system.

It is important to note in all cases where a faculty member is being recommended for hire (or rehire) with tenure, the faculty member will undergo a tenure review within the college and within the Office of the Provost.

Enclosures
Michigan State University is a research-intensive, land-grant university of international scope. It is a member of the Association of American Universities (AAU), whose members are recognized worldwide for the quality and breadth of their scholarship, research, and undergraduate, graduate and graduate-professional educational programs. MSU is one of only 18 universities that are designated as both land-grant and AAU.

“Bolder by Design,” is MSU’s strategic planning initiative that will position the university as the nation’s leading land-grant research institution. Based upon our core values of quality, inclusiveness, and connectivity,\(^1\) the University is dedicated to educating tomorrow’s leaders and scholars through our undergraduate, graduate, graduate-professional and lifelong education programs. Through its faculty, MSU will create knowledge and find new and innovative ways to extend its applications, to serve Michigan, the nation, and the international community.\(^2\) The faculty must infuse cutting edge scholarship into the full range of our teaching programs. At MSU, faculty are expected to be both active scholars and student-focused educators, demonstrating substantial scholarship and ability to promote learning through our on-campus and off-campus education and research programs. The essence of scholarship is the thoughtful discovery, transmission, and application of knowledge, including creative activities, that is based in the ideas and methods of recognized disciplines, professions, and interdisciplinary fields. What qualifies an activity as scholarship is that it be deeply informed by the most recent knowledge in the field, that the knowledge is skillfully interpreted and deployed, and that the activity is carried out with intelligent openness to new information, debate, and criticism.

\(^1\) The Office of the Provost sends this policy bi-annually to deans, directors, and chairpersons to assist them in reappointment, promotion and tenure decisions. During its annual review, the University Committee on Faculty Affairs and the University Committee on Faculty Tenure can suggest changes.

\(^2\) See President’s Statement on Core Values:
http://president.msu.edu/communications/statements/core-values.html

\(^3\) See Faculty Rights and Responsibilities policy in the Faculty Handbook:
https://www.hr.msu.edu/policies-procedures/faculty-academic-staff/faculty-handbook/faculty_rights.html
MSU is committed to improve continuously. To do so requires that academic personnel decisions must result in a progressively stronger faculty — a faculty who meets continuously higher standards that assure enhanced quality within a national and international context. This process begins with vigorous, effective recruitment and selection of new faculty who are encouraged and helped to grow professionally, through mentoring\(^4\) and development. These new faculty members are evaluated by demanding standards and required procedures for reappointment, tenure and promotion recommendations. Our policies, procedures, criteria, and decisions on recruitment, reappointment, award of tenure, promotions, and salary changes must be guided by the goal of enhancing academic excellence. These decisions, in large measure, will determine MSU’s reputation and prominence for many years to come.

Initially, a review of the mission and goals of the University, college, and unit and their related personnel needs, fiscal constraints, and any other relevant factors must occur to determine if the applicable position(s) should be retained even if the performance of the probationary period is acceptable. (See statement on Non-Tenured Faculty in the Tenure System, Faculty Handbook). If so, the unit initiates recommendations for appointment, reappointment, promotion, and tenure, following rigorous evaluation at the unit level, including peer review. All involved in these deliberations must apply high standards of performance consistent with appropriate expectations of faculty at leading research-intensive, land-grant universities. Faculty must be both active scholars and student-focused educators and must meet academic standards that assure enhanced quality of the unit for years to come. Individual personnel actions recommending tenure should result in the improvement of academic unit quality. For example, anyone considered for tenure should meet or exceed the requirements of the unit for tenure and be in the top echelon of peers at a similar career stage nationally or internationally in the field or discipline. Chairpersons and directors make the unit-level recommendations. Unit-level recommendations are subject to review and approval or disapproval at the college and university levels. Recommendations are to be based on explicit unit criteria and quality evaluations that are consistent with college and university policies and goals.

As provided in the Bylaws for Academic Governance, the faculty, operating in the advisory mode, is to provide advice to the chairperson/director as described in unit bylaws. Each department, school, and comparable unit is required to have procedures and criteria that are clearly formulated and relevant to evaluating the performance of faculty members (see Statement on Non-Tenured Faculty in the Tenure System, Faculty Handbook). The Bylaws for Academic Governance includes the following statement that is of fundamental importance:

A department chairperson or school director serves as the chief representative of his or her department or school within the University. He or she is responsible for the unit’s educational, research, and service programs—including the outreach components of all three; budgetary matters, academic facilities, and personnel matters, taking into account the advisory procedures of the unit. The chairperson or director has special obligation to build a department or school strong in scholarship, teaching capacity, and service.

(2.1.2.1.)

\(^4\) See Mentoring Policy in the Faculty Handbook:
https://hr.msu.edu/policies-procedures/faculty-academic-staff/faculty-handbook/mentoring_policy.html
Chairpersons or directors make judgments taking into consideration peer evaluations and other supporting information, yet unit administrators are responsible as individuals for the recommendations made.

Unit standards and criteria for appointment, reappointment, tenure, promotion, and salary changes must serve the objective of continuously improving the academic strength and quality of the faculty, taking into account the mission and goals of the department, school, college, and University, including the MSU commitment to diversity and inclusion. Departments/schools and colleges are required to review regularly their standards, criteria, and procedures to this end.

Assessment of faculty performance should recognize the importance of both teaching and research and their extension beyond the borders of the campus as part of the outreach dimension. Assessment should take into account the quality of outcomes as well as their quantity; it should also acknowledge the creativity of faculty effort and its impact on students, on others the University serves, and on the field(s) in which the faculty member works. In many cases, faculty demonstrate excellence through individual scholarly activities. Collaborative scholarly efforts, cross-disciplinary activities, and the integration of scholarship into the creation, application, and dissemination of knowledge are also recognized as relevant dimensions of faculty performance.

Deans independently review each recommendation for appointment, reappointment, promotion, and tenure and in each case will focus primarily on how effectively the individual performs academic duties. They approve or disapprove recommendations, taking into account unit, college, and university criteria and other factors such as quality, progress, resources, program needs, percent of tenured faculty in the unit, and any other relevant university policies and goals (see below).

The Office of the Provost will review each recommendation. In each case the Office of the Provost also will concentrate primarily on the evidence of the individual's effectiveness in the performance of academic duties. Within this context, faculty must demonstrate substantive and sustainable achievement in both teaching and research, and the infusion of this scholarship into outreach programs, where applicable.

In addition, the Office of the Provost will consider, as applicable, the following elements, relating to quality and either individual performance or institutional, contextual factors:

The factors that relate most closely to individual performance include, but are not limited to:

- Sufficient evidence of consistent and persistent professional improvement and effectiveness at MSU to predict continued professional achievement and growth for the remainder of the individual's academic career.
- Evidence of having met the standards of the college and department/school for recommendation of appointment, reappointment, award of tenure, and promotion as documented in annual review letters.

The factors that relate most closely to institutional, contextual factors include, but are not limited to:

- Standards of the college and department/school for recommendation of appointment, reappointment, award of tenure, and promotion, including the unit's progress toward achieving and maintaining diversity and recognizing it in its definition of quality.
- Fiscal constraints.
• Extent to which program commitments require the continuation of faculty (relevant primarily for decisions on reappointments and awards of tenure).
• Advancement of the shared university agenda, including scholarship across the mission.

Deans and directors are to assure that unit administrators in their college make clear to the concerned faculty, in a timely fashion, the procedures and criteria that they will use in making tenure system reappointment and promotion recommendations. Forms for "Recommendation for Reappointment, Promotion or Tenure Action" outline many of the activities that are relevant to decisions on promotion, tenure and reappointment. As stated above, “the chairperson or director has a special obligation to build academic units strong in scholarship, teaching capacity, and outreach.” To discharge this responsibility, academic administrators must apply rigorous standards in making reappointment, tenure, and promotion recommendations. The achievement and performance level required must be competitive with faculties of leading research-intensive, land-grant universities of international scope (hereafter referred to as peer universities):

1. Reappointment with award of tenure: Each tenure recommendation should be based on a clear record of sustained, outstanding achievements in education and scholarship across the mission, consistent with performance levels expected at peer universities.
   
   o For the faculty member appointed initially as associate professor on a probationary basis in the tenure system who has established such a record, the tenure recommendation is effective upon reappointment after one probationary appointment period.

2. A recommendation for promotion from assistant professor to associate professor in the tenure system should be based on several years of sustained, outstanding achievements in education and scholarship across the mission, consistent with performance levels expected for promotion to associate professor at peer universities. A reasonably long period in rank before promotion is usually necessary to provide a basis in actual performance for predicting capacity to become an expert of national and/or international stature and long-term, high-quality professional achievement.

A recommendation for promotion from associate professor to professor in the tenure system should be based on several years of sustained, outstanding achievements in education and scholarship across the mission, consistent with performance levels expected at peer universities. A reasonably long period in rank before promotion is usually necessary to provide a basis in actual performance to permit endorsement of the individual as an expert of national and/or international stature and to predict continuous, long-term, high-quality professional achievement.

Bearing in mind the University's continuing objective to improve its faculty, the unit and college must refrain from doubtful recommendations of reappointment, tenure, or promotion. The dean must evaluate carefully each recommendation to ensure that it is well grounded and fully justified.