

Following appropriate notice to members of the press, the Board of Trustees of the University of Central Arkansas met via telephone conference at 2:00 p.m., Tuesday, December 15, 1998. The following trustees participated in the call:

Chair: Mrs. Elaine Goode  
 Secretary: Mr. Dalda Womack  
 Dr. Harold Chakales  
 Mr. Randy Sims

and with the following absent, to-wit: Vice Chair: Mr. Rickey Hicks  
 Mr. Madison P. Aydelott III  
 Mr. Rush Harding

(Mr. Harding's office was contacted but he was unavailable during the call.)

constituting a quorum of said Board, at which meeting the following business was transacted, to-wit:

### **ACTION AGENDA**

**Revisions to the Faculty Handbook** - Representatives of the administration and the Faculty Senate have been working for several months on revisions to the *Faculty Handbook* relative to Dismissal and Non-Reappointment of Tenured Faculty for Other than Financial Exigency or Phasing Out of Program, as well as modifications to the Faculty Grievance Council.

The current *Faculty Handbook* lacks a provision for the composition of the Faculty Hearing Committee and of an appeal to the Board of Trustees in the event of termination of a tenured faculty member. As the representatives addressed these two initial issues, other issues were considered and provisions have been added, deleted and modified to address the concerns of both the faculty and the administration. The revisions presented in this agenda item have been approved by the appropriate faculty senate(s) and the administration.

A review of the Board of Trustees Policy Manual reflects a policy addressing Faculty Grievances and Appeals designated as #350. Since the revised policy addressing grievances and appeals will be a part of the *Faculty Handbook* it seems appropriate to delete policy #350 and to incorporate all changes in the *Faculty Handbook*.

The following resolution was adopted unanimously upon motion by Mr. Sims with a second by Dr. Chakales:

**“BE IT RESOLVED: THAT THE BOARD OF TRUSTEES APPROVES THE FOLLOWING REVISIONS TO THE FACULTY HANDBOOK.**

**BE IT FURTHER RESOLVED: THAT THE BOARD OF TRUSTEES APPROVES THE DELETION OF BOARD POLICY #350 SINCE ITS MODIFIED REVISIONS WILL APPEAR IN THE FACULTY HANDBOOK.”**

**B. Dismissal and Non-Reappointment of Tenured Faculty for Other than Financial Exigency or Phasing Out of Program**

**1. Causes for Dismissal or Non-Reappointment:**

Adequate cause for dismissal or non-reappointment of a faculty member with tenure may be established through demonstration by the university of failure to meet professional responsibilities ~~or personal misconduct~~ **due to Professional Incompetence as defined in (1)(a) or Misconduct as defined in (1)(b).**

**a. ~~Failure to Meet Professional Responsibilities~~ Professional Incompetence:**

~~Repeated failure to comply with official directives or established university policies; substantial and manifest neglect of faculty duties or substantial and manifest evidence of unsatisfactory performance of faculty duties; or demonstrated incompetence or dishonesty in teaching or research~~ **Substantial and manifest evidence of unsatisfactory performance of faculty duties; substantial and manifest neglect of faculty duties; or demonstrated incompetence in teaching or research.**

**b. Misconduct:**

Personal misconduct that substantially impairs fulfillment of faculty obligations; **repeated failure to comply with official directives or established university policies; dishonesty in teaching or research.**

**2. Determination of Adequate Cause for Dismissal:**

**a. Professional Incompetence:**

**In a case of professional incompetence of a tenured faculty member, and where the faculty member has not met the provisions of plans to rectify the deficiencies**

identified during review processes, the department chair will notify the faculty member, in writing (no later than October during the fall semester or March 1 during the spring semester), that a recommendation for dismissal is forthcoming. The faculty member may contest the recommendation of dismissal by petitioning, in writing and within five (5) working days, the departmental tenure committee to review the record and the chair's determination. Failure to provide a written request within five (5) working days will result in forfeiture of review by the departmental tenure committee and the department chair will notify the dean, in writing, of the recommendation for dismissal.

In cases where the departmental tenure committee is convened to consider the determination by the department chair to recommend dismissal, the committee will review all relevant material and provide the chair and faculty member with a written evaluation and recommendation concerning the future status of the faculty member. Upon receipt of the evaluation and recommendation, the chair may reverse his/her determination. Otherwise, the chair will forward the committee's report and his/her recommendation to the dean.

The dean will provide a written recommendation to the provost, with copies to the faculty member and chair. Upon review, the provost will render a decision regarding the employment status of the faculty member.

Each reviewing body will have ten (10) working days to consider and submit a recommendation to the next level of review. Modifications to the time period will only be approved due to unforeseen circumstances as determined by the provost. The process, beginning with the chair's notification to the faculty member that a recommendation for dismissal is forthcoming through the decision of the provost, must be completed no later

than the end of the semester in which the chair informed the faculty member of possible dismissal.

b. **Misconduct:**

In a case of misconduct, the chair will provide the dean with a written report and a recommendation for dismissal. If the dean concurs with the recommendation, he/she will provide a written recommendation to the provost with copies to the faculty member and chair. The provost will meet with the faculty member to discuss his/her employment status. At the conclusion of the meeting, the provost may inform the faculty member of the decision or render a decision thereafter.

~~2:~~ **3. Notice:**

Notice of non-reappointment or dismissal of a tenured faculty member shall be given in writing **by the provost**. The notice shall include the principal reasons for the non-reappointment or dismissal of the faculty member.

~~3:~~ **4. Personal Conference:**

The tenured faculty member may initiate a meeting with the ~~appropriate administrators~~ **provost** within ~~10~~ **five (5)** working days of ~~such~~ notification of dismissal. If an understanding satisfactory to the faculty member is not reached on the matter, he/she will be advised of his/her rights to a formal appeal before the faculty hearing committee.

~~4:~~ **5. Right to Appeal:**

The faculty member involved may obtain a hearing before the faculty hearing committee and challenge a termination based upon "cause" on the following bases:

- a. Determination of cause as defined in section XIV.B.1 that are not supported by a preponderance of the evidence.
- b. Decisions which are arbitrary and capricious. A decision is "arbitrary and capricious" when there is no rational basis for its support.
- c. Decisions that are based on reasons that are constitutionally or statutorily prohibited, such as the faculty member's age, gender, race, national origin, religion, or condition of disability.
- d. Decisions that are the result of the exercise by the faculty member of a constitutionally protected right, such as the right to free speech or peaceable assembly;
- e. Decisions that were made after failure to comply with the proper procedures as set forth in this section. The faculty member must show that such error was a contributing factor to the decision.

#### 5: 6. Responsibilities and Obligations of the University to Tenured Faculty Terminated for Cause

If the faculty appointment is to be terminated, the faculty member (except in cases of misconduct) will receive a regular salary ~~for no more than thirty calendar days. The faculty member will be continued in regular duties during the thirty calendar day period unless the faculty member's welfare or that of the institution or its students would be jeopardized by continuance~~ through the month in which the termination becomes effective.

7. If at any level of the appeal process the faculty member is successful, he/she will be reinstated retroactive to the effective date of termination.

**C. Faculty Hearing Committee: Membership and Procedures**

~~See Section XV below:~~

1. The committee shall consist of seven (7) tenured faculty members. The members of the committee shall be randomly selected by the Faculty Senate, under the supervision of the provost, from a pool of tenured faculty, excluding members of the same department as the faculty member making the appeal. One (1) member shall be chosen from each college, with no more than two (2) members from a particular college. The committee shall elect its own chair who retains a vote.

2. In the case of an appeal alleging race, age, gender, national origin, or disability discrimination, the affirmative action/equal employment officer will sit on the committee as a non-voting *ex officio* member.

**XV. Procedures for Faculty Grievances and Appeals**

1. A faculty member having a grievance or appeal (grievant) to be submitted to the faculty grievance council, the academic freedom committee, the faculty hearing committee, or the tenure or promotion appeals committees should first ensure that an attempt has been made to resolve the dispute through the administrative process. The grievant should first schedule a conference with his or her immediate supervisor. Should the dispute remain unresolved, the grievant should pursue a satisfactory resolution with each of his or her on-line supervisors through the office of the provost. The grievant may initiate a formal grievance action or appeal only after these administrative remedies have been exhausted. (See pp. 63-66 for procedures governing sexual harassment complaints).

2. The grievant will submit to the university president a written statement that will include the factual basis for the complaint, **the individual(s) against whom the grievance is lodged**, a reference to the provision of the *Faculty Handbook* that gives the committee jurisdiction, a reference to the university policies and procedures involved, and a statement of the relief sought.
3. The president will present to the committee a copy of the complaint and give to the committee a charge of its responsibility. The complaint and all of the deliberations of the committee should be kept confidential.
4. Should the committee determine that the statement does not provide sufficient information or that, based upon the statement, the committee has no jurisdiction to hear the complaint, the complaint will be dismissed.
5. **Persons selected to serve on the committee who deem themselves disqualified for bias or interest may request recusal from the matter. A decision as to whether a request for recusal, for cause, is approved shall be determined by a majority vote of the committee at its initial meeting. Additionally, the grievant and person(s) charged with infringing the rights of the grievant, each may challenge, without stated cause, a maximum of two (2) persons each to serve on the committee.**
- 5: 6. The committee will determine the number of members necessary to constitute a quorum for the transaction of business, provided that a quorum shall not be less than a majority of the members on the committee. Decisions must be reached by a majority vote of the members present. The number of yes, no, and abstention votes will be recorded, without designating the person who cast each vote.
- 6: 7. After the committee considers the written complaint, the grievant and the person(s) charged with infringing the rights of the grievant will be invited to make **written and oral**



presentations ~~before~~ to the committee. The committee may solicit any ~~further~~ and all necessary and relevant evidence it deems appropriate, written and oral, and shall accept documentation from both the grievant and person(s) charged with infringing the rights of the grievant, if offered. ~~Any and all oral testimony and any such documentary evidence is necessary and relevant to make a proper determination may be accepted.~~ All responsibility for questioning witnesses, securing evidence, and determining the order of proof will be vested in the committee.

~~7:~~ 8. Strict judicial rules of evidence will not be applied. ~~The committee members may receive all evidence felt to be relevant and material to the issue.~~

~~8:~~ 9. The grievant and person(s) charged by the grievant may be accompanied by an advisor or attorney, but this person will only function in an advisory capacity. The advisor or attorney will not address the committee. The university counsel may also be present, but shall only act in an advisory capacity to the committee.

~~9:~~ 10. The grievant and person(s) charged by the grievant will have the right to be present at any time testimony is presented and to secure copies of all evidence considered by the committee. The grievant and person(s) charged by the grievant will not have the right to cross-examine witnesses.

~~10:~~ 11. A written record of the minutes of the proceedings and the recommendations of the committee will be presented to the president within forty-five (45) working days from the initial filing of the grievance with the president unless a longer period of time is needed due to unforeseen circumstances. An extension of the forty-five (45) day period must be approved by the president. For purposes of this paragraph, "working days" will mean any day during the fall or spring term in which the university is open for instruction.

~~11.~~ 12. A copy of the minutes and the recommendation of the committee will be presented to the grievant and the person(s) charged by the grievant.

~~12.~~ 13. In all matters other than termination of a tenured faculty member, the president will make the final decision after considering the recommendation of the committee.

In matters of termination of a tenured faculty member, the president will make a decision regarding the committee's recommendation. In the event the president's decision is adverse to the faculty member, an appeal may be made to the Board of Trustees within five (5) working days after receipt of the president's decision, by filing a written request with the president for transmission to the Chair of the Board of Trustees. The right to appeal is forfeited if the faculty member does not file a written request within five (5) working days. Attendance at the hearing before the Board of Trustees will be in accordance with the Arkansas Freedom of Information Act. The review will include relevant documentation, the findings and recommendation of the committee, the president's decision, and any additional relevant information the Board of Trustees chooses to consider. A decision will be rendered by the Board of Trustees.

G. Faculty Grievance Council:

1. Charge:  
The council will hear and review all grievances from faculty that do not arise within the context of academic freedom, promotion, tenure, termination, or non-reappointment.
2. Procedure:  
The operating procedures of the council will be consistent with the procedures written in Section XV of ~~"Faculty Policies, Procedures, and Guidelines,"~~ "Procedures for Faculty Grievances and Appeals," pages 35-37 as reflected in the *Faculty Handbook*.

## 3. Membership:

~~Four faculty members appointed by the faculty senate for alternating four-year terms, a committee a committee chair appointed by the university president, and one person appointed by the grievant~~ The committee will consist of six (6) members, three (3) peers of the grievant and three (3) peers of the person against whom the grievance is filed. Selection of the committee shall be supervised by the General Counsel.

- a. Tenured and/or tenure track faculty shall be selected randomly by the Faculty Senate Executive Committee from the respective pools of all tenured and tenure track faculty who are not department chairs, assistant deans, deans, or those holding comparable administrative positions.
- b. Non-tenure track faculty shall be selected randomly by the Non-Tenure Track Senate Executive Committee from the pool of all full-time, non-tenure track faculty who are not department chairs, assistant deans, deans, or those holding comparable administrative positions.
- c. Administrators shall be selected randomly by the Council of Deans from the pool consisting of all department chairs, assistant deans, and deans. In the event a sufficient number of administrators are ineligible to serve, the pool will be expanded to include vice presidents and other non-academic administrators. No administrator who is subordinate (in reporting line) to the grievant or the person against whom the grievance is filed will be eligible to serve on the committee.
- d. Persons from the department of either the grievant or the person against whom the grievance is filed will be ineligible to serve on the committee.
- e. The committee shall elect its own chair who retains a vote.

~~For grievances involving~~ In the case of an appeal alleging race, age, sex, gender, national origin, or disability discrimination, the affirmative action officer/equal employment officer will sit on the council as a non-voting *ex officio* member.

4. Meetings: on call.
5. Reports to: president.

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UNIVERSITY OF CENTRAL ARKANSAS  
BOARD POLICY

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Policy Number: ~~350~~

Subject: ~~Faculty Grievances and Appeals~~ Page 1 of 2

Date Adopted: ~~6/85~~ Revised: ~~8/89~~

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- ~~1. Faculty members having a grievance or appeal to be submitted to the Faculty Grievance Council, the Academic Freedom Committee, or the Tenure or Promotion Appeals Committees should first ensure that an attempt has been made to resolve the dispute through the administrative process. The faculty member should first schedule a conference with the immediate supervisor. The supervisor shall respond in writing within fifteen working days. Should the dispute remain unresolved, the faculty member should pursue a satisfactory resolution with each on-line supervisor through the Office of the Provost. Each supervisor shall respond in writing within fifteen working days. The faculty member may initiate a formal grievance action or appeal only after these administrative remedies have been exhausted.~~
- ~~2. The faculty member shall meet with and submit to the President of the University a written statement which shall include the factual basis for the complaint, a reference to the provision of the Faculty Handbook which gives the committee jurisdiction, a reference to the University policies and procedures involved, and a statement of the relief which is sought.~~
- ~~3. The President shall present to the committee a copy of the complaint and give to the committee a charge of its responsibility. The complaint and all of the deliberations of the committee should be kept confidential.~~
- ~~4. Should the committee determine that the statement does not provide sufficient information or that, based upon the statement, the committee has no jurisdiction to hear the complaint, the complaint shall be dismissed.~~
- ~~5. The committee shall determine the number of members necessary to continue a quorum for the transaction of business. Decisions must be reached by a majority vote of the members~~

~~present. The number of yes, no, and abstention votes shall be recorded, without designating the person who cast each vote.~~

- ~~6. After the committee considers the written complaint the faculty member shall be invited to make a presentation before the committee. The committee may solicit any further evidence it deems appropriate. Any and all oral testimony and any such documentary evidence as is necessary and relevant to make a proper determination may be accepted. All responsibility for questioning witnesses, securing evidence, and determining the order of proof shall be vested in the committee.~~
- ~~7. Strict judicial rules of evidence shall not be applied. The committee members may receive all evidence felt to be relevant and material to the issue.~~
- ~~8. The faculty member may be accompanied by an adviser or attorney, but this person shall only function in an advisory capacity. Only the faculty member shall address the committee. The University Counsel may also be present, but shall only act in an advisory capacity to the committee.~~
- ~~9. The faculty member shall have the right to be present at any time testimony is presented and to secure copies of all evidence considered by the committee. The faculty member shall not have the right to cross examine witnesses.~~
- ~~10. A written record of the minutes of the proceedings and the recommendation of the committee shall be presented to the President within 45 days from the initial filing of the grievance with the President. For the purpose of this paragraph "days" shall mean any day during the fall or spring term in which the University is open for instruction.~~
- ~~11. A copy of the minutes and the recommendation of the committee shall be presented to the faculty member.~~
- ~~12. The President shall make the final decision after considering the recommendation of the committee.~~

**INFORMATION ITEMS**

**December Commencement** - December commencement ceremonies are scheduled for Saturday, December 19, 1998, at 10:30 a.m. and 3:00 p.m. in the Farris Center. Robing will begin thirty minutes before each ceremony in the Purple Circle Room. Parking spaces will be reserved in front of the Farris Center for Board members.

**Next Regularly Scheduled Board Meeting** - A Board meeting has been scheduled for Friday, January 22, 1999 at 3:00 p.m. in the Fireplace Room in McCastlain Hall.

There being no further business to come before the Board, the meeting was adjourned upon motion by Dr. Chakales with a second by Mr. Sims.

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Mrs. Elaine Goode, Chair

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Mr. Dalda Womack, Secretary