

DOCUMENTS OF THE GENERAL FACULTY

**REVISION OF PROPOSED PROCEDURES FOR THE UNIVERSITY OF TEXAS AT AUSTIN
ADMINISTRATIVE INVESTIGATIONS OF POLICY VIOLATIONS ALLEGED AGAINST
FACULTY MEMBERS**

On behalf of the Committee of Counsel on Academic Freedom and Responsibility. Janet Staiger, professor, radio-television-film, has submitted the following revision of the Procedures for The University of Texas at Austin Administrative Investigations of Policy Violations Alleged Against Faculty Members (D 2360-2362), which was passed by the Faculty Council at its meeting on November 18, 2003. The changes are a result of discussions between the administration and the Committee of Counsel on Academic Freedom and Responsibility chair. The secretary has classified this as general legislation. It will be presented to the Faculty Council for action at its meeting on May 5, 2003.

John R. Durbin, Secretary
The Faculty Council

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Significant violations of University policies impact the integrity of the institution and the personal rights of those involved, both the institution or person allegedly harmed by a policy violation and the individual charged with breaching established policies.

The following shall be the minimal standards for all administrative investigations of alleged significant policy violations by faculty members at The University of Texas at Austin. Such investigations include but are not limited to allegations of violations of sexual harassment and misconduct policies, consensual relations policies, and non-discrimination policies. We define “significant policy violations” as ones in which the property rights of a faculty member might be taken away or ones in which other disciplining would occur to which the faculty member objects. Policies about specific types of violations may include more detailed features of these guidelines, but these shall stand as minimal guidelines.

Although this policy parallels in many ways the procedures for dismissal of a tenured faculty member, the procedures for that are covered elsewhere in the Handbook of Operating Procedures and Regent’s Rules, and those procedures supersede the ones outlined here. In cases in which it may be appropriate to suspend with pay a faculty member while an investigation or hearing is in process, procedures for a faculty hearing tribunal prior to the suspension with pay as outlined in Regents Rules Part One, chapter 3, section 6.33, will be followed.¹

The following process conforms to the current grievance process as outlined in HOP 3.18. The University Grievance Committee will administer hearings that develop as a result of an administrative investigation and will follow its policies for grievances arising from disputes about disciplining.

COMPLAINANT’S EXPECTATIONS

In all administrative investigations, the institution is the unit alleging the violation of a University policy. However, some policy violations may involve individual faculty, staff, or students who are those potentially harmed by the policy violation. In such cases, these University members should have minimal expectations about the process as well. These individuals shall be “complainants.”

A complainant—an individual who has alleged harm from a violation of University policies—should minimally expect that:

1. University officials will treat all incidents with appropriate professional seriousness.
2. Complainants have the right to an advocate or lawyer accompanying them through the University investigation and any hearings relating to the allegations.
3. Complainants have the right to attend any hearings relating to the allegations.

ACCUSED’S EXPECTATIONS

Statement of Allegations

1. The accused shall receive a statement of the allegations that is clear and particular. The provision(s) of the specific policy alleged to be violated must be included in this statement.
2. At the time of receiving the statement of allegations, the accused shall also receive a copy of the evidence that has been gathered to that point to support the allegations. The accused shall continue to receive promptly copies of any further evidence to be used in supporting the allegations.
3. The accused has a right to a sufficient discovery of relevant documents at no cost for the discovery process and a reasonable cost for copies of documents. If questions develop over the size or scope of the discovery request, the faculty ombudsperson will help negotiate a resolution.

¹ Amended by the Faculty Council on November 18, 2002.

4. The accused has the right to an advocate or lawyer accompanying him/her through the University investigation and any hearings relating to the allegations.
5. The accused shall have a reasonable time to respond to the charges (a minimum of twenty working days). The response may be in writing or in a meeting with the institution's appropriate representatives.
6. ~~[If, after the accused has responded, the institution still believes that a significant policy violation has occurred, the accused has a right to a hearing before loss of property rights or disciplining.]~~ If, after the accused has responded, the administration still believes that a significant policy violation has occurred, the administration should attempt to resolve the matter through negotiation with the accused person, using the Ombudsperson as a mediator. If there is no Ombudsperson, a member of the Grievance Committee mutually acceptable to both the accused and the administration will serve as the mediator.

Failing a negotiated resolution, the accused has a right to a hearing following the procedures in this policy and generally in parallel with the UT-Austin grievance procedures before imposition of discipline that would be irrevocable or result in loss of property rights.

If the administration believes that prior to a hearing, it must proceed with an action that would impose discipline that would be irrevocable or result in a loss of property rights (such as withdrawal of promised summer teaching or research funding or revocation of opportunity to apply for external grants through the University), the President or Provost will consult with the Committee of Counsel on Academic Freedom and Responsibility (CCAFR) explaining (1) why in the administration's view its proposed actions need to occur immediately, and (2) how the faculty person would be compensated for the irrevocable discipline or loss of property rights should the hearing not prove that the allegations were true or result in a judgment that the actions taken were too severe.²

Hearing and Determination of the Allegations

7. The burden of proof resides with the institution and will be satisfied by clear and convincing evidence.
8. The accused has the right to have the allegations heard by a panel of his/her faculty peers. The panel will be faculty drawn by the Grievance Committee chair from the hearing panel pool established as part of the University grievance process (see HOP 3.18, sect. III). Once the hearing panel is constituted, it will rule on requests such as the length and details of the hearing.
9. The accused shall be afforded a speedy resolution of the complaint (a maximum of thirty days between the accused responding to the charges and a hearing by peers, unless the faculty member requests an extension).
10. Both the accused and the institution have the right to request that the hearings will be private. If either makes this request, the hearing will be closed.
11. The accused, complainants, and University officials shall seek to avoid public statements and other publicity about the investigation until the proceedings have been completed, including any appeals to the president.
12. At the request of either party or the hearing panel, representatives of responsible educational associations such as the AAUP, TACT, FIRE, and TFA will be permitted to attend the proceedings as observers.
13. At the hearing, the accused has the right to provide counter evidence, witnesses, and a statement of his/her own position about the matter.
14. At the hearing, the accused has the right to question complainants and the institution's and complainants' witnesses under oath.
15. A verbatim or electronic record of the hearing or hearings will be taken, and a written copy will be given to the accused without cost.
16. The accused shall receive the decision of the hearing panel in writing.
- ~~17. The accused has the right to appeal the decision to the president of the University.]~~

Both the administration and the accused may appeal the hearing panel's decision to the president of the University.

² On May 7, 2003, a comma was removed following "President and Provost."

