

Institutional Handbook of Operating Procedures Policy 05.03.10	
Section: Faculty Policies	Responsible Vice President: Executive Vice President and Provost
Subject: Appointments and Rank	Responsible Entity: Council of Dean

I. Title

Termination of a Faculty Member

PART 1 – GENERAL

II. Policy

The purpose of this document is to provide procedures for termination and summary dismissal initiated under The University of Texas System Board of Regents' Rule 31008.

This policy covers proceeding for the termination for good cause or summary dismissal for serious misconduct of a (1) tenured faculty member; and (2) non-tenured faculty member during the term of appointment.

Rule 31008, Section 7, applies when an institution decides not to renew or reappoint a non-tenured or term-tenure faculty member at the end of their appointment pursuant to Regents' Rule 31007, Section 5, or Regents' Rule 31002, Sections 1 and 2.

The procedures in Regents' Rule 31003 apply when a faculty member's employment is terminated due to an institutional financial exigency or due to an institution's decision to eliminate occupied academic positions or abandon academic programs.

III. Chief Academic Officer Initial Review

Upon receipt of an allegation of misconduct, the Chief Academic Officer, or the designated administrator (hereinafter "the CAO" for either), shall review the allegation and determine whether, if true, it justifies recommending proceeding with the good cause procedures (Part II, below) or through the summary dismissal procedures (Part III, below).

The CAO may determine that recommending initiation of the summary dismissal procedures is proper at any point during the CAO's investigation and review of an allegation.

IV. Good Cause

Termination for "good cause" may be found when the faculty member has engaged in one of the following forms of conduct and the faculty conduct is sufficiently serious or egregious in nature such that the President determines it in the best interest of UTMB to separate the implicated faculty:

A. professional incompetence;

- B. continually or repeatedly failing to perform duties or meet professional responsibilities of the faculty member's position;
- C. failure to successfully complete a required professional development program;
- D. conduct involving moral turpitude that adversely affects the institution or the faculty member's performance of duties or meeting of responsibilities;
- E. violation of laws or UT System or UTMB policies substantially related to the performance of the faculty member's duties;
- F. conviction of a crime affecting the fitness of the faculty member to engage in teaching, research, service, outreach, or administration;
- G. unprofessional conduct that adversely affects the institution or the faculty member's performance of duties or meeting of responsibilities;
- H. falsification or misrepresentation of the faculty member's academic credentials, scholarly work, research data, or other type of research or academic fraud or misconduct, including but not limited to falsification, plagiarism or misrepresenting publications;
- I. failure to maintain credentials or licenses required to perform job duties; or
- J. a finding of sexual misconduct that results in a termination recommendation after a hearing under [IHOP - 03.02.04 – Sexual Misconduct](#).

V. Grounds for Summary Dismissal

Summary Dismissal procedures may be initiated, in accordance with applicable procedures, when the allegations made against the faculty member are sufficiently serious in nature such that the president determines it is in the best interest of the institution to have the faculty member immediately removed from their position because the alleged conduct (1) creates a serious safety threat to students, faculty, staff, or members of the public; (2) creates a significant threat to national security; or (3) creates a significant adverse impact on the operation of the institution.

VI. Meetings and Hearings Venues

UTMB may choose to conduct meetings and hearings in person or virtually.

PART II – TERMINATION FOR GOOD CAUSE

I. Review of Allegations for Termination or for Good Cause

A. Notification to Faculty Member of Allegations

When the CAO reviews allegations against a faculty member that involve the potential for termination, the CAO shall present the faculty member with written notice of the allegations and an explanation of the evidence supporting termination.

If the CAO review involves an investigation into the allegations, the CAO has discretion as to when to notify the faculty member of the allegations. The CAO must notify the faculty member

of the allegations prior to the interview and grievance opportunity described in Part II, Section 1(B).

During the pendency of a Regents' Rule 31008 matter, a faculty member may be placed on leave with or without pay if it determined that the allegations warrant it. If the faculty member is placed on leave with or without pay, the faculty member shall be entitled to an appeal of the decision pursuant to [IHOP – 05.03.08 – Faculty Grievance Policy](#), separate from this policy.

B. Faculty Member Meeting Opportunity

As part of the review process, the CAO shall set a date to meet with the faculty member and provide an opportunity for the faculty member to respond to the allegations and to present the CAO a grievance (see C. below) related to the allegations under review.

The faculty member may choose to be represented during the meeting by a representative or an attorney retained by the faculty member ("Advisor"). If the faculty member chooses to be represented by an Advisor, the faculty member must provide written notice to the CAO at least five (5) business days prior to the scheduled meeting. The CAO may attend the meeting with an attorney from UTMB and/or from The University of Texas System Office of General Counsel (UT System OGC).

In lieu of or in addition to the meeting, the faculty member may submit to the CAO a written response to the allegations and supporting documents before and/or after the meeting within a reasonable time set by the CAO.

If the faculty member elects not to meet or to submit a written response, the CAO shall rely on the evidence gathered during the review and investigation.

C. Faculty Member Grievance Opportunity

The faculty member will have the right to present a grievance, directly or through a representative, to the CAO on an issue or subject related to the allegations under review. If the faculty member elects to exercise the right to a grievance, the faculty member must present a grievance no later than five (5) business days prior to the meeting with the CAO. The faculty member may seek one extension from the CAO, if needed.

The faculty member has discretion to present the grievance during the meeting described in Section 1(B) or separately in writing, directly, or through a representative.

The CAO shall take the grievance, if any, into consideration prior to deciding whether the allegations are supported by evidence that justifies termination proceedings.

If the grievance includes credible allegations against the CAO, the President shall designate another individual to review the allegations related to termination proceedings as well as the grievance and decide whether the allegations are supported by evidence that justifies termination proceedings.

If a faculty member does not present a grievance to the CAO, the faculty member will not be precluded from presenting an issue or subject to the President or faculty hearing panel in defense of charges in termination proceedings.

D. CAO Options Upon Review of Allegations

Upon completion of the review of allegations of good cause or serious misconduct for summary dismissal, the CAO may:

1. Recommend to the President that good cause exists to initiate the termination hearing process;
2. Conclude the Regents' Rule 31008 process and impose discipline less than termination hearing process;
3. Conclude the Regent Rules' 31008 process and refer the matter to another department or dean to impose discipline less than termination; or
4. Conclude the Regents' Rule 31008 process with no disciplinary action taken.

When termination is not recommended but disciplinary action is taken, the faculty member may choose to grieve the discipline under the institution's faculty grievance procedure, as applicable.

II. President's Review of Chief Academic Officer's Recommendation of Termination for Good Cause

A. President Notification to Faculty Member of Good Cause for Termination

If after review, the President determines that the CAO recommendation provided pursuant to Section 1(D)(1) establishes good cause for termination, the President shall provide written notice to the faculty member, specifying the allegations for termination, and provide the faculty member with an opportunity to respond.

B. Faculty Member Opportunity to Respond

No later than ten (10) business days after receipt of the President's written notice, the faculty member may respond to the President orally or in writing. The faculty member may seek one extension of time from the CAO, if needed.

In lieu of or in addition to the meeting, the faculty member may submit to the President a written response to the allegations and supporting documents before and/or after the meeting within a reasonable time set by the President.

If the faculty member elects not to respond to the President, the President will rely on the CAO's recommendation and supporting evidence.

If the faculty member meets with the President in person or virtually, the faculty member may choose to be accompanied during the meeting by a representative or an attorney retained by the faculty member ("Advisor"). If the faculty member chooses to be represented by an Advisor, the

faculty member must provide written notice to the President at least five (5) business days prior to the scheduled meeting. The President may attend the meeting with an attorney from UTMB and/or from UT System OGC.

C. President Termination Recommendation

At any point, if the President decides termination is not warranted, the President may end the Regents' Rule 31008 proceedings and may impose a lesser disciplinary action in accordance with UTMB policies.

When the President decides to impose lesser disciplinary action, the faculty member may choose to grieve the discipline under IHOP – 05.03.08 - Faculty Grievance Policy.

If the President recommends termination, the President shall convene a faculty hearing panel to hear the charges against the faculty member in accordance with Section III.

III. Termination Hearings Procedures

A. Process for Appointing Faculty Hearing Panel

In cases that proceed to a hearing based on a termination recommendation by the President, the President shall appoint a faculty hearing panel (Hearing Panel). The Hearing Panel will be composed of three (3) faculty members, and the President may also appoint alternatives. The academic rank of each member of the panel must be at least equal to the accused faculty member.

The President shall appoint the hearing panel members from a standing panel (Standing Pool) of members of the faculty.

1. At least 50% of the Standing Pool shall be selected by the faculty governance organization, or an existing faculty committee with oversight for university-wide faculty committee selection (Faculty-Selected Pool Members).
2. The President shall appoint the remaining members of the Standing Pool (President-Selected Pool Members).
3. The President shall appoint the Panel Chair.

The President must appoint to the Hearing Panel a minimum of one Faculty-Selected Pool Member.

The Hearing Panel will not include any accuser of the faculty member.

The Hearing Panel may be advised by a UT System OGC attorney.

B. Notice to Accused Faculty of Hearing Panel

The President shall notify the accused faculty member in writing the names of the Panel Chair and all other faculty members selected for the Hearing Panel. The faculty member will also be

notified of the date, time, and place for the hearing. The written notifications will be made at least ten (10) business days prior to the hearing.

If the accused faculty member is not satisfied with the fairness or objectivity of any member or members of the Hearing Panel, the faculty member may submit a written challenge to the Panel Chair regarding the alleged lack of fairness or objectivity no later than three (3) business days prior to the date for the hearing. The accused faculty member shall have no right to disqualify any member or members from serving on the Hearing Panel. It shall be up to each challenged member to determine whether they can serve with fairness and objectivity in the matter. If any challenged member should voluntarily disqualify themselves, the president will appoint an alternative or a substitute member of the tribunal from the Standing Pool described in Section III(A).

C. Hearing Procedures

1. Burden to Prove Good Cause

UTMB has the burden to prove good cause for termination by the greater weight of the credible evidence.

2. Parties and Representatives.

A representative of UTMB (Institution Representative) will appear before the Hearing Panel to present charge(s) against the faculty member. The institution is entitled to be represented by an administrator, an attorney from UTMB, or an attorney from UT System's OGC.

The faculty member has a right to appear at the hearing and be represented by an attorney retained by the faculty member.

3. Oral and Written Evidence.

The Panel Chair shall have the discretion to determine the length of the hearing and the form and scope of examination during the hearing. The Panel Chair will preside over the hearing and ensure the order of presentation as well as rule on evidentiary matters.

The Institution Representative and Faculty Member, or their attorneys, will have the right to appear before the Hearing Panel to present oral and written evidence in support or in defense of the charge(s) against the faculty member.

Each party has the right to confront and cross-examine the other party's witnesses.

The faculty member has the right to testify but may not be required to do so. If the faculty member chooses to testify, the Institution Representative, or their attorney, has the right to cross-examine the faculty member.

4. Closed Hearing
The hearing will be closed.
5. Exchanging Documents
The Panel Chair shall set a reasonable time prior to the hearing for the parties to exchange exhibits and witness lists. This Policy does not require UTMB or UT System to find or produce documents to the accused faculty member or their attorney beyond the institution's obligations under the Texas Public Information Act.
6. Record of Proceeding
A stenographic, audio, or video recording of the proceedings will be made, and a copy of the record will be made available to the faculty member and the President.

D. Hearing Panel Findings and Recommendation

1. Findings:
 - a) The Hearing Panel, by a majority of its total membership, shall make written findings on the material facts and shall make a recommendation as to the continuance or termination of the faculty member's appointment.
 - b) Where there has been a finding of sexual misconduct or scientific misconduct (i.e., fabrication, falsification, plagiarism) through an investigation conducted in accordance with UTMB policy, the facts of the finding shall be accepted by the Hearing Panel, by a majority of its total membership, shall provide a written recommendation as to the continuance of the termination of the faculty member's appointment based on the provided factual findings.
2. The Hearing Panel, by a majority of its total membership, may make any supplementary suggestions it deems proper concerning disposition of the case.
3. The Panel Chair shall deliver the majority's written findings, recommendations, and any supplementary suggestions to the President, along with a copy to the faculty member, within 30 days after the hearing. If additional time is required, the Hearing Panel must request an extension from the President. If minority findings, recommendations, or suggestions are made, they shall also be delivered to the President.
4. The Panel Chair shall also deliver the original transcript or audio recording of the testimony and the exhibits to the President.

IV. President's Report

Within fourteen (14) business days after receipt of the Hearing Panel's findings and recommendations, the President shall make one of the following decisions based solely on the evidence in the hearing record and submit a written report of that decision to the accused faculty member:

1. The President may decide to dismiss the matter or impose sanctions less than termination. In this case, the President's decision is final, and the Board of Regents will not review the matter.
2. The President may recommend termination to the Board of Regents if the President determines that the greater weight of the credible evidence establishes good cause for termination.

If so, the President shall forward the findings and recommendations of the hearing tribunal, the original transcript or audio recording of the testimony and the exhibits to the Board of Regents for its review, along with the President's report

If the President's recommendation is not the same as the majority recommendation of the Hearing Panel, the President shall state the reasons for the President's decision to recommend termination or uphold summary dismissal in the President's written report.

The accused faculty member may, within seven (7) business days after receiving the president's report, submit a written response to the Board of Regents. The response must be based solely on the evidence of record in the proceeding.

V. Board Review

The Board of Regents, by a majority of the total membership, will approve, reject, or amend such findings, recommendations, and suggestions, if any, or will recommit the report to the same tribunal for hearing additional evidence and reconsidering its findings, recommendations, and suggestions, if any. Reasons for approval, rejection, or amendment of such findings, recommendations, or suggestions will be stated in writing and communicated to the accused and the President.

PART III SUMMARY DISMISSAL

I. Review of Allegations for Summary Dismissal

A. Notification to Faculty Member of Allegations

When the CAO reviews allegations against a faculty member that may justify summary dismissal, the CAO shall seek approval from the President before proceeding.

If the President agrees that summary dismissal is appropriate based on a review of the allegations, the President shall confer with the Executive Vice Chancellor for Academic Affairs or the Executive Vice Chancellor for Health Affairs. If approved, the President shall direct the CAO to present the faculty member with written notice of the allegations and an explanation of the evidence supporting summary dismissal.

A faculty member subject to these summary dismissal procedures shall be immediately placed on a leave of absence without pay.

B. Faculty Member Hearing Opportunity

The CAO shall promptly set a date for the faculty member to have an opportunity to respond to the allegations in a hearing before the CAO in person or virtually.

If the faculty member elects to appear before the CAO, the CAO shall hear the faculty member's response to the allegations. The faculty member may choose to be represented during the hearing by a representative or an attorney retained by the faculty member ("Advisor"). The CAO may attend the hearing with an attorney from the institution and/or from UT System OGC. If the faculty member chooses to be represented by an Advisor, the faculty member must provide written notice to the CAO at least two business days prior to the scheduled hearing.

In lieu of or in addition to the hearing, the faculty member may submit to the CAO a written response to the allegations and supporting documents. The written response must be submitted to the CAO at least two (2) business days prior to the scheduled hearing.

If the faculty member is unable or elects not to meet or to submit a written response, the CAO will rely on the evidence gathered during the review and investigation.

C. CAO Options upon Review of Allegations

Upon completion of the review of allegations of serious misconduct for summary dismissal, the CAO may:

1. Recommend summary dismissal to the President if the allegations involve serious misconduct as identified in Part I, Sec. V, above. If the President accepts the recommendation, the CAO will communicate the decision to the faculty member. The decision must clearly state that the faculty member is subject to summary dismissal and include the effective date of the dismissal and information regarding the faculty member's opportunity for a post-dismissal appeal in accordance with Section II, below;
2. Recommend to the President that sufficient cause exists to initiate the Part II termination hearing process;
3. Conclude the process and impose discipline less than termination;
4. Conclude the process and refer the matter to another department or dean to impose discipline; or
5. Conclude the process with no disciplinary action taken.

When termination is not recommended but disciplinary action is taken, the faculty member may choose to grieve the discipline under [IHOP – 05.03.08 - Faculty Grievance Policy](#).

II. Summary Dismissal Appeal

A former faculty member who has been summarily dismissed may appeal the dismissal decision. If the former faculty member appeals, the President shall convene a faculty hearing panel in accordance with Section III.

To initiate an appeal, the former faculty member must notify the President in writing of the request for a hearing no later than five (5) business days after the CAO issues the summary dismissal decision. The hearing request will include the grounds for the appeal, such as whether the material weight of the

credible evidence failed to establish serious misconduct or whether the CAO's decision was in error; however, the written appeal does not need to include all the evidence the former faculty member will rely upon to support the appeal.

III. Process for Post-Dismissal Appeal Hearings

A. Process for Appointing Faculty Hearing Panel

In cases that proceed to a hearing based on a summary dismissal appeal, the President shall appoint a faculty hearing panel (Hearing Panel). The Hearing Panel will be composed of three (3) faculty members. The President may also appoint alternates. The academic rank of each member of the panel must be at least equal to that of the accused former faculty member.

The President shall appoint the hearing panel members from a standing panel (Standing Pool) of members of the faculty:

1. At least 50% of the Standing Pool will be selected by the faculty governance organization, or an existing faculty committee with oversight for university-wide faculty committee selection (Faculty-Selected Pool Members).
2. The President shall appoint the remaining members of the Standing Pool (President-Selected Pool Members).
3. The President must appoint to the Hearing Panel a minimum of one Faculty-Selected Pool Member.
4. The President shall appoint the Panel Chair.

The Hearing Panel will not include any accuser of the former faculty member.

The Hearing Panel may be advised by a UT System OGC attorney.

B. Notice to Former Faculty Member of Hearing Panel

The President shall notify the former faculty member in writing of the names of the Panel Chair and all other faculty members selected for the Hearing Panel. The former faculty member shall also be notified of the date, time, and place for the hearing. The written notifications will be made at least five (5) business days prior to the hearing.

If the former faculty member is not satisfied with the fairness or objectivity of any member or members of the Hearing Panel, the former faculty member may submit a written challenge to the Panel Chair regarding the alleged lack of fairness or objectivity no later than three (3) business days prior to the date for the hearing. The former faculty member will have no right to disqualify any member or members from serving on the Hearing Panel. If any challenged member should voluntarily disqualify their self, the President shall appoint either an alternate or a substitute member of the tribunal from the Standing Pool described in Section III(A). If a new member is appointed, at least one of the three (3) Panel members must be from the Faculty-Selected Pool.

C. Hearing Procedures

1. Burden to Prove Sufficient Cause

UTMB has the burden to prove sufficient cause for summary dismissal by the greater weight of the credible evidence.

2. Parties and Representatives

A representative of the institution (Institution Representative) will appear before the Hearing Panel to present charge(s) against the former faculty member. UTMB is entitled to be represented by an administrator, an attorney from the institution, or an attorney from UT System's OGC.

The former faculty member has a right to appear at the hearing and be represented by an attorney retained by the former faculty member.

3. Oral and Written Evidence

The Panel Chair shall have the discretion to determine the length of the hearing and the form and scope of examination during the hearing. The Panel Chair shall preside over the hearing and ensure the order of presentation as well as rule on evidentiary matters.

The Institution Representative and former faculty member, or their attorneys, shall have the right to appear before the Hearing Panel to present oral and written evidence in support or in defense of the charge(s) against the former faculty member.

Each party has the right to confront and cross-examine the other party's witnesses.

The former faculty member has the right to testify but may not be required to do so. If the former faculty member chooses to testify, the Institution Representative, or their attorney, has the right to cross-examine the former faculty member.

4. Closed Hearing

The hearing will be closed.

5. Exchanging Documents

The Panel Chair shall set a reasonable time prior to the hearing for the parties to exchange exhibits and witness lists. This Policy does not require the institution or UT System to find or produce documents to the former faculty member or their attorney beyond the institution's obligations under the Texas Public Information Act.

6. Record of Proceeding

A stenographic, audio, or video recording of the proceedings shall be made, and a copy of the record shall be made available to the former faculty member and the President.

D. Hearing Panel Findings and Recommendations

1. Findings:

- a) The Hearing Panel, by a majority of its total membership, shall make written findings on the material facts and shall make a recommendation whether to uphold the summary dismissal or reinstate the former faculty member's appointment or tenure.
 - b) Where there has been a finding of sexual misconduct or research misconduct (i.e., fabrication, falsification, plagiarism) through an investigation conducted in accordance with institution policy, the facts of the finding shall be accepted by the Hearing Panel. The Hearing Panel, by a majority of its total membership, shall provide a written recommendation as to the reinstatement or continued dismissal of the former faculty member's appointment based on the provided factual findings.
2. The Hearing Panel, by a majority of its total membership, may make any supplementary suggestions it deems proper concerning disposition of the case.
3. The Panel Chair shall deliver the majority's written findings, recommendations, and any supplementary suggestions to the President, along with a copy to the former faculty member, within ten (10) business days after the hearing. If additional time is required, the Hearing Panel must request an extension from the President. If minority findings, recommendations, or suggestions are made, they shall also be delivered to the President.
4. The Panel Chair shall also deliver the original transcript or audio recording of the testimony and the exhibits to the President.

IV. President's Decision

Within ten (10) business days after receipt of the Hearing Panel's findings and recommendations, the President shall make one of the following decisions based solely on the evidence in the hearing record and submit a written report of that decision to the former faculty member:

- A. The President may reinstate the former faculty member, with or without sanctions. This is a final decision and may not be appealed.
- B. The President may uphold a summary dismissal if the President determines that the greater weight of the credible evidence establishes serious misconduct for summary dismissal. This is a final decision and may not be appealed.
- C. If the President's decision to impose summary dismissal is not the same as the majority recommendation of the Hearing Panel, the President shall state the reasons for the decision and shall submit it to the Chancellor for review.

V. Chancellor Review and Decision

The Chancellor may uphold summary dismissal or return the matter to the President for further action. The Chancellor's decision is final.

PART IV – REFERENCES**I. Relevant Federal and State Statutes**

Texas Education Code, [51.942](#) Performance Evaluation of Tenured Faculty

Texas Education Code, [51.943](#) Renewal of Faculty Employment Contracts.

II. Relevant System Policies and Procedures

Regents' Rules and Regulations, [Rule 31001](#) – Faculty Appointments and

Titles Regents' Rules and Regulations, [Series 31007, Tenure, Section 5](#)

Regents' [Rules and Regulations, Series 31008](#) Termination of a Faculty Member

III. Dates Approved or Amended

<i>Originated: 06/16/1997</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
08/05/2010	
10/07/2015	
01/12/2024	

IV. Contact Information

Council of Deans

(409) 747-9083