

II-9.00(B) INTERIM UNIVERSITY OF MARYLAND PROCEDURES
GOVERNING THE DISCIPLINARY SUSPENSION OF TENURED
OR TENURE-TRACK FACULTY

(Approved by the President, May 16, 2006)

These Suspension Procedures implement the *University of Maryland Policy on the Suspension of Tenured and Tenure-Track Faculty* approved April 17, 2006.

1. The Provost may suspend a tenured or tenure-track appointee with or without pay for moral turpitude, professional or scholarly misconduct, incompetence, or willful neglect of duty. The following procedures constitute the exclusive avenue for appeal and review within the University.
2. A suspension shall be initiated by delivery of a written Notice of Suspension to the appointee. The Notice shall set forth the charges, the length of the suspension, and indicate whether it shall be with or without pay.
3. An appointee who is to be suspended without pay shall be offered an opportunity to have a preliminary meeting with the Provost prior to the effective date of suspension to offer such facts and arguments as to whether or not he or she may continue to work with pay pending the disposition of all proceedings and appeals set forth in Paragraphs 4 and 6, below. The preliminary meeting must be specially requested in writing and received by the Provost within ten (10) calendar days from the date the appointee member received the Notice of Suspension. At the same time, the appointee may include a request for a hearing as set forth in Paragraph 4, below. Under exceptional circumstances involving a threat to the health, safety or welfare of the appointee or the University, the Provost may direct the appointee be immediately relieved of some or all University duties, but without prejudice or loss of compensation pending the outcome of a timely requested preliminary meeting under this Paragraph.
4. An appointee shall be accorded an opportunity to challenge the charges for suspension prior to the effective date of suspension. Upon receipt of a notice of suspension, an appointee may request a hearing before an impartial hearing officer appointed by the Provost or before a three member Faculty Board of review appointed by the Chair of the University Senate. With the consent of the Provost, the appointee may elect to be heard by the Provost rather than by a hearing officer or a Faculty Board of review. The request must be in writing and received by the Provost within ten (10) calendar days from the date the appointee received the notice of suspensions. Except by mutual agreement of the appointee and the Provost, the hearing shall be

held no sooner than fifteen (15) calendar days, nor later than thirty (30) calendar days after receipt of the appointee's request for a hearing. The following matters pertain to the hearing under this paragraph:

- a. University administrative hearing is not a judicial proceeding. It is not the same as a criminal or civil trial and is not governed by all the conventions of courtroom advocacy.
- b. The purpose of a hearing shall be to determine if the charges alleged against the appointee are true in whole or part and if so, whether suspension would be a reasonable sanction under the circumstances.
- c. The burden shall be on the Provost to demonstrate by a preponderance of the evidence that the misconduct, incompetence or neglect alleged as grounds for suspension occurred and that suspension is a reasonable sanction under the circumstances.
- d. The hearing shall be closed to the public. Prospective witnesses, other than the appointee and the Provost and their respective representatives, shall be excluded except to testify.
- e. If the appointee has elected a Faculty Board of review, it shall elect a Chair and may organize itself in the way it thinks most efficient.
- f. The Hearing Officer or Chair shall exercise control over the proceedings to avoid unnecessary delay and to achieve the orderly completion of the hearing. Reasonable measures may be taken to maintain control over the proceedings to elicit relevant facts, to maintain civility, to prevent disruptions or harassment of participants, and to ensure the interests of fairness are preserved. This may include defining the issues (if the parties disagree), regulating the timing, order, length and manner of presentations, motions, argument, testimony and objections, declaring recesses in the proceedings, and taking other appropriate actions. Their decision in these matters shall be final.
- g. The Hearing Officer or Chair shall cause a record of the hearing to be kept, including an audiotape of the proceedings and all documents accepted for consideration.
- h. The formal rules of evidence shall not apply. The Hearing Officer or Chair shall give effect to the rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

- i. The appointee and the Provost will each have an opportunity to make opening and closing statements, present written evidence, examine and cross examine witnesses, offer personal testimony, make objections and file motions. The Hearing Officer or Faculty Board may question the appointee, the Provost, and the witnesses. Matters pertaining to timeliness, conflict, standing, grievability, or authority of the Hearing Officer or Chair should be raised by motion at the earliest possible point in the proceedings.
 - j. It is the personal responsibility of the appointee and Provost, respectively, to produce in a timely manner the evidence they each wish considered, including documents and witnesses. Absent extraordinary circumstances, the hearing will not be delayed to obtain the presence of a witness or document. In advance of the hearing, either party may request that Hearing Officer or Chair contact a person to be a witness or produce a document. The request should be in writing and contain a concise proffer of the expected testimony. If the Hearing Officer or Chair deems the request reasonable and the evidence relevant, the individual may be asked to appear or produce the item, but his or her actions shall be voluntary.
 - k. At the conclusion of the hearing, the Hearing Officer or Faculty Board shall meet privately to reach a conclusion. The decision of a Faculty Board shall be by majority vote. A case shall be judged solely on the evidence in the record, although notice may be taken of University matters within the common knowledge and experience of Campus faculty, including published policies of the University System of Maryland and the University of Maryland. A written report shall be made to the Provost in the form of findings and recommendations. These findings shall address each charge and provide the reasons therefor. The findings shall also include a determination whether suspension would be a reasonable sanction under the circumstances. If warranted, an alternate or modified sanction may be recommended. The report of a Faculty Board may include a separate written dissent. A copy of the report shall be sent to the appointee.
5. The Provost shall inform the appointee of his decision in the case. If the Provost elects not to accept the recommendation(s) of the Hearing Officer or Faculty Board, the reasons shall be promptly communicated in writing to the Hearing Officer or board.
6. If the decision of the Provost is to suspend the appointee, the appointee may appeal to the President. Upon receipt of the decision of the Provost, the appointee may request a meeting with the President. The request must be in writing and received by the President within ten (10) calendar days from receipt of the Provost's decision. The meeting shall occur at the earliest mutually convenient time. The following matters pertain to the appeal.
- a. The purpose of the meeting is to afford the appointee an opportunity to challenge the decision of the Provost.

- b. The appeal shall be limited to oral argument, which may be supplemented by written briefs before or after the meeting. Arguments and facts not previously presented to the Hearing Officer or Faculty Board will not be considered on appeal. The President will have access to the record of the prior hearing.
 - c. The Provost may elect to attend the meeting and respond as appropriate.
 - d. The decision of the President shall be the final.
7. In all proceedings and appeals the appointee and the Provost may each elect to be represented or assisted by a person of their choice, including legal counsel, provided such person is available without unreasonable delay. The President's Office of Legal Affairs will advise the Hearing Officer or Faculty Board and the President on legal and procedural questions that may arise and may be present if requested.
8. Time requirements established in Paragraphs 3, 4, and 6, above, are an important element in these Suspension Procedures and considered necessary to the orderly administration of the academic and financial needs of the University and its faculty. Unless otherwise mutually agreed in advance between the appointee and the Provost, strict adherence to them is a condition of review and appeal under these Procedures.