

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

## **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.

### **1. 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.

### **2. Notice of hearing**

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

### **3. 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.

#### 4. 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.

#### 5. 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).

#### 6. 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.

#### 7. 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.

#### 8. Adjournments

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

#### 9. 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.

#### 10. 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.

#### 11. 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.