

## **SEPARATION**

### **Retirement**

Over the years, DePaul has set the normal age of retirement at 65 and a mandatory retirement at 70. Tenure ceases for all faculty members at the end of the academic quarter, including the summer sessions, in which their 70th birthday occurs. The exemption to the Age Discrimination in Employment Act permitting the mandatory retirement of tenured faculty is scheduled to expire January 1, 1994. Unless Congressional action is taken, the mandatory retirement age for tenured faculty will cease as of December 31, 1993.

### **Resignation**

A faculty member who decides not to accept reappointment is expected to notify the dean and, in colleges organized into departments, the department chair no later than thirty (30) days after the issuance of the contract and submit a written resignation to the Executive Vice President for Academic Affairs.

### **Reappointments**

#### General Meaning

Appointment, reappointment, annual review and promotion, and tenure review are separate actions. Appointment does not guarantee reappointment, nor does appointment at any rank confer tenure, except where specifically provided in the contract. Promotion at any time from any rank to any other rank does not confer tenure. Tenure is rarely granted to faculty members below the rank of Associate Professor.

#### Tenure-Track Position

##### Tenured Faculty

Tenured Faculty are not reappointed annually, but are subject to annual review within established

policies for faculty review.

##### Nontenured Faculty

The reappointment of a nontenured faculty member in a tenure track position is decided on the basis of the person's qualifications, the need of the University for the person's services, and the financial conditions of the University. That nontenured faculty members previously have been appointed at DePaul does not entitle them to reappointment. They are entitled, however, to consideration for reappointment on the same criteria mentioned above.

The same criteria for deciding to offer a new contract apply to faculty whose tenure has ceased upon retirement.

Nontenured faculty members are subject to an annual review according to the guidelines identified in Section *Evaluation of Faculty* of this handbook. Reappointments are an extension of previous contracts and are determined by the contractual arrangements within the current contract. Reappointment decisions are made in conjunction with the annual review process.

#### Nontenure Track Positions

These positions are annual appointments and are not considered permanent appointments to the DePaul faculty.

#### Part-Time Faculty

Part-time faculty contracts may be offered a new contract but are not considered a reappointment. Such contracts are made through the college offices.

#### Graduate Assistants and Fellows

Decisions concerning graduate assistants and fellows reappointments are made through the college offices.

### Notification of Renewal of Appointment

The University follows the AAUP guidelines for notice of reappointment. (See AAUP Policy Documents and Reports 1990). Notice of nonreappointment, or of intention not to recommend reappointment, should be given in writing in accordance with the following standards:

1. On or before March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one year appointment terminates during an academic year, at least three (3) months in advance of its termination.
2. On or before December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two year appointment terminates during an academic year, at least six (6) months in advance of its termination.
3. At least twelve (12) months before the expiration of an appointment after two (2) or more years in the institution. Notices of reappointments and contract renewal are based on the University's budget cycle and will vary annually dependant upon that cycle.

### Tenure-Track

Principles governing the reappointment of nontenured faculty are as follows:

#### Probation for Nontenured faculty

Before acquiring tenure, a faculty member has a probationary appointment.

#### Notification of Nontenured faculty

The nontenured faculty member is entitled to: (a) written notification of the initial decision to renew or not to renew the contract, with a

statement of the reasons for the decision which shall be given by the dean. A decision to renew should include assessment of the faculty member's qualifications, noting especially those conditions which should be fulfilled for future reappointment and/or tenure.

Notification during the probationary period shall be made according to Section *Notification of Renewal of Appointment* above. Notification by these dates shall constitute sufficient notification for not offering another contract even though appeal and subsequent review might mean that the final decision is rendered less than a year before the end of the final contract. (b) An opportunity to submit materials supporting probationary appointment. The nontenured faculty member will be notified at least 28 calendar days before the decision is to be made on reappointment. Supporting materials shall be submitted to the dean or the department chair at least 14 days prior to the decision date. (c) Notification by the dean of his or her prerogatives connected with a decision that a contract is not to be renewed, including a statement of the faculty member's rights of appeal and the procedures governing such an appeal, if he or she wishes such a review. This right and the procedures attached thereto are described in Section 2.8.9.

#### Reappointment Criteria of Nontenured Faculty

Reappointment normally implies that a faculty member is making reasonable progress towards tenure unless otherwise noted in the written statement required in Section *Separation, Reappointments, Tenure-Track* above.

Nonreappointment, however, may rest on a single criterion or a combination of several criteria, reflecting the faculty member's role in the academic unit and the needs of the University. The rationale for selection of criteria and their relative importance must be explained, if a reappointment decision is questioned.

Reappointment decisions must be based on

criteria as described in Section *Separation, Reappointments*, and selected from those listed below:

- ◆ Teaching, including such related activities as course preparation, testing, and student advisement;
- ◆ Scholarship, research, or creative activities;
- ◆ University, professional and community service;
- ◆ Professional advancement, such as the completion of a terminal degree or certificate. This criterion is especially applicable when there is a particular interest or a previous understanding with the faculty member regarding this advancement;
- ◆ Responsible participation in University processes and activities that are generally considered faculty responsibilities;
- ◆ Change in academic program, such as:
  - ◆ — termination or reduction in size of the academic program to which a faculty member is assigned;
  - ◆ — change in an area of specialization or in emphasis in a program, requiring replacement of nontenured faculty with faculty having different specializations;
- ◆ Financial conditions of the University as a whole or in any particular part, requiring reduction in the size of the faculty;
- ◆ Professional and ethical conduct.

#### Termination of Nontenured Faculty

When deciding whether or not to renew the contract of a nontenured faculty member, the University follows two general principles.

DePaul is obligated to select, given available resources, faculty members who will best contribute to its distinctive goals and academic mission. Consequently, the University has the utmost latitude, within the limits of academic freedom, in determining which nontenured faculty members will be retained. The University should be left without a reasonable doubt as to the faculty member's qualifications for tenure before it reaches a favorable decision on a reappointment to which tenure is attached. The quality of academic programs and therefore the good of the University require careful selectivity in retention based on the individual faculty member's qualifications and the needs of the University for particular types of qualifications. Anything that undermines the selective process erodes tenure and quality. Within the bounds set by general University criteria, every faculty member in an academic area is entitled to fair and consistent decision making procedures as protection against violations of academic freedom or arbitrary adverse decisions based on established process policy.

The deliberative process will follow duly established procedures and will provide faculty members with an opportunity to submit materials supporting reappointment. Each year, the nontenured faculty member will be notified at least fourteen calendar days before the initial decision is made on reappointment. Within seven days after this notification, he or she may submit supporting material. Should an adverse decision be reached, faculty members are entitled to a written statement of the reasons for their not being reappointed and, upon written request, through a formal review of the decision by their faculty colleagues.

A judgment may rest on a single criterion or on a combination of several criteria. The persons making this judgment will select a particular criterion or several criteria on the basis of the faculty member's role in the academic unit and the needs of the University. The rationale for selection of criteria must be explained if a reapp-

pointment decision is questioned. If a single criterion is used, its choice should be based on compelling grounds, such as the intrinsic importance of the criterion to the University as a whole or appointment or any agreement made with the faculty member in the initial or subsequent contracts. If multiple criteria are used, the relative importance of each should be noted.

The dean and the faculty determine which evidence is appropriate for a criterion. The usual prudence is expected in selecting important evidence without trying to exhaust all sources of information. Within the context of general University policy, every faculty member in an academic unit is entitled to be judged according to the same sets of criteria and the same types of documentation. To be avoided in all evaluations is any consideration of the personal ties between the faculty member and the dean and peers making the decision or the personal conduct of the faculty member not falling under one of the nine criteria in the University policy. Any judgment based on a faculty member's ideological and political position is a violation of academic freedom and will not be supported.

#### Appeal Procedure for Nonrenewal of Nontenured and Tenured Track Faculty

All review procedures are to be carried out as expeditiously as is reasonably possible, consistent with obtaining sound judgments and qualified, balanced review panels. All time guidelines set forth below refer only to calendar days within regular academic terms — Fall, Winter, Spring — are to be construed as recommended maximums. However, a failure by the affected faculty member to adhere to any time guidelines, except under extraordinary circumstances, shall result in forfeiture of all review rights.

A nontenured tenure-track faculty member informed that his or her contract is not to be renewed may appeal the decision not to renew. The first step of the appeal process must be a written request to the dean that he or she institute

an informal review. A copy of that request shall be sent to the Executive Vice President for Academic Affairs. Such a request is to be made within seven calendar days after the receipt of the decision not to renew. The informal review is to be completed within fourteen days after the receipt of the request from the affected faculty member. The faculty member must be notified in writing by the dean of the conclusion of the informal review within seven days after the completion of the review.

If the informal review does not result in a decision to renew the contract, the faculty member may then request the Faculty Council to initiate a formal review of the decision not to renew. This request shall be made in writing to the President of the Faculty Council, shall state the grounds on which the challenge to the decision is made, and shall be made within seven days after the receipt of the decision of the informal review not to renew.

A nontenured faculty member whose petition has not been reviewed by the Promotion and Tenure Board can request this formal review on any or all of the following grounds:

1. That the faculty member's academic freedom was violated by the dismissal itself.
2. That the process by which the decision not to renew was made applied inappropriate criteria or applied appropriate criteria unfairly or failed to meet reasonable standards of thoroughness;
3. That the evaluation of the candidate was not in accord with the policies and procedures set herein.

A nontenured faculty member whose petition has been reviewed by the Promotion and Tenure Board, can request this formal review only on grounds of (1) or (3) specified above.

The Committee on Committees of the Faculty

Council shall be directed by the Council's President to appoint a Review Board of three tenured members from departments other than that of the faculty member concerned, one of whom may be an academic dean from another college, to conduct the formal review. This appointment shall be made within ten days after the receipt of the request from the affected faculty member. The President of the Faculty Council shall notify the faculty member and faculty member's dean of the appointment of the Review Board and of the names of the members of the Board. The dean shall also receive notification of the grounds on which the challenge to the decision is made.

The Review Board shall select its own chair. All three members must be present to conduct business. Any decision requires a simple majority vote. The Board's transactions are confidential and not open to persons other than those explicitly invited to attend. Written minutes shall be kept of its meetings which shall be available only to the Executive Vice President for Academic Affairs. The Executive Vice President for Academic Affairs and the appealing faculty member shall be notified by the Board of its final decision at the same time. The board will notify the faculty member's dean, department chair and the President of the Faculty Council in a timely manner.

The Review Board shall receive: from the complaining faculty member a written statement indicating the grounds for challenging the decision; from the faculty member's dean, a written statement of the reason(s) for not renewing the contract and/or a statement of the procedures followed in reaching and reviewing the decisions not to renew the contract. These statements are to be submitted to the Board within ten days after the appointment of this Board. The Board may choose to interview the faculty member and/or the dean, and/or request further information. The board may also dismiss any complaint that does not include a written statement setting forth any of the grounds.

The burden of proof rests on the complaining faculty member. The decision stands unless the faculty member can establish the violation of Criteria (1)(2)(3) above. Failure to submit requested materials within the designated deadlines shall constitute a failure to meet the burden of proof.

If the complaining faculty member alleges a violation of academic freedom, the Review Board shall reach one of two decisions:

1. That academic freedom has not been violated by the dismissal itself and hence the decision not to renew a contract stands;
2. That academic freedom has been violated by the dismissal itself and hence the dean may recommend that another contract be offered or that a review of the case be conducted in accord with those procedures ordinarily reserved for tenured faculty being dismissed for cause.

If a complaining faculty member alleges that the process by which the decision not to renew was made applied inappropriate criteria or applied appropriate criteria unfairly or failed to meet reasonable standards of thoroughness the review Board shall determine primarily whether the decision made by the body representing the department or college was the result of inadequate consideration in terms of the relevant University criteria. In its deliberations the Board shall not substitute its judgement on the merits of the case for that of the departmental or college bodies. The Board shall request reconsideration by the representative of the department or college when the Board believes that adequate consideration was not given to the faculty member's qualifications. In such instances, the Board should indicate the respects in which it believes the consideration may have been inadequate. If the Board finds that adequate and proper consideration was given, the decision for nonrenewal stands.

University procedures for deciding the renewal or

nonrenewal of the contract on a nontenured tenure-track faculty member formally end with the decision of this review board unless, in accord with procedures ordinarily reserved for tenured faculty being dismissed for cause, the matter is referred to the formal procedures ordinarily reserved for tenured faculty. The decision of the Board must be submitted to the Executive Vice President for Academic Affairs within seven days after the conclusion of the hearing, which submission shall, in no event, be more than sixty five days (exclusive of time between regular academic terms) after the affected faculty member had originally been notified of nonrenewal of the contract.

### **Termination Due to Financial Exigency**

University-wide financial exigency necessary for termination of tenured faculty exists when two conditions are present:

1. A deficit is likely to continue for at least two years unless retrenchments are made; and
2. In the first year, the deficit equals at least four percent (4%) of the total University operating budget, calculated after retrenchments have been made in areas other than academic programs.

In the event of such exigency, the University will retrench operations supporting academic programs before taking steps that could lead to the termination of tenured faculty. These retrenchments in supporting areas will be made up to the point where there would be danger of seriously weakening the basic quality of academic programs or essential operations of the University.

The Executive Vice President for Academic Affairs shall issue a formal statement to the President of the Faculty Council and the President of the Staff Council, indicating and documenting the likelihood of a financial exigency. Among the matters to be covered in the statement are:

1. The probability of the exigency continuing unless serious retrenchments are effected;
2. The amount and distribution of the retrenchments that can be made, other than by terminating faculty appointments, to alleviate the effects of this exigency without seriously weakening the basic quality of academic programs or essential operations of the University; and
3. The amount of decrease in expenditures that needs to be realized through termination of faculty appointments.

The statement by the Executive Vice President for Academic Affairs shall be reviewed by a committee to determine whether there is a sufficient evidence to declare a financial exigency. The committee shall consist of four faculty members, one professional staff member, one student, and the Vice President for Business Affairs. The Committee on Committees of the Faculty Council will select the faculty members, the President of the Staff Council will select the staff member, and the President of the Student Association will select the student member. Members of the committee may be chosen from any area of the University.

This committee shall have access to all University data related to the possible financial exigency. It also should question persons knowledgeable about the situation. The committee shall vote on each of the three points in the Executive Vice President for Academic Affairs' statement noting the possible financial exigency. The committee shall keep a formal record of its deliberations and votes.

The conclusions of this committee as to the existence of financial exigency shall be referred to the Faculty Council, Staff Council, and Student Association for timely review and comment, which will be sent to the President of the University, with the committee's report for final decision.

In the event that the President of the University decides that there is financial exigency, the Executive Vice President for Academic Affairs shall prepare a proposal indicating some of the specific methods for dealing with the financial exigency, such as the timing of the retrenchments and their effects on academic programs.

This proposal shall be submitted to a committee consisting of three faculty members (selected by the Committee on Committees of the Faculty Council), one college dean (chosen by the Dean's Council), one student (selected by the Student Association), and the Executive Vice President for Academic Affairs, who will chair the committee but not have a vote. No member of the committee may be from an academic unit in which retrenchment has been proposed. Before the committee reaches any decision regarding dropping or substantially reducing a program or reducing or consolidating an academic unit with another, it will provide the faculty in the program or unit as well as the faculty in related programs in the same college the opportunity to address the committee.

The committee's decision where to cut faculty appointments and the extent of those cuts in given units or programs shall be guided by the need to cause the least amount of harm to the academic programs of the University as a whole and to units and programs not directly affected by the retrenchment and by the need to make cuts most likely to relieve the financial exigency.

The committee shall keep a written record of its deliberations and decisions. This written record shall be appended to the committee's final report, which will be provided to the Executive Vice President for Academic Affairs, the deans of the affected colleges, the Faculty Council, and the Student Association. Its decisions shall be the basis for further action by academic administrators.

Based on the decisions on where and how re-

trenchments are to be made, the ideas of affected colleges, following consultation with department chairs and programs heads, shall propose to a faculty committee which faculty appointments shall be terminated. The Executive Vice President for Academic Affairs shall make the proposal if a college itself is to be phased out.

The committee shall consist of three faculty not affiliated with the programs or departments in which retrenchments have been proposed by the dean. For colleges not organized by departments or programs, the committee members will be drawn from outside the college. The Committee on Committees of the Faculty Council will appoint the committee members. If more than one college is to be directly affected by retrenchment, more than one committee may be established.

The committee will select one of its members to act as chair. The committee shall consult with the dean, the Executive Vice President for Academic Affairs (if the termination of a college has been proposed), and the chairs or program heads of affected departments or programs.

The committee will submit a written report to the Executive Vice President for Academic Affairs, the deans of the concerned units, and the department chairs or program heads, with a copy sent to the President of the Faculty Council.

The dean, in making his or her proposals for termination, and the committee, in evaluating the proposals, are to decide according to the following criteria and in this order of priority:

1. Faculty required for a viable academic program, if the program itself is not to be phased out, should be retained; quality of faculty performance may be considered in evaluating whether a faculty member is required for a viable academic program; in extraordinary circumstances, where a serious distortion of the academic program would otherwise result, a nontenured faculty member may be retained;

2. Tenured faculty retained over nontenured faculty;
3. More senior members, seniority determined by years of full-time service to the University;
4. Equal opportunity and similar policies which assure equitable consideration to women and members of minority groups.

A tenured faculty member notified of termination because of financial exigency has a right to appeal to a faculty committee to the selection of the area and type of retrenchment and selection of specific faculty appointments to be terminated. The faculty member making the appeal must specify in writing the precise issues to be reviewed and the basis for the challenge. This written statement must be submitted to the President of the Faculty Council within four weeks of receipt of notification of termination.

The Committee on Committees of the Faculty Council will select faculty members not affiliated with the programs or units of faculty members making appeals. One committee will review all appeals unless all units in the University are affected by the exigency, in which case there may be two committees.

The committee will conduct a formal hearing with a written record maintained. The hearing may be public or private, at the discretion of the hearing committee. The faculty members whose appointments have been terminated have the right to counsel, and a copy of the decision of the appeal committee. The committee shall not follow those legal procedures associated with cases at law. This committee's decision is to be submitted to the President of the University as a recommendation for his final decision. Only rarely and for compelling reasons, though, will the President not accept the committee's decision.

The decision terminating a tenured faculty member for financial exigency obligates the University:

- ◆ to make an effort to place the faculty member concerned in another suitable University position for which the person is qualified, especially when the financial exigency is limited to a particular academic unit; if the faculty member is not qualified, but is willing to become so, the University shall offer reasonable opportunity and financial support toward this end. The faculty committee described above, will work out any difference between the faculty member whose position is terminated and the appropriate administrator regarding qualifications for another position, reasonable opportunity and support in becoming qualified;
- ◆ to give 12 month notice of termination or salary and benefits for an equal length of time;
- ◆ not to replace the faculty member within a three year period unless the terminated faculty member has been offered reinstatement with a reasonable time in which to accept or decline;
- ◆ not to approve additional full-time faculty positions in other academic programs or units of the University over a three year period except in extraordinary circumstances, or where serious deterioration or distortion would result in other academic programs without such additional faculty appointments.

### **Discontinuance or Substantial Reduction of an Academic Unit**

The University also may discontinue or substantially reduce an academic unit if such an action is consistent with a decision of the Faculty Council, reached according to its established policies and procedures for program termination, to terminate or reduce an academic program served by the faculty of the unit.

The appointments of only those faulty members

explicitly affiliated, by the terms of the initial contract and subsequent contract renewals, with the unit or program can be terminated by discontinuance or reduction.

As specified in Section *Academic Rank and Titles, Search, Appointment, and Orientation of Faculty, Initial Academic Appointments, Change of Affiliation*, the original faculty affiliation can be changed only with the agreement of the faculty member.

The process of discontinuation or substantial reduction of the faculty of a unit involving the termination of tenured contracts starts when the dean of the college responsible for the academic unit in question or the Executive Vice President for Academic Affairs submits a formal proposal to the President of the Faculty Council. The proposal should include the methods to be employed in eliminating, phasing out, or reducing the unit. The Faculty Council Committee on Committees will form a committee of five faculty members to evaluate the proposal and recommend if it is to be accepted or rejected. No member of the committee may be from a unit to be affected by the proposed discontinuation or substantial reduction of programs.

Should the Faculty Council accept the recommendation of the committee, it shall submit its decision to the President, who has final authority in this matter. The faculty attached to any program directly affected have a right to all of the records upon which the decision was based, and a right to submit, individually or as a group, within twenty days of the Faculty Council decision, a statement to the President explaining a position contrary to the Faculty Council decision. The President shall not make a final decision until after studying the statement submitted by the faculty who would be affected by discontinuation or reduction of a unit.

The specific faculty appointments to be terminated shall be decided by a process identical to that followed in deciding termination after a

judgment that a crisis of financial exigency exists.

The tenured faculty member whose appointment is to be terminated has the right to appeal the selection of his or her appointment to be terminated. The appeal process is identical to that used for appealing terminations due to financial exigency. This appeal in no way limits the previously described right to appeal the decision of the Faculty Council that an academic program be discontinued or substantially reduced.

The decision to terminate a tenured faculty member due to program termination or reduction obligates the University to make an effort to place the faculty member concerned in another faculty position or, if that is not possible, another suitable University position for which the person is qualified; if the faculty is not qualified, but is willing to become so, the University shall offer reasonable opportunity and financial support toward this end. If the faculty member believes that the administrator has failed to make a good faith effort to work out an arrangement for the faculty member's reassignment, he or she may appeal to the faculty committee that determined faculty appointments were to be terminated.

The committee will ascertain from both parties the terms that they have proposed and the rationale for those terms.

The University is obligated to make an effort to place the faculty member concerned in another suitable University position for which the person is qualified, especially when the financial exigency is limited to a particular academic unit; if the faculty member is not qualified, but is willing to become so, the University shall offer reasonable opportunity and financial support toward this end. If the faculty member believes that the administrator has failed to make a good faith effort to work out an arrangement for the faculty member's reassignment, he or she may appeal to the faculty committee that determined which faculty appointments were to be terminated. The committee will ascertain from both parties the

terms that they have proposed and the rationale for those terms. The committee may adopt one of four decisions. It may choose to reject the appeal, in which case the administration can treat its terms as the University's final offer; the individual faculty member may choose to accept the offered compromise or accept the termination provisions stipulated in the following paragraph. The committee may uphold the appeal and require the University to accept the terms offered by the faculty member. The committee also may offer a compromise, which the University will be required to accept as its final offer, or the committee may uphold the appeal and require the parties to reenter negotiations and bargain more flexibly. Should the faculty member and the administrator fail to agree on an appropriate reassignment, the University is obligated to give 12 month notice of termination or salary and benefits for an equal length of time.

### **Termination Due to Disability or Medical Reasons**

When serious health problems arise, with an expected duration of more than four weeks, a faculty member will normally request and be granted a disability leave of absence. Disability income benefits are described in the University's benefits handbook [Focus on Benefits](#).

The faculty member who recovers sufficiently to return to normal faculty duties within thirty-six months from the beginning of disability leave, is entitled to resumption of a regular appointment. If the sick leave extends beyond this time period, the tenured appointment is terminated. Should the faculty member recover sufficiently after this time period, the University shall give preferential consideration if the person wishes to apply for a new faculty appointment for which he or she is qualified. Such faculty members, if appointed, shall be appointed at his/her prior faculty rank and status.

In any instance in which the appropriate University administrator questions whether a faculty

member on sick leave has sufficiently recovered to resume normal duties, the University may require the faculty member to submit to a medical examination by a doctor, selected by mutual agreement of the University and the faculty member, who will certify whether or not the faculty member is capable of resuming his or her duties.

The usual initiative of a faculty member in requesting a sick leave of absence does not preclude administrative action to place the person on sick leave contrary of the person's will, if there is sufficient evidence that continuation of regular duties would constitute probable and serious harm to the fulfillment of the University's responsibilities, to its reputation, or to the welfare of the faculty member. Such administrative action, is subject to review by normal faculty grievance procedures. The effect on retention or termination of a tenured appointment is the same for sick leave initiated by the faculty member or by the administration.

Disability can lead to the termination of a tenured appointment if the persistent health problems of a faculty member prevent assignment to regular faculty duties on a full-time basis.

### **Dismissal of Tenured Faculty Members**

The University retains the right to dismiss a tenured faculty member for any of these causes:

1. Deliberate and persistent breach, refusal to perform, or gross neglect or continued and serious ineffectiveness in the performance of faculty obligations;
2. Unethical conduct in activities associated with the role of faculty member; serious violations of the faculty obligations set forth in Section *Faculty Rights and Responsibilities*, or conviction by a court of law of a crime involving moral turpitude;
3. Material violation of the policies govern-

ing activities outside the University.

When the fitness of a faculty member is questioned, the dean will discuss this reason with the faculty member for the purpose of reaching a mutual agreement that will remove or otherwise settle the question of fitness.

If the dean and faculty member do not reach a mutually agreeable settlement and the dean considers the matter serious enough to warrant dismissal or sanction, the dean shall request the President of the Faculty Council to have the Committee on Committees appoint an inquiry board of three tenured faculty members. The role of this committee is:

1. To ascertain the facts related to the fitness of the faculty member giving both the dean and the faculty member adequate time to prepare and submit information relating to the specific questions raised by the dean; the inquiry board will decide its own procedures and rules for the presentation of information;
2. To attempt to reach some adjustment acceptable to both the dean and the faculty member;
3. Failing to make such a adjustment, to determine whether there are sufficient grounds to begin formal dismissal proceedings to impose some other sanction;
4. To submit a formal recommendation to the dean along one of these lines:
  - a. to institute formal dismissal proceedings or suspension proceedings;
  - b. to drop the question of fitness;
  - c. to impose some other sanction other than dismissal or suspension, such as a warning or formal reprimand, in which case the dean may impose the sanction without further hearing, but the faculty member may request a formal review through normal faculty grievance procedures.

The college dean may institute a formal dismissal or suspension proceeding only if recommended by the inquiry committee. Should he/she decide to do so, he/she is to prepare a formal, specific statement of reasons based on the finding of the inquiry board. The dean shall forward this statement to the members of the Faculty Council Committee on Committees, the Executive Vice President for Academic Affairs, and the chair of the faculty member's department.

The Committee on Committees shall identify a panel of nine tenured faculty members not affiliated with the college or school of the faculty member. Each party may interview each member of the panel. In alternating fashion, with the University going first, each party excludes three members from the panel. The remaining members of the panel constitute the hearing committee.

The hearing committee's findings of fact and its decisions are to rest solely on the hearing record. The burden of proof shall rest on the dean to establish by clear and convincing evidence in the record as a whole that there is adequate cause to dismiss the faculty member. The responsibilities and prerogatives of the hearing committee in conducting its procedures are:

1. It has the right to all the information and documents it needs, without being obligated by strict rules of legal evidence and legal procedures, exercising due precaution not to divulge the contents of documents normally considered confidential;
2. It may conduct prehearing meetings to clarify issues and otherwise provide for an effective and efficient hearing;
3. It may take whatever time is required for a fair and complete hearing, while avoiding unnecessary delays;
4. It may formulate its own additional rules of procedure not contrary to the procedures of

this document;

5. It shall keep a verbatim record of the hearings, which shall be available to the parties without cost;

6. It may conduct its hearings privately or publicly, a decision to be made only after consulting with both parties on this point;

The two parties have the following prerogatives in the formal hearing:

1. To obtain in advance of the hearing a list of witnesses the other party intends to call;

2. Following submission of a written request, to inspect before the formal hearing at a location selected by the committee all documents that the committee in its prehearing meetings has collected and deemed relevant to its deliberations, including documents normally considered confidential. As a condition of seeing such confidential documents, however, the committee shall require that their content be kept in strict confidence by both parties;

3. To select an academic advisor or counsel of their own choice;

4. To cross examine witnesses;

5. To have sufficient time to prepare evidence and to have adjournments upon the valid claim of unforeseen occurrences during the hearing.

The faculty member has the following additional prerogatives in the formal hearing:

1. To decline to testify, without prejudice, at the hearing without restricting the prerogative of supporting evidence;

2. To invite a representative of a responsible educational association as an observer to the hearing.

The University will assume all costs directly incurred by the hearing committee. If the faculty member employs an attorney for the hearing, and the decision is not for dismissal, the University will reimburse the faculty member for at least one-half of the reasonable legal expenses, the precise proportion to be decided by the hearing committee, depending on the degree to which the University case for dismissal had merit.

During the process of the hearing, both parties shall avoid making public statements other than simple announcements as may be required.

Within a reasonable time after the completion of the hearing, the hearing committee shall submit to the President of the University its decision with supporting reasons. The decision may be (1) that adequate cause for dismissal has been established; or (2) that adequate cause has been established for an appropriate academic penalty but not for dismissal; or (3) that adequate cause has not been established for either dismissal or a lesser penalty. Within a reasonable time following an adverse decision by the committee, the faculty member may appeal in writing to the President. Neither party has the right to submit evidence to the President.

The President may either accept the decision of the hearing committee or resubmit this decision to the committee with specific objections. In the latter case, the committee will then reconsider only points to which the President has objections, receiving new evidence if necessary. After the study of any reconsideration by the committee, the President will make the final decision. The President may dismiss a faculty member for cause only if such action is recommended by the hearing committee.

There is no appeal from this decision within the University.

## **Suspension**

For serious cause the University may suspend a faculty member from his or her teaching duties and other obligations and responsibilities and prohibit that faculty member from using University facilities. This action can be taken only to prevent probable and serious harm to the reputation of the University or to its ability to carry out such important functions as instruction. The faculty member is guaranteed that fair and consistent procedures will be used for making any suspension decision.

The faculty member may be suspended in the following ways:

1. By the President of the University following a decision by a formal hearing committee to dismiss the faculty member for cause;
2. By the Executive Vice President for Academic Affairs following a hearing by a faculty committee selected by the Committee on Committees, at which hearing the faculty member will have an opportunity to present his or her position and supporting evidence;
3. By the Executive Vice President for Academic Affairs in the event of an emergency where potentially serious harm must be prevented immediately and there is no opportunity for a previous hearing, in which case, the suspended faculty member has the right after the fact to a formal grievance hearing.

The suspension will not continue beyond the time required to remove the actual or potential harm ordinarily not beyond the academic year. The suspension might be for twelve months if the faculty member in question has been given notice of termination and there are sufficient reasons for suspension until this termination becomes effective.

The faculty member suspended from active service to the University will receive full compensation during the suspension until the time of justifiable dismissal for cause.