

# 12.01.99.H1.04 Committee on Academic Freedom, Responsibility, and Tenure (CAFRT) Hearings



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## Procedure Summary

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The purpose of a hearing by the CAFRT is to determine whether or not the decision to dismiss a faculty member as determined by [System Policy 12.01, Academic Freedom, Responsibility, and Tenure](#), was for good cause.

This document outlines the procedure for dismissal of tenured, tenure-track or non-tenured faculty with unexpired term appointments as defined in [System Policy 12.01, Academic Freedom, Responsibility, and Tenure](#).

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## Procedures and Responsibilities

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### 1. DISMISSAL FOR CAUSE OF TENURED FACULTY, NON-TENURED TENURE-TRACK FACULTY OR NON-TENURED FACULTY WITH UNEXPIRED TERM APPOINTMENT

1.1. In the event a tenured faculty member or non-tenured tenure-track faculty member is being considered by the President for dismissal or has been dismissed for cause or a non-tenured faculty member is being considered by the President for dismissal or has been dismissed for cause prior to expiration of the faculty member's appointment, the following procedures must be followed:

1.1.1. A Faculty member who receives written notice of dismissal or suspension without pay pending dismissal and who believes the dismissal is not for good cause shall inform the President of Texas A&M University-Texarkana of their notice of appeal in writing within ten (10) business days of receiving the notice of dismissal. The faculty member may request from the President a statement of the reasons for dismissal and a copy of all documents relevant to the decision. Such materials shall be given to the faculty member within five (5) business days of the initial written request.

- 1.1.2. However, if the appeal includes an allegation(s) that the decision was based on discrimination, the President or designee will promptly report the allegation(s) to the designated office in accordance with [System Regulation 08.01.01](#).
- 1.1.3. Any allegation(s) of discrimination will be exclusively adjudicated in accordance with the procedures outlined in [System Regulation 08.01.01](#). The appeal hearing process in this section will not be stayed pending conclusion of the investigation, decision and appeal processes outlined in System Regulation 08.01.01.
- 1.1.4. In the event a request for public information has been filed under the Public Information Act, the President shall inform the faculty member that disclosure of such materials may be delayed or precluded in whole or in part. In addition, the faculty member must be informed that the entire CAFRT process will be delayed until the Texas Office of the Attorney General rules on the Public Information Act request, if applicable. The President must further inform the faculty member that such materials, even after such ruling, may have certain information redacted due to state and/or federal identity/information protection requirements.

## **2. SELECTION OF THE CAFRT**

- 2.1. The Faculty Senate will select a pool of ten (10) tenured faculty members from which the President will choose the CAFRT within 5 business days of receiving a written notice of appeal.
- 2.2. The CAFRT will be composed of five (5) voting members and two (2) alternates, with one member designated by the committee as chair.
- 2.3. The chair has the authority to schedule the hearing. The hearing must be scheduled within forty (40) calendar days of being notified by the President of the notice of appeal. Under unusual circumstances, as determined by the chair, the hearing date may be delayed for an additional fifteen (15) days. In no event, without the written permission of the President, will the hearing be held later than ninety (90) days after the formation date of the CAFRT.
- 2.4. The chair provides both sides and all CAFRT members with a list of possible dates for the hearing and all must reply in writing as to their availability on those dates. The faculty member is responsible for including the availability of his/her counsel, if any.
  - 2.4.1. CAFRT members are also requested to inform the chair, in writing, of any possible conflicts of interest.
  - 2.4.2. Any and all requirements for written responses throughout these procedures are satisfied by e-mails to the chair with copies to the other side.
- 2.5. The chair will serve as the hearing officer. Under unusual circumstances, the chair may appoint another member to be the hearing officer. For purposes of this procedure the term "chair" hereafter means the chair of the CAFRT, or another member appointed by the chair, as the hearing officer. In all cases, the hearing officer votes.

### **3. SCHEDULING THE HEARING**

Written notice of the hearing must be provided at least ten (10) business days prior to the scheduled hearing date.

- 3.1. The chair notifies both sides and the CAFRT members of the time and place of the hearing.

### **4. DISCOVERY**

- 4.1. After receipt of the faculty member's written request for a hearing, the President shall direct the appropriate administrative officers to make available to the faculty member all relevant and releasable information on the case not already in possession of the faculty member within five (5) business days of the date of the letter referring the case to the CAFRT.

### **5. CHALLENGES OF CAFRT MEMBERS**

- 5.1. All challenges must relate to the ability of a CAFRT member to render an unbiased recommendation. The mere existence of friendships or other contacts between a CAFRT member and other individuals does not necessarily constitute bias. Should the faculty member wish to challenge a CAFRT member, the challenge must be made to the chair in writing at least five (5) business days before the pre-hearing conference with a copy sent to the University President and the President of the Faculty Senate.
- 5.2. In the event of a challenge of a CAFRT member, the President of the University will choose within five (5) business days another faculty member from the remaining pool of faculty.

### **6. PRE-HEARING CONFERENCE**

- 6.1. The CAFRT committee will conduct a pre-hearing conference. The conference must be held at least five (5) business days prior to the hearing date and cover the following items.
  - 6.1.1. Each side in the conference will provide the other side and the chair with a list of witnesses that it expects to call, along with brief descriptions of each witness's testimony. Amendments to the lists may be made prior to the hearing date by permission of the chair. At the hearing, witnesses may be added to the list only by a majority vote of the CAFRT.
  - 6.1.2. Each side in the conference will provide the other side and the chair with a copy of each piece of documentation it plans to use at the hearing. To request any addition after the conference, a copy of the material must be given to the other side and to the chair along with a written request that the material be added by the chair. The side not making the request shall have at least five (5) business days to object in writing to the request. If the chair refuses to allow the late materials, such materials cannot be used in the hearing for any purpose.

- 6.1.3. All witnesses will testify in person or video conference, unless approved to submit an affidavit. All requests to present written statements of witnesses or present their testimony in a form other than in person must be submitted at the conference and will be ruled on by the chair. Any witness testimony offered at the hearing outside of these procedures will not be heard by the CAFRT.
- 6.1.4. The chair will render decisions on any challenges involving the introduction of additional material.
- 6.1.5. All hearings are closed. However, the faculty member has the right to inform the chair in writing of the faculty member's decision to have an open hearing. The chair must inform all other parties in writing of the decision.
- 6.1.6. All hearing proceedings will be memorialized either by stenography or by audio or video recording.
- 6.1.7. The chair will inform both sides that copies of the record of the hearing may be obtained by submitting a written request to the Office of the Provost and Vice President for Academic Affairs.
- 6.1.8. The chair shall set the maximum time allotted to each side at the end of the pre-hearing conference.

## **7. THE CAFRT HEARING**

### **7.1. Attendance:**

- 7.1.1. A closed hearing is restricted to the members of the CAFRT, the faculty member making the appeal (and his/her counsel, if any), and the University representative appointed by the President (and University counsel, if any).
- 7.1.2. With the exception of witnesses testifying at the hearing, any interested persons may attend an open hearing.

### **7.2. Hearing Format:**

- 7.2.1. Each side is entitled to equal amounts of time, excluding opening and closing statements. The chair is responsible for tracking time usage. Time used for breaks or for questions by the CAFRT is not included in the time allocated to either side. The chair, with the concurrence of a majority vote of the CAFRT, may extend the length of the hearing. In addition to oral statements and oral testimony, each side may submit written opening and closing statements, as well as charts, handouts, or other visual aids.
- 7.2.2. A witness not already on the chair's list of witnesses or the recall of a dismissed witness is permitted only with the approval of a majority vote of the CAFRT. The CAFRT may recall a dismissed witness without the request or concurrence of either side.

### 7.3. The Schedule of Events for the Hearing:

- 7.3.1. Opening statement by or for the side with the burden of proof (faculty member in the case of non-renewal, University in the case of dismissal for cause) (maximum of 15 minutes)
- 7.3.2. Opening statement by or for the other side (maximum of 15 minutes)
- 7.3.3. Witnesses called by the side with the burden of proof
- 7.3.4. Witnesses called by the other side
- 7.3.5. Continue with sides calling witnesses, side with the burden of proof first, either until both sides are finished or until time has expired.
- 7.3.6. Closing statement by or for the side with the burden of proof (maximum of 15 minutes)
- 7.3.7. Closing statement by or for the side without the burden of proof (maximum of 15 minutes)

### 7.4. Procedures for each Witness's Testimony:

- 7.4.1. Direct examination of the witness by the side calling the witness
- 7.4.2. Cross examination of the witness by the other side
- 7.4.3. Questions to the witness from members of the CAFRT
- 7.4.4. Re-direct examination (if desired)
- 7.4.5. Re-cross examination (if desired)
- 7.4.6. Further questions by the CAFRT
- 7.4.7. Continue with re-direct, re-cross, CAFRT questions, until all sides are finished with the witness.

### 7.5. Procedures for recording the hearings and obtaining a copy of the recording:

- 7.5.1. The University is responsible for making a record of the hearing.
- 7.5.2. The University will provide and pay for the stenographer used to record the hearing.
- 7.5.3. The faculty member appealing to the CAFRT and/or the University representative may obtain copies of the record of the hearing by submitting a written request to the Provost and Vice President for Academic Affairs.

- 7.5.4. The faculty member should submit payment as specified by the State of Texas under the Public Information Act with his/her written request for a copy of the record. Payment should be to "Texas A&M University-Texarkana" unless otherwise specified by the Provost and Vice President for Academic Affairs.
- 7.5.5. The Provost and Vice President for Academic Affairs will arrange for the record to be duplicated and will arrange for the duplicated record to be provided to the party or parties requesting it.

## **8. DECISION AND REPORT OF THE CAFRT**

- 8.1. Each CAFRT member shall make his/her decision based on the preponderance of evidence. The CAFRT will formulate explicit finding(s) with respect to each of the grounds for dismissal and/or suspension without pay pending dismissal presented and recommend whether or not there is good cause for the dismissal and/or suspension without pay pending dismissal. After appropriate discussion, the finding(s) and recommendation(s) of the CAFRT shall be determined by a majority vote.
- 8.2. After consultation with the CAFRT members, the chair shall draft a report providing the conclusions and recommendations of the CAFRT as well as the reasons for such conclusions and recommendations. This draft of the report will be distributed to the CAFRT members for their comments and suggestions. The final report must be signed by a majority of the CAFRT members. Any CAFRT member(s) who disagrees with the report as written by the chair and signed by a majority of the CAFRT may submit a minority report(s) to the chair.
- 8.3. The chair shall submit the CAFRT report to the President of Texas A&M University-Texarkana, within ten (10) calendar days of the completion of the hearing, with copies to the appealing faculty member, the University representative, the Provost and Vice President for Academic Affairs, and the CAFRT members.
- 8.4. The President bases their decision on the case after receiving the CAFRT report(s).
- 8.5. If the President's final determination is to terminate the appointment, all documents of the matter including reports, records and the President's recommendation will be delivered to the chancellor for review. The chancellor will have a maximum of twenty (20) business days to conduct the review. Upon completion of the review, the chancellor will make a final determination as to the dismissal and/or suspension without pay pending dismissal.
- 8.6. A finding by the chancellor to terminate a faculty member's employment will be effective at the time of the finding. The chancellor's decision will be final.

## **9. RECORDS**

- 9.1. The chair is responsible for maintaining the records of the CAFRT hearing while the case is pending.

- 9.2. Once the CAFRT has made a recommendation to the President, the chair will transfer the records of the CAFRT hearing to the Office of the Provost and Vice President for Academic and Affairs, which will be responsible for the long-term storage of those records.

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## **Related Statutes, Policies, or Requirements**

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[System Policy 12.01, \*Academic Freedom, Responsibility, and Tenure\*](#)

[System Rules 12.01.01, \*Institutional Rules for Implementing Tenure\*](#)

[System Regulation 08.01.01, \*Civil Rights Compliance\*](#)

[University Procedure 12.01.99.H2, \*Academic Freedom & Responsibility\*](#)

[University Procedure 12.01.01.H1, \*Tenure and Promotion\*](#)

[University Procedure 12.01.99.H1.03, \*Faculty Performance Review\*](#)

[University Procedure 12.06.99.H0.01, \*Post Tenure Review of Faculty & Teaching Effectiveness\*](#)

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## **Contact Office**

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