

2.8 University Policy on Faculty Conduct

I. Introduction

The University of New Orleans strives to protect academic freedom and academic due process. With freedom come certain obligations for the faculty members. This document outlines those privileges and obligations and also details the procedures that will be followed at the University of New Orleans when dealing with alleged faculty misconduct. The most severe sanctions (demotion, suspension, and dismissal) enumerated in Section III, B. 7, 8, and 9 below, must be recommended by the Chancellor to the President of the LSU System. Article VII, Section 4.d. of the Bylaws and Regulations of the Board of Supervisors of the Louisiana State University provides that "The Chancellor, after consultation with the appropriate academic and/or administrative staff, shall make recommendation to the President for . . . appointments, promotions, transfers, suspensions, and dismissals of all academic ... employees subject to the approval of the President and confirmation of the Board." The procedures described below clarify the "consultation with appropriate academic and/or administrative staff" the Chancellor will utilize before formulating a recommendation to the President.

At the University of New Orleans, the responsibility to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and administration that the purpose of discipline is to preserve the University's central function as an institution of higher learning. A major responsibility of the administration is to protect and encourage the faculty in its teaching, learning, research, and public service under conditions hospitable to these pursuits. Such conditions, as they relate to faculty, include

1. Free inquiry and exchange of ideas;
2. The right to present any material relevant to a course of instruction;
3. Enjoyment of constitutionally protected freedom of expression as provided for by Article VIII, Section 1, of the Bylaws and Regulations of the LSU System;
4. Participation in the governance of the University, as provided in the Bylaws and Regulations of the LSU Board of Supervisors, memoranda issued by the President of the Louisiana State University (PMs), administrative procedures issued by the Chancellor of the University of New Orleans (APs), and the *UNO Faculty Handbook*, including
 - a. approval of academic programs, course content and manner of instruction,
 - b. establishment of requirements for matriculation and for degrees,
 - c. appointment and promotion of faculty,
 - d. selection of department chairs and certain academic administrators,
 - e. discipline of members of the faculty and the formulation of rules and procedures for discipline of students,
 - f. establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and
 - g. determination of the forms of departmental governance;

5. the right to be judged in accordance with fair procedures in matters of promotion, tenure, and discipline solely on the basis of the faculty member's competent and effective performance of appropriate duties.

II. Faculty Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

Faculty responsibilities, ethical principles, and types of unacceptable behavior bear on the individual faculty member's relation to teaching and students, to scholarship, to the University, to colleagues, and to the community. Since University discipline, as distinguished from other forms of reproof, should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition or its consequences, it may be imposed on faculty members only for conduct that violates ethical principles and therefore impairs the University's function.

The types of unacceptable conduct listed below (A-E) are meant only as examples, and other ram of misconduct may also be regarded as unacceptable and deserving of University discipline. University policy regarding sexual harassment is covered specifically in the UNO document promulgated on March 1, 1989, and available in the appendix, and from the office of the Assistant to the Chancellor for Equal Opportunity Employment.

A. Teaching and Students

Ethical Principles. The professor encourages in students the free pursuit of learning, holding before them the best scholarly standards of the discipline. The professor demonstrates respect for the student as an individual, and adheres to the proper role as intellectual guide and counselor, making every reasonable effort to foster honest academic conduct and to assure that his/her evaluation of students reflects their true merit. The professor respects the confidential nature of the relationship between teacher and student and avoids any exploitation of students for private advantage, acknowledging any significant assistance from them. The professor protects their academic freedom.

Examples of unacceptable conduct:

1. Failure to meet the responsibilities of instruction, including the following:
 - a. arbitrary or unwarranted denial of access to instruction;
 - b. significant intrusion of material unrelated to the course;
 - c. repeated failure without legitimate reason to adhere to the responsibilities of the faculty to meet class, to keep office hours, to hold examinations as scheduled;
 - d. evaluation of student work by criteria not directly reflective of course performance;
 - e. undue and unexcused delay in evaluating student work.
2. Discrimination against a student for reasons of politics, race, religion, gender, ethnic origin, sexual orientation, or for other arbitrary or personal reasons.

3. Use of the position or powers of a faculty member to coerce or cause harm to a student (e.g., sexual harassment or use of student services for personal gain).
4. Participating in or deliberately abetting disruption, interference, or intimidation in the classroom.

B. Scholarship

Ethical Principles. The professor, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognizes the special responsibilities which that conviction carries. A professor's primary responsibility to the subject is to seek and state the truth as he/she sees it, developing and improving scholarly competence to that end. The professor accepts the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge, thereby practicing intellectual honesty. Although subsidiary interests may be pursued, these interests must never seriously hamper or compromise freedom of inquiry.

Example of unacceptable conduct:

Violation of canons of intellectual honesty, such as intentional misappropriation of the writings, research, and findings of others.

C. The University

Ethical Principles. As a member of the University the professor seeks above all to be an effective and scholar. Although observing the stated regulations of the institution, the professor maintains the right to criticize those regulations and their administration and to seek their revision. The professor who undertakes work outside the University determines the amount and character of the work with due regard to his/her paramount responsibilities within the University, provided such outside work does not contravene any established rules of the University or of the LSU System. The professor who considers interrupting or terminating his/her service recognizes the effect of that decision upon the program of the institution and gives due notice.

Examples of unacceptable conduct:

1. Disobeying or inciting others to disobey University rules, such that the University's functions would be impaired.
2. Unauthorized use of the University resources or facilities for personal gain or commercial purposes.

3. Detention, threats of physical harm to, harassment or intimidation of another member of the University community, or otherwise interfering with that person's performance of University duties.

D. Colleagues

Ethical Principles. As a colleague, the professor has obligations that derive from common membership in the community of scholars, respecting and defending the free inquiry of associates. In the exchange of criticism and ideas, the professor shows due respect for the opinions of others, acknowledging academic debts and striving to be objective when making a professional judgment of colleagues. The professor accepts his/her share of faculty responsibilities for the governance of the University.

Examples of unacceptable conduct:

4. Making evaluations of the professional competence of faculty members by criteria not directly reflective of performance of appropriate duties or responsibilities of their position.
5. Discrimination against faculty for reasons of politics, race, religion, gender, ethnic origin, sexual orientation, or for other arbitrary or personal reasons,
6. Breach of established rules governing confidentiality in personnel procedures.

E. The Community

Ethical Principles. The professor has the same rights and obligations as any citizen. The professor is as free as other citizens to express personal views and to participate in the political processes of the community. When acting or speaking in a personal and private capacity, the professor should avoid creating the impression of representing the University.

Examples of unacceptable conduct:

1. Representation of personal views as a statement of the position of the University or any of its agencies.
2. Admission of, or conviction for, a criminal act that clearly demonstrates unfitness to continue as a member of the faculty.

III. Disciplinary Policies and Procedures

The University of New Orleans strives to exercise great care in selecting its faculty appointees and to confer tenure only upon those members who have demonstrated their merit in

a convincing way. For that reason, a dismissal proceeding involving a tenured faculty member or a faculty member serving a term appointment will be an exceptional event. It is also recognized, however, that a few faculty members may be guilty of offenses that do not justify dismissal but that must be penalized. The imposition of severe sanctions short of dismissal should be viewed as a serious step undertaken infrequently and only after minor sanctions and other administrative remedies have failed.

While any disciplinary action would be required infrequently, the University must be prepared for such an eventuality so that both the integrity of the University and the rights of the faculty member may be preserved.

A. Grounds for Disciplinary Action

With just cause, the University may impose a sanction against a faculty member. "Cause" refers to instances of misconduct such as those outlined in Section II, the nature of which indicates that the faculty member is unfit either to continue as a member of the faculty or to continue to enjoy certain previously held responsibilities or perquisites. All components of "cause" are serious, but not all offenses justify imposition of the most severe sanctions. In accordance with the due process procedures described in Section III-E, a faculty member may be subject to any of the sanctions enumerated below.

B. Sanctions

Sanctions extend from mild to severe and from informal to formal. The University of New Orleans may impose the following sanctions as circumstances warrant:

1. Oral reprimand.
2. Written reprimand.
3. Reassignment to other duties.
4. Loss of prospective benefits or of privileges of rank for a stated period, not to exceed two years.
5. Reduction in salary, not to exceed the prevailing promotional increment, for a period not to exceed one year.
6. A permanent reduction in salary, not to exceed the prevailing promotional increment. This action in no way abrogates tenure.
7. Reduction in rank with loss of salary not to exceed the prevailing promotional increment. This action in no way abrogates tenure.

8. Suspension without pay.

9. Dismissal.

Imposition of any sanction against a faculty member may be initiated by the faculty member's immediate supervisor or by a higher member of the University administration. Sanctions (1) and (2) are imposed as a direct result of dissatisfaction on the part of the faculty member's immediate supervisor. Sanctions (3), (4), (5), and (6) can be imposed only by administrative officials at the level of the faculty member's immediate supervisor. If the faculty member chooses to appeal the administrative decision by using the Grievance Procedure, sanctions (5) and (6) shall not be imposed until the Grievance Committee has completed its deliberations and the Chancellor has reached his/her decision. Sanctions (7), (8), and (9) can be imposed only in accordance with the procedures described in section III-D and III-E below.

C. Due Process Protection

A faculty member who wishes to challenge the imposition of sanctions (1) through (6) should utilize the University Grievance Procedure adopted July 1, 1981. Sanctions (7), (8), and (9) can only be imposed in accordance with the procedures specified below.

D. Procedure for Considering the Imposition of a Severe Sanction

1. Channels

Allegations against a faculty member originating from any source shall be addressed to the Chair of that faculty member's department and must be in writing. The written statement of allegations shall name the parties involved, document the allegations, and provide supporting evidence and names of witnesses. Henceforth, the term "written statement of allegations" is synonymous with the term "complaint." Matters involving such allegations proceed through channels from the Department Chair to the faculty member's Dean or Director, to the Vice Chancellor for Academic Affairs, to the Chancellor, and to the Charges Committee of the Faculty Council.

If a complaint is lodged against a chair, dean, or director, in his/her capacity as a faculty member, the individual making the allegations may address the allegations directly to the person's immediate supervisor.

2. Role of the Department Chair, Dean or Director, and Vice Chancellor for Academic Affairs

The Department Chair and the Dean or Director each shall attempt to bring about disposition of the matter. In the event that it is not possible to achieve a disposition satisfactory to the person making the allegation, as well as to the faculty member complained against and to any administrative official involved, then the

Dean or Director shall forward the matter to the Vice Chancellor for Academic Affairs, who shall meet with the parties involved to attempt to bring about an informal resolution of the matter.

3. The Complaint

If the matter can be resolved informally, the faculty member's Chair or higher administrator shall become the official complainant, who shall transmit through channels the written statement¹ concisely presenting the facts that allegedly constitute a violation of the University Policy on Faculty Conduct. The Chair or higher administrator may elect to become the official complainant or only to forward the statement. Only one faculty member may be named in an individual complaint. The Chancellor shall forward the complaint to the Charges Committee within five days² of receiving it.

4. Interim Suspension

If, after consultation with the faculty member's department, it is the judgment of the Vice Chancellor for Academic Affairs that there is a clear probability that the continued assignment of a faculty member to regular duties will be immediately and seriously harmful to the University community, the Vice Chancellor shall recommend to the Chancellor that the faculty member be placed on full or partial interim suspension with full pay until the Charges and Hearings Committees have acted. Such a suspension is only a precautionary action and not a form of discipline.

5. Composition of the Charges Committee

The Charges Committee shall be a committee of the Faculty Council and shall consist of one member elected by each of the senior colleges within the University and of one member elected by the combined faculties of those units not in a senior college. Each unit shall also elect an alternate to serve in case a member of the Committee wishes to be recused on grounds of prejudice or involvement or for other reasons deemed valid by the Committee. Any tenured, full-time faculty member at the rank of Assistant Professor or above, or of one of the recognized equivalent

¹ All written statements either must be sent by registered or certified mail, return receipt requested, or they may be hand delivered if a signed receipt is obtained providing the date of delivery.

² For all time limits, "day" means a day when classes or examinations are scheduled and held in accordance with the official academic calendar of the University, excluding Saturdays and Sundays.

ranks, exclusive of administrators above the rank of Chair, shall be eligible to serve on the Committee. Any full-time faculty member, exclusive of administrators above the rank of Departmental Chair, may vote.³ No eligible faculty member may decline to serve on the committee unless he/she has previously served on this committee or on the Hearings Committee Pool. After the first election, the members of the Charges Committee shall draw lots to determine which two members will serve for one year, which two members will serve for two years, and which two for three years. Replacements for members whose terms have expired shall be elected by the appropriate units and shall serve for three years. Each year the Charges Committee shall elect one of its members to serve as Chair for the year. If a seat on the Committee becomes vacant before a term expires, the unexpired term shall be served by an eligible faculty member elected as described above.

6. Responsibilities of Charges Committee

The Charges Committee shall within twenty days of receiving the complaint determine whether any of the allegations in the complaint, if true, would constitute a violation of University Policy on Faculty Conduct. The Committee shall also obtain from the person or persons bringing the allegations the names of the witnesses to be listed by that person or persons and a description of the evidence to be presented by these witnesses. After receiving this information the Committee shall determine if the evidence warrants a hearing. The Committee may also question any relevant parties in reaching these determinations. All deliberations of the Charges Committee shall be in private and a majority of the members (including the Chair) shall determine the decision of the Committee. The Charges Committee shall then forward the complaint with the Committee's findings and a statement of its numerical vote, and any minority report(s), to the Chancellor. If the Committee determines that the alleged conduct does not violate University Policy on Faculty Conduct or that the violations, if true, are insufficient to justify imposition of a severe sanction, or if the evidence does not warrant a hearing, the Committee shall recommend that the matter be terminated if the Chancellor agrees with the Committee's decision, then the matter shall be terminated and the affected parties shall be so notified. If the Chancellor disagrees with the findings of the Charges Committee, the Chancellor may initiate the proceedings as outlined in E below.

If the Charges Committee concludes that any or all of the allegations in the complaint, if true, would constitute a serious violation of University Policy on Faculty Conduct and that the evidence warrants a hearing, and the Chancellor agrees,

³ Those serving as Staff to administrators above the rank of Departmental Chairperson (e.g., Assistant or Associate Vice Chancellors, Assistant or Associate Deans, etc.) who also hold faculty rank may vote, but may not serve as a member of the Charges Committee.

the Chancellor shall become the official complainant on behalf of the University, the complainant and the faculty member complained against shall be so notified, and proceedings as outlined below shall be initiated. If the Chancellor disagrees with the findings of the Charges Committee, the Chancellor may terminate the matter. However, the complaint shall be forwarded to the faculty member complained against and the findings of the Charges Committee shall be forwarded to both the faculty member complained against and to the complainant, along with the Chancellor's written reasons for disagreement with the findings of the Charges Committee.

The Charges Committee shall also have the duty of monitoring all time limits as set forth in Section E below.

E. Procedures for the Imposition of a Severe Sanction

1. Written Notice to the Faculty Member

The Chancellor shall send the faculty member a written statement saying that there is evidence of cause for the imposition of a severe sanction and that on the basis of that evidence as the only evidence a severe sanction would have to be imposed. The Chancellor shall enclose a specification of reasons. This specification shall include the charge, the proposed sanction, the name or names of the person or persons bringing the allegations, the name of the Chancellor as official complainant, a list of witnesses suggested by the person(s) bringing the allegations and by the complainant, the description of that evidence presented to the Charges Committee, and a copy of this document, "University Policy on Faculty Conduct" The letter shall also inform the faculty member that she/he has ten days to request a hearing before the Hearings Committee.

2. Failure to Request a Hearing

If the faculty member does not submit a written statement requesting a hearing within ten days after receiving the specification of reasons, the sanction may be imposed by letter from the Chancellor without recourse to further institutional procedure.

3. Request for a Hearing

If the faculty member makes a written request for a hearing within ten days of having received the Chancellor's letter, the Chancellor shall convene the Hearings Committee Pool and lodge the charges. The hearing shall be on the charges lodged by the Chancellor. The Hearings Committee shall set a date for the hearing that accords the faculty member twenty days to prepare a defense. The Hearings Committee may, upon the faculty member's written request and for good cause, extend this time by written notice to the faculty member.

4. Composition of Hearings Committee Pool

The Hearings Committee Pool shall be a standing Committee of the Faculty Council and shall consist of 21 full-time tenured faculty members holding the rank of Assistant Professor or above, or one of the recognized equivalent ranks. No administrator above the rank of Departmental Chair nor any member of the Charges Committee shall be eligible for service. No eligible faculty member may decline to serve on this Committee. Each College shall elect two members to the Committee. The remaining members shall be elected at a duly-called Faculty Council meeting from a slate of candidates selected by the Policy Committee of the Faculty Council. Any full-time faculty member, exclusive of administrators above the rank of Departmental Chair, may vote⁴. The term of service on the Committee shall be three years except at the time the Committee is first constituted. The members of the first Committee shall draw lots to determine which seven shall serve for one, two, or three year terms. Retiring members shall be replaced by the same mechanism by which each was elected, except that the Policy Committee shall nominate only twice as many candidates as there are at-large positions to be filled.

If a seat on the Committee becomes vacant before a term expires, the unexpired term shall be served by an eligible faculty member elected as described above. If a member takes a one-year sabbatical or leave-of-absence of one or more years, that member shall be replaced for the leave period by election as described above.

5. Formulation of a Hearings Committee

When the Chancellor convenes a Hearings Committee to deal with a specific disciplinary matter (see E-3 above), the Hearings Committee Pool shall, using procedures that it devises, select five of its members to serve on the Hearings Committee. The faculty member against whom sanction is sought, and the University, shall each have the right to challenge up to five of the proposed members of the Committee. Any challenge to the original composition of the Committee must be made within three days of the faculty member's being notified. As each candidate is challenged, a new one shall be selected by the Hearings Committee Pool. One member of the duly constituted Hearings Committee shall be selected as Chairperson by the members of the Committee.

6. Access to Hearing

The hearing shall be closed to the public. At the request of the Committee or of the faculty member a representative from a responsible and widely recognized educational group may be present as an observer throughout the hearing.

7. Powers of the Hearings Committee

The Hearings Committee shall have full and final control over the proceedings within the restrictions of this document. The Committee shall have complete control over the admissibility of evidence and the standard of proof, and shall have the power to insure that the hearing is conducted in a decorous manner. All evidence deemed admissible must be made available to the faculty member, with sufficient opportunity for rebuttal. The Committee may call witnesses in addition to those listed by the complainant and the faculty member. Any previous witness may be recalled by the Committee.

8. Presentation of Evidence

The faculty member shall be assumed innocent unless proved otherwise by the greater weight of the evidence presented. The faculty member shall be present throughout the hearing and shall have the right to one legal and/or one academic counsel. The University shall select one legal counsel to be present as an observer on behalf of the administration throughout the hearing, and the University Counsel shall upon request supply relevant legal advice to the Hearings Committee. Such a request and the response either shall be in writing or, if oral, shall be made in the presence of the faculty member or his/her counsel. If a member of an educational group is present as an observer, the Committee shall also retain the right subject to the same restrictions, to seek advice from that person. The faculty member shall have the right to present the testimony of witnesses and other evidence, to question adverse witnesses, and to examine all documents and other adverse demonstrative evidence. All other examination of witnesses shall be conducted solely by the Hearings Committee. Only one witness at a time shall be present. A verbatim record of all proceedings shall be kept; upon request, a copy thereof shall be furnished to the faculty member at the University's expense.

9. Role of Counsels

Legal counsels shall be restricted to an advisory role only. Both legal counsels may monitor the proceedings for fairness and advise the Committee on any apparent violations of academic due process. The Committee shall rule on any such points. An academic counsel may, at the faculty member's request, present the defense as described in section E-8 above.

10. Committee Deliberations

In reaching decisions on which its written recommendations to the Chancellor are based, the Committee shall conduct its deliberations in private, and its deliberations shall not be a part of the verbatim record.

If a simple majority of the Committee is convinced by the greater weight of the evidence that the charges are true, the Committee shall recommend imposition of a

sanction. A simple majority of the Committee shall determine the severity of the sanction, not to exceed that specified in the charges. Individual members of the Committee may submit written minority opinions regarding the Committee findings or the recommended sanction as part of the written record of the hearing.

11. Report to the Chancellor

The Committee shall present to the Chancellor within twenty days after the hearing concludes: (1) its recommendation, (2) the reasons for its recommendation, (3) all admissible evidence, (4) all excluded evidence with the reasons for its exclusion, (5) a full transcript of the hearing, and (6) all other documents relevant to the hearing and its conduct. If the Chancellor concurs with the Hearings Committee recommendation, then the Chancellor shall notify the parties involved (see E-12 below). If the Chancellor declines to accept the Committee recommendation, then the Chancellor shall write to the Committee specifying the reasons for disagreement. On receipt of the Chancellor's reasons, the Committee may respond if it wishes and this response shall also become a part of the record, which is made available to the faculty member.

12. Notification of the Decision

Within twenty days of receiving the recommendation of the Hearings Committee, the Chancellor shall notify the Committee of his/her decision. Ten days after notifying the Committee, the Chancellor shall send the faculty member a written statement to provide notification of his/her decision and of any sanction imposed. Included in this notification shall be the decision of the Committee, their written reasons for reaching the decision (including any dissenting opinions), and the reasons of the Chancellor if different from those of the Committee. The Hearings Committee, the complainant, and appropriate administrators also shall be notified.

13. Right of Appeal

The decision of the Chancellor may be appealed in the manner set forth in the Regulations and Bylaws of the LSU Board of Supervisors.

(Approved by University Senate, April 12, 1984; amended by University Senate, April 18, 1991 and September 6, 1996.)