

The University of Tennessee System

POLICIES GOVERNING ACADEMIC FREEDOM, RESPONSIBILITY, AND TENURE

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ACADEMIC FREEDOM, RESPONSIBILITY, AND TENURE¹

Approved by the UT Board of Trustees at its meeting of 18 June 1998
(Revised 19 June 2003, 16 March 2006)

The Board of Trustees is constituted by statute of the State of Tennessee as the governing body of The University of Tennessee, with complete and full authority over the organization and administration of The University² and its constituent parts and over the granting of tenure to members of the faculty.

The principal mission of The University is the discovery and dissemination of truth through teaching, research and service.³ The Board recognizes that freedom of inquiry and expression is indispensable for this purpose and believes that it and the administration and faculty should cooperate to that end. In The University's program of teaching, research and service, it is essential that the Board, administration and faculty cooperate voluntarily, each contributing freely, according to his or her qualifications, in a mutually beneficial exchange of information and ideas.

The following statement is intended to record the policy and procedures of The University with respect to academic freedom, responsibility, and tenure. The Board considers these principles compatible with its statutory authority and responsibilities and the constitutional guarantee of freedom of speech and inquiry to each citizen of the United States.

Academic Freedom and Responsibility of the Faculty Member

A healthy tradition of academic freedom and tenure is essential to the proper functioning of a University. At the same time, membership in a society of scholars enjoins upon a faculty member certain obligations to colleagues, to the University and to the State that guarantees academic freedom.

1. The primary responsibility of a faculty member is to use the freedom of his or her office in an honest, courageous, and persistent effort to search out and communicate the truth that lies in the area of his or her competence.

¹ This is a compilation and restatement of policies and procedures adopted by vote of the Board of Trustees on November 4, 1955; June 17, 1971; October 20, 1978; by periodic approval of Faculty Handbook provisions for each University of Tennessee campus; and by revisions recommended by the Board's AY 1997-98 special Tenure Committee and its Faculty Tenure Advisory Committee, and approved by the Board on 18 June 1998; and by revisions approved by the Board on 19 June 2003; and by revisions approved by the Board on 16 March 2006.

² Many terms throughout this document are used generically. "The University" refers to The University of Tennessee System. "Campus" refers to the Knoxville campus, the Health Science Center, the UT Institute of Agriculture, the UT Space Institute, UT at Chattanooga, and UT at Martin. "Chancellor" refers to the Chancellor or Vice President of the unit. "Department" refers to the smallest academic unit (in some cases a "college," "school," or "division"); similarly, "department head" refers to "chair," "director," or "Dean" as appropriate. "Faculty Senate" refers to the campus governance body of elected faculty members and "Faculty Senate Executive Committee" refers to that committee or its comparable group of elected Senate officers. "Chief Academic Officer" refers to the campus provost, academic vice chancellor, or, Dean, etc. "Bylaws" includes written policies, procedures, standards, rules, guidelines, etc.

³ The word "teaching" includes the set of instructional activities that normally occurs in classrooms, laboratories, clinical sites, and in directed study, etc; "research" includes both scholarly investigation and the creation of works of art related to a faculty member's academic appointment; "service" includes public service, institutional service, and other assigned professional/clinical service responsibilities.

2. A faculty member is entitled to full freedom in research and in publication of the results, subject to the adequate performance of his or her other academic duties, but research for pecuniary gain either within or beyond the scope of his or her employment must be based upon an understanding with The University administration, according to The University's policies (e.g., Compensated Outside Services, Conflict of Interest).
3. A faculty member should maintain a high level of personal integrity and professional competence, as demonstrated in teaching, research, and service. Academic freedom does not exempt a faculty member from an evaluation by colleagues and administration of his or her qualifications for continued membership in their society.
4. A faculty member is entitled to freedom in the classroom in discussing the subject, but the faculty member should use care in expressing personal views in the classroom and should be careful not to introduce controversial matters that have no relation to the subject taught, and especially matters in which he or she has no special competence or training and in which, therefore, the faculty member's views cannot claim the authority accorded his or her professional statements.
5. A faculty member should recognize that the right of academic freedom is enjoyed by all members of the academic community. He or she should be prepared at all times to support actively the right of the individual to freedom of research and communication as defined herein.
6. In addition to the normal responsibilities of a citizen of the state and nation, including the duty to uphold their Constitutions and obey their laws, a faculty member also should conduct himself or herself professionally with colleagues. He or she should strive to maintain the mutual respect and confidence of his or her colleagues. He or she should endeavor to understand the customs, traditions, and usages of the academic community.
7. When, as a citizen, a faculty member speaks outside the classroom or writes for publication, he or she should be free, as a citizen, to express his or her opinions. Each faculty member should conduct himself or herself professionally, should be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make clear that he or she speaks for himself or herself and not for The University.

Academic Freedom and Responsibility of the University Administration

1. The University is committed to recruiting, appointing, retaining and promoting faculty members by processes which are thorough, thoughtful, equitable, and in which the professional judgments of faculty members are of major importance.
2. Administrative officers should actively foster within The University a climate favorable to freedom of teaching and research. In its pursuit of excellence, The University should reward its outstanding faculty members.
3. The administration is responsible for enforcing all Board and campus policies applicable to faculty members. It is the duty of the administration--beginning with department heads, deans, and chief academic officers--to remove from the faculty any faculty member who has been

found, through proper procedures, seriously derelict in his or her responsibilities as a member of the academic community.

4. The Board requires that each campus and its constituent academic units develop appropriate policies and procedures necessary to implement the Board's tenure policy. These campus and academic unit documents must be approved by the Board of Trustees in time for campus policies and procedures to be effective on 1 July 1999.

Tenure

A. Definition of Tenure

Tenure is a principle that entitles a faculty member to continuation of his or her annual appointment until relinquishment or forfeiture of tenure or until termination of tenure for adequate cause, financial exigency, or academic program discontinuance. The burden of proof that tenure should be awarded rests with the faculty member. Tenure is acquired only by positive action of the Board of Trustees, and is awarded in a particular unit, department, school, college, or other department of a campus. The award of tenure shifts the burden of proof concerning the faculty member's continuing appointment from the faculty member to The University.

B. Eligibility for Tenure Consideration

Eligibility for tenure consideration shall be subject to the following minimum standards:

1. Regular, full-time, tenure-track faculty appointments at the academic rank of instructor, assistant professor, associate professor, or professor are eligible for tenure;
2. Temporary, term, and part-time appointments are not eligible for tenure, except that in the extraordinary circumstances defined in Appendix E, faculty members who do not have a full-time appointment may be eligible for tenure;
3. Faculty members pursuing degrees at the campus where they are appointed are not eligible for tenure.

Each campus may establish additional eligibility requirements for tenure consideration. After approval by the Board of Trustees, campus eligibility requirements for tenure consideration shall be published in the campus Faculty Handbook.

No faculty member shall be appointed initially with tenure except by positive action of the Board of Trustees upon the recommendation of the President and after review by the tenured faculty and department Head, Dean, Chief Academic Officer, and Chancellor. Appendix D outlines expedited procedures for appointment and tenure consideration.

C. Probationary Period

A tenure-track faculty member must serve a probationary period prior to being considered for tenure.

1. Length of Probationary Period

The probationary period at The University shall be no less than one and no more than seven academic years; however, for good cause, the President, upon the recommendation of the Chancellor, may approve a probationary period of less than one academic year. If a faculty member has served in a tenure-track appointment at another institution, his or her total probationary service may extend beyond seven years. The original appointment letter shall state the length of the faculty member's probationary period and the academic year in which he or she must be considered for tenure if he or she has met the minimum eligibility requirements for consideration. The stipulation in the original appointment letter of the length of the probationary period and the year of mandatory tenure consideration does not guarantee retention until that time.

For good cause related to procedural error, The University and a tenure-track faculty member may agree in writing to extend a seven-year probationary period for a maximum of two additional years. The proposed extension must be approved in advance by the chief academic officer, the Chancellor, the Vice President for Academic Affairs and Student Success (or designee), and the General Counsel (or designee).

2. Suspension of Probationary Period

The chief academic officer shall decide whether the probationary period will be suspended when the following circumstances occur:

- a. the faculty member accepts a part-time faculty position;
- b. the faculty member accepts an administrative position; or
- c. the faculty member is granted a leave of absence.

The chief academic officer shall give the faculty member written notice of the decision concerning suspension of the probationary period.

3. Notice of Non-renewal

Notice that a tenure-track faculty member's appointment will not be renewed for the next year shall be made in writing by the chief academic officer, upon the recommendation of the department head and dean, according to the following schedule:

- a. In the first year of the probationary period, not later than March 1 for an academic year appointment and no less than three months in advance for any other term of appointment;
- b. In the second year of the probationary period, not later than December 15 for an academic year appointment and no less than six months in advance for any other term of appointment; and

- c. In the third and subsequent years of the probationary period, not less than twelve months in advance.

These notice requirements relate only to service in a probationary period with The University. Credit for prior service shall not be considered in determining the required notice. Notice of non-renewal shall be effective upon personal delivery or upon mailing, postage prepaid, to the faculty member's residential address of record at The University.

D. Criteria for Tenure

Tenure is awarded after a thorough review which culminates in The University acknowledging a reasonable presumption of the faculty member's professional excellence, and the likelihood that excellence will contribute substantially over a considerable period of time to the mission and anticipated needs of the academic unit in which tenure is granted. Professional excellence is reflected in the faculty member's teaching, research, and service including the faculty member's ability to interact appropriately with colleagues and students. The relative weights of these factors will vary according to the fit between the faculty member and the mission of the academic unit in which he or she is appointed.

Each campus may establish more-specific criteria for tenure. After approval by the Board of Trustees, campus criteria shall be published in the campus Faculty Handbook. Campus criteria for tenure shall include and be consistent with the criteria stated in this policy.

An academic unit may also establish more-specific criteria for tenure in that unit. After approval by the dean and campus chief academic officer, these criteria for tenure shall be published in the bylaws of the academic unit. The tenure criteria for a department shall include and be consistent with the criteria stated in this policy and any criteria established by the department's college and campus.

E. Procedures for Consideration and Grant of Tenure

Each campus shall establish procedures for considering a faculty member for tenure. After approval by the Board of Trustees, these procedures shall be published in the campus Faculty Handbook. The procedures shall include and be consistent with the minimum components stated in Appendix A. Appendix D outlines expedited procedures for tenure consideration and describes exceptional circumstances that may warrant the expedited procedures.

F. Locus of Tenure

Tenure at The University of Tennessee is granted in a particular academic unit (e.g., department, school) of a specific campus in a position appropriate to the faculty member's qualifications. Reorganizations that result in the merger or splitting of departments do not affect the tenure or probationary status of the faculty involved.

If a tenured faculty member voluntarily transfers from one UT campus to another, his or her tenured status is not transferred. However, a review by the responsible administrators in consultation with the tenured faculty of the receiving department may result in an immediate recommendation to the Board of Trustees that tenure at the new campus be granted to the

transferred individual; on the other hand, a new probationary period in the receiving unit may be established. There shall be no involuntary transfer of faculty members between campuses.

Transfers of tenure between departments on the same campus do not require Board approval, but must be approved by the responsible campus administrators in consultation with the tenured faculty of the receiving unit, with notice to the Board of Trustees. In any event, prior to the effective date of the transfer all conditions relating to tenure must be documented and accepted, in writing, by the transferring faculty member. If a non-tenured faculty member transfers from one existing department to another, a new probationary period must be established and documented under the same guidelines that would be followed if the faculty member came from another institution. All conditions relating to the new probationary period must be documented and accepted, in writing, by the transferring faculty member.

If a tenured faculty member accepts a part-time faculty position or an administrative position with The University, neither of which can carry tenure, the faculty member retains tenure in the full-time faculty position he or she vacated.

G. Evaluation of Tenured Faculty Members

Competent teaching is a crucial responsibility for faculty members, and the effective use of appropriate instructional evaluation (including departmental files of class syllabi and related materials, student, and peer evaluation, etc.) is important to all objective review processes. Faculty members with research/creative arts responsibilities should have the quantity and quality of their work fairly assessed. Each faculty member's service contributions should be evaluated impartially.

1. Annual Performance-and-Planning Review. Each faculty member and his or her Department Head will engage in a formal annual Performance-and-Planning Review, examining the current fiscal/academic year's activities and planning what should occur during the coming fiscal/academic year. The planning aspects of these annual academic year reviews also should take place in the context of longer-term goals for the campus, college, and department. Each campus shall strive to reward faculty members who more than meet expectations for rank, and administrators shall develop and publish guidelines for each campus to allocate funds for this purpose whenever feasible. Each faculty member's annual review should proceed from guidelines and criteria which are appropriate to the department, college, and campus, and this annual review should be a key element in merit pay or performance-based salary adjustments. College and department bylaws should make clear the contexts, criteria, and procedures to be followed for these reviews, including specific evaluation criteria for each level of performance. A document summarizing the review—including an objective rating of the faculty member's performance, as listed below—must be signed by the faculty member (to acknowledge receipt of the review document) and the Department Head. The Head must send a copy to the Dean. The Dean must send copies of the documents or a list of names by category to the Chief Academic Officer for review and approval/disapproval.

Performance ratings for annual reviews shall be as follows, and campus, college, and department bylaws must clarify the means and metric for each department head to employ in conducting these reviews:

- a. Exceeds Expectations for Rank—eligible for significant merit pay or performance-based salary adjustment that is consistent with campus, college, and department fiscal situations;
- b. Meets Expectations for Rank—eligible for minimum merit pay or performance-based salary adjustment that is consistent with campus, college, and department fiscal situations;
- c. Needs improvement for Rank—not eligible for merit pay or performance-based salary adjustment and required to implement an Annual Review Improvement Plan (see below); and
- d. Unsatisfactory for Rank—not eligible for any salary adjustment and required to implement an Annual Review Improvement Plan (see below).

Within 30 days of the annual review, any faculty member rated Needs Improvement for Rank or Unsatisfactory for Rank must collaborate with the Head on an Annual Review Improvement Plan to be reviewed by the Head and recommended by him/her to the Dean for review and approval/denial. The next year's annual review must include a progress report that clearly describes improvements in any area(s) noted as Needs Improvement for Rank or Unsatisfactory for Rank.

Each campus shall have a campus-wide process by which a faculty member may appeal his/her annual review rating. Developing the process should involve the Faculty Senate or an appropriate committee thereof.

2. Cumulative Performance Review (CPR).

A comprehensive, formal, cumulative, performance review is triggered for the following tenured faculty members:

- a. a faculty member whose annual review is Unsatisfactory in any two of five consecutive years;
- b. a faculty member whose annual review is any combination of Unsatisfactory or Needs Improvement in any three of five consecutive years.

Each campus shall establish policies and procedures for peer evaluation of the faculty member's cumulative performance. Within thirty days of being triggered, a CPR Committee shall be convened by the Dean, who shall determine its chair. This committee shall be composed of appropriate, same or higher rank, tenured departmental faculty members (excluding the Head), and appropriate faculty (same or higher rank) from outside the department. The faculty member being reviewed and the Head may each name a campus tenured professor (same or higher rank) to the committee, which normally should have at least five (5) members including the CPR Committee chair, and at least two additional faculty members nominated by the Faculty Senate (one departmental faculty member [same or higher rank] and one non-departmental faculty member [same or higher rank]). The Committee chair shall forward the committee consensus recommendation to the Head, Dean and Chief Academic Officer. Performance ratings for cumulative reviews

shall be as follows:

- a. Satisfies Expectations for Rank
- b. Fails to Satisfy Expectations for Rank

If the CPR Committee consensus rates the faculty member's performance as Fails to Satisfy Expectations for Rank, it may develop with the affected faculty member and Head a written CPR Improvement Plan (which may include, but shall not be limited to, skill-development leave of absence, intensive mentoring, curtailment of outside services, change in load/responsibilities), normally of up to one calendar year, and a means to assess its efficacy, with the plan to be reviewed by the Dean and approved by the Chief Academic Officer; or the committee may recommend to the Dean and Chief Academic Officer that the Chancellor initiate proceedings, as specified in the *Faculty Handbook*, to terminate the faculty member for adequate cause after the Chancellor has consulted with the Faculty Senate President and the Faculty Senate Executive Committee (which may delegate its responsibility to the appropriate Faculty Senate committee).

If the CPR Committee consensus rates the faculty member's performance as Satisfies Expectations for Rank, the Committee must forward its justification/rationale to the Dean. The Dean must recommend one of the following three actions by the Chief Academic Officer:

- a. concur that the faculty member's performance has been Satisfies Expectations for Rank, that his/her personnel file should show that both the Committee and the Dean concur in a Satisfactory CPR rating, and that a new five-year period annual review cycle will begin; or
- b. find that the faculty member's performance has been Fails to Satisfy Expectations for Rank (including a rationale for that ranking), and recommend that the Chief Academic Officer should require that the CPR Committee develop with the affected faculty member a written CPR Improvement Plan (which may include, but shall not be limited to, skill-development leave of absence, intensive mentoring, curtailment of outside services, change in load/responsibilities), normally of up to one calendar year, and a means to assess its efficacy; or
- c. find that the faculty member's performance has been Fails to Satisfy Expectations for Rank (including a rationale for that ranking), and recommend to the Chancellor that he/she initiate proceedings, as specified in the *Faculty Handbook*, to terminate the faculty member for adequate cause after the Chancellor has consulted with the Faculty Senate President and the Faculty Senate Executive Committee (which may delegate its responsibility to the appropriate Faculty Senate committee).

At the end of the time allotted for a CPR Improvement Plan, the Head, CPR Committee, Dean, and Chief Academic Officer shall send a written consensus report to the campus Chancellor, recommending:

- (i) that the faculty member's performance is Satisfies Expectations for Rank and no other action need be taken at this time; or
- (ii) that the faculty member's performance has improved sufficiently to allow for up to one additional year of monitoring of improvement, after which the Head, CPR Committee, Dean, and Chief Academic Officer must by consensus determine if the faculty member's performance is Satisfies Expectations for Rank or recommend that the Chancellor initiate Proceedings, as specified in the *Faculty Handbook*, to terminate the faculty member for adequate cause after the Chancellor has consulted with the Faculty Senate President and the Faculty Senate Executive Committee (which may delegate its responsibility to the appropriate Faculty Senate committee); or
- (iii) that the Chancellor initiate proceedings, as specified in the *Faculty Handbook*, to terminate the faculty member for adequate cause after the Chancellor has consulted with the Faculty Senate President and the Faculty Senate Executive Committee (which may delegate its responsibility to the appropriate Faculty Senate committee).

H. Termination of Tenure

1. Grounds for Termination

a. Relinquishment or Forfeiture of Tenure

A tenured faculty member relinquishes tenure upon resignation or retirement from The University. A tenured faculty member forfeits tenure upon taking an unauthorized leave of absence or failing to resume the duties of his or her position following an approved leave of absence. Forfeiture results in automatic termination of employment. The chief academic officer shall give the faculty member written notice of the forfeiture of tenure and termination of employment.

b. Extraordinary Circumstances

Extraordinary circumstances warranting termination of tenure may involve either financial exigency or academic program discontinuance. In the case of financial exigency, the criteria and procedures outlined in the Board-approved Financial Exigency Plan for each campus shall be followed. In the case of academic program discontinuance, the termination of tenured faculty may take place only after consultation with the faculty through appropriate committees of the department, the college, and the Faculty Senate.

If termination of tenured faculty positions becomes necessary because of financial exigency or academic program discontinuance, the campus administration shall attempt to place each displaced tenured faculty member in another suitable position. This does not require that a faculty member be placed in a position for which he or she is not qualified, that a new position be created where no need exists, or that a faculty member (tenured or non-tenured) in another department be terminated in order to provide a vacancy for a displaced tenured faculty member. The position of any tenured faculty member displaced because of financial exigency or academic program discontinuance shall not be filled within three years, unless the displaced faculty member has been offered reinstatement and a

reasonable time in which to accept or decline the offer.

- c. Adequate Cause - "Adequate cause" includes the following and similar types of reasons:

Category A: Unsatisfactory Performance in Teaching, Research, or Service

- (1) failure to demonstrate professional competence in teaching, research, or service;
- (2) failure to perform satisfactorily the duties or responsibilities of the faculty position, including but not limited to (a) failure to comply with a lawful directive of the department head, dean, or chief academic officer with respect to the faculty member's duties or responsibilities; and (b) inability to perform an essential function of the faculty position, given reasonable accommodation, if requested;
- (3) loss of professional licensure if licensure is required for the performance of the faculty member's duties; or with respect to Health Sciences faculty, failure to be granted or loss of medical staff membership and privileges at affiliated teaching hospitals; or
- (4) dishonesty or other serious violation of professional ethics or responsibility in teaching, research, or service; or serious violation of professional responsibility in relations with students, employees, or members of the community.

Category B: Misconduct

- (1) failure or persistent neglect to comply with University policies, procedures, rules, or other regulations, including but not limited to violation of The University's policies against discrimination and harassment;
- (2) falsification of a University record, including but not limited to information concerning the faculty member's qualifications for a position or promotion;
- (3) theft or misappropriation of University funds, property, services, or other resources;
- (4) admission of guilt or conviction of: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration;
- 5) any misconduct directly related to the fitness of the faculty member to engage in teaching, research, service, or administration.

2. Termination Procedures for Adequate Cause

Each campus shall establish procedures for terminating a tenured faculty member, or a tenure-track faculty member before the expiration of the annual term, for adequate cause. After approval by the Board of Trustees, termination procedures shall be published in the campus *Faculty Handbook*. Termination procedures shall incorporate and be consistent with the provisions cited in Appendices B and C.

I. Disciplinary Sanctions Other than Termination for Adequate Cause

Disciplinary sanctions other than termination may be imposed against a faculty member.

If the proposed sanction is suspension without pay for a definite term (no more than one year), the procedures applicable to termination shall be offered prior to suspension, provided, however, that the procedures shall be modified as follows: (1) suspension without pay for a definite term (no more than one year) may be imposed as a sanction by the Chancellor without review by the President and the Board of Trustees; and (2) the Chancellor may determine that the expedited procedure for suspension without pay is applicable to the conduct (see Appendix C concerning the expedited procedure).

If the proposed sanction does not involve suspension without pay, the department head shall make a recommendation to the dean, and the dean shall make a recommendation to the chief academic officer. The chief academic officer shall give the faculty member written notice of the proposed sanction and the supporting reason(s) and shall offer him or her an opportunity to respond both in writing and in person. The faculty member may appeal the proposed sanction through established appeal procedures, and the sanction shall be held in abeyance until conclusion of the appeal.

Appendix A

Procedures for Consideration and Grant of Tenure

1. Tenured Faculty's Recommendation

An adequate evaluation of a tenure candidate's qualifications, professional contributions, potential, and determination of whether he or she should be accepted as a tenured member of the campus academic community requires the judgment of both the candidate's faculty colleagues and the responsible administrators. Thus, although recommendations for tenure are administrative actions that must be approved by the Board of Trustees, there should be no positive recommendation for tenure without formal consultation with the tenured faculty of the department in which the candidate holds his or her position.

Each department shall adopt bylaws governing the tenured faculty's consideration of a candidate for tenure. The bylaws shall provide for a meeting of the tenured faculty to debate and discuss the tenure candidacy. The bylaws shall also provide for the manner of taking and recording a formal vote of the tenured faculty on whether the candidate should be recommended for tenure and shall establish the minimum number of votes necessary to constitute a positive recommendation.

2. Department Head's Recommendation

The vote of the tenured faculty is advisory to the department head. After making an independent judgment on the tenure candidacy, the head shall submit his or her recommendation to the dean with a written summary of his or her judgment. If the head's recommendation differs from the recommendation of the tenured faculty, the summary must explain the reasons for the differing judgment, and the head must provide a copy of the summary to the tenured faculty. The tenured faculty may forward a dissenting report to the next level of review.

3. Dean's Recommendation

All tenure recommendations of the department head, whether positive or negative, shall be reviewed by the dean of the college. The dean may establish a college-wide committee for review of tenure and promotion recommendations. The recommendation of a college-wide committee shall be advisory to the dean. After making an independent judgment on the tenure candidacy, the dean shall forward his or her recommendation to the chief academic officer.

4. Chief Academic Officer's Recommendation

All tenure recommendations of the dean, whether positive or negative, shall be reviewed by the chief academic officer. After making an independent judgment on the tenure candidacy, the chief academic officer shall forward his or her recommendation to the Chancellor.

5. Chancellor's Recommendation

All tenure recommendations of the chief academic officer, whether positive or negative, shall be reviewed by the Chancellor. After making an independent judgment on the tenure candidacy, the Chancellor shall forward only positive recommendations to the President.

6. President's Recommendation

If the President concurs in the positive recommendation of the Chancellor, he or she shall submit the recommendation for tenure to the Board of Trustees.

7. Action by the Board of Trustees

No person shall acquire or be granted tenure except by positive action of the Board of Trustees upon the recommendation of the President. The Board of Trustees acts only on positive recommendations. After positive action by the Board of Trustees, the Chancellor shall give the faculty member written notice of the effective date of tenure.

Appendix B

Termination Procedures for Category A Adequate Cause: Unsatisfactory Performance in Teaching, Research, or Service

1. Preliminary Steps

The following preliminary steps shall be followed in cases of termination for unsatisfactory performance in teaching, research, or service, unless the faculty member has been under a remediation plan as described in the Cumulative Performance Review section of this policy. If a faculty member has been under a remediation plan and the Review Committee, dean, chief academic officer, and Faculty Senate President or Faculty Senate Executive Committee recommend initiation of termination proceedings, the Chancellor shall proceed to consult with the President and to decide whether to initiate termination proceedings without following these preliminary steps.

A. Tenured Faculty's Recommendation

The department head shall direct the tenured departmental faculty to review the faculty member's performance in teaching, research, and service and to vote on the question of whether termination proceedings should be initiated. The faculty vote shall be advisory to the department head.

B. Department Head's Recommendation

If the department head concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the dean and the chief academic officer. The head's recommendation shall include the history of efforts to encourage the faculty member to improve his or her performance and of the vote of the tenured faculty on the question of whether proceedings should be initiated.

C. Dean's Recommendation

If the dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the chief academic officer.

D. Chief Academic Officer's Recommendation

- (1) If the chief academic officer concludes termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.
- (2) If a mutually satisfactory resolution is not achieved, the chief academic officer shall within thirty days ask the Faculty Senate (or appropriate committee of the Senate) to conduct an informal inquiry and make a recommendation to him or her within thirty days as to whether termination proceedings should be initiated. The recommendation

of the Faculty Senate shall be advisory to the chief academic officer.

- (3) After considering the recommendation of the Faculty Senate, the chief academic officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated.

2. Chancellor's Decision to Initiate Termination Proceedings

If, after consulting with the President, the Chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including (1) a statement of the grounds for termination, framed with reasonable particularity; (2) notice of the faculty member's right to contest the proposed termination in a hearing before a tribunal, as described below, or in a hearing conducted under the provisions of the Tennessee Uniform Administrative Procedures Act; and (3) notice that the faculty member has ten days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The Chancellor shall send a copy of the written notice to the Faculty Senate at the same time.

3. Suspension With Pay or Reassignment Pending Completion of Termination Proceedings

After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of The University's termination proceedings.

4. Failure to Contest

If the faculty member does not contest the charge(s) in writing and make the required hearing election within ten days after receipt of the written notice, the faculty member shall be terminated, and no appeal of the matter will be heard within The University.

5. Hearing under the Tennessee Uniform Administrative Procedures Act

A. Contested Case Procedures

If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA), the Chancellor shall appoint a hearing examiner, and the matter shall proceed in accordance with the contested case procedures promulgated by The University under the TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee and are available in campus libraries and in the Office of the General Counsel.

B. Initial Order

In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the Chancellor within ten days. In addition, the Chancellor, on his or her own motion, may elect within ten days to review the hearing officer's initial order.

C. Final Order

The hearing examiner's initial order shall become the final order unless review is sought by either party or the Chancellor within the ten-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within The University.

D. Judicial Review

If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act.

6. Hearing before a Tribunal

If the faculty member makes a timely election to contest the charge(s) and to waive the right to a hearing under the Tennessee Uniform Administrative Procedures Act, the Chancellor shall ask the Faculty Senate, or a designated committee of the Senate, to appoint a hearing tribunal within fifteen days and shall notify the faculty member of this action. The matter then shall proceed in accordance with the tribunal procedures described below.

A. Composition of the Tribunal

The University tribunal shall consist of members of the faculty and the administration. Either the Chancellor or the faculty member may challenge the appointment of a tribunal member on the ground of bias or conflict of interest. A challenge shall be judged by the Faculty Senate, or a designated committee of the Senate, whose decision on the challenge shall be final and not subject to appeal.

B. Notice of hearing

The Chancellor shall give the faculty member written notice of the hearing date at least 20 days in advance.

C. Representation

If The University intends to be represented by legal counsel, the written notice of the hearing date shall so advise the faculty member. The written notice shall also state the faculty member's right to be represented by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the tribunal chairperson within ten days of receipt of the written notice of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at The University's request.

D. Waiver of Hearing

If, at any time prior to the hearing date, the faculty member decides to waive his or her right to a hearing and respond to the charges only in writing, the tribunal shall proceed to evaluate all available evidence and rest its recommendation upon the evidence in the record.

E. Pre-Hearing Preparation

The faculty member and The University shall have a reasonable opportunity prior to the hearing to obtain witnesses, specific documents, or other specific evidence reasonably related to the charge(s).

F. Evidence

The tribunal is not bound by legal rules of evidence and may admit any evidence of probative value in determining the issues. The tribunal shall make every reasonable effort, however, to base its recommendation on the most reliable evidence. If the charge is "failure to demonstrate professional competence in teaching, research, or service," the evidence shall include the testimony of qualified faculty members from this and/or other comparable institutions of higher education.

G. Confrontation and Cross-Examination of Witnesses

The faculty member and The University shall have the right to confront and cross-examine all witnesses. If a witness cannot or will not appear, but the tribunal determines that his or her testimony is necessary to a fair adjudication of the charge(s), the tribunal may admit as evidence the sworn affidavit of the witness. In that event, the tribunal shall disclose the affidavit to both parties and allow both parties to submit written interrogatories to the witness.

H. Adjournments

The tribunal shall grant adjournments to allow either party to investigate evidence to which a valid claim of surprise is made.

I. Burden of Proof

The burden of proof that adequate cause exists rests with The University and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

J. Findings and Conclusions

The tribunal shall make written findings and conclusions and shall provide a copy to the faculty member at the time of submission to the Chancellor.

(1) If the tribunal concludes adequate cause for termination has not been established, it shall so report to the Chancellor.

(2) If the tribunal concludes adequate cause for termination has been established but that

a sanction other than termination should be imposed, it shall so recommend to the Chancellor, with supporting reasons.

- (3) If the tribunal concludes adequate cause for termination has been established and that termination is the appropriate sanction, it shall so report to the Chancellor.

K. Transcript of the Hearing

A verbatim record of the hearing shall be made, and a transcript shall be provided to the faculty member and the Chancellor at the time of the tribunal's submission of its findings and conclusions.

7. Chancellor's Recommendation on Termination

A. If the Chancellor concludes adequate cause has been established and that termination is the appropriate sanction, he or she shall transmit the hearing record and his or her recommendation to the Board of Trustees through the President. However, if the conclusion of the Chancellor differs from that of the tribunal, the Chancellor shall give the tribunal and the faculty member a written statement of reasons and shall allow the faculty member an opportunity to respond before transmitting the case to the President and Board of Trustees.

B. If the Chancellor concludes adequate cause has been established but that a sanction other than termination should be imposed, the Chancellor may impose the lesser sanction. The faculty member may appeal the lesser sanction to the President.

8. Review by the Board of Trustees

The Board of Trustees shall review a recommendation of termination for adequate cause on the record of the tribunal hearing. The Board shall provide an opportunity for oral and written argument by the parties. The faculty member and The University may be represented before the Board by legal counsel or other representative. If the Board concludes adequate cause has been established and that the faculty member's tenure and employment should be terminated, the Board shall set the effective date of termination.

Appendix C

Termination Procedures for Category B Adequate Cause: Misconduct

1. Preliminary Steps

A. Consultation with Tenured Faculty

The department head shall consult with the tenured faculty before making a recommendation that termination proceedings be initiated against a tenured faculty member for alleged misconduct within the Category B definition of adequate cause.

B. Department Head's Recommendation

If the department head concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the dean and the chief academic officer. The recommendation shall include a report of the head's consultation with the tenured faculty.

C. Dean's Recommendation

If the dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the chief academic officer.

D. Chief Academic Officer's Recommendation

(1) If the chief academic officer concludes termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.

(2) If a mutually satisfactory resolution is not achieved, the chief academic officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated.

2. Chancellor's Decision to Initiate Termination Proceedings

If, after consultation with the President, the Chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including (1) a statement of the grounds for termination, framed with reasonable particularity; (2) notice of the faculty member's right to contest the proposed termination in a hearing under the provisions of the Tennessee Uniform Administrative Procedures Act; and (3) notice that the faculty member has ten days after receipt of the written notice to elect in writing to contest the termination. The Chancellor shall send a copy of the written notice to the Faculty Senate at the same time.

3. Suspension or Reassignment Pending Completion of Termination Proceedings

A. Suspension With Pay

After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of The University's termination proceedings.

B. Suspension Without Pay

After consultation with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member without pay only for the following types of alleged misconduct and only in accordance with the procedures outlined in the section of this policy entitled "Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct":

- (1) alleged misconduct involving: (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources; or
- (2) indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

4. Failure to Contest

If the faculty member does not contest the charge(s) of misconduct in writing within ten days after receipt of the written notice, the faculty member shall be terminated, and no appeal of the matter will be heard within The University.

5. Waiver of Hearing Under the Tennessee Uniform Administrative Procedures Act

If the faculty member contests the charge(s) of misconduct but elects to waive his or her right to formal hearing under the contested case procedures of the TUAPA, the Chancellor shall appoint an ad hoc hearing committee to conduct an informal hearing on the charges. The faculty member may be represented before the hearing committee by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the committee chairperson within ten days of the hearing date. If the faculty member fails to give timely notice of legal representation the hearing date shall be postponed at The University's request.

The hearing committee shall make a written report of its findings and conclusions to the Chancellor. If the Chancellor decides adequate cause for termination of tenure and employment has been established, he or she shall submit a written recommendation of termination to the Board of Trustees through the President. If the Chancellor decides a lesser sanction should be imposed, he or she may impose the sanction. The faculty member may appeal the lesser sanction to the President.

6. Hearing under the Tennessee Uniform Administrative Procedures Act

A. Contested Case Procedures

If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA), the Chancellor shall appoint a hearing examiner, and the matter shall proceed in accordance with the contested case procedures promulgated by The University under the TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee and are available in University libraries and in the Office of the General Counsel.

B. Initial Order

In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the Chancellor within ten days. In addition, the Chancellor, on his or her own motion, may elect within ten days to review the hearing officer's initial order.

C. Final Order

The hearing examiner's initial order shall become the final order unless review is sought by either party or the Chancellor within the ten-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within The University.

D. Judicial Review

If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act.

7. Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct

In the following cases of alleged misconduct by a faculty member, the Chancellor, after consulting with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, may invoke an expedited procedure to accomplish termination or suspension without pay, with comprehensive due process procedures to be offered after termination or suspension without pay:

- A. alleged misconduct involving: (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources; or
- B. indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

Under the expedited procedure, the faculty member shall be offered the following process

before termination or suspension without pay:

- (1) notice of the charges;
- (2) an explanation of the evidence; and
- (3) an informal opportunity to refute the charges in a meeting with the campus chief academic officer.

After termination or suspension without pay, the faculty member shall be offered the full range of due process options available to faculty members in other adequate cause proceedings.

Appendix D

Expedited Procedures for Considering and Granting Tenure by UT Board of Trustees

1. Procedures for faculty appointment may be expedited, on an accelerated schedule that follows the campus¹ policies and procedures for faculty appointment.
2. The Chancellor may request that the President recommend an expedited Board of Trustees decision for tenure. Exceptional circumstances in which an expedited Board of Trustees action may be warranted include, but are not limited to, outstanding persons who hold a tenured faculty position at their current institution and who the Chancellor believes cannot satisfactorily be recruited to UT without expediting their tenure process.
3. Procedures for tenure recommendation and approval may be expedited, following all of the steps outlined in Appendix A but on an accelerated schedule for the Board's action: review by tenured professors in the base department followed by formal recommendations by the department head, dean, chief academic officer, Chancellor, and President
4. The President will recommend expedited tenure recommendations to the Executive and Compensation Committee, in lieu of the full UT Board of Trustees, in the circumstances described above.
5. On the recommendation of the Chancellor, the President may authorize the Chancellor to make to a candidate a commitment to expedite the tenure process and to seek approval at an early meeting of the Executive and Compensation Committee of the UT Board of Trustees.

Appendix E

Exception to Policy Requiring Full-Time Status for Eligibility for Tenure

1. UT upholds and retains its commitment to academic freedom and tenure as essential to the proper functioning of a university, as set forth in the “UT System Policies Governing Academic Freedom, Responsibility, and Tenure.” Furthermore, UT retains its processes and steps for tenure as set forth in those policies and in their Appendix A; this applies in all circumstances other than stipulated exceptions (Appendices D & E).
2. In limited circumstances, a tenure recommendation for a highly qualified non full-time faculty member may be made in part because of UT’s continuing association with a specified external entity (i.e., ORNL, St. Jude, etc.). Such a recommendation must document the extraordinary circumstances that require it, designate the external entity or primary employer, and specify UT’s financial commitment (if any) to the non full-time tenured faculty member.
3. Recommendations for tenure for all faculty members, including non full-time faculty members, must adhere to all of the steps described in Appendix A, beginning with the departmental faculty vote; these procedures may be expedited per Appendix D. There is no change to the current policy that “tenure at The University of Tennessee is granted in a particular academic unit (e.g., department, school) of a specific campus in a position appropriate to the faculty member’s qualifications.”
4. Should a non full-time tenured faculty member whose tenure was approved contingent upon his/her remaining employed by an external entity/primary employer cease that affiliation, UT may terminate his/her tenure.

Figure 1
THE UNIVERSITY OF TENNESSEE SYSTEM
TENURE PROCESS

DEPARTMENT

- Tenured faculty in Department review each candidate's credentials (teaching, research, service) and make recommendation to Department Head; may solicit opinions of out-of-state faculty peers.
- Head evaluates potential candidates for tenure in light of above, personal knowledge of individuals, and the Department's needs.
- Transmits his/her (positive and negative) recommendations to Dean.

DEAN

- Evaluates Department Head's recommendations in light of personal knowledge of individuals and needs of the College or School; considers departmental faculty opinion; may use college-wide faculty advisory committee; may solicit opinions of out-of-state faculty peers.
- Approves, disapproves, or asks for departmental reconsideration.
- Transmits his/her (positive and negative) recommendations to Chief Academic Officer.

CHIEF ACADEMIC OFFICER

- Evaluates college/school recommendations in light of general knowledge of individuals and needs of the campus.
- Investigates any controversial recommendations in-depth.
- Discusses all recommendations with Chancellor, who is responsible for final campus recommendations.
- Approves, disapproves or asks for Dean's reconsideration.
- Transmits his/her (positive and negative) recommendations to Chancellor/President.

CHANCELLOR

- Evaluates Chief Academic Officer's recommendations and discusses them with Chief Academic Officer.
- Approves, disapproves, or asks for Chief Academic Officer's reconsideration.
- Transmits his/her positive recommendations to Vice President for Academic Affairs.

VICE PRESIDENT FOR ACADEMIC AFFAIRS

- Evaluates campus recommendations to insure that University policies regarding qualifications, evaluations, and review have been followed; analyzes projected ratios of tenured to non-tenured faculty in light of campus needs and flexibility.
- Confers with Chief Academic Officers and/or Chancellors to resolve questions and insure that Chancellors fully support all recommendations for tenure, and that implications of projected tenure ratios have been recognized and incorporated into institutional planning; may request reconsideration.
- Discusses all recommendations with President, with specific reference to any that merit special consideration.
- Prepares approved recommendations for transmittal to the Board of Trustees.

PRESIDENT

- Discusses recommendations with Vice President for Academic Affairs, with specific reference to any that merit special consideration.
- Authorizes Vice President for Academic Affairs to transmit President's recommendations to the Board of Trustees.
- Discusses the set of recommendations and its policy implications with the Board of Trustees.

BOARD OF TRUSTEES

- Has final authority to grant tenure to faculty members recommended by President.