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Policy Regarding Proceedings in Faculty Academic Freedom, Dismissal, and Non-Reappointment Cases

Academic Senate

Illinois State University

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POLICY REGARDING PROCEEDINGS IN FACULTY ACADEMIC FREEDOM, DISMISSAL, AND NON-REAPPOINTMENT CASES

AT

ILLINOIS STATE UNIVERSITY
(Revised April, 1971)


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2"Bylaws of the Board of Regents," Board of Regents, Springfield, Illinois, May 4, 1969. Section 2-B-3 specifies the powers and duties of the Board with regard to employment and removal of academic personnel. Other sections are either directly or indirectly related to this power.

3"Illinois State University Constitution," Article III Sections 2,3,4 and 5 deal with the topics of concern to this policy statement.

4"Bylaws of Illinois State University" are in the process of being compiled.

5"Statement of Principles on Academic Freedom and Tenure," AAUP BULLETIN, Summer, 1963. (Ratified by major professional organizations.)


7"Procedural Standards in the Renewal or Non-renewal of Faculty Appointments," AAUP BULLETIN, Spring, 1970.
A Faculty Academic Freedom and Tenure Committee shall be elected by the Academic Senate of Illinois State University to ensure cooperation of the faculty and administration in resolving the difficult problems which arise when a decision must be made whether to retain, reappoint, or dismiss a faculty member. A Faculty Advisory Committee and, as necessary, Faculty Hearing Committees shall be constituted as sub-committees, from the membership of the Academic Freedom and Tenure Committee to implement the democratic procedures for handling faculty academic freedom, dismissal, and non-reappointment cases.

The general policy of Illinois State University shall be to assure thorough and careful deliberation by elected members of the faculty prior to dismissal of a faculty member and/or cases of non-reappointment involving issues of academic freedom. When reason arises to question the fitness of a faculty member, the appropriate administrative officers (Department Head, Dean of the College, and/or Dean of the Faculty) should discuss the issue with him in personal conference. The matter may be terminated by mutual consent at this point. In the event it is not terminated, the faculty member may now seek advice from the Faculty Advisory Committee (See III below). If an agreement is not reached through efforts of conciliation by the Advisory Committee with lower administrative personnel, an appeal may be made to the President of the University. If agreement is not reached upon appeal to the President and/or additional consultation with the Faculty Advisory Committee, the procedure outlined in Part IV of this statement shall take effect.

It is understood that suspension or reassignment of a faculty member during the proceedings involving him is justified only if immediate harm to himself or others is threatened by his continuance.

I. ELECTION OF ACADEMIC FREEDOM AND TENURE COMMITTEE

A Faculty Academic Freedom and Tenure Committee consisting of 24 members of the faculty with tenure shall be nominated and elected as follows:

A. Each year, the faculty members of every department shall nominate by election within the department one tenured faculty member. Department Heads, members of the Academic Senate, members of the Faculty Status
Committee, members of college APT Committees, and other administrative personnel shall not be eligible to serve on this committee. A maximum of two additional nominations may be made by members of the Academic Senate.

B. The election shall be conducted by the Academic Senate during the second semester and following the election of members to the Academic Senate.

C. The eight faculty members with the highest number of votes shall be declared elected for three-year terms of office. Any vacancy occurring between elections shall be filled by the first eligible person of those who at the last election received the highest number of votes after those elected. The position on the committee of anyone who will be or has been absent from regular duties for one semester or longer shall be declared vacant. If the list of eligible persons should be exhausted, the Academic Senate shall choose an eligible member from the faculty. A member named to fill a vacancy shall serve the unexpired term. In the event that the committee is to be enlarged, additional members shall be selected in the same manner as provided for filling vacancies.

D. If a member of any of the committees or subcommittees provided for in this document is engaged in a hearing or advising process, he will continue to serve until the specific hearing or advising process is terminated even though it may extend beyond the election of new members. Therefore, the total number of faculty members serving on the Academic Freedom and Tenure Committee may temporarily exceed the number of 24.

II. ORGANIZATION OF ACADEMIC FREEDOM AND TENURE COMMITTEE

At the call of the preceding chairman, the Faculty Academic Freedom and Tenure Committee shall meet within one week after the election each year to elect a chairman, a vice-chairman, and a Faculty Advisory Committee from among its membership. The chairman, who shall not be eligible for election to the Faculty Advisory Committee or a Faculty Hearing Committee, shall have the following duties:
(1) to inform the faculty on the procedure in faculty academic freedom and tenure, dismissal, and non-reappointment cases, (2) to call and preside over meetings of the committee, as necessary, for the purpose of electing members of the Faculty Advisory Committee and Faculty Hearing Committees, and (3) to insure to the best of his ability that proper procedure is followed in handling faculty academic freedom and tenure, dismissal, and non-reappointment cases. The vice-chairman shall assume the duties of the chairman in his absence or upon his resignation.

III. FACULTY ADVISORY COMMITTEE

The Faculty Advisory Committee shall be elected each year and shall consist of seven members who shall elect a chairman. When the fitness of a faculty member is questioned through the APT procedures, a subcommittee of three persons may be selected by the faculty member which shall have the following duties:

A. To meet with a faculty member, and to inform him of his rights, responsibilities, and procedural guarantees.

B. To inquire into the situation only to the extent necessary to enable the committee to make a recommendation as provided in III E, below.

C. To render confidential advice relative to the substantive aspects of the case, if a faculty member so desires.

D. To effect an adjustment, if possible.

E. To recommend a hearing, when a satisfactory adjustment is not effected and if probable cause exists.

IV. FACULTY HEARING COMMITTEE

A. The Faculty Academic Freedom and Tenure Committee shall elect from among its membership, a separate five-member Faculty Hearing Committee for each case that necessitates a hearing, excluding those members who have been members of the Faculty Advisory Committee which previously dealt with the case.

1. Upon the request of the faculty member, a Faculty Hearing Committee shall be constituted if one of the following conditions obtains:
a. when a faculty member with tenure is dismissed or threatened with dismissal.

b. when a faculty member on probationary or temporary appointment alleges that a decision not to reappoint him is caused by considerations violative of academic freedom and when the Faculty Advisory Committee concludes that there is probable cause for such allegations.

c. when in the preceding case the Faculty Advisory Committee recommends against a hearing, but on appeal by the faculty member, the Faculty Academic Freedom and Tenure Committee as a whole (except for the 3 members previously concerned with the case) concludes that there is probable cause for such allegations.

d. when any faculty member is dismissed or threatened with dismissal during the term of appointment.

e. when the refusal of tenure to a faculty member is disputed on the grounds of the calculation of qualifying years of service.

2. The President may request a hearing regardless of the appointment status of the faculty member, and, if the faculty member agrees, a Faculty Hearing Committee shall be constituted.

3. The faculty member may choose not to request a hearing or may withdraw his request for a hearing during the proceedings. However, if the Advisory Committee believes that a basic principle of academic freedom and/or tenure has been violated, the Faculty Academic Freedom and Tenure Committee may, by a majority vote of those present, decide to consider the basic principles of academic freedom and/or tenure involved on the basis of the obtainable information and elect a Hearing Committee. In such an instance, the Faculty Academic Freedom and Tenure Committee shall not consider the merits or the particular circumstances of the case of the faculty member who chose to withdraw his request for a hearing and shall endeavor to protect
the privacy of that faculty member. The Faculty Academic Freedom and Tenure Committee shall in such cases consider only the basic principles of academic freedom and/or tenure involved without regard to their particular relevance to the case at hand. Established procedures shall be followed just as if an individual faculty member were involved in the case.

4. The faculty member may waive a hearing and may respond to charges against him in writing. If he waives a hearing while denying the charges against him or while asserting that the charges do not support a finding of adequate cause, the Faculty Hearing Committee will evaluate all available evidence and rest its recommendation upon the evidence in the record.

B. In constituting a Faculty Hearing Committee, the following conditions shall be observed:

1. The Chairman of the Faculty Academic Freedom and Tenure Committee shall supervise the election procedure until such times as the Faculty Hearing Committee is fully constituted in accordance with the provisions of this section. Once fully constituted, the Faculty Hearing Committee shall elect a chairman from among its own membership.

2. Any member of the Faculty Academic Freedom and Tenure Committee not desiring to serve on a particular hearing committee may petition to the Chairman in writing not to serve, stating his reason for not desiring to serve.

3. Any member of the Faculty Academic Freedom and Tenure Committee who has previously been concerned with a particular case or is a member of the same department as the person for whom the hearing will be held shall not serve on the hearing committee.
4. The faculty member for whom the hearing will be held shall have
the right to challenge no more than two members selected for the
hearing committee. Potential members of the hearing committee so
challenged shall be replaced by election from among the remaining
members of the Faculty Academic Freedom and Tenure Committee. The
President shall also have the right to challenge no more than two
members selected for the hearing committee.

5. No hearings may be held unless a full hearing committee is present
and recommendations shall require a majority vote of the full
hearing committee.

6. The hearing committee shall decide in consultation with the parties
whether the hearing shall be public or private, but in any case,
the faculty member shall have the right to invite no more than
three non-participating observers to attend all sessions of the
hearing.

C. A Faculty Hearing Committee shall have the following duties:

1. In cases concerning a tenured faculty member and any faculty
member involved in a dismissal situation during the term of
an appointment the burden of proof shall rest upon the President
as the duties below are undertaken.

   a. To ensure that a written statement of the allegations (the
      grounds proposed for the dismissal) has been formulated by the
      President and delivered to the faculty member and members of
      the Faculty Hearing Committee.*

*In the hearing process, the President may designate a surrogate although
he retains ultimate responsibility.
b. To ensure that the opportunity for a written statement by the faculty member in reply to the President's letter is provided, and that the statement is delivered to the President and members of the Faculty Hearing Committee.

c. To set a specific time and place for the hearing, allowing the faculty member sufficient time to prepare his defense.

d. To inquire thoroughly into the situation by collecting evidence important to the case and hearing testimony.

e. To aid the parties in securing attendance of witnesses through its good offices and prestige of the committee by virtue of its status as an approved university committee.

f. To question witnesses and ensure that the faculty member has the opportunity to be confronted by all witnesses adverse to him and to ensure that the President has the right to question all witnesses.

g. To ensure that the parties may attend all sessions.

h. To permit the faculty member and the President to have the option of assistance by counsel.

i. To arrange for a stenographic record of all hearings.

j. To provide the faculty member and the President with the opportunity for oral argument before the committee.

k. To help assure that a minimum of publicity shall be given to the case before the conclusion of the hearing.

l. To reach a majority decision in conference on the basis of the hearings, and present the decision and the reasons for it in a written report to the faculty member and the President.
m. To ensure that the faculty member shall have access to all records and documents pertinent to his hearing.

n. To assure that all the procedural rights guaranteed in the "Governing Policies for Regency Universities of the State of Illinois," and in the "Statement on Procedural Standards in Faculty Dismissal Cases," of the American Association of University Professors are provided.

2. In cases concerning a non-tenured faculty member who alleges that the decision to terminate his probationary appointment or not to re-appoint him is in violation of his academic freedom, the burden of proof shall rest upon the faculty member as the Hearing Committee undertakes the duties as outlined in a through n above. However, duties and rights contained in a, b, f, and n are worded as follows for the faculty member in the non-tenured position:

a. To ensure that a written statement of the allegations (the grounds indicative of denial of academic freedom) has been formulated by the faculty member and delivered to the President and members of the Faculty Hearing Committee.

b. To ensure that the opportunity for a written statement by the President in reply to the faculty member's letter is provided and that the statement is delivered to the faculty member and members of the Faculty Hearing Committee.

f. To question witnesses and ensure that each party has the opportunity to confront and question all witnesses.

n. To assure that all the procedural rights guaranteed in the "Governing Policies for Regency Universities of the State of Illinois," and in the "Procedural Standards in the Renewal and Non-renewal of Faculty Appointments," of the AAUP are provided.

3. In cases where tenure status of a faculty member is in dispute and where the burden of proof is not determined, duties a, b, and f are worded as follows:
a. To ensure that both the President and the faculty member have opportunities to submit initial statements to the Faculty Hearing Committee and that the submitted statements be received by the adverse parties.

b. To ensure that the opportunity is provided for a written reply to each initial statement and that each reply is delivered to the adverse party and to the Faculty Hearing Committee.

f. To question witnesses and ensure that each party has the opportunity to confront all witnesses appearing in behalf of the party adverse to it.

V. ROLE OF BOARD OF REGENTS

The President shall transmit the full report of the Faculty Hearing Committee to the Board of Regents. If the Board of Regents choose to review the case, it is hoped that the following procedures will be employed in keeping with the spirit of cooperation expressed in its Governing Policies: The Board review should be based on the record of the previous hearing. Opportunity should be provided for argument, oral or written or both, by the principals at the hearing or their representatives. If the decision of the Faculty Hearing Committee is overruled by the Board of Regents, it shall be returned to the Faculty Hearing Committee with objections specified. The Hearing Committee shall then reconsider its decision, taking into account the stated objections and receiving new evidence if necessary. The Hearing Committee should then frame its decision and communicate it as before. Only after study of the Faculty Hearing Committee's reconsideration should the Board of Regents make a final decision.
PROVISION FOR ELECTION PROCEDURES IN REFERENCE TO
POLICY REGARDING PROCEEDINGS IN FACULTY ACADEMIC FREEDOM,
DISMISSAL, AND NON-REAPPOINTMENT CASES

1. Terms of current Academic Freedom and Tenure Committee expiring in 1971 will expire with the establishment of the new Academic Freedom and Tenure Policy, except as provided for those members involved in an advisory or hearing procedure.

2. Upon adoption of the proposed document, twelve vacancies on the Academic Freedom and Tenure Committee will be declared to exist; 8 for 3 years, 2 for 2 years, and 2 for 1 year.

3. Nominations and elections for the vacancies will follow procedures in the proposed document. (Section 1) In the voting by the Academic Senate, the 8 persons with the highest number of votes will be elected for 3 years, the next 2 for 2 years, and the next 2 for 1 year.