Memorandum

Date: January 13, 2021

To: Finnie Coleman, Faculty Senate President

From: Lee Brown, Co-Chair, Faculty Senate Policy Committee
Karen Patterson, Co-Chair, Faculty Senate Policy Committee

Re: Explanation of Proposed Changes to C07 "Faculty Disciplinary Policy" and New Policy A52.1.1 "Faculty Misconduct Review Committee

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Attached are the proposed revision to Policy C07 "Faculty Misconduct and Progressive Discipline Policy" and the proposed new Policy A52.1.1 "Faculty Misconduct Review Committee," which are ready for approval consideration by the Faculty Senate. The Faculty Senate Policy Committee sent these proposed policies to the campus for a 30-day comment period (August 12 - September 14, 2020) and worked with AF&T and the Faculty Senate Operations Committee to address concerns raised during the comment period. The attached proposed policies contain changes which address the campus comments and have been approved by both the Policy Committee, AF&T and the Operations Committee. Below is a summary explanation of the changes proposed for consideration by the Faculty Senate. The Policy Committee would be happy to have a member at the Faculty Senate meeting to an answer questions or concerns. After Faculty Senate approval, the proposed revision will be taken to the Board of Regents for their approval. Thank you for this opportunity to work collaboratively with you on this important policy.

1. Policy C07 "Faculty Disciplinary Policy" was first developed by Academic Freedom and Tenure Committee (AF&T) at the request of the Board of Regents. The policy was approved by the Faculty Senate March 22, 2011, and by the Board of Regents December 13, 2011. C07 has not been revised since its inception, and over the past few years, questions, concerns, and significant issues have been raised concerning C07 and its implementation. To address these concerns, the Faculty Senate Policy Committee and AF&T worked together to conduct a thorough review of Policy C07 which included consultation with faculty impacted by the policy and those administering the policy

Policy Rationale Section:

The current policy jumps right into discipline without any discussion of the need to consider the principles of academic freedom and tenure when reviewing allegations of faculty misconduct. The suggested additional language is based on text in the AAUP statement on "Faculty Misconduct and Discipline" (*Faculty Handbook*, Section B, Appendix 1) and the discipline policy from Michigan State University. Copies of these documents are enclosed for your reference and use.

Policy Statement Section:

The current policy discusses the level of discipline and the procedures for the specific type of discipline without discussion of an inquiry or investigation to determine if the faculty member engaged in such conduct or if the conduct meets the definition of misconduct. There is probably an underlying assumption that such an inquiry would take place before the chair decides on the appropriate discipline, but the policy should start with the premise that an inquiry and/or investigation must take place and discuss the appropriate procedures. Also, added to this section is a statement of the need for confidentiality to protect the privacy of individuals involved in a misconduct inquiry or investigation. The section also expands on faculty protections provided in UAP Policy 2200 "Reporting Suspected Misconduct and Whistleblower Protection from Retaliation."

Definitions:

Definitions are many of the terms discussed in the Policy were added to this section. This includes a definition for Disciplinary Probation which is a new level of discipline proposed in this policy. This is an intermediary level of discipline between censure and suspension without pay and is based on the AAUP statement on "Faculty Misconduct and Discipline" and the discipline policy from Michigan State University referenced in the AAUP statement. Another concept introduced in the definitions section is the Faculty Misconduct Review Committee, which would be a standing committee of AF&T that would be responsible for peer hearings for discipline that does not rise to the level requiring an AF&T peer hearing. This Committee would consist primarily of former AF&T members trained in conducting peer hearings.

Procedures:

As stated above in the Policy Statement section, the current policy discusses the level of discipline and the procedures for the specific type of discipline without discussion of an inquiry or investigation; therefore this proposed policy includes procedures for conducting a preliminary assessment to determine if the allegation is sufficiently credible and specific and an investigation. These steps are patterned after the procedures in E40 "Research Misconduct."

The proposed policy provides separate processes depending on the severity of the discipline with lesser levels of discipline, which include warning, censure, and disciplinary probation having less review requirements. More sever discipline action which includes suspension without Pay or dismissal have greater review requirements and provide the faculty member with a right for a peer hearing. Section 6.2.1 provides the procedures for peer hearings for suspension without pay for any faculty member and dismissal of faculty members without tenure. Section 6.3 indicates use of the AF&T process for dismissal of tenured faculty. Peer hearings are necessary for these sanctions because they affect a faculty member's property rights.

Sections 5.1.1, 5.1.2, 5.1.3, 6.2.2 and 6.2.3 were added for appeals to clarify the faculty member's rights.

Policy Approval Requirements

The original policy was approved by both the Faculty Senate and the Board of Regents.

2. New Policy A52.1.1 "Faculty Misconduct Review Committee" As discussed above the revision to Policy C07 creates the Faculty Misconduct Review Committee as a standing committee of AF&T responsible for peer hearings for discipline that does not rise to the level requiring an AF&T peer hearing. Policy A52.1.1 delineates membership requirements and procedures for conducting peer hearings.

Enclosures:

C07 Revised Draft
A52.1.1 Draft

Related Document Link: AAUP statement on "Faculty Misconduct and Discipline"

Cc: Nancy D. Middlebrook, Ph.D. University Secretary
Candyce Torres, Administrative Coordinator, Office of the University Secretary
Carol Stephens, Policy Consultant, Office of the University Secretary