



Faculty Disciplinary Policy and Procedures (DRAFT)

Hyper Links to be inserted later

I. Introduction

The University provides and sustains an environment conducive to academic achievement in all its forms. Maintenance of this environment requires that faculty pursue their academic activities in accord with appropriate standards of scholarly activity. The faculty's privileges and protections of tenure rest on the mutually supportive relationships among the faculty's professional competence, its academic freedom, and the central functions of the university in granting degrees and furthering creative accomplishments. These relationships are also the source of the professional responsibilities of faculty. It is a responsibility of the university to maintain conditions and rights supportive of the faculty's pursuit of these central functions, and it is a responsibility of the faculty to maintain standards of professional conduct including but not limited to rights and responsibilities that arise under federal and state constitutions, statutes, Governing Regulations, Administrative Regulations, the University Senate Rules, and other regulatory jurisdictions (GR II.A).

~~Faculty members, like all non-faculty employees, must obey generally applicable constitutional provisions, statutes, regulations, rules, and procedures. Additionally, faculty members who work in certain areas, like all non-faculty employees who work in those areas, must obey constitutional provisions, statutes, regulations, rules, and procedures that are applicable to those areas.~~

Because faculty members frequently have constitutionally protected property interests (*i.e.*, hold tenured or contractual appointments), faculty members must receive greater due process protections in any disciplinary process than the protections afforded non-faculty employees. However, the presence of these greater due process protections does not mean that the University holds faculty members to a different standard of compliance than that expected of non-faculty employees. All university employees, regardless of faculty status, must comply with applicable constitutional provisions, statutes, regulations, rules, and procedures. Rather, the presence of additional due process concerns simply means that the disciplinary process for faculty members may be different and more complex than that for non-faculty employees.

Academic freedom, which is a special concern of the First Amendment, gives faculty members substantial autonomy in performing their various roles. Concurrently, faculty members, like all non-faculty employees, have the constitutional rights of a public employee (*i.e.* the right to speak on matters of public concern as private individuals but not as university representatives). Nevertheless, academic freedom and/or the constitutional rights of a public employee never excuse a faculty member's non-compliance with applicable constitutional provisions, statutes, regulations, rules, and procedures.

II. Scope

40 This regulation is applicable to all faculty members. For purposes of this regulation, "faculty members"
41 means an individual holding the title of professor, associate professor, assistant professor, senior lecturer,
42 lecturer, and any other title with responsibilities comparable to the aforementioned titles. This definition
43 applies to faculty regardless of their title series appointment, their distribution of effort agreement, any
44 administrative appointments in addition to faculty academic appointments, standing as tenured or non-
45 tenured, visiting or permanent, emeritus or active, and full-time or part-time status. The definition of
46 university faculty in this regulation is broader than the definition of faculty in other regulations and in HR
47 Policy 4.0.

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49 This regulation does not apply to faculty performance review or expectations for scholarly activity for
50 purposes of appointment, reappointment, promotion, and tenure. Faculty performance review and
51 expectations for scholarly activity are covered in other Administrative Regulations (AR), as well as
52 regulations that describe for each title series the expected activities and criteria for promotion and tenure -
53 regular, extension, special, research, clinical, etc.

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55 This regulation is separate and distinct from independent proceedings of enforcement of [clinical rights and](#)
56 [clinical responsibilities that arise](#) under the Joint Commission mandated UK HealthCare Medical Staff By-
57 laws, the federally mandated University's research misconduct policy, or the federally mandated Title IX
58 Sexual Assault procedures. Faculty members who are subject to disciplinary proceedings under these
59 procedures may be subjected to additional disciplinary proceedings under this regulation.

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61 This regulation also does not describe the proceedings for the revocation of tenure or for the termination of
62 academic appointments of faculty members who do not have tenure.

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64 [The procedures established by this regulation do not supersede Governing Regulations or Administrative](#)
65 [Regulations that specifically permit appeal to, or appearances before, the Board or a Board Committee.](#)
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67 III. Entities Affected

68 This regulation will apply to all faculty members as defined in this regulation.

70 IV. Procedures

71 The following procedures govern the handling of unacceptable conduct by a faculty member.

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73 For purposes of computing deadlines under these procedures, if the deadline falls on a Sunday, Monday,
74 university-recognized holiday or day when the University's Office of the President is closed, the deadline is
75 automatically extended to the next day when the University's Office of the President is open.

77 A. Allegations

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79 Any person may make a complaint against a faculty member by making allegations to **the chair of a**
80 **faculty member's department or** the Dean of the faculty member's college or to an appropriate university
81 official. Additionally, routine university operations, such as audits or compliance reviews, may result in
82 allegations against a faculty member.

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84 In the event of either allegations reported initially to a chair and subsequently to a Dean or allegations
85 reported directly to a Dean, the Dean must inform the General Counsel. In consultation with the General
86 Counsel, the Dean and the General Counsel will determine (1) whether an investigation should be
87 conducted, and (2) if so, the appropriate university office(s) to conduct an investigation. The context of
88 the allegation will dictate the time at which the accused faculty member is informed of the allegation. For
89 purposes of this regulation, a dean may designate an appropriate associate dean and the General
90 Counsel may designate an associate counsel or non-university counsel retained by the General Counsel

91 to handle the allegation.

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93 B. University Investigation

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95 Depending on the nature of the allegation, the appropriate university office(s) (e.g., Institutional Equity
96 and Equal Opportunity, Internal Audit, UK HealthCare Corporate Compliance, UK Police, UK Athletics
97 Compliance, Office of Legal Counsel, etc.) will conduct the investigation. The report will include findings
98 of fact, a conclusion as to whether a violation occurred, and, if a violation did occur, a non-binding
99 recommendation regarding disciplinary action (i.e., sanctions). The Office(s) conducting the investigation
100 will submit the investigation report to the General Counsel. The General Counsel will transmit the report
101 to the Complainant (if known) and the Dean of the faculty member's college. If an investigation finds
102 nothing to support an allegation, the General Counsel will transmit these findings to the Dean, the
103 Complainant (if known), and the accused faculty member.

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105 Trivial allegations against a faculty member, particularly by a member of the University community, may
106 rise to the level of harassment and bring the Complainant under scrutiny as delineated in these
107 regulations.

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109 C. Notification and Mediation

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111 1. If the report indicates a violation has occurred, the Dean will notify the faculty member as soon as
112 feasible and preferably within one (1) day. The Dean will provide the faculty member with an
113 opportunity to review the investigation report. The faculty member may submit a written response to
114 the Dean and General Counsel within seven (7) days of notification by the Dean. The Dean may
115 extend this response period by an additional seven (7) days on oral or written request by the faculty
116 member.

117
118 2. The Dean will schedule a meeting with the faculty member and the faculty member's chair, which will
119 be held within twenty-one (21) days of the Dean's notification to the faculty member. The purpose of
120 the meeting is for the Dean, the chair and the faculty member to attempt to reach an agreement as
121 to whether a violation occurred and, if so, an appropriate sanction. In cases where the faculty
122 member elects to have personal legal counsel at the meeting(s) with the Dean and chair, an attorney
123 from the Office of Legal Counsel must also be present. It is to be hoped that the majority of cases
124 will be resolved at this stage through mediation.

125
126 3. **Sanctions are defined, for the purposes of this entire document, as the following:**

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- 129 • Verbal reprimand
 - 130 • Written censure
 - 131 • Restitution to the University for actual monetary damage suffered by the University
132 through misuse or unauthorized use of University property
 - 133 • Loss of specific privileges including, but not limited to, loss of access to University Pro-
134 Card or travel funds
 - 135 • Removal from supervisory role and loss of title associated with that role
 - 136 • Reduction in salary for a fixed period of time
 - 137 • Demotion in rank, but only if promotion was based on a fraudulent dossier
 - 138 • Suspension **with or** without pay for a fixed period of time
 - 139 • Relocation and/or loss of space currently occupied by the faculty member
 - 140 • Denial or curtailment of emeritus status, if applicable
 - 141 • Recommending to the President and Board of Trustees that the faculty member in
142 question be dismissed from the employ of the University

143 Suspension is defined, for the purposes of this entire document, as (need definition here).

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145 4. If the issue is resolved during the meeting/mediation, the Dean will notify the General Counsel. The

146 General Counsel must approve any proposed agreement before its implementation.
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- 148 5. If the Dean and faculty member fail to reach an agreement during the meeting as to whether a
149 violation occurred, the matter is referred to a Faculty Inquiry Panel. The Dean will notify the General
150 Counsel that no agreement was reached on whether or not a violation occurred. The General
151 Counsel will then initiate the process leading to the selection of a Faculty Inquiry Panel by contacting
152 the Chair of the University Senate Council.
153
- 154 6. If the Dean and the faculty member agree that a violation occurred but disagree on the appropriate
155 sanction, the issue of sanction will be referred to the Provost, who will decide an appropriate
156 sanction within seven (7) days. As described below, the faculty member may appeal the Provost's
157 decision.
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159 D. Selection of the Faculty Disciplinary Panel Pool
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- 161 1. **After seeking nominations for the University Senate**, the University Senate Council will provide the
162 President with the names of at least twenty-five (25) faculty members eligible to serve in the Faculty
163 Disciplinary Panel Pool. Efforts will be made by the University Senate Council to ensure that the
164 Faculty Disciplinary Panel Pool includes [1] at least one tenured faculty member from each college
165 and [2] at least one untenured faculty member from each of the Clinical and Research Title Series **at**
166 **the rank of professor or associate professor**.
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- 168 2. The President appoints the members of the Faculty Disciplinary Panel Pool from nominations
169 submitted by the University Senate Council.
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171 E. Faculty Inquiry Panel
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- 173 1. The Faculty Inquiry Panel is a three-person panel comprised of (1) one tenured faculty member
174 selected at random by **a uniform random number generator** from the Faculty Disciplinary Hearing
175 Panel Pool (See Section E. below); (2) the Vice-President for Human Resources or a designee; and
176 (3) an associate provost selected by the Provost. The rationale for the panel member from Human
177 Resources is to ensure a balance in evaluating cases involving faculty *versus* those involving staff,
178 and the rationale for the associate provost is to ensure a balance in evaluating cases across
179 colleges. The General Counsel will notify the University Senate Council Chair that there is a need
180 for a Faculty Inquiry Panel and the Chair of the University Senate Council will select a faculty
181 member at random from the Faculty Disciplinary Hearing Panel Pool using **a uniform random**
182 **number generator**. If the allegation involves a chair or dean, the Faculty Inquiry Panel will be
183 expanded to include three tenured faculty members, who hold appointments in colleges other than
184 that of the chair or dean and who will be selected at random by a uniform random number generator
185 from the Faculty Disciplinary Hearing Panel Pool (See Section E. below); (2) the Vice-President for
186 Human Resources or a designee; and (3) an associate provost selected by the Provost.
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- 188 2. The Faculty Inquiry Panel is responsible for determining whether there is probable cause to believe
189 a violation has occurred. The Faculty Inquiry Panel is limited to a review of the initial investigation
190 report and the faculty member's written response, if any. The Faculty Inquiry Panel may interview
191 the faculty member, the chair and the Dean, but the Faculty Inquiry Panel may not conduct a further
192 investigation. The Faculty Inquiry Panel may consider new findings of fact that were not considered
193 in the original investigation and that are provided by the General Counsel.
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- 195 3. If the Faculty Inquiry Panel, by a majority vote, finds there is probable cause to believe a violation
196 has occurred, the case is referred to a Faculty Hearing Panel. The Faculty Inquiry Panel will send
197 notification *via* electronic mail of this finding to the Dean, the Complainant (if known), the faculty
198 member, and the General Counsel.
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- 200 4. If the Faculty Inquiry Panel, by a majority vote, finds that there is no probable cause to believe a

201 violation has occurred, the case is dismissed. The Faculty Inquiry Panel will send Notification of this
202 finding to the Dean, the Complainant (if known), the faculty member, and the General Counsel.
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204 **F. Faculty Hearing Panel**

- 206 1. The Faculty Hearing Panel is comprised of five (5) faculty members, who are selected at random by
207 the Senate Council Chair from the Faculty Disciplinary Panel Pool using a uniform random number
208 generator. Faculty members who occupy a position of administrative supervision over faculty
209 personnel (*i.e.*, individuals with greater than or equal to 50% administrative effort or individuals with
210 an administrative assignment at the level of chair or above) are ineligible to serve in the Faculty
211 Disciplinary Panel Pool. A person who served on the Faculty Inquiry Panel may not serve on the
212 Faculty Hearing Panel in the same case. Any member of the Faculty Hearing Panel who has
213 personal involvement or prior factual knowledge of the case (*i.e.*, knowing something pertinent to the
214 case before it occurs publicly) will recuse himself or herself. If a Faculty Hearing Panel member
215 chooses recusal, then a new member will be chosen at random from the Pool by the Senate Council
216 Chair using a uniform random number generator.
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- 218 2. The General Counsel, upon receipt of a report from the Faculty Inquiry Panel that there is probable
219 cause to believe a violation has occurred, will notify the Senate Council Chair that a Faculty Hearing
220 Panel is needed.
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- 222 3. The Chair of the University Senate Council will select members of the panel at random from the
223 Faculty Disciplinary Panel Pool using a uniform random number generator. The Senate Council
224 Chair will contact faculty members to serve on the Faculty Hearing Panel within seven (7) days of
225 receiving notification from the General Counsel. The Chair of the University Senate Council will
226 inform potential members of the Faculty Hearing Panel that the case involves a named faculty
227 member in a particular college.
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- 229 4. Once a Faculty Hearing Panel is selected, the Dean and faculty member may each exclude one
230 member from the Panel. If either the Dean or faculty member excludes a Panel member, then the
231 Senate Council Chair will select a new member or members at random from the Faculty Disciplinary
232 Panel Pool using a uniform random number generator. When such exclusions occur, the seven-day
233 period for appointing the Faculty Hearing Panel will be extended by an additional seven (7) days.
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- 235 5. The Faculty Hearing Panel will conduct the hearing within thirty (30) days of receiving the referral
236 unless the Provost extends the time period in extraordinary circumstances. The Dean, through a
237 representative of the Office of Legal Counsel, will present the case against the faculty member. The
238 accused faculty member, either *pro se* or with the assistance of an attorney, may present a defense.
239 The parties may call witnesses, cross-examine the other party's witnesses, and present other
240 evidence; however, as this is an administrative hearing, formal rules of evidence and procedure do
241 not apply. The Faculty Hearing Panel may admit any evidence of probative value in determining the
242 issues involved.
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- 244 6. The burden of proof standard is a preponderance of evidence, (*i.e.*, more likely than not). The
245 burden of demonstrating that a violation occurred is on the representative of the Office of Legal
246 Counsel, and the accused faculty member is presumed to be innocent.
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- 248 7. After the hearing, the Faculty Hearing Panel will consider the evidence presented at the hearing, and
249 issue written findings of fact and conclusions of law (*i.e.*, conclusion regarding violation) within seven
250 (7) days of the conclusion of the hearing. If a member of the Faculty Hearing Panel dissents with the
251 majority decision, that member may submit a written explanation of his/her dissension. The Faculty
252 Hearing Panel will send the written findings and decision to the Provost, the Dean, the Complainant
253 (if known), the accused faculty member, and the General Counsel.
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- 255 8. If the Faculty Hearing Panel finds the accused faculty member guilty of the violation, the Panel will

256 recommend non-binding sanctions to the Provost.

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258 **G. Appeals and Sanctions**

259 This section covers appeals arising out of the decision and non-binding recommendations from the
260 Faculty Hearing Panel and the sanctions recommended by the Provost. -The procedures established
261 by this regulation do not supersede *Governing Regulations* or *Administrative Regulations* that
262 specifically permit appeal to, or appearances before, the Board or a Board Committee.
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- 265 1. Within seven (7) days of receipt of the Hearing Panel’s decision determining guilt or innocence,
266 ~~either the Dean or~~ the accused faculty member may appeal to the President. If the faculty member
267 ~~or Dean~~ does not file an appeal, the decision of the Faculty Hearing Panel as to guilt or innocence
268 will be final.
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 - 270 2. On an appeal of the Faculty Hearing Panel’s decision concerning guilt or innocence, the President
271 will review the factual findings for clear error and the conclusions of law *de novo*. In determining
272 whether the factual findings are clearly erroneous, the President will determine whether substantial
273 evidence supports the factual findings. The President will render a final decision on guilt or
274 innocence within seven (7) days. If the President determines the faculty member is guilty, the
275 President will remand the matter to the Provost for an imposition of sanctions.
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 - 277 3. When the faculty member has been determined to be guilty and when all appeals concerning guilt or
278 innocence have been completed (*i.e.*, time to appeal has expired or the President has rendered a
279 decision), the Provost will determine the appropriate sanctions.
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 - 281 4. In making this determination, the Provost is guided, but not bound, by the Faculty Hearing Panel’s
282 recommendation, if any, concerning sanctions. If the Faculty Hearing Panel found the faculty
283 member to be innocent, but the President reversed on appeal, there will be no Faculty Hearing
284 Panel recommendation. The Provost may impose a range of sanctions from verbal reprimand to
285 initiation of termination and tenure revocation proceedings in accordance with KRS § 164.230 and
286 Governing Regulation X. The Provost will send notification of the decision on sanctions to the Dean,
287 the faculty member, the Complainant (if known), and the General Counsel.
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 - 289 5. Within seven (7) days of receipt of the Provost’s decision regarding sanctions, the accused faculty
290 member may appeal the Provost’s decision regarding sanctions to President. On an appeal of the
291 sanctions, the President will consider whether the sanction is reasonable in light of sanctions
292 imposed on similarly situated staff members and similarly situated faculty in other colleges. The
293 President will render a final decision regarding sanctions within seven (7) days.
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 - 295 6. Sanctions will not take effect until the time to appeal the sanctions has expired or the President has
296 rendered his decision.
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298 **V. Retaliation**

299 Retaliation is prohibited. Retaliation occurs when an adverse action is taken against a covered individual
300 because he or she engaged in a protected activity (*i.e.*, reporting discrimination or participating in an
301 investigation of a discrimination report). (See AR 6.1)
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303 **VI. Administrative Leave-With-Pay During the Process**

304 At any time during the process beginning with receipt of an allegation, the Provost, after consultation with
305 and on the advice of the General Counsel, may initiate immediate, involuntary administrative leave-with-
306 pay. The Provost may impose additional conditions as part of the administrative leave-with-pay.

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The Provost will impose [involuntary](#) administrative leave-with-pay only if there is a risk that the accused faculty member's continued assignment to regular duties or presence on campus may cause harm to others in the University community, impede the investigation, or create a risk of continuing violations. The same immediate, involuntary administrative leave-with-pay will be imposed if there is an investigation by a law enforcement agency of a serious crime bearing on the alleged unacceptable conduct. [The imposition of administrative leave is subject to appeal to SACPT under SR1.4.4.2B4.](#)

References and Related Materials

Revision History

For questions, contact: [Office of Legal Counsel](#)