

## 4.04 TENURE

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### PROCEDURES

#### Dismissal Hearing

The hearing procedure shall be initiated by a written request submitted by the Provost and Vice President for Academic Affairs to the President of the Faculty within fifteen (15) class days of the faculty member's receipt of the statement from the Provost & VPAA (i.e., this is only five (5) class days beyond the time for the faculty member to reject a hearing). Within twenty (20) class days from the receipt of such request, the President of the Faculty shall designate a panel of thirteen (13) faculty members, by random selection, from a list of eligible faculty. If this random selection does not include at least one member from each School or College, the last name(s) drawn should be removed and replaced with a randomly selected eligible faculty member from the unrepresented School or College. Within ten (10) class days from the designation of the panel, the President of the Faculty shall call the administration and the faculty member, and/or their respective representatives, together for the purpose of selecting the hearing committee. From the list of thirteen (13) names, each party shall remove three (3) names, one at a time, in alternating sequence, with the administration striking the first name. From the remaining seven (7) names, six (6) shall be selected by lot; the 7th shall serve as an alternate. Within five (5) class days after the committee has been named, the President of the Faculty shall convene the committee and the members shall select one member as the nonvoting chair. Within two (2) class days after the selection of the chair, the Provost & VPAA shall submit to the chair a statement of the specific grounds for the dismissal.

Within five (5) class days from the selection of the chair, the chair shall provide to each party:

- a copy of the specific grounds for the dismissal,
- a list of the membership of the committee,
- a notification of the date, time, and place of the pre-hearing conference.

At the pre-hearing conference each party shall provide a list of proposed witnesses to be called and a list of documents to be introduced, with copies available to the other party. The date, time, and place of the hearing shall be determined by the chair and both parties shall be so notified. The hearing shall begin not less than ten (10) and no more than twenty (20), class days after the pre-hearing conference. In a period of time not to exceed five (5) class days following the pre-hearing conference, both parties, or their respective representatives, shall confer and assemble a common set of documents, consecutively numbered and with duplications eliminated. An attorney for each party and for the committee may be present at the pre-hearing conference.

At the hearing, each party may be accompanied by (1) a representative, who is not an attorney, to serve as an advocate and/or assist in the presentation of evidence, and (2) an attorney who may advise and participate in the proceedings. Both parties, or their representatives, must be present.

The chair shall call the hearing to order, summarize the case, establish the order of business, and review the rules. Since the hearing is conducted by peers, the committee shall not be bound by strict rules of legal evidence; it may admit any evidence it deems to be of value and may exclude evidence judged not pertinent to the case. If the hearing is open, the chair shall have the right to limit the number of observers. Observers shall not participate in any of the proceedings. Witnesses shall be excluded from

the hearing room until they testify. Photos or recordings of the hearing room and the participants shall be allowed only when the committee is not in formal session.

- The administration and the faculty member, in that order, shall make an opening statement and present evidence, which may include testimony by supporting witnesses.
- The administration and the faculty member shall have the opportunity to question the witnesses and/or present rebuttal.
- Members of the committee may question the parties and/or witnesses.
- The parties may be recognized by the chair for the purpose of objecting to any testimony or question on the grounds that it is not pertinent to the case. The chair shall rule on each objection; the chair may consult with the committee and/or its attorney.
- The administration and the faculty member, in that order, shall be given the opportunity to make closing statements.
- The administration bears the burden of proof by presenting clear and convincing evidence of the justification for dismissal, unless the justification is a violation of the University Title IX policy. In that event, the applicable burden of proof is a preponderance of evidence.

The chair may, upon request of any member of the committee or either party, continue the hearing to a specified date, time, and place. The chair, after consultation with members of the committee, may request the production of additional information and/or may invite other witnesses to provide testimony pertinent to the case. Reasonable expenses for outside witnesses, invited by the chair, shall be borne by the University.

A sound recording of the hearing shall be available to the parties concerned. A written record shall be made of the hearing. An official copy of the record and supporting documents shall be kept in confidential files in the Office of the President of the University for a period of at least 3 years following these proceedings and may be examined only with the approval of the faculty member, except in the case of a closed hearing for which consent of both parties shall be required. With the consent of both parties a visual (video or other format) recording shall be made, at the expense of the requesting party.