

PROCEDURES
FACULTY RIGHTS AND RESPONSIBILITIES COMMITTEE
THE UNIVERSITY OF WISCONSIN-MILWAUKEE

Revised April 2005

1. General Provisions:

- 1.1. Confidential information, subject to the provisions of Wisconsin's Public Records Law, will be shared only with members of the University community whose office, committee membership, or relationship to the complaint at hand generates a legitimate need to know.
- 1.2. Questions of procedure on which these Committee Procedures are silent shall be decided by UWM *Policies and Procedures*. Questions on which the foregoing are both silent shall be decided by the most recent edition of Roberts' Rules of Order.
- 1.3. UWM *Policies and Procedures* shall prevail over these Committee Procedures, and Wisconsin law over both, on any matter on which they come in conflict.
- 1.4. These Committee Procedures are subject to amendment by majority vote of the Committee at any time, provided that the matter has been placed on the agenda of the meeting and advance notice has been given at least five (5) working days prior to the meeting. The Procedures governing the conduct of any particular investigation, however, shall be the Procedures in effect at the time the Committee receives the complaint.

2. Definitions:

- 2.1. "The Committee" is the Faculty Rights and Responsibilities Committee.
- 2.2. An "investigating committee" is either the Committee or a subcommittee thereof appointed for the purpose of investigating a particular complaint.
- 2.3. The phrase "the maker of the complaint" shall be understood to include the plural when two or more persons or University bodies file a complaint.
- 2.4. "The subjects of the complaint" are the faculty member or members, or the faculty body or bodies, against whom the complaint is directed.
- 2.5. "The parties to the complaint" are the maker of the complaint and the subjects of the complaint.
- 2.6. "P&P" refers to the most recent edition of UWM *Policies and Procedures*.

3. Routine Business:

- 3.1. Meeting notices, agenda, and minutes shall be sent to the Secretary of the University, the Vice Chancellor, the University Committee Chairperson, and the UWM News Services (in addition to the Committee members).
- 3.2. A record shall be kept of all actions taken in closed session. The record shall be kept confidential, but all members of the Committee shall have access to it. The record of actions taken in closed session in any one meeting shall be subject to correction and addition by the members of the Committee, in closed session, at the next meeting.
- 3.3. In the spring semester, the Committee shall elect a chairperson for the following year from among its continuing members. This decision shall be communicated to the Secretary of the University by April 15. The duties of the new chairperson will commence on the first day of the fall semester, except that the new chairperson may serve over the summer by agreement of the committee in the event that the incumbent chairperson is unable to serve.
- 3.4. At the first meeting of each academic year the Committee chairperson shall either designate one member of the Committee to serve as recording secretary for the year, or announce a policy of rotating the tasks of a recording secretary among the membership. The Chairperson shall ensure that someone is acting as recording secretary at the start of each meeting.
- 3.5. During the second semester of each academic year a self-survey of the Committee as defined by P&P 6.12 shall be placed on the agenda of a Committee meeting. The self-survey shall include a review of the operating procedures in effect at that time.
- 3.6. At the conclusion of the academic year, the Chairperson shall prepare and submit to the Secretary of the University a final report of the Committee's activities for that year, in accordance with UWM P&P 6.11(2).

4. Provisions for Continuity:

- 4.1. In the transition from the Committee of one academic year to the next, the new Chairperson elected during spring semester shall have the task of (a) receiving and preserving the records of the Committee for the incoming membership, (b) performing the duties of the Chairperson if the current Chairperson is not in residence at the University during the transition period, (c) calling the first meeting of the academic year for the new Committee.
- 4.2. If at any one time it appears that for three weeks or more, fewer than a quorum of the Committee will be in residence at the University and be able to attend to the business of the Committee, then the Chairperson, with the consent of the Committee, shall appoint a subcommittee to carry out the work of the committee, in accordance with P&P 6.26(2)(e).

5. The Initial Handling of a Complaint:

- 5.1. All complaints shall be received through the University Committee, care of the Secretary of the University's office.
- 5.2. If the Chairperson receives a complaint directly from any party other than the University Committee, it shall be referred immediately to the University Committee for action, as per P&P 5.44(4)1, and the maker of the complaint shall be notified that the complaint has been so referred.
- 5.3. All cases received by the Committee through the University Committee shall be considered de novo in accordance with P&P 5.42.
- 5.4. When the Chairperson receives a complaint from the University Committee, all parties shall be immediately informed that the Committee has received the complaint, that it shall consider the complaint de novo, and that the Committee's first determination will be whether the complaint is in good form. A copy of the Committee's procedures will be included with this notification.
- 5.5. The Committee shall consider a complaint in good form if it:
 - 5.5.1. Adequately defines the maker of the complaint and the subject(s) against whom the complaint is directed.
 - 5.5.2. Identifies the alleged misconduct in accordance with UWM P&P 5.41(a) or (b) and describes the alleged misconduct with sufficient specificity to allow the possibility of rebuttal.
 - 5.5.3. Supports the allegations with sufficient documentation to determine if *prima facie* evidence exists for further investigation by the Committee.
 - 5.5.4. Provides both the names of persons capable of providing supporting testimony of supplementary information, and addresses or telephone numbers by which those persons can be reached.
 - 5.5.5. Specifies the remedy sought by the maker of the complaint.
- 5.6. If the Committee determines that the complaint is not in good form, it may dismiss the complaint without investigation, or it may return the complaint to the maker of the complaint for clarification and/or revision specifying a date for resubmission. The subject of the complaint shall be notified of the Committee's decision.
- 5.7. If the complaint is resubmitted within the specified time frame and is considered to be in good form, the Committee shall follow section 5.10, and if necessary, section 5.11.
- 5.8. The Committee may dismiss a complaint without investigation not only if it determines that the complaint is not in good form, but also if it determines that the allegations are trivial or frivolous, or that the alleged actions would not constitute misconduct even if fully corroborated. The Committee also may refer a

complaint back to the Vice Chancellor if it determines that the nature of the complaint places it within the jurisdiction of another University body, or if another University body is investigating essentially the same matter.

- 5.9. If the Committee dismisses a complaint without investigation, the Chairperson shall inform all parties to the complaint and the Vice Chancellor of the reasons for the Committee's action within five (5) working days after the Committee's decision.
- 5.10. If the Committee determines that the complaint is in good form and accepts the complaint for investigation, it shall notify all parties of such, and shall invite the subject(s) of the complaint to respond in writing.
- 5.11. If the subject(s) of the complaint do not respond in writing within ten (10) working days of their notification that the Committee has accepted the complaint, the Chairperson shall attempt to ascertain the reasons why. If the reasons lie in a subject(s)' willful neglect of the complaint, the Committee may presume the accuracy of the allegations of fact relating to the subject(s), except insofar as information from other sources may tend to rebut the allegations.
- 5.12. The Chairperson, with the consent of the full Committee, may appoint a subcommittee to investigate a complaint and report back to the Committee, in accordance with P&P 6.26(2)(e). All findings, conclusions, and/or recommendations related to an investigation must be submitted to the full Committee for action. Either the full Committee or the subcommittee shall be referred to hereafter as the investigating committee.

6. The Conduct of an Investigation:

- 6.1. Insofar as possible, the investigating committee shall conduct its business by consensus; but if strong differences of opinion become apparent, or if any one member requests it, Roberts' Rules of Order shall be followed. The final action on a complaint shall always be by vote of the full Committee, and the number of ayes, nays, abstentions, and absences shall be recorded.
- 6.2. Any member of the investigating committee shall recuse him/herself from consideration of a given complaint if his/her relationship to some party to the complaint is such to create either the fact or the appearance of bias, favoritism, or conflict of interest. A member so recusing him/herself shall leave the meeting room while the complaint is the immediate business before the investigating committee; with the proviso that other members may question him/her with regard to any relevant matters of fact prior to his/her departure. The investigating committee shall order that member to recuse him/herself if it deems that the fact or appearance of bias, favoritism, or conflict of interest would otherwise exist. If a member of the investigating committee recuses him/herself, the chair shall either replace that member with a member from the full Committee or shall submit a request with the Secretary of the University for the appointment of a replacement for the duration of the investigation.
- 6.3. In its handling of a complaint, the investigating committee shall endeavor to promote a spirit of collegiality among all parties to the complaint, and to avoid

(insofar as is possible) both the adversarial spirit and the formalities of a courtroom.

6.4. The investigating committee may follow informal, formal, or both informal and formal procedures (as outlined in the subsequent paragraphs) during the course of its investigation of a complaint. In accordance with UWM P&P 5.45(3), the subject(s) of the complaint have a right to a fair hearing and may invoke this right in writing to the Chairperson at any time during the course of the Committee's investigation. However, the investigating committee may determine, based on the evidence before it, to utilize informal fact finding procedures (as outlined in the subsequent paragraphs) prior to initiating the formal fair hearing. All parties to the complaint shall be notified of any request for a hearing, of the investigating committee's determination regarding the procedures to be used, and of the sequence in which these procedures will be used.

6.5. Informal Procedures

6.5.1. In its investigation of a complaint, the investigating committee shall gather as much information as possible. At its own discretion, and based on the complaint before it, the investigating committee may gather information deemed relevant to the case using any or all of the following procedures: it may request written statements; it may request other forms of documentation; and/or it may take oral testimony. All information so gathered shall be shared with all parties to the complaint in a timely manner.

6.5.1(a) If a member of the investigating committee receives information relevant to a complaint through a conversation or interview with a particular person, the member shall make a written note or summary of what was said and furnish it to the investigating committee. The investigating committee shall send the interviewee a copy of that document and invite him/her to comment on its accuracy. The investigating committee may presume that the document is an accurate summary of the conversation or interview if no comment is received after ten (10) working days.

6.5.1(b) If information from a person is relevant to a complaint, and that person is deemed by the investigating committee to be potentially vulnerable to actions that a party to the complaint might undertake, the investigating committee shall attempt, insofar as possible, to maintain the confidentiality of the source of information and otherwise to protect the person from undue pressures. When that goal comes in conflict with a person's right to confront an accuser or cross-examine a witness, however, the latter rights shall prevail. All persons providing information to the investigating committee shall be informed of this provision.

6.5.1(c) If the investigating committee determines that it is necessary to take oral testimony as part of its informal information gathering procedures, it may invite the parties to the complaint to appear

before them to make a presentation and respond to questions. A record or summary of what is said on such an occasion shall be shared with all parties to the complaint. If any one party is invited to appear before the investigating committee, then all parties shall be so invited. The investigating committee shall determine whether they are to appear jointly or separately. Any party to the complaint may suggest questions for the investigating committee to put to another party.

6.5.2 Any tentative conclusions arrived at on the basis of the informal procedures described above and approved by the full Committee shall be put in writing and transmitted to the parties to the complaint. Written responses to the tentative conclusions shall be invited. If the responses indicate agreement with the Committee's tentative conclusions, the Committee will issue a report and will consider the investigation to be completed. If no agreement among the parties to the complaint results after the informal investigation described above has been completed, the Committee may invoke formal fact finding procedures in conformity with UWM P&P 5.45(3).

6.6 Formal Procedures

6.6.1. In accordance with UWM P&P 5.45(2), at the request of the investigating committee, the University shall provide it with legal counsel.

6.6.2. All parties to the complaint shall be provided with the definition of "fair hearing" found in UWM P&P 5.45(3).

6.6.3. The investigating committee shall adhere to the procedures outlined in the UWM P&P 5.45(3) (a) through (k). In addition, the following Faculty Rights and Responsibilities Committee procedures shall be implemented:

6.6.3(a) All parties to the complaint shall be invited to submit, in writing, prior to the commencement of the hearing, questions to be put to particular witnesses appearing at the hearing. The intent of this provision is to allow as much information as possible to be gathered by questions put by members of the investigating committee and to minimize the need for the cross-examination of witnesses by parties to the complaint.

6.6.3(b) The formal hearing should be completed in a single day, if at all possible. Strict but fair limits should be placed on the length of testimony and number of witnesses presented by either side.

6.6.3(c) Each party to the complaint may, when appearing before the investigating committee, be accompanied by another person of his/her choice, to give that party procedural advice or moral support.

6.6.3(d) The investigating committee shall hear witnesses in such a manner as to minimize the likelihood that one witness' testimony will color or prejudice the testimony of another.

- 6.6.4. A finding of misconduct and recommendations for disciplinary action shall be reported only when at least five (5) members of the Committee concur. When this condition is not met, a finding of no misconduct shall be reported. A numerical tally of the vote shall be reported in any case.
- 6.6.5. If the Committee finds that some member of the faculty is willfully neglecting a complaint, or is acting so as to obstruct or disrupt the Committee's consideration of a complaint, the Committee shall inform the Vice Chancellor of that conduct in writing, notifying the person in question that it is doing so. Such conduct may be cause for an independent complaint of misconduct.

7. The Final Disposition of a Case:

- 7.1. The investigating committee (if it is a subcommittee) may at any point in its investigation recommend that the Committee dispose of the complaint in accordance with P&P 5.44(5)(a) or 5.44(5)(b). The Committee's acceptance of the recommendation dissolves the subcommittee. The subcommittee's work is not otherwise done until it has a final report to recommend that the Committee adopt.
- 7.2. If the Committee disposes of a complaint in accordance with UWM P&P 5.44(5)(a), the Committee reports that disposition to the Vice Chancellor, but does not formally report it to the Chancellor.
- 7.3. If at least five (5) members of the Committee concur on a finding of misconduct and recommendations for disciplinary action, these findings and recommendations shall be transmitted in writing to the Chancellor and the parties to the complaint within ten (10) days after the conclusion of its proceedings.

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