

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES  
SPRING MEETING

1:00 p.m. CDT  
Friday  
March 23, 2018

O.D. Larry Dining Hall  
Student-Alumni Center, 800 Madison Avenue  
Memphis, Tennessee

ORDER OF BUSINESS

- I. Call to Order and Invocation
- II. Roll Call
- III. Opening Remarks by the Vice Chair
- IV. Consent Agenda – **Roll-Call Vote** *[required due to revised budget and tuition and fee items]*

*All items on the Consent Agenda, except items A., B., and C.1. were recommended by standing committees in conjunction with this meeting. Most Trustees attended and were able to participate in the committee consideration of these items, but any Trustee may request at this time that an item be moved to the Regular Agenda for further deliberation.*

- A. [Minutes of the Last Meeting](#) ..... Tab 1
- B. Items Recommended by the Executive and Compensation Committee
  - 1. [Disposal of Property Located at East 8<sup>th</sup> Street in Chattanooga](#) ..... Tab 2
  - 2. [Disposal of Property Located at 294 Summar Drive in Jackson](#) ..... Tab 3
- C. Items Recommended by the Health Affairs Committee
  - 1. [Designation of UT-Memphis Pathology Group as a College of Medicine Faculty Practice Plan and Authorization for Execution of an Affiliation Agreement with Memphis Pathology Group, P.C.](#)..... Tab 4
  - 2. [Designation of a Newly Formed Professional Corporation as the College of Medicine’s Primary Faculty Practice Plan for Adult Oncology Services and Authorization for Execution of a Master Transaction Agreement and Associated Transactional Agreements with Methodist Le Bonheur Healthcare and The West Clinic, P.C., or its Successor](#) ..... Tab 5
  - 3. [Designation of West Tennessee Medical Group, Inc., as the College of Medicine’s Faculty Practice Plan for Family Medicine in the Jackson, Tennessee, Service Area and Authorization for Execution of an Affiliation Agreement with West Tennessee Medical Group, Inc.](#) ..... Tab 6
- D. Items Recommended by the Academic Affairs and Student Success Committee
  - 1. [Statement of Commitment to Graduate Medical Education](#) ..... Tab 7
  - 2. [Institutional Mission Profile Statements](#)..... Tab 8
  - 3. [Proposed Revisions to UTHSC Faculty Handbook](#) ..... Tab 9
  - 4. [Tenure Recommendations for Three UTK Faculty Members under Expedited Procedures](#)..... Tab 10

5.	Tenure Recommendations for Three UTHSC Faculty Members under Expedited Procedures.....	Tab 11
6.	UTIA Ten-Year Strategic Plan with Revised Mission Statement and Vision Statement.....	Tab 12
7.	UTK Doctor of Education (Ed.D.) Program Modification .....	Tab 13
8.	UTC B.S. in Business Administration Program Modification .....	Tab 14
9.	UTC B.S. in Computer Engineering Program Modification .....	Tab 15
E.	Items Recommended by the Finance and Administration Committee	
1.	UTC “Take 15, Graduate in 4” Tuition Model.....	Tab 16
2.	UTK Tuition and Fee Structure for Online Programs/Increase in Online Support Fee .....	Tab 17
3.	UTK Flexible Schedule J.D. Program Per-Credit-Hour Tuition Model .....	Tab 18
4.	UTHSC FY 2018-19 Student Tuition and Fees .....	Tab 19
5.	Revised FY 2018 Operating Budget.....	Tab 20
6.	Transfer of UHS Proceeds to UT Research Foundation to Fund Infrastructure for a Statewide Clinical Trial Network .....	Tab 21
7.	Revision of the Board Policy on Housing for Senior-Level Administrators .....	Tab 22
V.	Report of the President	
VI.	Naming of the Pavilion and Outdoor Classroom in the UT Gardens.....	Tab 23
VII.	Report of the Executive and Compensation Committee on Actions Taken for the Board since the Last Meeting of the Board – <b>Information</b> .....	Tab 24
A.	Approval of a Policy on Setting Faculty Salaries upon Conclusion of Administrative Appointments.....	Tab 25
B.	Approval of Revisions to Policies on Academic Freedom, Responsibility, and Tenure	Tab 26
VIII.	Report of the Academic Affairs and Student Success Committee – <b>Action</b>	
A.	Proposed Revisions to Board Policies on Academic Freedom, Responsibility, and Tenure.....	Tab 27
IX.	Report of the Audit and Compliance Committee – <b>Information</b>	
X.	Other Business <i>Note: Under the Bylaws, items not appearing on the agenda may be considered only upon an affirmative vote representing a majority of the total voting membership of the Board. Other business necessary to come before the Board at this meeting should be brought to the Vice Chair’s attention before the meeting.</i>	
XI.	Announcements	
XII.	Adjournment	

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 23, 2018

ITEM: **Minutes of the Last Meeting**

Minutes of the November 3, 2017 meeting of the Board of Trustees follow this memorandum. The necessary Resolution for approval appears below.

**RESOLVED:** The reading of the minutes of the November 3, 2017 meeting of the Board of Trustees is omitted, and the minutes are approved as presented in the meeting materials, provided that the Secretary is authorized to make any necessary edits to correct spelling errors, grammatical errors, format errors, or other technical errors subsequently identified.

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

MINUTES OF THE FALL MEETING  
November 3, 2017  
Knoxville, Tennessee

The Fall Meeting of The University of Tennessee Board of Trustees was held at 1:00 p.m. EDT, on Friday, November 3, 2017, in the Hollingsworth Auditorium on the campus of The University of Tennessee Institute of Agriculture of in Knoxville.

**I. CALL TO ORDER AND INVOCATION**

Raja J. Jubran, Vice Chair of the Board, called the meeting to order. Tim Kobler of the Campus Ministers Council offered the invocation.

**II. ROLL CALL**

Secretary Catherine S. Mizell called the roll, and the following members were present:

Raja J. Jubran, Vice Chair  
Charles C. Anderson, Jr.  
Terrance G. Cooper  
Susan C. Davidson  
Joseph A. DiPietro  
Spruell Driver, Jr.  
William E. Evans  
John N. Foy  
Vicky B. Gregg  
Brad A. Lampley  
Andrew P. McBride  
Sharon J. Miller Pryse  
Rhedona Rose  
David A. Shepard  
Rachel M. Smith  
John D. Tickle  
Julia T. Wells  
Charles E. Wharton  
Tommy G. Whittaker

The Secretary announced the presence of a quorum. Governor Haslam, Commissioner McQueen, Commissioner Templeton, Executive Director of THEC Mike Krause, Trustee Brown, Trustee Cates, and Trustee Gallimore were unable to attend the meeting.

Administrative staff, faculty, members of the public, and media representatives were present. The meeting was also webcast for the convenience of the University community, the general public, and the media.

### III. OPENING REMARKS BY VICE CHAIR

The Vice Chair, on behalf of the Board, thanked Charlie and Moll Anderson for hosting a wonderful reception and dinner with outstanding entertainment at their home in Knoxville.

### IV. CONSENT AGENDA

The Vice Chair noted that most action items for the meeting were recommended to the Board for approval by committees and are included on the consent agenda. For the benefit of the audience, he explained that most Trustees attended the committee meetings and were able to participate in the discussion. He called for any requests from the Trustees to move an item from the consent agenda to the regular agenda. Hearing none, he called for a motion to approve the Consent Agenda, consisting of the following items:

- A. Minutes of the Last Meeting
- B. Annual Report to the General Assembly (Exhibit 1)
- C. 2018 Fall Meeting Date (Exhibit 2)
- D. Items Recommended by the by the Academic Affairs and Student Success Committee
  1. UT Knoxville Honorary Doctor of Humane Letters (Exhibit 3)
  2. Revisions to UTHSC Faculty Handbook (Exhibit 4)
  3. New Academic Program, UTC Master of Public Health (Exhibit 5)
  4. Grant of Tenure to Three UTHSC Faculty Members under Expedited Procedures (Exhibit 6)
  5. Revised UTC Faculty Handbook (Exhibit 7)
  6. Board Policy Affirming Principals of Free Speech for Students and Faculty (Exhibit 8)
- E. Items Recommended by the Finance and Administration Committee
  1. 2017 Report of Efficiencies and Cost Savings for Inclusion in the Board's Annual Report to the General Assembly (Exhibit 9)
  2. FY 2017 Annual Flight Operations Report (Exhibit 10 )
  3. Revised UAPA Parking Rule, UTC (Exhibit 11)
  4. FY 2018-19 Operating Budget Appropriations Improvement Request for Non-Formula Units (Exhibit 12)
  5. Use of Proceeds from Lease and Transfer Agreement with University Health System to Fund Purchase of Equipment for Simulation Center (Exhibit 13)
  6. Use of Proceeds from Lease and Transfer Agreement with University Health System to Fund Clinical Trial Network Infrastructure (Exhibit 14)
  7. FY 2018-19 Capital Outlay and Capital Maintenance Projects (Exhibit 15)

8. FY 2018-19 Revenue/Institutionally Funded Projects (Exhibit 16)
9. Facilities Master Plan for Lone Oaks Farm (UTIA) (Exhibit 17)
10. Board Policy on Smoking (Exhibit 18)
11. Revised Board Investment Policies and Procedures (Exhibit 19)
12. Revised UAPA Rule on Contested Case Procedures (Exhibit 20)

Trustee Wharton moved approval of the Consent Agenda; Trustee Pryse seconded; and the motion carried by a roll-call vote (Exhibit 21).

## V. REPORT OF THE PRESIDENT

President DiPietro reported on the following (Exhibit 22):

- Freshman enrollment and transfer increases at UT Martin and UT Chattanooga;
- Launch of a national search for a full-time Title IX Coordinator for the UT System and naming of Ashley Blamey as interim Title IX Coordinator;
- Appointment of Dr. Linda Martin as Vice President for Academic Affairs and Student Success and Dr. Stacey Patterson as interim Vice President for Research, Outreach, and Economic Development;
- Top two capital project requires for FY 2018-19, both in the Institute of Agriculture: Energy and Environmental Science Research Building and Veterinary Medicine Teaching and Learning Center;
- Other budget requests for FY 2018-19 including, \$48 million in capital maintenance priorities across the UT System; fully-funded Complete College Tennessee Act (CCTA) formula; \$3 million for the Center for Addiction Science at UTHSC to combat the opioid epidemic across the state;
- \$1 million additional funding for Governor's Chairs, noting that since 2009, Governor's Chairs have secured over \$500 million in extramural funding for the University;
- One-time investment of \$6 million to build UTC capacity to grow the UTC Smart City/Urban Science and Technology effort; and
- The system-wide branding and marketing campaign to aid in telling the story of the UT System.

## VI. REPORT OF CHANCELLOR DAVENPORT

Vice Chair Jubran announced that President DiPietro asked Chancellor Davenport, who assumed office on February 15, 2017, to report the on surprises, challenges, and opportunities she had faced during her first nine months in office. Her report (Exhibit 23) included the following:

- UT Knoxville's \$1.6 billion annual impact on the state's economy;
- 7% growth in undergraduate enrollment from 2012 to 2017;
- Building a Title IX national model in policy, education and prevention, support and interim measures, investigation and resolution, and mandatory training;
- Building on strengths, including academic excellence reflected in 27.2 average ACT and 3.9 average g.p.a. for the class of 2021; fundraising; partnerships; top-25 programs; and state support;
- UT Knoxville advantages in recruitment; and
- Building a leadership team, noting appointments made since assuming office and searches in progress.

Vice Chair Jubran thanked Chancellor Davenport for the report and announced that Chancellor Cross and Chancellor Carver, who assumed office in late 2016 and early 2017, respectively, would be asked to report at a future meeting. The Vice Chair emphasized that the Board desires to be a strategic partner to help find solutions for problems facing the campuses and therefore must receive candid information from the Chancellors about any problems they are facing.

## VII. REPORT OF THE EXECUTIVE AND COMPENSATION COMMITTEE

### A. President's Recommendation for Appointment and Compensation of the Vice President for Research, Outreach, and Economic Development

Vice Chair recognized President DiPietro to present his recommendation (Exhibit 24) for appointment and compensation of the Vice President for Research, Outreach, and Economic Development.

President DiPietro said he had appointed Dr. Stacey Patterson, Associate Vice President, to this position on an interim basis as of July 1, 2017 upon Dr. David Millhorn's transition to the role of Senior Vice President Emeritus and National Laboratory Relations Advisor. He said Dr. Patterson joined the University in 2006 as a licensing associate for the UT

Research Foundation and a research scientist in the Center for Environmental Biotechnology (CEB). At UTRF, she was responsible for managing a broad portfolio of intellectual property for licensing and commercialization to the private sector. Her research at CEB led to significant external funding and the launch of a startup company developing biological cell lines for optical imaging applications.

In 2009, Dr. Patterson joined the system administration as director of research partnerships for the Executive Vice President's office. She was lead author of a proposal for research infrastructure that won a \$24-million grant from the National Science Foundation. Among several statewide initiatives she has led is the \$62.5-million Volunteer State Solar Initiative. In 2012, she was named assistant vice president and director of research partnerships, and in 2015 she was promoted to the dual roles of associate vice president for research and vice president of the UT Research Foundation. In September of this year, she was promoted to president of the UT Research Foundation.

Based on the market analysis included in the materials, President DiPietro recommended the following initial compensation for Dr. Patterson as Vice President: (1) a base salary of \$20,833.33 per month (\$250,000.00 annualized); and (2) a non-accountable expense allowance of \$416.67 per month (\$5,000.00 annualized). While serving as President of the UT Research Foundation, Dr. Patterson will continue to receive additional annualized compensation of \$50,000.00, bringing her total annualized compensation to \$305,000.

On the recommendation of the Executive and Compensation Committee at its meeting on October 5, 2017, Vice Chair and Committee Chair Jubran moved adoption of the following Resolution:

**RESOLVED: The President's recommendation for the appointment and initial compensation of Dr. Stacey Patterson as Vice President for Research, Outreach, and Economic Development pursuant to the reorganization of the Office of Research is approved.**

As the recommendation of a committee, no second was required. Vice Chair Jubran called for any questions or discussion. Hearing none, the vote was taken, and the motion carried.

## VIII. REPORT OF THE ATHLETICS COMMITTEE

### A. Neyland Stadium South Renovations (Phase I) Project Scope and Neyland Stadium Master Plan

Vice Chair Jubran recognized Trustee Anderson, Chair of the Athletics Committee, for the report. Trustee Anderson reported that the Committee received a detailed presentation (Exhibit 25) on the Neyland Stadium South Renovations (Phase I) Project Scope and the Neyland Stadium Master Plan at the meeting on November 2, 2017. On

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the recommendation of the Committee, Trustee Anderson moved adoption of the following Resolution:

**RESOLVED:**

1. **The University administration is authorized to increase the budget of the previously approved Neyland Stadium South Renovations (Phase I) project from \$106,000,000 to \$180,000,000 and expand the scope of the previously approved Neyland Stadium South Renovations (Phase I) project as described in the meeting materials, subject to all required state government approvals. The expanded project shall be referred to as Phase I of the updated Neyland Stadium Master Plan.**
2. **The Board recognizes that at this time the total project budget for the Neyland Stadium Master Plan is estimated to be \$340,000,000 with the understanding that the University administration must request authorization from the Board to begin Phase II of the Neyland Stadium Master Plan after presenting a detailed description of the scope, funding model, and timeline for Phase II. The University administration should engage an architect and a construction manager who have the qualifications and experience necessary to complete a single and unified project that includes Phase I and Phase II of the Master Plan.**

As the recommendation of a committee, no second was required. The proposed project was discussed in detail at the Athletics Committee, which most Trustees attended. There being no further discussion, a roll-call vote on this capital project was taken as required by the Bylaws, and the motion carried (Exhibit 26).

**IX. NAMING OF FACILITIES**

Vice Chair Jubran recognized President DiPietro to present recommendations on the following naming of facilities.

**A. Haslam College of Business Global Leadership Scholars Program**

President DiPietro concurred in Chancellor Davenport's recommendation to name the Global Leadership Scholars Program in the Haslam College of Business the "Greg and Lisa Smith Global Leadership Scholars Program" in recognition of their generous philanthropy benefitting the Haslam College of Business (Exhibit 27).

President DiPietro moved adoption of the following Resolution:

**RESOLVED:** The Haslam College of Business Global Leadership Scholars Program at The University of Tennessee, Knoxville is hereby named the “Greg and Lisa Smith Global Leadership Scholars Program” in honor of Greg and Lisa Smith in recognition of their support for the Haslam College of Business.

Trustee Pryse seconded, and the motion carried.

#### **B. Entryway Garden of the Sociology Building at UT Martin**

President DiPietro concurred in Chancellor Carver’s recommendation that an exception to the naming policy be granted to name the entryway garden of the Sociology Building the “Michelle Horton Tribute Garden” in memory of Barret Michelle Horton, an alumnus and retired Professor of Social Work at UT Martin, in recognition of her service and leadership to the College and UT Martin (Exhibit 28). The President explained that the naming requires approval of an exception to the provision against naming in honor of a person who has been an employee of the University within the previous three years. He said the policy allows for the Board to make an exception, and he enthusiastically recommended the exception in this case.

President DiPietro moved adoption of the following Resolution:

**RESOLVED:** The Board of Trustees grants an exception to the Board Policy on the Naming of Facilities and other Assets of The University of Tennessee and approves naming the entryway garden of the Sociology Building at The University of Tennessee at Martin the “Michelle Horton Tribute Garden” in honor of the service and leadership of Professor Barrett Michelle Horton to the College of Social Work.

Trustee Shepard seconded, and the motion carried.

#### **C. Recreation Hall at the Clyde M. York 4-H Center**

President DiPietro concurred in the recommendation of Chancellor Cross to name the Recreation Hall at the Clyde M. York 4-H Center in honor of A.C. Clark in recognition of his service and leadership to the University and the State of Tennessee (Exhibit 29).

President DiPietro moved adoption of the following Resolution:

**RESOLVED:** The Recreation Hall at Clyde M. York 4-H Center near Crossville is hereby named the “A. C. Clark Recreation Hall at Clyde M. York 4-H Center” in honor of A. C. Clark in recognition of his service and leadership to The University of Tennessee and the State of Tennessee.

Trustee Whittaker seconded, and the motion carried.

## **X. CAMPUS PRESENTATIONS ON FACILITIES SERVICES OUTSOURCING DECISIONS**

Vice Chair Jubran asked each Chancellor and the campus Chief Business Officer to present the justification for the campus decision to opt out of the Jones Lang LaSalle (JLL) proposal for outsourcing of facilities management services.

### **UTC**

Chancellor Angle said the decision for UTC was straightforward, given that the JLL proposal did not project any savings for UTC. He then asked Executive Vice Chancellor Richard Brown to provide details through a slide presentation (Exhibit 30). Dr. Brown explained that the JLL proposal budget projected expenditures of \$305,355 more than the UTC baseline budget.

### **UTHSC**

Chancellor Schwab's presentation (Exhibit 31) indicated that the \$1.7 million projected savings in JLL's proposal for UTHSC included approximately \$1.2 million in savings through sourcing and leveraged procurement across all services. He said he believes the campus effectively and efficiently manages its custodial and landscaping services and did not want to relinquish control of the day-to-day management of those services to achieve only modest gains. He noted, however, that the Health Science Center's most costly procured service are technical services (such as mechanical and plumbing services), and substantial savings likely could be realized through JLL's leveraged procurement sourcing for those services. Accordingly, the campus, through a consortium with the University of Memphis and Southwest Tennessee Community College, will offer JLL the opportunity to bid on providing those services, which the Health Science Center already outsources. President DiPietro asked if the total \$1.7 million in projected annual savings could be captured by the campus in other ways. In response, Executive Vice Chancellor Ken Brown said he would like to think so but added that the \$500,000 savings are in custodial services, and most of JLL's savings in those services would be achieved through attrition of employees. For clarification, Vice Chair Jubran asked if he was speaking of immediate employee lay-offs, and Dr. Brown responded that he was only referring to normal attrition over time (employee turnover and retirements).

### **UT Knoxville**

Chancellor Davenport said the goal of the outsourcing initiative was to determine whether efficiencies could be achieved and to determine what was in the best interest of the campus. Her presentation (Exhibit 32) emphasized that the decision to opt out was based on extensive analyses of the financial considerations, the complexity of the work done on a research-intensive campus, and commitment to the East Tennessee economy and the campus workforce. Dr. Davenport called attention to a chart showing that costs per square foot have declined while the campus footprint and number of facilities has continued to increase.

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Speaking of the complexity of facilities, she said highly specialized employees work side-by-side with faculty in maintaining complex equipment and other facilities. Dr. Davenport ended her presentation by referring again to the campus commitment to the nearly 33,000 jobs the University provides in East Tennessee.

Trustee Pryse commented that the campus decision is politically expedient, but that the University has a fiduciary responsibility to be sure dollars are being spent as efficiently as possible. Trustee Lampley asked that the slide showing the JLL projected savings be displayed on the screen. Noting the projection of a \$5.2 million savings, he expressed concern about the potential legislative consequences of not taking advantage of the savings opportunity when it was made clear that employees would not lose their jobs. He suggested that the campus needs to look at other areas where it could save the same amount of money. Trustee Wharton added that Governor Haslam has been fantastic in his support of higher education and UT in particular, and this was a bona fide effort to help UT again by offering an opportunity to achieve greater efficiencies. He agreed with Trustee Lampley that the University should commit to finding these savings in another way and suggested the need to look at areas where there is entrenched bureaucracy and multiple layers of administration. Trustee Tickle said the Board has a responsibility to try to lower cost of education and noted that outsourcing is working well in some areas on the campuses, such as food services. Trustee Whittaker commented that the President will very likely have to explain to legislators why the campus did not take advantage of this savings opportunity. Trustee Anderson said \$5.2 million is a substantial amount of money, and he is disappointed with the outcome, given the fiduciary responsibility to tuition-paying students, their parents, and the legislature. Vice Chair Jubran pointed out that the justification for not opting in is based on the campus calculation of the savings as only \$906,000. Senior Vice Chancellor Cimino said the savings would be only \$906,000 in the first year of the contract because of the additional costs the campus would take on, including management of the JLL contract. Vice Chair Jubran asked what is included in the contract management cost, and Mr. Cimino responded that it includes six employee positions to manage the contract. Vice Chair Jubran commented that six employees to manage one contract is an example of inefficiency. Trustee Gregg said if this proposal were presented to her when she was CEO of a large company, the prospect of disruption alone would not have deterred the company from looking closely at pursuing the savings opportunity. She said she is somewhat skeptical about the off-setting transitions costs used to reduce the savings in the first year and would want to know what the savings are over time. Vice Chair Jubran again cautioned that the calculation of only \$906,000 in savings for the first year includes a one-time \$2.4 million cost for accrued annual leave. President DiPietro said the campus should capture the savings in another way after the real amount has been determined.

### **UT Martin**

Chancellor Carver's presentation (Exhibit 33) referred to a benchmarking process conducted by the Association of Physical Plant Administrators (APPA) comparing UT Martin's facilities management costs with peers assigned by APPA. He noted that UT Martin's costs are

significantly lower than the peers selected by APPA. Chancellor Carver then said the JLL projected savings for UT Martin was only \$13,667 annually, and thus UT Martin decided not to opt in. Chancellor Carver added, however, that the process had been very instructive for the campus, and much had been learned about ways the campus could improve in facilities management practices, including deferred maintenance. He said the campus is committed to putting into practice what it learned in the process. Trustee Gregg asked Chancellor Carver to track those improvements over time and report to the Board on how the campus has used what it learned in the process. Vice Chair Jubran added that it had been reported to him that under Chancellor Carver's leadership, UT Martin is working very hard to improve even though the campus lacks funds to do all that needs to be done.

Vice Chair Jubran recognized President DiPietro, who made the following statement:

I am grateful for the efforts of the Governor, Commissioner Martin, and others in State Government who worked with us and cooperated with numerous requests and negotiations on our part. They did everything we asked, especially the accommodations they made for the protection of the jobs and total equitable compensation of our employees. I appreciate their patience with us.

The University began considering the possibility of outsourcing many of our system's maintenance and facilities management operations two years ago through the state's *Strategies for Efficiency in Real Estate Management* (SEREM). We committed early in the process to receive proposals, allow our campuses to review them, then to give our campuses the discretion to opt in or opt out. That process has concluded, and our campuses have reached their decisions.

I would like to say a few words about the process, but first let me be very clear that Chancellors do not bear responsibility for what I am about to say. It is disappointing that from the outset, the process was beset by unfounded allegations of conflict of interest and other false information from both external and internal sources, causing unnecessary fear and disruption among facilities operations employees. And some concluded long before the facts were in, that a campus should opt out. Great universities like UT are underpinned by the fundamental premise that conclusions should be based on a careful study of all the facts, but some within the University community constructed arguments against outsourcing long before being presented its final proposals or terms.

The possibility of outsourcing presented two campuses with the potential for significant savings, which could have provided them with additional financial resources to keep tuition increases low and to address other

campus priorities. Given the campus decisions, they will have to achieve those proposed savings in other ways.

I respect the campus decisions, and I re-emphasize that they now must be accountable for identifying and achieving the desired savings by other means.

Again, I thank Governor Haslam and Commissioner Martin for working diligently to accommodate all of our requests in this process.

Vice Chair Jubran said he echoed the President's comments and expressed disappointment that the justifications offered by the Health Science Center and UT Knoxville for not opting in did not rise to the level expected of a great university. He continued with remarks he said were directed to the rank and file employees who do the work of facilities services day in and day out. These employees were scared into believing their livelihood was at stake, with rumors of mass lay-offs, loss of benefits, loss of pay, and they had every right to be concerned. However, the campus justifications for not opting in did not address any of those legitimate concerns because in fact Dr. DiPietro had solved those problems at the outset two years ago. He negotiated contractual language prohibiting mass layoffs and providing equivalent if not greater compensation so that the current employees doing the complex work referred to by Chancellor Davenport would continue to do that work for the campus. Commissioner Martin agreed to all of these protections because he and the Governor care about the employees just as the Board does.

For the record, the Vice Chair then asked President DiPietro if he had received a call from the Governor telling him that UT must contract with JLL, and the President responded "no." He then asked the Chancellors if they had received a call from the Governor telling them their decision was not final and that they must opt it. Each Chancellor said "no." The Vice Chair asked the Trustees if they had been instructed by the Governor that UT must opt it. No one said "yes."

The Vice Chair said the decision was sabotaged from the beginning by rumors, including the allegation by a member of the UT Knoxville faculty senate that the Governor has a conflict of interest by virtue of stock ownership in JLL. The Governor does not own JLL stock, nor does his blind trust. The allegation was totally false and made without any checking of the facts. Another UT Knoxville employee said the JLL initiative was "borderline criminal intent." Nevertheless, the Vice Chair said he does not fear any retribution against UT from Commissioner Martin or the Governor because they are committed to helping this institution despite the false allegations and despite the rejection of this effort to help.

Trustee Tickle said JLL is a large, successful company, and he believes their projected savings are correct. The consensus of the Board was to recommend that President direct the campuses to find the savings. Trustee Wharton urged again that the campuses commit to

finding the savings not at the bottom but at higher levels of administrative bureaucracy.

## **XI. REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE**

Committee Chair Gallimore made the following report of the work of the Audit and Compliance Committee since the last Board meeting.

The Audit and Compliance Committee held its last meeting on May 3, 2017. The following were a few of the key items reviewed at that meeting:

### **State Audit Report**

The Committee heard from the State Auditors on the results of the 2016 annual financial and compliance audit. As part of their work this year, the auditors followed up on information technology findings from the 2015 audit. There were five repeat information technology control weaknesses identified. The details of the findings were discussed with the Committee, and management has indicated that all findings have been addressed and that recommendations have been implemented.

### **Athletics Financials and Agreed-Upon Procedures**

The Committee reviewed the agreed-upon procedures report issued by State Audit. Each year, the State Auditors perform agreed-upon procedures for Athletics to comply with NCAA Bylaws. This work is not a financial statement audit and the State Auditors do not issue an opinion on statements. Instead, this work involves a series of procedures to meet the requirements of the NCAA. A copy of the report is included in the materials (Exhibit 34).

### **Compliance**

The Committee reviewed institutional compliance reports and heard from Dr. Robert Nobles, chair of the Knoxville campus compliance committee. We heard of and support plans the committee has to continue to mature the campus compliance efforts.

### **Upcoming**

Below are comments on a few of the upcoming audits and agenda items for Committee meetings.

A state statute requires internal audits of the Chancellors and President. While the statute only requires 30 percent of Chancellors and the President to be audited each year, because of the number of individuals new to the Chancellor positions this year, the Committee approved audits of all of the CEOs in 2017. These results of the audits will be forwarded to all Trustees in December.

For the remainder of the year, the Committee will continue to receive monthly

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updates on the audit plan and results of audits. The Committee meetings have not been scheduled; however, agenda items for those meetings will include IT security, institutional compliance, ongoing investigations, the annual risk assessment, as well as approval of the 2018 audit plan and institutional compliance work plan.

### **Annual Report**

As required by the Committee charter, the Executive Director of Audit and Compliance has provided two reports in the meeting materials.

- First is the 2016 annual report (Exhibit 35), which provides a summary of the 2016 accomplishments and 2017 plans. The Audit and Compliance Committee reviewed this report at the May 3 meeting.
- Next is a copy of the 2017 Audit Plan (Exhibit 36), which was reviewed and approved by the Audit and Compliance Committee at the December meeting.

## **XII. OTHER BUSINESS**

There was no other business.

## **XIII. ADJOURNMENT**

With no further business to come before the Board, the Vice Chair adjourned the meeting.

Respectfully Submitted,

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Catherine S. Mizell, Secretary

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: February 22, 2018

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Chattanooga

ITEM: **Disposal of Property Located at East 8<sup>th</sup> Street in Chattanooga, Tennessee**

RECOMMENDATION: Approval

The University of Tennessee at Chattanooga proposes to dispose of approximately 0.22+/- acres located at East 8<sup>th</sup> Street in Chattanooga (see attached map).

The property is adjacent to the congregation hall of First Baptist Church and has 26 parking spaces. The church currently uses the lot for parking under a license agreement. UTC proposes to sell the property and enter into a long-term agreement for use of a nearby church- owned parking lot containing 38 parking spaces.

The University administration requests approval to dispose of the property at or above appraised value. Upon approval, the University will seek all required state approvals.

**RESOLVED: The administration is authorized to sell 0.22+/- acres located at East 8<sup>th</sup> Street in Chattanooga, Tennessee, at or above the appraised value.**



THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: February 22, 2018

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: UT Health Science Center

ITEM: **Disposal of Property Located at 294 Summar Drive in Jackson, Tennessee**

RECOMMENDATION: Approval

The University of Tennessee Health Science Center proposes to dispose of approximately 1.23+/- acres and improvements located at 294 Summar Drive in Jackson, Tennessee. The property includes a 29,900 square-foot, three-story medical and professional office building that serves as the academic home and clinical practice site for the UTHSC Department of Family Medicine in Jackson.

UTHSC has pursued a strategy of closely aligning its physician practice groups with partner hospitals, and this location is one of the last stand-alone practices inside the University. As a result, UTHSC desires to sell the building and enter into an affiliation agreement with West Tennessee Healthcare (WTH). WTH (Jackson-Madison County General Hospital) is a subsidiary entity of the hospital district created by the legislature for and on behalf of the City of Jackson, Tennessee, and Madison County, Tennessee. WTH would acquire the building and own and manage the practice utilizing University physicians.

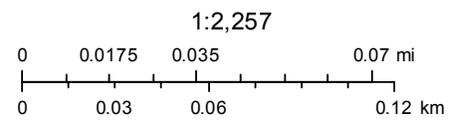
The University administration requests approval to dispose of the property at or above appraised value. Upon approval, the University will seek all required state approvals.

**RESOLVED: The administration is authorized to sell 1.23 acres +/- and improvements located at 294 Summar Drive in Jackson, Tennessee, at or above the appraised value.**

# Madison County - Parcel: 065P J 004.02



Date: February 6, 2018  
County: Madison  
Owner: UNIV OF TENN  
Address: SUMMAR DR 294  
Parcel Number: 065P J 004.02  
Deeded Acreage: 0  
Calculated Acreage: 0  
Date of Imagery: 2012



TN Comptroller - OLG  
TDOT  
State of Tennessee, Comptroller of the Treasury, Office of Local Government (OLG)  
Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors

The property lines are compiled from information maintained by your local county Assessor's office but are not conclusive evidence of property ownership in any court of law.

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 23, 2018

CAMPUS/UNIT: UT Institute of Agriculture

ITEM: **Naming of the Pavilion and Outdoor Classroom in the UT Gardens**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

Chancellor Cross has recommended, and President DiPietro and Interim Vice President Witcher have approved, naming the new pavilion and outdoor classroom in the UT Gardens the “McIlwaine Friendship Pavilion and Outdoor Classroom” in honor of the late Henry W. McIlwaine to recognize his generous philanthropy and service in support of the UT Gardens. See the following recommendation letter from Chancellor Cross.

The Vice Chair designated this item for the full Board agenda because the Advancement and Public Affairs Committee is not meeting in conjunction with this meeting of the Board.

**Vice Chair: Call attention to the Resolution in the meeting materials (see below), and call for a motion and second to adopt the Resolution.**

**RESOLVED: The Board of Trustees approves naming the pavilion and outdoor classroom in the UT Gardens the “McIlwaine Friendship Pavilion and Outdoor Classroom” in honor of the late Henry W. McIlwaine, Jr., to recognize his generous philanthropy and service in support of the UT Gardens.**



**Office of the Chancellor**

101 Morgan Hall  
2621 Morgan Circle  
Knoxville, TN 37996-4505  
office: 865-974-7342  
fax: 865-974-8781

February 2, 2018

President Joseph A. DiPietro  
University of Tennessee  
800 Andy Holt Tower  
Knoxville, TN 37996-0180

Dear Dr. DiPietro:

I am writing to request approval to name the new pavilion in the UT Gardens the *McIlwaine Friendship Pavilion and Outdoor Classroom*. The late Henry McIlwaine was well known in the Knoxville gardening community and was very supportive of the UT Gardens and its programming. His garden was recognized during the Dogwood Arts Festival here in Knoxville. This pavilion will extend the UT Gardens teaching, research and outreach capabilities by providing more outdoor classroom space. Students, faculty, master gardeners, 4-Hers, horticulture therapy participants, disadvantaged children/youth and others will benefit from the newly created sheltered space.

Late in life Mr. McIlwaine would come to the gardens and visit. He always had an interest in helping showcase the site. His largest philanthropic commitment to the UT Gardens (and UT) was to construct the pavilion. He gave more than 70% of the cost to construct the pavilion (total cost for this project is \$270,000). He had been engaged during its conception and planning and saw this project as an opportunity to expand the garden's capabilities and use for the university and the local gardening community. His gifts have been combined with gifts from other donors to construct the new pavilion.

Unfortunately, he passed away last year before the construction got underway. However, in recognition of his philanthropy and his service, please consider seeking approval from the Board of Trustees to memorialize Mr. Henry McIlwaine by naming the new pavilion the *McIlwaine Friendship Pavilion and Outdoor Classroom*.

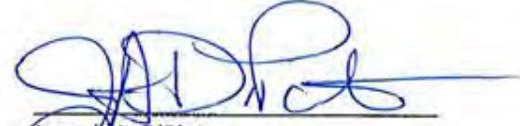
Sincerely,

Tim Cross  
Chancellor

cc: Keith Barber, Vice Chancellor of Institutional Advancement

Approved:   
Kerry W. Witcher  
Interim President & CEO, UT Foundation, Inc.  
Vice President for Development & Alumni Affairs

Date: 2/6/18

Approved:   
Joseph A. DiPietro  
President  
University of Tennessee

Date: 2/9/18

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

INFORMATION ITEM

DATE: March 23, 2018

COMMITTEE: Executive and Compensation Committee

CAMPUS/UNIT: All

ITEM: **Report of the Executive and Compensation Committee on Actions Taken for the Board since the Last Meeting of the Board**

PRESENTED BY: Raja J. Jubran, Vice Chair

Since the last meeting of the Board of Trustees, the Executive and Compensation has met twice, first on December 18, 2017 and again on February 22, 2018. Acting on behalf of the Board, the Committee approved the following items to allow them to take effect immediately, as discussed at the August 17 workshop:

1. Approval of a Policy on Setting Faculty Salaries upon Conclusion of Administrative Appointments: The Committee approved an original version of this policy on December 18, 2017, but as the administration prepared to implement the new policy, it determined that revisions were necessary with respect to appointments with an administrative supplement added to a base faculty salary. Accordingly, at the meeting on February 22, the Committee approved revisions to the policy providing for those types of administrative appointments to be governed by a system-wide fiscal policy to be developed by Chief Financial Officer David Miller in conjunction with Chief Academic Officers and Chief Business Officers. The revised policy is included in the meeting materials.
2. Approval of Revisions to Policies on Academic Freedom, Responsibility, and Tenure: At the February 22 meeting, the Committee approved revisions to these policies: (a) to comply with the "Campus Free Speech Protection Act" enacted by the General Assembly in 2017; and (b) to provide a hearing under the Uniform Administrative Procedures Act as a post-termination option, but continuing to offer the option to choose instead another type of due process hearing before termination (except in specified cases of serious misconduct). The policy revisions are included in the meeting materials.

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: February 22, 2018

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: All

ITEM: **Proposed Revisions to the Policy on Setting Faculty Salaries upon Conclusion of Administrative Appointments**

RECOMMENDATION: Approval

PRESENTED BY: Catherine S. Mizell  
Secretary, Chief of Staff, & Special Counsel

On December 18, 2017, the Committee, acting on behalf of the Board, approved the “Policy on Setting Faculty Salaries upon Conclusion of Administrative Appointments.” The new policy included one set of provisions to govern appointments with a full-time administrative salary and another set to govern appointments with a stipend or other supplement added to the faculty salary.

In the process of implementing the new policy, it became apparent that current practices for administrative appointments compensated with a supplement vary widely within a campus and from campus-to-campus. As a result, the wording of the policy would require a change in some current practices, including payroll practices. These appointments are typically at the level of department head, assistant/associate dean, vice provost, and similar positions in which the employee may continue to have faculty duties while serving in the administrative position. In consultation with CFO David Miller, the administration recommends that these supplement-based appointments be governed by a system-wide fiscal policy rather than the Board policy. This will allow CFO Miller to work with the campus chief academic officers and chief business officers to develop a fiscal policy that will achieve greater consistency in how these appointments are made and compensated, while accommodating any documented need for variance.

The proposed policy revisions follow this memorandum in redlined format. Because the Board of Trustees will not meet again until March 23, 2018, the Committee is asked to act on behalf of the Board to approve the policy revisions so they will be effective immediately.

*The Committee Chair will call for the following motion:*

**I move adoption of the following Resolution:**

**RESOLVED: The Executive and Compensation Committee, acting on behalf of the Board of Trustees, approves the proposed revisions to the Policy on Setting Faculty Salaries upon Conclusion of Administrative Appointments as presented in the meeting materials.**

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

POLICY ON SETTING FACULTY SALARIES  
UPON CONCLUSION OF ADMINISTRATIVE APPOINTMENTS

SECTION 1. BACKGROUND

Administrators who simultaneously hold faculty appointments are compensated for their administrative appointment with either full-time administrative salaries or supplements to their faculty salaries. Supplements have been implemented in some cases by increasing the faculty salary without designating the increased amount as an administrative supplement. In other cases, the increase in salary has been specifically designated as an “administrative supplement” or a “stipend.” As used in this policy, appointments with a full-time administrative salary are referred to as Salary-Based Administrative Appointments; appointments with a supplement to the faculty salary are referred to as Supplement-Based Administrative Appointments.

SECTION 2. PURPOSE

This policy prescribes the standards for setting faculty salaries for employees who continue to hold faculty appointments after their Salary-Based Administrative Appointments have concluded. This policy also provides for a system-wide fiscal policy to govern the setting of faculty salaries for employees who continue to hold faculty appointments after their Supplement-Based Administrative Appointments have concluded.

SECTION 3. APPLICATION

**Salary-Based Administrative Appointments:** Section 4 of this policy applies to all employees appointed to a Salary-Based Administrative Appointment after December 18, 2017 who simultaneously hold a faculty appointment. The terms and conditions of all employment agreements (in the case of the President), offer letters, and appointment letters after December 18, 2017 must be consistent with this policy. Section 4 of this policy also applies to an employee who: (1) was appointed to a Salary-Based Administrative Appointment on or before December 18, 2017, (2) concludes the administrative appointment and continues to hold a faculty appointment after December 18, 2017, and (3) does not have a written agreement regarding how the faculty salary will be set upon conclusion of the administrative appointment.

**Supplement-Based Administrative Appointments:** Section 5 of this policy applies to all employees appointed to a Supplement-Based Administrative Appointment after the effective date of the system-wide fiscal policy that shall govern the setting of faculty

salaries upon conclusion of the administrative appointment. Section 5 of this policy also applies to an employee who (1) was appointed to a Supplement-Based Administrative Appointment before the effective date of the system-wide fiscal policy, (2) concludes the administrative appointment and continues to hold a faculty appointment after the effective date of the system-wide fiscal policy, and (3) does not have a written agreement regarding how the faculty salary will be set upon conclusion of the administrative appointment.

**SECTION 4. FACULTY SALARY AFTER A SALARY-BASED ADMINISTRATIVE APPOINTMENT**

When a Salary-Based Administrative Appointment concludes (voluntarily or involuntarily), the administrative salary is relinquished and the administrative supervisor (or, in the case of the President, Chancellors, and other University Officers defined in the Bylaws, the Board of Trustees) will establish a faculty salary within a range that is (a) not more than 125% of the highest salary of all full-time faculty in the department who share the same discipline and academic rank but not including Governor's Chairs, Distinguished Scientists, Chairs of Excellence, endowed chairs, or former administrators whose faculty salaries were not determined in accordance with this policy and (b) not less than the average salary of all full-time faculty in the department who share the same discipline and academic rank. In setting the precise salary, the administrative supervisor (or, if applicable, the Board) shall consider the employee's:

1. previous faculty salary at the University (if applicable);
2. length and quality of administrative service at the University;
3. particular experience, expertise, achievements, and standing in the discipline;
4. expected (or assigned) contributions to the department (and any other affected units);
5. faculty development opportunities foregone while serving as an administrator; and
6. other discipline-specific factors normally considered when setting faculty salaries in the department.

At the conclusion of a Salary-Based Administrative Appointment, the Board may approve an exception to this Section 4 for an employee who has provided extraordinary administrative service to the University.

**SECTION 5. FACULTY SALARY AFTER A SUPPLEMENT-BASED ADMINISTRATIVE APPOINTMENT**

The administration shall adopt a system-wide fiscal policy to govern the setting of faculty salaries for employees who continue to hold faculty appointments after their Supplement-Based Administrative Appointments have concluded. The fiscal policy shall

be developed and approved in accordance with the University's Policy on Issuance of System-wide Administrative Policies. The initial fiscal policy shall be subject to final approval by the Board of Trustees. Revision of the policy shall be subject to approval in accordance with the University's Policy on Issuance of System-wide Administrative Policies.

History:

Adopted	12/18/2017
Revised	2/22/2018

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: December 18, 2017

COMMITTEE: Executive and Compensation

CAMPUS/UNIT: All

ITEM: **Proposed Revisions to Policies Governing Academic Freedom, Responsibility, and Tenure**

RECOMMENDATION: Approval

PRESENTED BY: Joseph A. DiPietro, President

As discussed at the November 3 meeting of the Academic Affairs and Student Success Committee, two revisions to the Policies Governing Academic Freedom, Responsibility, and Tenure are being proposed at this time:

1. Revising the current language about a faculty member's academic freedom in the classroom to conform to the "Campus Free Speech Protection Act," enacted by the General Assembly in 2017; and
2. Providing a hearing under the Uniform Administrative Procedures Act as a post-termination option, but continuing to offer the option to choose instead another type of due process hearing before termination (except in specified cases of serious misconduct).

Other questions about tenure and evaluation of tenured faculty raised at the August 17 workshop were referred to the President for further review, and any proposed policy revisions will be considered at the next regular meeting of the Board in March 2018.

The proposed revisions are redlined in the following document. Because the full Board will not meet again until March 2018, the Committee is asked to act on behalf of the Board to approve the revisions so they will be effective immediately.

*The Committee Chair will call for the following motion:*

**I move adoption of the following Resolution:**

**RESOLVED:** The Executive and Compensation Committee, acting on behalf of the Board of Trustees, approves the proposed revisions to Policies Governing Academic Freedom, Responsibility, and Tenure as presented in the meeting materials.

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

**[Article I.] Academic Freedom and Responsibility of the Faculty Member**

A healthy tradition of academic freedom and tenure is essential to the proper functioning of a University. At the same time, membership in a society of scholars enjoins upon a faculty member certain obligations to colleagues, to the University and to the State that guarantees academic freedom.

1. The primary responsibility of a faculty member is to use the freedom of his or her office in an honest, courageous, and persistent effort to search out and communicate the truth that lies in the area of his or her competence.
2. A faculty member is entitled to full freedom in research and in publication of the results, subject to the adequate performance of his or her other academic duties, but research for pecuniary gain either within or beyond the scope of his or her employment must be based upon an understanding with The University administration, according to The University's policies (e.g., Compensated Outside Services, Conflict of Interest).
3. A faculty member should maintain a high level of personal integrity and professional competence, as demonstrated in teaching, research, and service. Academic freedom does not exempt a faculty member from an evaluation by colleagues and administration of his or her qualifications for continued membership in their society.
4. Although faculty are free in the classroom to discuss subjects within areas of their competence, faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence or training and in which, therefore, faculty's views cannot claim the authority accorded statements they make about subjects within areas of their competence; provided, that no faculty will face adverse employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction. A faculty member is entitled to freedom in the classroom in discussing the subject, but the faculty member should use care in expressing personal views in the classroom and should be careful not to introduce controversial matters that have no relation to the subject taught, and especially matters in which he or she has no special competence or training and in which, therefore, the faculty member's views cannot claim the authority accorded his or her professional statements.
5. A faculty member should recognize that the right of academic freedom is enjoyed by all members of the academic community. He or she should be prepared at all times to support actively the right of the individual to freedom of research and communication as defined herein.
6. In addition to the normal responsibilities of a citizen of the state and nation, including the duty to uphold their Constitutions and obey their laws, a faculty member also should conduct himself or herself professionally with colleagues. He or she should strive to

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

maintain the mutual respect and confidence of his or her colleagues. He or she should endeavor to understand the customs, traditions, and usages of the academic community.

7. When, as a citizen, a faculty member speaks outside the classroom or writes for publication, he or she should be free, as a citizen, to express his or her opinions. Each faculty member should conduct himself or herself professionally, should be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make clear that he or she speaks for himself or herself and not for The University.

- 8. This policy is intended to be consistent with the Board of Trustees Policy on Student and Faculty Speech, and shall be interpreted accordingly.**

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

**Appendix B: Termination Procedures for Category A – Adequate Cause: Unsatisfactory Performance in Teaching, Research, or Service**

1. Preliminary Steps

The following preliminary steps shall be followed in cases of termination for unsatisfactory performance in teaching, research, or service, unless the faculty member has been under a remediation plan as described in the [Enhanced Post-Tenure] Performance Review section of this policy. If a faculty member has been under a remediation plan and the [peer] [r]eview [c]ommittee, dean, chief academic officer, and Faculty Senate President or Faculty Senate Executive Committee recommend initiation of termination proceedings, the Chancellor shall proceed to consult with the President and to decide whether to initiate termination proceedings without following these preliminary steps.

A. Tenured Faculty’s Recommendation

The department head shall direct the tenured departmental faculty to review the faculty member’s performance in teaching, research, and service and to vote on the question of whether termination proceedings should be initiated. The faculty vote shall be advisory to the department head.

B. Department Head’s Recommendation

If the department head concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the dean and the chief academic officer. The head’s recommendation shall include the history of efforts to encourage the faculty member to improve his or her performance and of the vote of the tenured faculty on the question of whether proceedings should be initiated.

C. Dean’s Recommendation

If the dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the chief academic officer.

D. Chief Academic Officer’s Recommendation

- (1) If the chief academic officer concludes termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.
- (2) If a mutually satisfactory resolution is not achieved, the chief academic officer shall within thirty days ask the Faculty Senate (or appropriate committee of the Senate) to conduct an informal inquiry and make a recommendation to him or her within thirty days as to whether termination proceedings should be initiated. The recommendation of the Faculty Senate shall be advisory to the chief academic officer.

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

- (3) After considering the recommendation of the Faculty Senate, the chief academic officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated.

2. Chancellor's Decision to Initiate Termination Proceedings

~~If, after consulting with the President, the Chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including (1) a statement of the grounds for termination, framed with reasonable particularity, (2) notice of the faculty member's right to contest the proposed termination in a hearing before a tribunal, as described below, or in a hearing conducted under the provisions of the Tennessee Uniform Administrative Procedures Act; and (3) notice that the faculty member has ten days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The Chancellor shall send a copy of the written notice to the Faculty Senate at the same time.~~

**A. If, after consulting with the President, the Chancellor decides to initiate termination proceedings, the Chancellor shall give the faculty member written notice, including a statement of the grounds for termination, framed with reasonable particularity, and the opportunity to respond to the stated grounds and the proposed termination in a meeting with the Chancellor. The faculty member may choose to respond in writing instead of, or in addition to, a meeting with the Chancellor. Any written response must be submitted to the Chancellor within ten calendar days of delivery of the written statement of the grounds for termination.**

**B. If, after considering any information provided by the faculty member, the Chancellor concludes that the faculty member's appointment should be terminated for adequate cause, the Chancellor shall provide written notice to the faculty member (1) notifying the faculty member of the termination with a statement of the grounds for termination, framed with reasonable particularity, and the date on which the termination will become effective unless the faculty member elects to contest the termination in a pre-termination hearing before a hearing tribunal (paragraphs 6-8 of this appendix); (2) providing notice of the faculty member's right to contest the proposed termination in a pre-termination hearing before a tribunal, as described below, or in a post-termination hearing conducted under the provisions of the Tennessee Uniform Administrative Procedures Act; and (3) providing notice that the faculty member has fifteen days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The Chancellor shall send a copy of the written notice to the Faculty Senate at the same time.**

3. Suspension With Pay or Reassignment Pending Completion of Termination Proceedings

After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of The University's termination proceedings.

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

4. Failure to Contest

If the faculty member does not contest the charge(s) in writing and make the required hearing election within ~~ten~~**fifteen** days after receipt of the written notice **described in paragraph 2B of this appendix**, the faculty member shall be terminated, and no appeal of the matter will be heard within The University.

5. Hearing Under the Tennessee Uniform Administrative Procedures Act

A. Contested Case Procedures

If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA), the Chancellor shall appoint a hearing examiner, and the matter shall proceed **post-termination** in accordance with the contested case procedures promulgated by The University under the TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee and are available in campus libraries and in the Office of the General Counsel.

B. Initial Order

In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the Chancellor within ten days. In addition, the Chancellor, on his or her own motion, may elect within ten days to review the hearing officer's initial order.

C. Final Order

The hearing examiner's initial order shall become the final order unless review is sought by either party or the Chancellor within the ten-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within The University. **If the University's final order is favorable to the faculty member and concludes that the faculty member's employment should not have been terminated for adequate cause, then full restitution of salary lost during the termination will be made.**

D. Judicial Review

If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act.

6. Hearing before a Tribunal

If the faculty member makes a timely election to contest the charge(s) ~~and through a hearing by~~ **a tribunal, the faculty member must confirm in writing the decision** to waive the right to a

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

hearing under the Tennessee Uniform Administrative Procedures Act, **and** the Chancellor shall ask the Faculty Senate, or a designated committee of the Faculty Senate, to appoint a hearing tribunal within fifteen days and shall notify the faculty member of this action. The matter then shall proceed in accordance with the tribunal procedures described below, **with the faculty member's termination stayed pending the conclusion of those procedures.**

A. Composition of the Tribunal

The University tribunal shall consist of members of the faculty and the administration. Either the Chancellor or the faculty member may challenge the appointment of a tribunal member on the ground of bias or conflict of interest. A challenge shall be judged by the Faculty Senate, or a designated committee of the Faculty Senate, whose decision on the challenge shall be final and not subject to appeal.

B. Notice of [H]earing

The Chancellor shall give the faculty member written notice of the hearing date at least 20 days in advance.

C. Representation

If The University intends to be represented by legal counsel, the written notice of the hearing date shall so advise the faculty member. The written notice shall also state the faculty member's right to be represented by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the tribunal chairperson within ten days of receipt of the written notice of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at The University's request.

D. Waiver of Hearing

If, at any time prior to the hearing date, the faculty member decides to waive his or her right to a hearing and respond to the charges only in writing, the tribunal shall proceed to evaluate all available evidence and rest its recommendation upon the evidence in the record.

E. Pre-Hearing Preparation

The faculty member and The University shall have a reasonable opportunity prior to the hearing to obtain witnesses, specific documents, or other specific evidence reasonably related to the charge(s).

F. Evidence

The tribunal is not bound by legal rules of evidence and may admit any evidence of probative value in determining the issues. The tribunal shall make every reasonable effort, however, to base its recommendation on the most reliable evidence. If the charge is "failure to demonstrate

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

professional competence in teaching, research, or service,” the evidence shall include the testimony of qualified faculty members from this and/or other comparable institutions of higher education.

G. Confrontation and Cross-Examination of Witnesses

The faculty member and The University shall have the right to confront and cross-examine all witnesses. If a witness cannot or will not appear, but the tribunal determines that his or her testimony is necessary to a fair adjudication of the charge(s), the tribunal may admit as evidence the sworn affidavit of the witness. In that event, the tribunal shall disclose the affidavit to both parties and allow both parties to submit written interrogatories to the witness.

H. Adjournments

The tribunal shall grant adjournments to allow either party to investigate evidence to which a valid claim of surprise is made.

I. Burden of Proof

The burden of proof that adequate cause exists rests with The University and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

J. Findings and Conclusions

The tribunal shall make written findings and conclusions and shall provide a copy to the faculty member at the time of submission to the Chancellor.

- (1) If the tribunal concludes adequate cause for termination has not been established, it shall so report to the Chancellor.
- (2) If the tribunal concludes adequate cause for termination has been established but that a sanction other than termination should be imposed, it shall so recommend to the Chancellor, with supporting reasons.
- (3) If the tribunal concludes adequate cause for termination has been established and that termination is the appropriate sanction, it shall so report to the Chancellor.

K. Transcript of the Hearing

A verbatim record of the hearing shall be made, and a transcript shall be provided to the faculty member and the Chancellor at the time of the tribunal’s submission of its findings and conclusions.

7. Chancellor’s Recommendation on Termination

- A. If the Chancellor concludes adequate cause has been established and that termination is the appropriate sanction, he or she shall transmit the hearing record and his or her

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

recommendation to the Board of Trustees through the President. However, if the conclusion of the Chancellor differs from that of the tribunal, the Chancellor shall give the tribunal and the faculty member a written statement of reasons and shall allow the faculty member an opportunity to respond before transmitting the case to the President and Board of Trustees.

- B. If the Chancellor concludes adequate cause has been established but that a sanction other than termination should be imposed, the Chancellor may impose the lesser sanction. The faculty member may appeal the lesser sanction to the President.

8. Review by the Board of Trustees

The Board of Trustees shall review a recommendation of termination for adequate cause on the record of the tribunal hearing. The Board shall provide an opportunity for oral and written argument by the parties. The faculty member and The University may be represented before the Board by legal counsel or other representative. If the Board concludes adequate cause has been established and that the faculty member's tenure and employment should be terminated, the Board shall set the effective date of termination.

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

**Appendix C: Termination Procedures for Category B Adequate Cause: Misconduct**

1. Preliminary Steps

A. Consultation with Tenured Faculty

The department head shall consult with the tenured faculty before making a recommendation that termination proceedings be initiated against a tenured faculty member for alleged misconduct within the Category B definition of adequate cause.

B. Department Head's Recommendation

If the department head concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the dean and the chief academic officer. The recommendation shall include a report of the head's consultation with the tenured faculty.

C. Dean's Recommendation

If the dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the chief academic officer.

D. Chief Academic Officer's Recommendation

- (1) If the chief academic officer concludes termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.
- (2) If a mutually satisfactory resolution is not achieved, the chief academic officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated.

2. Chancellor's Decision to Initiate Termination Proceedings

~~If, after consulting with the President, the Chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including (1) a statement of the grounds for termination, framed with reasonable particularity, (2) notice of the faculty member's right to contest the proposed termination in a hearing before a tribunal, as described below, or in a hearing conducted under the provisions of the Tennessee Uniform Administrative procedures Act; and (3) notice that the faculty member has ten days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The Chancellor shall send a copy of the written notice to the Faculty Senate at the same time.~~

**A. If, after consultation with the President, the Chancellor decides to initiate termination proceedings, the Chancellor shall give the faculty member written notice, including a statement of the grounds for termination, framed with reasonable particularity, and the opportunity to respond to the stated grounds and the proposed termination in a**

Proposed Revisions to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure  
(Draft 9-27-17)

**meeting with the Chancellor. The faculty member may choose to respond in writing instead of, or in addition to, a meeting with the Chancellor. Any written response must be submitted to the Chancellor within ten calendar days of delivery of the written statement of the grounds for termination.**

**B. If, after considering any information provided by the faculty member, the Chancellor concludes that the faculty member's appointment should be terminated for adequate cause, the Chancellor shall provide written notice to the faculty member (1) notifying the faculty member of the termination with a statement of the grounds for termination, framed with reasonable particularity, and the date on which the termination will become effective unless the faculty member elects to contest the termination in a pre-termination hearing before an ad hoc hearing committee (paragraph 5 of this appendix); (2) notice of the faculty member's right to contest the proposed termination in a pre-termination hearing before an ad hoc hearing committee (paragraph 5 of this appendix) or in a post-termination hearing under the provisions of the Tennessee Uniform Administrative Procedures Act; and (3) notice that the faculty member has fifteen days after receipt of the written notice to elect in writing to contest the termination. The Chancellor shall send a copy of the written notice to the Faculty Senate at the same time.**

3. Suspension or Reassignment Pending Completion of Termination Proceedings

A. Suspension With Pay

After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of The University's termination proceedings.

B. Suspension Without Pay

After consultation with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member without pay only for the following types of alleged misconduct and only in accordance with the procedures outlined in the section of this policy entitled "Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct":

- (1) alleged misconduct involving: (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources;
- (2) or indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

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**If the University's final determination after an ad hoc hearing committee proceeding is favorable to the faculty member and concludes both that the faculty member's employment should not be terminated for adequate cause and that the faculty member should not have been suspended without pay pending completion of termination proceedings, then full restitution of salary lost during the suspension without pay will be made.**

4. Failure to Contest

If the faculty member does not contest the charge(s) of misconduct in writing within ~~ten~~**fifteen** days after receipt of the written notice **described in paragraph 2B of this appendix**, the faculty member shall be terminated, and no appeal of the matter will be heard within The University.

5. Waiver of Hearing Under the Tennessee Uniform Administrative Procedures Act

If the faculty member contests the charge(s) of misconduct but elects to waive his or her right to formal hearing under the contested case procedures of the TUAPA, **the faculty member must confirm in writing the decision to waive the right to a hearing under the TUAPA, and** the Chancellor shall appoint an ad hoc hearing committee to conduct an informal hearing on the charges, **with the faculty member's termination stayed pending the conclusion of the procedures set forth in this paragraph 5.** The faculty member may be represented before the hearing committee by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the committee chairperson within ten days of the hearing date. If the faculty member fails to give timely notice of legal representation the hearing date shall be postponed at The University's request.

The hearing committee shall make a written report of its findings and conclusions to the Chancellor. If the Chancellor decides adequate cause for termination of tenure and employment has been established, he or she shall submit a written recommendation of termination to the Board of Trustees through the President. If the Chancellor decides a lesser sanction should be imposed, he or she may impose the sanction. The faculty member may appeal the lesser sanction to the President.

6. Hearing under the Tennessee Uniform Administrative Procedures Act

A. Contested Case Procedures

If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA), the Chancellor shall appoint a hearing examiner, and the matter shall proceed **post-termination** in accordance with the contested case procedures promulgated by The University under the TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee and are available in University libraries and in the Office of the General Counsel.

B. Initial Order

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In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the Chancellor within ten days. In addition, the Chancellor, on his or her own motion, may elect within ten days to review the hearing officer's initial order.

C. Final Order

The hearing examiner's initial order shall become the final order unless review is sought by either party or the Chancellor within the ten-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within The University. **If the University's final order is favorable to the faculty member and concludes that the faculty member's employment should not have been terminated for adequate cause, then full restitution of salary lost during the termination will be made.**

D. Judicial Review

If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act.

7. Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct

In the following cases of alleged misconduct by a faculty member, the Chancellor, after consulting with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, may invoke an expedited procedure to accomplish termination or suspension without pay, with comprehensive due process procedures to be offered after termination or suspension without pay:

- A. alleged misconduct involving (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources; or
- B. indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

Under the expedited procedure[,], the faculty member shall be offered the following process before termination or suspension without pay:

- (1) notice of the charges;
- (2) an explanation of the evidence; and
- (3) an informal opportunity to refute the charges in a meeting with the campus chief academic officer.

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After termination or suspension without pay, the faculty member shall be offered the full range of due process options available to faculty members in other adequate cause proceedings as set forth in paragraphs 4-6 of this appendix, except that the termination or suspension without pay shall not be stayed pending the outcome of an ad hoc hearing committee if the faculty member elects that method of contesting the action. If the University's final determination after either a TUAPA proceeding or an ad hoc hearing committee proceeding is favorable to the faculty member and concludes that the faculty member should not have been suspended without pay or that the faculty member's employment should not have been/should not be terminated for adequate cause, then full restitution of salary lost during the suspension without pay or termination will be made.

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

ACTION ITEM

DATE: March 23, 2018

COMMITTEE: Academic Affairs and Student Success

CAMPUS/UNIT: All

ITEM: **Proposed Revisions to Board Policies on Academic Freedom, Responsibility, and Tenure**

RECOMMENDATION: Approval

PRESENTED BY: Dr. Joseph A. DiPietro, President

The following materials are provided for this item:

1. A table summarizing the proposed revisions, with page references;
2. The current policy with proposed revisions tracked by underlining and strike-out. Yellow highlighting indicates changes made in response to comments by the University Faculty Council (UFC);
3. A description of faculty engagement on revisions to the tenure policy;
4. A table showing UFC comments on proposed revisions (other than revisions concerning post-tenure review) and the administration's response; and
5. Comments submitted by UFC on the proposed revisions concerning post-tenure review.

In addition, now that the pre-termination procedures outlined in Appendices B and C are much more likely to be elected by a faculty member (because the UAPA process is now post-termination), the administration recommends that these pre-termination procedures be reviewed carefully and any needed revisions proposed to ensure efficiency and timeliness. The Resolution below directs the President to recommend revisions at the June 22 meeting.

If adopted, the Resolution provides that the revisions to the policy will be effective as of March 23, 2018 (date of adoption), except as otherwise provided in the Resolution. A deferred effective date is provided for some revisions to allow adequate time for required procedures to be developed and approved by the Board or other approving authority. The revisions concerning authority to grant tenure are not deferred, however, and therefore at the June meeting the Board will act only on any tenure recommendations for (1) a University Officer in a faculty appointment; (2) a faculty member to be tenured upon initial appointment; or (3) a faculty member to be tenured after serving less than a six-year probationary period.

**[continue to next page]**

**Chair:** (1) Call attention to the Resolution presented in the meeting materials (see below); and (2) call for a motion and second that the Committee recommend the Resolution for adoption by the Board of Trustees.

**RESOLVED:** The Board of Trustees approves the proposed revisions to the Board Policies on Academic Freedom, Responsibility, and Tenure to be effective as of March 23, 2018, except as provided below:

1. The standard six-year probationary period shall apply to all tenure-track appointments made after March 23, 2018. The required campus policies and procedures to govern a faculty member's application for tenure before the sixth year shall be submitted to the Board no later than the last regular Board meeting in 2018 and shall be effective upon approval by the Board.
2. The requirement of an Enhanced Tenure-Track Review (ETTR) in the third or fourth year of the probationary period shall be effective as of July 1, 2019 but shall not apply to any tenure-track faculty member who has completed the fourth year of his or her probationary period by that date. The campuses shall present proposed ETTR procedures to the Board for approval no later than the last regular meeting of the Board in 2018.
3. (a) Any revision of campus procedures needed to comply with the new minimum components of the tenure review process stated in Appendix A (for example, the requirement of external reviews of all tenure candidates and the requirement of peer review of teaching) shall be effective upon approval by the Board. The campuses shall submit any revised procedures to the Board no later than the June 22, 2018 meeting.  
  
(b) The departmental procedures required by Appendix A shall be effective upon approval by the dean and the chief academic officer. Departments shall submit the required procedures for approval no later than November 30, 2018 and shall be effective beginning with the next tenure review cycle following approval.
4. The departmental criteria for tenure required by Article III, Section F, of the policy shall be submitted to the dean and the chief academic officer for approval no later than November 30, 2018 and shall be effective beginning with the next tenure review cycle following approval.
5. The requirement of a periodic comprehensive review of all tenured faculty no less often than every six years shall be effective upon Board approval of the review procedures for each campus recommended by the President. The President shall recommend the procedures to the Board no later than the last regular meeting of the Board in 2018.

**AND FURTHER RESOLVED:** At the June 22, 2018 regular meeting of the Board, the President shall recommend revisions to the procedures outlined in Appendices B and C of the policy to ensure that pre-termination hearing processes are conducted in an efficient and timely manner so that a recommendation is presented to the Chancellor no later than 120 days after written notice of proposed termination was provided to the faculty member.

**SUMMARY OF REVISIONS TO BOARD TENURE POLICY**  
**PROPOSED FOR CONSIDERATION AT MARCH 2018 MEETING OF THE**  
**BOARD OF TRUSTEES**

<b>MOVING DECISIONS TO LOWER ADMINISTRATIVE LEVELS</b>	
1.	Authority to Grant Tenure – Delegates authority to the president <u>except</u> : <ul style="list-style-type: none"> <li>• Board retains authority to grant tenure (1) to University Officers (whose appointment must be approved by Board); (2) any faculty member seeking tenure upon initial appointment; and (3) any faculty member to be tenured after serving less than a six-year probationary period. <b>[Page 4]</b></li> </ul>
2.	Tenure Termination Procedures – Chief academic officer rather than chancellor initiates termination proceedings; related changes to tenure termination procedures. <b>[Pages 23 and following; pages 32 and following]</b>
3.	Tenure Termination Procedures – If the faculty member elects a pre-termination proceeding before a University tribunal, the final decision is made by the chancellor and is not appealable to the President. <b>[Pages 28-29]</b>
<b>TIME TO TENURE</b>	
4.	Standardizes a 6-year probationary period across the UT System: <ul style="list-style-type: none"> <li>• Faculty member is considered for tenure in the 6<sup>th</sup> year and, if not tenured, continues employment for a terminal 7<sup>th</sup> year; early consideration is allowed subject to campus-specific policies and procedures (which the Board must approve) and subject to Board approval of the tenure recommendation. <b>[Pages 5-6]</b></li> </ul>
5.	Tenure Upon Initial Appointment – (formerly Appendix D): <ul style="list-style-type: none"> <li>• Moved from appendix to body of the policy.</li> <li>• Clarifies the exceptional circumstances warranting tenure upon initial appointment and requires documentation of compliance with all standard procedures for tenure review and recommendation. <b>[Page 5]</b></li> </ul>
<b>TENURE REVIEW PROCESS</b>	
6.	Requires an enhanced mid-cycle review of tenure-track faculty in the 3 <sup>rd</sup> or 4 <sup>th</sup> year of the probationary period. <b>[Page 7]</b>
7.	Requires departmental criteria for tenure <u>unless</u> the dean and chief academic officer approve application of college criteria in lieu of departmental criteria. <b>[Page 8]</b>
8.	Requires departmental procedures governing tenure review, including required external review for all tenure candidates, required peer review of teaching, and required contents of the tenure application. Departmental procedures are not required if the dean and chief academic officer approve application of college procedures in lieu of departmental procedures. <b>[Page 19]</b>
9.	Requires at least 2 levels of independent peer review prior to a tenure application reaching the chief academic officer (i.e., a departmental review and either a college-wide committee review or other independent review committee). <b>[Page 20]</b>

<b>REVISIONS TO THE DEFINITION OF ADEQUATE CAUSE FOR TERMINATION</b>	
10.	<p>Provides for termination upon loss of external appointment or substantive alteration or work. <b>[Page 16]</b></p> <p>Provides for termination of a faculty member who does not hold a full-time appointment with the University if tenure was granted contingent upon employment with an external entity and the faculty member ceases to be employed by that entity. <b>[Page 16]</b></p>
<b>REVISION TO EXPEDITED TERMINATION OR SUSPENSION PROCEDURES</b>	
11.	<p>Expressly includes sexual harassment or other sexual misconduct as grounds justifying the use of expedited procedures to terminate or suspend without pay a tenured faculty member for Adequate Cause. <b>[Page 37]</b></p>
<b>POST-TENURE REVIEW</b>	
12.	<p>Requires the president to establish, with Board approval, procedures for each campus under which every tenured faculty member shall receive a comprehensive performance review no less often than every six years. Requires that certain minimum provisions be included in the procedures:</p> <ul style="list-style-type: none"> <li>• A peer review committee internal to the campus composed of tenured faculty at the same or higher rank, some in the same department and some not;</li> <li>• Allow solicitation of external reviews when deemed necessary by the peer review committee or the dean; and</li> <li>• Staggering reviews to avoid excessive administrative burden at any given time. <b>[Page 11]</b></li> </ul> <p>Provides that the president, based on the findings of an academic program review, may recommend to the Board procedures under which the campus administration will conduct comprehensive performance reviews of tenured and non-tenured faculty in the program. <b>[Page 14]</b></p>
<b>OTHER</b>	
13.	<p>Adds “Modified Duties Assignment” as a reason for suspension of the probationary period. <b>[Page 6]</b></p>
14.	<p>Makes needed clarifications – e.g., disciplinary sanctions other than termination for adequate cause. <b>[Page 17]</b></p>
15.	<p>Makes technical corrections (including deletion of obsolete provisions related to adoption of the 1998 policy) and revisions to comply with statutory changes (e.g., 10-day deadlines under UAPA are now 15 days).</p>

Single underline or strike-out = change to current tenure policy

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Yellow Highlights = changes in response to University Faculty Council comments

## BOARD OF TRUSTEES

### POLICIES GOVERNING ACADEMIC FREEDOM, RESPONSIBILITY, AND TENURE<sup>1</sup>

The Board of Trustees is constituted by statute of the State of Tennessee as the governing body of The University of Tennessee ~~System~~, with complete and full authority over the organization and administration of ~~T~~the University<sup>2</sup> and its constituent parts, and over the granting of tenure to members of the faculty.

The principal mission of ~~T~~the University is the discovery and dissemination of truth through teaching, research and service.<sup>3</sup> The Board recognizes that freedom of inquiry and expression is indispensable for this purpose and believes that it and the administration and faculty should cooperate to that end. In ~~T~~the University's program of teaching, research and service, it is essential that the Board, administration and faculty cooperate voluntarily, each contributing freely, according to his or her qualifications, in a mutually beneficial exchange of information and ideas.

The following statement is intended to record the policy and procedures of ~~T~~the University with respect to academic freedom, responsibility, and tenure. The Board considers these principles compatible with its statutory authority and responsibilities and the constitutional guarantee of freedom of speech and inquiry to each citizen of the United States.

<sup>1</sup> This is a compilation and restatement of policies and procedures adopted by vote of the Board of Trustees on November 4, 1955; June 17, 1971; October 20, 1978; by periodic approval of ~~F~~faculty ~~H~~handbook provisions for each University of Tennessee campus; and by revisions recommended by the Board's AY 1997-98 special Tenure Committee and its Faculty Tenure Advisory Committee, and approved by the Board on 18 June 1998; and by revisions approved by the Board on 19 June 2003; and by revisions approved by the Board on 16 March 2006~~f~~, March 1, 2013, and October 14, 2016; ~~and~~ by revisions approved by the Executive and Compensation Committee, acting on behalf of the Board, on December 18, 2017; and by revisions approved by the Board of Trustees on March 23, 2018.

<sup>2</sup> Many terms throughout this document are used generically. "~~The~~University" refers to The University of Tennessee System as a state-wide system composed of several campuses and institutes. "Campus" refers to ~~the~~ UT, Knoxville ~~campus~~, the Health Science Center, the UT Institute of Agriculture, ~~the~~ UT Space Institute, UT at Chattanooga, and UT at Martin. "Chancellor" refers to the ~~Chancellor or Vice President~~ chief executive officer of the unit. "Department" refers to the smallest academic unit (in some cases a "college," "school," or "division"); similarly, "department head" refers to "chair," "director," or "dean" as appropriate. "Faculty Senate" refers to the campus governance body of elected faculty members and "Faculty Senate Executive Committee" refers to that committee or its comparable group of elected Senate officers. "Chief academic officer" refers to the campus provost, academic vice chancellor, or ~~dean, etc.~~ other official designated by the Chancellor for oversight of campus academic affairs. "Bylaws" ~~includes written policies, procedures, standards, rules, guidelines, etc.~~

<sup>3</sup> The word "teaching" includes the set of instructional activities that normally occurs in classrooms, laboratories, clinical sites, and in directed study, etc.; "research" includes both scholarly investigation and the creation of works of art related to a faculty member's academic appointment; "service" includes public service, institutional service, and other assigned professional/clinical service responsibilities.

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## {Article I.} Academic Freedom and Responsibility of the Faculty Member

A healthy tradition of academic freedom and tenure is essential to the proper functioning of a University. At the same time, membership in a society of scholars enjoins upon a faculty member certain obligations to colleagues, to the University and to the State that guarantees academic freedom.

1. The primary responsibility of a faculty member is to use the freedom of his or her office in an honest, courageous, and persistent effort to search out and communicate the truth that lies in the area of his or her competence.
2. A faculty member is entitled to full freedom in research and in publication of the results, subject to the adequate performance of his or her other academic duties, but research for pecuniary gain either within or beyond the scope of his or her employment must be based upon an understanding with ~~T~~the University administration, according to ~~T~~the University's policies (e.g., Compensated Outside Services, Conflict of Interest).
3. A faculty member should maintain a high level of personal integrity and professional competence, as demonstrated in teaching, research, and service. Academic freedom does not exempt a faculty member from an evaluation by colleagues and administration of his or her qualifications for continued membership in their society.
4. Although faculty are free in the classroom to discuss subjects within areas of their competence, faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence or training and in which, therefore, faculty's views cannot claim the authority accorded statements they make about subjects within areas of their competence; provided, that no faculty will face adverse employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction.
5. A faculty member should recognize that the right of academic freedom is enjoyed by all members of the academic community. He or she should be prepared at all times to support actively the right of the individual to freedom of research and communication as defined herein.
6. In addition to the normal responsibilities of a citizen of the state and nation, including the duty to uphold their Constitutions and obey their laws, a faculty member also should conduct himself or herself professionally with colleagues. He

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or she should strive to maintain the mutual respect and confidence of his or her colleagues. He or she should endeavor to understand the customs, traditions, and usages of the academic community.

7. When, as a citizen, a faculty member speaks outside the classroom or writes for publication, he or she should be free, as a citizen, to express his or her opinions. Each faculty member should conduct himself or herself professionally, should be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make clear that he or she speaks for himself or herself and not for ~~T~~the University.
8. This policy is intended to be consistent with the Board of Trustees Policy on Student and Faculty Speech, and shall be interpreted accordingly.

## **{Article II.} Academic Freedom and Responsibility of the University Administration**

1. The University is committed to recruiting, appointing, retaining and promoting faculty members by processes which are thorough, thoughtful, equitable, and in which the professional judgments of faculty members are of major importance.
2. Administrative officers should actively foster within ~~T~~the University a climate favorable to freedom of teaching and research. In its pursuit of excellence, ~~T~~the University should reward its outstanding faculty members.
3. The administration is responsible for enforcing all Board and campus policies applicable to faculty members. It is the duty of the administration – beginning with department heads, deans, and chief academic officers – to remove from the faculty any faculty member who has been found, through proper procedures, seriously derelict in his or her responsibilities as a member of the academic community.

The Board requires that each campus and its constituent academic units develop appropriate policies and procedures necessary to implement the Board's tenure policy. ~~These campus and academic unit documents must be approved by the Board of Trustees in time for campus policies and procedures to be effective on 1 July 1999.~~

## **{Article III.} Tenure**

### **A. Definition of Tenure**

Tenure is a principle that entitles a faculty member to continuation of his or her annual appointment until relinquishment or forfeiture of tenure or until termination of tenure for ~~a~~Adequate ~~e~~Cause, financial exigency, or academic program discontinuance. The burden of proof that tenure should be awarded rests with the faculty member. ~~Tenure is~~

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~~acquired only by positive action of the President or Board of Trustees, and is awarded in a particular academic unit (department, school, or college) of a campus.~~ The ~~award~~grant of tenure shifts the burden of proof concerning the faculty member's continuing appointment from the faculty member to ~~the University,~~ except in the case of relinquishment or forfeiture of tenure.

## **B. Authority to Grant Tenure**

~~Tenure is acquired only by positive action of the President or Board of Trustees, and is awarded~~granted in a particular academic unit (department, school, or college) of a campus. The Board of Trustees makes the decision whether to grant tenure, based upon the recommendation of the President, to (1) University Officers as defined in bylaws adopted by the Board of Trustees; (2) any faculty member who is to be granted tenure upon initial appointment without serving a probationary period at a University campus; and (3) any faculty member to be tenured after serving less than a six-year probationary period. The President makes the decision whether to grant tenure, based upon the recommendation of the Chancellor, in all other cases. The President or Board of Trustees (as applicable according to this policy) may grant tenure at any time during a given year, after confirming that all tenure review and recommendation procedures in Appendix A have been followed.

## **B.C. Eligibility for Tenure Consideration**

Eligibility for tenure consideration shall be subject to the following minimum standards:

1. Regular, full-time, tenure-track faculty appointments at the academic rank of instructor, assistant professor, associate professor, or professor are eligible for tenure consideration;
2. Temporary, term, and part-time appointments are not eligible for tenure consideration, except that in the extraordinary circumstances defined in Appendix ~~ED~~, faculty members who do not have a full-time appointment may be eligible for tenure consideration.

Each campus may establish additional eligibility requirements for tenure consideration. ~~After approval by the Board of Trustees,~~ campus eligibility requirements for tenure consideration shall be effective upon approval by the Board of Trustees and shall be published in the campus ~~f~~faculty ~~H~~handbook.

## **D. Tenure upon Initial Appointment**

No faculty member shall be ~~appointed initially with tenure~~granted tenure upon initial appointment except by positive action of the Board of Trustees upon the recommendation

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of the President, which shall include documentation of compliance with all tenure review and recommendation procedures stated in Appendix A and as established by the campus in accordance with Section G of this Article III, and after review by the tenured faculty and department head, dean, chief academic officer, and Chancellor. The Board of Trustees will grant tenure upon initial appointment only if (1) the proposed appointee holds tenure at another higher education institution and the Board determines that the President has documented that the proposed appointee cannot be successfully recruited to the University without being granted tenure upon initial appointment; or (2) the Board of Trustees determines that the President has documented other exceptional circumstances warranting the grant of tenure upon initial appointment. ~~Appendix D outlines expedited procedures for appointment and tenure consideration.~~ When necessary between regular meetings of the Board of Trustees, the Board's executive committee may act on behalf of the Board to grant tenure upon initial appointment in accordance with the provisions of this Section D.

### **C.E. Probationary Period**

A tenure-track faculty member must serve a probationary period at a University campus prior to being considered for tenure.

#### **1. Length of Probationary Period**

Except as otherwise provided in this policy, the probationary period at The University shall be no less than one and no more than seven academic six years; however, for good cause, the President, upon the recommendation of the Chancellor, may approve a probationary period of less than one academic year. The faculty member will apply for tenure during the sixth academic year, and if tenure is not granted, the faculty member will be permitted to serve a seventh year as a terminal year. If a faculty member begins employment after July 1 and before January 1, the remaining term of the faculty member's initial appointment will count as the first year of the probationary period, so that what is treated as the first year of a faculty member's probationary period will not be shorter than six months. If a faculty member has served in a tenure-track appointment at another institution, his or her total probationary service may extend beyond seven years. The original appointment letter shall state the length of the faculty member's probationary period and the academic year in which he or she must be considered for tenure if he or she has met the minimum eligibility requirements for consideration. The stipulation in the original appointment letter of the length The provision of the probationary period and any statement in an appointment letter or otherwise regarding the probationary period and the year of mandatory tenure consideration does not guarantee retention of the faculty member for the full probationary period until that time.

A faculty member may request an early consideration for tenure before the sixth year of his or her probationary period but no sooner than the next regular tenure cycle after

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completion of the first year of the probationary period. Each campus shall adopt policies and procedures regarding a faculty member's early application for tenure, and the consequences of such a candidate's failure to receive tenure upon an early application, which shall be effective upon approval by the Board of Trustees and shall be included in the faculty handbook.

## 2. Extension of Probationary Period

For good cause related to procedural error, ~~the~~ University and a tenure-track faculty member may agree in writing to extend a ~~seven~~six-year probationary period for a maximum of two additional years. The proposed extension must be approved in advance by the chief academic officer, the Chancellor, the ~~Senior Vice~~-President (or designee), and the General Counsel (or designee).

### 2.3 Suspension of Probationary Period

The chief academic officer shall decide whether the probationary period will be suspended when the following circumstances occur:

- a. the faculty member accepts a part-time faculty position;
- b. the faculty member accepts an administrative position; or
- c. the faculty member is granted a leave of absence or modified duties assignment.

The chief academic officer shall give the faculty member written notice of the decision concerning suspension of the probationary period.

### 3.4 Notice of Non-renewal

Notice that a tenure-track faculty member's appointment will not be renewed for the next year shall be made in writing by the chief academic officer, upon the recommendation of the department head and dean, according to the following schedule:

- a. In the first year of the probationary period, not later than March 1 for an academic year appointment and no less than three months in advance for any other term of appointment;
- b. In the second year of the probationary period, not later than December 15 for an academic year appointment and no less than six months in advance for any other term of appointment; and
- c. In the third and subsequent years of the probationary period, not less than twelve months in advance.

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These notice requirements relate only to service in a probationary period with ~~the~~ the University. Credit for prior service shall not be considered in determining the required notice. Notice of non-renewal shall be effective upon personal delivery or upon mailing, postage prepaid, to the faculty member's residential address of record at ~~the~~ the University.

### 5. Enhanced Tenure-Track Review (ETTR)

For each tenure-track faculty member, the department and department head will conduct an enhanced review to assess and inform the faculty member of his or her progress toward the grant of tenure during the third or fourth year of the probationary period (with the year to be determined in the department head's sole discretion).

The tenured departmental faculty will confer regarding the faculty member's performance and will then write a report to the department head that will contain a list of the participating tenured faculty members; suggestions for enhancing the faculty member's progress toward the grant of tenure; the majority and minority report, if applicable; and the summary anonymous vote on whether the faculty member is progressing satisfactorily toward the grant of tenure. The department head will present and discuss the tenured faculty's report, as well as his or her own written assessment, with the faculty member. Copies of the ETTR documents will be given to the faculty member. A favorable ETTR does not commit the tenured departmental faculty, the department, or the college to a subsequent recommendation for the grant of tenure.

Each campus shall adopt further procedures regarding the ETTR, including specifications of the required contents of the materials to be reviewed, which shall be effective upon approval by the Board of Trustees and shall be included in the campus faculty handbook. Any appeal regarding the ETTR shall follow the same procedures for an appeal of an annual performance and planning review.

### D.F. Criteria for Tenure

Tenure is ~~awarded~~granted after a thorough review which culminates in ~~the~~ the University acknowledging a reasonable presumption of the faculty member's professional excellence, and the likelihood that excellence will contribute substantially over a considerable period of time to the mission and anticipated needs of the academic unit in which tenure is granted. Professional excellence is reflected in the faculty member's teaching, research, and service including the faculty member's ability to interact appropriately with colleagues and students. The relative weights of these factors will vary according to the fit between the faculty member and the mission of the academic unit in which he or she is appointed.

Each campus may establish more-specific criteria for tenure that are consistent with the criteria stated in this policy but may be more restrictive. ~~After~~ Campus criteria for tenure

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~~shall be effective upon approval by the Board of Trustees, campus criteria~~ President (or designee) and the General Counsel and shall be published in the campus ~~F~~Hfaculty ~~H~~Handbook.

Each college may establish more-specific criteria for tenure that are consistent with, but may be more restrictive than, the criteria stated in this policy and any more-specific campus criteria. College criteria for tenure shall be effective upon approval by the chief academic officer and shall be published in college bylaws. ~~Campus criteria for tenure shall include and be consistent with the criteria stated in this policy.~~

~~An academic unit may also~~ Each department shall establish more-specific criteria for tenure in that unit that are consistent with the criteria stated in this policy and any criteria established by the college and campus but may be more restrictive. After approval by the Departmental criteria for tenure shall be effective upon approval by the dean and campus chief academic officer, ~~these criteria for tenure and~~ shall be published in the bylaws of the ~~academic unit~~department. Departmental criteria for tenure shall not be required, however, if more-specific criteria have been established by the applicable college, and the dean and chief academic officer have approved application of the college criteria in lieu of departmental criteria. ~~The tenure criteria for a department shall include and be consistent with the criteria stated in this policy and any criteria established by the department's college and campus.~~

#### E.G. ~~Procedures for~~ Consideration and Grant of Tenure

Each campus shall establish procedures for considering a faculty member for tenure that are consistent with the minimum components stated in Appendix A. ~~After~~Campus procedures shall be effective upon approval by the Board of Trustees, ~~these procedures and~~ shall be published in the campus ~~F~~Hfaculty ~~H~~Handbook. ~~The procedures shall include and be consistent with the minimum components stated in Appendix A. Appendix D outlines expedited procedures for tenure consideration and describes exceptional circumstances that may warrant the expedited procedures.~~

#### F.H. Locus of Tenure

Tenure at The University of Tennessee is granted in a particular academic unit (department, school, or college) of a specific campus, in a position appropriate to the faculty member's qualifications. Reorganizations that result in the merger or splitting of departments do not affect the tenure or probationary status of the faculty involved.

If a tenured faculty member voluntarily transfers from one UT campus to another, his or her tenured status is not transferred. However, a review by the responsible administrators in consultation with the tenured faculty of the receiving department may result in an immediate recommendation to the President~~Board of Trustees~~ that tenure at

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the new campus be granted to the transferred individual; on the other hand, a new probationary period in the receiving unit may be established. There shall be no involuntary transfer of faculty members between campuses.

Transfers of tenure between departments on the same campus do not require the President's Board approval, but must be approved by the responsible campus administrators in consultation with the tenured faculty of the receiving unit, with notice to the President Board of Trustees. In any event, prior to the effective date of the transfer all conditions relating to tenure must be documented and accepted, in writing, by the transferring faculty member. If a non-tenured faculty member transfers from one existing department to another, a new probationary period must be established and documented under the same guidelines that would be followed if the faculty member came from another institution. All conditions relating to the new probationary period must be documented and accepted, in writing, by the transferring faculty member.

If a tenured faculty member accepts a part-time faculty position or an administrative position with ~~T~~he University, neither of which can carry tenure, the faculty member retains tenure in the full-time faculty position he or she vacated.

### G.I. Evaluation of Tenured Faculty Members

The University is committed to the evaluation of all faculty members as a means of strengthening the principle of tenure. ~~To that end, the University applies two mechanisms for evaluating and supporting the work of tenured faculty: the Annual Performance and Planning Review (detailed primarily in campus faculty handbooks) and the Enhanced Post Tenure Performance Review (detailed in G.2. below and Appendix FE). Both review processes~~ To that end, the University conducts the types of performance reviews described in this Section I. Performance reviews focus on the faculty member's contributions to the University's missions through teaching, research (including scholarly and artistic work), service, and clinical care.

Competent teaching is a crucial responsibility for faculty members, and the effective use of appropriate instructional evaluation (including departmental files of class syllabi and related materials, student, and peer evaluation, etc.) is important to all objective review processes. Faculty members with research/creative arts responsibilities should have the quantity and quality of their work fairly assessed. Each faculty member's service contributions should be evaluated impartially.

#### 1. Annual Performance-and-Planning Review

Each faculty member and his or her department head will engage in a formal annual Performance-and-Planning Review, examining the current fiscal/academic year's activities and planning what should occur during the coming fiscal/academic year. The

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planning aspects of these annual academic year reviews also should take place in the context of longer-term goals for the campus, college, and department. Each campus shall strive to reward faculty members who more than meet expectations for rank, and administrators shall develop and publish guidelines for each campus to allocate funds for this purpose whenever feasible. Each faculty member's annual review should proceed from guidelines and criteria which are appropriate to the department, college, and campus, and this annual review should be a key element in merit pay or performance-based salary adjustments. A document summarizing the review – including an objective rating of the faculty member's performance, as listed below – must be signed by the faculty member (to acknowledge receipt of the review document) and the department head. The head must send a copy to the dean. The dean must send copies of the documents or a list of names by category to the chief academic officer for review and approval/disapproval.

The performance rating {scale} for annual reviews shall be approved by the Board of Trustees, and may include (in whole or in part) the ratings defined below. Unless or until the Board of Trustees approves a campus-specific rating scale, campuses shall employ the rating scale defined below. To ensure seamless application of other faculty policies and procedures related to performance ratings (whether part of this document or some other policy or procedure), any campus-specific rating scale must explain how it articulates with the rating scale defined below.

Campus faculty handbooks, college bylaws, and/or department bylaws must specify the substantive performance criteria to be used when conducting performance reviews within the particular unit.

The following performance rating scale is to be applied in evaluating tenured faculty members when no campus-specific scale is in place:

- a. Exceeds Expectations for Rank – eligible for significant merit pay or performance-based salary adjustment that is consistent with campus, college, and department fiscal situations;
- b. Meets Expectations for Rank – eligible for minimum merit pay or performance-based salary adjustment that is consistent with campus, college, and department fiscal situations;
- c. Needs {I}mprovement for Rank – not eligible for merit pay or performance-based salary adjustment and may requires an Annual Review Improvement Plan (see below); and
- d. Unsatisfactory for Rank – not eligible for any salary adjustment and requires an Enhanced Post-Tenure Performance Review (III. GI.23. below).

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Annual Review Improvement Plan: Within 30 calendar days of the annual review, any faculty member with an overall performance rating of Needs Improvement for Rank must collaborate with the head on an Annual Review Improvement Plan to be reviewed by the head and recommended by him/her to the dean for review and approval/denial. The next year's annual review must include a progress report that clearly describes improvements in any area(s) for which improvement was required. This Annual Review Improvement Plan process is inapplicable if the faculty member's performance rating has triggered Enhanced Post-Tenure Performance Review.

Appeal Process: Each campus shall have a campus-wide process by which a faculty member may appeal his ~~or~~ her annual review rating. Developing the process should involve the Faculty Senate or an appropriate committee thereof. The final decision on an appeal shall not be appealable to the President.

## 2. Periodic Post-Tenure Performance Review (PPPR)

The Board of Trustees recognizes and affirms the importance of tenure in protecting academic freedom and thus promoting the University's principal mission of discovery and dissemination of truth through teaching, research, and service. The Board also recognizes its fiduciary responsibility to students, parents, and all citizens of Tennessee to ensure that faculty members effectively serve the needs of students and the University throughout their careers. Therefore, the President shall establish, with Board approval, procedures for each campus under which every tenured faculty member shall receive a comprehensive performance review no less often than every six years. As a minimum, the procedures for this periodic review shall: (1) provide for a peer review committee internal to the campus composed of tenured faculty members at the same or higher academic rank as the faculty member being reviewed, some of whom hold appointments in the same department as the faculty member being reviewed and some of whom do not; (2) provide for external reviews to be solicited when deemed necessary by the peer review committee or the dean; and (3) provide for appropriate staggering of reviews to avoid excessive administrative burden at any given time.

### 2.3 Enhanced Post-Tenure Performance Review (EPPR)

Enhanced Post-Tenure Performance Review (EPPR) is an expanded and in-depth performance evaluation conducted by a committee of tenured peers and administered by the chief academic officer. Procedures for conducting an EPPR are detailed in Appendix ~~FE~~.

This policy recognizes that the work of a faculty member is not neatly separated into academic or calendar years. To ensure that performance is evaluated in the context of ongoing work, the period of performance subject to enhanced review is the five most

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recent annual performance review cycles. Each campus administration must collect and maintain sufficient data regarding annual performance reviews to implement this policy effectively.

An Enhanced Post-Tenure Performance Review must be initiated when the chief academic officer determines that a faculty member has:

- requested an EPPR, after at least four annual performance review cycles since the last enhanced review (such as a previous EPPR or a review in connection with tenure or promotion);
- received one overall annual performance rating of “Unsatisfactory” (or the campus equivalent for the lowest performance rating); or
- received two overall annual performance ratings of “Needs Improvement” (or the campus equivalent for the next-to-lowest performance rating) during any four consecutive annual performance review cycles.

a. Administration of the EPPR by the Chief Academic Officer<sup>4</sup>

The EPPR process will be administered under the direction and oversight of the ~~campus~~ chief academic officer. As with any performance evaluation, the chief academic officer may overrule a performance rating assigned by a department head or dean during the annual review process. This practice ensures that when an EPPR process is activated by one or more negative performance ratings (III.~~GI.23~~. above), the chief academic officer is aware of existing concerns.

The task of administering the EPPR requires implementation of this policy and the procedures detailed in Appendix ~~FE~~, as well as any additional steps the chief academic officer finds necessary to comply with the policy objectives. For example, the chief academic officer may be required to adapt the implementation of this policy to satisfy legal requirements (such as limitations on disclosure of student information) or respond to unexpected events (such as replacement of a committee member who becomes unable to serve).

b. Peer Review Committee’s Charge

The peer review committee is charged to review the information relevant to the faculty member’s performance during the review period and to conclude whether or not that

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<sup>4</sup> Where indicated in Appendix ~~FE~~, the chief academic officer may delegate tasks associated with the EPPR to a vice provost, associate or assistant vice chancellor for academic affairs, or other appropriate campus academic administrator, but will remain responsible for making any decisions assigned to the chief academic officer.

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performance has satisfied the expectations for the faculty member's discipline and academic rank.

As detailed in Appendix ~~FE~~, the expectations for faculty performance may differ by campus, college, department, and even among sub-disciplines within a department or program. Those expectations may be commonly-held standards in the discipline or sub-discipline. Those expectations may be stated explicitly in the faculty member's own past annual performance reviews, work assignments, goals or other planning tools (however identified), as well as department or college bylaws, the campus faculty handbook, this policy, and in other generally-applicable policies and procedures (for example, fiscal, human resources, safety, research, or information technology policies and procedures).

The peer review committee must reach a conclusion as to whether or not the performance has satisfied the expectations for the faculty member's discipline and academic rank. If the peer review committee concludes that the faculty member's performance has not met the expectations for the discipline and academic rank, the committee must also recommend either that an EPPR improvement plan be developed as detailed in Appendix ~~FE~~, or that tenure be terminated~~the Chancellor initiate proceedings to consider termination of tenure~~ for Adequate Cause under III.HJ. below and Appendix B.

The committee must report its conclusions and recommendations in writing, including an explanation for each conclusion or recommendation, and enumerating the anonymously cast vote and dissenting explanation for any conclusion or recommendation that is not adopted unanimously. The faculty member must have an opportunity to review and respond to the committee's ~~draft~~ report.

All written conclusions, reasoning upon which they are based, and recommendations of the peer review committee must be reviewed and considered by the chief academic officer and the Chancellor.

### c. Review and Action by the Chancellor

The Chancellor may accept the peer review committee's conclusions and recommendations or make different conclusions in a written explanation provided to the faculty member with copies to the chief academic officer, dean, department head, and members of the peer review committee. Based on those conclusions, the Chancellor may take further action as deemed appropriate, including (without limitation) actions described in this policy, in the applicable faculty handbook, or in any other policy and procedures generally applicable to faculty.

If the Chancellor concludes (based on the recommendation of a peer review committee or based on independent review of the EPPR materials) that an EPPR improvement plan

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is warranted, the Chancellor will promptly direct the chief academic officer to oversee development of the plan (Appendix ~~FE~~).

d. Final Review and Action Following Any EPPR Improvement Plan

If an EPPR improvement plan is implemented, the peer review committee must reconvene to review performance under the plan and to decide whether or not performance under the plan satisfies the expectations for the faculty member's discipline and academic rank. The committee must report its conclusions and recommendations in writing, as described in Appendix ~~FE~~. The chief academic officer and the Chancellor must review all conclusions and recommendations of the peer review committee. The Chancellor may: accept the committee's conclusions and recommendations; provide a written explanation of different conclusions to the faculty member with copies to the chief academic officer, dean, department head, and members of the peer review committee; or take further action deemed appropriate, including (without limitation) actions described in this policy, in the applicable faculty handbook, or any other policy and procedures generally applicable to faculty.

**3.4 Campus Coordination of the APPR and EPPR Review Processes**

Because each campus conducts the Annual Performance-and-Planning Review (APPR) on its own timetable, procedures for coordinating the APPR (III.~~GI.1.~~) and the EPPR (III.~~GI.23.~~) must also vary by campus. This policy therefore requires that each campus establish (by July 1, 2017) a system for evaluating the ongoing performance of a faculty member whose past performance is being reviewed under the EPPR process.

Such a campus system for coordinating the APPR and the EPPR must be reviewed and approved by the President (or a designee) and Chancellor before implementation. A properly-approved system of coordinated reviews may include an alternate form of annual review (in lieu of the normal APPR) when an EPPR is underway. In such a case, any campus performance evaluation substituted for the APPR must result in an overall performance rating considered for annual salary adjustments (including across-the-board and other raises).

**5. Comprehensive Performance Review Based on Findings of an Academic Program Review**

Based on the findings of an academic program review, the President may recommend to the Board of Trustees procedures under which the campus administration will conduct comprehensive performance reviews of tenured and non-tenured faculty in the program.

**H.J. Termination of Tenure**

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## 1. Grounds for Termination

### a. Relinquishment or Forfeiture of Tenure

A tenured faculty member relinquishes tenure upon resignation or retirement from ~~the~~ University. A tenured faculty member forfeits tenure upon taking an unauthorized leave of absence or failing to resume the duties of his or her position following an approved leave of absence. Forfeiture results in automatic termination of employment. The chief academic officer shall give the faculty member written notice of the forfeiture of tenure and termination of employment.

### b. Extraordinary Circumstances

Extraordinary circumstances warranting termination of tenure may involve either financial exigency or academic program discontinuance. In the case of financial exigency, the criteria and procedures outlined in the Board-approved Financial Exigency Plan for each campus shall be followed. In the case of academic program discontinuance, the termination of tenured faculty may take place only after consultation with the faculty through appropriate committees of the department, the college, and the Faculty Senate.

If termination of tenured faculty positions becomes necessary because of financial exigency or academic program discontinuance, the campus administration shall attempt to place each displaced tenured faculty member in another suitable position. This does not require that a faculty member be placed in a position for which he or she is not qualified, that a new position be created where no need exists, or that a faculty member (tenured or non-tenured) in another department be terminated in order to provide a vacancy for a displaced tenured faculty member. The position of any tenured faculty member displaced because of financial exigency or academic program discontinuance shall not be filled within three years, unless the displaced faculty member has been offered reinstatement and a reasonable time in which to accept or decline the offer.

### c. Adequate Cause

"Adequate ~~e~~Cause" for terminating a tenured faculty member includes-means the following ~~and similar types of reasons~~:

(1) ~~Category A~~: Unsatisfactory Performance in Teaching, Research, or Service, which includes the following and similar types of unsatisfactory performance:

- a) failure to demonstrate professional competence in teaching, research, or service;

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b) failure to perform satisfactorily the duties or responsibilities of the faculty position, including but not limited to ~~(a)~~ failure to comply with a lawful directive of the department head, dean, or chief academic officer with respect to the faculty member's duties or responsibilities;

~~b)c)~~ and inability to perform an essential function of the faculty position, given reasonable accommodation, if requested;

d) loss of professional licensure if licensure is required for the performance of the faculty member's duties;

e) with respect to ~~Health Sciences~~ members of the Health Science Center faculty, failure to be granted or loss of medical staff membership and privileges at affiliated teaching hospitals;

f) loss of appointment (or substantive alteration of the faculty member's work) with an affiliated entity unless approved in advance by the chief academic officer (or designee) (for example, loss of employment with an affiliated medical practice group or loss of "joint faculty" support from Oak Ridge National Laboratory);

~~e)g)~~ as specified in Appendix D, paragraph 3, cessation of employment with an external entity/primary employer if tenure was granted contingent upon remaining employed by the external entity/primary employer; or

~~d)h)~~ dishonesty or other serious violation of professional ethics or responsibility in teaching, research, or service; or serious violation of professional responsibility in relations with students, employees, or members of the community.

(2) ~~Category B:~~ Misconduct, which includes the following and similar types of misconduct:

- a) failure or persistent neglect to comply with University policies, procedures, rules, or other regulations, including but not limited to violation of ~~T~~the University's policies against discrimination and harassment;
- b) falsification of a University record, including but not limited to information concerning the faculty member's qualifications for a position or promotion;
- c) theft or misappropriation of University funds, property, services, or other resources;

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- d) admission of guilt or conviction of: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration; or
- e) any misconduct directly related to the fitness of the faculty member to engage in teaching, research, service, or administration.

## 2. Termination Procedures for Adequate Cause

Each campus shall establish procedures for terminating a tenured faculty member, or a tenure-track faculty member before the expiration of the annual term, for aAdequate eCause. ~~After approval by the Board of Trustees, termination procedures shall be published in the campus Faculty Handbook.~~ Termination procedures shall incorporate and be consistent with the ~~provisions cited~~procedures in Appendices B and C. The procedures shall be effective upon approval by the Board of Trustees and shall be published in the campus faculty handbook.

The procedures in Appendix B shall apply if the Adequate Cause grounds for termination include both (i) unsatisfactory performance in teaching, research, or service and (ii) misconduct.

### I.K. Disciplinary Sanctions ~~{o}~~ther than Termination for Adequate Cause

This section applies only to the imposition of disciplinary sanctions when the University does not propose to terminate a faculty appointment for Adequate Cause.

Disciplinary sanctions other than termination may be imposed against a faculty member. If the proposed sanction is suspension without pay for a definite term (no more than one year), the procedures set forth in Appendix B or C (as applicable and as tailored to reflect that the proposed sanction is suspension without pay rather than termination) applicable to termination shall be offered in connection with the prior to suspension, ~~provided, however, that the procedures shall be modified as follows: (1) suspension without pay for a definite term (no more than one year) may be imposed as a sanction by the Chancellor without review by the President and the Board of Trustees; and (2) the Chancellor may determine that the expedited procedure for suspension without pay is applicable to the conduct (see Appendix C concerning the expedited procedure).~~

If the proposed sanction does not involve suspension without pay, the department head shall make a recommendation to the dean, and the dean shall make a recommendation to the chief academic officer. The chief academic officer shall give the faculty member written notice of the proposed sanction and the supporting reason(s) and shall offer him or her an opportunity to respond both in writing and in person. The faculty member may

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appeal the proposed sanction through established appeal procedures, and the sanction shall be held in abeyance until conclusion of the appeal. A decision by the Chancellor on appeal will be the final decision for the University and not appealable to the President.

History:

Adopted	06/18/1998
Revised	06/18/2003; 03/16/2006; 03/01/2013; 10/14/2016; 12/18/2017; <u>03/23/2018</u>

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## APPENDIX A: PROCEDURES FOR CONSIDERATION AND GRANT OF TENURE

### 1. Tenured Faculty's Recommendation

An adequate evaluation of a tenure candidate's qualifications, professional contributions, potential, and determination of whether he or she should be accepted as a tenured member of the campus academic community, requires the judgment of both the candidate's faculty colleagues and the responsible administrators. Thus, although recommendations for tenure are administrative actions that must be approved by the President or Board of Trustees, there should be no positive recommendation for tenure without formal consultation with the tenured faculty of the department in which the candidate holds his or her position.

~~Procedures governing the tenured faculty's consideration of a candidate for tenure must be established in bylaws adopted at the departmental, school, and/or college level. Each department shall establish procedures governing the tenured faculty's consideration of a candidate for tenure that are consistent with applicable college or campus procedures but may be more restrictive. The procedures must include at least the following: a requirement for external reviews; a requirement for the peer review of teaching (for faculty members who engage in teaching); the required contents of the materials to be submitted by the candidate; a requirement. The bylaws shall provide for a meeting of the tenured faculty to debate and discuss the tenure candidacy. The bylaws shall also provide for the manner of taking and recording a formal anonymously cast vote of the tenured faculty on whether the candidate should be recommended for tenure; and shall establish the minimum number of votes necessary to constitute a positive recommendation. The procedures shall be effective upon approval by the dean and the chief academic officer and shall be published in the bylaws of the department. Departmental procedures for tenure consideration shall not be required, however, if the college dean and the chief academic officer have approved application of the procedures established in college bylaws in lieu of departmental procedures.~~

### 2. Department Head's Recommendation

The vote of the tenured faculty is advisory to the department head. After making an independent judgment on the tenure candidacy, the head shall submit his or her recommendation to the dean with a written summary explanation of his or her judgment, with a copy provided to the tenure candidate at the same time. If the head's recommendation differs from the recommendation of the tenured faculty, the summary must explain the reasons for the differing judgment, and the head must provide a copy of the summary to the tenured faculty. The tenured faculty may forward a dissenting report to the next level of review, with a copy provided to the tenure candidate at the same time.

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### 3. Dean's Recommendation

All tenure recommendations of the department head, whether positive or negative, shall be reviewed by the dean of the college. The dean must establish either a college-wide committee for review of tenure and promotion recommendations or, if a college-wide committee is not established, some other independent peer review committee in addition to the departmental review. The recommendation of such a -committee shall be advisory to the dean. After making an independent judgment on the tenure candidacy, the dean shall forward his or her recommendation and summary explanation for the recommendation to the chief academic officer, with a copy provided to the tenure candidate at the same time.

### 4. Chief Academic Officer's Recommendation

All tenure recommendations of the dean, whether positive or negative, shall be reviewed by the chief academic officer. After making an independent judgment on the tenure candidacy, the chief academic officer shall forward his or her recommendation and summary explanation for the recommendation to the Chancellor, with a copy provided to the tenure candidate at the same time.

### 5. Chancellor's Recommendation

All tenure recommendations of the chief academic officer, whether positive or negative, shall be reviewed by the Chancellor. After making an independent judgment on the tenure candidacy, the Chancellor shall forward only positive recommendations, with a summary explanation for the recommendation, to the President, with a copy provided to the tenure candidate at the same time.

### 6. President's Action or Recommendation

The President acts only on the Chancellor's positive recommendation for tenure. If the President concurs in the positive recommendation, ~~of the Chancellor,~~ he or she shall submit the recommendation for tenure to the Board of Trustees grant tenure if he or she is authorized to do so, and the Chancellor shall give the faculty member written notice of the effective date of tenure. If only the Board is authorized to grant tenure, the President shall submit the recommendation to grant tenure, and summary explanation for the recommendation, to the Board of Trustees. If the President does not concur in the positive recommendation of the Chancellor, the Chancellor shall give the faculty member written notice that tenure will not be awarded.

### 7. Action by the Board of Trustees when Required

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~~No person shall acquire or be granted tenure except by positive action of the President upon recommendation of the Chancellor or of the Board of Trustees upon the recommendation of the President. Only the Board of Trustees is authorized to grant tenure in certain cases specified in Article III.B. of this policy. In those cases, ~~the~~ Board of Trustees acts only on the President's positive recommendations for tenure. After positive action by the Board of Trustees to grant tenure, the ~~Chancellor~~President shall give the faculty member written notice of the effective date of tenure.~~

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**APPENDIX B: TERMINATION PROCEDURES FOR ~~CATEGORY A ADEQUATE CAUSE:~~  
UNSATISFACTORY PERFORMANCE IN TEACHING, RESEARCH, OR SERVICE**

~~— Preliminary Steps~~

~~The following preliminary steps shall be followed in cases of termination for unsatisfactory performance in teaching, research, or service, unless the faculty member has been under a remediation plan as described in the [Enhanced Post Tenure] Performance Review section of this policy. If a faculty member has been under a remediation plan and the [peer] [r]eview [c]ommittee, dean, chief academic officer, and Faculty Senate President or Faculty Senate Executive Committee recommend initiation of termination proceedings, the Chancellor shall proceed to consult with the President and to decide whether to initiate termination proceedings without following these preliminary steps.~~

The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for unsatisfactory performance in teaching, research, or service within the definition of Adequate Cause.

1. ~~Suspension ~~W~~with Pay or Reassignment Pending Completion of Termination Proceedings~~

After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the ~~chief academic officer Chancellor~~ may suspend ~~the~~ a faculty member with pay, or change his or her assignment of duties, pending completion of the University's termination proceedings described in this appendix and in campus procedures incorporating this appendix. The chief academic officer may combine action under his paragraph with any other procedures in this appendix.

2. ~~Tenured Faculty's Recommendation~~

The department head shall direct the tenured departmental faculty to ~~review~~ consider the faculty member's performance in teaching, research, and service and, by an anonymously cast vote taken in accordance with applicable department or college bylaws, to ~~vote~~ make a recommendation on the question of whether the faculty member's performance constitutes Adequate Cause for termination ~~proceedings should be initiated~~. The faculty ~~vote~~ recommendation shall be advisory to the department head. If an Enhanced Post-Tenure Performance Review (EPPR) has been completed in the preceding four years, the report of the EPPR peer committee shall be provided to the tenured faculty, along with any other evaluative information provided for their review. The faculty member under review shall be provided with a copy of the material provided

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to the tenured faculty and shall be given a reasonable opportunity to submit responsive written materials before the vote of the tenured faculty.

### 3. Department Head's Recommendation

The department head shall consider the faculty member's performance in teaching, research, and service, and the recommendation of the tenured departmental faculty, and make a recommendation on the question of whether the performance constitutes Adequate Cause for termination. If the department head concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the dean and the chief academic officer. The department head's shall forward his or her recommendation to the dean, shall include together with the history of efforts to encourage the faculty member to improve his or her performance and a report of the ~~vote~~ recommendation of the tenured faculty (including the anonymously cast vote tally) on the question of whether the faculty member's performance constitutes Adequate Cause for termination proceedings should be initiated.

### 4. Dean's Recommendation

The dean shall consider the faculty member's performance in teaching, research, and service, and the recommendation of the tenured departmental faculty and department chair, and make a recommendation on the question of whether the performance constitutes Adequate Cause for termination. If ~~the dean concludes termination proceedings should be initiated, he or she~~ shall forward a his or her recommendation to the chief academic officer, together with the recommendations of the tenured faculty and the department head.

### 5. Decision by the Chief Academic Officer's Recommendation

#### a. Review by the Chief Academic Officer

- (1) If the chief academic officer concludes that Adequate Cause for termination may exist, proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss the possibility of a mutually satisfactory resolution of the matter.
- (2) If a mutually satisfactory resolution is not achieved within 30 calendar days, the chief academic officer shall within thirty days ask the Faculty Senate (or appropriate committee or Executive Council of the Senate) to conduct an informal inquiry and make a recommendation to him or her within thirty days as to whether Adequate Cause for termination exists proceedings should be initiated. The recommendation of the Faculty Senate along with the supporting reasoning,

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shall be provided to the chief academic officer within 30 calendar days of the request and shall be advisory to the chief academic officer.

- (3) If the chief academic officer concludes that Adequate Cause does not exist, then the chief academic officer shall provide the faculty member with written notice of the conclusion (with a copy to the dean and the department head), and shall include in the notice any further instructions regarding the matter as may be necessary.

#### b. Sanctions Less than Termination for Adequate Cause

- (1) If the chief academic officer concludes Adequate Cause exists but that a sanction other than termination or suspension without pay should be imposed, then the chief academic officer may impose the lesser sanction. The faculty member may appeal the lesser sanction to the Chancellor, whose decision shall be final and not appealable to the President. After considering the recommendation of the Faculty Senate, the chief academic officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated.

- ~~(1)~~(2) If the chief academic officer concludes Adequate Cause exists but that the sanction should be suspension without pay rather than termination, the chief academic officer shall employ the procedures set forth in paragraph 5c of this appendix and in campus procedures incorporating this appendix, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination. If the faculty member wishes to contest the suspension without pay, the procedures shall be those set forth in paragraph 7 of this appendix and in campus procedures incorporating this appendix, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination.

#### c. Termination for Adequate Cause

##### (1). Notice of Adequate Cause and Opportunity to Respond

##### 2. Chancellor's Decision to Initiate Termination Proceedings

A. If, after consulting with the President, the Chancellor the chief academic officer decides to initiate termination proceedings Before deciding that the faculty member's appointment should be terminated for Adequate Cause, the Chancellor chief academic officer shall give the faculty member written notice, including a statement of the grounds for termination, framed with reasonable particularity, and the opportunity to respond to the stated grounds and the proposed termination in a meeting with the chief academic officer Chancellor. The faculty member may choose to respond in writing instead of, or in

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addition to, a meeting with the ~~Chancellor~~ chief academic officer. Any written response must be submitted to the ~~Chancellor~~ chief academic officer within ~~ten~~ 10 calendar days of delivery of the written statement of the grounds for termination.

## **(2). Notice of Termination**

~~B.~~ If, after considering any information provided by the faculty member and after consulting with the Chancellor and the President, the ~~Chancellor~~ chief academic officer concludes that the faculty member's appointment should be terminated for ~~a~~ A adequate cause, the ~~Chancellor~~ chief academic officer shall provide written notice of termination to the faculty member (1) ~~notifying the faculty member of the termination with providing~~ a statement of the grounds for termination, framed with reasonable particularity, and the date on which the termination will become effective unless the faculty member elects to contest the termination in a pre-termination hearing before a hearing tribunal (paragraphs ~~6-8~~ 7a of this appendix); (2) providing notice of the faculty member's right to contest the proposed termination in a pre-termination hearing before a tribunal, as described below, or in a post-termination hearing conducted under the provisions of the ~~Tennessee~~ Uniform Administrative Procedures Act; and (3) providing notice that the faculty member has ~~fifteen~~ 15 calendar days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The ~~Chancellor~~ chief academic officer shall send a copy of the written notice to the Faculty Senate at the same time.

## ~~3. Suspension With Pay or Reassignment Pending Completion of Termination Proceedings~~

~~After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of the University's termination proceedings.~~

## **6. Failure to Contest Termination**

If the faculty member does not contest the charge(s) in writing and make the required hearing election within ~~fifteen~~ 15 calendar days after receipt of the written notice described in paragraph ~~2B-5c(2)~~ of this appendix, the faculty member shall be terminated, and no appeal of the matter will be heard within ~~T~~ the University.

**7. Options to Contest Termination** [NOTE: *The following material has been re-ordered with track changes turned off to place the tribunal provisions before the UAPA provisions, but track changes show any change in wording.*]

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The rights provided in this paragraph 7 are in lieu of any other rights of grievance or appeal in the applicable faculty handbook or any appeal to the President.

**a. Pre-Termination Hearing before a Tribunal and Final Decision by the Chancellor**

If the faculty member makes a timely election to contest the charge(s) through a hearing by a University tribunal, the faculty member must confirm in writing the decision to waive the right to a hearing under the ~~Tennessee~~ Uniform Administrative Procedures Act, and the Chancellor shall ask the Faculty Senate, or a designated committee of the Faculty Senate, to appoint a ~~hearing~~ tribunal within ~~fifteen~~ 15 calendar days and shall notify the faculty member of this action. The matter then shall proceed in accordance with the tribunal procedures described below, with the faculty member's termination stayed pending the conclusion of those procedures.

**(1) Composition of the Tribunal**

The University tribunal shall consist of members of the faculty and the administration. Either the Chancellor or the faculty member may challenge the appointment of a tribunal member on the ground of bias or conflict of interest. A challenge shall be judged by the Faculty Senate, or a designated committee of the Faculty Senate, whose decision on the challenge shall be final and not subject to appeal.

**(2) Notice of ~~H~~earing**

The Chancellor shall give the faculty member written notice of the hearing date at least 20 calendar days in advance.

**(3) Representation**

If ~~T~~he University intends to be represented by legal counsel, the written notice of the hearing date shall so advise the faculty member. The written notice shall also state the faculty member's right to be represented by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the tribunal chairperson within ~~ten~~ 10 calendar days of receipt of the written notice of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at ~~T~~he University's request.

**(4) Waiver of Hearing**

If, at any time prior to the hearing date, the faculty member decides to waive his or her right to a hearing and respond to the charges only in writing, the tribunal shall proceed

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to evaluate all available evidence and rest its recommendation upon the evidence in the record.

#### (5) Pre-Hearing Preparation

The faculty member and ~~T~~the University shall have a reasonable opportunity prior to the hearing to obtain witnesses, specific documents, or other specific evidence reasonably related to the charge(s).

#### (6) Evidence

The tribunal is not bound by legal rules of evidence and may admit any evidence of probative value in determining the issues. The tribunal shall make every reasonable effort, however, to base its recommendation on the most reliable evidence. If the charge is "failure to demonstrate professional competence in teaching, research, or service," the evidence shall include the testimony of qualified faculty members from this the campus and/or other comparable institutions of higher education.

#### (7) Confrontation and Cross-Examination of Witnesses

The faculty member and ~~T~~the University shall have the right to confront and cross-examine all witnesses. If a witness cannot or will not appear, but the tribunal determines that his or her testimony is necessary to a fair adjudication of the charge(s), the tribunal may admit as evidence the sworn affidavit of the witness. In that event, the tribunal shall disclose the affidavit to both parties and allow both parties to submit written interrogatories to the witness.

#### (8) Adjournments

The tribunal shall grant adjournments to allow either party to investigate evidence to which a valid claim of surprise is made.

#### (9) Burden of Proof

The burden of proof that ~~a~~adequate ~~e~~Cause exists rests with ~~T~~the University and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

#### (10) Findings and Conclusions

The tribunal shall make written findings and conclusions and shall provide a copy to the faculty member at the time of submission to the Chancellor.

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(a) If the tribunal concludes aAdequate eCause for termination has not been established, it shall so report to the Chancellor.

(b) If the tribunal concludes aAdequate eCause for termination has been established but that a sanction other than termination should be imposed, it shall so recommend to the Chancellor, with supporting reasons.

(c) If the tribunal concludes aAdequate eCause for termination has been established and that termination is the appropriate sanction, it shall so report to the Chancellor.

### (11) Transcript of the Hearing

A verbatim record of the hearing shall be made, and a transcript shall be provided to the faculty member and the Chancellor at the time of the tribunal's submission of its findings and conclusions.

### (12) Final Decision by the Chancellor's Recommendation on Termination

If the Chancellor concludes Upon receipt of the tribunal's findings and conclusions, the Chancellor shall provide an opportunity for written argument by the parties and may provide the parties an opportunity to present oral argument. After considering the tribunal's findings and conclusions and any arguments of the parties, the Chancellor will determine whether Adequate Cause has been established and that whether termination is the appropriate sanction, he or she shall transmit the hearing record and his or her recommendation to the Board of Trustees through the President.

If the Chancellor concludes that Adequate Cause has not been established, the Chancellor shall provide the faculty member with written notice of the conclusion (with a copy to the tribunal), and shall include in the notice any further instructions regarding the matter as may be necessary.

If the Chancellor concludes that Adequate Cause has been established but that a sanction other than termination should be imposed, including without limitation suspension without pay, the Chancellor may impose the lesser sanction by written notice to the faculty member (with a copy to the tribunal). The notice shall include the date on which the sanction will become effective. The decision of the Chancellor shall be final and not appealable to the President. The faculty member may appeal the lesser sanction to the President.

If the Chancellor concludes that Adequate Cause has been established and that termination is the appropriate sanction, the Chancellor shall provide the faculty member with a written notice of termination stating the grounds for termination (with a copy to

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the tribunal). The notice of termination may include or adopt the written findings and conclusions of the tribunal if applicable to the Chancellor's decision. The notice shall include the date on which termination will become effective. The decision of the Chancellor shall be final and not appealable to the President.

~~However, if the conclusion of the Chancellor differs from that of the tribunal, the Chancellor shall give the tribunal and the faculty member a written statement of reasons and shall allow the faculty member an opportunity to respond before transmitting the case to the President and Board of Trustees.~~

#### 7. Review by the Board of Trustees

~~The Board of Trustees shall review a recommendation of termination for adequate cause on the record of the tribunal hearing. The Board shall provide an opportunity for oral and written argument by the parties. The faculty member and The University may be represented before the Board by legal counsel or other representative. If the Board concludes adequate cause has been established and that the faculty member's tenure and employment should be terminated, the Board shall set the effective date of termination.~~

### b. Post-Termination Hearing and Final Decision Under the Tennessee Uniform Administrative Procedures Act

#### (1) Contested Case Procedures

If the faculty member makes a timely election to contest the charge(s) under the ~~Tennessee~~ Uniform Administrative Procedures Act (~~TUAPA~~), the Chancellor shall appoint an ~~hearing examiner~~administrative judge, the faculty member's employment will be terminated on the date specified in the notice provided under Paragraph 5c(2), and the matter shall proceed post-termination in accordance with the contested case procedures promulgated by ~~T~~the University under the ~~TUAPA~~. The ~~TUAPA~~ contested case procedures are published by the Tennessee Secretary of State in the Compiled Rules and Regulations of the State of Tennessee, Tenn. Comp. R. & Regs. § 1720-1-5.

#### (2) Initial Order

In accordance with the ~~TUAPA~~ contested case procedures, upon completion of the hearing, the ~~hearing examiner~~administrative judge shall render an initial order, which either party may appeal to the Chancellor within ~~ten fifteen~~15 calendar days. In addition, the Chancellor, on his or her own motion, may elect within ~~ten fifteen~~15 calendar days to review the ~~hearing officer's~~administrative judge's initial order.

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### (3) Final Order

The ~~hearing examiner's~~administrative judge's initial order shall become the final order unless review is sought by either party or the Chancellor within the ~~ten~~fifteen-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the ~~T~~UAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within ~~T~~the University. If the University's final order is favorable to the faculty member and concludes that the faculty member's employment should not have been terminated for ~~a~~Adequate ~~e~~Cause, then full restitution of salary, academic position and tenure lost during the termination will be made.

### (4) Judicial Review

If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the ~~Tennessee~~ Uniform Administrative Procedures Act.

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APPENDIX C: TERMINATION PROCEDURES FOR ~~CATEGORY B ADEQUATE CAUSE:~~ MISCONDUCT

The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for misconduct within the definition of Adequate Cause.

1. ~~Preliminary Steps~~ Suspension or Reassignment Pending Completion of Termination Proceedings

The chief academic officer may combine action under this paragraph with any other procedures in this appendix.

A. ~~Suspension W~~ with Pay or Reassignment of Duties

After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the chief academic officer ~~Chancellor~~ may suspend ~~the~~ a faculty member with pay, or change his or her assignment of duties, pending completion of ~~the~~ University's termination proceedings described in this appendix and in campus procedures incorporating this appendix.

B. ~~Suspension W~~ without Pay

After consultation with the ~~Chancellor, the President, of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee,~~ the chief academic officer ~~Chancellor~~ may suspend ~~the~~ a faculty member without pay pending completion of termination proceedings only for the following types of alleged misconduct and only in accordance with the procedures outlined in paragraph 8 of this appendix ~~the section of this policy~~ entitled "Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct":

- (1) ~~alleged misconduct involving:~~ (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources; ~~or~~
- (2) ~~or~~ indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

If the University's final determination after ~~either a UAPA proceeding or an ad hoc hearing committee proceeding~~ is favorable to the faculty member and concludes both that the faculty member's employment should not be terminated for a ~~Adequate Cause~~

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and that the faculty member should not have been suspended without pay pending completion of termination proceedings, then full restitution of salary, **academic position and tenure** lost during the suspension without pay will be made.

## **2. Consultation with Tenured Faculty**

The department head shall consult with the **departmental** tenured faculty before making a recommendation ~~that termination proceedings be initiated against regarding whether~~ a ~~tenured~~ faculty member's ~~for~~ alleged misconduct constitutes within the Category B definition of a ~~Adequate Cause for termination.~~

## **3. Department Head's Recommendation**

If the department head concludes that a faculty member's alleged misconduct constitutes Adequate Cause for ~~termination proceedings should be initiated,~~ he or she shall forward a recommendation ~~simultaneously~~ to the dean ~~and the chief academic officer~~. The recommendation shall include a report of the head's consultation with the tenured faculty.

## **4. Dean's Recommendation**

If the dean concludes that a faculty member's alleged misconduct constitutes Adequate Cause for ~~termination proceedings should be initiated,~~ he or she shall forward a recommendation to the chief academic officer.

## **5. Decision by the Chief Academic Officer's Recommendation**

### **a. Review by the Chief Academic Officer**

- (1) If the chief academic officer concludes that Adequate Cause for ~~termination may exist proceedings should be initiated,~~ he or she shall call the faculty member to a meeting to discuss the possibility of a mutually satisfactory resolution of the matter.
- (2) If the chief academic officer concludes that Adequate Cause does not exist, the chief academic officer shall provide the faculty member with written notice of the conclusion (with a copy to the dean and the department head), and shall include in the notice any further instructions regarding the matter as may be necessary. ~~If a mutually satisfactory resolution is not achieved, the chief academic officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated.~~

### **b. Sanctions Less than Termination for Adequate Cause**

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(1) If the chief academic officer concludes Adequate Cause exists but that a sanction other than termination or suspension without pay should be imposed, the chief academic officer may impose the lesser sanction. The faculty member may appeal the lesser sanction to the Chancellor, whose decision shall be final and not appealable to the President.

(2) If the chief academic officer concludes Adequate Cause exists but that the sanction should be suspension without pay rather than termination, the chief academic officer shall employ the procedures set forth in paragraph 5c of this appendix and in campus procedures incorporating this appendix, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination. If the faculty member wishes to contest the suspension without pay, the procedures shall be those set forth in paragraph 7 of this appendix and in campus procedures incorporating this appendix, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination.

#### 1. ~~Chancellor's Decision to Initiate Termination Proceedings~~

#### c. Termination for Adequate Cause

##### (1)A. Notice of Adequate Cause and Opportunity to Respond

~~If, after consultation with the President, the Chancellor decides to initiate termination proceedings, Before deciding that the faculty member's appointment shall be terminated for Adequate Cause, the Chancellor~~ chief academic officer shall give the faculty member written notice, including a statement of the grounds for termination, framed with reasonable particularity, and the opportunity to respond to the stated grounds and the proposed termination in a meeting with the ~~Chancellor~~ chief academic officer. The faculty member may choose to respond in writing instead of, or in addition to, a meeting with the ~~Chancellor~~ chief academic officer. Any written response must be submitted to the ~~Chancellor~~ chief academic officer within ~~ten~~ 10 calendar days of delivery of the written statement of the grounds for termination.

##### B.(2) Notice of Termination

If, after considering any information provided by the faculty member, and after consulting with the Chancellor and the President, the ~~Chancellor~~ chief academic officer concludes that the faculty member's appointment should be terminated for ~~a~~ Adequate ~~e~~ Cause, the ~~Chancellor~~ chief academic officer shall provide written notice to the faculty member (1) ~~notifying the faculty member of the termination with~~ providing a statement of the grounds for termination, framed with reasonable particularity, and the date on which the termination will become effective unless the

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faculty member elects to contest the termination in a pre-termination hearing before an ad hoc hearing committee (paragraph 57a of this appendix); (2) notice of the faculty member's right to contest the proposed termination in a pre-termination hearing before an ad hoc hearing committee (paragraph 57a of this appendix) or in a post-termination hearing under the provisions of the ~~Tennessee~~-Uniform Administrative Procedures Act; and (3) notice that the faculty member has fifteen15 calendar days after receipt of the written notice to elect in writing to contest the termination. The ~~Chancellor~~chief academic officer shall send a copy of the written notice to the Faculty Senate at the same time.

### ~~3.Suspension or Reassignment Pending Completion of Termination Proceedings~~

#### B. ~~Suspension With Pay~~

~~After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of The University's termination proceedings.~~

#### ~~B. Suspension Without Pay~~

~~After consultation with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member without pay only for the following types of alleged misconduct and only in accordance with the procedures outlined in the section of this policy entitled "Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct":~~

- ~~(3) alleged misconduct involving: (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources;~~
- ~~(4) or indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.~~

~~If the University's final determination after an ad hoc hearing committee proceeding is favorable to the faculty member and concludes both that the faculty member's employment should not be terminated for adequate cause and that the faculty member should not have been suspended without pay pending completion of termination proceedings, then full restitution of salary lost during the suspension without pay will be made.~~

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## 6. Failure to Contest

If the faculty member does not contest the charge(s) of misconduct in writing within ~~fifteen~~15 calendar days after receipt of the written notice described in paragraph ~~2B-5c2~~ of this appendix, the faculty member shall be terminated, and no appeal of the matter will be heard within ~~the~~ University.

## 7. Options to Contest the Termination

The rights provided in this paragraph 7 are in lieu of any other rights of grievance or appeal in the applicable faculty handbook or any appeal to the President.

### a. Pre-Termination Hearing before an Ad Hoc Hearing Committee and Final Decision by the Chancellor~~Waiver of Hearing Under the Tennessee Uniform Administrative Procedures Act~~

If the faculty member contests the charge(s) of misconduct but elects to waive his or her right to formal hearing under the contested case procedures of the ~~TUAPA~~, the faculty member must confirm in writing the decision to waive the right to a hearing under the ~~TUAPA~~, and the Chancellor shall appoint an ad hoc hearing committee to conduct an informal hearing on the charges, with the faculty member's termination stayed pending the conclusion of the procedures set forth in this paragraph ~~7a5~~. The faculty member may be represented before the hearing committee by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the committee chairperson within ~~ten~~10 calendar days of the hearing date. If the faculty member fails to give timely notice of legal representation the hearing date shall be postponed at ~~the~~ University's request.

The hearing committee shall make a written report of its findings and conclusions to the Chancellor.

Upon receipt of the hearing committee's findings and conclusions, the Chancellor shall provide the opportunity for written argument by the parties and may provide the parties an opportunity to present oral argument. After considering the hearing committee's findings and conclusions and any arguments of the parties, the Chancellor will determine whether Adequate Cause has been established and whether termination is the appropriate sanction.

If the Chancellor concludes that Adequate Cause has not been established, the Chancellor shall provide the faculty member with written notice of the conclusion (with a copy to the hearing committee), and shall include in the notice any further instructions regarding the matter as may be necessary.

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If the Chancellor concludes that Adequate Cause has been established but that a sanction other than termination should be imposed, including without limitation suspension without pay, the Chancellor may impose the lesser sanction by written notice to the faculty member (with a copy to the hearing committee). The notice shall include the date on which the sanction will become effective. The decision of the Chancellor shall be final and not appealable to the President.

If the Chancellor concludes that Adequate Cause has been established and that termination is the appropriate sanction, the Chancellor shall provide the faculty member with a written notice of termination stating the grounds for termination (with a copy to the hearing committee). The notice of termination may include or adopt the written findings and conclusions of the tribunal if applicable to the Chancellor's decision. The notice shall include the date on which termination will become effective. The decision of the Chancellor shall be final and not appealable to the President.

~~If the Chancellor decides adequate cause for termination of tenure and employment has been established, he or she shall submit a written recommendation of termination to the Board of Trustees through the President. If the Chancellor decides a lesser sanction should be imposed, he or she may impose the sanction. The faculty member may appeal the lesser sanction to the President.~~

## **b. Post-Termination Hearing and Final Decision under the Tennessee Uniform Administrative Procedures Act**

### **(1) Contested Case Procedures**

If the faculty member makes a timely election to contest the charge(s) under the ~~Tennessee~~-Uniform Administrative Procedures Act (FUAPA), the Chancellor shall appoint an administrative judge ~~hearing examiner~~, the faculty member's employment will be terminated on the date specified in the notice provided under Paragraph 5c(2), and the matter shall proceed post-termination in accordance with the contested case procedures promulgated by ~~T~~the University under the FUAPA. The FUAPA contested case procedures are published in the Compiled Rules and Regulations of the State of Tennessee ~~and are available in University libraries and in the Office of the General Counsel~~, Tenn. Comp. R. & Regs. § 1720-1-5.

### **(2) Initial Order**

In accordance with the FUAPA contested case procedures, upon completion of the hearing, the ~~hearing examiner~~administrative judge shall render an initial order, which either party may appeal to the Chancellor within ~~ten~~ fifteen calendar days. In addition,

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the Chancellor, on his or her own motion, may elect within ~~ten~~ fifteen calendar days to review the hearing officer's initial order.

### (3) Final Order

The ~~hearing examiner's~~ administrative judge's initial order shall become the final order unless review is sought by either party or the Chancellor within the ~~ten~~ fifteen-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within ~~T~~the University. If the University's final order is favorable to the faculty member and concludes that the faculty member's employment should not have been terminated for ~~a~~ adequate ~~e~~ cause, then full restitution of salary, academic position and tenure lost during the termination will be made.

### (4) Judicial Review

If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the ~~Tennessee~~ Uniform Administrative Procedures Act.

### 8.7. Expedited Procedure for Termination or Suspension ~~W~~without Pay in Certain Cases of Misconduct

In the following cases of alleged misconduct by a faculty member, the ~~Chancellor~~ chief academic officer, after consulting with the Chancellor, the President, ~~of The University~~ and the President of the Faculty Senate or the Faculty Senate Executive Committee, may invoke an expedited procedure to accomplish termination or suspension without pay, with comprehensive due process procedures to be offered after termination or suspension without pay:

- A. alleged misconduct involving (i) acts or credible threats of harm to a person or University property, including, without limitation, sexual harassment or other sexual misconduct; or (ii) theft or misappropriation of University funds, property, services, or other resources; or
- B. indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

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Under the expedited procedure~~],~~ the faculty member shall be offered the following process before termination or suspension without pay:

- (1) notice of the charges;
- (2) an explanation of the evidence; and
- (3) an informal opportunity to refute the charges in a meeting with the ~~campus~~-chief academic officer.

After termination or suspension without pay, the faculty member shall be offered the full range of due process options available to faculty members in other ~~a~~Adequate ~~e~~Cause proceedings as set forth in paragraphs~~4-6~~7 of this appendix, except that the termination or suspension without pay shall not be stayed pending the outcome of an ad hoc hearing committee if the faculty member elects that method of contesting the action. If the University's final determination after either a ~~T~~UAPA proceeding or an ad hoc hearing committee proceeding is favorable to the faculty member and concludes that the faculty member should not have been suspended without pay or that the faculty member's employment should not have been/should not be terminated for ~~a~~Adequate ~~e~~Cause, then full restitution of salary, academic position and tenure lost during the suspension without pay or termination will be made.

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~~Appendix D: Expedited Procedures for Considering and Granting Tenure by UT Board of Trustees~~

~~Procedures for faculty appointment may be expedited, on an accelerated schedule that follows the campus policies and procedures for faculty appointment.~~

~~The Chancellor may request that the President recommend an expedited Board of Trustees decision for tenure. Exceptional circumstances in which an expedited Board of Trustees action may be warranted include, but are not limited to, outstanding persons who hold a tenured faculty position at their current institution and who the Chancellor believes cannot satisfactorily be recruited to UT without expediting their tenure process.~~

~~Procedures for tenure recommendation and approval may be expedited, following all of the steps outlined in Appendix A but on an accelerated schedule for the Board's action: review by tenured professors in the base department followed by formal recommendations by the department head, dean, chief academic officer, Chancellor, and President[.]~~

~~The President will recommend expedited tenure recommendations to the Executive and Compensation Committee, in lieu of the full UT Board of Trustees, in the circumstances described above.~~

~~On the recommendation of the Chancellor, the President may authorize the Chancellor to make to a candidate a commitment to expedite the tenure process and to seek approval at an early meeting of the Executive and Compensation Committee of the UT Board of Trustees.~~

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APPENDIX DE: EXCEPTION TO POLICY REQUIRING FULL-TIME STATUS FOR ELIGIBILITY FOR TENURE

~~4. UT upholds and retains its commitment to academic freedom and tenure as essential to the proper functioning of a university, as set forth in the "UT System Policies Governing Academic Freedom, Responsibility, and Tenure." Furthermore, UT retains its processes and steps for tenure as set forth in those policies and in their Appendix A; this applies in all circumstances other than stipulated exceptions (Appendices D & E).~~

1. In limited circumstances, a tenure recommendation for a highly qualified ~~non full-time~~ faculty member who does not hold a full-time appointment may be made in part because of ~~UT's~~the University's continuing association with a specified external entity (i.e., ORNL, St. Jude, etc.). Such a recommendation must document the extraordinary circumstances that require it, designate the external entity or primary employer, and specify ~~UT's~~the University's financial commitment (if any) to the ~~non full-time tenured~~ faculty member.

2. Recommendations for tenure for all faculty members, including ~~non full-time~~ faculty members who do not hold a full-time appointment and including faculty members recommended for tenure upon initial appointment, must adhere to all of the steps described in Appendix A, beginning with the departmental faculty vote, ~~including for faculty members initially appointed with tenure by the Board of Trustees; these procedures may be expedited per Appendix D. Further, The~~the exception created by this appendix has no effect is no change toon the current policy that "tenure at The University of Tennessee is granted in a particular academic unit {(department, school, or college)} of a specific campus{,} in a position appropriate to the faculty member's qualifications."

3. ~~Should~~If a ~~non full-time~~ tenured faculty member who does not hold a full-time appointment whose tenure was approved granted tenure contingent upon his/or her remaining employed by an external entity/primary employer and then ceases that affiliation employment (voluntarily or involuntarily), ~~UT~~the University may terminate his/or her tenure for Adequate Cause.

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**APPENDIX FE: PROCEDURES FOR CONDUCTING THE ENHANCED POST-TENURE PERFORMANCE REVIEW**

**1. Objectives of the Enhanced Post-Tenure Performance Review (EPPR)**

The EPPR policy and procedures provide a thorough, fair, and transparent process for:

- coordinating peer evaluation of a tenured faculty member's performance across a five-year period;
- facilitating cooperation between a tenured faculty member and administrators in identifying effective strategies to assist the faculty member in meeting the expectations for the relevant discipline and academic rank; and
- distinguishing those unusual situations in which (despite efforts to facilitate improvement) the faculty member's performance fails to satisfy expectations for the discipline and academic rank, and which may lead to disciplinary action, up to and including proceedings to consider termination of tenure.

**2. Review by the Chief Academic Officer To Determine Whether EPPR is Warranted**

Irrespective of other campus processes or practices through which an annual performance review is finalized, the chief academic officer must review any annual performance evaluation that would result in EPPR.

- If the chief academic officer overrules the performance rating and determines that EPPR is not warranted, the faculty member may choose to proceed with EPPR.
- If the chief academic officer determines that an EPPR is warranted, the chief academic officer should meet promptly with the faculty member to explain the decision and review the EPPR process. The chief academic officer must also provide written notice of this decision (copied to the department head, dean, and Faculty Senate president) that an EPPR will be conducted.

**3. Appointment of the Peer Review Committee**

Within 45 days of the written notice that an EPPR will be conducted, the chief academic officer (or designee) must appoint the peer review committee in the manner described below and meet with the committee to review its charge.

Every member of the peer review committee must be tenured; hold the same or higher academic rank as the faculty member undergoing review; and have some familiarity with the relevant performance expectations for faculty in that discipline and academic rank. In the unusual event that an appropriate peer review committee cannot be assembled

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using these criteria, the chief academic officer must provide to the faculty member a written explanation for the deviation from the prescribed criteria.

Consistent with the criteria for service stated above, and absent approval by the Board of Trustees to implement some other appointment mechanism, the chief academic officer (or designee) must appoint the peer review committee using the following nomination process:

- the dean nominates one faculty member to serve both as chair and as a voting member of the peer review committee;
- the department head or chair nominates three faculty members who meet the criteria above, from whom one committee member is appointed;
- the faculty member undergoing review nominates three faculty members who meet the criteria above, from whom one committee member is appointed;
- the Faculty Senate president nominates three faculty members who meet the criteria above, from whom one committee member is appointed; and
- if a college promotion and tenure committee exists, that committee nominates three actively serving members who meet the criteria above, from whom one committee member is appointed. If no college promotion and tenure committee exists, the faculty member under review selects a department other than his/her own from which the chief academic officer selects a final committee member, consistent with the criteria above.

To ensure diverse perspectives among members of the peer review committee, the chief academic officer should solicit nominations from faculty serving in different roles. When feasible, nominations to the peer review committee should include:

- faculty members whose tenure lies in the same department as the faculty member undergoing review, or, in a small department, faculty members who hold tenure in the same college as the faculty member undergoing review;
- at least one faculty member whose tenure resides in a different department than the faculty member undergoing review; and
- at least one faculty member who currently serves (or who served during the most recent cycle) on a college promotion and tenure review committee, if such a committee exists.

#### 4. Collection of Records for Review by the Peer Review Committee

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The chief academic officer (or designee) must collect the following records with respect to the faculty member under review:

- all annual performance reviews for the past five annual performance review cycles, including materials submitted by the faculty member (or an administrator) or developed as part of the evaluation process;
- written performance expectations, which may have been established in the past five annual performance reviews, in department or college bylaws, in the faculty handbook, or in Board of Trustees, fiscal, human resources, research, safety, or information technology policies or procedures; and
- any work assignments, goals, or other plans (however identified) that were described in previous performance evaluations during the review period.

The faculty member undergoing review may submit additional written materials relevant to the review period for the committee's consideration. Such materials must be submitted to the chief academic officer (or designee) for distribution to the committee. The peer review committee may also request that the chief academic officer (or designee) collect and provide additional written materials. Reasonable requests for relevant records will be honored when permitted by law and University policy.

## **5. Conclusions and Recommendations by the Peer Review Committee**

The peer review committee is charged to review the available performance information and to conclude (based on that information) whether or not performance during the review period has satisfied the expectations for the faculty member's discipline and academic rank. This review should be completed (and written report **drafted/completed**) within 75 days from the chief academic officer's charge to the peer review committee.

*Interviews* – The peer review committee may conduct a reasonable number of interviews in person or electronically. If the committee chooses to conduct interviews, both the faculty member undergoing review and the administrator who assigned the negative rating(s) must be given the opportunity to be interviewed. All interviews must be conducted separately. Unavailability of the faculty member or administrator for an interview does not constitute grounds for an extension of time to complete the EPPR.

*Voting* – Voting must be conducted by anonymous ballots. No member of the committee may abstain or recuse him/herself from voting. All conclusions and recommendations are adopted upon the vote of a simple majority, except a recommendation that the Chancellor initiate tenure termination proceedings, which requires the support of at least four members of the peer review committee.

### **a. Conclusions Regarding Performance and Recommended Action(s)**

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All conclusions and recommendations of the peer review committee must be made in writing, with copies to all parties (faculty member, department head, dean, and chief academic officer). Minority reports may be attached. While the committee is not permitted to share written materials directly with the Faculty Senate, the faculty member under review remains free to do so.

Based on the judgment of its members, the peer review committee must conclude either:

- (1) that the performance satisfies the expectations for the faculty member's discipline and academic rank; or
- (2) that the performance does not satisfy the expectations for the faculty member's discipline and academic rank. In such a case, the committee must recommend either:
  - that an EPPR improvement plan be developed and implemented; or
  - by a vote of at least four committee members, that the Chancellor should initiate proceedings to consider termination of tenure based on Adequate Cause (Unsatisfactory Performance in Teaching, Research, or Service) as defined in III.HJ. of this policy and the procedures detailed in Appendix B.

**b. Review and Responses to the Peer Review Committee's Report**

The committee's written conclusions and recommendations must be distributed to the faculty member, department head, and dean for simultaneous review, who must submit any written responses to the chief academic officer within 14 days.

**c. Conclusions and Recommendations of the Chief Academic Officer**

The chief academic officer will review the committee's report and all timely written responses and will make an independent evaluation of the faculty member's performance. Within 28 days of the distribution of the peer review committee's report (14 days for review and comment by others and 14 days for independent review by the chief academic officer), the chief academic officer must provide to the Chancellor copies of the committee's report, all timely responses to the report, and any additional conclusions or recommendations based on the chief academic officer's independent review of the material. The entire report, including any materials added by the faculty member, department head, dean, and chief academic officer, must be copied to the faculty member, peer review committee, department head, and dean.

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## 6. Review and Action by the Chancellor

The Chancellor will make an independent evaluation of the faculty member's performance and must provide to the faculty member (copied to the department head, dean, chief academic officer, and members of the peer review committee) a written explanation of the rationale for any conclusions, decisions, or further actions to be taken.

If the Chancellor concludes that the performance under review has satisfied the expectations for the faculty member's discipline and academic rank, the EPPR process is concluded. In doing so, the Chancellor may overrule previous performance ratings and may adjust the faculty member's salary to reflect any across-the-board raises.

If the Chancellor concludes that the performance under review does not satisfy the expectations for the faculty member's discipline and academic rank, the Chancellor may take further action as deemed appropriate. For example (without limitation):

- The Chancellor may require that an EPPR improvement plan be implemented for a period of up to 18 months, as further described below.
- The Chancellor may propose disciplinary action, up to and including proceedings to consider tenure termination based on Adequate Cause (Unsatisfactory Performance in Teaching, Research, or Service) as defined in III.HJ. of this policy and the procedures detailed in Appendix B.

## 7. Development and Implementation of an Improvement Plan (When Applicable)

### a. Written Notice to All Parties

If the Chancellor concludes that an EPPR improvement plan should be developed, the Chancellor must promptly instruct the chief academic officer to develop and implement an improvement plan using the process detailed below. The chief academic officer must promptly notify in writing the faculty member under review that the Chancellor has determined that an EPPR improvement plan must be implemented (with copies to the department head, dean, and peer review committee). Only one improvement plan may be offered to a faculty member during a given EPPR process; however, the EPPR process may be implemented more than once during a faculty member's career. An EPPR improvement plan may extend no more than 18 months from the time it is implemented by the chief academic officer.

### b. Development of the EPPR Improvement Plan

The department head is responsible for drafting the EPPR improvement plan in close collaboration with the peer review committee, dean, and chief academic officer. In

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drafting the improvement plan, the department head should attempt to address any written concerns raised by the faculty member during the relevant annual review cycles.

Within 30 days of notice that an improvement plan must be developed, the department head is expected to produce a plan supported by the dean, chief academic officer, and a majority of the peer review committee. Once such an improvement plan is developed, the chief academic officer shall forward the proposed plan to the faculty member.

If the department head fails to produce within 30 days an improvement plan supported by the chief academic officer, dean, and majority of the peer review committee, then the committee must assume responsibility for drafting an improvement plan. In such a case, the committee must complete the plan within 14 additional days. Upon approval by a majority of the peer review committee, the proposed plan must be provided to the dean and chief academic officer for review and approval.

In either case, the chief academic officer must ensure that an improvement plan acceptable to the chief academic officer, dean, and majority of the peer review committee is developed and must send the proposed plan to the faculty member for review and response. The faculty member under review must be given one opportunity to review and respond to the proposed improvement plan (within 14 days). The peer review committee must review and consider the faculty member's response, including any modifications requested by the faculty member (within another 14 days). In its discretion, the peer review committee may revise the proposed plan after considering the faculty member's response. The committee must then forward the proposed improvement plan to the chief academic officer for review and implementation (with copies to the dean, department head, and faculty member).

### c. Committee Review after an EPPR Improvement Plan

At the end of the time allotted for the EPPR improvement plan, the peer review committee must reconvene to review performance under the plan, and to determine whether or not such performance (in the context of the EPPR review period) has satisfied expectations for the faculty member's discipline and academic rank. The peer review committee must **vote anonymously and** provide a written report of its conclusions and recommendations, **including majority and minority reports (if applicable)**, to the faculty member, department head, and dean, who may respond in writing within 14 days.

The chief academic officer must review the committee's report and any timely written responses and must independently evaluate performance under the improvement plan. The chief academic officer must then submit the reconvened committee's report, all written responses, and his/her own conclusions and recommendations to the Chancellor, with copies to the faculty member, peer review committee, department head, and dean.

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**d. Chancellor's Review and Action after an EPPR Improvement Plan**

The Chancellor will make an independent evaluation of the performance under the EPPR improvement plan (in the context of the EPPR review period) and must provide to the faculty member (copied to the department head, dean, chief academic officer, and members of the peer review committee) a written explanation of the rationale for any conclusions, decisions, or further actions to be taken.

**8. Timeline for Conducting the EPPR**

All EPPR deadlines are counted in calendar days rather than business days, except when the last day of the time period falls during a holiday or administrative closure lasting five business days or longer (such as the administrative closure between fall and spring semesters or an extended weather-related closure). **The following table summarizes the key events ~~and deadlines~~ in the EPPR process that have deadlines.**

Event begins	Days	Event ends
Written notice from the chief academic officer that EPPR is warranted	45	Chief academic officer charges the peer review committee
Chief academic officer charges the peer review committee	75	Committee report is distributed for review by the faculty member, department head, and dean
Committee report is distributed for review by the faculty member, department head, and dean	14	Faculty member, department head, and dean submit written responses to the chief academic officer
Chief academic officer reviews timely responses to the report and makes an independent evaluation	14	Chief academic officer submits to the Chancellor the committee's report, all timely responses, and any additional conclusions and recommendations based on the chief academic officer's independent evaluation
If the Chancellor requires implementation of an EPPR improvement plan, the chief academic officer provides written notice to all parties	30	Department head submits to the chief academic officer a proposed improvement plan supported by the dean, chief academic officer, and a majority of the peer review committee

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If the department head fails to produce an improvement plan supported by the dean, chief academic officer, and a majority of the committee, then the peer review committee assumes responsibility for drafting a plan	14	Peer review committee submits the proposed improvement plan to the dean and chief academic officer for review and approval
Upon approval by the chief academic officer, the proposed improvement plan is sent to the faculty member for review	14	Faculty member submits to the peer review committee any written response (including any requested modifications to the improvement plan)
Peer review committee considers the faculty member’s response and may revise the proposed improvement plan	14	Peer review committee submits the proposed improvement plan to the chief academic officer for review and approval
Chief academic officer reviews the proposed plan, responds to the committee as needed, and approves a final improvement plan	14	Chief academic officer sends the approved plan to the faculty member and others for implementation

On a case-by-case basis, the chief academic officer (or designee) may approve a written request from the peer review committee for an extension of time to complete the initial review. Only one extension may be granted to the peer review committee during a single EPPR, and the chief academic officer (or designee) will determine the length of the extension.

*Concurrent Appeals or Grievances* – While appeal of an annual performance rating (or other procedure) may overlap in time with the five-year review period, the EPPR is purposefully different from the annual performance review process. To the extent provided under the applicable faculty handbook or other campus policies or practices, the faculty member may choose to initiate or maintain an appeal of the most recent annual performance rating while EPPR is underway. Any appeal or other process must be conducted without interference or influence from the EPPR, and vice versa. Faculty leaders should take care to ensure the integrity of all procedures by confirming that no person serves in multiple proceedings related to the same faculty member. Except as may be required by law (for example, under regulatory requirements or a judicial order) any such appeal, grievance, or other University process must proceed simultaneously with the EPPR and must have no impact on the timing or procedures described in this policy.

**9. Phased Implementation of ~~this Policy~~Enhanced Post-Tenure Performance Review**

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~~The Enhanced Post-Tenure Performance Review provisions of the Board Policies on Academic Freedom, Responsibility, and Tenure were, and the procedures outlined in this appendix were~~ approved by the Board of Trustees on October 14, 2016, ~~this becomes and became~~ effective on July 1, 2017. Any faculty member who ~~is~~was engaged in a Cumulative Performance Review (CPR) on October 14, 2016 must complete the CPR process under the then-applicable CPR policy provisions. Otherwise, the following implementation schedule applies.

Date of annual performance review meeting	Overall rating of Needs Improvement (or campus equivalent)	Overall rating of Unsatisfactory (or campus equivalent)
On or before June 30, 2017	CPR policy applies	CPR policy applies
July 1, 2017 – June 30, 2018	Performance ratings are reviewed by the chief academic officer, who decides whether CPR or EPPR should be applied.	EPPR policy applies
July 1, 2018 or later	EPPR policy applies	EPPR policy applies

### FACULTY ENGAGEMENT ON REVISIONS TO BOARD TENURE POLICY

- **The primary focus of the August 17, 2017 Board Workshop was the tenure review process and the subsequent evaluation of tenured faculty.** Public notice of the workshop and its focus was issued through a media advisory and a broadcast e-mail to all employees. The current Faculty Trustees, the current president of the UT Knoxville chapter of the American Association of University Professors (AAUP), and a UT Martin faculty member (representing the interim provost) attended the workshop. The Board discussed a series of questions related to the process of granting tenure and the evaluation of tenured faculty.
- **At the end of the workshop, there was strong consensus among the Trustees that two issues should be addressed as soon as possible:**
  1. The Board should have a policy to govern setting the faculty salary upon conclusion of the administrative appointment of an individual who simultaneously holds a faculty appointment (sometimes referred to as “return-to-faculty salary”).
  2. The Board tenure policy should be revised to provide the option of a Uniform Administrative Procedures Act (UAPA) hearing to contest termination of a tenured faculty appointment only after termination while retaining the option to elect instead a University tribunal hearing before termination.

These issues were referred to the administration to draft proposals for consideration by the Board or the Executive and Compensation Committee before the end of 2017. Drafts were to be submitted to the University Faculty Council (UFC) for review and comment prior to final drafts being submitted to the Board or the Executive and Compensation Committee.

- The system academic affairs office engaged with the UFC about the workshop questions during the fall of 2017:

**September-October 2017:** The questions were submitted to the UFC, and in turn the UFC solicited comments from the faculty. The system academic affairs office sent a survey to 3,500 tenured and tenure-track faculty.

**October-November 2017:** Drafts of a proposed new policy on return-to-faculty salaries and proposed revisions to the tenure policy related to a UAPA hearing were submitted to the UFC on October 3, 2017 with a due date of November 14, 2017 for comment. Faculty comments and the administration’s response are summarized below:

1. New policy on return-to-faculty salaries: faculty comments were generally very supportive, although some thought the policy was too generous in providing for a maximum salary of 150% of the highest salary of full-time faculty in the department with the same discipline and rank. **The administration changed the maximum to 125%.**
2. On the proposed revision to provide a UAPA hearing only after termination, the following changes were requested:
  - a. Add language to make it clear that a faculty member who elects the post-termination UAPA hearing would be reinstated with retroactive salary if the faculty member prevailed; alternatively, use “suspension without pay” instead of termination. **The administration added clarifying language about reinstatement and restitution of lost compensation.**
  - b. Increase the time for electing to contest termination from 10 days to 30 days. **The administration changed the time from 10 days to 15 days.**
  - c. From one campus, maintain the UAPA hearing as an option before termination. **The administration did not agree.**

Acting on behalf of the Board on December 18, 2017, the Executive and Compensation Committee approved the proposed new policy on return-to-faculty salaries and the proposed revisions to the tenure policy related to the UAPA hearing process.

- **The remaining questions discussed at the August 17 workshop were referred to the President for further consideration with any recommended revisions to the tenure policy to be presented to the University Faculty Council (UFC) for review and comment before presentation of a final draft to the Board at the March 2018 meeting.**

**February 5, 2018:** A draft of revisions to the tenure policy was submitted to the UFC for review, with a due date of March 2 for comment. The draft revisions included a provision concerning post-tenure review of tenured faculty.

**February 7, 2018:** Representatives of the system academic affairs office and the General Counsel’s office met with the UFC to discuss the draft revisions. The post-tenure review language met with immediate objection from some who misinterpreted it as designed to allow the Board to target individual faculty members.

**February 10, 2018:** Although targeting of individuals was never intended, in response to the objection, a revised version of the proposed post-tenure review language was submitted to the UFC to address the concern.

**February 17, 2018:** In response to further objection to the proposed post-tenure review language, second revised version was submitted to the UFC.

**February 21, 2018:** The system academic affairs office met with the UFC to hear their continued concerns about the post-tenure review language.

**February 22, 2018:** President DiPietro met with UFC representatives to hear their concerns about the post-tenure review language.

**March 2, 2018:** The UFC submitted comments and requested revisions to the entire set of draft revisions to the tenure policy, together with a separate position paper on the draft post-tenure review language.

**March 9, 2018:** The final draft of proposed revisions to the tenure policy was provided to the UFC. The final draft accepts many changes requested by the UFC (see attached table) but does not accept the UFC requested changes concerning post-tenure review. However, the proposed language concerning post-tenure review has been modified again in a further attempt to address some of the UFC concerns and to provide greater clarity. The UFC was informed that any written comments they wish to make on the final draft will be provided to the Board.

**Response to UFC Comments on Revisions  
(Other than Revisions Related to Post-Tenure Review)**

**Note: page numbers below do not refer to pages in the final draft of the policy submitted to the Board, but rather to pages in the draft on which the UFC commented.**

<b>Comment</b>	<b>Response</b>
<p><b>Page 7, Highlighted Text:</b> “in the department head’s sole discretion”</p> <p>Recommendation: change highlighted section to read "by the unit's or college's bylaws." Question for future consideration: How does this timing work with early tenure? If they are going for tenure in the fourth year, must there be a review in the third?</p>	<p><b>The proposed language has not been changed.</b></p> <p>The idea behind this language is that whether to conduct the interim review in the third year versus in the fourth year might need to vary by individual, rather than that it might need to vary by unit or college; this language allows flexibility for a department head to defer the interim review from the third to the fourth year if, for example, the tenure-track faculty member has not published by the third year but expects to do so by the fourth year. Additionally, and related to the question asked, this language would give the department head the ability to not conduct an interim review in the third year if the department head is aware that the tenure-track faculty member will seek early tenure consideration in the fourth year.</p>
<p><b>Page 7, Highlighted Text:</b> “summary vote”</p> <p>Recommendation: "summary anonymous vote"</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 8, Highlighted Text:</b> “Campus and College criteria for tenure shall be effective upon approval by the President (or designee) and the General Counsel and shall be published in the campus faculty handbook” and “Campus procedures shall be effective upon approval by the Board of Trustees and shall be published in the campus faculty handbook.”</p> <p>Point of clarification: Can this be interpreted that Handbook policies no longer required BOT approval?</p> <p>Compare with high-lighted text in G. below.</p>	<p><b>The proposed language regarding campus and college criteria has been changed to address this concern.</b> If adopted, this Board policy would constitute a delegation to the President to administratively approve more-specific campus tenure <i>criteria</i>, and changes to them, for publication in a campus faculty handbook; but Board approval would continue to be needed for changes to tenure <i>procedures</i>.</p>

<p>The two statements do not appear to be parallel. In one case the p[r]esident and general [c]ounsel approves and in the second case the BOT approves.</p>	
<p><b>Page 12, footnote 4, Highlighted Text:</b> “the chief academic officer may delegate tasks associated with the EPPR”</p> <p>Recommendation: that tasks may be reassigned, but that decisions remain with the CAO,</p>	<p><b>Language has been added implementing the requested change.</b></p>
<p><b>Page 13, Highlighted Text:</b> “may be commonly-held standards in the discipline or”</p> <p>Recommendation: delete "may" and "or" in the high-lighted section and move the remaining highlighted text to after "this policy, "commonly-held standards in the discipline" as well as.....</p> <p>The change would prevent a chair's inappropriate use of a criterion that is not easily defined in place of clear documents of record.</p>	<p><b>The text has been changed to address this concern.</b> Please note that this section applies only to EPPR review, not to a chair’s annual review of a faculty member, so it should not provide a chair with an opportunity to use inappropriate criterion in any event.</p>
<p><b>Page 13, Highlighted Text:</b> “enumerating the vote”</p> <p>Recommendation: "the anonymously cast vote and dissenting explanation"</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 13, Text:</b> “The faculty member must have an opportunity to review and respond to the committee’s draft report.”</p> <p>Comment Box 2: Does this sentence imply that the committee can revise their draft report following its review by the candidate?</p> <p>If so, is the candidate given an opportunity to respond to the revised report?</p> <p>Alternatively, it may be preferable to just remove the word "draft" from the sentence?</p>	<p><b>The word “draft” has been removed.</b></p> <p>Appendix E indicates that this review is intended to be review of the final report, not an intermediate draft, and sets forth the timetable, as follows: “The committee’s written conclusions and recommendations must be distributed to the faculty member, department head, and dean for simultaneous review, who must submit any written responses to the chief academic officer within 14 days.” Appendix E, Paragraph 5b.</p>

<p>Is there a time table associated with these two actions, i.e., completion of the report and its review by the candidate?</p> <p>Recommendation: The faculty candidate shall have the right to see every evaluation written about them.</p>	
<p><b>Page 13</b>, Highlighted Text: “conclusions and”</p> <p>Recommendation: "conclusions, reasoning upon which they are base[d] and "</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 14</b>, Highlighted Text: “The committee must report its conclusions and recommendations in writing, as described in Appendix E.”</p> <p>Recommendation: That provision be made for majority and minority anonymous votes if necessary.</p>	<p><b>No change necessary; as written, this policy language does not preclude anonymous voting or majority/minority reports, both of which are provided for in Appendix E.</b></p>
<p><b>Page 14</b>, Highlighted Text: “This policy therefore requires that each campus establish (by July 1, 2017) a system for evaluating the ongoing performance of a faculty member whose past performance is being reviewed under the EPPR process.”</p> <p>Can this sentence be removed since implementation has already commen[c]ed?</p>	<p><b>This sentence should not be deleted because not all campuses have implemented the EPPR policy language into faculty handbooks.</b></p>
<p><b>Page 19</b>, Highlighted Text: “Procedures governing the tenured faculty member’s consideration of a candidate for tenure, including without limitation a requirement for external reviews, a requirement for peer review of faculty members who engage in teaching, and the required contents of the materials to be submitted by the candidate, must be established in bylaws adopted by the academic unit (department, school, or college).”</p> <p>The sentence is difficult to parse and may be interpreted to disallow a campus from adopting rules as commonly seen in campus faculty handbooks.</p>	<p><b>The text has been revised to address the concern that the sentence might be interpreted to prohibit campus procedures applicable to the tenured faculty’s consideration of a candidate for tenure.</b></p> <p>It should be noted that the term “department” as used throughout the policy is defined on page 1, footnote 2, as “the smallest academic unit (in some cases a college, school, or division).”</p>

<p>Recommended alternative wording:</p> <p>The procedures governing the tenured faculty’s consideration of a candidate for tenure must be establish in the bylaws adopted by that academic unit, department, school, college and/or campus. These procedures will include at least: a requirement for external reviews; a requirement for the peer review of teaching (for faculty members who engage in teaching); and the required contents of the materials to be submitted by the candidate. Unit and college bylaws should include criteria for rank in teaching research and service.</p>	
<p><b>Page 19</b>, Highlighted Text: “formal vote”</p> <p>Recommendation: formal anonymously cast vote</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 19</b>, Highlighted Text: “written summary of”</p> <p>Recommendation: "written summary explanation of"</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 20</b>, Highlighted Text: “Dean’s Recommendation”</p> <p>Recommendation: For this and sections 3-6 below. copies of the recom[m]endation and its reasoning shall be sent to all concerned parties including the faculty member.</p>	<p><b>Change made as requested and as shown in text of sections 2 through 6</b></p>
<p><b>Page 20</b>, Highlighted Text: “recommendation to” and “independent judgment”</p> <p>Recommendation: "recommendation and [reasoning] for it"</p> <p>If there is to be independent review, should there not also be language requiring independent reasoning that is documented. It may be the same reasoning, but if so, it will be clear that this has been the case. The same applies to sections 4-6 as well.</p>	<p><b>Change made as requested, using the same wording as used in Section 2.</b></p>

<p><b>Page 21</b>, Highlighted Text: “a vote”</p> <p>Recommendation: “an anonymously cast vote”</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 22</b>, Highlighted Text: “the vote tally”</p> <p>Recommendation: “the anonymously cast vote tally”</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 22</b>, Highlighted Text: “committee of the Senate”</p> <p>Recommendation: “Senate or Executive Council)”</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 22</b>, Highlighted Text: “conduct an informal inquiry”</p> <p>Recommendations: delete the word “informal”</p>	<p><b>The phrase “conduct an informal inquiry and” has been removed altogether to avoid prescribing to the faculty senate body how it should go about making its recommendation.</b></p>
<p><b>Page 22</b>, Highlighted Text: “Senate shall be”</p> <p>Recommendation: Add ...Faculty Senate[ ], along with the supporting reasoning, shall be.....</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 26</b>, Highlighted Text: “this and/or other”</p> <p>Recommendation: .... this "campus" and/ or other peer institutions"</p> <p>The change makes it campus specific since UT Martin and UTHSC are very different campuses (institutions)</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 27</b>, Highlighted Text: “Final Decision by the Chancellor”</p> <p>Point of clarification: Can the Chancellor ignore the recommendation of the tribunal and decide there is cause for termination irrespective of what the tribunal concludes?</p>	<p><b>No change needed.</b></p> <p>Response to Question: The Chancellor should not <i>ignore</i> the tribunal’s recommendation, but the Chancellor does have the authority to <i>reject</i> the recommendation, after considering it, and make a different decision than what the tribunal recommended.</p>
<p><b>Page 29</b>, Highlighted Text: “restitution of salary lost”</p> <p>Recommendation:</p>	<p><b>Change made as requested, both here and other places where this language appears.</b></p>

<p>"restitution of full salary, academic position and tenure lost".....</p>	
<p><b>Page 31</b>, Highlighted Text: “the tenured faculty”</p> <p>Recommendation: "the departmental tenured faculty".</p> <p>This change would diminishes the possibility of a poor chair from shopping around in other units for faculty that agree with his/her view point.</p>	<p><b>Change made as requested.</b></p>
<p><b>Page 31</b>, Highlighted Text: “may”</p> <p>Recommendation: delete "may".</p> <p>Is it not always the case that adequate cause may exist. In contrast, it must be found, as in item 3, that adequate cause does exist.</p> <p>It may be useful to preface this sentence with one that reads, " “Before the chief academic officer concludes that Adequate Cause for termination exists, he or she shall call the faculty member to a meeting to discuss the possibility of a mutually satisfactory resolution of the matter.”</p>	<p><b>Change not made.</b> This sentence is intended to indicate the tentative nature of the views the chief academic officer will have regarding the existence of Adequate Cause at this stage of the proceedings, before the process in Paragraph 5c has taken place. If the CAO rejects the existence of Adequate Cause at this stage, then the CAO will stop the proceedings under Paragraph 5a(2). If the CAO cannot reject the existence of Adequate Cause at this stage, the CAO will meet with the faculty member to discuss the possibility of a mutually satisfactory resolution, but will not yet have made a conclusive determination that Adequate Cause exists. That is why the language used is “may exist.”</p>
<p><b>Page 42</b>, Highlighted Text: “This review should be completed (and written report drafted) within 75 days from the chief academic officer’s charge to the peer review committee.”</p> <p>Recommended clarification:</p> <p>Relative to this "draft" and the high-lighted statement in b below:</p> <p>It is unclear when the committee's final report comes in. Does the committee have an opportunity to review responses and then revise their draft or is the draft considered the final report?</p> <p>Potential alternative wording:</p>	<p><b>Change made – “drafted” changed to “completed.”</b> The report described is not a draft.</p>

<p>"and written report submitted:"</p>	
<p><b>Page 45, Highlighted Text:</b> “must provide a written report of its conclusions and recommendations”</p> <p>Recommendation:</p> <p>"must vote anonymously and provide a written report of its conclusions and recommendations including majority and minority reports (if applicable) to the faculty member"</p>	<p><b>Change made as requested.</b></p>
<p>Page 46, Highlighted Text: Chart, 4<sup>th</sup> and 5<sup>th</sup> rows</p> <p>There is a missing segment of the chronology.</p> <p>How much time does the Chancellor have to make a decision before the 30 days required for the department chair to submit an EPPR improvement plan?</p>	<p><b>No change made.</b></p> <p>It does not appear that there is anything missing – this chart aligns with the text of the policy, which does not set a time limit on how long the Chancellor may take to review the submittal received by the Chancellor.</p>
<p>Page 47, Highlighted Text: 1<sup>st</sup> and 2<sup>nd</sup> rows</p> <p>Point of clarification:</p> <p>There appears to be a missing line in the chronology. How long does the CAO have to review the plan?</p>	<p><b>No change made.</b></p> <p>It does not appear that there is anything missing – this chart aligns with the text of the policy, which does not set a time limit on how long the chief academic officer may take to approve the improvement plan.</p>

## University of Tennessee Faculty Council Approved March 3, 2017

### Recommendations for revision of the EPPR policy currently being prepared for submission to the Board of Trustees

#### Primary recommendations

Consider changing the time of required post-tenure review from “6” to “6 or 7” years to diminish association with the tenure consideration which occurs at 6 years.

There are two non-equivalent positions with respect to the degree of detail that the UFC should recommend to the BOT. Consensus was not reached between the two alternatives.

**Position #1** If Board of Trustees adoption of a post-tenure review policy is unavoidable, then the UFC recommends that the Board policy currently being considered contain as little process and procedural detail as possible, thereby maximizing system and campus administrator and campus faculty participation in development of the policy’s processes and procedures.

**Position #2** proposes increasing the amount of detail in the Board draft policy as indicated. The Board of Trustees recognizes and affirms the importance of tenure in protecting academic freedom and thus promoting the University’s ~~principle~~ principal mission of discovery and dissemination of truth through teaching, research, and service. The Board also recognizes its fiduciary responsibility to students, parents, and all citizens of Tennessee to ensure that faculty members effectively serve the needs of students and the University throughout their careers. Therefore, in addition to the three circumstances listed above that will trigger an Enhanced Post-Tenure Performance Review of a tenured faculty member, the Board, pursuant to a duly adopted resolution, may require the President to establish procedures under which the chief academic officer of the campus could initiate a comprehensive peer ~~an Enhanced Post-Tenure Performance Review shall be conducted~~ of all tenured faculty members, both tenured and non-tenured, in an academic program that has been identified as under-performing through an academic program review process. In addition, the President shall establish, with Board approval, procedures for every tenured faculty member at a campus to receive a comprehensive peer review to establish internal, discipline-based faculty peer reviews based on the annual reviews to affirm the clarity, consistency and candor of the reviews of tenured faculty no less of-

ten than every seven years. The procedures for this periodic review shall provide for appropriate staggering of reviews to avoid excessive administrative burden at any given time.

### **Statistics**

There is a marked lack of faculty support for implementation of an additional post-tenure review policy. Two campuses (entire faculty or senate executive committee) reported an up/down vote with additional comments submitted:

76.5%: I am against this proposed policy change  
 19.6%: I support this proposed policy change  
 3.9%: I have no opinion on this proposed policy change

68.8%: I am against this proposed policy change  
 25.0%: I support this proposed policy change  
 6.2%: I have no opinion on this proposed policy change

No up/down votes were conducted at the remaining campuses as a means of encouraging faculty to comment rather than just vote.

Data acquisition will be useful for evaluating the success/failure of the currently used review policies. In particular how selective are currently used faculty review policies. When considering post-tenure policy development, UFC recommends that system and campus Human Resources, the CAO's Office, will develop numerical data on:

How many PhDs are produced by field nationally as well as in peer and aspirational institutions?  
 How many tenure-line faculty are hired?  
 How many of the newly hired faculty members depart prior to the tenure decision?  
 What percentage of the newly hired are granted tenure?  
 How many leave for other opportunities within 2, 4, or 6 years after tenure is awarded?

### **The role of campus-specific issues in the development and operation of the post-tenure review policies, process and procedures**

Program Reviews should remain under the authority of the chief academic officer on each campus.

Oversight and performance of post-tenure reviews should occur under the auspices of campus administration.

All post-tenure review should occur at the campus level.

Program reviews should only be initiated by a chief academic officer of the campus.

Post-tenure review should be performed under system wide policy parameters' and campus specific procedures and process.

Development of post-tenure review policies, processes and procedures should involve all of the stakeholders using development of the EPPR policies as a model.

### **Experiences with EPPR informing the new post-tenure review policy**

There is advantage to be gained in what is learned from operation of the EPPR evaluation program, though it will take at least a year before the initial data become available. Therefore, review of the EPPR program by multiple stakeholders is recommended to inform the development of the post-tenure review policies.

There are many details of process and procedure that need to be identified and developed. Trying to achieve this objective on too short a time scale is likely to be detrimental to the desired product. Development of the EPPR is likely a reliable predictor of the time that may be required, though time can be saved using the information gained from the EPPR experience.

### **Additional faculty work load**

The addition of regularly scheduled 6 or 7 year post-tenure reviews to our current annual reviews, tenure reviews, promotion reviews, and individual post tenure reviews triggered by program reviews appears to be excessive. The Board may wish to reconsider whether this redundancy is necessary and if it is, all steps possible should be taken to streamline the process to reduce the level of time commitment involved.

The additional commitment of faculty time could result in significant expense for the University system-wide. It might be useful for someone in the financial group to perform cost-benefit as part of the Board of Trustees' consideration.

There is faculty concern that the additional workload may compromise the primary goals of faculty.

### **Need for clarity in the details of the process and procedure**

Some of the comments in this section are not meant for addition to the currently proposed policy, but rather items requiring attention when the process and procedures are developed.

We recommend that qualitative and quantitative information such as teaching, research, service record, administrative effectiveness, access to and use of a variety of resources and data requested in THEC-mandated Academic Program Review and national accrediting organizations

be considered as criteria to determine whether or not a given program will undergo a program review. Useful parallels include elements found in THEC required Academic Performance Reviews or reviews for national accrediting organizations.

What criteria are to be used in defining a program review that requires post-tenure review of all of the faculty in the program?

Are faculty who are performing at or above meeting expectations for rank to receive post-tenure review as a result of participating in a program that is evaluated as not meeting expectations?

How does post-tenure review triggered by a negative program review affect the timing of the next post-tenure review for the faculty members within the reviewed program?

What is meant by “comprehensive peer review,”?

How is "peer group defined?

What is meant by “external reviewers”?

How will the "peer group" required for considerations of tenure and/or promotion differ from the "peer group" required for post-tenure review?

How are elements other than faculty performance (administrative leadership, staffing, facilities, and resources) to be considered in “program reviews”?

Clear guidelines will be needed for the review procedures?

If a program receives a review that triggers post-tenure review of its faculty members, how might this inform the timeline for future post-tenure reviews of the faculty in the program that was reviewed ?

What other outcomes are to be anticipated beyond post-tenure review of the faculty when a program is reviewed?

What is anticipated to be the structure, development and implementation of program remediation when a program does not meet expectations?

There are many additional questions that could be added to this section. They are likely to parallel questions that might be posed at each step of the currently operating EPPR.

Data used in the post-tenure review should include, but may not be limited to:  
Results of the faculty member’s Annual Performance Review (APR)  
A complete CV

Credible information that the faculty member and/or chair would like to contribute to the review.

Procedures for the selection of a balanced and representative review committee representing the faculty member, the department and extra-department personnel with appropriate disciplinary expertise should be developed.

Develop suitable procedures for tenured vs. non-tenured faculty members.

Rank of reviewers should reflect rank of reviewee or be of higher rank.

All voting of the review committees should be anonymous.

The reasoning for conclusions reached by the review committee, including with majority and minority (when applicable) opinions should be required and distributed to all parties involved in the review.

Procedures for the faculty or unit chair/head to appeal a review committee's findings should be developed.

An objective of post-tenure reviews is to ensure the clarity, continuity and candor the annual review system.

### **Post-tenure review policy rollout**

It is important to consider the impact of the implementation of the post-tenure review policy on the morale of the faculty and potential future faculty recruiting. Rollout and implementation of the post-tenure review policies should be structured in such a way that there is high participation of all participants and using procedures that maximize the degree of buy-in.

The post-tenure review procedures must be transparent and perceived as transparent, fair and equitable by a large majority of the faculty to facilitate ultimate success of implementation.

Believable steps, both word and actions, by administrators at all levels are required to reverse the wide-spread faculty perception that post-tenure review is a means of diminishing or eliminating faculty tenure.