

Draft

"Unfitness Policy"  
Ad hoc Committee

Chair: Jeff Cox

## New Section. Section 10(1)C Termination of Tenured Faculty

1. General Rule. Because of the centrality of tenure to the university's mission, the appointment of a tenured member of the faculty may be terminated only for good cause, and in accordance with the principles of academic freedom stated in the Statement on Tenure and Academic Vitality at The University of Iowa. (Regents 2/14/74; Operations Manual III: 10:1 (a) 2.), which commits the university to the principle that "free inquiry and expression are essential to the maintenance of excellence; tenure is essential to free inquiry and expression." The procedures governing any termination must conform in all respects to the principles of due process outlined in the Operations Manual.

2. The appointment of a tenured faculty member may be terminated for:

A. Violations of University policies, including but without limitation (for convenience Operations Manual (O.M.) citations are to the year 2000 edition):

- (1). Sexual Harassment and Consensual Relationships (II-4 & II-5.9b (9)(c)). O.M., p. 45.
- (2). Violence (II-10.10a). O.M., p. 51.
- (3). Anti-Retaliation (II-11.4f). O.M., p. 53.
- (4). Drug Free Environment (II-12.3b (1)). O.M., p. 56.
- (5). Ethics in Research (II-27.6b (22) a). O.M., p. 95.
- (6). Professional Ethics and Academic Responsibility (III-29.7 i (2) (e)). O.M., p. 221.
- (7). Regents Rules (II-29. 14b (6)). O.M., p. 119

B.. Demonstrated academic unfitness pursuant to Section 29.8

C. Financial exigencies that are demonstrable and bona fide. They include:

1. A financial crisis which exists or is imminent and which, if not corrected, threatens the survival of the University as a whole, but only if the crisis cannot be corrected by less drastic means than termination of tenured faculty.

2. Programmatic change or discontinuance for academic reasons when approved by the President of the University and the Board of Regents which cannot reasonably be accomplished without terminating the tenure of faculty in the particular program. No faculty member may be terminated because of programmatic change or discontinuance unless, following the good faith efforts of the University and the faculty member, the faculty member cannot be transferred to another college or department where the professional services of the faculty member can be effectively used

Operations Manual: III. Human Resources. Section 29.8, Unfitness

Section 29.8

A. Introduction.

1. Scope. This section establishes procedures to be followed by the University in initiating and conducting proceedings against a faculty member who faces a charge of academic unfitness during the term of the faculty member's appointment.
2. Alternative Conclusions. While the procedures set forth in this section are intended for cases in which dismissal for unfitness is contemplated, they may at any time terminate short of dismissal; for example, the procedures may result in a change of the faculty member's assigned duties, a reallocation of effort, appointment to another principal unit, or other adjustments in the terms and conditions of the faculty member's employment.
3. Academic Freedom. All proceedings under this section shall respect the principles of academic freedom stated in the Statement on Tenure and Academic Vitality at The University of Iowa. (Regents 2/14/74; Operations Manual III: 10:1 (a) 2.), which commits the university to the principle that "free inquiry and expression are essential to the maintenance of excellence; tenure is essential to free inquiry and expression."
4. Responsibility for preliminary determination of academic unfitness lies with the Collegiate Dean, according to the procedures set out in this section.
5. Responsibility for formal notice of a charge of academic unfitness lies with the Academic Officer, according to the procedures set out in this section.

X : (NEW). Conditions. A [tenured] faculty member may be subject to a preliminary determination of unfitness only under the following conditions:

1. When a faculty member's performance is judged to have been substantially below the relevant unit's or units' standards and criteria for acceptable faculty performance for a significant period of time.
2. When reasonable efforts have been made by university, collegiate and departmental officers to resolve concerns about unacceptable faculty performance in accordance with the university's policies governing post-tenure performance, including but not limited to yearly evaluations for merit pay, post-tenure effort allocation policy, and periodic post-tenure review.
3. When reasonable efforts have been made by university, collegiate and departmental officers to resolve concerns about unacceptable faculty performance through remedies short of termination, including but not limited to an adjustment in percentage appointments, reallocation of effort, or assignment to a different academic unit.

## B. Preliminary Determination.

1. The Collegiate Dean shall make a preliminary determination of academic unfitness only after formal consultation with faculty colleagues in the department or academic unit of the faculty member's principal and secondary appointments, according to the following procedures.

(a.) The Dean shall request an independent report from the entire departmental consulting group (as defined in policies governing tenure and promotion) or an ad hoc committee elected by the relevant consulting group and charged with the function of rendering confidential advice in such situations. The report of the departmental consulting group or its elected committee shall make a judgment concerning the acceptability or unacceptability of the faculty member's academic performance and, if applicable, recommend sanctions or remedies.

(b.) In Colleges with DEOs, the Dean shall also request an independent report from the faculty member's DEO.

(c.) If the faculty member has a joint appointment, the Dean shall request similar findings and recommendations from each academic unit and DEO.

(d.) Before the reports prepared by the departmental consulting group(s) and DEO(s) are transmitted to the Dean, the DEO of the faculty member's principal academic unit will provide the faculty member with a complete redacted copy of all reports. The faculty member shall be given an opportunity to respond in writing to the reports.

2. The Collegiate Dean's preliminary determination of academic unfitness shall be based on a thorough evaluation of the written record concerning the faculty member's overall performance.

(a.) The Collegiate Dean shall assemble a written record which shall include, but not be limited to, post-tenure reviews and other methods of peer evaluation, the findings and recommendations of the departmental consulting group(s) and the DEO(s), and any responses to those reports by the faculty member.

(b.) The faculty member shall have the right to comment on a redacted copy of the entire written record prepared by the Dean, and a reasonable amount of time to respond in writing.

(c.) Before the Dean notifies the Academic Officer of a preliminary determination of unfitness, the responsible departmental executive officer or the collegiate Dean shall fully inform the faculty member of the grounds for the preliminary determination of unfitness and contemplated remedies, and shall explore with the faculty member possible settlements, which might preclude the necessity for formal University-level action charging the faculty member with academic unfitness.

3. The Collegiate Dean shall notify the Academic Officer of a preliminary determination of unfitness by setting forth in writing the specific findings of unfitness. The Dean's notification shall include the entire written record (including all responses from the faculty member), a review of the efforts that have been made to resolve the matter within the established procedures of the college in question, addressing each of the conditions set out in section X (1-3), and shall include a recommendation to the Academic Officer of an appropriate sanction or remedy.

C. Formal Notice by Academic Officer. On receipt of the Dean's notification of a preliminary determination of unfitness, the Academic Officer shall:

1. send to the Presiding Officer a copy of the Collegiate Dean's notification, a statement of the Academic Officer's recommended sanctions or remedies, including any alternatives to those recommended by the Dean, and a request that the Presiding Officer appoint a mediator from the Faculty Judicial Commission;
2. file a formal charge of academic unfitness against the faculty member and send it and a copy of the Collegiate Dean's notification to the faculty member, together with a notice that the matter will proceed to mediation, pursuant to the procedures set forth in III-29.8d.

The committee proposes retaining all subsequent sections of the current Operations Manual, with the exception of the following proposed changes in italics:

D5(b): If the mediator reports that no settlement was achieved, the Academic Officer may, at his or her discretion, dismiss the case or notify the Presiding Officer that a faculty panel will have to be appointed to investigate and decide the case. This notification shall include a summary of actions in the case that occurred since the date of the Formal Notice, *and a statement of the Academic Officer's proposed sanction or remedy.*

G. Burden of Proof and Standards of Judgment. In all cases brought under this section seeking dismissal or termination, the Academic Officer, on behalf of the University, shall bear the burden of proving, by clear and convincing evidence in the record as a whole, the findings of unfitness set forth in the Dean's notification, *and shall bear the burden of proving, by clear and convincing evidence in the record as a whole, that the determination of academic unfitness involves no violation of the academic freedom of the faculty member.*

I (1). "Paragraph h" should read "*paragraph g*".

and

J. NEW. *Appeal to the Board of Regents in a case of termination for academic unfitness. Any tenured faculty member terminated for academic unfitness shall have the right of appeal to the Board of Regents.*