



College of Arts and Science
University of Missouri-Columbia

Department of Psychological Sciences

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December 31, 2014

To the Faculty of the University of Missouri System:

This letter describes a proposed new policy and revisions of existing rules to be used when there are complaints of sexual harassment, discrimination or misconduct against a faculty member. The policies were developed by faculty on a subcommittee of the Intercampus Faculty Council (IFC) with assistance of the University of Missouri (UM) Office of the General Counsel. The subcommittee welcomes comments and questions from faculty members on the policies and the process used to develop the policies.

Title IX of the United States Education Amendments of 1972 prohibits discrimination based on sex in education programs or activities operated by recipients of federal financial assistance. In response to guidance from the Department of Education Office of Civil Rights to all universities and colleges who receive federal financial assistance and with the goal of establishing policies that will be a national model, the UM System began significant review and revision of its non-discrimination policies in January 2014. In September, President Tim Wolfe issued Executive Order 41, which clarified the university's prohibitions against sexual harassment, discrimination and misconduct and created a new equity resolution process for claims when the accused is a student.

As part of its ongoing discussion with the President on sexual discrimination policies, the IFC has strongly asserted that the process for revising policies regarding faculty behavior must be led by faculty members. With the support of President Wolfe, in October the IFC formed a subcommittee that was charged with becoming educated on the problem and its scope, reviewing the current UM policies, and developing specific recommendations for revision of the policies. The subcommittee's goal is the development of policies that foster an environment free of discrimination and respect academic freedom and tenure.

In November and December the subcommittee met repeatedly and worked with Marsha Fischer (UM Office of the General Counsel), Steve Graham (UM System), Hank Foley (UM System) and Daniel Swinton (NCHERM Group). Throughout this process subcommittee members consulted independently with their faculty council/senate and with administrators from their campuses. By late December the subcommittee developed a new process for investigating and adjudicating claims of sexual discrimination against a faculty member. This process is described in a proposed new collected rule, Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Faculty Member (600.040). As a consequence of the equity resolution process described in 600.040, a recommendation for dismissal may be made for a tenured faculty member. As such, the subcommittee proposed revisions of the collected rules Regulations Governing Application of Tenure (310.020) and Procedures in the Case of Dismissal for Cause (310.060).

At the December 18 IFC meeting, the subcommittee presented the new (600.040) and revised rules (310.020 and 310.060) to the IFC and President Wolfe. The President expressed his strong desire for these policies to be presented at the Board of Curators' meeting on February 5 and 6. The IFC agreed that

presentation in February is appropriate. However, the President and IFC both noted that work on policies regarding sexual discrimination is a continuing and evolving process.

Following this letter are the following documents.

- the recommendation from the IFC to President Wolfe for an IFC subcommittee to develop faculty polices regarding sexual discrimination
- an executive summary of the new (600.040) and revised rules (310.020 and 310.060) prepared by Marsha Fischer
- copies of Sections 600.040, 310.020 and 310.060

Again, comments and questions from faculty members on the policies and the process used to develop the policies are welcome by the subcommittee.

Sincerely,



Dennis K. Miller, University of Missouri, in behalf of the members of the subcommittee
Melanie Mormile, Missouri University of Science and Technology
Keith Stine, University of Missouri-St. Louis
Peggy Ward-Smith, University of Missouri-Kansas City



College of Arts and Science

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October 15, 2014

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President Timothy M. Wolfe
321 University Hall
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To President Wolfe:

The Intercampus Faculty Council (IFC) shares your goal of eliminating sexual discrimination, harassment and misconduct from the University of Missouri (UM). Executive Order 41 was an important step toward achieving this objective as it developed powerful, but fair, adjudication procedures for student behavior. The IFC would like to extend this effort by contributing to the development of policies that appropriately address faculty behavior in these areas. The new policies would include procedures for adjudication of complaints against faculty members and the scope of punishments, including the removal of tenure.

The IFC strongly believes that faculty should have a strong voice in reviewing and developing policies on faculty behavior. While protecting the vulnerable against abuse is the top priority, shared governance in the process of developing professional rules and regulations is also a concern. New policies are more likely to be accepted by faculty members as valid if faculty members contributed in a meaningful way to creating the policies, than if the policies were developed unilaterally by administrators and outside consultants. The IFC has developed an effective working model with you on other issues, such as faculty workload, where policies are developed by back-and-forth discussion among you, the IFC, and UM System administrators. These ideas are then shared with faculty groups and administrators on the campuses by IFC members. We would expect to use this standard vetting process we use for all collected rule changes that has worked so well for us in the past.

We propose to establish a subcommittee of IFC members that will address faculty behavior in the area of sexual discrimination, harassment and misconduct. This subcommittee will become educated on the problem and its scope, and then will develop specific recommendations for revision of collected rules, policies and/or procedures. These revisions will be compliant with federal statutes (e.g., Title IX), while respecting academic freedom and tenure.

To develop these recommendations, the IFC subcommittee will follow the work plan described below.

1. We will evaluate policies at other colleges and universities to determine if there are concepts, rules, policies and procedures that could be adopted.
2. We will work with the General Counsel's office and consultants contracted by UM to a) review the current critical issues and problem areas at the four UM campuses, b) understand current federal statutes and their interpretation, and c) review the current UM Collected Rules and Regulations and campus bylaws.

3. IFC members will meet informally with members of groups (e.g., staff counsel, student government and the women's center) at their respective campuses to hear their perspectives.
4. Based on the research and consultation described, IFC will work with the General Counsel's office to develop revisions of collected rules, as well as policies and procedures.
5. IFC members will share these revisions, policies and procedures with faculty and administrators at their campuses for comments.

We consider eliminating sexual discrimination, harassment and misconduct to be the top priority for the IFC and want to begin work on this plan immediately. We would like to have revisions of collected rules, as well as policies and procedures, to share with faculty and administrators at our campuses shortly after the start of the new calendar year. The IFC asks for your support of this plan, so we can work rapidly and effectively. We hope that your support will allow us access to relevant documents and the valuable time of expert UM administrators and consultants. Importantly, this plan does not minimize our desire to also work with you to focus on prevention of these behaviors and to improve the environment for students, faculty, staff and visitors at UM.

I hope we can reach an agreement on this plan at the October 23 IFC meeting to begin moving forward on it. I am also available to discuss it ahead of the meeting.

Sincerely,



Dennis K. Miller
Associate Professor of Psychological Sciences, University of Missouri

cc. Steve Graham, Hank Foley, Craig Roberts

RE: Faculty CRRs - 600.040, 310.020 and 310.060

Prepared by the Office of General Counsel on behalf of IFC Title IX Subcommittee

The IFC subcommittee has been working with the outside consultant and the Office of the General Counsel to become more familiar with the applicable areas of law, discuss issues and preferred processes and review and revise draft CRRs. Summaries of a new rule and amendments to two existing rules follow, but a close reading of the entire rules is essential to a complete understanding of the protections and safeguards included.

Section 600.040: Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Faculty Member (“Equity Resolution Process”)

The new rule (Section 600.040 – Equity Resolution Process) applies to all faculty members, regular and nonregular, and is designed to provide a fair and impartial process for determination of all complaints of harassment, sexual misconduct and other forms of alleged discrimination when the accused is a faculty member. A complaint may be resolved through one of four processes: Summary Resolution (as defined in Section 600.040C.10 and described more fully in Section 600.040K); Conflict Resolution (as defined in Section 600.040C.11 and described more fully in Section 600.040L); Administrative Resolution (as defined in Section 600.040C.12 and described more fully in Section 600.040N); or Hearing Panel Resolution (as defined in Section 600.040C.13 and described more fully in Section 600.040O). The three-member hearing panel will include at least one faculty member and one administrator or staff member. If the Hearing Panel determines that the allegations have been proven, using the preponderance of the evidence standard, the Hearing Panel recommends sanctions and the Provost determines sanctions. The Provost’s determination may be appealed to the Chancellor or Chancellor’s designee. If the Provost’s determination regarding allegations against a regular, tenured faculty is referral to the Chancellor to initiate dismissal for cause, the regular, tenured faculty member also has additional rights under Section 310.060 (Dismissal for Cause Procedures). All suspensions are paid suspensions during the entire process described in Section 600.040 (Equity Resolution Process), including the appeal described in the new rule.

310.020: Regulations Governing Application of Tenure (“Tenure Regulations”)

There are two primary changes to Section 310.020 (Tenure Regulations). The “extreme or repeated” language in Section 310.020C has been removed and replaced with “Harassment or Discrimination in violation of the University’s Anti-Discrimination Policies, as determined through the procedures in Sections 600.040 and 310.060 of the Collected Rules and Regulations.” Whether a violation rises to the level of dismissal for cause is a determination to be made through the processes in Sections 600.040 (Equity Resolution Process) and 310.060 (Dismissal for Cause Procedures). There are nine procedural steps for a tenured faculty member to be dismissed for cause. Those in Section 600.040 (Equity Resolution Process) include the following: Summary Resolution, Hearing Panel or Administrative Resolution, Provost’s determination of sanctions and the appeal to the Chancellor or Chancellor’s designee. Those in Section 310.060 (Dismissal for Cause Procedures) include the following: Chancellor’s decision to initiate dismissal for cause, the recommendation of the Faculty Committee on Tenure, the Chancellor’s decision, the President’s decision on appeal and Board of Curators’ decision on appeal.

The second proposed change to Section 310.020 (Tenure Regulations) is adding language to make it clear that term appointments for nonregular and regular, untenured faculty may be terminated prior to the expiration of the stated term through the Section 600.040 Equity Resolution Process and without resorting to the dismissal for cause procedure in Section 310.060. As it existed previously, an appointment with tenure may be terminated only after also going through the process in Section 310.060 (Dismissal for Cause Procedures).

310.060: Procedures in Case of Dismissal for Cause (“Dismissal for Cause Procedures”)

The proposed amendments to Section 310.060 (Dismissal for Cause Procedures) include language making it clear “The Record of the Case in Section 600.040 Process” is evidence before the Faculty Committee on Tenure and the findings will be adopted by the Committee. There will not be a rehearing on those issues previously decided in Section 600.040 (Equity Resolution Process). Any allegations in the charge which were not previously within the jurisdiction of or decided in Section 600.040 (Equity Resolution Process) will follow the pre-existing process in Section 310.060 (Dismissal for Cause Procedures). There is also newly proposed language in Sections 310.060.B.5(b)(3) and 310.060.B.6.(g) that allows, under certain circumstances, the Faculty Committee on Tenure to send the process back to the Section 600.040 Equity Resolution Process for further proceedings. The Faculty Committee on Tenure makes a recommendation as to whether adequate cause for dismissal has been established. Like the Accused/Respondent Faculty Member, the Complainant in the Section 600.040 Equity Resolution Process has the right to participate in the process and appeals to the extent they relate to allegation(s) previously decided in the Section 600.040 Equity Resolution Process. Unlike suspensions during the Section 600.040 Equity Resolution Process which are with pay, any suspension during the Section 310.060 (Dismissal for Cause Procedures) will be unpaid.

600.040 Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Faculty Member

A. General

The University will act on any formal or informal complaint or notice of violation of the University's anti-discrimination policies. The procedures described below apply to all such complaints or notice when the Accused is a Faculty Member.

B. Jurisdiction

Jurisdiction of the University of Missouri generally shall be limited to conduct which occurs on the University of Missouri premises or at a University-sponsored or University-supervised functions. However, the University may take appropriate action, including, but not limited to, the imposition of sanctions under Section 600.040 of the Collected Rules and Regulations against Faculty Members for conduct occurring in other settings, including off-campus, (1) in order to protect the physical safety of students, faculty, staff or visitors, (2) if there are effects of the conduct that interfere with or limit any person's ability to participate in or benefit from the University's educational programs, activities or employment or (3) if the conduct is related to the Faculty Member's fitness or performance in the professional capacity of teacher or researcher.

C. Definitions

1. University's Anti-Discrimination Policies. The University's Anti-Discrimination Policies include the Equal Employment/Education Opportunity Policy located at Section 320.010 of the Collected Rules and Regulations and the Sex Discrimination, Sexual Harassment and Sexual Misconduct in Education/Employment Policy located at Section 600.020 of the Collected Rules and Regulations.
2. Complainant. Complainant refers to the alleged victim of discrimination under the University's Anti-Discrimination Policies. The University may also serve as Complainant when the alleged victim does not want to participate in the resolution process.
3. Accused. The Faculty Member or Members alleged to have violated the University's Anti-Discrimination Policies.
4. Faculty Member. Faculty Member includes all regular and non-regular academic staff appointments as defined in Sections 310.020 and 310.035 of the Collected Rules and Regulations.
5. Complaint. Formal or informal complaint or notice of violation of the University's Anti-Discrimination Policies.
6. Advisors. The individuals selected by Complainant and Accused to provide support and guidance throughout the Equity Resolution Process. Each party is allowed one advisor.
7. Investigators. Investigators are trained individuals appointed by the Provost or Provost's Designee to conduct investigations of the alleged violations of the University's Anti-Discrimination Policies.

8. Equity Resolution Hearing Panelists Pool. A group of at least ten (10) faculty and ten (10) administrators or staff selected by the Chancellor or the Chancellor's designee to serve as hearing panelists in the Hearing Panel Resolution.
9. Equity Resolution Hearing Panel ("Hearing Panel"). A group of three trained Equity Resolution Hearing Panelist Pool members who serve as the Hearing Panel for a specific Complaint. The panel will include at least one faculty member and one administrator or staff member.
10. Summary Resolution. Resolution of the Complaint upon the finding by the Provost or the Provost's Designee that no reasonable person could find the Accused responsible for violating the University's Anti-Discrimination Policies.
11. Conflict Resolution. Resolution using alternative dispute resolution mechanisms such as mediation, facilitated dialogue or restorative justice.
12. Administrative Resolution. Resolution of a Complaint by the Provost or Provost's Designee.
13. Hearing Panel Resolution. Resolution of a Complaint by an Equity Resolution Hearing Panel.
14. Record of the Case in the Section 600.040 Process. Letter(s) of notice, exhibits, hearing record (an audio, video, digital or stenographic record of the hearing) and the findings, determination of conduct and recommendation of sanctions of the Hearing Panel and the determination of sanctions by the Provost or when the Administrative Resolution process is used, the findings and determination of conduct by the Provost or Provost's Designee (when applicable) and determination of sanctions by the Provost.
15. Parties. The Complainant and the Accused are collectively referred to as the Parties.

D. Filing a Complaint

Any student, employee, volunteer or visitor who believes that a Faculty Member has violated the University's Anti-Discrimination Policies should report the Complaint to the Provost or Provost's Designee or in the case of allegations of sexual harassment, sexual misconduct or allegations of other forms of sex discrimination as defined in Section 600.020 of the Collected Rules and Regulations, the Title IX Coordinator or Title IX Coordinator's Designee. Such individuals can also contact campus police if the alleged offense may also constitute a crime.

E. Interim Remedies

During the Equity Resolution Process and prior to making a determination whether the alleged violation has occurred, the Provost or Provost's Designee or in the case of allegations of sexual harassment, sexual misconduct or allegations of other forms of sex discrimination as defined in Section 600.020 of the Collected Rules and Regulations, the Title IX Coordinator or Title IX Coordinator's Designee, in consultation with the Provost or Provost's Designee when directly impacting a Faculty Member, may provide interim remedies including, but not limited to, one or more of the following:

1. Referral and facilitating contact for Complainant to on- or off-campus counseling, medical services and/or mental health services.

2. Implementing contact limitations on the Accused or on all Parties.
3. Referral of Complainant to victim advocacy and support services either on and/or off-campus.
4. Referral of Complainant to academic support services (if applicable) and any other services that may be beneficial to the Complainant.
5. Adjusting the courses, assignments, exam schedules of the Complainant (if applicable).
6. Adjusting the work schedules, work assignments, supervisory responsibilities, supervisor reporting responsibilities or work arrangements of the Complainant and/or the Accused.
7. Informing the Complainant of the right to notify law enforcement authorities of the alleged incident and offering to help facilitate such a report.
8. Interim leave from work with pay for the Complainant and/or Accused.
9. Interim suspension from campus with pay for the Accused.

F. Employees and Students Participating in the Equity Resolution Process

All University employees and students must be truthful in providing testimony throughout the process and to the Investigator, Provost (or Provost's Designee), Title IX Coordinator (or Title IX Coordinator's Designee) and/or Hearing Panel, and all non-testimonial evidence must be genuine and accurate. False testimony, fraudulent evidence and refusal to cooperate with the Investigator, Provost (or Provost's Designee), Title IX Coordinator (or Title IX Coordinator's Designee) or the Hearing Panel may be the basis for personnel or student conduct action against the uncooperative individual. Nothing in this provision is intended to require a Complainant to participate in the process.

G. Rights of the Complainant in the Equity Resolution Process

1. To be treated with respect by University officials.
2. To be free from retaliation.
3. Access to relevant campus support resources (such as counseling and mental health services and University health services).
4. To have an Advisor of their choice accompany them to all interviews, meetings and proceedings throughout the Equity Resolution Process.
5. To refuse to have an allegation resolved through Conflict Resolution or Administrative Resolution Processes.
6. An equal opportunity to present a list of potential witnesses and provide evidence to the Investigator.
7. To have Complaints heard in substantial accordance with these procedures.
8. Where the Complainant is not the reporting party, the Complainant has full rights to participation in any Equity Resolution Process.
9. To be informed in writing of the finding, rationale and sanctions (if related to the Complainant).
10. To report the matter to law enforcement (if applicable) and to have assistance in making that report.
11. Equal opportunity to appeal the findings and sanctions.
12. Additional Rights for Hearing Panel Resolution:
 - a. To receive notice of a hearing.

- b. To have the names of witnesses that may participate in the hearing at least two days prior to the hearing.
- c. To have copies of all pertinent documentary evidence and any investigative report at least two business days prior to the hearing.
- d. To be present at the hearing, which right may be waived by either written notification to the Hearing Panel Chair or by failure to appear.
- e. To request alternative attendance or questioning mechanisms for the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.).
- f. To have present an Advisor during the hearing and to consult with such Advisor during the hearing.
- g. To testify at the hearing or refuse to testify at the hearing.
- h. To present witnesses and documents deemed relevant by the Chair.
- i. To question witnesses present and testifying at the hearing. See Section 600.040.M.6 below for limitations on directly questioning the Accused.

H. Rights of the Accused in the Equity Resolution Process

- 1. To be treated with respect by University officials.
- 2. Access to campus relevant support resources (such as counseling and mental health services and University health services), unless suspended from campus pending the completion of the process.
- 3. To have an Advisor of their choice accompany them to all meetings and proceedings throughout the Equity Resolution Process.
- 4. To refuse to have an allegation resolved through Conflict Resolution or Administrative Resolution Processes.
- 5. An equal opportunity to present a list of potential witnesses and provide evidence to the Investigator.
- 6. To receive notice of the policies alleged to have been violated.
- 7. To have complaints heard in substantial accordance with these procedures.
- 8. To be informed in writing of the finding, rationale and sanctions.
- 9. Equal opportunity to appeal the findings and sanctions.
- 10. Additional Rights for Hearing Panel Resolution:
 - a. To receive notice of the hearing.
 - b. To have the names of witnesses that may participate in the hearing at least two days prior to the hearing.
 - c. To have copies of all pertinent documentary evidence and any investigative report at least two business days prior to the hearing.
 - d. To be present at the hearing, which right may be waived by either written notification to the Hearing Panel Chair or by failure to appear.
 - e. To request alternative attendance or questioning mechanisms for the hearing (e.g.: screens, Skype, questions directed through the Chair, etc.)
 - f. To have present an Advisor during the hearing and to consult with such Advisor during the hearing.
 - g. To testify at the hearing or refuse to testify at the hearing.
 - h. To present witnesses and documents deemed relevant by the Chair.

- i. To question witnesses present and testifying at the hearing. See Section 600.040.M.6 below for limitations on directly questioning the Complainant.

I. Role of Advisors

Each Complainant and Accused is allowed to have one Advisor of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings. The Parties may select whomever they wish to serve as their Advisor, including an attorney. An Advisor is not required and any party may elect to proceed without an Advisor.

If Complainant is a student, the student Complainant may request that the Provost (or Provost Designee) or Title IX Coordinator (or Title IX Coordinator Designee) assign a trained Advisor to provide support throughout the Equity Resolution Process. University trained Advisors are administrators or staff at the University trained on the Equity Resolution Process.

The Advisor may not make a presentation or represent the Complainant or the Accused during any meeting or proceeding. The Parties are expected to ask and respond to questions on their own behalf, without representation by their Advisor. The Advisor may consult with the advisee quietly or in writing, or outside the meeting or proceeding during breaks, but may not speak on behalf of the advisee at any point throughout the process. Advisors who do not follow these guidelines will be warned or dismissed from the meeting or proceeding at the discretion of the Investigator(s) during the investigation, the Provost or Provost Designee during the Administrative Resolution process, or the Chair of the Hearing Panel during the Hearing Panel process.

J. Investigation

If a Complainant wants to pursue an investigation or if the University wants to pursue an investigation, then the Provost or Provost's Designee promptly appoints a trained investigator or a team of trained investigators to investigate. Within seven business days after the commencement of the investigation, the Investigator(s) will provide the Parties with written notice that an investigation has commenced, either:

1. In person, or
2. Mailed to the local address of the respective party as indicated in the official University records and emailed to the Party's University-issued e-mail account. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and e-mailed, notice will be presumptively delivered.

The Parties are allowed to have an Advisor of their choice present with them for all Equity Resolution Process interviews, meetings and proceedings in which they participate. All investigations will be thorough, reliable and impartial. The Investigator(s) will make reasonable efforts to include interviews with the Parties and

relevant witnesses, obtain available evidence and identify sources of expert information, if necessary. The Investigator(s) will provide an investigation report to the Provost or Provost's Designee.

Investigation of reported misconduct brought directly by a Complainant should be completed expeditiously, normally within 30 business days of notice to the University. Investigation of a Complaint may take longer when initial reports fail to provide direct first-hand information or in complex cases. The University may also undertake a short delay (several days to weeks, to allow evidence collection by the law enforcement agency) when criminal charges on the basis of the same behaviors that invoke the process are being investigated.

K. Summary Resolution

During or upon the completion of the investigation, the Provost or Provost's Designee will review the investigation, which may include meeting with the investigator(s). Based on that review, the Provost or Provost's Designee will make a decision whether a reasonable person could, based on the evidence gathered, find the Accused responsible for violating the University's Anti-Discrimination Policies. If the Provost or Provost's Designee decides that no reasonable person could find the Accused in violation, then the process will end and the Complainant and the Accused will be sent written notification of the determination. The Provost or Provost's Designee may counsel and suggest training opportunities to correct for inappropriate behavior that does not rise to the level of a violation.

Complainant may request the Chancellor or Chancellor's Designee to reconsider the summary determination. If there is reasonable cause to do so, the Chancellor or Chancellor's Designee will reverse the determination and direct the process to continue. This decision lies in the sole discretion of the Chancellor or Chancellor's Designee and such decisions are considered final.

If the Chancellor or Chancellor's Designee decides a reasonable person could find the Accused in violation then the Chancellor or Chancellor's Designee will direct the process to continue and the Complaint will be resolved through one of three processes: Conflict Resolution, Administrative Resolution or Hearing Panel Resolution.

L. Conflict Resolution

The Investigator(s) will determine if Conflict Resolution is appropriate, based on the willingness of the Parties, the nature of the conduct at issue and the susceptibility of the conduct to Conflict Resolution. Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative and Hearing Panel Resolution processes to resolve conflicts. Mediation is never utilized in cases involving allegations of nonconsensual sexual intercourse or nonconsensual sexual contact. It is not necessary to pursue Conflict Resolution prior to pursuing either the Administrative or Hearing Panel Resolution Process and either party can stop the Conflict Resolution process at any time and request either the Administrative or Hearing Panel Resolution Process. In a Conflict Resolution meeting, a neutral University-assigned

facilitator will foster a dialogue with the Parties to an effective resolution, if possible. The Provost or Provost's Designee will keep records of any resolution that is reached, and failure to abide by the agreed upon resolution can result in appropriate responsive actions.

M. Procedural Details for Administrative Resolution and Hearing Panel Resolution

For both the Administrative Resolution and Hearing Panel Resolution, the following will apply:

1. The standard of proof will be “preponderance of the evidence,” defined as determining whether evidence shows it is more likely than not that a policy violation occurred.
2. Questioning or evidence about the Complainant’s prior sexual conduct is not permitted, though the Investigator, Provost (or Provost’s Designee), Title IX Coordinator (or Title IX Coordinator’s Designee) or Hearing Panel Chair may grant a limited exception in regards to the sexual history between the Parties, if deemed relevant.
3. Character evidence of either the Complainant or the Accused will not be considered.
4. Incidents or behavior of the Accused not directly related to the possible violation(s) will not be considered unless it shows a pattern. History of related misconduct by the Accused that shows a pattern may be considered, if deemed relevant by the decision maker.
5. The Administrative Resolution or Hearing Panel Resolution process will normally be completed within 60 business days from the notice of the Complaint. Deviations from this timeframe will be promptly communicated to both parties.
6. The Accused may not directly question the Complainant and the Complainant may not directly question the Accused. However, if both Complainant and Accused request the opportunity, direct questioning between the Parties will be permitted. Otherwise written questions will be directed to the Chair in the Hearing Panel Resolution Process and the Provost or Provost’s Designee in the Administrative Resolution Process, and those questions deemed appropriate and relevant will be asked on behalf of the requesting party.
7. The Administrative Resolution process may be used when both Parties elect to resolve the Complaint using the Administrative Resolution Process.
8. At any time prior to the conclusion of the Administrative Resolution process (i.e.: prior to a finding being made as to responsibility for the alleged violations), the Complainant and/or the Accused may request that the Complaint shift to the Hearing Panel Resolution process. Upon receipt of such a request from either or both Parties, the Complaint will shift to the Hearing Panel Resolution Process.
9. The Resolution Processes will proceed regardless of whether the Accused chooses to participate in the investigation, the finding or the hearing.

N. Administrative Resolution.

Administrative Resolution by the Provost or Provost’s Designee can be pursued for any behavior that falls within the University’s Anti-Discrimination Policies. Administrative

Resolution may be used when both Parties elect to resolve the Complaint using the Administrative Resolution Process.

The Administrative Resolution process consists of:

1. A prompt, thorough and impartial investigation by the Investigator;
2. A finding by the Provost or Provost's Designee on each of the alleged policy violations; and
3. A finding by the Provost on sanctions for findings of responsibility.

The Investigator(s) will provide an investigation report to the Provost or Provost's Designee. The Provost or Provost's Designee can, but is not required to, meet with and question the Investigator and any identified witnesses. The Provost or Provost's Designee will offer to meet with Complainant and will meet with the Complainant if the Complainant agrees to meet. The Provost or Provost's Designee will attempt to meet with the Accused to review the alleged policy violations and the investigation report. The Accused may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If the Accused admits responsibility, in whole or in part, the Provost or Provost's Designee will render a finding that the individual is in violation of University policy for the admitted conduct. For any disputed violations, the Provost or Provost's Designee will render a finding utilizing the preponderance of the evidence standard. The Provost's Designee may recommend appropriate sanctions but only the Provost will determine sanctions or remedial actions. The findings and sanctions are subject to appeal.

At any point during the Investigation and Administrative Resolution process and prior to the finding (i.e.: the conclusion of the Administrative Resolution process), either party may request that the matter be referred to the Hearing Panel Resolution process.

At least three business days prior to rendering a finding on disputed violations, the Provost or Provost's Designee will provide the Parties with written notice of intent to render a finding using the Administrative Resolution process, either:

1. In person, or
2. Mailed to their local address of the respective party as indicated in official University records and emailed to the party's University-issued email account. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and emailed, notice will be presumptively delivered.

If, after at least three business days neither of the Parties request in writing that the matter be referred to the Hearing Panel Resolution process, the Provost or Provost's Designee will render a finding on the disputed violations. Once findings have been made, the right to the Hearing Panel Resolution process is waived and the Administrative Resolution process is complete. The finding of the Administrative Resolution process remains subject to appeal.

The Provost or Provost's Designee will inform the Accused and the Complainant of the final determination in writing within 3 business days of the resolution, without significant time delay between notifications. The final determination letter will be made in writing and will be delivered either:

1. In person, or
2. Mailed to the local address of the respective party as indicated in official University records and emailed to the party's University-issued email account. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and emailed, notice will be presumptively delivered.

O. Hearing Panel Resolution.

1. Equity Resolution Hearing Panelist Pool

The University will create and annually train a pool of not less than ten (10) faculty and ten (10) administrators or staff as hearing panelists. Panelists are selected by the Chancellor or Chancellor's Designee and serve a renewable, one-year term. Panelist selections should be made with attention to representation of groups protected by the University's Anti-Discrimination Policies. The Chancellor or Chancellor's Designee will select a Hearing Panelist Pool Chair, who assigns and coordinates the pool and those Panelists assigned to specific hearings.

2. Equity Resolution Hearing Panel ("Hearing Panel")

When a Complaint is not resolved through the Administrative Resolution Process, the Hearing Panelist Pool Chair will assign three members from the Hearing Panelist pool to serve on the specific Hearing Panel and will also designate the Chair of the Hearing Panel. The panel will include at least one faculty member and one administrator or staff member. Up to two alternates may be designated to sit in throughout the process as needed. The Chair of the Hearing Panel helps ensure that the process adheres materially to the procedural elements of the Hearing Panel Resolution process.

3. Notice of Hearing

- a. At least seven business days prior to the hearing, or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the Parties, the Provost or Provost's Designee will send a letter to the Parties with the following information:
 - 1) A description of the alleged violation(s) and applicable policies.
 - 2) A description of the applicable procedures.
 - 3) A statement of the potential sanctions/remedial actions that could result.
 - 4) An indication that the Parties may have the assistance of an Advisor of their choosing, at the hearing, though the Advisor's attendance at the hearing is the responsibility of the respective Parties. The Advisor may not address the Hearing Panel.
 - 5) The time, date and location of the hearing. If any party does not appear at

the scheduled resolution process, the resolution process will be held in their absence.

6) A list of the names of each of the Hearing Panel members and alternates.

b. This Notice of Hearing letter will be made in writing and will be delivered either:

1) In person, or

2) Mailed to the local address of the respective party as indicated in official University records and emailed to the party's University-issued email account. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and emailed, notice will be presumptively delivered.

4. Pre-Hearing Witness Lists, Documentary Evidence and Objection to Hearing Panel Member(s)

At least four business days prior to the hearing, the Complainant and Accused will give to the Investigator a list of the names of the proposed witnesses and copies of all proposed documentary evidence and may also object in writing to any hearing panel member or alternate. At least two business days prior to the hearing, the Investigator will have available for the Complainant and Accused, and a copy will be sent to the Hearing Panel Chair, the names of proposed witnesses, copies of all pertinent documentary evidence and a copy of any investigative report.

5. Objection to or Recusal of Hearing Panel Member

Upon receipt, the Investigator will forward to the Hearing Panelist Chair any written objection by the Complainant or Accused to any hearing panel member. Hearing Panel members will only be unseated and replaced if the Hearing Panelist Chair concludes that their bias precludes an impartial hearing of the Complaint. Additionally, any panelist or Chair of the Hearing Panel who feels they cannot make an objective determination must recuse himself or herself from the proceedings in advance of the hearing.

6. Request for Alternative Attendance or Questioning Mechanisms

The Complainant and Accused should request alternative attendance or questioning mechanisms (screens, Skype, questions directed through the Chair, etc.) at least two business days prior to the hearing. The request should be made to the Chair of the Hearing Panel. The University will make reasonable accommodations for both the Complainant and the Accused in keeping with the principals of equity and fairness.

7. Conduct of Hearing

The Chair of the Hearing Panel ("Chair" in this subsection) shall preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates

in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Accused, confirm receipt of notice of hearing, report any extensions requested or granted and establish the presence of any Advisors. Formal rules of evidence shall not apply.

a. **Investigator's Report and Testimony**

The Investigator(s) will present the report of the investigation first, and be subject to questioning by the Complainant, the Accused and the Hearing Panel. The Investigator(s) may also call witnesses who will be subject to questioning by the Investigator, the Complainant, the Accused and the Hearing Panel. The Investigator(s) will remain present during the entire hearing process.

b. **Complainant's Evidence**

Complainant may give testimony and be subject to questioning by the Investigator, the Accused (through the Chair as discussed in Section 600.040.M.6 above) and the Hearing Panel. Complainant may also call and question witnesses who may also then be questioned by the Accused and the Hearing Panel. Complainant may also submit documentary evidence.

c. **Accused's Evidence**

Accused may give testimony and be subject to questioning by the Investigator, the Complainant (through the Chair as discussed in Section 600.040.M.6 above) and the Hearing Panel. The Accused may also submit documentary evidence.

8. **Rights of the Hearing Panel**

- a. To determine the relevancy and admissibility of any evidence offered at the hearing.
- b. To question witnesses or evidence introduced by the Investigator, the Complainant or the Accused at any time.
- c. To call additional witnesses.
- d. To exclude witnesses proposed by the Investigator, the Complainant or the Accused if it is determined his or her testimony would be redundant or not relevant.
- e. To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Chair of the Hearing Panel ("Chair" in this subsection).
- f. To have present a legal advisor to the Hearing Panel, who shall be designated by the General Counsel of the Board of Curators.
- g. To have the names of witnesses that may be called by the Investigator, Complainant and Accused at least two days prior to the hearing.
- h. To have copies of all pertinent documentary evidence and any investigative report at least two business days prior to the hearing.
- i. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Chair, whose ruling shall be final unless the Chair shall present the question to the

Hearing Panel at the request of a member of the Hearing Panel, in which event, the ruling of the Hearing Panel by majority vote shall be final.

9. Decisions

The Hearing Panel will deliberate with no others present, except any legal advisor to the Hearing Panel, to determine whether the Accused is responsible or not responsible for the policy violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the Accused committed each alleged violation). If an Accused is found responsible by a majority of the panel, the panel will recommend appropriate sanctions. The Chair of the Hearing Panel will prepare a written panel report and deliver it to the Provost or Provost's Designee detailing the finding, how each member voted, the information cited by the panel in support of its determination and any information the Hearing Panel excluded from its consideration and why. If the Accused is found responsible, the report should conclude with recommended sanctions. This report is typically submitted to the Provost or Provost's Designee within two (2) business days of the end of deliberations. Deviation from the 2-day period will be communicated to the Parties, along with an expected time to completion.

The Provost or Provost's Designee will inform the Accused and the Complainant of the final determination, which will include the Provost's addendum with the determination of sanctions, if applicable, within 3 business days of receipt of the panel report, without significant time delay between notifications. Notification will be made in writing and will be delivered either:

- a. In person, or
- b. Mailed to the local address of the respective party as indicated in official University records and emailed to the respective party's University-issued email accounts. If there is no local address on file, mail will be sent to the party's permanent address.

Once received in person or mailed and emailed, notice will be presumptively delivered.

P. Sanctions

When the Accused is found responsible, the Hearing Panel or Provost's Designee (when a Provost's Designee is used in the Administrative Resolution Process) will recommend sanctions but sanctions and remedial actions are determined by the Provost.

1. Factors considered when determining sanctions/remedial actions may include:
 - a. The nature, severity of, and circumstances surrounding the violation.
 - b. The disciplinary history of the Accused.
 - c. The need for sanctions/remedial actions to bring an end to the discrimination, harassment and/or retaliation.
 - d. The need for sanctions/remedial actions to prevent the future recurrence of discrimination, harassment and/or retaliation.
 - e. The need to remedy the effects of the discrimination, harassment and/or

retaliation on the Complainant and the University community.

2. Types of Sanctions. The following sanctions may be imposed upon any Faculty Member found to have violated the University's Anti-Discrimination Policies. Multiple sanctions may be imposed for any single violation. Sanctions include but are not limited to:
 - a. Warning – Verbal or Written
 - b. Performance Improvement Plan with monitoring
 - c. Required Counseling
 - d. Required Training or Education
 - e. Loss of Annual Pay Increase
 - f. Loss of Supervisory Responsibility
 - g. For Non-Regular Faculty, immediate termination of term contract and employment
 - h. For Regular, Untenured Faculty, immediate termination of term contract and employment. Notice of not reappointing would not be required.
 - i. Suspension without pay (while the appeal is pending this is a suspension with pay)
 - j. Non-renewal of appointment
 - k. For Regular, Tenured Faculty, suspension without pay (while the appeal is pending, but not for the duration of the dismissal for cause proceedings, this is a suspension with pay), removal from campus and referral to the Chancellor to initiate dismissal for cause as detailed in Section 310.060 of the Collected Rules and Regulations.
3. When Implemented. Sanctions are implemented immediately by the Provost or Provost's Designee unless the Chancellor or Chancellor's Designee stays their implementation pending the outcome of the appeal. Suspension without pay is automatically a suspension with pay during the appeal but immediately converts to a suspension without pay upon the conclusion of an unfavorable appeal.

Q. Appeal

1. Grounds for Appeal.
Both Complainant and Accused are allowed to appeal the decision in the Administrative Resolution Process or the decision in the Hearing Panel Resolution Process. Appeals are limited to the following:
 - a. A procedural error occurred that significantly impacted the outcome of the Administrative or Hearing Panel Resolution Process (e.g. substantiated bias, material deviation from established procedures, etc.).
 - b. To consider new evidence, unavailable during the original resolution process or investigation that could substantially impact the original finding or sanction.
 - c. The sanctions fall outside the range typically imposed for this offense, or for the cumulative disciplinary record of the Accused.
2. Requests for Appeal.

Both Complainant and Accused may submit a request for appeal to the Chancellor or Chancellor's Designee. All requests for appeal must be submitted in writing to the Chancellor or Chancellor's Designee within three business days of the delivery of the written finding of the Hearing Panel or Provost or Provost's Designee. When any party requests an appeal, the other party (parties) will be notified and receive a copy of the request for appeal.

3. Response to Request for Appeal.

Within three business days of the delivery of the notice and copy of the request for appeal, the other party (parties) may file a response to the request for appeal. The response can address that sufficient grounds for appeal have not been met and/or the merits of the appeal.

4. Review of the Request to Appeal.

The Chancellor or Chancellor's Designee will make an initial review of the appeal request(s). The Chancellor or Chancellor's Designee will review the request for appeal to determine whether:

- a. The request is timely, and
- b. The appeal is on the basis of any of the three articulate grounds listed above, and
- c. When viewed in the light most favorable to the appealing party, the appeal states grounds that could result in an adjusted finding or sanction.

The Chancellor or Chancellor's Designee will reject the request for appeal if all three of the above are not met. Such decision is final.

5. Review of the Appeal.

If all three requirements for appeal listed above are met, the Chancellor or Chancellor's Designee will accept the request for appeal and proceed with rendering a decision on the appeal applying the following additional principals:

- a. Appeals are not intended to be full re-hearings of the complaint and are therefore deferential to the original decision. In most cases, appeals are confined to a review of the written documentation or record of the Administrative Resolution or Hearing Panel Resolution, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original decision maker (Hearing Panel, Provost or Title IX Coordinator) for reconsideration.
- b. Sanctions are implemented immediately unless the Chancellor or Chancellor's Designee stays their implementation pending the outcome of the appeal. Suspension without pay is automatically a suspension with pay during the appeal but immediately converts to a suspension without pay upon the conclusion of an unfavorable appeal.
- c. The Chancellor or Chancellor's Designee will normally render a written decision on the appeal to all Parties within 7 business days from accepting the request for appeal.
- d. All Parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.

- e. Once an appeal is decided, the outcome is final: further appeals are not permitted.
6. Extensions of Time.
For good cause, the Chancellor or Chancellor's Designee may grant reasonable extensions of time (e.g.: 7-10 business days) to the deadlines in the appeal process to either or both Parties.

R. Records

In implementing this policy, records of all Complaints, resolutions, and hearings will be kept by the Provost or Provost's Designee. An audio, video, digital, or stenographic record of the hearings will be maintained and will be filed in the office of the Provost or Provost's Designee and, for the purpose of review or appeal, be accessible at reasonable times and places to the Accused and the Complainant. Letter(s) of notice, exhibits, hearing record (an audio, video, digital or stenographic record of the hearing) and the findings, determination of conduct and recommendation of sanctions by the Hearing Panel and determination of sanctions by the Provost or when the Administrative Resolution process is used, the findings and determination of conduct by the Provost or Provost's Designee, the recommendation of sanctions by the Provost's Designee (when applicable) and the determination of sanctions by the Provost are the "Record of the Case in the Section 600.040 Process." Files will be kept for seven (7) years following final resolution.

S. Dismissal for Cause Referral

If the recommended sanction for a Regular, Tenured Faculty member is referral to the Chancellor to initiate Dismissal for Cause, the Record of the Case will be forwarded to the appropriate Faculty Committee on Tenure. Because the Dismissal for Cause proceeding is not a re-hearing of the Complaint, the Record of the Case will be included as evidence and the findings will be adopted for proceeding as detailed in Section 310.060: Procedures in Case of Dismissal for Cause in the Collected Rules and Regulations.

Collected Rules and Regulations

Faculty Bylaws and Tenure Regulations

Chapter 310: Academic Tenure Regulations

310.020 Regulations Governing Application of Tenure

Bd. Min. 3-17-72, p. 36,281; Revised Bd. Min. 6-27-80, p. 38,132; Amended Bd. Min. 9-12-80; Amended Bd. Min. 10-30-87, 6-19-92, 3-18-93, 9-28-01.

The following regulations, under which the Board intends to exercise the powers vested in it, govern the application of the principle of tenure at the University of Missouri, but these regulations shall not impair, or be taken to waive, any powers now or hereafter vested in the Board under the Constitution and laws of the State of Missouri. At the same time, the Board recognizes that matters relating to faculty status are primarily a faculty responsibility. Recommendations in matters of appointment, reappointment, nonreappointment, promotion, tenure, and dismissal shall be by the appropriate faculty through established procedures, followed by action by administrative officers, with final determination by the appointing authority. For allegations of harassment or discrimination against a faculty member, the procedures are found in Section 600.040: Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Faculty Member and when applicable, Section 310.060: Procedures in Case of Dismissal for Cause.

A. **Classes of Academic Staff Appointments** -- Academic staff appointments are those in which the principal responsibilities are teaching, research, extension, academic service, or any combination thereof. There shall be only two classes of academic staff appointments, designated as such: regular and nonregular.

1. **Regular** -- A regular appointment requires full-time service by the holder thereof and must carry full-time pay from the University, except as provided in Section B.2.a. Special exception may be made for licensed physicians on the staff of the Harry S. Truman Veterans Administration Hospital who can be recommended for regular academic appointment in the University of Missouri-Columbia School of Medicine by the Dean of said School if endorsed by the Chancellor of the Columbia campus. In so doing the School of Medicine assumes full responsibility for the tenure status of the individual physician. There shall be only three titles of rank for regular appointments, designated as such: Professor, Associate Professor, and Assistant Professor. The holder of a regular appointment either is tenured or, unless notified of nonreappointment or terminal appointment, is considered to be working toward tenure.

2. **Nonregular** -- All other academic staff appointments are nonregular. Nonregular appointments are either temporary (not to exceed seven years), part-time, or involve duties substantially different from those of faculty members holding regular appointments. The following sections illustrate the class of nonregular appointments.
 - a. Temporary appointments involving duties similar to those of regular appointees, such as Visiting Professor. The maximum number of consecutive annual appointments in this category shall be seven (7), unless funds for the position come from a project grant or contract.

- b. Unless explicitly exempted under the above paragraph, all part-time or summer appointments. This category includes appointments such as Adjunct Professor or Clinical Professor and others of like nature, where the holder does not have full-time responsibilities or pay associated with that title. This category also includes certain academic appointments for persons having primary appointments of an administrative nature.
- c. Appointments to positions involving duties substantially different from those of regular appointees, such as academic field staff appointments in Extension; Lecturer, Assistant Instructor, Instructor, Research Assistant, Research Associate, Graduate Research Assistant, Graduate Teaching Assistant, Extension Assistant, Extension Associate, Student Assistant, and others of like nature; coaches of intercollegiate athletics. Titles in this category shall not include Professor, Associate Professor, and Assistant Professor, but may be modifications thereof.

B. Types of Appointments

- 1. Within the class of regular appointments, there shall be two types: regular term appointments and continuous appointments. Within the class of nonregular appointments, there shall be one type: nonregular term appointments.
 - a. **Regular Term Appointments** -- Regular term appointments begin at a specified date and terminate at a specified date. Such appointments are usually for a period of one academic year, but may be for a longer or shorter period, except that no single term appointment shall be for a period longer than three years. Regular term appointments are subject to the maximum probationary period described in Section 310.020 C and D. Faculty members on regular term appointments are to be considered as reappointed for the succeeding year unless appropriately notified under Section 310.020 F.
 - b. **Continuous Appointments** -- Continuous appointments are regular appointments that begin at a specified date but have no specified date of termination. Such appointments shall be deemed to exist in a given department or school on a specific campus. Unless a continuous appointment is subsequently acquired in another unit, no faculty member shall lose, by an approved change in duties or administrative unit, a continuous appointment already acquired. No faculty member shall lose a continuous appointment already acquired if granted a leave of absence with subsequent resumption of duties. In circumstances in which the interest of the University may be better served thereby, a continuous appointment already acquired may be changed, upon request of the faculty member, from full-time to part-time status.
 - c. **Nonregular Term Appointments** -- Nonregular term appointments begin at a specified date and terminate at a specified date. Such appointments are usually for a period of one academic year but may be for a longer or shorter period, except that no single term appointment shall be for a period longer than three years. No number of nonregular term appointments shall create any presumption of a right to reappointment on term or continuous basis, subject to the limitations described in Section 310.020 A.2.

2. **Administrative Functions** -- The administrative functions and titles of administrators shall be distinct and severable from their functions, titles, and status, if any, as appointees to the academic staff. The academic appointments of persons whose primary responsibilities are administrative may be regular or nonregular depending upon the particular circumstances, but the academic appointment must be made through established procedures for such appointments and its terms made explicit prior to the start of the appointment. An initial appointment may be made for both administrative functions and academic staff duties.

C. **Tenure**

1. Faculty members on continuous appointments shall have tenure, subject to dismissal only for cause, retirement for age in accordance with Board retirement regulations, or termination because of formal discontinuance of a program or department of instruction. Adequate cause for dismissal shall be related, directly and substantially, to the faculty member's fitness or performance in the professional capacity of teacher or researcher. Cause for dismissal may include but is not limited to the following:
 - Conviction of a felony or other crime involving moral turpitude during the period of employment by the University of Missouri which is related, directly and substantially, to the faculty member's academic fitness or performance in the professional capacity of teacher or researcher.
 - Professional incompetence in the performance of academic responsibilities.
 - Intentional and habitual neglect of duty in the performance of academic responsibilities, provided that a written warning and a reasonable opportunity to correct the behavior have been given.
 - Severe research misconduct, academic irresponsibility, or other default of academic integrity in the performance of academic responsibilities.
 - Willful misrepresentation of material matters in applying to the University of Missouri for employment which are related, directly and substantially, to the faculty member's fitness or performance in the professional capacity of teacher or researcher.
 - ~~Either extreme or repeated sexual harassment or racial, gender or other discriminatory practices.~~
 - Harassment or discrimination in violation of the University's Anti-Discrimination Policies, as determined through the procedures in Sections 600.040 and 310.060 of the Collected Rules and Regulations.
 - Due consideration shall be given to seniority in terms of academic rank and length of service in the event that certain continuous appointments must be terminated because of financial exigencies. Where termination of an appointment with tenure, or of a nontenured appointment before the end of the specified term, is based upon bona fide financial exigency or discontinuance of a program or department of instruction, faculty members shall be able to have the issues reviewed by the faculty, or by an appropriate faculty committee, with ultimate review of all controverted issues by the Board.

- Before terminating an appointment for either of these reasons, the University will make every effort to place affected faculty members in other suitable positions. The faculty member whose appointment is terminated under the conditions of financial exigency or discontinuance of a program or department of instruction will be given notice not less than that prescribed in Section 310.020 F.2; and no position within the same administrative unit for which the released faculty member is qualified will be filled by a replacement within a period of three years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.
 - 2. Appointees to the academic staff under term appointments, either regular or nonregular, are subject to termination prior to expiration of the stated term only for cause or under extraordinary circumstances because of financial exigencies or discontinuance of a program or department of instruction. Term appointments for Non-Regular and Regular, Untenured faculty may be terminated prior to expiration of the stated term pursuant to Section 600.040: Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Faculty Member. An appointment with tenure may be terminated pursuant to Section 600.040 and Section 310.060: Procedures in Case of Dismissal for Cause.
 - 3. Termination of an appointment with tenure, or of a probationary or special appointment before the end of the period of appointment, for medical reasons, will be based upon clear and convincing medical evidence that the faculty member cannot continue to fulfill the terms and conditions of the appointment. The decision to terminate will be reached only after there has been appropriate consultation and after the faculty member concerned, or someone representing the faculty member, has been informed of the basis of the proposed action and has been afforded an opportunity to present the faculty member's position and to respond to the evidence. If the faculty member so requests, the evidence will be reviewed by the Faculty Committee on Tenure before a final decision is made. (See also University benefit programs--optional long-term disability income protection.)
 - 4. The relieving of any person of administrative functions shall not impair any existing tenure status as an appointee to the academic staff.
- D. **The Probationary Period** -- The purpose of a probationary period is to allow reasonable time for faculty members to establish their academic performance and for their departments to evaluate performance and potential performance in the long-range future in order to validate recommendations for continuous or terminal appointments. The following rules and guidelines are applicable to determination of the probationary period and creditable previous service of persons with experience prior to the start of a regular appointment at this University.

1. Beginning with appointment to the rank of full-time Assistant Professor or higher rank, the total probationary period of term appointments will not exceed six years (including within this six-year period full-time creditable service in all institutions of higher education), except that if after a term of probationary service of more than three years in one or more institutions, a faculty member is appointed at a campus of the University of Missouri, it may be agreed in writing that there shall be a probationary period at that campus not to exceed three years. In no case will the conditions

established in this section cause the probationary period at a campus of this University to be longer than prescribed in Section 310.020 E. In all cases the probationary period will be indicated on the appointment form.

—The probationary period will be followed either by continuous appointment or a one-year terminal appointment.

2. In general, credit will be allowed for previous experience on a full-time academic staff appointment at the rank of Assistant Professor or higher at this University or any other institution of higher education. Because some academic appointments at this and other institutions of higher education carry responsibilities substantially different from the prospective appointment at this University, there may be circumstances in which previous service should not be credited as a part of the maximum probationary period. If this is determined to be the case, it must be agreed to prior to this appointment and reflected in the probationary period indicated on the appointment form.
3. If the appointee has had a substantial period of previous service, the decision whether or not to recommend continuous appointment should be made as soon as reasonably feasible. The initial appointment may be a continuous appointment. A regular term appointment of a person who currently holds such an appointment in the same field at this University, or has held one during the preceding year, shall be deemed to be a reappointment, a change in appointment, or a connected appointment, and not a new or initial appointment.
4. In computing service to be credited within the probationary period, the following rules shall apply:
 - a. Years of service shall be computed in terms of academic years. Not more than one academic year of credit shall be allowed for services during any consecutive twelve-month period. Service for less than one academic year shall be excluded unless the faculty member and the appointing authority agree in writing to the inclusion at the time of the initial appointment.
 - b. Service on any nonregular appointment involving duties substantially different from duties on a regular appointment shall be excluded.
 - c. Service while on leave of absence without pay shall be excluded unless the faculty member and the appointing authority agree in writing to the inclusion at the time the leave is granted. Leaves of absence for scholarly purposes of one year or less generally should be included.
 - d. In allowing credit for service at this University or at another institution, fractions of an academic year shall be excluded where crediting such fraction would require decisions at times other than the normal period during the academic year when decisions are made as to recommendations or notices, even if such exclusion will have the effect of extending the probationary period beyond the normal maximum.

- E. **Regular Term Appointments and Reappointments** -- The following provisions apply to initial regular term appointments and reappointments. The provisions apply to persons without

previous service and are modified by Section 310.020 D for persons with creditable previous service.

1. **Assistant Professor** -- Initial regular appointment at the rank of Assistant Professor shall be a term appointment. The maximum period on term appointment shall not exceed seven years. During the appointee's initial term, and during each succeeding term through the sixth year of service, the appropriate Dean or other administrative officer shall, after receiving recommendations from the appropriate faculty bodies, make one of the following recommendations, except that the recommendations 1.a and 1.b shall not be made during the appointee's sixth year of service.
 - a. To reappoint as Assistant Professor on a regular term appointment.
 - b. In exceptional cases, to promote to Associate Professor on term appointment. If such recommendation is effected, by proper appointment, Section 310.020 E.2 controls thereafter, except that the maximum period on term appointments shall not exceed seven years, and all of the service as an Assistant Professor shall be credited toward the seven-year maximum period.
 - c. To promote to Associate Professor on continuous appointment.
 - d. To reappoint as Assistant Professor on continuous appointment.
 - e. To reappoint as Assistant Professor on a terminal one-year term appointment, expressly stated to be such.
 - f. Not to reappoint, provided there has been due notice as stipulated in Section 310.020 F.2.
2. **Associate Professor** -- Initial regular appointment at the rank of Associate Professor normally shall be a term appointment but in exceptional cases may be a continuous appointment. The maximum period on term appointment shall not exceed five years. During the appointee's initial term, and during each succeeding term through the fourth year of service, the appropriate Dean or other administrative officer shall, after receiving recommendations from the appropriate faculty bodies, make one of the following recommendations, except that recommendation Section 310.020 E.2.a shall not be made during the appointee's fourth year of service:
 - a. To reappoint as Associate Professor on a regular term appointment.
 - b. To reappoint as Associate Professor on continuous appointment.
 - c. To promote to Professor on continuous appointment.
 - d. To reappoint as Associate Professor on a terminal one-year appointment, expressly stated to be such.
 - e. Not to reappoint, provided there has been due notice as stipulated in Section 310.020 F.
3. **Professor** -- Initial regular appointment at the rank of Professor normally shall be a term appointment but may be a continuous appointment. The maximum period on term appointment shall not exceed four years. During the appointee's initial term and during each succeeding term through the third year of service, the appropriate Dean or other administrative officer shall, after receiving recommendations from the appropriate faculty bodies, make one of the following recommendations, except that recommendation Section 310.020 E.3.a shall not be made during the appointee's third year of service.

- a. To reappoint as Professor on a regular term appointment.
 - b. To reappoint as Professor on continuous appointment.
 - c. To reappoint as Professor on a terminal one-year term appointment, expressly stated to be such.
 - d. Not to reappoint, provided there has been due notice as stipulated in Section 310.020 F.
4. **Erroneous Term Appointments** -- Since the granting of tenure should be a deliberate act after considered evaluation of the appointee's past performance and potential performance in the long-range future, a good faith term appointment beyond the maximum permissible period on term appointments prescribed by Sections 310.020 D.1, 310.020 E.1,2, or 3 shall not confer tenure by default nor be considered a terminal appointment. Immediately upon the discovery of such an error the appointee or administrative officer shall notify the appointing authority and request that a determination be made as to the proper appointment.

F. **Nonrenewal of a Regular Term Appointment**

1. When an appointee on regular term appointment is not recommended for reappointment, notice to that effect shall be given in writing to such appointee by an appropriate administrative officer in accordance with [Section 310.070](#) by the deadline dates specified in Section 310.020 F.2. A timely terminal appointment expressly stated to be such shall be sufficient notice that the appointee will not be recommended for reappointment at the end of the terminal period.
2. Notice shall be given as follows in the case of fiscal or academic year appointments. For appointments having other starting dates, comparable notice shall be given.
 - a. Not later than March 1 of the first year of service at this University, if the appointment expires at the end of the first year. Not later than December 20 of the second year of service at this University, if the appointment expires at the end of second year.
 - b. Thirty days prior to the first day of the terminal year of appointment where the terminal year is the third, or subsequent, year of service at this University.
3. At the time of initial appointment, a faculty member should be informed of expectations about performance and of procedures generally involved in decisions affecting renewal and tenure. There should be provision for annual review of the faculty member's performance to be made by the immediate supervisor and communicated in writing, during the probationary period, to the faculty member according to generally accepted criteria with reference to the expectations discussed in the initial conference. During the probationary period, information should be given as to the time when decisions affecting renewal and tenure are ordinarily made, and there should be an opportunity to submit material which will be helpful to an adequate consideration of the faculty member's circumstances. In the event of a recommendation at any level for nonrenewal of a regular appointment or for a terminal appointment, the faculty member shall be informed and, upon request, shall

be furnished with an explanation of that decision. The faculty member shall have an opportunity to request a reconsideration of the decision and to appeal the decision to the Chancellor. If the result of that appeal is not satisfactory to the faculty member, the faculty member may file a grievance under the Faculty Grievance Procedures ([Section 370.010](#)) in the event it is alleged:

- a. That the decision resulted from inadequate consideration; or,
- b. That the decision was based significantly on consideration violative of academic freedom; or,
- c. That the decision was based significantly on considerations violative of governing policies on equal employment opportunity.

Notwithstanding any explanation given, the burden shall rest upon the faculty member to prove the allegations contained in the grievance. In the event that the grievance panel finds probable cause of a violation of academic freedom, the matter shall proceed under the provisions of [Section 310.060](#) except that the burden of proof remains with the appellant.

- G. An appointee to the academic staff on regular term appointment shall not subsequently be given a full-time nonregular term appointment to perform substantially the same type of duties in excess of a total period of service of seven years.

Collected Rules and Regulations

Faculty Bylaws and Tenure Regulations

Chapter 310: Academic Tenure Regulations

310.060 Procedures in Case of Dismissal for Cause

Bd. Min. 3-17-72, p. 36,281; Revised Bd. Min. 6-27-80, p. 38,132;
Amended Bd. Min. 9-12-80, 12-12-86, 10-30-87.

In cases of dismissal of faculty for cause, the burden of demonstrating the existence of an adequate case for dismissal shall rest with the University. A faculty member who has been notified in writing of a proposed action for dismissal may request a preliminary informal conference before an appropriate faculty committee as specified in the Bylaws of the campus faculty. If so requested, the Committee or other body shall promptly inquire into the matter and shall schedule a conference, which the parties shall be entitled to attend, the purpose of which shall be to determine whether an amicable adjustment of the matter can be effected. If no such adjustment can be made, and the notice of proposed action is not withdrawn, the matter shall proceed in accordance with Section 310.060 B.

A. Faculty Committees on Tenure

1. Each Campus Faculty Committee on Tenure shall hold hearings within the jurisdiction of this regulation involving personnel in the several academic divisions of the campus it represents.
2. In any case where the Campus Committee determines prior to a hearing that the best interests of all concerned would be served better by a hearing by the University Faculty Committee on Tenure, the Campus Committee may transfer the case to the University Committee, in which case the University Committee shall serve in the place and stead of the Campus Committee.
3. In addition to serving in the place and stead of the Campus Committee where a case is transferred, the University Committee shall have original jurisdiction to hold hearings

involving personnel holding systemwide, rather than campus, academic staff appointments.

B. Formal Proceedings

1. **Definitions** -- In the procedures established under Section 310.060 the following definitions shall apply:
 - a. Respondent shall refer to the faculty member against whom charges are filed.
 - b. Relator shall refer either to the Chancellor or to such person or persons as may be designated from time to time by the Chancellor, to represent the Chancellor in the formal proceedings against a Respondent. This may be the Dean or other appropriate administrative officer recommending action against a Respondent, or other person specifically designated.
 - c. The "Record of the Case in the Section 600.040 Process" is the letter(s) of notice, exhibits, hearing record (an audio, video, digital or stenographic record of the hearing) and the findings, determination of conduct and recommendation of sanctions by the Hearing Panel and the determination of sanctions by the Provost or when the Administrative Resolution process is used, the findings and determination of conduct by the Provost or Provost's Designee (when applicable) and determination of sanctions by the Provost pursuant to Section 600.040: *Equity Resolution Process for Resolving Complaints of Harassment, Sexual Misconduct and other Forms of Discrimination against a Faculty Member.*
 - d. Complainant is defined in in Section 600.040.C.2 of the Collected Rules and Regulations.
 - b.

2. Statement of Charges - Request for a Committee Hearing

- a. When dismissal for cause is considered by or recommended to the Chancellor, the Respondent shall be notified in writing by the Relator of the proposed action for dismissal and the reasons therefor, stated with reasonable particularity and called the Charge, and of the right to a hearing by the appropriate Faculty Committee on Tenure together with a membership roster of the Committee. If the Respondent desires a hearing, the Respondent shall give written notice of this request to the Chancellor within thirty consecutive calendar days from the receipt of the formal notice. The Respondent shall also send copies of this request for hearing to the Relator and to the Chairman of the Committee. The Relator shall thereupon file a copy of the Charge with the Chairman of the Committee. Failure by the Respondent to make a timely written request for a hearing shall constitute a waiver of the Respondent's right to a hearing before the Committee.

b. The Respondent shall file a written Answer to the Charge with the Chairman of the Committee at least three calendar days prior to the date set for hearing before the Committee. Such Answer shall specifically admit or deny the allegations of the reasons contained in the Charge. A failure to answer or to deny an allegation of fact in the Charge may be considered by the Committee as an admission of such fact.

b.c. The Relator shall notify the Complainant of the filing of the Charge and the request for hearing.

3. **Suspension from Duties** -- Pending a final decision by the Committee, the Respondent will be suspended (or assigned to other duties in lieu of suspension) if immediate harm to someone is threatened by continuance. The or if the Charge was initiated according to a finding and referral under Section 600.040. For allegations contained in the Charge not previously decided pursuant to the process in Section 600.040, the Chancellor shall

consult with an appropriate standing committee of the faculty before suspending the respondent or as soon as possible thereafter. Salary and salary will continue during any period of suspension, and an assignment to other duties shall not diminish salary.

- If the Charge was initiated according to a finding and referral under Section 600.040, Respondent shall be suspended without pay and removed from campus until the Chancellor makes a determination and all appeals have been exhausted under Section 310.060.

4. Hearing by Committee

- a. If the Respondent makes a timely written request for a hearing by the Committee, the Chairman shall notify in writing the Respondent, the Complainant (when applicable) and the Relator of the date, time, and place of hearing before the Committee, which shall be within a reasonable time but not less than ten, or more than thirty, consecutive calendar days after the date of the receipt of the request for hearing. Not less than twenty days shall be allowed between the delivery of the Charge to the Respondent and the beginning of the hearing.
- b. Any request for continuance shall be made by the Respondent, Complainant or Relator in writing to the Chairman, who shall have discretionary authority to continue the hearing within the time limits fixed under Section 310.060 B.4.a upon determining that the request is timely and made for good cause. Any continuance beyond the time limit fixed must be by action of the Committee and approved by the Chancellor.
- c. In accordance with standing University policy in personnel matters, such hearings shall not be open to the public.
- d. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by

the Relator, the Complainant, the Respondent, the Committee, or administrative officers will be avoided until the proceedings have been completed, including final appeal.

5. **Conduct of Hearing** -- The Chairman shall preside at the hearing, call the hearing to order, call the roll of the Committee in attendance, ascertain the presence or absence of the Respondent, the Complainant (when applicable) and the Relator, read the notice of hearing, read the Charge and Answer, verify the notice of the Charge to the Respondent, report any continuances requested or granted, establish the presence of any advisor or counselor of either party, call to the attention of the Respondent and Respondent's advisor any special or extraordinary procedures to be employed during the hearing, and permit the Respondent to suggest or object to procedures. Formal rules of evidence shall not be required.

a. **Opening Statements**

(1) The Relator shall make opening remarks outlining the general nature of the case. Such remarks shall not be considered as evidence. The Relator may give evidence, but only if called to testify as a witness.

(2) The Respondent may also make an opening statement to the Committee about the charge, either at this time or at the conclusion of the Relator's presentation, at the Respondent's election. Such remarks shall not be considered as evidence. The Respondent may give evidence, but only if called to testify as a witness.

(3) The Complainant may make an opening statement to the committee about the allegation(s) in the Charge which were previously decided pursuant to the process in Section

600.040. Such remarks shall not be considered as evidence.

b. Evidence for Matters Previously Decided in the Section 600.040 Process

(1) The Record of the Case in the Section 600.040 Process will be the evidence before the Committee and the findings will be adopted by the Committee. There will not be a rehearing of those issues previously decided in the Section 600.040 process and the Relator, the Complainant and the Respondent will not be allowed to present additional evidence or rebuttal evidence regarding those matters.

(2) Any additional allegation(s) in the Charge which were not within the jurisdiction of and not previously decided in the Section 600.040 Process will follow the process in Section 310.060.

(3) If the Committee determines that there is good cause to believe that there is new evidence, unavailable during Section 600.040 process and that could substantially impact the original finding, the Committee may refer the matter back to the applicable process in Section 600.040 for further proceedings. If the original decision maker is available, the matter will be heard by the original decision maker.

b. c. Relator's Evidence

(1) Relator's witnesses are to be called and identified and evidence or written statements or reports introduced as appropriate.

(2) The Committee may question witnesses or examine evidence at the conclusion of the Relator's presentation. Respondent may question the Relator or witnesses.

c. d. Respondent's Evidence

(1) Respondent's witnesses are to be called and identified and evidence or written statements or reports introduced as appropriate.

(2) The Committee may question witnesses or examine evidence at the conclusion of Respondent's presentation. Relator may question the Respondent or witnesses.

d. **e. Rebuttal Evidence** -- The Committee shall permit the Relator or the Respondent to offer any matter in rebuttal of the other's presentation.

6. **Rights of Committee** -- The Faculty Committee on Tenure shall have the right:

- a. To determine the relevancy and admissibility of any evidence offered at the hearing, except that when the allegation(s) in the Charge was previously decided pursuant to the process in Section 600.040, the Record of the Case in the Section 600.040 Process will be the evidence before the Committee and the findings will be adopted by the Committee.
- b. To permit a stipulation of agreed facts by the Relator and the Respondent.
- c. To permit the incorporation in the record by a reference of any document, affidavit or other exhibit produced and desired to be incorporated in the record by the Relator or the Respondent.
- d. To question witnesses or evidence introduced by either the Relator or the Respondent at any time.
- e. To call additional witnesses for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.

- f. To review the Record of the Case in the Section 600.040 Process.
- g. For allegations in the Charge previously decided pursuant to the process in Section 600.040, if the Committee determines that there is good cause to believe that there is new evidence, unavailable during the Section 600.040 process and that could substantially impact the original finding, the Committee may refer the allegation(s) back to the applicable process in Section 600.040 for further proceedings. If the original decision maker is available, the matter will be heard by the original decision maker.
- f.h. To dismiss any action or permit informal disposition at any stage of the proceeding if agreed to by Relator, Respondent, and appointing authority.
- g.i. To permit at any time amendment of the Charge or Answer so as to include matters which may come to the attention of the Committee before final determination of the case, provided however, that in such event the Committee shall grant to the Respondent or the Relator such time as the Committee may determine reasonable under the circumstances to answer or explain such additional matters.
- h.j. To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Chairman of the Committee.
- i.k. To have present a legal advisor to the Committee, who shall be designated by the General Counsel of the Board of Curators.

7. Parties' Rights Upon Hearing

- a. A Relator appearing before a Faculty Committee on Tenure for a hearing pursuant to formal notice of a Charge shall have the right:
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- (1) To be present at the hearing, which right may be waived by failure to appear.
- (2) To have present any legal or other advisor or counselor and to consult with such advisor or counselor during the hearing.
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 - (3) To present evidence by witnesses and by properly identified written statements or reports in support of the Charge:
 - for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.
 - (4) To hear or examine evidence presented by the Respondent:
 - for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.
 - (5) To question witnesses present and testifying for Respondent:
 - for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.
 - (6) To make any statement to the Committee in support of the Charge.
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 - (7) To be informed in writing of the findings of the Committee and its recommendation on the Charge.
- b. A Respondent appearing before a Faculty Committee on Tenure for a hearing pursuant to formal notice of a Charge shall have the right:
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 - (1) To be present at the hearing, which right may be waived by failure to appear.

- - (2) To have present any legal or other advisor or counselor and to consult with such advisor or counselor during the hearing.
 - - (3) To present evidence by witnesses and by properly identified written statements or reports for any defense the Respondent desires. for allegations contained in the Charge which were not previously within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.
 - (4) To hear or examine evidence presented to the Committee.
 - for allegations contained in the Charge which were not previously within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.
 - (5) To question witnesses present and testifying at the hearing.
 - for allegations contained in the Charge which were not previously within the jurisdiction of and not previously decided pursuant to the process in Section 600.040.
 - (6) To make any statement to the Committee in mitigation or explanation of the conduct in question.
 - - (7) To be informed in writing of the findings of the Committee and its recommendation on the Charge.
- c. Complainant may elect to participate in the Section 310.060 process but there is no negative inference if Complainant elects not to participate. If Complainant elects not to participate in the Section 310.060 process, Complainant still has the right to be informed in writing of the findings of the Committee and its recommendation on the Charge, as it relates to the allegation(s) in the Charge

previously decided pursuant to the process in Section 600.040. If Complainant elects to participate in the Section 310.060 process, Complainant shall have the right:

- (1) To be present, which may be waived by failure to appear, at the portions of the hearing related to the allegation(s) in the Charge previously decided pursuant to the process in Section 600.040.
- (2) To have present any legal or other advisor or counselor and to consult with such advisor or counselor during the hearing.
- (3) To make an impact statement, either verbally or in writing, to the Committee.
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- (4) To be informed in writing of the findings of the Committee and its recommendation on the Charge, as it relates to the allegation(s) in the Charge previously decided pursuant to the process in Section 600.040.
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8. Other Procedural Questions

- a. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Chairman, whose ruling shall be final unless the Chairman shall present the question to the Committee at the request of a member of the Committee, in which event, the ruling of the Committee by majority vote shall be final.
- b. **General Rules of Decorum** -- The following general rules of decorum shall be adhered to:
 - (1) All requests to address the Committee shall be made to the Chairman.
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 - (2) The Chairman shall rule on all requests and points of

order and may consult with the Committee's legal advisor prior to any ruling. The Chairman's ruling shall be final and all participants shall abide thereby unless the Chairman shall present the question to the Committee at the request of a member of the Committee, in which event the ruling of the Committee by majority vote shall be final.

(3) An advisor or counselor shall be permitted to address the Committee and to question witnesses. An advisor or counselor may request clarification of a procedural matter or may object on the basis of procedure at any time by addressing the Chairman after recognition.

9. Determination by Committee -- The Committee shall then make its findings and determination by majority vote in executive session out of the presence of the Relator and Respondent. Separate findings of fact are to be made as to each count of the Charge, and a recommendation made based upon the findings on all charges. Before recommending dismissal of the Respondent, the Committee shall be convinced by the evidence in the record considered as a whole that one or more counts have been sustained and that such count or counts warrant dismissal.

a. Official Report of Findings and Determination -- Promptly after the hearing and, in any event, within ten consecutive days after receipt of the record, the Committee shall make its findings of fact and recommendations in writing and transmit them to the Chancellor, to the Relator, to the Complainant (when applicable and as it relates to the allegations(s) in the Charge previously decided pursuant to the process in Section 600.040) and to the Respondent forthwith. If the Committee concludes that adequate cause for dismissal has not been established, and therefore tenure is not involved, but that some discipline or penalty less than dismissal may be appropriate, it may recommend

that the Record of the Case be referred to the appropriate campus-level Committee for its recommendation to the Chancellor.

C. **Record of Case** -- A taped or stenographic record of the hearing shall be taken and shall be maintained for five (5) years. The notice, exhibits, hearing record, a copy of the Record of the Case in Section 600.040 Process, when applicable, and the findings and determination of the Committee shall become the "Record of the Case," shall be filed in the Office of the President of the University, and shall be available only for official purposes, and for the purpose of appeal be accessible at reasonable times and places both to the Relator and the Respondent. In the event of an appeal, no new evidence shall be taken in the case, but the appellate authority may remand the matter for further evidence to the Committee. Either party may have any such record of the hearing reduced to writing for the purposes of appeal.

D. **Determination by Chancellor and Right of Appeal**

1. The Chancellor shall make a determination in the matter after giving due consideration to the findings and recommendations of the Committee and may remand the matter to the Committee or to the decision maker in the Section 600.040 Process, when applicable, for further proceedings. Upon reaching this determination, the Chancellor shall notify the Respondent, the Complainant (when applicable and as it relates to the allegation(s) in the Charge previously decided pursuant to the process in Section 600.040) and Relator in writing of the determination and disposition. The Respondent, Complainant or Relator shall be entitled to appeal to the President of the University as provided in Section 310.060 D.3. The Complainant's right to appeal and have access to records related to the appeal in Section 310.060.D are limited to the allegation(s) in the Charge which were previously decided pursuant to the process in Section 600.040. When the allegation(s) in the Charge was previously decided pursuant to

Section 600.040 and if the Chancellor determines that adequate cause for termination has not been established, the Chancellor, in consultation with the Provost, shall determine sanctions less than termination for cause. The determination of sanctions less than termination for cause is stayed pending the appeals related to the Chancellor's decision as to termination and are not part of those appeals.

2. When permitted by these Regulations, the Respondent, Complainant or Relator may appeal a decision of the Chancellor by filing written notice of appeal within seven (7) consecutive calendar days after notice of the decision of the Chancellor with the President. A copy of the Notice of Appeal will simultaneously be given by the ~~Respondent to the Relator or by the Relator to the Respondent~~ appealing party to all other parties. The appealing party may file a written argument confined to the issues and evidence previously submitted and contained in the Record of the Case for consideration by the President. Such memorandum must be filed with the Notice of Appeal, and the President may request a reply to such memorandum by the Respondent, Complainant or Relator. The President shall have the discretionary right to grant extensions of time.
3. The President shall review the full Record of the Case and the appeal documents and may affirm, reverse, remand the case for further proceedings or, upon concluding that adequate cause for termination has not been established, and therefore tenure is not involved, but that some discipline or penalty less than dismissal may be appropriate, may refer the Record of the Case to the appropriate campus final Committee on Faculty Responsibility for its recommendation to the Chancellor and the President shall notify the Respondent, Complainant (when applicable) and the Relator in writing of this decision on the appeal.
 - a. The Relator, Complainant or the Respondent may thereafter appeal to The Board of Curators of the University of Missouri by filing a written Notice of Appeal

with the President of the University and the Secretary of the Board of Curators and giving notice either to the Respondent or the Relator, as appropriate. Such Notice of Appeal must be filed within seven (7) consecutive calendar days of the notification of action by the President. Upon the filing of a Notice of Appeal to the Board, the President shall cause the record of the case, including any written memoranda received during its consideration, to be filed promptly with the Secretary of the Board of Curators.

- b. The appealing party shall have the privilege of filing written argument confined to the issues and evidence previously submitted and considered in the Record of the Case for consideration by the Board of Curators with the Notice of Appeal, and the other parties may file a written reply within seven consecutive calendar days.

The President of the University may grant extensions of time for filing written argument. The parties have the right of appearance before a committee of the Board.

4. The Board of Curators shall either sustain the decision of the Hearing Committee or return the proceedings to the Committee with specific objections. The Committee shall then reconsider, taking into account the stated objections and receiving new evidence if necessary. The Board of Curators shall take such final action on the appeal as it deems appropriate after study of the Committee's reconsideration. The Secretary of the Board shall notify the Respondent and the Relator in writing of the decision of the Board.

5. **Notice** -- If the appointment is terminated, a tenured faculty member shall normally receive salary to the end of the contract year in which final determination was made by the Chancellor under these procedures, as set forth in Section 310.060 D.1, except that no salary shall be paid beyond the date of termination if the cause of termination was conviction of a felony. or if the cause of termination resulted from a Charge that was initiated pursuant to a finding and referral pursuant to

Section 600.040. The Faculty Committee on Tenure may make recommendations if a shorter or longer period is deemed appropriate because of such considerations as the nature and gravity of the conduct which justified dismissal and the length and quality of service of the faculty member. Notice may also be extended by the President if, through no fault of the faculty member, inordinate delays occur in the appeal process.

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