

**Revised Substitute Motion by Ad Hoc Committee on Judicial Policies for Motion Submitted on February 2015 by Pete Tschumi (Legislation requires majority vote at one meeting.) That the Faculty Senate approves the new Judicial Policy replacing any old policies now included in the new policy.**

# Judicial Policy

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**This new policy shall be included on the policy website if approved by the Faculty Senate and Chancellor. Other methods should be used to advertise to faculty, staff and students the process for challenging procedures they view as unauthorized by the policy governing their conduct.**

## **Preamble**

In order to ensure unencumbered accessibility to judicial policies as well as consistency in standards for judicial policies, this document incorporates all judicial policies. The university as an institution is best served by judicial policies that are clear, consistent and provide due process to all parties. These policies are applicable to the entire class of persons for which the policy was intended whether administration, faculty, staff or students.

A fundamental principle that should be incorporated into any actions pursuant to these policies is that every effort should be made to resolve complaints informally. In addition, individuals with disabilities shall have their rights protected at every juncture by being provided all necessary accommodations to allow them to participate fully. Accommodations cannot be provided by anyone participating in the process in another capacity.

- *The university's intention is to provide a reasonable opportunity for each party to present relevant information and to respond to information and allegations of the other party, utilizing witnesses if the party so desires. The goal is a fair and reasonable decision that is well-informed.*
- Informal resolution - Every effort shall be made to resolve any dispute or charge of misconduct covered by these policies informally. A record of that effort shall be made and included in any formal filing of a charge of violation of any policy.
- Witness statements - Evidence from a witness will not be accepted from a third party. Witnesses must be present, either personally or through some form of synchronistic technology, or submit an affidavit (a written statement that is notarized) to the hearing officer.
- ~~Innocent until proven guilty~~ *Assurance of fair process* – In all cases and under all policies, an individual accused of ~~wrong~~ *violating a judicial policy* ~~doing~~ shall be *accorded all the protections included in these policies as well as the fundamental presumption that until the processes for review of the allegations have been completed, the individual is presumed to not have violated the policy.* ~~innocent until proven guilty. It is only by developing and presenting a case based on evidence and reasoning that a guilty verdict may be reached.~~
- Due process – Each individual involved in a ~~case~~ *complaint* has the right to expect that all policies and procedures shall be followed, that due diligence shall be exercised by all participants to ensure a just and fair process and outcome, and that the principles enumerated in this preamble shall be nourished and protected. Included in due process is the issue of the order in which policies will be applied. In complex issues where multiple policy violations occur, those sub-issues whose results could impact the judicial decisions in other sub-issues shall be resolved first. All hearing panels are expected to ensure that they act with strict impartiality.
- Check and balances – It is not enough to establish a policy if there are no checks that ensure that the policy is followed. Such checks are established by separating roles and powers of those involved in implementing the policy. These roles and powers in turn must be balanced to ensure that one authority does not overwhelm the others. The policy must provide means by which those involved in cases can raise questions and appeals to ensure the policy is followed.

- Educational versus punishment – The University always has an educational mission. This mission includes guiding individuals in understanding and practicing values of fairness and integrity. When possible the university should choose to educate anyone found guilty not just punish the person.

Balance of transparency and confidentiality – The question of how open should hearings be and how much information about cases should be publically available is a complex matter. Individual's lives may be negatively impacted by accusations even though they may be found not guilty. For those found guilty, the negative consequences of making all information public may result in unintended and unnecessary negative consequences. In some cases, for example those involving students, there may be laws protecting confidentiality. The university's actions and practices should be transparent unless there is a legal or fairness reason for confidentiality. If this presumption of transparency is overruled, the reasons for confidentiality shall be made clear in any record of the proceeding or review.

## **General Procedures and Definitions**

Public versus private – Generally the choice of public or private proceedings belongs to the accused. There may be exceptions to this rule specified for certain cases within each sub-policy's section or due to state or federal laws or Board of Trustee Policies. In order to maintain some general oversight to ensure policy is followed and to collect information to improve judicial policies, both the President of the Faculty Senate may designate two observers and the Judicial Council may designate two observers to any hearing except when a sub-policy states otherwise. These observers are the only designated observers. Observers may not communicate with anyone during a hearing except other observers. They are there to observe not to affect the proceedings.

Judicial Assistance - The Faculty Senate shall develop mechanisms to provide assistance to anyone responding to and adjudicating charges pursuant to these policies.

Non-participating Representative's Role – The non-participating representative, whether the person is legal counsel (only when allowed by the sub-policy), faculty member, family member, or friend, is restricted to the role of "advisor." The representative can discretely counsel the person inviting him/her as long as it is not disruptive to the hearing. The chairperson can rule as to improper conduct of the hearing. Non-participating representatives may communicate in writing with the person inviting them but may not communicate with anyone else during a hearing.

Witnesses – In all cases, the parties in a case (student, faculty member, and administrators) have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements that should be provided in the form of affidavits from these witnesses, and, if possible, provide for interrogatories. Hearings panels shall generally give greater weight to the testimony of witnesses present for cross-examination. Hearing panels and their administrative support shall attempt to help bring witnesses before the hearing panel, either in person or through some form of synchronist technology such as skype.

Timing – The time requirements in the sub-policies shall usually be met. While there may need to be exceptions in the time limits for initiating actions, these should rare and used only under unusual circumstances. For the timelines used once a process has been started, more flexibility may be allowed when it is for the purpose of ensuring due process and that fairness and justice prevail.

*Days – For purposes of the time requirements in the sub-policies, days are calendar days unless otherwise specified and the count begins a day after any required document or information is received.*

## **Judicial Sub-Policies**

### **I. Grade Appeals -**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.

Faculty members shall adhere to University-approved classroom policies and procedures and shall establish fair and reasonable standards in such matters as attendance, submission of assigned work, seating arrangements, class decorum, regular and makeup examinations and grading. Faculty members shall make their standards known to each class at the earliest opportunity. Grievances against these standards and alleged violations of University-approved classroom policies should not be brought to the Academic Integrity and Grievance Committee. They may be brought to the attention of the faculty member and department chair so that a continuing effort may be made to ameliorate problems. A student has the opportunity to appeal a grade if he or she feels the grade was inequitably awarded in that it violated a faculty member's own specified grading standards or the standards of the department if these exist. The student cannot challenge the subjective assessment of the faculty member. Students and faculty members are urged to make all attempts possible to resolve a grievance before initiating formal appeal.

### **Steps Toward Redress for Grade Appeals**

1. All student grade appeals shall be filed with the Associate Vice Chancellor for Academic Affairs. The student must approach the faculty member in question to discuss the grade and attempt to resolve any differences. The request should be in a form that serves as documentation that it has been made, for example, email, text, if faculty member has provided a cell phone, or a note given to an administrative assistant in the department. The request for a meeting should be specific that it is to discuss the grade received by the student. The request must be made within 20 class days after a final course grade is awarded. If the student receives no response from the faculty member within 5 class days of the request, the student should ask for assistance from the Dean of Students or the dean's designee. If the faculty member who assigned the grade is not reachable, for example, the faculty member is no longer employed by the university and is non-responsive to the student's request for a meeting or is otherwise unavailable and non-responsive, the faculty member's department chair will confer with the faculty in the department and appoint a faculty member who is knowledgeable of the subject matter to act in the stead of the unavailable, non-responsive faculty member. This substitute should be a full time faculty member, not an adjunct, if at all possible. If the student is appealing a grade for an online course and does not live within a reasonable driving distance of the main campus, he or she may conduct the required conferences via telephone or other voice transmission technologies. The student's grade may be changed in Step 1 of this procedure by written consent of the instructor. The Dean of Students shall assist the student in identifying an advocate to assist the student regarding the complaint at any time during the Steps Toward Redress for Grade Appeals. The advocate will listen to the complaint, counsel the student as to the merits of the case, review the steps as outlined in the formal procedures for grade appeals, assist the

student in writing the appeal, and may attend the hearing upon the request of the student as a non-participating representative. 2. If unable to resolve the difference with the faculty member, the student shall take the grievance within five class days of this discussion to the department chairperson (or dean, if the faculty member involved is the department chairperson). The chairperson shall attempt to resolve the dispute within 10 class days by meeting with the student and the faculty member. The student's grade may be changed at Step 2 of this procedure by the written consent of the faculty member. At this meeting the chairperson (or dean) will have the student and the faculty member complete and sign the Grade Appeal Form and give a copy to the student. The department chairperson maintains the original. If the student took the course online and does not live within a reasonable driving distance of the main campus, the grade appeal form may be sent electronically, but it must include scanned or electronic signatures.

3. As a last resort and only after Steps 1 and 2 have been carried out, the student may file a formal appeal in writing within three class days of the denial of the student's appeal by department chairperson or dean to the associate vice chancellor for academic affairs. In this event, the department chairperson or dean shall send the original grade appeal form noted in 2 above to the associate vice chancellor for academic affairs. If the student wishes to file a formal appeal, he or she must meet with associate vice chancellor for academic affairs and bring to the meeting the appeal which must include a written statement which clearly explains the basis of the appeal. The purpose of this meeting is to: a) confirm that prior steps in the appeal process have been followed properly (if not, the appeal shall be redirected back to the appropriate lower level); b) review the relevant grounds for a grade appeal with the student; and, c) inform the student of the next step in the appeals process. Following the conference, if the student decides to proceed with the formal appeal, the associate vice chancellor academic affairs will immediately consult with the Academic Integrity and Grievance Committee chairperson. The associate vice chancellor for academic affairs will notify the student in writing that the grade appeal will be referred to the Academic Integrity and Grievance Committee for a hearing.

### **Procedures for Formal Grade Appeals Handled by the Academic Integrity and Grievance Committee**

This committee is a Faculty Senate committee. Its makeup and purpose are governed by the Constitution of the University Assembly of the University of Arkansas at Little Rock, Article III. It provides the members of hearing panels.

The Academic Integrity and Grievance Committee (AIGC) shall handle all aspects of the formal appeal except a claim of discrimination that is forwarded to Human Resources. The AIGC shall promulgate rules governing its proceedings which shall be consistent with the following hearing procedures set forth in Appendix B. The rules shall be distributed to all members of the committee by the associate vice chancellor for academic affairs.

1. The student and the faculty member will be notified in writing, if at all possible, at least 10 class days before the date set for the hearing, of the nature of the appeal and of the date, time, and place the case is to be heard. They shall also be notified that, should either party choose not to appear, the hearing will proceed as scheduled. For the purposes of this section, the day after the date the letter of notification is mailed or emailed shall be the first day of the 10-day period. The committee must hear the case within 15 class days of the time the appeal was filed, if at all possible. The determination of the date, time, and place of the hearing will include consideration of the student's and the faculty member's schedules and of their convenience, but in the interest of fairness, reasonable speed shall be the watchword.

2. The student and faculty member will be notified that each can bring witnesses ~~in~~ on his or her behalf, that each will have a reasonable opportunity for confronting witnesses appearing against him or her, that each has the right to be present during all phases of the hearing, and that each may bring to the

hearing two non-participating representatives. The right to legal counsel at a grade appeal cases is prohibited. Members of the hearing panel may not meet separately with either the student or the faculty member.

3. At least five class days before the committee is convened, the student and the faculty member must submit to the associate vice chancellor for academic affairs all the information that each feels is pertinent to the appeal. This information must be in writing and supported in detail, and it should specify what additional evidence and witnesses the student or faculty member will bring to the scheduled meeting. Copies of this information will be distributed to all involved parties. Students appealing grades are reminded that the burden of proof is on the student; i.e., the student must be able to support his or her assertion.

4. The chairperson shall serve as the chairperson of all grade appeals hearing panels. The chairperson may designate a provisional hearing panel chair in those instances when the committee chairperson is not available.

5. A quorum to hear grade appeals consists of the chairperson (or designated provisional chairperson), two faculty members, and two students; on all grade appeals involving graduate or professional degree curricular matters, at least one graduate faculty member and one graduate student shall be included on the hearing panel. Of this number, all must be present.

6. The committee will not make any decision on a specific appeal until it has been determined that all pertinent written documents, oral testimony from the student and the faculty member, oral testimony from witnesses or affidavits from witnesses and official records from the student's college or school dean and from the Office of Admissions and Records have been submitted and reviewed.

7. Both the student and the faculty member have the right to a closed hearing. The hearing may only be open if both parties agree it shall be open. In the case of a closed hearing, the only persons present at meetings of this committee shall be committee members, designated observers, parties to the action being considered by the committee and their non-participating representatives, and witnesses actually testifying before the committee. In the case of a student appealing an online course who does not live within a reasonable driving distance of the main campus, he or she may participate via conference telephone or some other voice transmission technology. All proceedings shall be recorded.

8. Written statements by witnesses in lieu of personal appearance should not be allowed except in rare instances such as illness or inability to travel to the hearing site. All written statements by witnesses must be sworn statements in the form of affidavits.

9. During the process of making a decision on a case, the committee shall consider only that information which (a) has been presented during the hearing and (b) is relevant to the charge. The committee is restricted to making grade changes only if "the grade was inequitably awarded in that it violated a faculty member's own specified grading standards" or the grading standards of the department, if any. The committee cannot substitute their subjective assessment of the student's work for that of the faculty member. No other basis can be used to change a grade. In the case where the faculty member has violated the standards of the department, the hearing panel shall base its grade change on the recommendation of the chair of the department or the dean.

10. A decision to change or direct changes in students' course grades requires a majority vote of the committee hearing an appeal; in case of a tie, the grade assigned by the faculty member shall stand. Only members of the committee who have been present during all of the meetings and who have heard all testimony relating to the alleged grievance may vote on the case.

11. Upon conclusion of the appeals hearing, the committee will make a decision in writing and sign appropriate appeal documents. The chairperson of the committee will return the master file and the tape of the hearing, and prepare a summary of the findings, decision, and recommendations for the associate vice chancellor for academic affairs within three class days of the hearing. The chairperson of the committee shall send a letter explaining the findings and the decision within 10 class days of such decision to the student, faculty member, department head, college dean, and the Office of Records and Registration in case of a grade change. Either party may appeal the panel's decision in writing to the vice



chancellor/provost with a copy to the chairperson and the non-appealing party, within 10 class days after receipt of the decision.

12. The vice chancellor/provost shall review the decision of the committee on appeal within ten class days of receipt of either party's appeal of that decision. Reasonable deviations from the time frame or procedures will not invalidate a decision unless the deviations cause significant prejudice to the student.

13. The vice chancellor/provost shall have the authority to:

- a) Approve the recommendation of the AIGC panel.
- b) Remand the case to the original hearing panel for rehearing
- c) Remand the case to a different hearing committee for rehearing
- d) Reverse the decision of the hearing panel.

14. The vice chancellor/provost shall notify the appealing party and the non-appealing party of his/her decision within ten class days of receipt of the appeal. The vice chancellor/provost shall return the records to the associate vice chancellor for academic affairs for filing and for appropriate action. The vice chancellor/provost's decision shall be final.

## **II. Academic Integrity Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.

### **General Information**

#### ***Academic Integrity and Discipline***

The University has developed certain regulations to make possible an orderly academic environment where all members of the community have the freedom to develop to the fullest extent.

Academic dishonesty cannot be condoned or tolerated in the University community. Such behavior is considered a student conduct violation, and students found guilty of committing an academic offense on the campus, or in connection with an institution-oriented or sponsored activity, or while representing the University or academic department, will be disciplined by the University.

Students may not gain undue advantage over their classmates by deceptive or dishonest means. Throughout their education students should be impressed with the facts that cheating, duplicity, unauthorized reproduction of classroom materials, and plagiarism are morally degrading and that such practices seriously interfere with learning and intellectual development. It is a responsibility of faculty members to make every effort to prevent dishonesty, protect honest students, and take appropriate action in instances of dishonesty. It is the responsibility of the student not only to abstain from cheating, but in addition, to avoid the appearance of cheating and to guard against making it possible for others to cheat. Courtesy and honesty require that any ideas or materials borrowed from another must be fully acknowledged. It is the obligation of each student to report all alleged violations of academic integrity to the faculty member, as well as the responsibility of all faculty to report all alleged violations of academic integrity to the dean of students.

Students may not reproduce, in whole or in part, classroom lectures or study materials presented by a professor without specific approval in advance by the professor. Publication of any such material shall only be with the express consent of the professor.

The determination that a student's work was the result of dishonest action can be considered in the faculty member's evaluation of that work and in the determination of the course grade. In addition,

disciplinary action will be taken by the appropriate University official (dean of students) or by the Academic Integrity and Grievance Committee.

## **Academic Offenses**

### **Definition of Academic Offenses**

The following list of offenses, which is by no means all-inclusive, identifies categories that are subject to grade penalty and disciplinary action.

*Cheating on an examination or quiz:* To give or receive, to offer or solicit information on any quiz or examination. This includes the following classes of dishonesty: (a) copying from another student's paper; (b) use during the examination of prepared materials, notes, or text other than those specifically permitted by the professor; (c) collaboration with another student during the examination; (d) buying, selling, stealing, soliciting, or transmitting an examination, or any material purported to be the unreleased content of a coming examination, or the use of such material; (e) substituting for another person during an examination or allowing such substitution for oneself; (f) bribery of any person to obtain examination information.

*Plagiarism:* To adopt and reproduce as one's own, to appropriate to one's own use and incorporate in one's own work without acknowledgment, the ideas of others or passages from their writings and works.

*Collusion:* To obtain from another party, without specific approval in advance by the professor, assistance in the production of work offered for credit to the extent that the work reflects the ideas or skills of the party consulted rather than those of the person in whose name the work is submitted.

*Duplicity:* To offer for credit identical or substantially unchanged work in two or more courses, without specific advance approval of the professors involved.

### **Student Rights and Privileges Regarding Academic Offenses**

The student has the right to the following:

1. Receive a written charge statement to include the nature and the specific charge(s) at least 10 class days before the hearing.
2. Be present at the hearing and have an opportunity to speak in own defense and to present evidence.
3. Receive names of witnesses and persons testifying against him or her.
4. Present witnesses, question University witnesses and persons testifying against him or her, and to review statements submitted.
5. Have an opportunity to review the information to be submitted at the hearing in advance to prepare a defense.
6. Present a version of the facts through personal and written statements including statements of witnesses or persons testifying.
7. Appear alone at the hearing or bring two non-participating representatives of his or her choice (faculty, staff, student, legal counsel, etc.) to advise the student but not to question. The committee may retain University legal counsel to furnish advice in such cases.
8. Have a determination of the facts of the case based solely on information at the hearing by the authority that holds the hearing.
9. Be informed in writing of the findings and the determination of the case, and the reason(s) for the decision and any sanctions imposed.
10. Receive a copy of the summary of the hearing and have a copy of the hearing tape made at his or her own expense.

11. Petition for appeal. If anyone thinks that the policy or procedures are being violated, he or she may follow the procedures in the Procedural Appeals Sub-Policy. To appeal the decision of the hearing panel follow the procedures in the Appeal procedures and Instruction for University Judicial Appeals Committee Sub-Policy and in the Appeals to the Chancellor of Findings of the University Judicial Appeals Committee Sub-Policy.

## **Steps Toward Redress for Academic Offenses**

There are two types of procedures: one for students enrolled in a course and one for students who are not enrolled in a course.

### **A. Academic Dishonesty Procedures for Students Enrolled in a Course**

These procedures are applicable when a student is enrolled in a course, and a faculty member suspects the student of cheating, plagiarism, collusion, or similar activity, *and when the suspicion is supported by substantial fact(s) or evidence.*

The faculty member is responsible for notifying the student in writing of the specific charge within five class days of identifying the offense, (using the Allegation of Academic Offense Form), delivering this form by mail or in person; also, the faculty member is responsible for retaining a copy of the form, and for forwarding one copy each to the relevant department chairperson and to the dean of students.

Upon receipt of the notice form, the student is responsible for contacting the faculty member within 5 class days for the purpose of arranging a conference; both parties are then responsible for cooperating as necessary to *conduct the conference within three class days of the student's receipt of the notice.*

The purposes of this conference are:

- to ensure that the student is aware and understands the specific charge and the substantiating evidence; and,
- to ensure that the student has ample opportunity to present to the faculty member his or her position, explanation, and existing evidence of innocence.

Regardless of the outcome of this conference, the faculty member is responsible for immediately notifying the dean of students of the results.

If the faculty member and student reach agreement that the student is guilty, a grade penalty may not be imposed until and unless the student has failed to file a formal appeal by the official deadline for filing, or has signed an informed-decision waiver of the right to appeal, after conference with the dean of students or designee. If no formal appeal or waiver has been filed by the student at the expiration time of the allowable period, the faculty member may immediately impose a grade penalty.

A grade penalty may be imposed only by the faculty member. It is recommended that if a student is found guilty or admits guilt, the faculty member will consider the individual circumstances, nature or severity of the offense, similar class violations, etc., before assessing the grade penalty. Grade penalties for consideration for academic offenses are:

- a) a grade of *F* in the course
- b) a grade of *F* on the examination, project, etc.
- c) a grade adjustment
- d) no credit for material presented

If the conference's outcome is that the faculty member continues to believe with objective cause that the student is guilty of an academic offense, and yet the student maintains a position of non-guilt, then grade penalty may not be imposed until one of the two following conditions has been met:

- Either 10 class days have passed since the student's receipt of the Allegation Form, and no official appeal or waiver of rights to a hearing (Disciplinary Alternative Form) has been filed by the student; or
- the student has filed an appeal within the prescribed 10 class days, and has pursued the University's judicial appeals procedures to the maximum possible extent desired, and has been ultimately adjudged through and by those means to be guilty of the offense.

The student shall schedule a meeting with the dean of students or designee after meeting with the faculty member. This meeting shall be held within two class days of the completion of the meeting with the faculty member. (Timeliness is emphasized because this conference would be a prerequisite step in the event the student wishes to file a formal appeal, and the appeal deadline is 10 class days from the student's receipt of the Allegation Form.)

The purposes of this conference will differ, as will responsibilities pertinent to it, depending upon whether the student maintains a position of guilt or innocence regarding the academic offense. Therefore, two categories follow:

a) In a case wherein the student has admitted guilt to the faculty member and also maintains that guilty plea after conference with the dean of students or designee, and the offense warrants a severe penalty such as expulsion or suspension, the dean or designee will, within three class days, refer the case to the chairperson of the Academic Integrity and Grievance Committee.

If the offense does not warrant a severe penalty such as suspension or expulsion, the dean of students or designee will elect one of two options:

- 1) the dean of students or designee, with agreement of the student, may opt to directly impose disciplinary sanction, provided due process conditions have been met in the student's interest; or
- 2) the case may be referred to the Academic Integrity and Grievance Committee Chairperson for disposition.

b) In a case wherein the outcome of the faculty member/student conference is that the faculty member maintains the student is guilty but the student maintains a position of innocence, the dean of students or designee will review the following information with the student: the specific charge and evidence, student's rights and privileges, appeal procedures, operating policies of the Academic Integrity and Grievance Committee, disciplinary proceedings, etc.

After this review the dean of students or designee may ask the student whether he or she wishes to continue to maintain the plea of not guilty. If the student elects to change the plea to guilty, the dean or designee will immediately notify the faculty member and the relevant department chairperson.

If the student elects to maintain the plea of not guilty, the dean or designee will offer to assist the student in writing a statement of appeal; this formal written statement of appeal, when it is delivered to the chairperson of the Academic Integrity and Grievance Committee, constitutes the student's initiation of the University's judicial appeals procedures. The student is responsible for delivering the appeal statement to the Academic Integrity and Grievance Committee chairperson or designee. This delivery must take place no later than 10 class days from the date of the student's initial receipt of the Allegation Form.

Regardless of the outcome of the conference between the dean/designee and the student, the dean/designee is responsible for immediately notifying its results to the faculty member and to the relevant department chairperson.

The student's conferences with the faculty member and with the dean of students or designee are mandatory steps prerequisite to the filing of an official appeal. The intent of this guideline is to ensure

that all reasonable efforts have been made to resolve the outcome of the academic offense allegation before the matter is brought to the Academic Integrity and Grievance Committee.

The Academic Integrity and Grievance Committee chairperson or designee is responsible for immediately notifying the following persons, upon receipt of a student's appeal in regard to allegation of academic offense: (1) the relevant faculty member, (2) department chairperson, and (3) the dean of students. The student has the right to attend classes until the appeal is resolved. The student may not withdraw from a course while an allegation of academic dishonesty in that course is being adjudicated. If the student withdraws from a course after receiving notification of an allegation of academic dishonesty, the student will be reinstated, pending final adjudication of the allegation.

At the conclusion of the adjudication process:

- If academic dishonesty is found and a grade of "F" in the course is assigned, then the failing grade will be recorded and remain on the student's transcript.
- If academic dishonesty is found and a penalty less than a grade of "F" for the course is assigned, then the student may continue in the course or withdraw from the course at that time.
- If academic dishonesty is not found, the student may continue in the course or withdraw from the course at that time.

If the adjudication process is not completed before the end of a semester, a temporary grade not affecting the student's GPA will be submitted until the adjudication process is completed.

The student may re-take a course in which a grade of "F" is assigned as a penalty for academic dishonesty. However, in such cases, the original grade of "F" will not be replaced but instead be included in the calculation of the student's cumulative GPA along with the subsequent grade received.

#### **B. Academic Dishonesty Procedures for Students Not Enrolled in a Course and Students Representing an Academic Department or the University in a University-Oriented or Sponsored Activity On or Off Campus**

When a faculty member on his or her knowledge or on information given by a student believes that a student has behaved dishonestly, he or she should immediately notify the dean of students of the suspicion of cheating, plagiarism, collusion, or the like. Likewise, if a suspicion of academic dishonesty is brought by other means to the university, the matter shall be referred to the dean of students. On receiving the notification of the alleged academic violation, the dean of students shall investigate, consult the involved faculty member(s), and summon the student(s) for a conference within five class days. No action shall be taken until the student has been informed of the charge, has been given an opportunity to present his or her defense, and has been notified of his or her right to appeal the case or have a hearing before the Academic Integrity and Grievance Committee. In a case of academic dishonesty in which the student admits guilt and the offense does not warrant suspension or a severe sanction, the matter may be handled by the dean of students, and a lesser disciplinary action (sanction) imposed.

In such cases, the fundamentals of due process shall be followed. This administrative route may be taken when all of the following hold:

- 1) guilt is admitted by the student(s) involved;
- 2) accused student(s) request this administrative route;
- 3) the student is made aware of the disciplinary action that will be imposed; and
- 4) the dean of students can deal with the case objectively.

In a case of academic dishonesty where the student may be suspended, a severe sanction is warranted, or the student does not admit guilt, the case will be referred within three class days to the chairperson of the Academic Integrity and Grievance Committee.

## **Procedures for Academic Offenses Referred to the Academic Integrity and Grievance Committee**

1. The chairperson, on receiving a written appeal or referral from the dean of students, will convene the committee within 15 class days to determine the guilt or innocence of the student or the appropriate disciplinary action (sanction).

2. The student and the faculty member will be notified in writing at least 10 class days before the date set for the hearing of the nature of the complaint and of the date, time, and place the case is to be heard. They shall also be notified that, should either party choose not to appear, the hearing will proceed as scheduled. For the purpose of this section, the day after the date of mailing of the letter of notification shall be the first day of the 10-day delay period. The committee must hear the case within 15 class days of the time the appeal or referral was filed. The determination of the date, time and place of the hearing will include consideration of the student's and faculty member's schedules and of their convenience, but in the interest of fairness, reasonable speed shall be the watchword.

3. The student and the faculty member will be notified that each can bring witnesses in his or her behalf, that each will have a reasonable opportunity for confronting witnesses appearing against him or her, that each has the right to be present during all phases of the hearing, and that each may bring to the hearing two non-participating representatives.

4. At least five class days before the committee is convened, the student and the faculty member must submit to the administrative officer all the information that each feels is pertinent to the appeal or referral. This information must be in writing and supported in detail, and it should specify what additional evidence, witnesses and/or legal counsel the student or faculty member will bring to the scheduled meeting. Copies of this information will be distributed to all involved parties.

5. A quorum to hear alleged academic offenses consists of the chairperson and three members; of this number, one must be a faculty member and one must be a voting student member.

6. The student has the right to a closed hearing, which will be the normal status. Hearings will be closed unless the student requests an open hearing. Unless the hearing is declared to be open, the only persons present at meetings of this committee shall be members, designated observers, parties to the action being considered by the committee and their non-participating representatives, and witnesses actually testifying before the committee.

7. If written statements by witnesses in lieu of personal appearance is allowed these statement shall be made through submission of affidavits from the witnesses. Summaries of statements taken by someone else shall not be admissible. 8. During the process of making a determination of guilt or innocence or in determining the appropriate disciplinary action (sanction), the committee shall consider only that information which (a) has been presented during the hearing and (b) is relevant to the charge.

9. Details specifying how hearings will be conducted are found in Appendix A.

10. A decision shall be reached by a majority of those present.

11. If the committee finds the student guilty of the charge, the faculty member will determine the appropriate grade penalty, and the committee will determine the appropriate disciplinary sanction. In such case, the chair may request the dean of students to open the student's file to see if there is a prior disciplinary record. If the committee finds the student innocent, the faculty member will treat the student accordingly; in any case, no disciplinary sanction or grade penalty shall be imposed until the appeal deadline has expired. The administrative officer will maintain all records during the appeal delay period and on the expiration date will forward all records to the dean of students for filing and appropriate administrative action and notify the faculty member to impose the penalty.

12. The administrative officer shall notify in writing and deliver within five class days of the hearing to the appropriate persons (the student, the faculty member, and the dean of students) the decision and determination of the case, the disciplinary sanction imposed, and the right of the student, the faculty member, or the dean of students to petition for appeal. The Appeal Procedures and Instructions shall accompany the letter. A grade penalty cannot be appealed.

13. If the disciplinary sanction imposed was suspension or expulsion, the administrative officer shall notify the vice chancellor/provost, and the chancellor in writing of the committee's decision and the determination of the case, reasons for the decision, sanction imposed, and verify that all involved parties have been notified of their right to petition for appeal in accordance with the University's Procedures and Instructions.

### **Sanctions Imposed by the Academic Integrity and Grievance Committee**

Sanctions which may be imposed by the Academic Integrity and Grievance Committee for violations and infractions of specified academic integrity dishonesty violations include but are not limited to the following:

Administrative Class Withdrawal

Counseling

Disciplinary Probation

Disciplinary Warning

Expulsion

Reprimand

Restitution

Suspension

Descriptions of sanctions are found in the *Student Handbook*.

### **Administration of Conduct Records**

Academic records and conduct records are kept separate to minimize the risk of improper disclosure.

Disciplinary suspension shall not result in a notation on a student's permanent record. Temporary notice that a student is on suspension and ineligible to return to the University until a certain date shall be attached to the student's official record, i.e. transcript, on the ledger in the Registrar's Office, and in the student's personnel file in the Office of the Dean of Students. This action shall be taken to notify other schools or prospective employers that the student is not presently in good standing with the University. Once the student has reestablished his or her eligibility to return to the University, the temporary note shall be removed.

Conduct record information is released only in these circumstances: (1) receipt of written release from the student; (2) demonstrated need to know on the part of University personnel; or (3) receipt of a court order from legal authorities.

### **III. Classroom Disruptions Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.

Students may not disturb normal classroom procedures by distracting or disruptive behavior. A faculty member may, at his or her discretion, eject a disruptive student from the classroom for the balance of the class period. Students are strongly urged, following an ejection, to meet with the faculty member to resolve the problem.

## Steps Toward Redress of Classroom Disruptions

In certain circumstances it may be necessary for the faculty member to report misconduct to the Office of the Dean of Students. (Refer to *Interim Suspension* and *Reporting Misconduct* in the *UALR Student Handbook*.) If a student has been ejected two or more times, the faculty member should follow these steps:

1. After the second ejection due to classroom disruption, the faculty member shall notify the Dean of Students. The Dean of Students shall work with the faculty member, department chair and student to develop a plan to address the repetitive disruption. As appropriate, the Disability Services may be included in this process of developing a plan addressing repetitive disruption.
2. Notify the student in writing that he or she is in violation of University behavioral standards as listed in the Code in Student Rights, Responsibilities, and Behavior (Classroom Disruptions). Upon receiving such notification the student must approach the faculty member within three class days to attempt to resolve the problem. No action or penalty shall be imposed until the student has been informed in writing of the charge, given an opportunity to present his or her defense, and been informed of his or her right to appeal the case to the Behavioral Standards Committee. He or she has the right to remain in class until action has been taken. An interim suspension is the only exception considered in a student's right to remain in class until action has been taken.
3. If the student is unable to resolve differences with the faculty member, the student shall take the grievance within three class days following the discussion with the faculty member, to the department chairperson (or dean if the faculty member involved is department chairperson). The department chairperson (or dean) shall attempt to resolve the grievance within three class days by meeting with the student and faculty member.
4. As a last resort and only after the above procedures have been carried out, the student may, upon notification to the faculty member and department chairperson, file an appeal in writing within three class days to the chairperson of the Behavioral Standards Committee.

If the student does not wish to appeal the case, the faculty member shall immediately initiate the administrative class withdrawal process by notifying the dean of students. The dean of students shall notify the student within three class days of the pending action and schedule a conference with the student. Following the conference, the dean of students will administratively withdraw the student from the class in which he or she was enrolled.

## IV. Appeal Procedures and Instruction for University Judicial Appeals Committee Sub-Policy

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.



The University Judicial Appeals Committee hears student appeals from the Behavioral Standards Committee, the Academic Integrity and Grievance Committee (except for grade appeals), the judicial boards of the Greek governing Bodies for organizational offenses, the dean of students or his/her designee.

### **Appeals Procedures and Instructions *(Not Applicable to Grade Appeals)***

1. The University Judicial Appeals Committee is empowered to review the conclusions, sanctions, and procedures used to adjudicate the case and limit its consideration of the appeal to the record of the previous hearing on the following grounds: (a) original decision contrary to the facts or based on insufficient evidence, (b) availability of new information (remand the case to the original judicial hearing committee), (c) procedural violation, or (d) excessive severity of the disciplinary sanction. The committee shall not exceed the purview of the original hearing committee.

2. The student can appeal any decision to the chancellor. See V. Appeals to the Chancellor of Findings of the University Judicial Appeals Committee Sub-Policy.

3. The student, the faculty member, or the dean of students/designee may appeal the findings and sanctions of the original judicial hearing committee, within five class days of the service of the decision. The appeal must be submitted in writing, describe the grounds for the appeal, and be addressed to the chairperson of the University Judicial Appeals Committee. The appealing party shall send copies of the appeal to the chairperson of the original hearing committee, the non-appealing party, and the dean of students. Appealing students have a right by state law, Act 1194, to active legal representation on appeal where the punishment could be a 10-day or more suspension or expulsion.

4. Upon receipt of an appeal, the chairperson shall request that the records from the previous hearing be forwarded for review. At the discretion of the committee, and if clarification is needed, the committee may invite the appealing party, the non-appealing party, or the chairperson of the original hearing committee to meet with the committee. The committee does not conduct a hearing. The appeal shall be reviewed and a decision rendered in writing to all interested parties, including the reasons for the decision, no later than five class days upon receipt of the appeal. Reasonable deviations from the time frame or procedures will not invalidate a decision unless the deviations cause significant prejudice to the student.

5. The University Judicial Appeals Committee shall have the authority to:

- approve the recommendation of the original hearing committee or the board;
- remand the case to the original hearing committee or the board for rehearing;
- reverse the decision of the committee orders;
- modify the sanction, but impose none more severe than originally imposed.

6. In the case of a remand the chairperson will return the records to the chairperson of the original hearing committee. The committee, if possible, should rehear the case within 10 class days upon receipt of the notification. If the case is not remanded, the chairperson of the University Judicial Appeals Committee shall maintain the records until the deadline for an appeal to the chancellor has expired. If there is no appeal, the chairperson shall return the records to the dean of students for filing and appropriate action.

### **V. Appeals to the Chancellor of Findings of the University Judicial Appeals Committee Sub-Policy *(Not Applicable to Grade Appeals)***

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.

1. After showing good cause as outlined in Grounds for Appeals, the student, the dean of students/ designee, or the faculty member may appeal the findings of the University Judicial Appeals Committee to the chancellor within three class days of the decision. The appealing party may appeal to the chancellor only after all other University appeals have been exhausted. Such appeal must be in writing, describing the grounds for the appeal, and be addressed to the chancellor. The appealing party shall send copies of the appeal to the chairperson of the University Judicial Appeals Committee, chairperson of the original hearing committee, non-appealing party, and the dean of students.

2. The chancellor is empowered to review the conclusions, sanctions, and procedures used to adjudicate the case and limits his/her consideration of the appeal to the record of the original committee hearing, review by the University Judicial Appeals Committee, and grounds for appeal.

3. Upon receipt of an appeal, the chancellor shall request the records from the chairperson of the University Judicial Appeals Committee. At the discretion of the chancellor and if clarification is needed, the chancellor may invite the appealing party, the non-appealing party, and the chairpersons of the original hearing committee and the University Judicial Appeals Committee to meet with him/her.

4. The chancellor shall review the appeal and render a decision in writing to all interested parties, including the reasons for the decisions, no later than five class days upon receipt of the appeal. Reasonable deviations from the time frame or procedures will not invalidate a decision unless significant prejudice to a student may result.

5. The chancellor shall have the authority to:

- a) approve the recommendation of the University Judicial Appeals Committee;
- b) remand the case to the original hearing committee for rehearing;
- c) reverse the decision of the University Judicial Appeals Committee;
- d) modify the sanction, but impose none more severe than originally imposed.

6. The chancellor shall return the records to the dean of students for filing and for appropriate action.

## **VI. Faculty Appeals and Grievance Procedures Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.

*The university appeal process is not a legal proceeding equivalent to that of a state or federal court.*

### **Procedures for Appeals and Grievances Except Nonreappointment and Dismissal**

An appeal to the Faculty Appeals Council should be in writing to the chairperson of the Faculty Appeals Council. The written appeal should include (1) the name of the person appealing with telephone number and email address; (2) the parties involved in the matter about which the appeal is being made; (3) a summary of the matter, including the claims made, the decision being appealed and the reason for the appeal; (4) identification of the policy or procedure that the person appealing thinks was violated; (5) what the person appealing is seeking; and, (6) an affirmation that the matter has been discussed with the appellant's department chair and dean (or equivalent administrators) prior to filing the appeal. The appellant may amend the written appeal before the beginning of the first informal hearing; thereafter, changes can be made only at the discretion of the Faculty Appeals Council. The procedures for an appeal vary according to the nature of the appeal, as indicated below.

## Informal Proceedings

1. Upon receipt of the written notice of appeal, the chairperson of the council shall use best efforts to appoint, from the members of the council, a three-person investigative subcommittee within 10 class days of the receipt of an appeal. Both parties shall be encouraged to attempt to resolve the matter prior to the establishment of the three-person investigative subcommittee. The investigation shall be completed, if at all possible, within 15 class days from the appointment of the subcommittee. The subcommittee shall conduct its own investigation and not rely on prior reviews of the matter. Both time deadlines may be extended by the chairperson of the Faculty Appeals Council in the interest of obtaining resolution of the matter. The investigative subcommittee shall meet with the parties to the appeal together. Appeals filed between the beginning of the third week and end of the tenth week of a spring semester will be examined in Informal Proceedings, but Formal Proceedings, if necessary, normally will not occur until the following fall semester, due to the timetable outlined below. No appeals will be accepted after the end of the tenth week of the spring semester and prior to the beginning of the third week of the fall semester.

2. The investigative subcommittee shall make every effort to achieve a settlement of the grievance between the parties involved without a formal hearing. The investigative subcommittee may recommend mediation utilizing the mediation resources available through the University, including the Wm. H. Bowen School of Law. The investigators shall report to the chairperson of the council that a settlement has been reached, or if no settlement has been reached, formal proceedings shall commence if requested by the appellant.

## Formal Proceedings

1. A formal proceeding will be conducted through one of the council's hearing panels, established as described in the description of the Faculty Appeals Council in the Constitution of the University Assembly of the University of Arkansas at Little Rock. None of the persons who served as investigators during the informal proceedings nor any council member against whom an appeal has been filed shall participate in the deliberations of the panel, except as a witness. Additionally, those with administrative responsibilities such as Department Chairs and Associate Deans or anyone in the process of being considered for an administrative position, shall not be eligible to serve on a formal appeals panel.

2. A faculty member requesting formal appeals proceedings must notify the chair of the Faculty Appeals Council within five class days of the completion of the Informal Proceedings. Upon receipt of a written request by an appellant for the commencement of formal proceedings, the chairperson of the Faculty Appeals Council should, within 10 class days of the receipt of the request, organize a formal hearing panel, informing the appellant as well as any additional individuals involved in the complaint. *Either party to the appeal may object to a hearing panel member based on conflict of interest or bias.* This hearing should begin within 15 class days of receipt of the request for a formal hearing. *Both parties shall be allowed to have an attorney present, at their cost. The attorney shall not be allowed to be an active representative; however, they may advise the in a non-disruptive manner.*

3. The hearing panel shall control the procedure of the hearings as it considers appropriate including selection of a panel chairperson. All rulings and determinations of the hearing panel shall be by majority vote of the full panel including the chairperson.

- Evidence from a witness will not be accepted from a third party. Witnesses must present, either personally or through some form of synchronistic technology, or by submitting an affidavit to the hearing officer.
- The complainant and respondent must do due diligence in gathering and presenting evidence.
- Any claim by the respondent on appeal that there is new evidence must be accompanied by verification that this evidence could not have been obtained earlier.

4. The hearing and all deliberations of the hearing panel should be completed within 25 class days of the date of the first meeting of the hearing panel. Panel members must be present for all parts of the hearing, and the appellant and all others involved in the complaint must be given the opportunity to be present at all parts of the hearing.

5. At the close of the hearing, upon due consideration of all evidence, the hearing panel, with all members present, shall formulate its recommendation. The recommendation, including a description of the evidence relied on in making the recommendation, shall be submitted to the chancellor or other appropriate officials and to the appellant within five class days of the end of the hearing. ~~No~~ *Minority* written reports shall be allowed.

6. The chancellor or other appropriate official shall make known his or her decision in writing to the chairperson of the hearing panel, to the appellant, and to other involved individuals within 14 class days from receipt of the hearing panel's recommendation.

7. Time deadlines specified in these proceedings may be modified by mutual consent between the appellant and a majority of the hearing panel. The time schedule is not in operation during official University holidays, consultation day, exam days, days the University is closed due to weather, summer school, and the first two weeks of the fall semester before the Council has elected its chairperson. The term "days" refers to class days (Mondays through Fridays) during fall and spring semesters, except as otherwise noted.

## **Procedures for Appeals and Grievances Involving Nonreappointment**

These procedures apply to non-tenured faculty members who are not offered a next successive appointment for the period following the expiration of a current appointment. *The rules governing these procedures can be found in Board of Trustees Policy 405.1.* ~~The appointment of a non-tenured faculty member may be terminated effective at the end of the appointment period, at the option of either the individual or the University.~~

~~A chairperson, dean, or chief academic officer who decides not to recommend a non-tenured faculty member for reappointment shall notify him or her in writing in accordance with the following schedule and shall enclose a copy of this section with the letter of non-reappointment.~~

- ~~• Not later than March 1 of the first year of service, if the appointment expires at the end of that year; or at least three months in advance of its termination if the appointment terminates during the first calendar year of continuous employment.~~
- ~~• Not later than December 15 of the second year of service, if the appointment expires at the end of that year; or at least six months in advance of its termination if an appointment terminates during the second calendar year of continuous employment.~~
- ~~• At least twelve months before the expiration of the terminal appointment after two or more consecutive academic, fiscal, or calendar years in the institution. The terminal appointment will be for the academic or fiscal year, according to the appointment last held by the individual.~~

The individual, upon being notified that he or she will not be reappointed, may request an interview within ten working days after receipt of the notice, first with the dean of the school or college or other appropriate administrator, then, if the employee requests an interview within an additional five working days, with the chief academic officer of the campus. The dean of the school or college or other administrator and the chief academic officer jointly will within ten working days make the final decision on any request that the decision be reconsidered.

Department chairpersons and other employees on that campus may be requested to participate in their individual capacities in the interviews by the individual concerned, by the chief academic officer, or by dean or other appropriate administrator.

If the individual does not request these interviews within the time limits stated above after receipt of notification of non-reappointment, the matter shall be considered closed.

## **Procedures for Appeals and Grievances Involving Dismissal**

These procedures, as described in Board Policy 405.1, *that* apply in appeals involving the dismissal of non-tenured faculty and equivalent staff members as specified in the board policy prior to expiration of appointments and to the dismissal of faculty and equivalent staff members having tenure *are found in Board of Trustee Policy 405.1. The Board Policy requires each campus to specify how it will implement various aspects of the policy. Included below are only those implementation details.*

~~1. Preliminary Proceedings: When a chairperson or dean has reason to consider a decision to dismiss a person who has tenure rights or an untenured faculty member prior to the expiration of an appointment, he or she shall discuss the matter with that person privately. After the discussion, if the decision of the chairperson or dean is to recommend dismissal, he or she shall prepare a statement of the grounds constituting the cause for dismissal and forward it through the dean's office and the vice chancellor and provost's office to the chancellor. If the faculty member requests it, a subcommittee of three faculty members of the Faculty Appeals Council shall be named by the chairman thereof to make an informal inquiry into the situation and to effect an adjustment, if possible. If no settlement is effected, the subcommittee shall determine whether, in its view, formal proceedings shall be instituted to consider the individual's dismissal, and it shall notify the individual concerned, the chancellor, and other appropriate administrators of its conclusion. If the subcommittee recommends that such proceedings be begun, or if the chancellor, after considering a recommendation of the subcommittee favorable to the individual, decides that a proceeding should be undertaken, action shall be commenced according to the procedures which follow.~~

~~2. Hearing Procedures: The formal proceedings shall be initiated by a communication addressed to the individual by the chancellor informing him or her of the dismissal and the grounds for it, and that, if he or she so requests, a hearing to recommend whether his or her employment by the University shall be terminated on the grounds stated will be conducted at a specified time and place by a faculty committee constituted as described in Section 4 below. Sufficient time shall be allowed to permit the individual to prepare a defense. The individual shall be informed in detail or by reference to published regulations of the procedural rights to which he or she is entitled, including the right to advice of counsel.~~

~~The individual shall indicate whether he or she wishes a hearing and, if so, shall file with the chancellor within two weeks of the date of the mailing of the communication by the chancellor an answer to the statement of grounds for the proposed dismissal.~~

~~If the individual does not request a hearing, no further action shall be taken. Further, at the request of the individual, the proceedings provided for herein may be terminated at any time after the request for a hearing on written notice to the chancellor of the employee's acquiescence in the dismissal. Similarly, the administration may drop dismissal proceedings at any stage.~~

~~3. Suspension: Suspension of the individual from normal duties or reassignment to other~~

~~duties during the proceedings will occur only if an emergency exists which threatens harm to the individual, to others, or to the University. Determination of an emergency shall be made by the chancellor in consultation with the president. Such suspension shall be with pay.~~

~~4. Hearing Panel: Upon receipt from the chancellor of a copy of the statement of grounds for dismissal, accompanied by the individual's answer thereto, In the event that formal proceedings are initiated, a panel to conduct the hearing and recommend a course of action shall be appointed by the chairman of the UALR Faculty Appeals Council in accordance with the procedure described in the council's charge.~~

~~It shall consist of five persons selected from the membership of the council, not including any of the three members of the subcommittee which conducted the preliminary inquiry. The hearing panel shall not include staff members of the department or administrator involved. The hearing panel shall select its own chairman.~~

~~5. Hearing Panel Proceedings: The Hearing Panel shall proceed by considering, before the time of the hearing, the statement of grounds for dismissal already formulated and the individual's written response.~~

~~In addition to the members of the hearing panel, only the person requesting the hearing and his or her representative, the chancellor and/or his or her designee, and witnesses called by the hearing panel are permitted to attend the hearing.~~

~~Charges contained in the initially formulated statement of grounds for dismissal may be supplemented at the hearing by evidence of new events occurring after the initial communication to the individual which constitute new or additional cause for dismissal. If such supplementary charges are added, the hearing panel should provide the individual with sufficient time to prepare his or her defense.~~

~~The chancellor shall have the option to attend or not to attend the hearing, and he or she may designate an appropriate representative to assist in developing and presenting the case.~~

~~The hearing panel shall determine the order of proof and shall supervise the questioning of witnesses.~~

~~The individual shall have the aid of the hearing panel when needed in securing the attendance of witnesses. The individual or his or her representative and the chancellor or his or her designated representative shall have the right within reasonable limits to question all witnesses who testify orally.~~

~~The hearing panel will use its best efforts to provide an opportunity for those involved to confront all witnesses. *To fulfill the requirement to allow an opportunity to confront witnesses, the hearing panel will use its best efforts to allow the questioning of witnesses* either in person or through some form of synchronistic technology. In the event a witness cannot be present in one of these forms, the hearing panel will not consider any evidence the witness may have furnished that is in addition to any evidence presented by other witnesses. The hearing panel may consider the sworn affidavit of a non-present witness if the parties have been given the opportunity to question the witness either in person, using synchronistic technology, or by recorded telephone.~~

~~The hearing proceedings shall be duly recorded. Formal rules of court procedure need not be followed, but the hearing panel shall respond to any objections made by a party to the evidence and exercise reasonable efforts to protect the rights of the parties in the reception of evidence.~~

~~6. Consideration by Hearing Panel: The hearing panel shall formulate its recommendation in private on the basis of the hearing. Before doing so, it shall give opportunity to the individual and the chancellor or his or her designated representative to make oral statements before it. If written arguments are desired, the hearing panel may request them. The hearing panel shall proceed to arrive at its recommendation promptly without having the record of the hearing transcribed when it feels that a just decision can be reached by this means, or it may await the availability of a transcript of the hearing. It shall make explicit findings with respect to each of the grounds presented for removal.~~

~~The chancellor and the individual shall be notified of the recommendation in writing, including the findings on which the recommendation is made, and a copy of the record of the hearing shall be~~

available to both. A copy of the record of the hearing and the recommendations of the hearing panel shall be furnished to the president of the University for his or her decision. The decision of the president shall be transmitted to the chancellor and to the individual involved.

~~7. Consideration by Board of Trustees: If the decision of the president is appealed to the Board of Trustees, or if the Board of Trustees chooses to review the case, the president shall transmit to the Board of Trustees the full report of the hearing panel, including its recommendations, and his or her decision. The review shall be based on the record of the previous hearing, accompanied by opportunity for argument, oral or written or both, by the principals at the hearing or by their representatives. The decision of the Board of Trustees on review shall be final. It shall be communicated to the president and through him or her to the person involved.~~

### **Definitions of terms**

**Tenure.** Tenure is the right of continuous appointment. It is awarded by the president to eligible members of the faculty upon successful completion by each of a probationary period and, once granted, it ceases to exist only by dismissal for cause according to the procedures in Section IV.C., demonstrably bona fide financial exigency, reduction or elimination of programs, retirement, or resignation. “Cause” is defined as conduct which demonstrates that the faculty member lacks the ability or willingness to perform his or her duties or to fulfill his or her responsibilities to the university; examples of such conduct include (but are not limited to) incompetence, neglect of duty, intellectual dishonesty, termination based on Post-Tenure Review Policy, and moral turpitude.

## **VII. Moral Turpitude Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy.

The definition of moral turpitude comes from the *1940 Statement of Principles on Academic Freedom and Tenure* by the American Association of University Professors. This standard for determining conduct exhibit moral turpitude is described as:

The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

If a grounds for dismissal is moral turpitude the following procedural requirements must be met:

- The charge that a faculty member’s behavior was an act of moral turpitude be in the initial charges against the faculty member.
- If that charge is made, since the behavior requires “condemnation from the general academic community,” the charge should be sent to the Faculty Senate without any identification of the faculty member, department or other identifiers, for a determination of whether the conduct is one of moral turpitude. The Faculty Senate must consider the matter and make a decision within 30 calendar days of the submission. After a decision is made by the Faculty Senate and received by the complainant and respondent, the respondent shall answer the charges in writing within the timeframe provided in the dismissal policy.

- The process of investigating and deciding whether the faculty member is guilty of any of the charges cannot begin until the faculty member has filed a response to the charges. The source of the charge of moral turpitude, if a third person, shall remain confidential throughout the process.
- The faculty member cannot be dismissed on the grounds of moral turpitude unless (1) the Faculty Senate determines that the behavior identified in the charge is an act of moral turpitude and (2) the faculty member is found to have committed that act.

## **VIII. Procedural Appeals Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy.

### **General Information**

This sub-policy provides a faculty member or student a formal mechanism for challenging the use of a procedure that they believe is contrary to the procedure authorized by the sub-policy that they are being accused of violating. It addresses only the procedural violation and not the substantive violation.

The university has established various policies and regulations in order to create a fair environment where each individual can develop fully and judgments are based on merit. Such an environment expects that all its members will act in integrity and with civility. However, this policy recognizes that some may act contrary to policy. As such this procedural appeals process provides a check by which individuals can be assured that the university acts under an impartial rule of law with equal fairness for all.

The Judicial Council has authority to receive an appeal of the procedure being used to address alleged misconduct. Once the appeal has been made to the Judicial Council, the timelines for the substantive review of the accusation are put on hold, thus stopping the clock, until the procedural matter is resolved. The Judicial Council may request outside help to provide advice to the council.

In the event that the issue concerns the order in which to implement multiple procedures from different policies, the council shall establish the order of implementation. In the event that the order of implementing the procedures has been inappropriate in the view of the Judicial Council, the council may order that a process be redone. The Judicial Council may require that a new hearing panel be constituted.

The Judicial Council shall maintain a file in which reports of all complaints filed and their resolution are kept.

### **Steps Toward Redress for Procedural Violations**

1. The individual complaining of a failure to follow authorized procedure should attempt to resolve the issue with the person or group about whom he/she is complaining before instituting the next step in this process.
2. The process is initiated when the chair of the Judicial Council (see Judicial Council on the Faculty Senate website to find the chair) is notified of a possible violation of a procedure in a judicial policy. Anyone may make such a notification. Those filing a complaint must file a complaint on all procedures they believe are not consistent with policy at the time of filing the complaint with the chair of the Judicial Council. If an alleged new violation occurs after the date of filing, a complaint may be filed concerning that violation.
3. The chair shall assign one or more members of the Judicial Council to make a preliminary investigation. If the preliminary investigation determines that there has been no violation, the



Judicial Council investigators shall write a report detailing the initial concern and why they found no violation. The report shall go to all members of the Judicial Council and The person challenging the procedure as well as the person who instituted the challenged procedure.

If the preliminary investigation finds a procedural violation and is able to resolve the issue informally, the Judicial Council investigators shall write a report detailing the initial concern and the resolution. The report shall go to all members of the Judicial Council, everyone involved in the judicial matter, and anyone else whom the Judicial Council decides should be informed.

The matter shall be referred to the full Judicial Council if the preliminary investigation does not resolve the procedural issue or if any member of the Judicial Council is dissatisfied with the informal resolution and requests further investigation.

4. For issues referred to the full Judicial Council, the council shall decide how to proceed. Investigative actions the council may take include but are not limited to the following:
  - Interviews of the various parties
  - Hearings allowing all parties to present their case
  - Allow each party to submit written arguments
5. The Judicial Council shall record all interviews and/or hearings and, at its discretion or at the request of the Faculty Senate, have the recordings of interviews and any hearing transcribed.
6. Any party involved in a hearing may request that the hearing be an open hearing. Unless there is a compelling reason to have closed hearings, the council should choose open hearings.

### **Hearings Before the Judicial Council**

While the council does not have subpoena power, it will aid in securing the attendance of witnesses. The parties do not have a right to legal counsel at hearings of the Judicial Council.

The council shall control the procedure of the hearings as it considers appropriate. All rulings and determinations of the council shall be by majority vote of the council including the chairperson.

1. Each side in the dispute shall have an opportunity to present their case.
2. Each side in the dispute shall have an opportunity for rebuttal.
3. Each side shall have the right within reasonable limits to question all witnesses who testify orally.
4. Members of the council shall have the right to question all parties and witnesses.

The judicial council may request written arguments.

The council shall proceed to arrive at its recommendation promptly without having the record of the hearing transcribed when it feels that a just decision can be reached by this means, or it may await the availability of a transcript of the hearing.

### **Authority of the Judicial Council**

The council may call additional witnesses or require additional investigation.

The focus of the council is strictly on procedural issues. It is not concerned with judging the substance of the matter or the guilt or innocence of someone accused in a matter.

Actions that the council may take to resolve an issue including but are not limited to

- Determine if a violation has occurred
- Determine that a violation has occurred and specify the correct procedure to follow
- Specify the order in which policies and procedures will be implemented
- Require a procedure to be restarted and at their discretion require that a new hearing panel be constituted

- Send the issue to the Faculty Senate

In the event that the council cannot resolve an issue, believes the procedure to be followed is ambiguous, determines that the matter should be brought to the attention of the Faculty Senate, or sees a need for additional legislation to resolve the matter and develops that recommendation, it shall forward the matter to the Faculty Senate with all relevant information for appropriate action.

Any party to the action before the Judicial Council has the right to appeal a decision of the Judicial Council to the Faculty Senate. The decision of the Faculty Senate is final.

## **IX. Policies and Procedures for Dealing with Misconduct in Research, Teaching and Service Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy.

### **Introduction**

#### **General Policy**

The basic principle in the conduct of scholarly activity rests on objective inquiry and the pursuit of truth. Integrity in the conduct of scholarly activity is essential and must be maintained.

Although instances of misconduct are rare, it is acknowledged that they do occur. Once they do occur, they present a serious threat to continued public confidence in the integrity of the scholarship and the stewardship of funds which support the scholarly activity.

This Policy provides the basis for uniform procedures for dealing with instances of alleged or apparent misconduct, as the term is defined herein, and the responsibilities for such actions.

This Policy is written and approved in accordance with Public Health Service regulation 42CFR Part 50, Subpart A.

#### **Scope**

This policy applies to all individuals at University of Arkansas at Little Rock paid by, under the control of, or affiliated with the institution, including faculty, administrators, scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at University of Arkansas at Little Rock.

This policy neither limits nor supersedes the Academic Integrity Sub-Policy.

### **Definitions**

A. Activity record means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported activity that constitutes the subject of an allegation of misconduct. An activity record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract process and other reports; laboratory notebooks; notes; correspondence; videos; photographs; works of art; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; and consent forms.

B. Allegation means any written or oral statement or other indication of possible misconduct made to an institutional official.

C. Complainant means a person who makes an allegation of misconduct.

D. Conflict of interest means real or apparent bias due to prior or existing personal or professional relationships.

E. Good faith allegation means an allegation made with the honest belief that misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for, or willful ignorance of, facts that would disprove the allegation.

F. Inquiry means gathering information and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

G. Integrity Officer means the University of Arkansas at Little Rock official responsible for assessing allegations of misconduct and determining when such allegations warrant inquiries and overseeing inquiries and investigations.

H. Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

I. Respondent means the person against whom an allegation of misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

J. Retaliation means any action that adversely affects the employment or other institutional status of an individual that is taken by University of Arkansas at Little Rock or an employee because the individual has, in good faith, made an allegation of misconduct or has cooperated in good faith with an investigation of such allegation, or inadequate institutional response thereto.

K. Misconduct means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting scholarly activity. It does not include honest error or honest differences in interpretations or judgments of data. It also means helping others engage in misconduct including helping students violate the Academic Integrity Sub-Policy.

## **Rights and Responsibilities**

### **A. Integrity Officer**

The Chancellor will appoint the Integrity Officer who will have primary responsibility for implementation of the procedures set forth in this document. The Chancellor shall circulate the name and vitae of the person the Chancellor chooses to appoint as the Integrity Officer for 5 weeks days inviting comment on the selection.

The Integrity Officer will be a University of Arkansas at Little Rock official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct scholarly activities, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The Integrity Officer receives complaints of research misconduct defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

- (a) Fabrication is making up data or results and recording or reporting them.
- (b) Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- (c) Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit

The Integrity Officer will preside over the inquiry and investigation committees and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The Integrity Officer will attempt to ensure that confidentiality is maintained.

The Integrity Officer will assist inquiry and investigation committees and all University of Arkansas at Little Rock personnel in complying with this policy and with applicable standards imposed by government or external funding sources. The Integrity Officer is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

If a sponsored project is involved, the Integrity Officer will report to the Funding Agency and keep the Funding Agency apprised of any developments during the course of the inquiry or investigation that may affect current or potential sponsored funding for the individual(s) under investigation or that the Funding Agency the needs to know to ensure appropriate use of external funds and otherwise protect the public interest.

## **B. Complainant**

The complainant will have an opportunity to testify before the inquiry and investigation committees, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also if the Integrity Officer has determined that the complainant may be able to provide pertinent information on any portions of the draft report, these portions may be given to the complainant for comment.

The complainant's is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

## **C. Respondent**

The respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent also will have the right to be interviewed by and present evidence to the inquiry and investigation committees, to review the draft inquiry and investigation reports, and to have the advice of legal counsel employed at his or her own expense.

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found guilty of misconduct, he or she has the right to receive institutional assistance in restoring his or her reputation.

## **D. Deciding Official**

The Chancellor will receive the inquiry and/or investigation report and any written comments made by the respondent or the complainant on the draft report. The Chancellor will consult with the Integrity Officer or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions as shown in the Institutional Administrative Actions section of this sub-policy.

## **General Policies and Principles**

### **A. Responsibility to Report Misconduct**

All employees or individuals associated with University of Arkansas at Little Rock should report observed, suspected, or apparent misconduct in scholarly activities to the Integrity Officer or Chancellor. If an individual is unsure whether a suspected incident falls within the definition of misconduct, he or she may call the Integrity Officer to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of misconduct, the Integrity Officer will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the Integrity Officer and will be counseled about appropriate procedures for reporting allegations.

### **B. Protecting the Complainant**

The Integrity Officer will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The Integrity Officer will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the Integrity Officer.

University of Arkansas at Little Rock will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the complainant requests anonymity, University of Arkansas at Little Rock will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations, and state and local laws, if any. The complainant will be advised that if the matter is referred to an investigation committee and the complainant's testimony is required, anonymity may not be possible. University of Arkansas at Little Rock will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

### **C. Protecting the Respondent**

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

### **D. Cooperation with Inquiries and Investigations**

University of Arkansas at Little Rock employees will cooperate with the Integrity Officer and other University of Arkansas at Little Rock officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the Integrity Officer or other University of Arkansas at Little Rock officials on misconduct allegations.

### **E. Preliminary Assessment of Allegations**

Upon receiving an allegation of misconduct, the Integrity Officer will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, and whether the allegation falls under the University of Arkansas at Little Rock definition of misconduct.

## **Conducting the Inquiry**

### **A. Initiation and Purpose of the Inquiry**

If the Integrity Officer determines that the allegation provides sufficient information to warrant specific follow-up and falls under the definition of misconduct, the Integrity Officer shall attempt to resolve the complaint informally, prior to beginning the official inquiry process. Any informal resolution shall be documented. If the Integrity Officer is unable to resolve the complaint information, he or she immediately will initiate the inquiry process. In initiating the inquiry, the Integrity Officer should clearly identify the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. If evidence is available

from an academic integrity case, the Dean of Students will supply the Integrity Officer with the evidence. Care will be taken to restrict the information to only those who need the evidence for the inquiry. The purpose of the inquiry is **not** to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report. An Inquiry Committee shall be appointed as provided for herein.

#### **B. Sequestration of the Activity Records**

After determining that an allegation falls within the definition of misconduct, the Integrity Officer must ensure that all original activity records and materials relevant to the allegation are immediately secured. This sequestration should occur before the respondent is notified of the inquiry.

#### **C. Appointment of the Inquiry Committee**

The Inquiry Committee shall be constituted with 30 days after the Integrity Officer determines that the matter cannot be resolved informally. The Committee shall be composed of three people with knowledge of research methodology/subject area of complaint. The respondent shall recommend three people to serve on the committee, one of whom the Integrity Officer will select. The complainant cannot be a member of the Inquiry Committee. No subordinate of the respondent shall serve. Every attempt shall be made to have diverse departments/colleges on the Inquiry Committee. The Inquiry Committee shall be empowered to solicit the opinions of outside experts when the committee views this as needed.

The Integrity Officer will notify the respondent of the inquiry and the members of the Inquiry Committee. If the respondent submits a written objection to any member of the Inquiry Committee based on bias or conflict of interest within 5 days, the Integrity Officer will determine whether to replace the challenged member with a qualified substitute.

#### **D. Charge to the Committee and the First Meeting**

The Integrity Officer will prepare a charge for the Inquiry Committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose is not to determine whether misconduct definitely occurred or who was responsible.

At the committee's first meeting, the Integrity Officer will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The Integrity Officer will be present throughout the inquiry to advise the committee as needed. Institutional legal counsel will be available to advise the committee if needed.

#### **E. Inquiry Process**

The Inquiry Committee normally will interview the complainant, the respondent, and key witnesses, as well as examine relevant activity records and materials. The Inquiry Committee then will evaluate the evidence and testimony obtained during the inquiry. After consultation with the Integrity Officer and institutional legal counsel (if deemed appropriate), the committee members will decide whether there is sufficient evidence of possible misconduct to recommend further investigation.

## **The Inquiry Report**

### **A. Elements of the Inquiry Report**

A written inquiry report shall be prepared that states the name and position of the committee members and experts, if any; the allegations; a summary of the inquiry process used; a list of the activity records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. Institutional legal counsel may review the report for legal sufficiency.

### **B. Comments on the Draft Report by the Respondent and the Complainant**

The Integrity Officer will provide the respondent with a copy of the draft inquiry report for comment and rebuttal and will provide the complainant, if he or she is identifiable, with the portions of the draft inquiry report that address the complainant's role and opinions of the investigation.

#### **1. Confidentiality**

The Integrity Officer may establish reasonable conditions for review to protect the confidentiality of the draft report.

#### **2. Receipt of Comments**

Within 5 calendar days of their receipt of the draft report, the complainant and respondent will provide their comments, if any, to the inquiry committee. Any comments that the complainant or respondent submits on the draft report will become part of the inquiry report and record.

Based on the comments, the inquiry committee may revise the report as appropriate.

### **C. Inquiry Decision and Notification**

#### **1. Decision by Deciding Official**

The Integrity Officer will transmit the final report and any comments to the Provost (Deciding Official), who will make the determination of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation. The respondent has the right to request the Provost overrule the findings of the Inquiry Committee. The inquiry is completed when the Provost makes this determination, which will be made within 75 days of the first meeting of the Inquiry Committee. Any extension of this period will be based on good cause and recorded in the inquiry file.

#### **2. Notification**

The Integrity Officer will notify both the respondent and the complainant in writing of the Provost's decision of whether to proceed to an investigation and will remind them of the obligation to cooperate in the event an investigation is opened. The Integrity Officer will also notify all appropriate University of Arkansas at Little Rock officials of the Provost's decision.

### **D. Time Limit for Completing the Inquiry Report**

The inquiry committee will normally complete the inquiry and submit its report in writing to the Integrity Officer no more than 60 calendar days following its first meeting. This includes conducting the inquiry, obtaining comments from the respondent and complainant, and submitting the report to the Provost through the Integrity Officer.

## **Conducting the Investigation**

### **A. Purpose of the Investigation**

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible

misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects activity that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be included in an investigation report.

## **B. Sequestration of the Activity Records**

The Integrity Officer will immediately sequester any additional pertinent activity records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

## **C. Appointment of the Investigation Committee**

The Chancellor shall appoint three tenured faculty members, who he/she deems to have appropriate expertise to assure a sound knowledge base from which to work, to the Misconduct in Scholarship Investigation Committee. The Chancellor can appoint additional members to the Investigation Committee if certain knowledge or experience is desired.

The Integrity Officer will notify the respondent of the proposed committee membership within 5 days of initiation of the investigation. If the respondent submits a written objection to any appointed member of the investigation committee within 5 days of receipt of such notification, the Integrity Officer will determine whether to replace the challenged member with a qualified substitute.

## **D. Charge to the Committee and the First Meeting**

### **1. Charge to the Committee**

The Integrity Officer will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the Integrity Officer, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

### **2. The First Meeting**

The Integrity Officer will convene the first meeting of the Investigation Committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation. The Integrity Officer may seek the assistance of institutional legal counsel in conducting these duties. The Investigation Committee will be provided with a copy of the instructions.

## **E. Investigation Process**

The Investigation Committee will be appointed and the process initiated within 30 days of the completion of the inquiry.



The investigation normally will involve examination of all documentation including, but not necessarily limited to, relevant activity records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the committee should interview the complainant(s), the respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the respondent should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for content or revision, and included as part of the investigative file.

## **The Investigation Report**

### **A. Elements of the Investigation Report**

The final report submitted to the Chancellor must describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct.

### **B. Comments on the Draft Report**

#### **1. Respondent**

The Integrity Officer will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed 15 calendar days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

#### **2. Complainant**

The Integrity Officer will provide the complainant with those portions of the draft investigation report that address the complainant's role and opinions in the investigation. The complainant will be allowed 15 calendar days to review and comment on the draft report. The complainant's comments will be attached to the final report. The findings of the final report should be modified, as appropriate, based on the complainant's comments.

#### **3. Institutional Legal Counsel**

The draft investigation report will be transmitted to the institutional legal counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

#### **4. Confidentiality**

In distributing the draft report, or portions thereof, to the respondent and complainant, the Integrity Officer will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the Integrity Officer may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

### **C. Institutional Review and Decision**

Based on a preponderance of the evidence, the Chancellor will make the final determination of whether to accept the investigation report, its findings, and the recommended institutional actions. If this determination varies from that of the Investigation Committee, the Chancellor will submit to the Investigation Committee a written explanation detailing the basis for rendering a decision different from that of the Investigation Committee. The Chancellor's explanation should be consistent with the Institution's definition of misconduct, the Institution's policies and procedures, and the

evidence reviewed and analyzed by the Investigation Committee. The Chancellor also may return the report to the Investigation Committee with a request for further fact-finding or analysis. The Chancellor's determination, together with the Investigation Committee's report, constitutes the final investigation report for purposes of Funding Agency review. If the activity is externally funded, the Chancellor will explain any variance in his/her final determination in the final investigation letter transmitting the report to the Funding Agency.

When a final decision on the case has been reached, the Integrity Officer will notify both the respondent and the complainant in writing. In addition, the Chancellor will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The Integrity Officer is responsible for ensuring compliance with all notification requirements of funding agencies.

#### **D. Transmittal of the Final Investigation Report to Funding Agency**

After comments have been received and the necessary changes have been made to the draft report, the Investigation Committee should transmit the final report with attachments, including the respondent's and complainant's comments, to the Funding Agency, through the Integrity Officer.

#### **E. Time Limit for Completing the Investigation Report**

An investigation ordinarily should be completed within 120 calendar days of its initiation, with the initiation being defined as the first meeting of the Investigation Committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the Chancellor for approval, and submitting the report to the Funding Agency.

#### **Requirements for Reporting to the Funding Agency**

A. The University of Arkansas at Little Rock's decision to initiate an investigation must be reported in writing to the Funding Agency, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the funding agency definition of misconduct, and the application or grant number(s) involved. The Funding Agency must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to the Funding Agency.

B. If the University of Arkansas at Little Rock plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of this policy, the Integrity Officer will submit a report of the planned termination to the Funding Agency, including a description of the reasons for the proposed termination.

C. If the University of Arkansas at Little Rock determines that it will not be able to complete the investigation in 120 calendar days, the Integrity Officer will submit a written explanation which describes reasons for the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken.

D. When Public Health Service (PHS) funding or applications for funding are involved, and an admission or finding of misconduct is made, the Integrity Officer will contact the Office of Research Integrity (ORI) for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, the University of Arkansas at Little Rock cannot accept an admission of misconduct as a basis for closing a case or not undertaking an investigation without prior approval from the ORI.

E. The Integrity Officer will notify the Funding Agency at any stage of the inquiry or investigation

1. There is an immediate health hazard involved;
2. There is an immediate need to protect external funds or equipment;
3. There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
4. It is probable that the alleged incident is going to be reported publicly;
5. The allegation involves a public health sensitive issue, e.g. a clinical trial;
6. There is a reasonable indication of possible criminal violation. In this instance, the institution must inform the Funding Agency within 24 hours of obtaining that information.

### **Institutional Administrative Actions**

The University of Arkansas at Little Rock will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the Chancellor determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the Integrity Officer. The actions include:

- informing in writing the agency (if any) sponsoring the activity;
- informing in writing the University of Arkansas Board of Trustees;
- recommending to the President appropriate administrative action as provided for in the policies and procedures of the University;
- withdrawal or correction of all pending or published abstracts and papers emanating from the activity where misconduct was found;
- restitution of funds as appropriate; and
- other action deemed appropriate by the Chancellor.

### **Other Considerations**

#### **A. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation**

In the case of externally sponsored activities, the termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible misconduct has been reported, will not preclude or terminate misconduct procedures outlined in this Policy. If the respondent without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

## **B. Restoration of the Respondent's Reputation**

If the University of Arkansas at Little Rock finds no misconduct after consulting with the respondent, the Integrity Officer will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the Integrity Officer should consider notifying those individuals aware of or involved in the investigation of the outcome, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, or expunging all reference to the misconduct allegation from the respondent's personnel file.

## **C. Protection of the Complainant and Others**

Regardless of whether the institution determines that scientific misconduct occurred, the Integrity Officer will undertake reasonable efforts to protect complainants who made allegations of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Chancellor will determine, after consulting with the complainant, what steps, if any, are needed to restore the position or reputation of the complainant. The Integrity Officer is responsible for implementing any steps the Chancellor approves. The Integrity Officer also will take appropriate steps during the inquiry and investigation to prevent any retaliation against the complainant. The University follows the Public Health Service Office of Research Integrity's "Guidelines for Responding to Possible Retaliation Against Whistleblowers in Extramural Research."

## **D. Allegations Not Made in Good Faith**

If relevant, the Chancellor will determine whether the complainant's allegations of misconduct were made in good faith. If an allegation was not made in good faith, the Chancellor will determine whether any administrative action should be taken against the complainant as provided for in the policies and procedures of the University.

## **E. Interim Administrative Actions**

Institutional officials will take interim administrative actions, as appropriate, to protect external funds and ensure that the purposes of the external financial assistance are carried out.

## **Record Retention**

After completion of a case and all ensuing related actions, the Integrity Officer will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Integrity Officer or committees. The Integrity Officer will keep the file for five years after completion of the case. The Funding Agency or other authorized Office of Research Integrity personnel will be given access to the records upon request.

## **X. Grievance Procedures –Complaints of Discrimination Involving Faculty Sub-Policy**

This sub-policy like all the other sub-policies needs to be implemented in accordance with the concepts, principles, and definitions shown in the Preamble and the General Procedures and Definitions sections from the beginning of this policy. Anyone who thinks that the policy procedures are not being followed should also read the Procedural Appeals Sub-Policy. For information regarding the university's nondiscrimination policies, see the Faculty Handbook.

## **Introduction**

### **UALR Goal to Eliminate Discrimination**

It is the goal of UALR to eliminate discriminatory harassment and to promote equal opportunity regardless of race, gender, color, national origin, religion, sexual orientation, age, veteran's status, or disability. Any individual, whether faculty, staff or student, who believes he/she has been discriminated against should not be deterred from reporting his/her allegations.

The procedure for filing a complaint described below is internal to the University and everyone is encouraged to follow it first *before filing a complaint with the federal or state government*. Any individual, however, also has the right to file a formal complaint with the appropriate state or federal agency.

### **Offices Hearing Complaints**

The Human Resources Officer has the responsibility for UALR's compliance with non-discriminatory laws and regulations. The Officer receives informal or formal complaints lodged against faculty, staff, and administration. The Human Resources Officer may be requested by the Chancellor, Provost, Vice Chancellors, or Deans to conduct an investigation without formal charges being brought.

The Office of the Dean of Students has responsibility to hear grievances brought by one student against another student. The Dean of Students may consult with the Human Resources Officer for assistance in negotiating or resolving complaints.

Additionally, complaints may be referred to one's supervisor.

### **Employee Responsibilities**

All employees or inhabitants of the University have the responsibility to inform the Human Resources Officer of all allegations of discrimination which have been reported to them or of which they are aware.

### **Retaliation is Illegal**

It is expressly forbidden, and illegal, for anyone to retaliate against an individual for bringing a complaint of discrimination or denial of equal opportunity.

### **Reporting Guidelines**

Complaints of discrimination, either formal or informal, should be filed within 30 ~~working~~ days of the ~~event~~ *alleged act or pattern of behavior that led complainant to believe the respondent engaged in discrimination*. Filing a complaint with one's supervisor, the Dean of Students, or the Human Resources Officer satisfies the requirements for reporting. In extenuating circumstances, the time limit may be waived by the Human Resources Officer or the Dean of Students. The written request with a copy of notification of approval will be placed in the file.

### **Informal Complaint Procedures**

An informal complaint does not result in disciplinary action. Informal complaints may be discussed with the Human Resources Officer or the Dean of Students.

If the goal is merely to seek advice, the University official will attempt to assist with the resolution of the problem but will refrain from drawing a conclusion as to whether discrimination has occurred. The hearing official may talk to the "other" person in an effort to resolve the problem. A written record of the complaint will be made and will be filed with the Human Resources Officer. The supervisors of the individual filing the complaint and the person against whom the complaint is filed will be notified. The subject of the complaint will be given the opportunity to enter a response into the file. If the issue is resolved, no further action will be

taken, and all parties previously informed will be notified of the outcome.

Unresolved informal complaints might require the greater involvement of supervisors or the Human Resources Officer.

The fundamental goal of the informal complaint procedure is to involve the fewest number of people needed to resolve an issue at the lowest level.

## Formal Complaint Procedures

Formal complaints of discrimination or denial of equal opportunity should be submitted to the Human Resources Officer within 180 days of the alleged act or pattern of behavior that led complainant to believe the respondent engaged in discrimination. Complaints involving students are submitted to the Dean of Students.

1. A copy of the complaint together with a copy of these procedures will be presented to the individual against whom the complaint is filed. The individual will have 10 ~~business~~ days from the time of receipt of the complaint to respond.
2. The Human Resources Officer will convene an initial hearing involving the complainant, the alleged offender, and the alleged offender's supervisor/chair to discuss the charges and attempt to informally mediate a resolution. A record of the meeting will be kept. If the issue is resolved, the Human Resources Officer will present a report to the Chancellor. If the issue is not resolved, the Human Resources Officer shall convene a hearing committee composed of three people, one of whom shall be a tenured faculty member. The complainant and respondent may each recommend one member to serve on the hearing committee. Unless a conflict of interest or an appearance of conflict of interest, the recommendations by the complainant and respondent shall be accepted.
3. If the formal review process exceeds 30 ~~calendar~~ days, the complainant will be informed of the need for additional time, the status of the investigation, and revised deadline for completion of the investigation.
4. If during the course of its investigation, the hearing panel determines the charges are frivolous or without merit, it may dismiss the complaint, notify all parties in writing of its action, and notify the Chancellor.
5. If the complaint is found to have merit, the hearing committee shall recommend sanctions to the ~~chair of the department who shall impose one or more of the recommended sanctions~~ Human Resource Officer. *If sanctions are recommended, the Human Resource Officer shall share the recommended sanctions with the department chair, complainant and respondent, impose the sanction, other than dismissal, and resolve the conflict.* If the sanction recommended is dismissal, that recommendation shall be made to the Chancellor. If the complaint is found not to have merit, the Hearing Committee shall recommend dismissal of the complaint to the Human Resource Officer and notify the parties and the Chancellor.
6. ~~If sanctions are recommended, the Human Resource Officer shall share the recommended sanctions with the department chair, complainant and respondent, impose the sanction, other than dismissal, and resolve the conflict.~~ If there is agreement on a sanction before the findings are officially recorded, the formal proceedings shall be terminated and the situation, including imposition of the agreed sanction, monitored by the Human Resource Officer for one (1) year after the resolution.
7. If a formal complaint process is begun that results in a finding that the respondent has discriminated against the complainant and sanctions are recommended and the Human

Resource Officer is unable to obtain an agreement among the parties and the respondents chair for the sanction to be imposed or if the decision was reached that there was no discrimination, the detailed findings of the Hearing Committee including evidence relied on and reasons for its decision shall be given to the complainant, respondent, respondent's supervisor/chair, appropriate dean and vice chancellor and the chancellor. Either party may file a rebuttal statement for inclusion in that file.

8. Appeals shall follow normal University appeals procedures found in the appropriate sections of the *Faculty Handbook*.

## **Confidentiality**

### **Informal Complaints**

All persons involved in informal hearings are obliged to make every reasonable effort to preserve the confidentiality of the information presented. The names of the complainant and alleged offender will remain anonymous. The complainant's name will be disclosed to the alleged offender only if the complainant has given permission. If it is impossible to conduct an informal review without disclosure of names, the Human Resources Officer will discuss this with the complainant.

### **Preserving Confidentiality**

Every effort must be made to restrict the information pertaining to an informal complaint to those immediately charged with conducting the informal investigation and appropriate administrative officials.

### **Formal Hearings and the Final Disposition**

All facts in a case are confidential. The employee's supervisor together with the Human Resources Officer will inform both parties, in confidence, of the results of the investigation and sanctions or disciplinary actions recommended by the hearing panels. Students will be informed by the Dean of Students. A permanent record of the case and the findings will be maintained by the Human Resources Officer.

The Human Resources Officer will prepare an annual report for the Chancellor on the number of cases heard and types of cases presented in which discrimination or denial of equal opportunity were alleged. Further, the Human Resources Officer will assess the significance of the data and include recommendations for specific actions that can be taken to ameliorate further occurrences of a similar nature.

## **Appendices**

### **Appendix A – General Operating Policies of the Academic Integrity and Grievance Committee**

The Committee shall meet as soon as possible after it is formed and elect a chairperson from among the faculty members on the committee.

The Dean of Students shall work with the committee to ensure that all members understand the judicial sub-policies under the responsibility of the committee. The Dean of Students shall be responsible for providing access to the Judicial Policy to all members.

1. The associate vice chancellor for academic affairs shall be the administrative officer of the committee but shall not serve as a member of the committee. His or her duties shall include:
  - a. consulting with the Academic Integrity and Grievance Committee chairperson in making

a determination of which appeal procedure is appropriate (i.e., that of Academic Integrity and Grievance Committee for grade appeals or, if not overriding the student's right of appeal or forcing a faculty member to change a grade, that of the vice-chancellor/provost for administration action) and notifying the student of the decision;

b) arranging the appropriate times, dates, and places of committee meetings and hearings;

c) informing in writing the parties to the appeal, their non-participating representatives, designated witnesses, and members of the hearing panel of the times and places of committee hearings which they are requested to attend and supplying them with a statement of alleged grievances or offenses (Allegation of Academic Offense Report Form or Grade Appeal Complaint Form) and coordinating with the dean of students if the offense alleged is a violation of academic integrity;

d) securing and distributing to the committee written material appropriate to its consideration;

e) supplying and distributing to the committee and involved parties all relevant and required documents and written materials appropriate to its consideration within the designated time frames for the meeting/hearing, (e.g., statement of charges, alleged grievances, incident/allegation reports, information to be presented at hearing, list of witnesses, etc.);

f) arranging for a recording of committee proceedings;

g) conveying in writing to the appropriate persons in grade appeals the decisions and the reasons for the decisions of the committee, within reasonable bounds of confidentiality, and to the accused student in academic offense cases the disciplinary action;

h) maintaining committee records of grade appeals for a period of two years and maintaining academic offense records in accordance with the Administration of Conduct Records section of the Academic Integrity sub-policy; and forwarding academic offense records to the dean of students office after the appeal deadline has expired;

i) providing secretarial assistance for the committee.

It must be clearly understood that the office of the associate vice chancellor for academic affairs has no subpoena power and that its duties with regard to witnesses shall end with the transmittal of a letter, within two working days of the party's written request, notifying the witness of the time, place, and date scheduled for the hearing. Any further responsibility shall be that of the party calling the witness.

## 2. Committee Membership

a) Any member of the committee may at any time disqualify himself or herself from consideration of any given case or cases because of personal bias.

b) Should a committee member be unable to hear a particular case, for any reason, an alternate shall be appointed by the chairperson to serve for the course of the particular grievance.

c) Should the committee be involved in a specific case at the time of the return of an absent member, the replacement member shall continue as a member of the committee in all sessions dealing with that specific case until it is concluded. The returning members shall resume membership on the committee in any new cases brought before the committee.

d) Should any member of the committee be unable, for any reason, to complete a term for which he or she has been appointed, one of the alternates shall fill the balance of the term. Resignations shall be submitted in writing to the Dean of Students, associate vice chancellor for academic affairs and the chairperson of the committee. The Dean of Students and associate vice chancellor for academic affairs shall then immediately inform the president of the Faculty Senate/ Assembly in the case of the faculty member resignation, or the Student Government Association president or the Graduate Student Association president in the case of a student resignation or a vacancy, request the appointment of one of the alternates to fill the position, and request the appointment of a second alternate to fill the vacant alternate position until the next term.

e) If the committee is involved in any specific case at the time of the expiration of the term of



any member, that member shall continue to function as a member of the committee only in its dealings with that specific case until such time as the case is concluded. No newly elected member shall participate as a member of the committee in relation to any case that began before his or her term. He or she shall, however, serve as a member of the committee for all other matters, beginning with the first day of his or her designated term of service.

f) Either party to a hearing may ask the associate vice chancellor for academic affairs the name of committee members assigned to hear the case. Either party may request in writing to the associate vice chancellor for academic affairs and the chairperson that any member or members of the committee be excluded from the consideration of the case. Such a request must be for cause and be brought to the attention of the associate vice chancellor for academic affairs and chairperson within two class days upon receipt of notice of hearing. If a member of the panel is challenged, an alternate must be selected, have received all pertinent information regarding the hearing, and must be available at the hearing; if the member is disqualified by majority vote of the hearing panel from consideration of the case, the alternate will be seated.

3. The Faculty Senate/Assembly president and the Student Government Association president or the Graduate Student Association president may appoint temporary committee members during the summer months to hear cases in an emergency and only after the associate vice chancellor for academic affairs has made all attempts to contact committee members and alternates.

4. In cases involving more than one student which arise out of the same event or incident, the panel may hear such cases together; but in that event the panel shall make separate findings and determination for each student.

## **Appendix B – Committee Procedures for Grade Appeals**

### **Guidelines for Grade Appeal Hearings Presentation of Arguments and the Roles of Participants**

These guidelines are intended to facilitate the effective and appropriate participation of all parties to the hearing while also ensuring that the hearing panel members have enough time to consider the relevant aspects of the case before them.

The committee is restricted to making grade changes only if the grade was inequitably awarded in that it violated a faculty member's own specified grading standards or the grading standards of the department. No other basis can be used to change a grade. In the case where the faculty member has violated the standards of the department, the hearing panel's grade change decision cannot exceed the recommendation of the department's chair.

The protocols below pertain to two conditions: 1) a hearing without witnesses and 2) a hearing with witnesses. The time allotments are maximums. Participants may choose to use less time.

Non-participating representatives may advise the party they represent during the hearing as long as it is not disruptive to the hearing. For instance, the representative may write notes or whisper to his/her party but may not engage in such activities as discussions, arguing points, or questioning witnesses. The party represented by the non-participating representative may ignore the representative's advice or incorporate it into his/her own arguments.

All material evidence must be received by the hearing panel members at least five days prior to the hearing. No new material evidence may be presented during the hearing.

The chair of any given hearing panel may suspend or alter the recommended time allotments as deemed necessary given the individual circumstances of the case.

#### **Hearing without Witnesses**

1. Hearing Panel Chair (5 minutes) – Self introduction and review of hearing protocol (recorded)

2. Student (20 minutes) – Opening statement/presentation of case for grade change - This is meant to highlight points from the material evidence, not to re-read the information to the Panel. (recorded)
3. Instructor (20 minutes) – Opening statement/presentation of case against grade change - This is meant to highlight points from the material evidence, not to re-read the information to the Panel. (recorded)
4. Questions from Hearing Panel Members (no time limit) –
5. Student(15 minutes)– Rebuttal/Closing statement (recorded)
6. Instructor(15 minutes)– Rebuttal/Closing statement (recorded)
7. Student and Instructor are excused from the hearing room along with any non-participating representatives (recorded)
8. Hearing Panel Deliberation - A decision must be submitted to the Dean of Students within 3 class days of hearing (not recorded)

### **Hearing with Witnesses**

1. Hearing Panel Chair (5 minutes) – Self introduction and review of hearing protocol (recorded)
2. Student (20 minutes) – Opening statement/presentation of case for grade change. This is meant to highlight points from the material evidence, not to re-read the information to the Panel. (recorded)
3. Student’s Witness(es) (10 minutes) – Statements of evidence - (Each Student Witness will have up to 10 minutes.) This is meant to highlight points from the material evidence, not to re-read the information to the Panel. (recorded)
4. Instructor (20 minutes) – Opening statement/presentation of case against grade change - This is meant to highlight points from the material evidence, not to re-read the information to the Panel. (recorded)
5. Instructor’s Witness(es) (10 minutes) – Statements of evidence - (Each Instructor Witness will have up to 10 minutes.) This is meant to highlight points from the material evidence, not to re-read the information to the Panel. (recorded)
6. Student (no time limit) – Rebuttal/Closing statement (recorded)
7. Instructor (no time limit) – Rebuttal/Closing statement (recorded)
8. Questions from Hearing Panel Members (no time limit) – questions may be asked of student, faculty member or witnesses during their testimony.
9. Student and Instructor are excused from the hearing room along with any witnesses and non-participating representatives (recorded)
10. Hearing Panel Deliberation - A decision must be submitted to the Dean of Students within 3 class days of hearing. (not recorded)

### **Appendix C – Conduct of Hearings Regarding Academic Offenses**

The chairperson shall preside at the hearing; call the hearing to order; call the role of the committee members in attendance; ascertain the presence or absence of the student(s) charged with the violation; ascertain the presence of the dean of students or designee or accuser, the representatives of the student, and legal counsel if applicable; read the notice of hearing and charges; verify the receipt of notice of charges by the student(s); report any continuance requested or granted and any special or extraordinary procedures to be employed during the hearing; and inform the committee members and those involved in the hearing that the hearing is being recorded ~~taped~~.

#### **1. Opening statements:**

- a) The dean of students, designee, or accuser shall make opening remarks outlining the general nature of the case and testify to any facts the investigation has revealed;
- b) The student(s) may make a statement to the committee about the charge at this time or at the conclusion of the University's presentation. Witnesses shall be excluded from the hearing prior to the time their testimony is given. Persons who have been present during any part of the hearing may be allowed to testify only in those rare instances

when the party can persuade the entire hearing panel that the need for such testimony could not reasonably have been anticipated.

2. University evidence:

- a) University witnesses or persons testifying against the accused are to be called and identified or their written affidavits summarizing their reports of evidence introduced as appropriate;
- b) The committee may question witnesses at any time;
- c) The student may examine evidence presented to the committee against him or her;
- d) The student or student's representative or legal counsel may present witnesses and question any witnesses testifying against the student; and
- e) The student may consult his or her representative or legal counsel during the hearing.

3. Accused evidence:

- a) Witnesses or persons testifying on behalf of the accused are to be called and identified and written affidavits summarizing their reports of evidence introduced as appropriate;
- b) The committee may question the witnesses or person(s) testifying on behalf of the student(s) at any time;
- c) The student may examine evidence presented to the committee.

4. Rebuttal of evidence: The committee may permit the University, accuser, or the student to offer any rebuttal of the other's presentation. Any party may refuse to answer questions, and the panel may draw any inferences from such refusal.

5. Rights of committee: The committee shall have the right:

- a) In cases involving more than one student which arise out of the same transaction or occurrence to hear such cases together, but in that event shall make separate findings and determinations for each student;
- b) To permit submission of an agreed stipulation of facts by the dean of students or the dean of students' designee, the accuser and the student involved;
- c) To permit the incorporation in the record by a reference of any document, affidavit, or other thing produced and desired in the record by the University or the student charged;
- d) To question witnesses or other evidence introduced by either the University or the student at any time;
- e) To hear from the dean of students about dispositions made in similar cases and, when a violation is found, to request the dean of students to open the student's records concerning the student's prior disciplinary record and any dispositions offered to the student appearing before the committee;
- f) To call additional witnesses or require additional investigation;
- g) To dismiss any action at any time or permit informal disposition as otherwise provided;
- h) To permit or require at any time amendment of the Notice of Hearing to include new or additional matters which may come to the attention of the committee before final determination of the case, provided that the committee shall grant to the student, dean of students, or accuser, such time as the committee may determine reasonable under the circumstances to answer or explain the additional matters;
- i) To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the ruling of the chairperson or the committee; and
- j) To hear or not to hear such witnesses or persons testifying and evidence as it may deem relevant and fair, including, but not limited to, any information made a part of the original report.

6. Determination by committee: The committee shall then make its findings and determinations in executive sessions out of the presence of the dean of students or designee, accuser, and the student and on the sanction, if any, to be imposed. No sanction shall be imposed on the student unless a majority of the committee present is reasonably convinced by the evidence that the student has committed the violation

and should be disciplined therefore. A committee member shall not vote if he or she was not present throughout the full hearing.

7. Official report of findings and determinations: The committee shall promptly consider the case, make its findings and determinations, and transmit them in writing to the dean of students or designee, the accuser, the student charged, and, in the case of suspension or expulsion, the vice chancellor/provost, and the chancellor within three class days of the hearing.

8. If during the course of its proceedings, the committee determines that a faculty member aided the student in committing the academic offense, then that information along with the official report of findings and determinations shall be forwarded to the UALR Integrity Officer for further action.

9. Other procedural questions: Procedural questions not covered by these general rules which arise during the hearing shall be determined by the chairperson, whose ruling shall be final unless the chairperson presents the question to the committee at the request of a member of the committee. A party may appeal any procedural decisions to the Judicial Council.

10. General rules of decorum:

- a) All requests to address the committee shall be addressed to the chairperson, and the person shall identify himself or herself before speaking;
- b) the chairperson will rule on all requests and points of order, which ruling shall be final, and all participants shall abide thereby, unless the chairperson presents 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;
- c) rules of common courtesy and decency shall be observed at all times; and
- d) a representative or legal counsel may request clarification of a procedural matter at any time by addressing the chairperson after recognition.

## **Appendix D – Conduct of Hearings Regarding Faculty Discrimination**

The chairperson shall preside at the hearing; call the hearing to order; call the role of the hearing panel members in attendance; ascertain the presence or absence of the faculty member charged with the violation; ascertain the presence of the Human Resources Officer, the accuser, the non-participating representatives if any of the faculty member and the accuser; read the notice of hearing and charges; verify the receipt of notice of charges by the faculty member; report any continuance requested or granted and any special or extraordinary procedures to be employed during the hearing; and inform the hearing panel members and those involved in the hearing that the hearing is being recorded.

1. Opening statements:

- a) The Human Resources Officer shall make opening remarks outlining the general nature of the case and testifying to any facts the investigation has revealed;
- b) The faculty member may make a statement to the hearing panel about the charge at this time or at the conclusion of the University's or accuser's presentation. Witnesses shall be excluded from the hearing prior to the time their testimony is given. Persons who have been present during any part of the hearing may be allowed to testify only in those rare instances when the party can persuade the entire hearing panel that the need for such testimony could not reasonably have been anticipated.

2. University or accuser's evidence:

- a) Witnesses testifying against the faculty member are to be called and identified or their affidavit of written reports of evidence introduced as appropriate;
- b) The committee may question witnesses at any time;
- c) The faculty member may examine evidence presented to the committee against him or her;
- d) The faculty member may question witnesses testifying against him or her; and
- e) The faculty member may consult his or her non-participating representative during

the hearing.

3. Faculty member evidence:

- a) Witnesses testifying on behalf of the accused are to be called and identified and written reports of evidence introduced as appropriate;
- b) The committee may question the witnesses testifying on behalf of the student(s) at any time;
- c) The faculty member may examine evidence presented to the hearing panel.

4. Rebuttal of evidence: The hearing panel may permit the University, accuser, or the faculty member to offer any matter in rebuttal of the other's presentation. Any party may refuse to answer questions and the hearing panel may draw any reasonable inferences from such refusal.

5. Rights of hearing panel: The hearing panel shall have the right:

- a) To permit the incorporation in the record by a reference of any document, affidavit, or other thing produced and desired in the record by the University, the accuser or the accused; To question witnesses or other evidence introduced by either the University, the accuser, or the accused at any time;
- b) To hear from the Human Resources Officer about dispositions made in similar cases and, when a violation is found, to request the Human Resources Officer to open the faculty member's records concerning his or her prior disciplinary record and any dispositions offered to the faculty member appearing before the hearing panel;
- c) To call additional witnesses or require additional investigation;
- d) To dismiss any action at any time or permit informal disposition as otherwise provided;
- e) To permit or require at any time amendment of the Notice of Hearing to include new or additional matters which may come to the attention of the hearing panel before final determination of the case, provided that the hearing panel shall grant to the accused, Human Resources Officer, or accuser, such time as the hearing panel may determine reasonable under the circumstances to answer or explain the additional matters;
- f) To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the ruling of the chairperson or the hearing panel; and
- g) To hear or not to hear such witnesses or persons testifying and evidence as it may deem relevant and fair, including, but not limited to, any information made a part of the original report.

6. Determination by hearing panel: The hearing panel shall make its findings and determinations in executive sessions out of the presence of the Human Resources Officer, the accused, the accuser and all others. The hearing panel shall make its recommendation on the sanction, if any, to be imposed. No sanction shall be imposed on the faculty member unless a majority of the hearing panel present is reasonably convinced by the evidence that the faculty member has committed the violation and should be disciplined therefore. A hearing panel member shall not vote if he or she was not present throughout the full hearing.

7. Official report of findings and determinations: The hearing panel shall promptly transmit its findings and determinations in writing to the Human Resources Officer.

8. Other procedural questions: Procedural questions not covered by these general rules which arise during the hearing shall be determined by the chairperson, whose ruling shall be final unless the chairperson presents the question to the committee at the request of a member of the committee. A party may appeal any procedural matters to the Judicial Council.

9. General rules of decorum:

- a) All requests to address the committee shall be addressed to the chairperson, and the person shall identify himself or herself before speaking;
- b) the chairperson will rule on all requests and points of order, which ruling shall be final, and all participants shall abide thereby, unless the chairperson presents 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;
- c) rules of common courtesy and decency shall be observed at all times; and
  - d) the Human Resources Officer, the faculty member, or the accuser may request clarification of a procedural matter at any time by addressing the chairperson after recognition.

### **Commentary**

This policy organizes all judicial sub-policies together and makes modifications to them for clarity in coverage and responsibility and to prioritize the protections provided to all parties in a matter. It also adds two additional sub-policies. There are a number of reasons for these modifications and additions. Some people charged with implementing judicial policies have done so consistent with the language of the policies. Lack of clarity in rights and responsibilities in the current sub-policies may be one reason for this failure. The addition of the preamble that explicitly provides the norms and aspirations of the judicial policy will increase the compliance with the sub-policies as it provides the explicit expectations for the judicial policy. The university is a diverse community with varying worldviews and perspectives. It therefore becomes important both for educational reasons and for reasons of justice to make clear the standards that provide the foundation on which all our judicial policies stand.

The two most important reasons for a new comprehensive policy are to ensure that all judicial actions adhere to the same fundamental standards of fairness and justice and to provide a means by which failures to implement the policy can be corrected at the earliest stages.

**The Preamble (Page 4):** The principles of the preamble provide the judicial foundation to which all the sub-policies must conform.

**General Procedures and Definitions (Page 5):** This section provides basic information concerning judicial principles and terms used throughout the policy.

**Grade Appeals (Page 5):** Under existing policy, grade appeals and academic offenses are considered in one policy. To increase clarity on the responsibility for grade appeals and academic offenses, the two have been made two separate sub-policies.

General procedures for the organization and general operations of the Academic Integrity and Grievance Committee have been moved to an appendix to improve readability of the policy. Aspects of operations that were mixed with the procedures related to Academic Integrity have been separated for clarity. The detailed procedures for conducting a hearing are also placed in a separate appendix. Again this change is done for clarity and readability.

Another change occurs in the advisor to the student. Currently, the Student Government Association president/designee is to counsel the student. This role results in potential for major variations in the quality of advice the students receive. The use of judicial assistants provides a means by which the student's advisor will be both interested in engaging in such a role and trained. These judicial advocates will include both faculty and students.

### **Academic Integrity (page 9):**

The language that was removed is quoted from the University Assembly's constitution. There have been problems where the language was changed in the policy but not in the constitution thus rendering the legislation unconstitutional. The change now refers the reader to the appropriate section of the constitution. In the future anyone wanting to make changes will know that it is the constitution that needs to be changes.

The same comment that was used in the Grade Appeal sub-policy applies here. General procedures for the organization and general operations of the Academic Integrity and Grievance Committee have been moved to an appendix to improve readability of the policy. Aspects of operations that were mixed with the procedures related to Academic Integrity have been separated for clarity. The detailed procedures for conducting a hearing are also placed in a separate appendix. Again this change is done for clarity and readability.

**Classroom Disruptions, Appeals and Instructions for the University Judicial Appeals Committee, and Appeals to the Chancellor of Findings of the University Judicial Appeals Committee (Page 15-17):**

These policies remain intact with only the addition of the paragraph informing the reader of the Procedural Appeals sub-policy added.

**Comments on Faculty Appeals and Grievances (Page 18):**

Some clarification is added on the role of the investigative subcommittee. It would be a plus to allow for the possibility of having the formal hearing an open hearing but the language for the hearing comes directly from Board of Trustee policy and cannot be changed by the Faculty Senate.

**Accusations of Moral Turpitude (Page 23):** Moral turpitude is one basis for dismissal of a tenured faculty member; however, it is undefined in the policy that provides for dismissal. In order to protect tenured faculty members from moral turpitude being a catchall for behaviors individual administrators may challenge, the standard adopted by a national organizations for moral turpitude is made the basis for reaching this conclusion – that the general academic community would condemn the behavior. The new policy uses the faculty senators as elected representatives of the general academic community to make the judgment. It also provides a basic procedure for making a decision.

**Procedural Appeals (Page 23):**

This sub-policy addresses a significant problem of those responsible for implementing policies ignoring the procedures in the existing policies. There is currently no established means by which the deviation from procedure authorized by the policies can be addressed. The procedural appeals sub-policy provides a mechanism for challenging the procedure being used without determining the merits of the substantive claim. It gives the Judicial Council the responsibility for deciding a complaint concerning violation of procedure.

**Policies and Procedures for Dealing with Misconduct in Research, Teaching and Service (Page 25):** One change is the selection process for the Integrity Officer. The new process should increase awareness on campus of who the officer is and of the policy itself. The other change provides a means by which misconduct of a faculty member in aiding a student in committing an academic integrity offense can be addressed.

**Discrimination Involving Faculty (Page 36):** The current policy is logically incoherent in one important place. It appears that language was inadvertently left out of one paragraph resulting in the merging of sentences in a way that does not make sense. The change adds language that clarifies what actions should be taken and the means for taking the action.

**Appendix A (Page 39):** The appendix separates operating policies of the Academic Integrity and Grievance Committee from the two sub-policies and the guidelines for holding the two types of hearings. These operating policies are need by the committee but are not relevant to those going before a hearing panel. It along with the other appendices is part of the goal of allowing the users of these sub-policies to easily find the information they need.

**Appendix B and Appendix C (Page 40-42):** Each of these appendices is focused on one type of hearing. As mentioned above, separately listing these makes it easier for users to easily find what they need. It also means that in the two sub-policies, one can easily see the major steps in a policy without becoming lost in the details of how a hearing is done.

**Appendix D (Page 43):** This appendix creates the procedures on how to conduct hearings regarding discrimination. Currently, none exists.