Recommendation to Amend UWM Policies & Procedures Chapter 5.45: Faculty Rights & Responsibilities Committee Procedures

Proposed Revision to
UWM Faculty Policies & Procedures
Faculty Rights and Responsibilities Committee (FRRC)
March 6, 2018

This document consists of revisions to the UWM Policies and Procedures 5.45 on the unanimous recommendation of the FRRC.

Rationale

The changes proposed here contain three logically separate changes:

1. The biggest change is in 5.45(4): if a vote on the FRRC for disciplinary action fails to meet the required super-majority (five of seven), currently this results in the allegations being dismissed. The proposed change means that the allegations cannot be dismissed unless and until there is a similar super-majority vote in favor of dismissal.

   With the change, a failed vote permits the committee to continue to try to reach a (near) consensus rather than simply dismissing the case. Making the change will enable the committee to work in a more collegial manner because there is no chance that a single person abstaining (or being absent) on a crucial vote could cause a case to be dismissed without any recourse to correct the result.

2. The FRRC also proposes a change to 5.45(3) that implies that persons appearing before a hearing can only have someone to advise or support them, not represent them (speak for them as a lawyer would). This change promotes the idea that the proceedings of the FRRC are intended to be collegial, between faculty, not legal proceedings with legal motions, etc. If a lawyer is representing one party to a conflict, then we would need lawyers to represent the other parties and the committee itself, to the detriment of the process.

3. The final proposed change removes a gendered pronoun in 5.45(4)
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5.45 Committee Procedures

(1) Notification

The committee shall examine all complaints to determine whether a prima facie case exists. When a written complaint is lodged with the committee, the faculty member involved shall be notified. If the committee decides on any action other than dismissal of the complaint, the faculty member concerned shall be informed at once.

(2) Legal Counsel

At the request of the committee the University shall provide it with legal counsel.

(3) Fair Hearing

Whenever it is decided to utilize formal fact-finding procedures, the concerned faculty member shall be assured of a fair hearing, including the right to present testimony or evidence in the faculty member's behalf, to cross-examine witnesses, and to be advised or supported by any person of the faculty member's choice. The departmental executive committee shall be consulted, and shall have an opportunity to present evidence through its chairperson or other representative. The provisions for a fair hearing shall include:

a) Service of notice of hearing with a specification of the complaint at least twenty (20) working days prior to the hearing.

b) A right to the names of the parties bringing the complaints and of access to any documents which may be relevant to the complaint. Adjournments shall be granted to investigate evidence to which a valid claim of surprise is made.

c) A right to be heard in his/her own defense by all bodies passing judgment.

d) A right to counsel or other supporting individual and to offer witnesses.

e) A right to confront and cross-examine witnesses against him/her.

f) An audio recording shall be made of the hearing. A copy of the recording shall be made available without cost, upon request, to the concerned faculty member.

(Editorially revised, 08/25/15)
g) The admissibility of evidence is governed by Wis. Stats. 227.45.

h) A finding of misconduct must be based on a clear preponderance of the evidence.

i) Findings of fact and recommendations based on the hearing record.

j) The right to either a public or a closed hearing at the discretion of the faculty member concerned.

k) The right to prompt consideration and deliberation by the committee.

(4) Findings

A finding of misconduct and recommendations for disciplinary action or a finding of no misconduct shall be reported only when at least five (5) members of the committee concur. When this condition is not met, no finding shall be reported. The vote shall be recorded in the minutes in any case. If a member is disqualified in a particular case, the University Committee shall name a replacement except when the disqualification occurs after the hearing has commenced.

(5) Transmittal of Findings

The committee shall transmit its findings and recommendations in writing to the Chancellor and the faculty member involved within ten (10) working days after the conclusion of its proceedings.

(6) Further Jeopardy Prohibited

Following the recommendations of the committee, the faculty member involved shall not be charged again for the same misconduct.

(Document 1518, 11/20/86; UWM Administration approval, 11/29/86; Regent approval, 4/10/87)
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