## Committee on Professional Conduct 2015-2016

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<tr>
<th>Yr. Appt.</th>
<th>Name</th>
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<th>Address</th>
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(a) The COMMITTEE ON PROFESSIONAL CONDUCT (CPC) has jurisdiction over complaints that a member of the UNIVERSITY FACULTY has committed unprofessional conduct. \(^1\)

(b) The CPC consists of eleven to twenty members, elected annually by the Faculty Senate. Each member shall be a tenured faculty member, ordinarily with the rank of full Professor and with substantial time on the University faculty. No member shall be a member or alternate member of the Senate, nor may a member be the holder of any administrative position specified in section A7.1(f) or (g).

(c) A complaint that a member of the UNIVERSITY FACULTY has engaged in unprofessional conduct can be brought:

(i) either by the University, acting through the President, the Provost, the Vice Provost for Faculty Affairs, or an Academic Dean. Before the University may file a complaint under this sub-paragraph, a thorough investigation must take place; or

(ii) by a member of the UNIVERSITY FACULTY who does not fall within (c)(i).

(d) The complaint shall be addressed to the Chair of the Faculty Senate in writing. The complaint shall include, at a minimum:

(i) a brief recitation of the alleged conduct and when it occurred;

(ii) a concise statement as to why, in the opinion of the complaining party, the conduct is unprofessional; and

(iii) a declaration that all attempts at informal resolution have been exhausted, or an explanation as to why, in the opinion of the complaining party, further attempts at informal resolution would be pointless.

(e) Except as provided in paragraphs (f) or (h), upon receipt of a complaint meeting the requirements of paragraphs (c) and (d), the Chair of the Faculty Senate must appoint a hearing panel for the case as soon as it is feasible to do so.

(f) The Chair of the Faculty Senate may not appoint a hearing panel if:

(i) the complaint, even if assumed to be correct in all its factual allegations, does not allege conduct that any reasonable hearing panel could construe as unprofessional; or

(ii) the gap between the time in which the allegedly unprofessional conduct occurred

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Faculty Manual Section B4.9
and the filing of the complaint is so great as to make the complaint untimely in terms of the availability of evidence and witnesses, prejudice to the accused, or other relevant factors.

(g) If the complaining party disagrees with the decision of the Chair of the Faculty Senate under paragraph (f), the party may appeal the ruling to the Committee on General Welfare within 10 academic working days from the date the Chair’s decision is sent to the complaining party. The Committee on General Welfare has 10 academic working days from the time of receipt of the appeal in which to render a decision. At its sole discretion, it may make the decision on the basis of written documents, or may request the complaining party and the Chair of the Faculty Senate to make oral presentations.

(h) The Chair of the Faculty Senate has the discretion not to appoint a hearing panel if the same or substantially the same conduct is under investigation by the Committee to Investigate Misconduct in Research, by the Faculty Sexual Harassment Officer, by the Senate’s Committee on Rank, Salary and Conditions of Employment, or by the Faculty Hearing Committee as these roles are specified in the Faculty Manual. The Chair has similar discretion if the matter is subject to an indictment or information by a State or Federal prosecutor. Any decision not to appoint a hearing panel on one of the grounds listed in this paragraph is without prejudice to the filing of a complaint after such investigations or proceedings have concluded.

(i) The hearing panel for a particular case shall consist of three members of the CPC selected by the Chair of the Faculty Senate. To the extent feasible, the selected members of the hearing panel shall include one member who has had legal training. No member of the hearing panel may be:

(i) from the same department or undepartmentalized school as the accused;
(ii) from the same department or undepartmentalized school as the complainant in the case of a complaint filed pursuant to paragraph (c)(ii); or
(iii) a relative or domestic partner of the accused, of the complainant, or of an individual who holds one of the offices listed in (c)(i).

(j) As soon as the hearing panel is constituted, the Secretary of the Faculty Senate shall forward a copy of the charges to the accused and the complainant, notifying them of the following matters in writing:

(i) the appointment of the hearing panel and the names of its members;
(ii) the requirement that the accused provide a brief reply to the charges;
(iii) the requirement that any communications related to the matter before the hearing panel by a party or that party’s counsel with the panel, with the other party, or with any official listed in (c)(i) be made only through the Faculty Senate Office; and
(iv) the procedures by which the hearing panel will carry out its work.
(k) In the case of a complaint filed by the university pursuant to paragraph (c)(i):
   (i) The hearing panel shall hold a hearing promptly after its appointment.
   (ii) The hearing panel must present its final report within 30 academic working days,
   measured from the receipt of the complaint by the hearing panel to the date a final
   report is sent to the President and Senate, unless the Chair of the Faculty Senate,
   for good cause, grants an extension of not more than 20 academic working days.
   (iii) The accused shall have the right to represent him or herself or to be represented at
   the hearing by academic counsel or legal counsel. The University shall be
   represented by the Office of the General Counsel. However, the university may
   utilize outside counsel if the accused decides to be represented by legal counsel.

(l) In the case of a complaint filed by a faculty member pursuant to paragraph (c)(ii):
   (i) The complaint shall be investigated by one or more investigators appointed by the
   Chair of the Faculty Senate from the membership of the CPC. No investigator
   may be a member of the hearing panel for the same case, nor may an investigator
   be appointed who is excludable from panel membership for the same case under
   the provisions of paragraph (i).
   (ii) The accused and the complainant each have the right to explain the facts and
   circumstances to the investigators, but without counsel present. The accused also
   has the right, without prejudice, to decline to speak with the investigators.
   (iii) The investigators shall report their findings in detail to the hearing panel as
   quickly as a careful investigation will allow, but in any event within 30 academic
   working days.
   (iv) If upon consideration of the report by the investigators, the hearing panel
   concludes that there appear to be sufficient facts which, if established at a hearing,
   make it more likely than not that unprofessional conduct has taken place, a
   hearing shall be held promptly.
   (v) From the date the hearing panel receives the report of the investigators, the
   hearing panel has 20 academic working days to conduct the hearing and present
   its report to the President and Senate, unless the Chair of the Faculty Senate,
   for good cause, grants an extension of not more than 20 academic working days.
   (vi) The accused and the complainant shall have the right to be represented at the
   hearing by academic counsel or legal counsel. The Office of the General Counsel
   may participate at its discretion.

(m) In any hearing pursuant to this section:
   (i) A hearing panel member or investigator has a duty to recuse him or herself if
   there would be, or there would appear to be a conflict of interest or any reason
   why the panel member could not be neutral and impartial. The accused shall have
   the right to request that the Chair of the Faculty Senate remove a panel member
   for good cause shown.
   (ii) The accused has a right to waive the hearing, in which case the decision of the
   hearing panel shall be based on the information already available to the hearing
   panel. The accused also has the right, without prejudice, to decline to speak
during the hearing.

(iii) The accused may plead guilty to one or more of the charges, in which case, the hearing will then be held concerning the remaining charges, if any.

(iv) The panel may, at its discretion, require the filing of briefs, memoranda or other documents by the parties before or during the hearing, and may issue orders governing the conduct of the hearing and the panel’s processes.

(v) The complainant, the accused, and the General Counsel’s office shall have the right to make opening and closing statements; to examine all briefs, and other documents presented to the hearing panel; and to present, examine, and cross examine witnesses.

(vi) The accused has the right, during or after the hearing but before the panel concludes its report, to make an oral statement or to file a written statement to the hearing panel explaining matters in mitigation.

(n) If the hearing panel has reason to believe that an individual acting as complainant or witness has knowingly introduced evidence that has been fabricated or has knowingly given false testimony, the panel may recommend:

(i) in the case of a faculty member, that the Chair of the Faculty Senate bring a charge of unprofessional conduct against the faculty member; or

(ii) in the case of an employee who is not a faculty member, that the Chair of the Faculty Senate bring the matter to the attention of one or more appropriate administrators.

(o) In the event that the hearing panel concludes that no unprofessional conduct has taken place, or that only a trivial or technical violation has taken place, it shall prepare a report to the Chair of the Faculty Senate briefly explaining its conclusions. At its discretion, the hearing panel may comment on matters it believes should be rectified or reformed, and may request that these comments be forwarded to the Senate, the President, and/or other appropriate administrative officials. The Chair of the Faculty Senate shall then dismiss the case and make a report to the Committee on General Welfare, taking care to protect privacy and confidentiality.

(p) If the hearing panel determines that unprofessional conduct has taken place, and that the conduct was not merely a trivial or technical violation, it shall prepare a report to the Chair of the Faculty Senate and to the President. It shall recommend one or more of the following as sanctions:

(i) **Censure by the Senate.** If the Senate concurs with the recommendation of censure, it shall decide on the text of the censure resolution, on the means and extent of publication of the resolution, on whether the censure resolution shall be made a part of the faculty member’s personnel records, and on whether the member shall be barred or suspended from service on the Senate.

(ii) **Dismissal,** in accordance with the procedures specified in section C15 of the Faculty Manual.

(iii) **Sanctions by the President other than dismissal.** The President may take one or
more of the following actions: restrictions on pay increases for a period of years; a one-time reduction in pay not to exceed 10% of base pay; required counseling or training; loss of rights to have graduate Research Assistants or Teaching Assistants; and/or termination of appointment to an Administrative position. The President is not required to impose the sanctions recommended by the hearing panel, but shall explain in writing to the Senate the reasons for imposing sanctions that differ from the hearing panel’s recommended sanction(s).

(q) Nothing in this section shall be interpreted to preclude a mutually satisfactory settlement between the complainant and the accused (for a case filed under paragraph (c)(ii)). A mutually satisfactory settlement may also be reached between the university and the accused (for a case filed under (c)(i)), provided, that such a settlement may not adversely affect the interests of third parties. Any settlement must be reached prior to the time the hearing committee files its report to the Senate. If a settlement is reached, the Chair of the Faculty Senate shall dismiss the case.

(r) The Senate shall adopt and publish written procedures as Class D legislation for:

(i) Filing and processing complaints;
(ii) Appointment of investigators and hearing panel members;
(iii) The conduct of hearings; and
(iv) Consideration of censure and related matters by the Senate.

In the event of a conflict between those procedures and this section, this section shall prevail.

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2 #2011-23(D) – procedures

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