

CHAPTER 4. DISCIPLINARY ACTION, SUSPENSION, TERMINATION, RESIGNATION, AND RETIREMENT

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CHAPTER 4. DISCIPLINARY ACTION, SUSPENSION, TERMINATION, RESIGNATION, AND RETIREMENT

4.1 Overview

This chapter summarizes the policies and processes to be followed in disciplinary cases involving faculty as well as those governing the termination of faculty members. Every faculty member is entitled to fair and consistent decision-making procedures as a protection against violations of academic freedom or arbitrary adverse decisions. Tenured faculty may be dismissed only under provisions set out in this Handbook.

The term “appointment” refers to the initial contract issued to all faculty. The terms “reappointment” and “non-reappointment” apply to full-time non-tenure line faculty (see Chapter 2). The terms “renewal” and “nonrenewal” apply to non-tenured tenure-line faculty.

Reviews and decisions for appointment, reappointment, renewal, promotion, and tenure are separate actions. Appointment does not guarantee reappointment or renewal, nor does appointment at any rank confer tenure, except where specifically provided in the contract. Promotion at any time from any rank to any other rank does not confer tenure.

4.2 Nonrenewal of Non-Tenured Tenure Line Faculty

When deciding whether to renew the contract of a non-tenured tenure-line faculty member the university follows two general principles:

1. To select, given available resources, faculty members who will best contribute to its distinctive goals and academic mission. Consequently, the university has the authority and discretion, within the limits of academic freedom, to determine which non-tenured tenure-line faculty members will be retained.
2. To have no reasonable doubt as to the faculty member’s qualifications for tenure before it reaches a favorable decision on the renewal that results in tenure. The quality of academic programs and therefore the good of the university require careful selectivity in renewal based on the individual faculty member’s qualifications and the needs of the university. Anything that undermines the selective process erodes tenure and quality.

Non-tenured tenure-line faculty members are subject to an annual probationary review (see Chapter 3). Renewal decisions are made in conjunction with the annual probationary review. Although there is no guarantee of renewal, non-tenured tenure line faculty are entitled to consideration for renewal. Nonrenewal decisions must be based on criteria as described in this Faculty Handbook, and selected from those listed below:

1. Teaching and learning;
2. Scholarship, research, or other creative activities;
3. Service;
4. Professional advancement, such as the completion of a terminal degree or certificate. This criterion is especially applicable when there is a particular interest or a previous understanding with the faculty member regarding this advancement;

- 1 5. Responsible participation in university processes and activities that are generally
- 2 considered faculty responsibilities;
- 3 6. Change in academic program, such as:
- 4 ○ termination or reduction in size of the academic program to which a faculty
- 5 member is assigned;
- 6 ○ change in an area of specialization or in emphasis in a program;
- 7 7. Financial conditions of the university as a whole or in any particular part, requiring
- 8 reduction in the size of the faculty;
- 9 8. Professional and ethical conduct.

10
11 Nonrenewal may rest on a single criterion or a combination of several criteria, reflecting the
12 faculty member's role in the academic unit and the needs of the university. The rationale for the
13 renewal decision must be explained and supported with evidence and with reference to the
14 appropriate criteria.

15
16 The dean and the faculty of the local academic unit must follow the procedures specified in
17 Chapter 3 in making renewal recommendations. Every faculty member in an academic unit is
18 entitled to be judged according to consistent criteria and documentation. Conflicts of interest must
19 be avoided in all faculty evaluations. Any judgment based on a faculty member's ideological and
20 political positions is a violation of academic freedom.

21
22 As detailed in Chapter 3, the local academic unit normally makes a recommendation on annual
23 renewal and nonrenewal. If the dean does not concur in the recommendation of a local academic
24 unit, the dean shares his or her recommendation with the local academic unit. The local academic
25 unit may appeal the dean's recommendation to the provost. In such cases, the dean and the local
26 academic unit must provide the provost with written reasons for their respective positions. The
27 provost makes the final decision and reports it to the candidate. A faculty member who is not
28 renewed may file an appeal. (See Chapter 5).

29
30 The non-tenured tenure-line faculty member is entitled to:

- 31
- 32 (a) an opportunity to submit materials supporting renewal. The non-tenured tenure-line faculty
 - 33 member will be notified at least 28 calendar days before the local academic unit's review. The
 - 34 candidate must submit supporting materials to the local academic unit officer at least 14 calendar
 - 35 days prior to the local academic unit review;
 - 36
 - 37 (b) written notification of the decision on renewal. The notification must include the reasons for
 - 38 the decision. A notification to renew should include an assessment of the faculty member's
 - 39 qualifications, noting those conditions which should be fulfilled for future renewal or tenure. A
 - 40 notification of nonrenewal must include the reasons for the decision, the faculty member's appeal
 - 41 rights, and the procedures for such appeals as described in Chapter 5.
 - 42

43 The university follows the AAUP guidelines for notice of renewal. Notice of nonrenewal, or of
44 intention not to recommend renewal, should be given in writing in accordance with the following
45 standards and the calendar specified in Chapter 3.

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

Notification by these dates shall constitute sufficient notification for not offering another contract even though appeal and subsequent review might mean that the final decision is rendered less than a year before the end of the final contract.

A non-tenured tenure-line faculty member informed that his or her contract is not to be renewed may appeal the decision not to renew. See Chapter 5, Appeals and Grievances.

4.3 Tenured Faculty

Tenure creates the presumption of continuing employment. Tenured faculty may be dismissed only under provisions set out in this handbook. Tenured faculty are not renewed annually.

4.4 Disciplinary Actions Including Dismissal or Suspension for Misconduct

4.4.1 Misconduct

The university's response to allegations of faculty misconduct may vary according to the nature of the misconduct, its seriousness, its impact on the university's reputation or the well-being of other members of the university community, and any prior record of misconduct by the faculty member. Disciplinary sanctions may apply to any full-time faculty member, including, but not limited to, all tenure-line faculty. Faculty members who hold administrative appointments are subject to these provisions with respect to their role as faculty members.

Misconduct includes violations of university policies, including the Faculty Handbook and anti-discrimination and anti-harassment policies; violations of academic or scholarly integrity; or a pattern or practice of failing to meet university contractual obligations.

Disciplinary proceedings are reserved for situations that warrant the imposition of a major or a minor sanction. Inadequate performance in teaching, scholarship/research/creative activities, or service that does not rise to the level of misconduct must be dealt with during the standard processes for faculty review and/or reappointment/renewal.

All procedures are to be carried out as expeditiously as is reasonably possible. All time guidelines in this section refer only to calendar or business days within regular academic terms — Fall, Winter, and Spring quarters or Fall and Spring semesters— and are to be construed as recommended maximums.

4.4.2 Categories of Disciplinary Sanctions:

- **Minor sanctions:** sanctions short of suspension or dismissal
- **Major sanctions:** suspension or dismissal

4.4.3 Initiation of Disciplinary Actions in All Disciplinary Cases Involving Faculty:

1. The dean initiates an investigation of alleged faculty misconduct, except in situations where initiation of disciplinary action is based on OIDE findings, in which case the dean will work in consultation with OIDE.
2. The dean should attempt to resolve the issue through an informal process resulting in both parties agreeing with the outcome.
3. If informal resolution fails, the dean will present the faculty member with a statement of charges. The faculty member will be provided an opportunity to submit a rebuttal within two weeks of the presentation of the statement of charges. If the faculty member perceives that the dean has a conflict of interest, he or she may simultaneously request in writing that the dean appoint a designee. The dean may deny the request with written reasons.
4. After the statement of charges is presented, either party may invite a DePaul colleague to act as an advisor. The advisor may attend but not participate in any meeting related to the case. Within four weeks of the presentation of the charges, the dean or the designee will conduct a detailed review of the charges and the rebuttal, if any, and prepare a report.
5. The faculty member may examine the report and any evidence referenced in the report and will be given two weeks to provide a final statement before a decision is reached.
6. In all cases, the burden of proof is with the dean and a recommendation for sanctions must be supported by a preponderance of evidence.
7. The dean shall make a decision within eight weeks of the presentation of the charges. This decision may be one of the following: (1) to dismiss the case; (2) to impose a minor sanction; or (3) to refer the case to the provost for major sanctions.

The dean shall file with the office of the provost the statement of charges, the faculty member's rebuttal, the report, the final statement by the faculty member and the dean's own written decision. The office of the provost shall maintain this information

In cases involving minor sanctions:

The dean makes the decision on the sanctions to be imposed. The faculty member may grieve the decision according to the grievance procedures of Chapter 5. To the extent possible, the dean and the provost will not release any information about the sanctions.

In cases involving major sanctions:

If the dean's written decision includes a recommendation for major sanctions, the provost (or designee) will conduct a detailed review of the charges and any evidence provided by the parties at the college level. The provost (or designee) may interview the parties or consult additional experts and request additional evidence from the parties.

The provost will make a decision within ten weeks of the presentation of the statement of the charges.

The provost's decision will be one of the following:

1. dismiss the case; or
2. issue a minor sanction; or
3. **(in the case of term faculty only)** impose a major sanction without a formal hearing (in this case, the term faculty member has the right to appeal to the Faculty Committee on Appeals according to procedures in Chapter 5); or
4. **(in the case of tenure-line of faculty)** refer the case for a formal faculty hearing with a recommendation for a major sanction (see below for detailed procedure).

4.4.4 Formal Hearing in Cases Involving Major Sanctions Against Tenure-Line Faculty

4.4.4.1 Initiation of a formal hearing

1. The provost will notify the faculty member of the intent to refer the case for a formal faculty hearing with a recommendation for a major sanction. The faculty member may waive the right to the hearing and choose to have the case decided by the provost. In that case, the provost's decision will be final and may not be appealed or grieved further. Otherwise, the provost will initiate a request for a formal Hearing Committee and appoint a designee to serve as complainant ("university representative") in the disciplinary proceeding. If a conflict of interest is perceived, the faculty member may request, with justification, a different university representative which can be denied by the provost with written reasons.
2. The university representative must file a detailed statement of charges with the Faculty Council President, a copy of which will simultaneously be provided to the faculty member.
3. The faculty member will have four weeks to submit a written response to the charges once they have been filed with Faculty Council.
4. The university representative will forward the following information to the Hearing Committee: (a) the statement of charges; (b) the response; (c) a list of individuals who may have pertinent information about the case; (d) and the records of any earlier investigations or decisions.
5. The burden of proof rests with the university. The charges against the faculty member must be established by a preponderance of evidence.

4.4.4.2 Rules and procedures for the Hearing Committee

1. The Hearing Committee will be comprised of three tenured faculty members selected in the following manner: Faculty Council shall identify a panel of nine tenured faculty members not affiliated with the college or school of the faculty member. Faculty Council, in conjunction with both parties will develop a process for interviewing the nine selected faculty members. In alternating fashion, with the university going first, each party excludes three members from the panel. The remaining members of the panel constitute the Hearing Committee. The committee shall select its own chair.
2. The Hearing Committee shall not disclose the evidentiary record, including deliberations and findings, except to those with a legitimate need to know.
3. The Hearing Committee may attempt an informal resolution of the case before proceeding to a formal hearing. If it cannot resolve the matter informally, then it will schedule a formal hearing.
4. The university will assume all costs directly incurred by the Hearing Committee.
5. The Hearing Committee will conduct a prehearing meeting with the faculty member and the university representative to clarify the issues, stipulate facts, finalize the list of

- 1 individuals who may have information relevant to the hearing, provide for the exchange
2 of documentary or other information, and identify other appropriate objectives to make
3 the hearing fair, effective, and expeditious. The committee will provide both parties with
4 a written record of its decisions.
- 5 6. The chair of the Hearing Committee will notify all concerned parties of the time and
6 location of the hearing. Notice of the hearing must be in writing and made at least two
7 weeks prior to the hearing. Time extension or rescheduling requests by the faculty
8 member or the university representative may be granted by the chair for good reason.
- 9 7. At any time before the start of the hearing, the faculty member may choose not to
10 participate in person but may choose to submit a written response to the specific charges.
11 In the event the faculty member does not participate in person he or she may still deny
12 the charges or assert that the charges do not support a finding for a major sanction.
- 13 8. The hearing will proceed in the absence of either the faculty member or the university
14 representative who fails to appear at the hearing after receiving notification. Only
15 circumstances that are beyond a party's control and that prevent a party's attendance at
16 the hearing will constitute good reason to reschedule the hearing. The Hearing
17 Committee will make the determination as to whether there is good reason for the
18 absence.
- 19 9. The Hearing Committee (on its own or at the request of either party) may invite persons
20 from inside or outside the university to give testimony relevant to the matter. University
21 personnel will make every effort to cooperate with the committee in securing witnesses
22 and making evidence available. The parties shall have the right to cross-examine all
23 witnesses.
- 24 10. The faculty member may receive the assistance of counsel of her or his choosing and at
25 her or his cost. If the faculty member employs an attorney for the hearing, and the
26 decision is not for a major sanction, the University will reimburse the faculty member for
27 at least one-half of the reasonable legal expenses, the precise proportion to be decided by
28 the Hearing Committee, depending on the degree to which the University case had merit.
- 29 11. All hearings are closed to the public. The Hearing Committee, at its sole discretion, may
30 remove participants in the hearing who disrupt the process.
- 31 12. The hearing will be transcribed. At the conclusion of the hearing, the parties shall have
32 unrestricted access to the full evidentiary record and a copy of the complete transcript.
33 The parties will be given a reasonable period of time, specified by the committee, to
34 examine this record. After examining the record, the faculty member and the university
35 may file closing statements, copies of which will be provided by the chair to the other
36 parties.
- 37 13. Subsequent to filing the closing statements, the Hearing Committee will deliberate in a
38 closed session.
- 39 14. The findings of the Hearing Committee may be only one of the following: (1) adequate
40 cause for dismissal, (2) adequate cause for suspension, (3) adequate cause for a minor
41 sanction, or (4) adequate cause has not been established for major or minor sanctions. If
42 the finding is for a sanction other than dismissal, the Hearing Committee shall include in
43 its report recommendations for appropriate sanctions.
- 44 15. The findings and the decision of the Hearing Committee on appropriate sanctions must be
45 supported by a majority vote and be specified in a written report. The chair of the
46 Hearing Committee will submit the report to the provost and the faculty member.
- 47 16. The provost (or president if the provost has a conflict of interest) may either accept the
48 decision of the Hearing Committee or resubmit this decision to the committee with
49 specific objections. In the latter case, the committee will then reconsider only points to
50 which the provost has objections, receiving new evidence if necessary. After its

reconsideration, the Hearing Committee will deliver its final decision to the provost (or president if the provost has a conflict).

4.4.5 Appealing the Decision of the Hearing Committee in Cases Involving Major Sanctions Against a Tenure-Line Faculty Member

In cases involving major sanctions against tenure-line faculty either party (the provost/president on behalf of the university or the faculty member) has the right to appeal a decision by the Hearing Committee to an Appeals Board.

Grounds for appeal could be one or more of the following:

1. Procedural violations that compromised the ability of a party to present arguments or evidence or to do so in a timely manner; procedural violations that compromised the committee's consideration of the evidence and arguments presented;
2. Failure of the committee to apply appropriate standards under which the charges were brought and under which the charges should have been considered; failure of the committee to consider relevant evidence actually presented;
3. Arbitrary decisions of the committee that could not reasonably follow under the standards applied and given the evidence presented.

Makeup of the Appeals Board:

1. Two deans (excluding the dean involved in the case) selected by the Council of Deans.
2. Two faculty members (without a conflict of interest in the case) selected by the Faculty Council from among the twelve members of the Faculty Committee on Appeals.
3. One additional member selected jointly by the president of the university and the president of Faculty Council.

The Appeals Board may take one of the following actions:

1. Accept the decision of the Hearing Committee; or
2. Send back the matter to the Hearing Committee with specific recommendations for additional actions or changes. This action should be taken if the Appeals Board believes that the decision was influenced by the procedural or standards violations, but those violations can be remedied by the Hearing Committee. In this case the Hearing Committee shall take appropriate action taking into account the Appeals Board's recommendations and issue a revised report with a final decision; or
3. Reject the Hearing Committee's decision and conduct a new hearing. This action may only be taken if the Appeals Board can demonstrate that no reasonable decision-maker could have arrived at the conclusion of the Hearing Committee based on the facts presented, or the procedural violations were so egregious that they compromised the integrity of the process. Should the Appeals Board initiate such a rehearing, it must issue a written opinion with its findings regarding the deficiencies in the Hearing Committee decision before commencing its rehearing. In conducting a rehearing the Appeals Board will follow the same operating procedures required of the Hearing Committee.

In all three cases, there is no further appeal from this decision within the university.

4.5 Emergency Suspension

In an emergency where potentially serious harm must be prevented and immediate action must be taken before initiating the disciplinary procedures set out in this chapter, the provost may suspend a faculty member. The provost shall inform the faculty member in writing of the terms of the suspension. Within a reasonable timeframe of issuing the written notice, the provost shall either lift the suspension or initiate the formal disciplinary procedures. The suspension will not continue beyond the time required to remove the actual or potential harm, ordinarily not beyond the academic year.

A faculty member may grieve a suspension under this section only if the dean declines to initiate formal disciplinary procedures. SEE CHAPTER 5 APPEALS AND GRIEVANCES.

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

4.6 Termination Due to Financial Exigency

4.6.1 Financial Exigency

Termination of an appointment with tenure may occur due to financial exigency of the university. Financial exigency is a financial crisis that fundamentally compromises the academic integrity of the institution as a whole. The crisis usually results from substantial and recurring financial deficits that cannot be offset by prudent use of the university's reserves.

Prior to declaring exigency, the university president, provost, and executive vice president will retrench operations in all areas before taking steps that could lead to the termination of tenured faculty. These retrenchments will be made up to the point where there would be a danger of seriously jeopardizing the academic quality or the essential operations of the university.

With the exception of the work of the identified committees, all of the steps specified below in Subsections 4.6.2 thru 4.6.7 (inclusive) must be initiated, conducted, and completed within the regular academic year calendar – from the opening date of regular day and evening Autumn quarter classes to the date of the last final exam in Spring quarter. Any steps that remain uncompleted at the close of business on the date of the last final exam in Spring quarter shall be suspended until the following autumn quarter commences.

4.6.2 Provost Statement

The provost shall issue a formal statement to the president of the Faculty Council and the president of the Staff Council, indicating and providing documentary support of the existence of financial exigency. The statement will address the following points:

1. Evidence of financial exigency and the need for serious retrenchments involving the termination of tenured faculty;
2. Evidence in support of assumptions underlying projections of future revenues and costs;

3. Dollar amount and distribution of the retrenchments that have been made or can be made in all parts of the university without terminating tenured faculty appointments, including possible administrative salary reductions; and
4. Dollar amount of decrease in expenditures to be realized in colleges that will result in the termination of tenured faculty appointment(s).

4.6.3 Financial Exigency Committee

The statement by the provost shall be reviewed by a Financial Exigency Committee to determine whether there is sufficient evidence to declare financial exigency. The committee shall consist of four tenured faculty members (none of whom hold administrative appointments at the level of Associate Dean or above), one staff member, one student, one representative of the Board of Trustees, the executive vice president and the provost (ex officio). The committee will select one of its members to act as chair. Faculty Council will appoint the faculty members; Staff Council will select the staff member; Student Government Association will select the student member; and the Board of Trustees will select its representative. Members of the committee may be chosen from any area of the university. The executive vice president shall convene the committee within two weeks upon receipt of the statement from the provost.

Within two weeks of request, the university shall provide the Financial Exigency Committee with all university data necessary to evaluate the provost's statement. This data must include (1) records of current and past operations and financial position, and (2) projections of future operations and financial position. When necessary, the committee may also invite faculty, staff, or other knowledgeable persons to provide information. The committee shall keep a formal record of its deliberations and votes within 30 days of receipt of the requested financial information, the committee will evaluate the financial data, and vote on whether a condition of financial exigency exists that requires the termination of tenured faculty. The committee will issue a report. If the committee finds that financial exigency exists, its report on financial reductions shall consider the university's complete set of financial statements, not simply revenues and costs. The committee shall carefully consider whether and how the university's real estate and other assets might be sold, refinanced or otherwise reallocated.

If the committee concludes that such financial exigency exists, the report must include the amount of reduction needed (1) in the areas of academic affairs that are not part of the schools and colleges, and (2) in the colleges and schools. If the committee concludes that no such financial exigency exists, the report must include a rationale for this conclusion.

The report of this committee will be sent to the Faculty Council, Staff Council, and the Student Government Association for review and comment. All comments are due to the Financial Exigency Committee within 30 days of receipt. The Financial Exigency Committee will send its report and any comments from the councils and SGA to the university president for final decision.

4.6.4 Retrenchment Committee

In the event that the president of the university concludes that financial exigency exists, the provost will prepare a proposal indicating the specific methods for dealing with the financial exigency, including (1) the amount of the financial reductions outside of the schools and colleges,

(2) the amount of financial reductions within each school and college, (3) the nature and timing of the retrenchments, and (4) the effects of these retrenchments on specific academic programs.

This proposal will be submitted to a Retrenchment Committee consisting of three tenured faculty members (none of whom hold administrative appointments at the level of Associate Dean or above) appointed directly by the Faculty Council, one college dean chosen by the Dean's Council, and the provost. The committee will select one of its members to act as chair. The three tenured faculty members must be chosen from different colleges within the university. Members of the committee must understand and agree that they do not represent their academic units. They must take into account the seriousness of the situation and make decisions based on the best long-term interests of the university.

The provost shall also submit the proposal to the dean of each affected school or college who, after consulting with his/her faculty, may present a written recommendation to the Retrenchment Committee as to how the required reduction could be achieved.

Before the Retrenchment Committee reaches any decision, it must provide the affected faculty and staff the recommendations and the opportunity to respond in writing to the provost's and deans' recommendations. The Retrenchment Committee will also convene a meeting open to all tenured faculty, at which it will consult the faculty and respond to their concerns. The provost's recommendation, as well as any dean's recommendation, must be made available to the tenured faculty no less than two weeks before the open meeting.

To achieve the specified amount of financial reduction, the Retrenchment Committee will make a final decision that states:

1. The dollar amount of reduction required of each school or college, other than by termination of full-time faculty;
2. The dollar amount of reduction in each college through the termination of full-time faculty; and
3. A list of academic units financially capable of absorbing faculty transfers/affiliation from other units including an estimate of the number of tenured positions that could be accommodated in each.

The Retrenchment Committee shall send its final decision to the provost, the deans of affected colleges and schools, the president of Faculty Council, the president of Staff Council, and the president of the Student Government Association.

4.6.5 Termination Committee(s)

Based on the decision of the Retrenchment Committee, Faculty Council shall constitute a Termination Committee for each college that must terminate faculty due to the retrenchment. Each Termination Committee shall consist of three tenured faculty members appointed directly by Faculty Council; the members shall be drawn from outside the affected college and shall not be affiliated with the programs or departments in which retrenchments have been mandated. Faculty members who hold administrative appointments at the level of associate dean or above are ineligible to serve. The Committee shall select one of its own members as chair.

The chair of each Termination Committee shall call for the dean of the affected college to consult with local academic unit officers and then submit to the Termination Committee a proposal specifying which faculty will be terminated. If a college is to be phased out or if colleges are to be

merged, the provost shall submit the proposal after consultation with the local academic unit officers and relevant deans.

Faculty from affected units will be given the opportunity to submit written statements, including CVs and other relevant materials that discuss their qualifications and the rationale for their retention.

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

1. Program viability: faculty required for a viable academic program may be retained if the program itself is not to be phased out. Quality of faculty performance may be considered in evaluating whether a faculty member is required for a viable academic program. In extraordinary circumstances, where a serious distortion of the academic program would otherwise result, one or more non-tenured faculty members may be retained. Materials submitted by the affected faculty member(s) must be considered by the Termination Committee along with other relevant material.
2. Tenure: tenured faculty are to be retained over non-tenured faculty; and
3. Seniority: more senior faculty are to be retained over less senior faculty. Seniority is defined first by rank and second by years in rank.

In evaluating the proposals and the application of the above criteria, the Termination Committee will comply with the university's equal employment opportunity policies and procedures.

The Termination Committee(s) will submit their recommendations to the provost, the deans of the affected units, the department chairs or program heads, and the president of the Faculty Council.

The provost makes the final determination on termination. Only in rare instances and for compelling reasons will the provost overturn a recommendation made by the Termination Committee. If the provost's decision differs from the recommendation, the provost must prepare a written explanation and provide it to the deans of the affected units, the department chairs or program heads, and the president of the Faculty Council.

4.6.6 University Obligations upon Termination of Tenured Faculty

1. If a tenured faculty member designated for termination believes he or she is qualified to be transferred, he or she must identify at least one local academic unit or college which was identified by the retrenchment committee as capable of absorbing faculty transfers. The affected faculty member will have the opportunity to submit a written statement regarding his or her fitness to serve as a tenured faculty member in each of the identified units. The faculty member is entitled to attach to his or her written statement any relevant documents or materials. The faculty member may describe any additional training that might be appropriate. The faculty member has the right to access all relevant available information within the university to assist in identifying the units in which he or she would be qualified to serve and to assist in preparing the written statement.

- 1 If the faculty member designated for termination requests a transfer, the local academic
2 unit officer of each of the identified units
- 3 a) Must call a meeting of all the eligible faculty of that unit to vote on the transfer of the
4 faculty member to that unit,
 - 5 b) Must circulate, prior to that meeting, to all such eligible faculty, on a confidential
6 basis, the faculty member's written statement,
 - 7 c) Must provide an opportunity for the faculty member to make an oral presentation to
8 the eligible faculty of the unit and to answer questions,
 - 9 d) Must hold a vote of eligible faculty when a quorum is present. A majority vote of the
10 eligible tenured faculty in attendance is necessary and sufficient to accept the faculty
11 member.

12
13 Should more than one unit accept the faculty member, the faculty member must select one.
14 Upon the faculty member's selection of a unit for transfer, the provost will take necessary
15 steps to effectuate the transfer.

- 16
- 17 2. Should no unit accept the faculty member, then the terminated faculty member shall be
18 entitled to no less than twelve months' notice of termination or a payment equal to the faculty
19 member's contract salary and benefits for an equal length of time. A faculty member who has
20 been tenured at the university for fifteen years or more of continuous tenured service shall be
21 entitled to a minimum of twenty-four months' notice of termination or a payment equal to the
22 faculty member's contract salary and benefits for an equal length of time.
 - 23
24 3. The university is obligated not to approve new full-time faculty hires in a terminated faculty
25 member's areas of expertise (defined as courses that the faculty member has either previously
26 taught or is qualified and willing to teach) within a three-year period unless the terminated
27 faculty member has been offered reinstatement with reasonable time in which to accept or
28 decline. Within this three-year period after retrenchment and termination, no more than three
29 additional quarter-length or two semester-length course sections per year may be offered by
30 adjunct or term faculty within the terminated faculty member's areas of expertise. In
31 instances where the University finds compelling need to offer more than three additional
32 quarter-length or two semester-length course sections per year in a terminated faculty
33 member's areas of expertise through the use of adjunct or term faculty, the provost will bring
34 a proposal to Faculty Council for its approval.
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36 4. The university is obligated not to approve additional full-time faculty positions outside of
37 terminated faculty members' areas of expertise, including in other academic programs or
38 units of the university over a three-year period except in extraordinary circumstances where
39 such faculty appointments are needed to sustain growth or maintain academic programs. In
40 such instances, the provost will bring a proposal to Faculty Council for its review. Only in
41 rare instances and for compelling reasons will the provost overturn the recommendations of
42 Faculty Council.
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44 ***4.6.7 Appeal of Termination***

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46 A tenured faculty member notified of termination because of financial exigency has a right to
47 appeal to a faculty committee regarding the selection of the area and type of retrenchment and
48 selection of specific faculty appointments to be terminated. See Chapter 5.

4.7 Termination of Tenured Faculty Due to Discontinuance or Substantial Reduction of an Academic Unit or Program

The university may discontinue or substantially reduce an academic unit or program. Such decisions must be based on educational concerns and the institution's overall educational mission. If a proposal for discontinuance or substantial reduction involves curricular change but not termination of tenured faculty, it shall be vetted according to Faculty Council's regular policies and procedures. If the proposal does involve termination of tenured faculty, then the following steps must be followed instead.

All of the specified steps must take place during the normal academic year.

4.7.1 Step 1

The dean of the college responsible for the academic unit in question or the provost shall submit a formal proposal ("the Proposal") to the Faculty Council. The dean or provost shall also share the Proposal with the faculty of the unit(s) affected by the proposed changes.

The Proposal should address the following:

1. The extent and scope of the discontinuance or substantial reduction of the academic unit or program, including the number of faculty to be terminated and the nature of the curricular change, if any;
2. Justification and rationale for the proposed reduction or discontinuance of the academic unit or program (including criteria typically used to evaluate the discontinuance or substantial reduction of programs);
3. Justification and rationale for the termination of faculty as a result of the discontinuance or substantial reduction of the academic unit or program;
4. Explanation of how the discontinuance or substantial reduction of the academic unit or program, including the termination of faculty, aligns with the university's academic priorities and educational mission;
5. Description of how the discontinuance or substantial reduction of the academic unit or program, including the termination of faculty, will affect the academic quality of the institution;
6. Description of the specific steps to be taken in restructuring or phasing out the unit and a proposed timeline (e.g., merging with another unit, shrinking or discontinuing a particular program within or across units).

4.7.2 Step 2

Faculty Council shall constitute a Review Committee of five tenured faculty members to evaluate the Proposal and prepare a report and recommendations for the Faculty Council. No member of the Review Committee may be from a unit to be affected by the discontinuance or substantial reduction. The Review Committee shall submit the Proposal and its report to the Faculty Council and to the tenure-line faculty members attached to any unit directly affected by the proposed reductions or eliminations. The tenured faculty members also have a right to submit, individually and/or as a group, a statement to Faculty Council. This statement must be submitted, within twenty calendar days of the receipt of the documents, to Faculty Council.

4.7.3 Step 3

Faculty Council, after receiving the report of the Review Committee and statements from tenured faculty members at the Faculty Council meeting, will vote on the Proposal within two months. All votes on discontinuance or substantial reduction must be conducted by secret ballot. If Faculty Council accepts the Proposal from the dean/provost, it will forward its decision to the university president.

If Faculty Council rejects the Proposal, it will provide its reasons and rationale and make specific recommendations for revision to the dean/provost. It may also request a meeting with dean/provost in order to discuss its concerns and make its reservations clear. The dean/provost may then revise the Proposal in light of these recommendations and resubmit the Proposal to Faculty Council for its final vote.

4.7.4 Step 4

If Faculty Council accepts the Proposal, it will forward its decision to the university president and full-time faculty members of all affected units or programs. The tenure-line faculty members attached to any unit directly affected by the proposed reductions or eliminations have a right to the records used in the deliberation process. The tenured faculty members also have a right to submit, individually or as a group, within twenty calendar days of the Faculty Council decision, a statement to the university president explaining a position contrary to that decision.

The university president shall not make a decision without considering the statements submitted by the tenured faculty members affected by proposed discontinuance or substantial reduction. The university president shall either accept the Proposal or, under exceptional circumstances, revise the Proposal and resubmit to Faculty Council for a vote within thirty calendar days of notification of the Faculty Council decision.

Faculty Council will make the final decision on the Proposal.

4.7.5 Step 5

Should the Proposal be accepted by the university president, Faculty Council, within fifteen calendar days, shall constitute a Termination Committee of three tenured faculty members; the members shall be drawn from outside the affected college and shall not be affiliated with the affected academic units or programs. Faculty members who hold administrative appointments at the level of associate dean or above are ineligible to serve. The Termination Committee shall select one of its own members as chair.

Within fifteen calendar days of the president's decision, the dean of the affected college, in consultation with local academic unit officers, will submit to the Termination Committee a proposal ("Termination Proposal") specifying which faculty affiliated with the affected program or unit will be terminated. If a college is to be eliminated or if colleges are to be merged, the provost shall consult with the local academic unit officers and relevant deans and then submit the Termination Proposal to the Termination Committee.

The tenured faculty members from affected units will be given the opportunity to submit written statements, including CVs and other relevant materials that discuss their qualifications and the rationale for their retention to the Termination Committee.

The dean or provost, in making his or her Termination Proposal, and the Termination Committee, in evaluating the Termination Proposal, are to decide according to the following criteria and in this order of priority:

1. Program viability: faculty required for a viable academic program may be retained if the program itself is not to be phased out. Quality of faculty performance may be considered in evaluating whether a faculty member is required for a viable academic program. In extraordinary circumstances, where a serious distortion of the academic program would otherwise result, one or more non-tenured faculty members may be retained. In such circumstances the Termination Committee must explain why a particular faculty member's expertise is no longer needed. Materials submitted by the affected faculty member(s) must be considered by the Termination Committee along with other relevant material.
2. Tenure: tenured faculty are to be retained over non-tenured faculty; and
3. Seniority: more senior faculty are to be retained over less senior faculty. Seniority is defined first by rank and second by years in rank.

In evaluating the Termination Proposal and the application of the above criteria, the Termination Committee will comply with the university's equal employment opportunity policies and procedures.

The Termination Committee, within thirty calendar days of receiving the Termination Proposal, will submit its recommendations to the provost, the deans of the affected units, the department chairs or program heads, and the president of the Faculty Council.

The provost makes the final determination on termination. Only in rare instances and for compelling reasons will the provost overturn a recommendation made by the Termination Committee. If the provost's decision differs from the recommendation, the provost must prepare a written explanation and provide it to the deans of the affected units, the department chairs or program heads, and the president of the Faculty Council.

4.7.6 University Obligations upon Termination of Tenured Faculty

1. If a tenured faculty member designated for termination believes he or she is qualified to be transferred, he or she must identify at least one local academic unit or college. The affected faculty member will have the opportunity to submit a written statement regarding his or her fitness to serve as a tenured faculty member in each of the identified units. The faculty member is entitled to attach to his or her written statement any relevant documents or materials. The faculty member may describe any additional training that might be appropriate. The faculty member has the right to access all relevant available information within the university to assist in identifying the units in which he or she would be qualified to serve and to assist in preparing the written statement. Within thirty calendar days of receipt of the information from the university, the faculty member must submit a request for transfer to each of the identified units.

If the faculty member designated for termination requests a transfer, the provost must inform the local academic unit officers of each of the identified units. Within forty five calendar days of the provost's notification, the local academic unit officers of the identified units;

- a) Must call a meeting of all the eligible faculty of that unit to vote on the transfer of the faculty member to that unit;
- b) Must circulate, prior to that meeting, to all such eligible faculty, on a confidential basis, the faculty member's written statement;
- c) Must provide an opportunity for the faculty member to make an oral presentation to the eligible faculty of the unit and to answer questions;
- d) Must hold a vote of eligible faculty when a quorum is present. A majority vote of the eligible tenured faculty in attendance is necessary and sufficient to accept the faculty member.

Should more than one unit accept the faculty member, the faculty member must select one. Upon the faculty member's selection of a unit for transfer, the provost will take necessary steps to effectuate the transfer.

2. Should no unit accept the faculty member, the university will make every effort to place the faculty member concerned in another suitable university position for which the person is qualified. If placement in another university position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered.
3. If no position is available within the institution, with or without retraining, or if the faculty member chooses not to pursue another position within the university, the tenured faculty member's appointment will be terminated. The terminated tenured faculty member shall be entitled to a severance payment equal to twenty-four months' contract salary and benefits.
4. The university is obligated not to approve new full-time faculty hires in a terminated faculty member's areas of expertise (defined as courses that the faculty member has either previously taught or is qualified and willing to teach in any academic unit) within a three-year period unless the terminated faculty member has been offered reinstatement with reasonable time in which to accept or decline. Within this three-year period, no more than three additional quarter-length or two semester-length course sections per year may be offered by tenured or non-tenured faculty within that faculty member's areas of expertise. In instances where the university finds compelling need to offer more than three additional quarter-length or two semester-length course sections per year in a terminated faculty member's areas of expertise through the use of tenured or non-tenured faculty, the provost will bring a proposal to Faculty Council for its approval.

4.7.7 Appeal of Termination

A tenured faculty member notified of termination because of discontinuance or substantial reduction of an academic unit or program has the right to appeal to a faculty committee regarding the selection of his or her specific faculty appointment for termination. See Chapter 5.

4.8 Termination of Tenured Faculty Due to Medical Leave Exceeding Thirty-Six Months

If illness or disability prevents a faculty member from performing his or her university obligations and duties, the faculty member may request a medical leave under the university's Family and Medical Leave Act policy and the Sick Pay, Short and Long Term Disability policy. All medical leaves are subject to the policies and procedures of the applicable leave and benefit

1 programs, including physician certification of illness or disability and ability to return to work.
2 Information about university leave and benefit programs are described at the Human Resources
3 website.
4

5 A tenured faculty member who goes on approved Long Term Disability leave may resume his or
6 her university position at any time within thirty-six consecutive months of the first day of Short
7 Term Disability leave if the faculty member is able to fulfill his or her university obligations and
8 duties, with or without reasonable accommodation. If, after the thirty-six month period, the
9 tenured faculty member remains unable to fulfill his or her university obligations and duties, with
10 or without a reasonable accommodation, the tenured appointment may be terminated.
11

12 If a faculty member's appointment is terminated under this section and he or she thereafter
13 becomes able to return to work and resume the obligations and duties of a tenured faculty
14 member, and the faculty member's former appointment is vacant, he or she will be returned to the
15 former appointment at the same rank. If the former appointment is no longer available and there
16 is a vacant faculty appointment for which he or she is qualified, the university will give the
17 former faculty member's application strong consideration. Such a faculty member, if appointed,
18 shall be appointed at his or her prior rank and at the salary associated with the vacant faculty
19 appointment.
20

21 A tenured faculty member whose appointment is terminated under this section may appeal the
22 termination. See Chapter 5.
23

24 **4.9 Resignation**

25

26 A faculty member who wishes to resign shall do so by submitting a written notice of resignation
27 to the dean and local academic unit officer with a proposed effective date.
28

29 **4.10 Retirement**

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31 A faculty member who wishes to retire shall do so by submitting a written notice of retirement to
32 the dean and local academic unit officer with a proposed effective date. DePaul University has no
33 mandatory retirement age for faculty.