Policy Number: 112

Policy Title: Faculty Due Process Rights

Policy Council Review Date(s): 9/20/11; 1/17/12

PPAB Approval Date: 4/17/12

POLICY:

Faculty members are guaranteed due process rights when being disciplined for alleged misconduct.

PROCEDURE:

No statutes within this policy may be used to discipline a faculty member for reasonable exercise of academic freedom. Deadlines set in this policy may be extended until the beginning of the following academic term if required to protect students, protect the academic process, or to accommodate closing of the college.

Tier I: Immediate Supervisor

The individual alleging misconduct will forward the written complaint to the faculty member (“respondent”) and his/her direct supervisor within one week of the alleged misconduct. The supervisor will discuss the allegation with both the initiator and the faculty member within one week of receiving the allegation. The supervisor will determine whether the claim is valid. If the supervisor alleges misconduct, he/she will forward a letter to the faculty member before meeting to discuss the allegations.

Tier I sanctions which may be assigned by a supervisor are restricted to informal verbal, written, or e-mailed reprimands or apologies (not part of record) which have no appeal. Supervisors may also elect to address the issue with comments on the annual evaluation. Annual evaluations have a separate appeal process.

If the supervisor determines that discipline beyond Tier I may be necessary, he/she will forward the complaint to the respondent’s division dean (Tier II). The faculty member, however, may provide written permission to the supervisor to assign Tier II sanctions without proceeding to Tier II.

Tier II: Informal Inquiry Committee and Division Dean
The division dean will convene an informal Inquiry Committee composed of a committee chair and four to six tenured or tenure-track faculty members. No faculty member involved in the initial allegation or a prior investigation of the claim may be part of the Inquiry Committee. No more than one department chair may serve on the committee. No other administrators may serve. At least half of the committee members should be from a different division than the respondent.

The informal Inquiry Committee will investigate the claim of misconduct and either dismiss the claim or make a non-binding recommendation of action including possible sanctions from tiers I and/or II. The respondent will be given the opportunity to meet with the committee to discuss the allegations and any evidence presented. The respondent may bring an advisor to the meeting. The respondent, however, is not required to meet with the committee and may instead give a written response to the allegations. All meetings of the committee will be private and confidential.

The findings and non-binding recommendations of the committee will be delivered to the division dean.

The dean will decide which sanctions from Tier II to impose:

- Formal, written reprimand or apology, attached to annual evaluation or placed in employment file for defined period of time;
- Mandatory training;
- Mandatory service obligation;
- Disqualification of a year of time served towards tenure or promotion, attached to annual evaluation;
- Loss of permission to teach a specific class, to teach on-line, or to teach during the summer for a defined period of time. (While these are not rights granted to the faculty member, specifically denying these privileges due to misconduct is considered a disciplinary sanction.)

Tier II sanctions assigned by the dean may be appealed once to the VPAA, whose decision is final. The written appeal must be delivered to the VPAA within ten calendar days of receiving notification of the dean’s decision.

If the dean determines that discipline beyond Tier II is necessary, he/she will forward the complaint to the VPAA (Tier III). The faculty member, however, may provide written permission to the VPAA to assign Tier III sanctions without proceeding through the complete Tier III process.

**Tier III: Hearing Committee and the President**
If the VPAA supports the dean’s recommendation, he/she within twenty calendar days of receiving the complaint will ask the Faculty Senate Chair and the campus senate chairs to appoint a Hearing Committee, consisting of five tenured faculty members. Up to one department chair may serve on the committee. No other administrators may serve. The committee will elect its own chair and vice chair. The senate chairs will have no notification of the nature of the case or the identity of the respondent.

1. The chair of the Hearing Committee will provide the respondent with written notice of the date of the hearing, the specific charges, and the names and departmental affiliation of all committee members at least twenty calendar days prior to the hearing. This notice will also contain the names of the witnesses and the nature of their expected testimony. The proceedings should remain private and confidential until all proceedings, including any appeal to the Board of Regents, have been completed. The respondent may waive a hearing or may respond to the charges in writing at least five calendar days in advance of the hearing.

2. Committee members may be removed from the case for bias or interest at the request of either party. Committee members may also recuse themselves. In addition, the administration and the respondent each have a maximum of two challenges without stated cause. All challenges must be made in writing and filed with the chair of the Hearing Committee at least five calendar days in advance of the hearing. Members removed from the committee will be replaced with an alternate selected by the Faculty Senate Chair and campus senate chairs.

3. During the proceedings, the respondent and the administration may have an academic advisor and/or counsel of his/her choice. The Hearing Committee will be permitted to have advisory council. At the request of either party or the chair of the Hearing Committee, a representative of a faculty or education association is permitted to attend as an observer.

4. A tape recording or transcript of the proceedings will be available to the respondent and the administration in the event an appeal is filed. An oath or affirmation will be administered to all witnesses by any person authorized by law to administer oaths in the State of Georgia. The chair may grant adjournments to enable either party to investigate evidence which was not made available prior to the proceedings.

5. The respondent and the administration will have the right to cross-examine all witnesses. The Hearing Committee will not be bound by strict rules of legal evidence. All questions relating to admissibility of evidence or other procedural matters will be decided by the chair.

6. The findings of fact and the decision of the Hearing Committee will be based on the evidence presented at the hearing. The respondent, the division dean, the VPAA, and the president will be notified in writing of the Hearing Committee’s decision and any recommended sanctions.

7. After receiving the Hearing Committee’s report, the president will decide which sanctions, if any, apply:

   - Removal from an administrative position as a result of misconduct, not performance;
   - Removal from teaching responsibilities;
   - Termination during a contract period or under tenure.
The president will explain in a written statement to the Hearing Committee any deviations from the committee’s recommendations.

8. The president will send an official certified letter to the respondent notifying him/her of the final decision. The carrier will deliver the letter to the respondent and retrieve a dated return receipt verifying the respondent’s acceptance. The letter will state the charges and explain the respondent’s right to a written appeal to the Chancellor of the Board of Regents within twenty calendar days if the sanctions result in a loss of pay. (See BOR Policy Manual, “Employment Appeals.”)

9. If the president has decided to terminate or suspend the respondent without pay, the respondent is suspended without pay from the date of the president’s decision. Should the respondent be reinstated by the Board of Regents, he/she will be compensated from the date of the suspension.

Approved by the PPAB 10/4/11
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