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**FACULTY DISMISSAL POLICY,
UNIVERSITY OF MASSACHUSETTS WORCESTER**

**Procedures to be followed at the University of Massachusetts Medical School
for the dismissal and removal of tenure from a faculty member**

I. Primacy of the faculty

A. The Governance of the Faculty at University of Massachusetts Medical School is established by the Board of Trustees and establishes the primacy of the faculty in matters relating to personnel policy.

B. The procedure established below is intended to allow the faculty to assert its primacy role in issues relating to the dismissal and removal of tenure from an individual faculty member.

C. It is anticipated that an attempt to dismiss and remove tenure from any faculty member will be a rare event, with this dismissal procedure invoked only in extreme cases.

II Basis for Removal from Tenure and Dismissal

A. Termination of the appointment of a tenured faculty member requires just cause. "Just cause" for a dismissal shall be related, directly and substantially to the fitness of faculty members in their professional capacities as teachers or researchers. Dismissal or threat of dismissal shall not be used to restrain faculty members in the exercise of academic freedom or other rights of American citizens.

B. "Just cause" shall be construed to mean:

- 1) Incompetence or dishonesty in teaching and research, OR

2) Substantial and consistent neglect of duty, OR

3) Egregious misconduct which substantially impairs the individual's fulfillment of his or her institutional responsibilities *or which substantially harms the reputation of the University*

C. The burden of proof that "just cause" exists resides with the institution, and shall be satisfied only by a preponderance of evidence in the record considered as a whole. Those individuals involved in the dismissal process must carefully differentiate the faculty member who blatantly and repeatedly abuses the privilege of tenure from one who is unpopular or having difficulties with fellow faculty members, the chair or the administration.

III Procedures at the Departmental/Programmatic Level

- A. Initiation of formal proceedings designed to terminate the appointment of a tenured faculty member shall in all cases originate in the department of primary appointment for the faculty member, and the Chair of the department shall have the power and responsibility to determine whether or not the Chancellor shall be requested to bring formal dismissal charges. Program Directors shall share this responsibility for those faculty members for which they are fiscally responsible.
- B. Prior to initiation of formal proceedings at any level, every effort should be made to resolve the conflict and/or remedy the deficiencies that underlie the dismissal proceedings. In making these efforts, the target of possible proceedings involved should be fully informed of the nature of the conflict and/or deficiencies and the consequences of failure to reach a resolution of these matters. He/she should also be given all documentation in the possession of any University officials pertinent to the conflict or deficiencies.
 - 1. Advice should be sought from and possible action taken by the departmental personnel action committee, the faculty ombudsman and the Vice Chancellors for Faculty Administration, Research and/or Education.

Written recommendation(s) from any or all of the above as to possible strategies for resolving the issues shall become part of the basic file for the faculty member in question.

1. The Faculty Tenure Committee shall be asked to provide an informal assessment of available evidence of issues and concerns that might eventually lead to formal dismissal proceedings and make recommendations as to possible strategies for resolving the problems. This recommendation shall become part of the basic file for the faculty member in question.
 - A. If attempts at remediation or informal resolution fail, the Department Chair,-Program Director, or three or more tenured faculty members of the Department/Program may initiate formal proceedings by proposing a review of the case by the Departmental Personnel Action Committee. The DPAC shall then review the charges and make a written recommendation to the Department Chair and to the Program Director if the faculty member is part of a separate Program. The Chair or, where appropriate, the Program Director, shall then determine whether the process for dismissal shall continue. The opinion of the DPAC shall remain part of the documentation throughout all future steps in the proceedings.
 - B. If either the Chair or the Program Director decides that dismissal proceedings are appropriate, he/she should recommend such action to the Chancellor, providing all documentation in support of this recommendation as well as all records of prior mediation efforts, consultations and findings as required in Articles III A and III B. As part of this process, the initiating party (e.g. the Chair or the Program Director) shall:
 1. Notify the faculty member of the intent to seek dismissal at least twenty (20) working days prior to submission of charges to the Chancellor.
 2. At the time of this notification, provide the faculty member with a written copy of the charges and accompanying documentation to be submitted to the Chancellor.

1. Permit the faculty member the opportunity to submit his/her own statement along with the materials to be submitted to the Chancellor.

After satisfying these three conditions, the initiating party (e.g. the Chair or the Program Director) shall provide the Chancellor with the documentation supporting his/her request for dismissal of the faculty member, a copy of all records related to the case, including documentation of prior mediation attempts, consultations and findings as required in Paragraphs III A and III B above; and, if available, a copy of the faculty member's rebuttal of these charges as outlined in item III D3 above.

IV. Procedure at the Chancellor's Level

The Chancellor shall review all documentation supplied by the Department and the faculty member. Should the Chancellor decide to go forward with the dismissal process, he/she shall:

A. Provide a written copy of his/her decision to the Department Chair/Program Director and to the faculty member in question in a timely manner. This notice should be accompanied by any documentation the Chancellor considered in reaching his/her decision and notice of the existence and contents of any consultations he/she made with anyone inside or outside of the Medical School.

B. Name a member of the Administration who will represent him/her with respect to all decisions and actions that must be taken by the Administration in the process of constituting the Hearing Committee as specified in Articles V-VII.

C. Request the Tenure Committee to convene a Hearing Committee so that actions pursuant to Section V, Paragraph A may be expedited.

V. Composition of Faculty Hearing Committee

Within 30 days after receipt of the Chancellor's request for the formation of a Hearing Committee, the Chair of the Tenure

Committee shall select the membership of this Hearing Committee as follows:

A. An initial panel of 15 members shall be drawn by lot from the list of tenured faculty, exclusive of chairs of Departments, Program Directors and Vice Chancellors at the University of Massachusetts Medical School.

B. The Chair of the Tenure Committee shall then contact the selected members to ascertain his/her availability for service on the Hearing Committee. The Chair of the Tenure Committee may excuse a selected panel member for illness, absence from the campus during the hearing period or similar reasons. Panel members may also be excused for cause (e.g. for probable bias or conflict of interest) if objections are raised by the administration or by the faculty member in question. Objections or challenges for cause shall be adjudicated by the Vice Chancellor for Faculty Administration.

C. If there are at least five panel members remaining after the challenged members are struck, the first three selected shall be regular panel member, the next two will serve as alternates and the remaining members of the panel, if any, may be excused. If less than five panel members remain, more names will be drawn by lot, one at a time, until five members are chosen.

D. Alternates shall participate in all meetings of the Hearing Committee, both where evidence is received or testimony heard and in any private discussions of the Committee prior to the end of the Hearing Committee's proceedings. Alternates shall not participate in the decision making nor in the writing of the Committee's report.

E. A member of the panel can request to be excused by the Chair of the Hearing Committee prior to the completion of deliberations. Should this request be granted, an alternate, in the order selected, shall take

his/her place. If more than two (2) members of the originally constituted Committee are excused, the Committee must be disbanded and a new hearing committee constituted as described in section V-A.

VI. Procedures of the Hearing Committee

A. The Committee shall convene within twenty (20) working days of its formation. At its first meeting, the Committee shall select a Chair. A quorum of the Committee shall consist of five (5) members including alternates for the initial meeting. A quorum for subsequent meetings shall consist of three members including alternates.

B Consistent with any requirements in this regulation, the Committee, in consultation with those representing the faculty member and the Administration, will decide how the hearing will be conducted, including the kind of evidence that will be admitted, and how it will be presented. It will also establish a tentative maximum time for the hearing phase. This decision will be based upon the kinds of issues and evidence that are likely to be litigated before the Committee as specified in the specific charges communicated by the Department Chair to the Chancellor.

A. All communication and documentation produced during the procedures described in Articles III and IV shall be made part of the record. However, all evidence cited by the Chancellor in support of dismissal must be introduced in a form which will permit the faculty member to challenge the validity of the evidence. The Committee may call witnesses to present testimony to supplement the written record.

B. The faculty member may introduce documentary or other forms of written evidence plus testimony via witnesses. The administration will cooperate with the hearing committee in securing witnesses and making available documentary and other evidence. The faculty member and the administration may cross examine all witnesses brought by the opposing party.

- C. The Committee shall not be bound by the strict rules of legal evidence, and may admit any evidence which it deems to be of probative value in determining the issues involved. The proceedings of the Committee shall be closed to the public. However, the faculty member may be present at all meetings of the Committee where evidence is received or testimony heard. Moreover every effort will be made to assure that the faculty member and his advisors can be present. He/She may be accompanied by another member of the tenured University of Massachusetts Medical School faculty who may act as an advisor. Neither side may be accompanied by legal counsel.
- D. A tape recording of the hearing shall be made. If a transcript is mutually desired the cost shall be shared equally. Otherwise, either party requesting a transcript shall bear the cost.

G. The findings of fact and the decision of the Hearing Committee shall be based solely on the hearing record.

VI. Decision and Report from the Hearing Committee

- A. Within 20 days from the termination of the Hearing, the Committee shall meet to consider the administration's charges for dismissal and determine whether the administration has provided a preponderance of evidence attesting to the validity of these charges based upon the record as a whole and established in the Hearing process herein. The determination will be reached by recorded votes of each of the members of the Committee.
- B. Within 10 days after making its decision, as provided in VII-A, the Hearing Committee shall send to the Chancellor a comprehensive report explaining the basis of the decision of the majority of the Committee. The report shall consider each of the charges put forward as grounds for dismissal and provide a written assessment as to whether the charge is serious enough to merit dismissal and whether the charge appears to be supported by available evidence. Individual or collective dissenting reports also may be written. Copies of all reports shall be sent simultaneously to the faculty member and the Departmental Chair. Within 3 weeks of the receipt of the report(s), the faculty member and/or the Departmental Chair shall have the right to forward to the Chancellor their comments on any aspect of the Committee's report(s).

C. If the Hearing Committee concludes that just cause for dismissal has not been established by the evidence in the record it shall so report to the Chancellor. Since the Hearing Committee is the only body which has heard all of the evidence, its finding that just cause for dismissal has not been established should carry great weight in the deliberations subsequent decision makers. The degree of conclusiveness to be given to such a finding, however, can vary with the kind of charge involved and the extent to which the committee's finding is unanimous.

VIII. Disposition of the Case by the Chancellor

Within 30 days of the receipt of these documents, the Chancellor shall review the report of the Hearing Committee and any responses to the Report by the faculty member or the Departmental Chair.

A. If the Hearing Committee Report concludes that the evidence supports dismissal for cause, the Chancellor shall normally forward the request for termination to the President of the University and provide a written notification to the faculty member, the Departmental Chair and the Hearing Committee as to his/her intention in this regard. The President would then accept or reject the request for termination based on all of the evidence in the file and on the recommendations in the Hearing Committee. If, however, in the unusual case that the Chancellor is disposed to discontinue the procedures, he/she shall state the reasons in writing to the Hearing Committee, to the faculty member and to the Departmental Chair and provide an opportunity for response.

B. If the Hearing Committee concluded that just cause for dismissal had not been established, the Chancellor would normally terminate the dismissal proceedings. In the unusual case that the Chancellor is disposed to recommend continuation of the procedures, he/she shall state the reasons in writing to the Hearing

Committee, to the faculty member, to the Departmental Chair and, where appropriate to the Program Director. He/she will also provide an opportunity for response(s) from these individuals before forwarding a recommendation for dismissal to the President of the University. The President after reviewing the report from the Hearing Committee and the written recommendation of the Chancellor, would accept or reject the Chancellor's recommendation for termination.