

310.060 Procedures in Case of Dismissal for Cause

Bd. Min. 3-17-72, p. 36,281; Revised Bd. Min. 6-27-80, p. 38,132; Amended Bd. Min. 9-12-80, 12-12-86, 10-30-87, 2-5-15.

In cases of dismissal of faculty for cause, the burden of demonstrating the existence of an adequate case for dismissal shall rest with the University. A faculty member who has been notified in writing of a proposed action for dismissal may request a preliminary informal conference before an appropriate faculty committee as specified in the Bylaws of the campus faculty. If so requested, the Committee or other body shall promptly inquire into the matter and shall schedule a conference, which the parties shall be entitled to attend, the purpose of which shall be to determine whether an amicable adjustment of the matter can be effected. If no such adjustment can be made, and the notice of proposed action is not withdrawn, the matter shall proceed in accordance with Section 310.060 B.

A. Faculty Committees on Tenure

1. Each Campus Faculty Committee on Tenure shall hold hearings within the jurisdiction of this regulation involving personnel in the several academic divisions of the campus it represents.
2. In any case where the Campus Committee determines prior to a hearing that the best interests of all concerned would be served better by a hearing by the University Faculty Committee on Tenure, the Campus Committee may transfer the case to the University Committee, in which case the University Committee shall serve in the place and stead of the Campus Committee.
3. In addition to serving in the place and stead of the Campus Committee where a case is transferred, the University Committee shall have original jurisdiction to hold hearings involving personnel holding systemwide, rather than campus, academic staff appointments.

B. Formal Proceedings

1. **Definitions** -- In the procedures established under Section 310.060 the following definitions shall apply:
 - a. Respondent shall refer to the faculty member against whom charges are filed.
 - b. Relator shall refer either to the Chancellor or to such person or persons as may be designated from time to time by the Chancellor, to represent the Chancellor in the formal proceedings against a Respondent. This may be the Dean or other appropriate administrative officer recommending action against a Respondent, or other person specifically designated.
 - c. The "Record of the Case in a Section 600.030 or 600.040 Process" includes, when applicable: all Notices to the Parties; investigative report; recordings of Party and witness interviews; exhibits used at a hearing; the hearing record (an audio or audiovisual record of the hearing); any determination of dismissal of all or part of a Complaint or Formal Complaint; the determination on each of the alleged policy violations and sanctions by either the Hearing Panel or decision-maker;

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and the decision on the appeal, if any, including the request for appeal, any additional evidence submitted for the appeal, and written arguments of the Parties pursuant to Section 600.030: Resolution Process for Resolving Complaints of Sexual Harassment under Title IX, and 600.040: Equity Resolution Process for Resolving Complaints of Discrimination and Harassment, against a Faculty Member or Student or Student Organization.

- d. Complainant is defined in Sections 600.030.C.6 and 600.040.C.3 of the Collected Rules and Regulations.

2. Statement of Charges - Request for a Committee Hearing

- a. When dismissal for cause is considered by or recommended to the Chancellor, the Respondent shall be notified in writing by the Relator of the proposed action for dismissal and the reasons therefor, stated with reasonable particularity and called the Charge, and of the right to a hearing by the appropriate Faculty Committee on Tenure together with a membership roster of the Committee. If the Respondent desires a hearing, the Respondent shall give written notice of this request to the Chancellor within thirty consecutive calendar days from the receipt of the formal notice. The Respondent shall also send copies of this request for hearing to the Relator and to the Chairman of the Committee. The Relator shall thereupon file a copy of the Charge with the Chairman of the Committee. Failure by the Respondent to make a timely written request for a hearing shall constitute a waiver of the Respondent's right to a hearing before the Committee.
- b. The Respondent shall file a written Answer to the Charge with the Chairman of the Committee at least three calendar days prior to the date set for hearing before the Committee. Such Answer shall specifically admit or deny the allegations of the reasons contained in the Charge. A failure to answer or to deny an allegation of fact in the Charge may be considered by the Committee as an admission of such fact.
- c. The Relator shall notify the Complainant of the filing of the Charge and the request for hearing.
3. **Suspension from Duties** -- Pending a final decision by the Committee, the Respondent will be suspended (or assigned to other duties in lieu of suspension) if immediate harm to someone is threatened by continuance or if the Charge was initiated according to a finding and referral under Section 600.040. For allegations contained in the Charge not previously decided pursuant to the process in Sections 600.030 or 600.040, the Chancellor shall consult with an appropriate standing committee of the faculty before suspending the respondent or as soon as possible thereafter and salary will continue during any period of suspension, and an assignment to other duties shall not diminish salary. If the Charge was initiated according to a finding and referral under Section 600.030 or 600.040, Respondent shall be suspended without pay and removed from campus until the Chancellor makes a determination and all appeals have been exhausted under Section 310.060.

4. Hearing by Committee

- a. If the Respondent makes a timely written request for a hearing by the Committee, the Chairman shall notify in writing the Respondent, the Complainant (when applicable) and the Relator of the date, time, and place of hearing before the Committee, which shall be within a

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reasonable time but not less than ten, or more than thirty, consecutive calendar days after the date of the receipt of the request for hearing. Not less than twenty days shall be allowed between the delivery of the Charge to the Respondent and the beginning of the hearing.

- b. Any request for continuance shall be made by the Respondent, Complainant or Relator in writing to the Chairman, who shall have discretionary authority to continue the hearing within the time limits fixed under Section 310.060 B.4.a upon determining that the request is timely and made for good cause. Any continuance beyond the time limit fixed must be by action of the Committee and approved by the Chancellor.
 - c. In accordance with standing University policy in personnel matters, such hearings shall not be open to the public.
 - d. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by the Relator, the Complainant, the Respondent, the Committee, or administrative officers will be avoided until the proceedings have been completed, including final appeal.
5. **Conduct of Hearing** -- The Chairman shall preside at the hearing, call the hearing to order, call the roll of the Committee in attendance, ascertain the presence or absence of the Respondent, the Complainant (when applicable) and the Relator, read the notice of hearing, read the Charge and Answer, verify the notice of the Charge to the Respondent, report any continuances requested or granted, establish the presence of any advisor or counselor of either party, call to the attention of the Respondent and Respondent's advisor any special or extraordinary procedures to be employed during the hearing, and permit the Respondent to suggest or object to procedures. Formal rules of evidence shall not be required.
- a. **Opening Statements**
 - (1) The Relator shall make opening remarks outlining the general nature of the case. Such remarks shall not be considered as evidence. The Relator may give evidence, but only if called to testify as a witness.
 - (2) The Respondent may also make an opening statement to the Committee about the charge, either at this time or at the conclusion of the Relator's presentation, at the Respondent's election. Such remarks shall not be considered as evidence. The Respondent may give evidence, but only if called to testify as a witness.
 - (3) The Complainant may make an opening statement to the committee about the allegation(s) in the Charge which were previously decided pursuant to the process in Section 600.030 or 600.040. Such remarks shall not be considered as evidence.
 - b. **Evidence for Matters Previously Decided in the Section 600.030 or 600.040 Process**
 - (1) The Record of the Case in the Section 600.030 or 600.040 Process will be the evidence before the Committee and the findings will be adopted by the Committee. There will not be a rehearing of those issues previously decided in the Section 600.030 or 600.040 process and the Relator, the Complainant and the Respondent will not be allowed to present additional evidence or rebuttal evidence regarding those matters.
 - (2) Any additional allegation(s) in the Charge which were not within the jurisdiction of and not previously decided in the Section 600.030 or

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600.040 Process will follow the process in Section 310.060.

(3) If the Committee determines that there is good cause to believe that there is new evidence, unavailable during Section 600.030 or 600.040 Process and that could substantially impact the original finding, the Committee may refer the matter back to the applicable process in Section 600.030 or 600.040 for further proceedings. If the original decision maker is available, the matter will be heard by the original decision maker.

c. **Relator's Evidence**

(1) Relator's witnesses are to be called and identified and evidence or written statements or reports introduced as appropriate.

(2) The Committee may question witnesses or examine evidence at the conclusion of the Relator's presentation. Respondent may question the Relator or witnesses.

d. **Respondent's Evidence**

(1) Respondent's witnesses are to be called and identified and evidence or written statements or reports introduced as appropriate.

(2) The Committee may question witnesses or examine evidence at the conclusion of Respondent's presentation. Relator may question the Respondent or witnesses.

e. **Rebuttal Evidence** -- The Committee shall permit the Relator or the Respondent to offer any matter in rebuttal of the other's presentation.

6. **Rights of Committee** -- The Faculty Committee on Tenure shall have the right:

a. To determine the relevancy and admissibility of any evidence offered at the hearing, except that when the allegation(s) in the Charge was previously decided pursuant to the process in Section 600.030 or 600.040, the Record of the Case in the Section 600.030 or 600.040 Process will be the evidence before the Committee and the findings will be adopted by the Committee.

b. To permit a stipulation of agreed facts by the Relator and the Respondent.

c. To permit the incorporation in the record by a reference of any document, affidavit or other exhibit produced and desired to be incorporated in the record by the Relator or the Respondent.

d. To question witnesses or evidence introduced by either the Relator or the Respondent at any time.

e. To call additional witnesses for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section 600.030 or 600.040.

f. To have access to the Record of the Case in the Section 600.030 or 600.040 Process.

g. For allegations in the Charge previously decided pursuant to the process in Section 600.030 or 600.040, if the Committee determines that there is good cause to believe that there is new evidence, unavailable during the Section 600.030 or 600.040 Process and that could substantially impact the original finding, the Committee may refer the allegation(s) back to the applicable process in Section 600.030 or 600.040 for further proceedings. If the original decision maker is available, the matter will be heard by the original decision maker.

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- h. To dismiss any action or permit informal disposition at any stage of the proceeding if agreed to by Relator, Respondent, and appointing authority.
- i. To permit at any time amendment of the Charge or Answer so as to include matters which may come to the attention of the Committee before final determination of the case, provided however, that in such event the Committee shall grant to the Respondent or the Relator such time as the Committee may determine reasonable under the circumstances to answer or explain such additional matters.
- j. To dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Chairman of the Committee.
- k. To have present a legal advisor to the Committee, who shall be designated by the General Counsel of the Board of Curators.

7. Parties' Rights Upon Hearing

- a. A Relator appearing before a Faculty Committee on Tenure for a hearing pursuant to formal notice of a Charge shall have the right:
 - (1) To be present at the hearing, which right may be waived by failure to appear.
 - (2) To have present any legal or other advisor or counselor and to consult with such advisor or counselor during the hearing.
 - (3) To present evidence by witnesses and by properly identified written statements or reports in support of the Charge for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section [600.030 or 600.040](#).
 - (4) To hear or examine evidence presented by the Respondent for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section [600.030 or 600.040](#).
 - (5) To question witnesses present and testifying for Respondent for allegations contained in the Charge which were not within the jurisdiction of and not previously decided pursuant to the process in Section [600.030 or 600.040](#).
 - (6) To make any statement to the Committee in support of the Charge.
 - (7) To be informed in writing of the findings of the Committee and its recommendation on the Charge.
- b. A Respondent appearing before a Faculty Committee on Tenure for a hearing pursuant to formal notice of a Charge shall have the right:
 - (1) To be present at the hearing, which right may be waived by failure to appear.
 - (2) To have present any legal or other advisor or counselor and to consult with such advisor or counselor during the hearing.
 - (3) To present evidence by witnesses and by properly identified written statements or reports for any defense the Respondent desires for allegations contained in the Charge which were not previously within the jurisdiction of and not previously decided pursuant to the process in Section [600.030 or 600.040](#).
 - (4) To hear or examine evidence presented to the Committee for allegations contained in the Charge which were not previously within the jurisdiction of and not previously decided pursuant to the process in Section [600.030 or 600.040](#).

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(5) To question witnesses present and testifying at the hearing for allegations contained in the Charge which were not previously within the jurisdiction of and not previously decided pursuant to the process in Section 600.030 or 600.040.

(6) To make any statement to the Committee in mitigation or explanation of the conduct in question.

(7) To be informed in writing of the findings of the Committee and its recommendation on the Charge.

- c. Complainant may elect to participate in the Section 310.060 process but there is no negative inference if Complainant elects not to participate. If Complainant elects not to participate in the Section 310.060 process, Complainant still has the right to be informed in writing of the findings of the Committee and its recommendation on the Charge, as it relates to the allegation(s) in the Charge previously decided pursuant to the process in Section 600.030 or 600.040. If Complainant elects to participate in the Section 310.060 process, Complainant shall have the right:

(1) To be present, which may be waived by failure to appear, at the portions of the hearing related to the allegation(s) in the Charge previously decided pursuant to the process in Section 600.030 or 600.040.

(2) To have present any legal or other advisor or counselor and to consult with such advisor or counselor during the hearing.

(3) To make an impact statement, either verbally or in writing, to the Committee.

(4) To be informed in writing of the findings of the Committee and its recommendation on the Charge, as it relates to the allegation(s) in the Charge previously decided pursuant to the process in Section 600.030 or 600.040.

8. Other Procedural Questions

- a. Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Chairman, whose ruling shall be final unless the Chairman shall present the question to the Committee at the request of a member of the Committee, in which event, the ruling of the Committee by majority vote shall be final.

- b. **General Rules of Decorum** -- The following general rules of decorum shall be adhered to:

(1) All requests to address the Committee shall be made to the Chairman.

(2) The Chairman shall rule on all requests and points of order and may consult with the Committee's legal advisor prior to any ruling. The Chairman's ruling shall be final and all participants shall abide thereby unless the Chairman shall present the question to the Committee at the request of a member of the Committee, in which event the ruling of the Committee by majority vote shall be final.

(3) An advisor or counselor shall be permitted to address the Committee and to question witnesses. An advisor or counselor may request clarification of a procedural matter or may object on the basis of procedure at any time by addressing the Chairman after recognition.

9. **Determination by Committee** -- The Committee shall then make its findings and determination by majority vote in executive session out of the presence of

the Relator and Respondent. Separate findings of fact are to be made as to each count of the Charge, and a recommendation made based upon the findings on all charges. Before recommending dismissal of the Respondent, the Committee shall be convinced by the evidence in the record considered as a whole that one or more counts have been sustained and that such count or counts warrant dismissal.

- a. Official Report of Findings and Determination -- Promptly after the hearing and, in any event, within ten consecutive days after receipt of the record, the Committee shall make its findings of fact and recommendations in writing and transmit them to the Chancellor, to the Relator, to the Complainant (when applicable and as it relates to the allegation(s) in the Charge previously decided pursuant to the process in Section [600.030 or 600.040](#)) and to the Respondent forthwith. If the Committee concludes that adequate cause for dismissal has not been established, and therefore tenure is not involved, but that some discipline or penalty less than dismissal may be appropriate, it may recommend that the Record of the Case be referred to the appropriate campus-level Committee for its recommendation to the Chancellor.
- C. **Record of Case** -- A taped or stenographic record of the hearing shall be taken and shall be maintained for five (5) years. The notice, exhibits, hearing record, a copy of the Record of the Case in [a Section 600.030 or 600.040](#) Process, when applicable, and the findings and determination of the Committee shall become the "Record of the Case," shall be filed in the Office of the President of the University, and shall be available only for official purposes, and for the purpose of appeal be accessible at reasonable times and places both to the Relator and the Respondent. In the event of an appeal, no new evidence shall be taken in the case, but the appellate authority may remand the matter for further evidence to the Committee. Either party may have any such record of the hearing reduced to writing for the purposes of appeal.
- D. **Determination by Chancellor and Right of Appeal**
 1. The Chancellor shall make a determination in the matter after giving due consideration to the findings and recommendations of the Committee and may remand the matter to the Committee or to the decision maker in the Section [600.030 or 600.040](#) Process, when applicable, for further proceedings. Upon reaching this determination, the Chancellor shall notify the Respondent, the Complainant (when applicable and as it relates to the allegation(s) in the Charge previously decided pursuant to the process in Section [600.030 or 600.040](#)) and Relator in writing of the determination and disposition. The Respondent, Complainant or Relator shall be entitled to appeal to the President of the University as provided in Section 310.060 D.3. The Complainant's right to appeal and have access to records related to the appeal in Section 310.060.D are limited to the allegation(s) in the Charge which were previously decided pursuant to the process in Section [600.030 or 600.040](#). When the allegation(s) in the Charge was previously decided pursuant to Section [600.030 or 600.040](#) and if the Chancellor determines that adequate cause for termination has not been established, the Chancellor, in consultation with the Provost, shall determine sanctions less than termination for cause. The determination of sanctions less than termination for cause is stayed pending the appeals related to the Chancellor's decision as to termination and are not part of those appeals.
 2. When permitted by these Regulations, the Respondent, Complainant or Relator may appeal a decision of the Chancellor by filing written notice of appeal

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within seven (7) consecutive calendar days after notice of the decision of the Chancellor with the President. A copy of the Notice of Appeal will simultaneously be given by the appealing party to all other parties. The appealing party may file a written argument confined to the issues and evidence previously submitted and contained in the Record of the Case for consideration by the President. Such memorandum must be filed with the Notice of Appeal, and the President may request a reply to such memorandum by the Respondent, Complainant or Relator. The President shall have the discretionary right to grant extensions of time.

3. The President shall review the full Record of the Case and the appeal documents and may affirm, reverse, remand the case for further proceedings or, upon concluding that adequate cause for termination has not been established, and therefore tenure is not involved, but that some discipline or penalty less than dismissal may be appropriate, may refer the Record of the Case to the appropriate campus final Committee on Faculty Responsibility for its recommendation to the Chancellor and the President shall notify the Respondent, Complainant (when applicable) and the Relator in writing of this decision on the appeal.
 - a. The Relator, Complainant or the Respondent may thereafter appeal to The Board of Curators of the University of Missouri by filing a written Notice of Appeal with the President of the University and the Secretary of the Board of Curators and giving notice either to the Respondent or the Relator, as appropriate. Such Notice of Appeal must be filed within seven (7) consecutive calendar days of the notification of action by the President. Upon the filing of a Notice of Appeal to the Board, the President shall cause the record of the case, including any written memoranda received during its consideration, to be filed promptly with the Secretary of the Board of Curators.
 - b. The appealing party shall have the privilege of filing written argument confined to the issues and evidence previously submitted and considered in the Record of the Case for consideration by the Board of Curators with the Notice of Appeal, and the other parties may file a written reply within seven consecutive calendar days. The President of the University may grant extensions of time for filing written argument. The parties have the right of appearance before a committee of the Board.
4. The Board of Curators shall either sustain the decision of the Hearing Committee or return the proceedings to the Committee with specific objections. The Committee shall then reconsider, taking into account the stated objections and receiving new evidence if necessary. The Board of Curators shall take such final action on the appeal as it deems appropriate after study of the Committee's reconsideration. The Secretary of the Board shall notify the Respondent and the Relator in writing of the decision of the Board.

Notice -- If the appointment is terminated, a tenured faculty member shall normally receive salary to the end of the contract year in which final determination was made by the Chancellor under these procedures, as set forth in Section 310.060 D.1, except that no salary shall be paid beyond the date of termination if the cause of termination was conviction of a felony or if the cause of termination resulted from a Charge that was initiated pursuant to a finding and referral pursuant to Section 600.030 or 600.040. The Faculty Committee on Tenure may make recommendations if a shorter or longer

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period is deemed appropriate because of such considerations as the nature and gravity of the conduct which justified dismissal and the length and quality of service of the faculty member. Notice may also be extended by the President if, through no fault of the faculty member, inordinate delays occur in the appeal process.