

Cornell University AFPS Committee

Draft Policy on Job-Related Faculty Misconduct

DRAFT: 05-24-06

Policy Statement:

Reason for Policy:

Entities Affected by this Policy: University professors and college or school faculty members (excluding the Joan and Sanford I. Weill Medical College).

Who Should Read this Policy:

I. Definitions:

A. College or school faculty member: as defined by Art. XIII of the Bylaws of Cornell University:

Each college or school faculty, except the Graduate Faculty, shall be composed of the President; the Dean or director of the college or school; and all professors, associate professors, and assistant professors in the department or departments under the charge of that faculty. Instructors, senior research associates, senior extension associates, lecturers, senior lecturers, clinical professors, associate clinical professors, and assistant clinical professors, and those bearing the adjunct title shall be non-voting members. Each college or school faculty may, in its discretion, grant membership to senior scholars, senior scientists, and other professional personnel for whom such membership is deemed appropriate by such faculty. Any college or school faculty may elect to its membership persons who are already members of other faculties of the University for so long a period as they continue to be members of such other faculties.

Note: The provisions of this policy do not apply to faculty members holding appointments with a duration of six months or less, or to those holding courtesy appointments.

B. Emergency suspension: A suspension with full salary pending the ultimate determination of the faculty member's case where the member is charged with misconduct and the member's continuance threatens imminent serious harm to the member or others or to property.

C. Minor sanction: any sanction other than a "severe sanction."

D. Severe sanction: dismissal or suspension.

E. Suspension: A temporary abrogation of the faculty member's rights or responsibilities that effectively prevents the faculty member from carrying out the responsibilities of his or her position or a temporary partial or temporary full reduction of a faculty member's salary will be considered a suspension for the purposes of this policy, whether or not it is named as such. This policy does not apply to the Joan and Sanford I Weill Medical College, nor does it apply to a non-disciplinary reduction of salary such as a non-temporary reduction of salary that may be implemented at the time of an annual salary review (which may be grieved pursuant to the academic grievance policy).

II. Purpose and Scope of this Policy:

To ensure fair and adequate processes for faculty charged with job-related misconduct or failure to perform the duties required of the position held, the following procedures govern the imposition of severe sanctions, minor sanctions, and emergency suspensions.

III. Procedures:

A. Severe Sanctions

1. Duration of suspensions: No suspension, other than an emergency suspension, shall be imposed for a period of less than two weeks or more than 12 months.
2. Reporting requirements for dismissals or suspensions: All dismissals or suspensions, including those resulting from informal settlements, shall be reported to the Dean of Faculty by the appropriate administrator. Such reports shall include a summary of both the complaint and its resolution, and shall be maintained in a permanent archive.
3. Suspension procedures for university professors, professors, associate professors, and assistant professors¹:
 - (a) The term "faculty member" in subsection III A. 3. shall refer exclusively to university professors, professors, associate professors, or assistant professors.
 - (b) If the administration believes that the conduct of a faculty member is sufficiently grave to justify imposition of a suspension, or if the recommendation for a suspension is a result of action taken under any other university policy (including those policies governing "academic misconduct," "sexual harassment," "financial irregularities," and "conflict of commitment/interest"), the faculty member shall be provided with a detailed written description of the charge or charges that form the basis for the recommendation of a suspension. The recommendation of a suspension shall be reported to the Provost, along with the results of any investigation taken. The Provost shall consider the charges and evidence against the faculty member, and may make such independent investigation as may seem appropriate, in order to determine whether there is a reasonable basis to believe that a suspension may be appropriate. If the Provost concludes that no such reasonable basis exists, the recommendation of a suspension shall be terminated. If the Provost concludes that a reasonable basis exists for believing that a suspension may be appropriate, the faculty member may invoke the hearing procedure specified in section III.A.3.(c) below. The faculty member will be informed in writing of the Provost's decision and of the faculty member's right to invoke the hearing procedure. If the faculty member wishes to invoke the hearing procedure, he or she must so inform the Dean of the Faculty in writing within two weeks of receipt of the Provost's decision. In the event that the faculty members fails to so inform the Dean of the Faculty within two weeks, the suspension will commence immediately. If the Provost concludes that some but not all of the charges against the faculty member may form a reasonable basis for believing that

¹ The procedure used for dismissals is the procedure adopted for that purpose by the Board of Trustees.

a suspension is appropriate, the Provost shall cause the faculty member to be furnished with a written and detailed statement of the charges against the faculty member.

(c) The charges against the faculty member shall be heard by a hearing panel appointed as follows: The faculty member and the Provost shall each choose four members of the University Appeals Panel. The faculty member's nominees shall choose two of the Provost's nominees, and the Provost's nominees shall choose two of the faculty member's nominees. The four so chosen shall then choose a fifth tenured University member, who shall chair the hearing panel. Any person nominated who has participated in the matter being heard or feels unable to render an unbiased judgment or perceives a conflict of interest shall disqualify him or herself.

(d) At the hearing, the faculty member shall be entitled to be accompanied by an advisor or counsel of his or her own choice, to present witnesses in his or her own behalf and to confront and question the witnesses against him or her. The faculty member's advisor or counsel may not address the panel or question the witnesses unless requested to do so by the chair of the panel. The chair shall ordinarily not make such a request unless there is a reasonable basis for believing that the faculty member is not effectively able to address the panel or question witnesses, or unless the chair concludes that such participation by the faculty member's advisor or counsel will materially assist the proceedings. The hearing panel may elect to rely on the written record of any previous hearing boards that have adjudicated the matter in hand or selected portions thereof, if in the opinion of the hearing panel, the accused faculty member has been offered a full and fair opportunity to rebut the charges and the evidence presented. If the accused faculty member believes that previous hearings were not fair, or did not offer the faculty member the opportunity to rebut the charges or the evidence presented, the panel will afford the faculty member the opportunity to justify that belief. In either event, the hearing board shall determine whether suspension is an appropriate penalty for the conduct of the faculty member.

(e) If the faculty member requests before or at the opening of the hearing, he or she shall after its conclusion be furnished, without cost to him or her, a full report of all the evidence received by the panel (including copies of all documents received) and the panel's findings and recommendations. The faculty member will also receive an audio recording of all testimony taken, unless the faculty member waives that right. In the event that the faculty member waives the right to receive an audio recording, the panel may make such a recording to assist its deliberations.

(f) The panel shall report its findings to the President in writing within eight weeks of being formed. The President shall then render a decision on the matter. The decision will not be subject to further appeal or reconsideration.

(g) The office of the Dean of the Faculty will provide staff support for the panel.

4. Procedures for suspension and dismissal of college or school faculty members other than professors, associate professors, and assistant professors:

(a) When complaint from any source is made against such member which might lead to the imposition of a dismissal or suspension, and unless the alleged misconduct falls under the jurisdiction of a specific Cornell policy containing its own procedures, the Dean of his or her college shall inform the member of the complaint against him or her, investigate the case, and if the faculty member is willing, consult with him or her regarding it.

(b) If the matter is adjusted informally to the satisfaction of the Dean and the faculty member, no further proceedings shall be invoked by them. If the matter is not adjusted informally, the Dean shall cause the faculty member to be furnished with a written and detailed statement of the charges against him or her.

(c) No dismissal or suspension shall be imposed without first giving such member an opportunity to invoke grievance procedures and seek review by the Committee on Academic Freedom and Professional Status of the Faculty [AFPS], to the extent permitted by the specific policy guidelines governing such reviews, and within the following stated time periods: The member shall have 4 weeks after being informed in writing of the charges and recommended sanctions to invoke grievance procedures or review by the AFPS. Where a review by the AFPS is requested following a grievance action, the faculty member shall have 4 weeks after the completion of the grievance procedure to request review by the AFPS.

(d) The opportunity to invoke grievance procedures and seek review by the AFPS before the imposition of a dismissal or suspension, as described above, applies also to cases where the recommendation for a dismissal or suspension is a result of action taken under any other college or university policy (including those policies governing "academic misconduct," "sexual harassment," "financial irregularities," and "conflict of commitment/interest"). In such instances, the AFPS may elect to rely on the written record of any previous hearing boards that have adjudicated the matter in hand or selected portions thereof, if in the opinion of the AFPS, the accused faculty member has been offered a full and fair opportunity to rebut the charges and the evidence presented. If the accused faculty member believes that previous hearings were not fair, or did not offer the faculty member the opportunity to rebut the charges or the evidence presented, the AFPS will afford the faculty member the opportunity to justify that belief. In either event, the AFPS shall determine whether suspension is an appropriate penalty for the conduct of the faculty member.

B. Minor Sanctions

If the administration believes that the conduct of a faculty member justifies imposition of a minor sanction, the following procedures will be followed:

1. If a minor sanction is imposed under a specific university policy (such as "academic misconduct," "sexual harassment," "financial irregularities," and "conflict of commitment/interest"), the faculty member may obtain consideration and, possibly, redress by invoking a formal grievance action according to the grievance procedures adopted by his or her college and, where appropriate, request review by the AFPS.

2. If the conduct justifying a minor sanction is not regulated under any other specific university policy, the appropriate administrator will notify the faculty member of the basis of the proposed sanction and provide the faculty member with an opportunity to persuade the administration that the proposed sanction should not be imposed. A faculty member who believes that a minor sanction has been unjustly imposed may invoke a formal grievance action according to the grievance procedures adopted by his or her college and, where appropriate, request review by the AFPS.

3. A faculty member who believes that a sanction proposed under the procedures for "minor sanctions" is, in fact, a "dismissal or suspension" may invoke a formal grievance action according to the grievance procedures adopted by his or her college and, where appropriate, request review by the AFPS.

C. Emergency Suspension

1. If a university professor, or college or school faculty member, is charged with misconduct and if the member's continuance threatens imminent serious harm to the member or others or to property, the faculty member may be suspended by the President (or his or her designee) or assigned to other duties in lieu of suspension pending final resolution of the charge.

2. The scope and duration of the emergency suspension shall be tailored as narrowly as possible to the nature of the harm posed, so that the faculty member's rights and privileges are not summarily abrogated more broadly than is reasonably necessary to protect persons or property pending completion of the suspension procedures. Whatever other rights and privileges may be withdrawn by an emergency suspension, the faculty member's full salary shall continue during the period of the emergency suspension.

3. The President (or his or her designee) shall promptly report to the Dean of Faculty concerning the propriety, the length, and any other conditions of the emergency suspension.

D. The Role of College Suspension Procedures

Nothing in this policy shall limit the right of any school/college to establish its own procedure to regulate the process by which administrators in that school or college decide to initiate suspensions, as long as those school/college procedures do not abridge in any way the applicable procedural rights conferred by any section of this policy to faculty members facing suspension.