

**Rice University**

## **PROCEDURE FOR INVESTIGATING ACCUSATIONS**

### **WARRANTING SEVERE SANCTIONS, INCLUDING DISMISSAL, AGAINST FACULTY MEMBERS**

On rare occasions the administration may accuse a faculty member of misconduct or inappropriate behavior serious enough to warrant severe sanctions, including dismissal for cause. (See Rice Policy 201.) When such accusations arise, the procedures described below will be followed.

1. The procedure may depend on the nature of the alleged misconduct:

When sexual harassment is alleged, current Rice Policy 830 describes the investigative steps to be taken and the procedures to be followed.

When research misconduct is alleged, Rice Policy 324 describes such steps and procedures.

In all other cases in the procedure described below, there are three phases or steps, two of which are informal and preliminary to a third phase consisting of a written statement of charges by the university followed by a formal hearing when lawyers may be present.

No policy, whether relating to sexual harassment, research misconduct, or any other form of inappropriate behavior, may deprive a faculty member, accused of an act that could warrant severe sanctions or dismissal, of the opportunity to undergo the third phase as described in this document below.

2. Dismissal of or imposition of severe sanctions on a faculty member will be preceded by the following stages, except that the First Stage and the Second Stage may be bypassed in the cases noted above:

a) First Stage: **Initial Assessment and Attempt at Mutual Settlement.** Discussions between the faculty member and, depending on the nature of the charges, appropriate administrative officers, who try to find a mutual settlement.

b) Second Stage: **Appeals and Grievances Inquiry.** Absent a mutual settlement, inquiry by the Appeals and Grievances Committee of the Faculty Senate, which may, failing to effect an adjustment that may or may not involve mediation (the costs of which would be borne by the administration), recommend to the Faculty Senate whether in its opinion formal dismissal or severe sanctions proceedings should be undertaken, without its opinion being binding upon the Senate or the President. This committee should submit its report to the Speaker of the Faculty Senate, with a copy to the faculty member, and the Speaker should forward the report with its non-binding recommendation to the President.

c) Third Stage: **Hearing Panel.** A statement of charges, framed with reasonable particularity by the President or the President's designated representative (who may be an administrator or a faculty member), which may or may not include proposed sanctions, and a formal hearing described in paragraph 3 in which the administration's designate and the faculty member, who may exercise the opportunity to be advised and/or represented by a faculty advocate or a lawyer, will present arguments and evidence before a panel of the faculty member's peers. Only in this third stage will advocates or lawyers be a part of the proceedings.

3. Any faculty member presented with charges such as those described in 2c will have the right to be heard by a Hearing Panel made up of five faculty members, none of whom is serving as an administrator above the department chair level. The members of this panel will be selected by the Speaker of the Faculty Senate in consultation with the Deputy Speaker and the Convenor of Appeals and Grievances and submitted to the President by the Speaker. The accused and the President will each have a maximum of two challenges when the panel is initially chosen, with the Executive Committee selecting replacements for any members stricken through a challenge. The Provost will then call the panel into session, recommend a schedule, and provide staff support. The panel will elect a chair and determine how to fill vacancies on it that may occur for any reason, including illness, resignation, or disqualification or recusal for bias or interest. When vacancies are filled, the President and the accused will each have a maximum of two challenges to these replacements.

(3a) Pending a final decision by the Hearing Panel, the accused faculty member may be suspended or assigned to other duties in lieu of suspension only if continuance threatens harm to other persons, to the accused, or to university property, though the President may take other interim actions he or she deems necessary to comply with law, protect the University, or safeguard the hearing process or the participants in the process. A faculty member who has been suspended pending a hearing receives full compensation throughout the period of suspension. A suspension that is not followed either by reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

(3b) Service of notice of hearing with specific charges in writing will be made to the accused at least twenty calendar days prior to the hearing. The accused may waive a hearing or may respond to the charges in writing at any time before the hearing. If the accused waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause, the Hearing Panel will evaluate all available evidence and base its recommendation on the evidence in the record.

(3c) The hearing will be conducted by the Hearing Panel and will be attended by the President's designate, the faculty member, and, if he or she wishes, the faculty member's faculty advocate or lawyer; legal counsel may also be present for the Hearing Panel and the President's designate. The hearing will be presided over by the chair of the panel. The chair will establish the guidelines for the hearing, control the

hearing, establish its pace, determine when people are heard, and, most important, keep lawyers, if present, from overstepping the bounds of what the panel believes is appropriate in a hearing conducted by faculty colleagues in the efficient pursuit of truth.

(3d) A verbatim record of the spoken words of the parties, the witnesses, and the Hearing Panel while the hearing is in session (but not during the private deliberations of the panel) will be made for the use of all parties, including the accused.

(3e) The burden of proof that adequate cause exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole. A different standard of proof shall be applied if required by law or regulation.

(3f) The President's designate will, prior to the hearing, be responsible for contacting potential witnesses deemed to have information material to the charges, and will gather as much information and as many documents as he or she thinks relevant to prepare for the hearing. The designate may contact potential witnesses in addition to those named by the administration or the accused. The designate also has the responsibility to assist the panel in obtaining witnesses or other evidence that the panel may wish as part of its hearing on the charges. In cases of research misconduct, the Hearing Panel will, as far as possible, presume the validity of the Investigatory Panel's report. At the same time, since the imposition of any severe sanction ordinarily (see Section 3e above) requires clear and convincing evidence of misconduct and a consideration what the appropriate sanction might be, the panel has the discretion to examine those aspects of the report it deems necessary to reach a fair and informed recommendation on what the sanction, if any, should be.

(3g) The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the hearing panel in making available documentary and other evidence.

(3h) The panel will bring as many witnesses forward as it deems appropriate, including those identified by the President's designate or the accused, if the panel believes they have material and relevant information relating to the charges.

(3i) The procedure by which the hearing is conducted will be determined by the chair of the panel in consultation with the panel members, on the basis of the principles outlined in this document. These procedures have the aim of efficiently obtaining the truth, insuring fairness and confidentiality, and according dignity to all parties and witnesses. The Hearing Panel will not be bound by strict rules of legal evidence and may admit any evidence that it believes is of probative value in determining the issues involved. The chair of the panel will write a short report describing the procedure followed, but free of details of the case, which will be kept by university legal counsel to aid future panels.

(3j) To the extent permitted by law or regulation, both the faculty member and the President's designate will be allowed to confront and question any witness and respond to any interrogatory or document submitted during the hearing. In lieu of confrontation

and direct questioning, the panel may require that questions from the designate or the faculty member be directed to the chair of the panel who will have the discretion whether and how to pose such questions.

(3k) In a hearing of charges of incompetence, the testimony may include that of qualified faculty members from this or other institutions of higher education on the professional standards in the field.

(3l) The findings of fact and the panel's recommendations to the President will be based solely on the record of the hearing, including the verbatim record in paragraph 3.d and all relevant documents and interrogatories.

(3m) The Hearing Panel's findings and recommendations, with supporting rationale, and, if deemed necessary by any member of the panel, dissenting opinions, will be presented in a full report to the President, with copies to the Speaker of the Faculty Senate and to the accused. If the President wishes, the panel will also provide any documents, notes, recordings or transcripts that are part of the record. i) If the Hearing Panel concludes that adequate cause for dismissal has been established by the evidence in the record, it will so recommend. ii) If the Hearing Panel concludes that adequate cause for dismissal has been established, but that an academic penalty less severe than dismissal would be more appropriate, it will so recommend. iii) If the Hearing Panel concludes that there is cause for severe sanction but not dismissal, it will so recommend. iv) If the Hearing Panel concludes that adequate cause for dismissal, or for any other sanction, has not been established by the evidence in the record, it will so recommend.

(3n) If the President is considering rejecting either findings of fact or recommendations of sanction in the report, he or she will state the reasons for doing so, in writing, to the Hearing Panel, to the accused, and to the Speaker of the Faculty Senate, and provide an opportunity for response from the panel and the faculty member before rendering a final decision. The President, if he or she concludes there are issues that have not been fully or adequately addressed, also may refer the matter back to the panel for additional hearings.