

FACULTY AGENDA ITEM

Date: April 22, 2020

Submitted by: *Faculty Handbook Committee*

SUBJECT: *Change to Section 3V (Procedure for Termination) of the Faculty Handbook*

Description: *The Faculty Handbook Committee has revised the procedure for termination of faculty includes faculty classified as lecturers, tenure-track, and tenured.*

Rationale: *These comprehensive revisions together clarify and update these processes for best practices. The revised processes allow for greater involvement from faculty, and will better protect participants' privacy.*

Financial Implications: *None*

Proposed Effective Date: *Upon approval*

Request for Action: *Approval by Faculty Affairs Committee and Faculty Senate*

Approved by: *FAC on date 4/28/2020*

Faculty Senate on date 5/4/2020

Attachments Yes X No

V. Procedures for Termination

A. General Statement

A faculty member may be disciplined, or dismissed, for cause on grounds including but not limited to (1) ~~intellectual~~ **professional** dishonesty; (2) acts of discrimination, including harassment, prohibited by law or University policy; (3) acts of moral turpitude substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration; (4) theft or misuse of University property; (5) incompetence; (6) refusal to perform reasonable assigned duties **and/or substantial neglect of duty**; (7) use of professional authority to exploit others; (8) violation of University policy substantially related to performance of faculty responsibilities; and (9) violation of law(s) substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration. The procedure that will be followed when terminating the employment of a faculty member for cause is discussed below.

B. Pre-termination Resolution requirements

Before a recommendation for termination or a decision to terminate for cause is made, certain interactions, at a minimum, should have already occurred. For units that have department chairs, there should have been a discussion between the department chair and the faculty member who has one or more problematic issues that would suffice as grounds for termination for cause as set out above. If that discussion does not result in immediate resolution of the problem or a Performance Improvement Plan (“**PIP**”), then the department chair shall arrange for a pre-termination process meeting between the faculty member, the department chair and the Dean. For units without department chairs, the initial meeting shall be between the faculty member and the Dean. For all units, if the meeting with the Dean results in immediate resolution of the issue(s) or if a PIP is implemented, then the matter would not proceed further towards termination at that time.

- IF THE CONDUCT OF THE FACULTY MEMBER IS OF SEVERE RISK TO THE SAFETY OF OTHERS, then the pre-termination process set out above may be disregarded and administration may move directly to the Formal Termination Process;

C. Formal Termination Process

Employment status pending procedure

1. If the VPAA believes that there exists a severe risk to the safety of others, or that there is a significant disruption to the operations of the University at any time during the termination process, the VPAA may suspend the faculty member from all duties or reassign the faculty member to other duties that would greatly reduce the severe risk or significant disruption. This decision shall be provided in writing to the faculty member. Such suspension or reassignment is not intended and shall not be used to create any undue hardship on the faculty member fully participating in this Termination Process.
2. The faculty member may request, within three *business* days of the written notice of suspension/reassignment, a meeting with the VPAA to appeal the suspension/reassignment. This meeting shall occur as soon as practicable but no later than seven days from the date of the request for meeting.
3. The faculty member may present any information the faculty member believes is relevant to show why the faculty member should not be suspended/reassigned pending resolution of the matter.
4. The VPAA, after considering the information presented by the faculty member, shall notify the faculty member within two *business* days if the suspension/reassignment remains in place. This decision shall be final and no further appeals will occur.
 - a. If the VPAA changes a suspension to a reassignment of duties, such change shall be considered a final decision from which there will be no appeal.

For purposes of all termination processes, the following information shall apply:

- Calculation of Time:
 - All time periods referenced in this process are stated in calendar days unless otherwise indicated.
 - “business day” shall mean any day that is not a Saturday, Sunday, or a day that the University offices are closed.

- If the last day of a time period occurs on a Saturday, Sunday or day that the University offices are closed, then the time period shall continue to the next business day.
- If University offices are closed three or more consecutive weekdays, such as winter break or due to weather, ~~then~~ then those weekdays and any intervening weekends and holidays shall not be included in the calculation of the time period.
- If at any time during the process, the VPAA or the President are unable or otherwise unavailable to complete their obligations in a timely fashion, they may designate another person employed at Washburn to perform the duties described in this process.
- Any time period set out in this process may be extended by agreement of the parties.
- If the faculty member is unavailable for a period of time due to Family Medical Leave Act as reviewed and approved by the Department of Human Resources, then any pending time period in this process shall be stayed until such time the faculty member becomes available to participate in the process.

1. NON-TENURE TRACK FACULTY:

STEP 1: If the discussion with the Dean does not result in immediate resolution of the problem(s) and no PIP is implemented, the Dean, after consultation with the VPAA, shall notify the faculty member that he/she is terminated from his/her faculty position effective immediately. The notification shall be in writing and shall state the cause(s) from Section A above that are the basis for the Dean's decision.

STEP 2: The faculty member shall have fourteen (14) days to file a written request for appeal with the VPAA. The written appeal should state all reasons that the faculty member desires the VPAA to consider as part of the appeal. If no appeal of the Dean's decision is timely filed, then the termination of the faculty member becomes final.

STEP 3: If the faculty member does file a written appeal with the VPAA, the VPAA shall arrange to meet with the faculty member within fourteen (14) days from the date the written appeal is received by the VPAA. The VPAA may choose to meet with the Dean separately or have the Dean be present during the meeting with the faculty member.

STEP 4: After the meeting, the VPAA shall have ten (10) days to issue his/her decision on the appeal. The VPAA may either uphold the termination of the faculty member or

determine an alternative resolution to the matter. The decision of the VPAA shall be final and no further appeals shall occur.

2. TENURE TRACK FACULTY

STEP 1: If the discussion with the Dean does not result in immediate resolution of the problem(s) and no PIP is implemented, the Dean shall make a recommendation to the VPAA that the faculty member be terminated from his/her faculty position effective immediately.

STEP 2: The VPAA shall make arrangements to meet with the faculty member one-on-one regarding the problem(s). This meeting should occur as soon as reasonably possible after receiving the Dean's recommendation. The VPAA may also request additional information from the Dean and/or department chair, if applicable.

- If the VPAA is able to work out a resolution with the faculty member regarding the matter, then no further action will be required.

STEP 3: If no resolution of the matter is reached between the faculty member and the VPAA, the VPAA shall then determine if the recommendation of the Dean will be followed or modified or rejected. The VPAA shall make this decision within fourteen (14) days from the meeting with the faculty member.

- If possible, the decision of the VPAA should be delivered in person with the faculty member present. The Dean (and department chair, if applicable) may be present at the discretion of the VPAA. If an in-person meeting is not possible within the fourteen days, then the decision shall be issued in writing.
- Whether or not the in-person meeting occurs, the faculty member shall receive written notification of the VPAA's decision. If the decision is to terminate the faculty member, the written notification shall include the cause(s) from Section A above that the VPAA relied upon in making the termination decision.

STEP 4: If the VPAA's decision is to follow the Dean's recommendation and terminate the faculty member or involves some form of suspension from duties, the faculty member shall have fourteen (14) days to file a written request for appeal with the Faculty Discipline Review Committee ("**FDRC**"). (There is no appeal process if the VPAA recommends a PIP or some other form of sanction short of suspension or termination.) The written appeal should state all reasons that the faculty member desires the FDRC to consider as part of the appeal. If no appeal of the VPAA's decision is timely filed, then the decision of the VPAA becomes final.

STEP 5: If the faculty member does file a written appeal with the FDRRC, the FDRRC shall be appointed as set out in Section D below.

STEP 6: The FDRRC shall follow the procedures set out in Section D below and then issue its ~~recommendation~~ **decision** as to whether the VPAA's decision should be followed or modified, stating what modifications it would recommend. That ~~recommendation~~ **decision** shall be forwarded to the President. If the ~~recommendation~~ **decision** of the FDRRC ~~is follow~~**s** the VPAA's decision, then the VPAA's decision becomes final and there is no further appeal

STEP 7: If the ~~recommendation~~ **decision** of the FDRRC is other than to follow the decision of the VPAA, the President shall review the VPAA's decision to terminate or suspend the faculty member, the faculty member's written appeal to the FDRRC and the ~~recommendation~~ **decision** by the FDRRC. The President may request and consider additional information from any of the above named parties or from the Dean or department chair, if applicable. Within fourteen (14) days of receipt of the FDRRC's ~~recommendation~~ **decision**, the President shall issue his/her decision whether to uphold, reject or modify the VPAA's decision. The President's decision shall be final and no further appeals will occur.

3. TENURED FACULTY

STEP 1: If the discussion with the Dean does not result in immediate resolution of the problem(s) and no PIP is implemented, the Dean shall make a recommendation to the VPAA that the faculty member be terminated from his/her faculty position effective immediately.

STEP 2: The VPAA shall make arrangements to meet with the faculty member one-on-one regarding the problem(s). This meeting should occur as soon as reasonably possible after receiving the Dean's recommendation.

- If the VPAA is able to work out a resolution with the faculty member regarding the matter, then no further action will be required.

STEP 3: If no resolution is reached after the meeting in Step 2, the VPAA shall convene a Faculty Advisory Committee within three (3) days with whom to confer before making a determination under Step 3. The Faculty Advisory Committee shall consist of three tenured faculty members, one selected by the VPAA, one selected by the faculty member and a third selected by agreement between the VPAA and the faculty member. If the faculty member refuses to submit any names in a timely fashion or if the VPAA

and faculty member cannot reach agreement on the third committee member, the VPAA may select the remaining members of the committee. The meeting between the VPAA and the Faculty Advisory Committee shall occur no later than seven days after the formation of the committee. This meeting shall be considered confidential and any information from that meeting will not be allowed to be presented to the Faculty Discipline Review Committee (“**FDRC**”) in the written appeal to the FDRC or presented to or considered by the FDRC in the formal hearing process.

- After meeting with the Faculty Advisory Committee, if the VPAA, in the sole discretion of the VPAA, believes another meeting with the faculty member would be beneficial, then the VPAA may schedule another meeting with the faculty member. That meeting shall occur within seven days of the VPAA extending the invitation. This seven day time limit may be extended by agreement of both parties.
- If the VPAA is able to work out a resolution with the faculty member regarding the matter, then no further action will be required.

STEP 4: The VPAA shall then determine if the faculty member should be placed on a PIP, impose additional conditions on an existing PIP, or recommend to the President that the faculty member be suspended or terminated. The VPAA shall make this decision within fourteen (14) days from the meeting with the faculty member. If the VPAA decision is something other than termination or suspension of the faculty member, the process stops at the VPAA’s decision.

- If possible, the decision of the VPAA should be delivered in person with the faculty member present. The Dean (and department chair, if applicable) may be present at the discretion of the VPAA. If an in-person meeting is not possible within the fourteen days, then the decision shall be issued in writing.
- Whether or not the in-person meeting occurs, the faculty member shall receive written notification of the VPAA’s decision. If the decision is to recommend termination or suspension of the faculty member, the written notification shall include the cause(s) from Section A above that the VPAA relied upon in making the recommendation.

STEP 5: If the VPAA’s recommendation is to terminate the faculty member or involves some form of suspension from duties, the faculty member shall have seven (7) days to file a written request for a full review with **appeal to** the Faculty Discipline Review

Committee (“**FDRC**”). (There is no review process if the VPAA recommends a PIP or some other form of sanction short of suspension or termination.)

- If the faculty member does not request a full review by **an appeal to** the FDRC of the VPAA’s recommendation in a timely fashion, the President shall review the recommendation. Unless the President determines that the VPAA’s recommendation is arbitrary or capricious, the President shall follow the recommendation and terminate or suspend the faculty member. There shall be no appeal from the President’s decision.

STEP 6: If the faculty member does file a written request for review with the FDRC, the FDRC shall be appointed as set out in Section D below. After the FDRC is appointed, the VPAA shall provide an allegation of charges, no later than fourteen (14) days after receiving the written request for full review, **an appeal** to the Chair of the FDRC restating the cause(s) relied upon by the VPAA in making the recommendation along with a detailed summary of the evidence upon which the charge(s) of misconduct are based.

STEP 7: The faculty member shall file a written response to the allegation of charges no later than seven (7) days prior to the first hearing date scheduled by the FDRC.

STEP 8: The FDRC shall follow the procedures set out in Section D below and then issue its ~~recommendation~~ **decision** as to whether the VPAA’s recommendation should be followed, rejected or modified, stating what modifications it ~~would recommend~~ **should be made**. That ~~recommendation~~ **decision** shall be forwarded to the President, **VPAA and faculty member**.

STEP 9: The faculty member, after being advised of the FDRC’s decision in Step 7 above, shall have seven (7) days to notify the President in writing if the faculty member disagrees with the FDRC ~~recommendation~~ **decision**. ~~This is an opportunity for the faculty member to make any statement to the President that the faculty member would want the President to consider before the President makes his/her decision.~~

STEP 10: ~~The President shall review the VPAA’s allegation of charges, the recommendation by the FDRC and any statement provided by the faculty member in Step 9. Within fourteen (14) days of receipt of the FDRC’s recommendation~~ **decision**, ~~the President shall issue his/her written decision whether the faculty member should be dismissed, suspended, or other action shall be taken, which includes taking no action at all against the faculty member. If the President’s determination is different than the~~

~~FDRRC recommendations decision~~, the President shall address this difference in his/her decision.

If the President appeals the ~~TAC's~~ **FDRC's** decision to WUBOR, he/she shall have fourteen (14) days to file a written request for appeal to the WUBOR. His/her written appeal shall address his/her reasoning for requesting that the ~~TAC's~~ **FDRC's** decision be set aside. The President's written appeal to the Board of Regents shall be forwarded to the faculty member, who shall have fourteen (14) days to file with the WUBOR a written response to the President's appeal. The WUBOR shall review the decision of the ~~TAC~~ **FDRC**, the recommendation of the VPAA, the written appeal of the President and the faculty member's response. The WUBOR shall be free to seek any additional information from the President, any other administrator involved (VPAA, Dean or Department Chair), the ~~TAC~~ **FDRC** and/or the faculty member. After reviewing the original documentation and any additional information requested, the WUBOR may accept, reject or modify the decision of the ~~TAC~~ **FDRC**. In rejecting or modifying the ~~TAC's~~ **FDRC's** decision, the WUBOR may use any information received from the ~~TAC~~ **FDRC**, President and/or the faculty member in its decision. The WUBOR shall issue its decision, in writing, within Twenty-eight (28) days from receipt of the faculty member's response to the President's written request for appeal. The decision of the WUBOR is final and no further appeals will occur.

If the President does not appeal the FDRC's decision to the WUBOR, then the FDRC's decision shall be carried out.

STEP 11: If the **FDRC's decision calls for the suspension or termination and the President determines that the faculty member shall be terminated or suspended** **does not appeal the FDRC's decision to WUBOR**, the faculty member shall have fourteen (14) days to file a written request for appeal to the ~~Washburn University Board of Regents~~ (**"WUBOR"**) WUBOR. (There is no appeal process **for the faculty member** if the ~~President directs~~ **FDRC's decision is that** a PIP or some other form of sanction short of suspension or termination be imposed on the faculty member.)

STEP 12: If the faculty member timely files a written request for appeal, the WUBOR shall review the ~~decision~~ recommendation of the President, the written appeal of the faculty member, the ~~recommendation~~ **decision** of the FDRC and the VPAA allegation of

charges. The WUBOR shall be free to seek any additional information from the President, any other administrator involved (VPAA, Dean or Department Chair), the FDRC and/or the faculty member. After reviewing the original documentation and any additional information requested, the WUBOR may accept, reject or modify the decision of the ~~President~~ FDRC. In rejecting or modifying the ~~President's~~ FDRC's decision, the WUBOR may use any information received from the FDRC and/or the faculty member in its decision. The WUBOR shall issue its decision, in writing, within Twenty-eight (28) days from receipt of the written request for appeal. The decision of the WUBOR is final and no further appeals will occur.

D. Faculty Discipline Review Committee

1. Utilization of the Faculty Discipline Review Committee. If a tenure-track faculty member wishes to appeal a termination decision by the Vice-President of Academic Affairs or a tenured faculty member requests review of a termination recommendation by the Vice-President of Academic Affairs (“**VPAA**”), the appeal or review shall be conducted by the Faculty Discipline Review Committee (“**FDRC**” or “**Committee**”), the members of which should be different than the **FAC**.

2. Formation and preparation of the Committee

A. Upon request for a Review, the Faculty Senate Executive Committee shall appoint five (5) faculty members, including naming one to serve as chairperson (“**Chair**”), to serve on the Committee. If the faculty member seeking appeal or review (“**Appellant**”) is a member of Faculty Senate, he/she shall not participate in the selection and appointment of the Committee members. Each member of the Committee shall meet the following requirements:

- a. The faculty member must be tenured at the time of appointment.
- b. The faculty member must not be a member of the academic unit in which the Appellant is a member.
- c. If any time after being appointed to the Committee, a member of the Committee determines or realizes that they have personal knowledge relating to the underlying incident or any involvement with the Appellant that could impact the impartiality of the Committee member, then that Committee member shall notify the Chair and remove themselves from serving on the Committee. The Chair shall notify the President of the Faculty Senate so that another faculty member may be appointed to the Committee.
 - i. If any time after being appointed to the Committee, a member of the Committee determines or realizes that they have personal knowledge relating to the underlying incident but does not believe it will affect his/her impartiality, the Committee member shall notify the Chair, who shall notify both the Appellant and the VPAA (individually “**Party**” and collectively “**Parties**”) regarding the issue. Either Party may then within three (3) business days from receiving the notice, request that the member of the Committee be removed due to a possible conflict. If either Party does request that the member of the Committee be removed, the Chair shall notify the President of the Faculty Senate so that another faculty member may be appointed to the Committee.

- B. Once the Committee is formed, the VPAA shall provide the following information to each member, except for item e:
- a. A copy of the Appellant's request for appeal or review;
 - b. The written decision or recommendation of the VPAA;
 - c. Any other reports prepared by the Dean and Department Chair (if applicable);
 - d. A list of witnesses from the VPAA that he/she would request to be heard by the Committee with a brief statement as the topic(s) about which each witness would give testimony.
 - e. A list of witnesses from the Appellant that he/she would request to be heard by the Committee with a brief statement as the topic(s) about which each witness would give testimony. This information shall be provided to the FDRC directly from the Appellant.
 - f. A copy of the pertinent Kansas Statutes and University regulations that govern the faculty member's procedural and substantive rights, specifically including but not being limited to relevant (1) statutes, (2) Bylaws, (3) Faculty Handbook, (4) statements concerning the proper composition, procedures, and powers of the Committee.
- C. The Office of the VPAA shall provide all administrative support necessary for the FDRC so that the Committee members shall be able to perform their duties both as members of the Committee and as faculty members at Washburn.

3. Pre-hearing matters

A. Pre-hearing Meeting. The Committee shall meet ("**Pre-hearing Meeting**") no later than fourteen (14) days after receiving the materials in 2.2 above. At this meeting, the Committee shall determine, by a majority vote, several things: a) if there is to be any additional documentation, i.e. reports, communications, etc. to be provided to the Committee; b) what witnesses offered by the parties would be called to appear before the Committee; c) what witnesses the Committee would like called to appear before the Committee that were not listed by either Party; and d) the date or dates the Committee will hear testimony and evidence and the location, if possible. The documentation shall be requested within 48 hours of the Pre-hearing Meeting and should contain a deadline to respond no later than seven (7) days after the issuance of the request for the documentation. Both Parties shall be advised, in writing, within 48 hours of the decisions made by the committee. The Committee shall deliver the documentation received to both Parties within 48 hours of receipt of the documentation by the Committee. The date the hearing is scheduled to begin shall be such as to allow the

parties adequate opportunity to prepare for the hearing, but not more than twenty-one (21) days from the date of the Pre-hearing Meeting.

B. The Appellant shall indicate the appropriate professional organizations that he/she would like to be notified of the hearing. The Chair shall notify each such professional organization of the date, time and location of the hearing, and their right to send one (1) observer to the hearing. The professional organizations shall also be provided a copy of the written request for review or appeal and the VPAA's decision or recommendation for termination. Observers shall be allowed to remain present throughout the entire hearing.

a. A person who will be serving either as an Advisor or witness during the hearing is not eligible to serve as an observer.

C. The Parties may have up to seven (7) advisors, such as academic and/or legal advisors ("**Advisors**"), accompany them and be present at the hearing. The Parties and their Advisors shall be allowed to remain present throughout the entire hearing.

a. If either party intends to utilize a legal advisor in the termination appeals hearing, then that party shall notify the other party not later than seven (7) days prior to the hearing so that the other party can also secure a legal advisor if he/she so chooses.

b. If a party wishes to have more than seven (7) Advisors present during the hearing, then that party may petition the Committee to have additional Advisors present. The petition shall be in writing, provide a justification for the number of Advisors being sought beyond the limit of seven, and shall be presented to the Committee Chair and the opposing party not less than seven (7) days before the first scheduled date of the hearing. The opposing party may file a written response to the petition within two (2) business days. The Committee shall determine if the request shall be granted and how many additional Advisors will be allowed.

D. The University shall make available to the Appellant, and to his/her academic and legal advisors, all the authority it possesses to obtain information and to require the presence of witnesses and the production of evidence relevant to the issues of the hearing.

4. Hearing

A. The hearing shall proceed in the following order:

1) If the hearing is an appeal by a tenure-track faculty of a decision to terminate by the VPAA – (1) consideration of witnesses and other evidence in support of Appellant's written request for appeal, (2) consideration of witnesses and other evidence in support of the VPAA's decision to terminate or suspend, (3)

consideration of witnesses and other evidence as requested by the Committee in their Pre-hearing Meeting; (4) rebuttal evidence offered for consideration by the Appellant, (5) rebuttal evidence offered for consideration by the VPAA, and (6) final statements.

2) If the hearing is a request for review by a tenured faculty of a recommendation for termination by the VPAA – (1) consideration of witnesses and other evidence in support of the VPAA’s recommendation to terminate or suspend, (2) consideration of witnesses and other evidence in support of the tenured faculty member’s written request for review, (3) consideration of witnesses and other evidence as requested by the Committee in their Pre-hearing Meeting; (4) rebuttal evidence by the VPAA, (5) rebuttal evidence by the tenured faculty, and (6) final statements.

3) If, for some reason, there exist unique circumstances so that the Committee believes that a clearer or more expeditious way of exploring the issues can be achieved by varying this normal order of proceeding, it may recommend such variation to the parties, and if both parties agree, such variation may be used.

B. The Committee shall not be bound by the formal procedure of the law courts. The rules of evidence applicable in courts of law shall not be binding at the hearing, but may be consulted by the Committee in its discretion.

C. The party bringing the action – faculty in case of tenure-track appeal and VPAA in case of review of recommendation – shall carry the burden of proof and the standard of proof shall be the preponderance of the evidence.

D. Both parties shall remain present in the hearing during the entire proceedings unless and until the Committee determines that a party’s behavior is so disruptive that the hearing could not continue with the party remaining present.

E. Questioning of the witnesses.

1) All questioning of the witnesses shall be done by the Chair or other members of the Committee.

a. Any questions to be asked by the parties of a witness shall be provided to the Chair when it is that party’s opportunity to ask the questions.

1. Once those initial questions have asked and answered, the party may submit additional questions as follow up to the answers provided.

b. The Chair shall then ask the questions proffered by the party.

c. Questions provided by the party that did not request the witness to be called may be written in the form of leading questions and the Chair shall ask them in that form if so written.

- d. The Chair has the right not to ask any question proffered if he/she believes the question is inappropriate. However, if a subject matter has been queried during questions by either the Committee or the other party, then the Chair must allow the other party to also inquire into that subject matter.
- 2) The order of questioning of witnesses shall be as follows:
- a. The members of the Committee shall first ask any questions of each witness that they may have.
 - b. The party that requested that witness be called to appear before the Committee.
 - c. The party that did not request the witness be called.
 - d. Members of the Committee may ask any additional questions.
 - e. When all questioning is concluded by the Committee, then both parties may submit additional questions to be asked of each witness.
- 3) Parties may use their advisors and legal counsel to help draft questions.
- F. All witnesses shall be excluded from the hearing room except while testifying.
- G. Claim of demonstrated incompetence—outside evaluators. The dismissal of a faculty member for demonstrated incompetence is an extreme remedy. Absent extraordinary circumstances, other avenues must be utilized first to correct unacceptable performance prior to termination proceedings being initiated. If demonstrated incompetence in teaching or research is all or part of the basis for the VPAA's decision or recommendation, outside evaluators in the Appellant's field shall be identified to provide objective evaluations of Appellant's competence or lack thereof in teaching and/or research. The set of evaluators shall consist of one member proposed by the Chair of the Appellant's department (or the equivalent), one member proposed by the Appellant, and one member proposed by the VPAA. The FDRC may seek input from members of the Appellant's department. Each evaluator shall file with the FDRC a report of their conclusions within four weeks. Any evaluator compensation expense shall be borne by the University.
- H. A verbatim record of the proceedings shall be made. The record shall be made by a certified stenographic reporter. A transcript of each day's proceedings shall be furnished to the Committee and the parties before the next hearing date. The cost of making the record and the transcriptions shall be borne by the University.
- I. The committee, at its discretion, may adjourn the hearing from time to time in order to permit the parties to obtain additional evidence.

J. The Committee may request written briefs from the parties, and shall accept them if they are offered. Any and all briefs shall be due no later than five (5) business days from the close of the hearing.

- 1) Any person who served as an observer under Section 3.B. above may also submit a brief to the committee during the same time frame. This brief should only address procedural concerns or perceived irregularities observed during the hearing process. It shall not advocate for a particular position on an issue or a particular party.
- 2) If the Committee, after reviewing any brief filed by an observer, believes any part of that brief is not applicable to the current matter but should be considered for possible changes in the procedures moving forward, shall provide a copy of the brief, after the hearing is completed, to both the President of the Faculty Senate and the VPAA for further consideration.

K. Rights and Responsibilities of all participants in the FDRC hearing process.

- 1) Any participant in this FDRC process, including but not limited to the parties, the Committee members, observers, Advisors and witnesses, shall refrain from making any public statements beginning from the time they are first engaged in this FDRC process until a final decision is rendered in the matter. After the final decision, any statements made shall relate only to procedural issues and are not to reference specific facts nor persons who may have testified. This last restriction would not apply to anyone who may be participating in any subsequent legal proceedings.
- 2) All participants are to be free from retaliation for their participation in this FDRC process. If any participant believes they are being retaliated against in their position as an employee or student at Washburn, they are strongly encouraged to file a complaint with the Equal Opportunity Director to ensure that any and all remedies and protections available to them may be implemented.

5. Post-hearing

A. The Committee shall consider the evidence in order to make a recommendation to the President regarding the issue(s) presented.

B. All the decisions of the Committee shall be based solely upon the evidence presented at the hearing. The Committee shall make specific findings of fact to support its conclusions on each of the alleged grounds for dismissal. A copy of the Committee's opinion, setting forth its finding on each issue in the case together with the reasons by

which it justifies its conclusions, and any dissenting opinions, shall be provided to each of the parties and to the President. This shall be done at the time when the Committee announces its decision in the case.

C. The Committee will make a recommendation to the President, in writing, no later than 14 days after the close of the hearing, regarding the following items.

a. Did the evidence establish by a preponderance of the evidence that the Appellant's behavior violated any of the standards as set out in **Section 3.V.A** of the Faculty Handbook and cited by the VPAA in his/her recommendation to terminate the Appellant.

b. What sanction(s) would be the appropriate to be imposed on the Appellant. The Committee should include this in their recommendation even if they recommend that the President find that the Appellant did not violate any standards set out in **Section 3.V.A** of the Faculty Handbook.

These items should be addressed separately for each allegation of misconduct, as set out in Section (currently 3.V.A.) of the Faculty Handbook. The recommendations of the Committee shall reflect what a majority of the Committee members agreed as to each of the above matters.

D. When the report of the Committee is complete, it is sent to the President, and the review process is concluded.