

ARTICLE X. ACADEMIC FREEDOM AND TENURE,
FACULTY EMPLOYMENT AND EVALUATION

8. Dismissal and Suspension Procedures

(a) Adequate cause for a dismissal will be related, directly and substantially, to the fitness of the faculty member in the faculty member's professional capacity as a teacher-scholar. Incompetence, neglect of duty, and misconduct involving moral turpitude are examples of adequate cause. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.

(b) Except for dismissal of a faculty member for violation of the Policy and Procedures on Ethical Research and Scholarship, which shall be handled according to procedures provided therein, dismissal of a faculty member with a continuous tenure appointment, or with a special or probationary appointment before the end of the specific term, will be preceded by: 1) discussions between the faculty member and appropriate administrative officers looking toward a mutual settlement; 2) informal inquiry by the Professional Affairs Committee which may, failing to effect an adjustment, determine whether in its opinion dismissal proceedings should be undertaken, without its opinion being binding upon the President; 3) a statement of charges, framed with reasonable particularity by the President or the President's delegates.

[Revised: See Trustee Minutes October 9, 1992]

(c) A dismissal, as defined in Section 8 (a), will be preceded by a statement of reasons, and the individual concerned will have the right to be heard initially by the Faculty Hearings Committee. Members deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party or on their own initiative. Each party will have a maximum of two challenges without stated cause. Vacancies on the Faculty Hearings Committee resulting from illness, disqualification, challenge, or other reason while a contested matter is before it shall be filled by the Faculty Executive Committee to provide a full complement of five.

(1) Pending a final decision by the Faculty Hearings Committee, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by his or her continuance. Before suspending a faculty member, pending an ultimate determination of the faculty member's status through these hearing procedures, the Administration will consult with the Professional Affairs Committee concerning the property, the length, and the other conditions of the suspension. A suspension which is intended to be final is a dismissal, and will be treated as such. Salary will continue during the period of any suspension other than one constituting a dismissal.

(2) The Faculty Hearings Committee may, with the consent of parties concerned, hold joint pre-hearing meetings with the parties in order to (i) simplify the issues, (ii) effect stipulation of facts, (iii) provide for the exchange of documentary or other information, and (iv) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

(3) Service of notice of hearing with specific charges in writing will be made at least twenty days prior to the hearing. The faculty member may waive a hearing or

may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause, the Faculty Hearings Committee will evaluate all available evidence and rest its recommendation upon the evidence in the record.

(4) The Faculty Hearings Committee, in consultation with the President and the faculty member, will exercise its judgment as to whether the hearing should be public or private.

(5) During the proceedings the faculty member will be permitted to have an academic advisor and counsel of his or her own choice.

(6) At the request of either party or the Faculty Hearings Committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer, provided the observer agrees in advance to respect the confidentiality of the proceedings.

(7) A verbatim record of the hearing or hearings will be taken and a typewritten copy will be made available to the faculty member without cost, at the faculty member's request.

(8) The burden of proof that adequate cause exists rests with the College and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

(9) The Faculty Hearings Committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

(10) The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The Administration will cooperate with the Faculty Hearings Committee in securing witnesses and making available documentary and other evidence.

(11) The faculty member and the Administration will have the right to confront and cross-examine all witnesses. Where the witness cannot or will not appear, but the Faculty Hearings Committee determines that the interests of justice require admission of their statements, the Committee will identify the witnesses, disclose their statements, and if possible provide for interrogatories.

(12) In the hearing of charges of incompetence, the testimony shall include that of qualified faculty members from the College or other institutions of higher education.

(13) The Faculty Hearings Committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

(14) The findings of fact and the decision will be based solely on the hearing record.

(15) 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 either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including consideration by the Trustees. The President and the faculty member will be notified of the decision in writing and will be given a copy of the record of the hearing.

(16) If the Faculty Hearings Committee concludes that adequate cause for dismissal has not been established by the evidence in the record, it will so report to the President. If the President rejects the report, the President will state the President's reasons for doing so, in writing, to the Faculty Hearings Committee and to the faculty member, and provide an opportunity for response before transmitting the case to the Trustees. If the Faculty Hearings Committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend to the President with supporting reasons.