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3 WHEREAS, University Policy 6.2.10 designates the Committee on Academic Freedom and
4 Professional Status of the Faculty (AFPS) as the university-level review body for Academic Employee
5 grievances, and

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7 WHEREAS, University Policy 6.2.10 designates the procedures of AFPS as the document that
8 establishes the rules by which AFPS conducts such a review, and

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10 WHEREAS, the procedures of AFPS, adopted in November 1993, are 1) in conflict with several
11 University Policies, (2) do not establish a clear process to follow or a standard to use when carrying out
12 reviews, and (3) are silent regarding the role that AFPS recommendations play in the process in which
13 the final administrative decision is made, and

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15 WHEREAS, several AFPS committees have expressed concern that AFPS recommendations appear to
16 play an unacceptably small role in the final administrative decision-making process, and

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18 WHEREAS, an examination of the record of the dispositions of grievances heard by AFPS over the
19 past 15 years produced no case in which the final administrative decision was in favor of the faculty
20 grievant, and

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22 WHEREAS, the Provost and AFPS have together agreed upon a revised AFPS procedure which both
23 agree will correct the deficiencies in the current procedures, be consistent with relevant University
24 procedures, enhance the fairness of the process for faculty grievants and create a more harmonious
25 relationship between faculty governance and the Provost,

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27 THEREFORE BE IT RESOLVED that the Senate endorses the revisions brought to the Senate by the
28 AFPS.

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31 Revised AFPS Charge.

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33 ***COMMITTEE ON ACADEMIC FREEDOM AND***
34 ***PROFESSIONAL STATUS OF THE FACULTY***
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38 Charge to the Committee
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40 A. Examine and make recommendations concerning issues and considerations in the following areas:

- 41
42 1. Academic Freedom and Responsibility.
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2. Freedom of Teaching and Learning, including but not limited to the special concerns of the faculty that teaching and learning at Cornell University be carried on freely and without disruption, interference, or intimidation.

3. The Professional Status of the Faculty, including but not limited to policies and procedures relating to faculty appointments, promotion, retirement, separation, tenure and other related matters.

B. Receive and review written complaints brought by or against a Faculty member with respect to matters involving academic freedom and responsibility and freedom of teaching and learning and any other matters that might affect his or her professional reputation, impair the execution of his or her professional and University responsibilities, adversely affect his or her economic status, lead to his or her dismissal, or otherwise alter terms or conditions of his or her employment. However, for complaints that concern actions governed by Cornell Policies that prohibit, limit or define the review process by the Committee, the Committee's actions will be consistent with those policies. As of 2011, the policies that prohibit, limit or define Committee review are the Sexual Harassment Policy, the Financial Irregularities Policy, the Tenure and Promotions Appeal Process, and the Dismissal/Suspension Policy.

C. For a complaint that falls within the jurisdiction of section E of the Dismissal/Suspension procedure adopted in 2007 by the University Faculty Senate and the Board of Trustees, the involvement of the Committee will follow the procedures of that policy. In these cases, the Committee is not required to follow the procedures given in section E.6 of this policy.

D. Unless University Policy requires the Committee to entertain a particular complaint, it shall lie within the discretion of the Committee to determine whether it will or will not entertain a specific complaint brought to it.

1. When possible, the Committee should promulgate to the community any criteria it establishes that it will utilize in determining whether or not to entertain complaints.

2. If the Committee determines it will not entertain a specific complaint, the individual or individuals advancing such complaint can appeal such decision to the University Faculty Committee. The University Faculty Committee can uphold the Committee's decision, direct the Committee to entertain the complaint or direct the Committee to entertain a portion of the issues raised in the complaint or the complaint in some modified form.

3. Once a complaint has been accepted and adjudicated by the Committee, the complaint will not be subject to further appeal within the organization of the University Faculty.

E. Procedures for reviewing complaints brought to it shall be established by the Committee, subject to the following limitations:

1. Such procedures must comport with the basic precepts of due process.

2. The Committee may utilize subcommittees of its own members to undertake the initial review of complaints brought to it, but all final decisions on any complaint must be by a majority vote of the Committee members attending a meeting of the Committee called to review the complaint.

3. The complainant and the Committee are expected to adhere to the attached set of guidelines for Complaints to the Committee on Academic Freedom and the Professional Status of the Faculty.

4. The Committee shall maintain at all times strict confidence in the handling of individual cases unless otherwise agreed in writing by all parties involved or as required in subsection E.5 below.

5. The complainant shall not be required to keep the Committee's final report confidential but other recipients shall be requested to do so. However, if the complainant makes public a portion of the report, other recipients may make public the entire report. Moreover, if in the judgment of both the Committee and the University Faculty Committee, public release of a report, in whole or in part, either would clear any individual involved in the proceedings of charges damaging to his or her reputation or serve to clarify incorrect publicity, or provide guidance to the faculty or the University community because of the issues involved, this may be done. The complainant and others involved shall be advised that such a public release is possible.

6. In reviewing complaints in which the appellant is appealing the final decision of a college grievance procedure, the following provisions will apply, except for complaints governed by section E of the Dismissal/Suspension Procedure.

a. The Committee will not entertain any complaint until the college level grievance procedure has run its course.

b. The Committee will not conduct a new independent investigation of the dispute. In the normal course of events, the Committee will base its decisions solely on written records of previous reviews, written records supplied by the parties to the dispute and oral and/or written testimony of the relevant parties. If the Committee finds the previous reviews to have been inadequate or confusing in any way, it should communicate with any of the prior reviewers to discuss its concerns.

c. The Committee may not simply substitute its judgment for that of the Dean. It will recommend reversing the Dean's decision only if it finds substantial evidence that the Dean's decision violated departmental, college or university policy¹, was inconsistent

¹ It is the responsibility of faculty members to be aware of and conform to Departmental, College and University policies, and the responsibility of academic administrators to promulgate these policies and to consistently and fairly enforce

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with the evidence considered, or was contrary to prevailing departmental, college or university practices. If, in the course of its deliberations, the Committee finds that it needs more information regarding policies or prevailing standards, the Dean or the appropriate administrator should provide that information to the extent possible.

d. After reviewing a written complaint, the Committee shall issue a written draft report of its findings and any recommendations for action within 90 days of its first meeting to consider the complaint. Copies of this draft report shall be sent to the complainant, other parties to the dispute, and the Dean. All recipients shall be enjoined to keep the draft report confidential and are requested to respond to the Committee within a reasonable time period established by the Committee. Responses should either note agreement with the report or provide suggestions, comments or criticisms as well as any new information relevant to the matter. In the absence of good cause, failure to respond within the specified time period will be construed as being in agreement with the report. After reviewing these replies, the Committee shall prepare a draft final report of its findings and any recommendations for actions.

e. The Committee will send its draft final report to the Provost. The Committee understands that the Provost may respond to the Committee's recommendations in whatever way he or she sees fit. However, in the light of the central responsibility given to the Committee in the University's Academic Employee Grievance Policy [Policy 6.2.10], the importance of fostering an atmosphere of mutual respect and cooperation between the Administration and the Faculty Senate and its committees, and insuring that all faculty members who seek to have a grievance addressed will receive a fair and impartial adjudication of that grievance, the Committee and the Senate request the Provost to follow the procedures listed below in the course of making a final decision on his or her response to the Committee's recommendations.

1. Meet with the Committee, present any additional information regarding the issues addressed in the report, and have a full discussion of the report and its recommendations.

2. Give the Committee sufficient time to issue a final report that may be influenced by discussions with the Provost. The final report will be sent to the Provost, the complainant, the other principals in the case, and the Dean of the Faculty.

3. In coming to a final decision, carefully consider the rationale behind each recommendation of the Committee in the light of the evidence and the charge to

them. Isolated failures to enforce a particular policy does not diminish the obligation of faculty members to conform to it. Administrators should not selectively enforce a policy that has been consistently ignored. If an administrator changes a policy, or decides to enforce a policy that has been consistently ignored, she or he should inform the faculty prior to commencing enforcement.

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the Committee in subsection 6.c above, and accept the Committee's recommendations unless the Provost finds that the Committee's recommendations are inconsistent with its charge in subsection 6.c above.

4. Come to a final decision on the matter within 90 days of the receipt of the Committee's final report, and send the Committee a written rationale for that decision

7. In reviewing complaints in which the appellant is not appealing the final decision of a college grievance procedure, the following provisions will apply.

a. The Committee will establish ad-hoc procedures consistent with E.1 through E.5 above, and share them with the interested parties. The Committee will conduct an investigation of the dispute by examining whatever appropriate written documents exist and interviewing the principal parties and any others it deems appropriate. The Committee shall not be required to keep a transcript of its proceedings. The Committee shall maintain a record of the names of the persons interviewed and the titles of the documents considered.

b. After reviewing a written complaint, the Committee shall issue a written draft report of its findings and any recommendations for action within 90 days of its first meeting to consider the complaint. Copies of this draft report shall be sent to the complainant, the other principals in the case, the University Faculty Committee of the Faculty Senate, the Dean of the Faculty as well as the person(s) responsible for responding to the Committee's recommendations. All recipients shall be enjoined to keep the draft report confidential and are requested to respond to the Committee within a reasonable time period established by the Committee. Responses should either note agreement with the report or provide suggestions, comments or criticisms as well as any new information relevant to the matter. Failure to respond within the specified time period will be construed as being in agreement with the report. After reviewing these replies, the Committee shall prepare a final report of its findings and any recommendations for actions, and send copies to those receiving the draft report, as well as the Provost and/or President when appropriate.

F. The office of the Dean of the Faculty will establish and maintain a permanent electronic file containing all of the documentation pertinent to each grievance heard by the Committee including the Provost's response to the Committee's recommendations. From time to time, the Dean of the Faculty should review this file, and discuss it with the UFC.

Composition of the Committee*

Nine members of the faculty appointed with the concurrence of the Faculty Senate by the Nominations and Elections Committee for three-year terms.

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Two student members (of which at least one shall be an undergraduate) with voting privileges, selected annually by the Staffing Committee of the Student Assembly. Reselection of a student for a second year shall be permitted. Student members of the Committee shall not participate in the review process set forth in Subdivision B, C, D and E of the Committee's Charge.

*Except as noted specifically below the Committee shall be organized and operate under the Rules and Procedures governing standing committees of the Faculty Senate.

Adopted by the Faculty Council of Representatives, December 9, 1987, Records, pp. 6530-44C, Appendices A and B. Changes in nomenclature from FCR and Executive Committee to Faculty Senate and University Faculty Committee and to reflect amendments to the Organization and Procedures of the University Faculty, October 1995.

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**COMPLAINTS TO THE COMMITTEE ON ACADEMIC FREEDOM
AND THE PROFESSIONAL STATUS OF THE FACULTY**

This note is designed to help potential complainants bring their concerns before this Committee. This note has been prepared by the Committee, and should be read in conjunction with the charge to the Committee from the Faculty Senate.

Complaints typically pass through grievance procedures within individual colleges before reaching this committee.

Complaints must be in writing. Complainants should not ask committee members to help in preparing a complaint. The Dean of the Faculty or the Ombudsman may be able to recommend someone willing to assist in this regard.

Potential complainants may ask the Committee chair or the Dean of the Faculty to clarify procedures, but lengthy discussion of a case's merits with these individuals is inappropriate.

Complaints are confidential, but not from any Cornell officials who can clarify the facts of the case-including the respondents (those whose actions are the subject of the complaint).

As mandated in the Faculty Senate's charge to the Committee, before issuing a final report the Committee allows complainants and respondents to respond to a draft of that report. However, the Committee does not ordinarily reconsider a complaint after issuing a final report on that complaint.

*The following is a **typical** sequence of action in response to a complaint:*

- 1. The Committee considers whether the complaint has passed through all appropriate preliminary grievance procedures.*
- 2. The Committee then considers whether the complaint alleges violations of the written or generally understood policies of Cornell University.*
- 3. The Committee finally addresses the merits of the complaint. The Committee may appoint subcommittees to collect and report facts, or to draw up written statements of the Committee's conclusions, but subcommittees do not formulate and submit recommendations. Recommendations on complaints are made only by the full Committee.*