



Governing Regulation XX

Responsible Office: Office of the President and Office of the Provost

Date Effective:

Supersedes Version: New Governing Regulation

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Faculty Disciplinary Policy and Procedures (DRAFT)

4 Hyper Links to be inserted later

6 I. Introduction

7 The University provides and sustains an environment conducive to academic achievement in all its forms.
8 Maintenance of this environment requires that faculty pursue their academic activities in accordance with
9 appropriate standards of scholarly activity. The faculty's privileges and protections of tenure rest on the
10 mutually supportive relationships among the faculty's professional competence, its academic freedom, and
11 the central functions of the university in granting degrees and furthering creative accomplishments. These
12 relationships are also the source of the professional responsibilities of faculty. It is a responsibility of the
13 university to maintain conditions and rights supportive of the faculty's pursuit of these central functions, and
14 it is a responsibility of the faculty to maintain standards of professional conduct including rights and
15 responsibilities that arise under federal and state constitutions, statutes, Governing Regulations,
16 Administrative Regulations, the University Senate Rules, and other regulatory jurisdictions (GR II.A). For
17 purposes of this document, we define "misconduct" as a failure to obey the laws and regulations described
18 in the preceding sentence.

20 II. Scope

21 This regulation is applicable to all faculty members in the University community ranging from entry-level
22 faculty ranks to the President of the University of Kentucky. For purposes of this regulation, a "faculty
23 member" means an individual holding the rank of professor, associate professor, assistant professor,
24 instructor, senior lecturer, lecturer, and any other rank with responsibilities comparable to the
25 aforementioned rank. This definition applies to faculty regardless of title series appointments, their
26 distribution-of-effort agreements, any administrative appointments in addition to faculty academic
27 appointments, standing as tenured or non-tenured, visiting or permanent, temporary, emeritus or active, and
28 full-time or part-time status. The definition of university faculty in this regulation is broader than the definition
29 of faculty in other regulations and in HR Policy 4.0.

31 This regulation does not apply to faculty performance review or expectations for scholarly activity for
32 purposes of appointment, reappointment, promotion, and tenure. Faculty performance review and
33 expectations for scholarly activity are covered in other Administrative Regulations (AR), as well as
34 regulations that describe for each title series the expected activities and criteria for promotion and tenure.

36 This regulation is separate and distinct from independent proceedings involving the enforcement of **clinical**
37 **rights and clinical responsibilities** that arise under the Joint Commission mandated UK HealthCare Medical
38 Staff By-laws, the federally mandated University's research misconduct policy, or the federally mandated

39 Title IX Sexual Assault procedures. Faculty members who are subject to disciplinary proceedings under
40 those procedures may be subjected to additional disciplinary proceedings under this regulation.

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42 This regulation also does not describe the proceedings for the revocation of tenure or for the termination of
43 academic appointments of faculty members who do not have tenure.

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45 The procedures established by this regulation do not supersede Governing Regulations or Administrative
46 Regulations that specifically permit appeal to, or appearances before, the Board or a Board Committee.

47 48 III. Entities Affected

49 This regulation will apply to all faculty members as defined in this regulation.

50 51 IV. Procedures

52 The following procedures govern the handling of misconduct by a faculty member.

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54 For purposes of computing deadlines under these procedures, if the deadline falls on a Sunday, Monday,
55 university-recognized holiday or day when the University's Office of the President is closed, the deadline is
56 automatically extended to the next day when the University's Office of the President is open.

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58 For purposes of this regulation, "written notification" means notification by formal written letter and
59 notification by electronic message.

60 61 A. Allegations

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63 **Any person** may make a complaint against a faculty member by making allegations to the chair of a
64 faculty member's department or the Dean of the faculty member's college or to an appropriate university
65 official. Additionally, routine university operations, such as audits or compliance reviews, may result in
66 allegations against a faculty member.

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68 Allegations against a faculty member by a member of the University community, which are made other
69 than in good faith, may rise to the level of harassment and bring the Complainant under scrutiny as
70 delineated in these regulations.

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72 In the event of either allegations reported initially to a chair and subsequently to a Dean or allegations
73 reported directly to a Dean, the Dean must inform the General Counsel. In consultation with the General
74 Counsel, the Dean and the General Counsel will determine (1) whether an investigation should be
75 conducted, and (2) if so, the appropriate university office(s) to conduct an investigation. **The context of
76 the allegation will dictate the time at which the accused faculty member is informed of the allegation.** For
77 purposes of this regulation, a dean may designate an appropriate associate dean and the General
78 Counsel may designate an associate counsel or non-university counsel retained by the General Counsel
79 to handle the allegation.

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81 Allegations brought forward and adjudicated under this regulation cannot be re-opened without
82 substantive new evidence, **as determined by the General Counsel.**

83 84 B. University Investigation

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86 Depending on the nature of the allegation, the appropriate university office(s) (e.g., Institutional Equity
87 and Equal Opportunity, Internal Audit, UK HealthCare Corporate Compliance, UK Police, UK Athletics
88 Compliance, Office of Legal Counsel, etc.) will conduct the investigation. The report will include findings
89 of fact, a conclusion as to whether misconduct occurred, and, if misconduct did occur, a non-binding

90 recommendation regarding disciplinary action (*i.e.*, sanctions). The Office(s) conducting the investigation
91 will submit the investigation report to the General Counsel. The General Counsel will transmit the report
92 to the Complainant (if known) and the Dean of the faculty member's college. If an investigation finds
93 nothing to support an allegation, the General Counsel will transmit these findings to the Dean, the
94 Complainant (if known), and the accused faculty member.

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96 C. Notification and Mediation
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- 98 1. If the report indicates misconduct has occurred, the Dean will provide written notification to the
99 faculty member as soon as feasible and preferably within two (2) days. The Dean will provide the
100 faculty member with an opportunity to review the investigation report. The faculty member may
101 submit a written response to the Dean and General Counsel within seven (7) days of notification by
102 the Dean. The Dean may extend this response period by an additional fourteen (14) days on oral or
103 written request by the faculty member.
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- 105 2. The Dean will schedule a meeting with the faculty member and the faculty member's chair, which will
106 be held within twenty-one (21) days of the Dean's notification to the faculty member. The purpose of
107 the meeting is for the Dean, the chair and the faculty member to attempt to reach an agreement as
108 to whether misconduct occurred and, if so, an appropriate sanction. In cases where the faculty
109 member elects to have personal legal counsel at the meeting(s) with the Dean and chair, an attorney
110 from the Office of Legal Counsel must also be present. It is to be hoped that the majority of cases
111 will be resolved at this stage through mediation.
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- 113 3. Sanctions should be commensurate with misconduct committed by the faculty member. Sanctions
114 are defined, for the purposes of this entire document, as the following:
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- 116 • Verbal reprimand
 - 117 • Written censure
 - 118 • Restitution to the University for actual monetary damage suffered by the University
119 through misuse or unauthorized use of University property
 - 120 • Loss of specific privileges including, but not limited to, loss of access to University Pro-
121 Card or travel funds
 - 122 • Removal from supervisory role and loss of title associated with that role
 - 123 • Removal from named or endowed chair or professorship
 - 124 • Reduction in salary for a specified period of time
 - 125 • Demotion in rank, but only if promotion was based on a fraudulent dossier
 - 126 • Suspension with or without pay for a specified period of time
 - 127 • Relocation and/or loss of space currently occupied by and/or assigned to the faculty
128 member
 - 129 • Denial or curtailment of emeritus status, if applicable
 - 130 • Recommending to the President and Board of Trustees that the faculty member in
131 question be dismissed from the employ of the University
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133 Suspension is defined, for the purposes of this entire document, as the temporary withdrawal or
134 cessation from specific duties or employment as distinguished from permanent severance
135 accomplished by removal.
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- 137 4. If the issue is resolved during the meeting/mediation, the Dean will notify the General Counsel. The
138 General Counsel must approve any proposed agreement before its implementation.
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- 140 5. If the Dean and faculty member fail to reach an agreement during the meeting as to whether
141 misconduct occurred, the matter is referred to a Faculty Inquiry Panel. The Dean will notify the
142 General Counsel that no agreement was reached on whether or not misconduct occurred. The
143 General Counsel will then initiate the process leading to the selection of a Faculty Inquiry Panel by
144 contacting the Chair of the University Senate Council.

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6. If the Dean and the faculty member agree that misconduct occurred but disagree on the appropriate sanction or sanctions, the issue will be referred to the Provost, who will decide an appropriate sanction or sanctions within seven (7) days. As described below, the faculty member may appeal the Provost's decision to the President.

151 D. Selection of the Faculty Disciplinary Panel Pool

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1. After seeking nominations from the University Senate, the University Senate Council will provide the President with the names of at least thirty-five (35) faculty members eligible to serve in the Faculty Disciplinary Panel Pool. Efforts will be made by the University Senate Council to ensure that the Faculty Disciplinary Panel Pool includes [1] at least one tenured faculty member from each college and [2] at least one untenured faculty member from each of the Clinical and Research Title Series at the rank of professor or associate professor.
 2. The President appoints twenty-five (25) members of the Faculty Disciplinary Panel Pool from nominations submitted by the University Senate Council. The appointed faculty will serve on either a Faculty Inquiry Panel or a Faculty Hearing Panel but not both for the same case.

164 E. Faculty Inquiry Panel

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The Faculty Inquiry Panel is a three-person panel comprised of (1) one tenured faculty member selected at random by a uniform random number generator from the Faculty Disciplinary Hearing Panel Pool; the Vice-President for Human Resources or a designee; and an associate provost selected by the Provost. The rationale for the panel member from Human Resources is to ensure a balance in evaluating cases involving faculty *versus* those involving staff, and the rationale for the associate provost is to ensure a balance in evaluating cases across colleges. The General Counsel will notify the University Senate Council Chair that there is a need for a Faculty Inquiry Panel and the Chair of the University Senate Council will select a faculty member at random from the Faculty Disciplinary Hearing Panel Pool using a uniform random number generator.

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1. The Faculty Inquiry Panel is responsible for determining whether there is probable cause to believe misconduct has occurred. The Faculty Inquiry Panel is limited to a review of the initial investigation report and the faculty member's written response, if any. The Faculty Inquiry Panel may interview the faculty member, the chair and the Dean, but the Faculty Inquiry Panel may not conduct a further investigation. The Faculty Inquiry Panel may consider new findings of fact that were not considered in the original investigation **and that are provided by the General Counsel.**
 2. **If the allegation involves a chair or dean, the Faculty Inquiry Panel will be expanded to include three (3) tenured faculty members, who hold appointments in colleges other than that of the chair or dean and who will be selected at random by a uniform random number generator from the Faculty Disciplinary Hearing Panel Pool; the Vice-President for Human Resources or a designee; and an associate provost selected by the Provost.**
 3. **If the allegation involves a faculty employee holding an administration position above the level of either a dean or an administratively equivalent position, the procedures to be used for convening a Faculty Inquiry Panel will be determined by the President in consultation with Senate Council.**
 4. **If the allegations involve the President, the procedures will be determined by the Board of Trustees in consultation with the Senate Council.**
 5. If the Faculty Inquiry Panel, by a majority vote, finds there is probable cause to believe misconduct has occurred, the case is referred to a Faculty Hearing Panel. The Faculty Inquiry Panel will send notification *via* electronic mail of this finding to the Dean, the Complainant (if known), the faculty member, and the General Counsel.

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201 6. If the Faculty Inquiry Panel, by a majority vote, finds that there is no probable cause to believe
202 misconduct has occurred, the case is dismissed. The Faculty Inquiry Panel will send Notification of
203 this finding to the Dean, the Complainant (if known), the faculty member, and the General Counsel.
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205 F. Faculty Hearing Panel
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- 207 1. The Faculty Hearing Panel is comprised of five (5) faculty members, who are selected at random by
208 the Senate Council Chair from the Faculty Disciplinary Panel Pool using a uniform random number
209 generator. The Senate Council Chair will consult with the Chair of the Department of Statistics on the
210 selection of this uniform random number generator. Faculty members who occupy a position of
211 administrative supervision over faculty personnel (*i.e.*, individuals with greater than or equal to 50%
212 administrative effort or individuals with an administrative assignment at the level of chair or above)
213 are ineligible to serve in the Faculty Disciplinary Panel Pool. A person who served on the Faculty
214 Inquiry Panel may not serve on the Faculty Hearing Panel in the same case. Any member of the
215 Faculty Hearing Panel who has personal involvement or prior factual knowledge of the case (*i.e.*,
216 knowing something pertinent to the case before it occurs publicly) will recuse himself or herself. If a
217 Faculty Hearing Panel member chooses recusal, then a new member will be chosen at random from
218 the Pool by the Senate Council Chair using a uniform random number generator.
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- 220 2. The General Counsel, upon receipt of a report from the Faculty Inquiry Panel that there is probable
221 cause to believe misconduct has occurred, will notify the Senate Council Chair that a Faculty
222 Hearing Panel is needed.
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- 224 3. The Chair of the University Senate Council will select members of the panel at random from the
225 Faculty Disciplinary Panel Pool using a uniform random number generator. The Senate Council
226 Chair will contact faculty members to serve on the Faculty Hearing Panel within seven (7) days of
227 receiving notification from the General Counsel. The Chair of the University Senate Council will
228 inform potential members of the Faculty Hearing Panel that the case involves a named faculty
229 member in a particular college.
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- 231 4. Once a Faculty Hearing Panel is selected, the Dean and faculty member may each exclude one
232 member from the Panel. If either the Dean or faculty member excludes a Panel member, then the
233 Senate Council Chair will select a new member or members at random from the Faculty Disciplinary
234 Panel Pool using a uniform random number generator. When such exclusions occur, the seven-day
235 period for appointing the Faculty Hearing Panel will be extended by an additional seven (7) days.
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- 237 5. The Faculty Hearing Panel will conduct the hearing within thirty (30) days of receiving the referral
238 unless the Provost extends the time period in extraordinary circumstances. The Dean, through a
239 representative of the Office of Legal Counsel, will present the case against the faculty member. The
240 accused faculty member, either alone or with the assistance of at most two (2) additional persons,
241 such as an attorney and a representative chosen by the accused faculty member, may present a
242 defense. The parties may call witnesses, cross-examine the other party's witnesses, and present
243 other evidence; however, as this is an administrative hearing, formal rules of evidence and
244 procedure do not apply. The Faculty Hearing Panel may admit any evidence of probative value in
245 determining the issues involved.
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- 247 6. The burden of proof standard is **clear and convincing evidence**. The burden of demonstrating that
248 misconduct occurred is on the representative of the Office of Legal Counsel, and the accused faculty
249 member is presumed to be innocent.
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- 251 7. After the hearing, the Faculty Hearing Panel will consider the evidence presented at the hearing, and
252 the majority will issue written findings of fact and conclusions of law (*i.e.*, conclusion regarding
253 misconduct) within seven (7) days of the conclusion of the hearing. If a member of the Faculty
254 Hearing Panel dissents with the majority decision, that member may submit a written explanation of

255 his/her dissension. The Faculty Hearing Panel will send the written findings, including dissents, and
256 decision to the Provost, the Dean, the Complainant (if known), the accused faculty member, and the
257 General Counsel.
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259 8. If the Faculty Hearing Panel finds the accused faculty member guilty of misconduct, the Panel will
260 recommend non-binding sanctions to the Provost.
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262 9. If the Faculty Hearing Panel finds that the accused faculty member is not guilty of misconduct, the
263 case is closed.
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265 10. If the allegation involves the Provost, the President will assume the role of the Provost in these
266 proceedings.
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268 11. If the allegation involves the President, the Board of Trustees assumes the role of the Provost in
269 these proceedings.
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271 G. Appeals 272

273 This section covers appeals arising out of the decision and non-binding recommendations from the
274 Faculty Hearing Panel and the sanctions recommended by the Provost. The procedures established
275 by this regulation do not supersede Governing Regulations or Administrative Regulations that
276 specifically permit appeal to, or appearances before, the Board or a Board Committee.
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278 1. If the Panel finds the accused faculty member guilty, the accused faculty member may appeal to the
279 President within seven (7) days of receipt of the Hearing Panel's decision determining guilt. If the
280 faculty member does not file an appeal, the decision of the Faculty Hearing Panel as to guilt or
281 innocence will be final.
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283 2. On an appeal of the Faculty Hearing Panel's decision concerning guilt, the President will review the
284 factual findings for clear error or errors in interpretation by the Faculty Hearing Panel of matters of
285 law. In determining whether the factual findings are clearly erroneous, the President will determine
286 whether substantial evidence supports the factual findings. The President will render a final decision
287 on guilt or innocence within seven (7) days. If the President determines the faculty member is
288 innocent, the case is closed. If the President determines the faculty member is guilty, the President
289 will remand the matter to the Provost for the imposition of a sanction or sanctions.
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291 3. When the faculty member has been determined to be guilty and when all appeals concerning guilt
292 have been completed (*i.e.*, time to appeal has expired or the President has rendered a decision), the
293 Provost will determine the appropriate sanction or sanctions.
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295 4. In making this determination, the Provost is guided, but not bound, by the Faculty Hearing Panel's
296 recommendation, if any, concerning sanctions. The Provost may impose a sanction or sanctions
297 ranging from verbal reprimand to initiation of termination and tenure revocation proceedings in
298 accordance with KRS § 164.230 and Governing Regulation X. The Provost will send notification of
299 the decision on a sanction or sanctions to the Dean, the faculty member, the Complainant (if known),
300 and the General Counsel.
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302 5. Within seven (7) days of receipt of the Provost's decision regarding a sanction or sanctions, the
303 accused faculty member may appeal the Provost's decision regarding any sanction to the President.
304 On an appeal of a particular sanction, the President will consider whether the determination is
305 reasonable in light of sanctions imposed on similarly situated staff members and similarly situated
306 faculty in other colleges. The President will render a final decision regarding a sanction or sanctions
307 within seven (7) days.
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309 6. The sanction or sanctions will not take effect until the time to appeal the sanction or sanctions has

310 expired or the President has rendered his decision.

311 V. Retaliation

313 Retaliation is prohibited. Retaliation occurs when an adverse action is taken against a covered individual
314 because he or she engaged in a protected activity **including but not limited to** reporting discrimination or
315 participating in an investigation of a discrimination report. (See AR 6.1)

316 VI. Administrative Leave-With-Pay during the Process

318 At any time during the process beginning with receipt of an allegation, the Provost, after consultation with
319 and on the advice of the General Counsel, may initiate immediate, involuntary administrative leave-with-
320 pay. The Provost may impose additional conditions as part of the administrative leave-with-pay.

- 321 1. The Provost will impose involuntary administrative leave-with-pay only if there is a risk that the
322 accused faculty member's continued assignment to regular duties or presence on campus may
323 cause harm to others in the University community, impede the investigation, or create a risk of
324 continuing misconduct.
- 325 2. Involuntary administrative leave-with-pay for more than thirty (30) days requires approval of the
326 Chair of the Board of Trustees.
- 327 3. **The imposition of involuntary administrative leave-with-pay is subject to appeal to the Chair of the**
328 **Board of Trustees.**

329 References and Related Materials

334 Revision History

337 For questions, contact: Office of Legal Counsel