

4.3 SEPARATION

Dismissal or Suspension

University bylaws (Article XVI(7)) provide that “all appointments to the staff of instruction and research which are funded from nonuniversity sources (e.g. federal or state appropriations, research or other service contracts or grants) shall be subject to modification or termination in the event that such funding shall cease to be available to the university for such purposes.”

Article XVI, Section 10, of the bylaws states:

“The Board shall have the right to dismiss and terminate the appointment of any member of the staff of instruction and research for failure to perform the duties required of the position which he holds or for such personal misfeasance or nonfeasance as shall make him unfit to participate in the relationship of teacher and student. Such dismissal shall be effected through such procedures as the Board may adopt. Such procedures shall provide for reasonable notice and an opportunity to be heard.”

The Board of Trustees and the University Faculty adopted a dismissal procedure for faculty members in 1951. Subsequently, the University Faculty Senate and the Board of Trustees adopted the following dismissal/suspension procedure in 2007.

The university reserves the right to dismiss and discontinue, or to suspend, the appointment of any member of its faculties, on reasonable notice and after giving such member an opportunity to be heard, for misconduct or failure to perform the duties required of the position he or she holds.

In the case of a university professor, professor, associate professor, or assistant professor the following procedure shall be adopted to govern dismissal or suspension for the period of one semester or more:

A. When complaint from any source is made against a university professor, a professor, an associate professor, or an assistant professor which might lead to his or her dismissal or to suspension for the period of one semester or more, the dean of his or her college, or in the case of a university professor the dean of the University Faculty, shall inform the faculty 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. The dean shall thereafter report to the provost the results of the investigation together with his or her recommendations. The provost shall cause the faculty member to be furnished with a written and detailed statement of the charges against him or her and the suggested disciplinary action if, after receiving the dean’s report and making such independent investigation as may seem appropriate to the provost, it is the opinion of the provost that further proceedings are warranted.

B. If the faculty member desires a hearing, he or she shall so request in writing to the provost within thirty days of the receipt of the written charges against him or her, and he or she shall then be entitled to a hearing before a board appointed by the provost and consisting of five members of the University Faculty, of whom two shall be selected by the faculty member, two by the provost and the fifth by the other four.

C. At such 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. If the faculty member so 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 the proceedings before the board, including the testimony taken, the evidence received, and the board's findings and recommendations. The board shall submit to the president a report of its findings and recommendations. If suspension is recommended, the president's decision shall be final; and if dismissal is recommended, this report shall be appended by the president to any recommendations he or she may make to the Board of Trustees in regard to the case.

D. If dismissal is recommended, the faculty member shall be free to resign at any time within thirty days of receipt of the written charges against him or her; but if he or she has neither requested a hearing nor resigned within such thirty days, the Board of Trustees shall be free to dismiss him or her without further notice or hearing. If suspension is recommended and the faculty member fails to request a hearing within the thirty-day period described in paragraph B above, the suspension shall be implemented as recommended.

E. In the case of suspension of less than one semester, or suspensions of any length of faculty other than university professor, professor, associate professor or assistant professor, a dean's determination to suspend a faculty member shall be subject to existing grievance procedures. In cases where the Faculty Committee on Academic Freedom and the Professional Status of the Faculty is the final step in the grievance procedure, the Faculty Committee will submit a report of its findings and recommendations to the president. If suspension is recommended, the president's decision shall be final.

For purposes of this dismissal and suspension procedure, the following definitions shall pertain:

"Provost" refers to the provost or the provost for medical affairs, as appropriate. However, in the event the provost for medical affairs serves simultaneously as the dean of the college in which the case arises, the president shall receive and review the dean's report and make the appropriate judgment about further proceedings.

"Suspend" or "suspension" means 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, whether or not it is named as a suspension. 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, or a non-disciplinary reassignment of duties at an appropriate time in the academic calendar shall not be considered a suspension. The period of a suspension shall be no less than two weeks and no more than two semesters. Except for an emergency suspension, the imposition of any suspension shall be deferred pending the conclusion of the internal review process.

"Emergency suspension" refers to the suspension by the president or his designee with full salary pending the ultimate determination of the faculty member's case where the faculty member is charged with misconduct and his or her continuance threatens imminent, serious harm to the member, to others, or to property. 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.

“Faculty” refers to full-time faculty members as described in the University Bylaws.

Resignation

Resignation by an academic employee, whether tenured or on a term appointment, is normally effective at the end of an academic term or on June 30 or December 31 for those on 12-month appointments. To allow the academic unit to prepare for the loss of the staff member, the employee should notify the department chairperson or the director of the unit of the intended resignation as early as possible. Because academic policy prohibits pay for accrued vacation after the termination date of a resigned appointment (except when electing formal retirement), discussions with the chair or director should include any proposed use of vacation accrual. A minimum of a month’s notice of resignation is required from the academic employee.

In some cases, when a valued member of the faculty is to leave the university, arrangements are made for a leave of absence rather than a resignation, in the hope that the person will return to Cornell. Such arrangements for up to one year require the approval of the department chair or director and the dean or vice provost. For those with joint appointments or other concurrent appointments, the approvals must be obtained from all of the relevant units and executives. To extend leave beyond one year requires approval of the provost through the Office of Workforce Policy and Labor Relations. The leave should not, in any event, exceed more than one year from the date a tenured Cornell professor assumes a tenured appointment at another institution. In this situation, the department cannot recruit a permanent replacement, and a vacant formal position (including appropriate tenure status) with its budgetary commitment, must be reserved in case the person does return.

Those considering resignation or retirement for medical reasons should consult the online policy “Leaves for Professors and Academic Staff” (https://www.dfa.cornell.edu/sites/default/files/vol6_2_1.pdf) for information about short-term medical leave and federal entitlements under the Family and Medical Leave Act, as well as consulting Benefit Services in the university’s Office of Human Resources regarding such options as long-term disability and its interface with retirement and social security benefits. Tenured professors may wish to consult with the Cornell Association of Professors *Emeri*