

# MEETING OF THE FACULTY SENATE

THURSDAY, OCTOBER 24, 1996

3:15-5:00 p.m.

**25 Law Building--Twin Cities Campus**  
**305 Selvig Hall--Crookston Campus**  
**323 Kirby Student Center--Duluth Campus**  
**Behmler Hall Conference Room--Morris Campus**

The Senate constitution provides that eligible academic professionals and all members of the faculty who hold regular appointments as defined in the Regulations Concerning Faculty Tenure may be present at Faculty Senate meetings and shall be entitled to speak and to offer motions for Faculty Senate action. Only elected faculty members and academic professionals (or their designated alternates) shall be entitled to vote. For a quorum, a majority of the voting membership (79) must be present. Actions require a simple majority of the members present and voting.

## **I. FACULTY AFFAIRS COMMITTEE** **JUDICIAL COMMITTEE** **TENURE SUBCOMMITTEE** *Regulations Concerning Faculty Tenure* **Action (90 minutes)**

The Faculty Affairs Committee, Judicial Committee, and Tenure Subcommittee will bring a recommendation to the meeting regarding the two tenure proposals distributed to Faculty Senate members.

## **II. OLD BUSINESS**

## **III. NEW BUSINESS**

## **IV. ADJOURNMENT**

**ITEM I. FACULTY SENATE AGENDA, OCTOBER 24, 1996**

**PREAMBLE**

The Faculty Consultative Committee proposes the following Resolution, which is a modified version of the Judicial Committee proposal.

**MOTION:**

To approve the following Resolution, as follows:

**RESOLUTION (1)**

WHEREAS the Regents of the University of Minnesota are currently under a cease and desist order preventing them from changing or negotiating about terms and conditions of employment regarding faculty members in units in which collective bargaining and severance elections are pending; and

WHEREAS the University of Minnesota Law School is currently the only academic unit in the University not covered by the cease and desist order; and

WHEREAS no circumstances within the Law School require immediate revisions to the existing Tenure Code; and

WHEREAS elections to be conducted by the Bureau of Mediation Services among faculty members within the next several months will determine which, if any, portions of the faculty will be represented for purposes of collective bargaining and therefore which faculty members will ultimately be governed by a common Tenure Code; and

WHEREAS appropriate discussion of proposed Tenure Code revisions for the Law School cannot take place without knowing whether the Law School will ultimately have a tenure structure independent of other units;

**THEREFORE BE IT RESOLVED:**

- (1) That the Faculty Senate strongly recommends that the Regents of the University of Minnesota take no action regarding any revisions of the Tenure Code to be applicable to the University of Minnesota Law School until all of the elections to determine collective bargaining structures at the University have been resolved and an appropriate consultative process with faculty has been conducted; and

- (2) That, if the Regents, despite this recommendation, insist on taking action now with regard to Tenure Code revisions for the Law School, that they:
- (a) Reject the Reagan/Spence proposal because it impairs academic freedom, denies due process and impedes appropriate change in the University;
  - (b) Adopt the Tenure Code revisions recommended by the Faculty Senate in May and June 1996, which were themselves the product of substantial compromise of interests between the faculty and the administration.
  - (c) Regard Dean Sullivan's proposal as a good faith effort at finding a reasonable compromise. The Faculty Senate finds that the Sullivan proposal has some merit and might be considered by the Faculty Senate and the Board of Regents at an appropriate time, although the Senate continues to prefer the proposals originally presented to the Regents in June.

**FOR INFORMATION:**

The following Resolution was approved by the Senate Judicial Committee on October 22, 1996.

**RESOLUTION (2)**

WHEREAS the Regents of the University of Minnesota are currently under a cease and desist order preventing them from changing or negotiating about terms and conditions of employment regarding faculty members in units in which collective bargaining and severance elections are pending; and

WHEREAS the University of Minnesota Law School is currently the only academic unit in the University not covered by the cease and desist order; and

WHEREAS no circumstances within the Law School require immediate revisions to the existing Tenure Code; and

WHEREAS elections to be conducted by the Bureau of Mediation Services among faculty members within the next several months will determine which, if any, portions of the faculty will be represented for purposes of collective bargaining and therefore which faculty members will ultimately be governed by a common Tenure Code; and

WHEREAS appropriate discussion of proposed Tenure Code revisions for the Law School cannot take place without knowing whether the Law School will ultimately have a tenure structure independent of other units;

THEREFORE BE IT RESOLVED:

- (1) That the Faculty Senate strongly recommends that the Regents of the University of Minnesota take no action regarding any revisions of the Tenure Code to be applicable to the University of Minnesota Law School until all of the elections to determine collective bargaining structures at the University have been resolved and an appropriate consultative process with faculty has been conducted; and
  
- (2) That, if the Regents, despite this recommendation, insist on taking action now with regard to Tenure Code revisions for the Law School, that they:
  - (a) Reject the Reagan/Spence proposal because it impairs academic freedom, denies due process and impedes appropriate change in the University;
  
  - (b) Not adopt the incomplete Sullivan proposal as it stands now because, although it might provide the basis for a possible alternative solution, it fails to offer a comprehensive review of the Tenure Code and would prolong this period of uncertainty which is demonstrably harmful to the well-being of the University; and
  
  - (c) Adopt the Tenure Code revisions recommended by the Faculty Senate in May and June 1996, which were themselves the product of substantial compromise of interests between the faculty and the administration.

[Approved by the Senate Judicial Committee: 15 yes, 1 no, 0 abstain]

\* \* \* \* \*

The following Resolution was approved by the Faculty Affairs Committee and Tenure Subcommittee on October 17:

**RESOLUTION (3)**

WHEREAS,

the Board of Regents has sent to the Faculty Senate two proposed drafts of modifications to the Regulations Concerning Faculty Tenure to be applicable only to the faculty of the Law School and has requested a response by November 1,

RESOLVED,

1. The Faculty Senate is committed to the principle that there should be one uniform tenure policy for the University of Minnesota. In view of this principle, and with the greatest respect for the good will shown by those who have proposed compromise policies, the Faculty Senate cannot accept or approve of any tenure policy to be adopted for one unit such as the Law School.
2. The Faculty Senate renews its support for the current Regulations Concerning Faculty Tenure and for the amendments and interpretations forwarded to the Board in June of this year as the most appropriate and desirable set of amendments.
3. Having reviewed the proposal prepared by certain Regents, and having received the report of the Tenure Subcommittee, the Faculty Senate finds that this proposal would impair academic freedom, deny due process, and impede change in the University. The Faculty Senate therefore concludes that adoption of that proposal would be damaging to the University and urges the Board of Regents not to adopt it.
4. The Faculty Senate thanks Dean Sullivan for making a good faith effort at finding a reasonable compromise. While maintaining its continuing preference for the proposals originally presented to the Regents in June and its support for a University-wide tenure policy, the Faculty Senate recommends that the Sullivan proposal be considered by the Faculty Senate and the Board of Regents at an appropriate time.
5. The Faculty Senate affirms its support for the right of the faculty to decide the question of collective bargaining without inappropriate interference.

[Approved by the Faculty Affairs Committee: 6 yes, 5 no, 1 abstain  
Approved by the Tenure Subcommittee: 3 yes, 1 no, 1 abstain]

\* \* \* \* \*

The following Resolution was also approved by the Faculty Affairs Committee on October 17, but not by the Tenure Subcommittee:

**RESOLUTION (4)**

RESOLVED,

The Faculty Senate is committed to the principle that there should be one uniform tenure policy for the University of Minnesota. If special provision is desired for a particular unit, this must be done within the framework of the University-wide policy.

In view of this principle, and with the greatest respect for the good will shown by those who have proposed compromise policies, the Faculty Senate cannot accept or approve of any tenure policy to be adopted for one unit such as the Law School. Under these circumstances, it would be useless to comment on the details of the proposals for the Law School. Since the Regents have requested the Faculty Senate's comments on these proposals only with regard to their applicability to the Law School, we are unable to consider them in any other light.

[Approved by the Faculty Affairs Committee: 7 yes, 4 no  
Rejected by the Tenure Subcommittee: 2 yes, 3 no]

October 17, 1996

**MEMORANDUM**

TO: Dr. Virginia Gray  
Chair, Faculty Senate

FROM: Mark B. Rotenberg  
General Counsel



You have asked for this Office's legal opinion whether the Faculty Senate and its committees may proceed to deliberate on certain proposals concerning tenure code revision applicable only to the Law School which have been forwarded to the Senate by the Board of Regents. You further requested that I memorialize my advice on the question whether you and other Senate faculty members may be defended and indemnified by the University in the event of legal claims against them arising from the deliberations referenced above.

It is the opinion of this Office that any deliberations, advice or recommendations of the Faculty Senate or its committees following from the Board of Regents' action on Friday, October 11, 1996 would neither violate the Bureau of Mediation Service's recent Status Quo Orders, nor violate any other applicable labor laws of which we are aware.

It is also our opinion that, while the President has final authority to determine all questions of eligibility under the Board of Regents' Policy on Indemnification and Defense of Employees, Senate faculty members involved in the above-referenced deliberations would qualify to receive defense and indemnification from the University in the event legal claims are brought against them. This is especially so, given that such deliberations were undertaken as a result of Board of Regents' action, and with advice from this Office.

Please do not hesitate to contact me if you wish to discuss any aspect of this or other legal matters.

/bb

October 17, 1996

Dear Professors Murthy, Rabinowitz, and Walsh:

I am responding to your letter of October 16. As chair of the FCC, which is the steering committee of the Faculty Senate, I feel I have a responsibility to call a meeting of the Senate so that its elected faculty representatives have an opportunity to discuss the new tenure proposals applying to the Law School. To deny this opportunity to elected faculty representatives would be fundamentally anti-democratic. The Faculty Senate as a body will decide what it wants to do with the proposals. The Senate is the only representative body we have until a union is elected; I do not believe we should abandon our only voice at this critical juncture. Counsel has advised us that faculty colleagues talking to faculty colleagues is in no way a violation of the cease and desist order. That order applies to the administration and the board.

Second, the regents have asked us to consult under Section 19, with respect to the proposals affecting the Law School. Counsel has advised us that failure to consult may be taken as a waiver of that right, and then the regents may go ahead as they please. By providing consultation we hope to achieve a better outcome for the faculty, surely a worthy goal. Since that consultation is with respect to documents affecting the Law School, which is not under a status quo order, I do not see how that action is a violation of an order affecting other units.

For these reasons I do not feel that I can accede to your request to stop the deliberations of the elected representatives of the faculty.

Sincerely,

Virginia Gray  
Chair, FCC

October 22, 1996

TO: Virginia Gray, Chair, Faculty Consultative Committee  
Dan Feeney, Chair, Senate Committee on Faculty Affairs  
Mary Dempsey, Chair, Tenure Subcommittee  
Members, Faculty Senate

FROM: Edwin Fogelman, Chair, Senate Judicial Committee

RE: Proposed Revision of the Tenure Code

Enclosed is a copy of the Resolution adopted by the Senate Judicial Committee (15 in favor, 1 opposed, no abstentions) at its meeting today pertaining to proposed revisions to the Tenure Code for the Law School that the Board of Regents referred for consideration to the Faculty Senate. I am writing to explain why the Judicial Committee thought it appropriate to adopt a new resolution rather than to adopt or amend one of the resolutions previously adopted by the Senate Committee on Faculty Affairs and the Tenure Subcommittee. These points reflect the Judicial Committee's discussion of the two resolutions and not necessarily the views of all committee members.

- Both the SCFA and Subcommittee resolutions assert the need for a uniform tenure policy for the University of Minnesota. Uniformity, however desirable, cannot be achieved by University policy. The structure of future tenure codes at the University depends not on the policies adopted by the University, but rather on the structure of bargaining units (determined by the Legislature and the outcome of currently pending severance elections) and the outcome of a union representation election (also currently pending).
- Both resolutions use the plural in referring to "compromise proposals" that have shown "good will." The Judicial Committee does not believe that all of the proposals are the product of good will and therefore use of the plural is inappropriate.
- Neither resolution sufficiently strongly recommends that the Regents decline to act at this time. We feel it is important to state that there is no compelling present need for a new tenure code for the Law School and that only after the Bureau of Mediation Services elections are concluded will it be possible to determine the kind of tenure code that might be appropriate should the Law School, alone, remain outside of the collective bargaining process.
- The Morrison resolution, while expressing a preference for the Faculty Senate's June proposal, recommends consideration of the Sullivan proposal at an appropriate time. We think that it should be made clear that the Sullivan proposal is an incomplete one and that any process to make it complete would only prolong the current disruptive atmosphere and its continuing harm to the University.
- The Morrison resolution does not make clear that the proposal adopted by the Faculty Senate in May and June, 1996, was itself the product of a compromise of faculty and administration interests.

## DIFFERENCES IN DRAFTS

Faculty Senate	Reagan/Spence	Sullivan
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### Application of the Code (sec. 2)

All campuses and colleges (except Duluth)	Text: All campuses Title: Law School only	Law School only
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### Base Pay Issues (sec. 4)

Distinguishes base pay and additional compensation	Distinguishes base pay and additional compensation (different language)	Distinguishes base pay and additional compensation (different language)
	Disputes about pay decreases to labor arbitration (no review of academic freedom claims)	Disputes about pay decreases to Judicial Committee (peer review)
		Possible across-the-board cuts, if Board of Regents and Faculty Senate agree

### Programmatic Change Issues (sec. 12)

Interpretation provides for reassignment or retraining; broad flexibility emphasized		Text provides for reassignment and retraining, broad flexibility emphasized
	Text permits termination in case of programmatic change; narrower possibility of reassignment	Termination if faculty member refuses reasonable reassignment

Faculty Senate	Reagan/Spence	Sullivan
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### Faculty Discipline (sec. 10)

The Faculty Senate originally proposed no amendments to this section. Present provisions are indicated in italics.

	General introductory statement about discipline	
<i>Dismissal only for 4 specified grounds</i>	Dismissal for "adequate cause" including 5 grounds	Dismissal only for 5 specified grounds
	Each specific cause for termination is broadened	Existing causes for termination remain unchanged
	Dismissal for "gross misconduct"	Dismissal for "gross misconduct"
	Permits "other discipline," including unlimited pay cuts	Permits "other discipline," using other language
	"Other discipline" to be imposed without prior hearing	"Other discipline" to be imposed only after hearing, if requested
	Hearings on "other discipline" before labor arbitrator; no consideration of academic freedom issues	Hearings on "other discipline" before Judicial Committee (peer review)

Faculty Senate	Reagan/Spence	Sullivan
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**Judicial Committee (sec. 13)**

The Sullivan proposal calls for a study group to review the issues relating to judicial procedures. Amendments would be postponed until the study group reports, except where both other drafts have proposals in common.

	Judicial committee rules to be approved by Board of Regents	<i>Appoint study group to review judicial procedures</i>
President and Committee to appoint Legal Officer to assist Committee in its business	President and Committee to appoint Legal Officer to regulate conduct of cases before the committee	<i>Retain present language which permits appointment of Legal Officer to assist committee.</i>

**Judicial Procedures (secs. 14 and 15)**

Section 14 deals with procedures in removal for cause cases; section 15 deals with other cases. In these sections, as well, the Sullivan proposal calls for a committee review, postponing action on all issues on which there is currently no agreement.

Eliminates review by provost of termination case	Eliminates review by provost of termination case	Eliminates review by provost of termination case
Eliminates appeal of termination to Board of Regents	Retains possibility of appeal to Board of Regents; changes language	Retains language of 1985; retains appeal to Board of Regents
	Eliminates requirement that President meet with Judicial Committee before overruling their decision	Retains language of 1985
	Eliminates expectation that President will normally follow report of hearing panel	Retains language of 1985 code
	Provides for suspension without pay before hearing	

**\*\*\* IMPORTANT MEETING NOTICE \*\*\***

October 14, 1996

To: Faculty Senate Members  
From: Martha Kvanbeck, Clerk  
Re: October 24 Faculty Senate

The Board of Regents has requested that the Faculty Senate consider two proposed drafts of amendments to the Tenure Regulations--a draft proposed by Regents Spence and Reagan and alternative amendments proposed by Dean Sullivan of the Law School. These amendments would be applicable only to the Law School. In response to this request, a special Faculty Senate meeting has been scheduled for **Thursday, October 24, 3:15-5:00 p.m., in 25 Law Building, West Bank, Minneapolis campus.**

Coordinate campuses will be linked by telephone at the following locations:

Crookston	305 Selvig Hall
Duluth	323 Kirby Student Center
Morris	Behmler Hall Conference Room

The following items are enclosed:

- (1) October 24 Faculty Senate Agenda
- (2) Current (1985) Tenure Code
- (3) Faculty Senate Amendments approved May 30 and June 6, 1996
- (4) Interpretations to the Tenure Regulations approved by the Tenure Subcommittee May 31, 1996
- (5) Draft tenure policy proposed by Regents Spence and Reagan (labelled Regents' Proposal--October 11, 1996)
- (6) Alternative amendments proposed by Dean Sullivan of the Law School
- (7) Analysis of the new Tenure proposals prepared by Professor Fred Morrison for the Tenure Subcommittee

The Regents' proposal contains the full text of the Tenure Regulations, showing amendments in capital letters and deletions in strikeouts. Dean Sullivan's letter focuses only on the sections that have been of most interest. (A full text of the Sullivan proposal will be available later this week).

During the coming week the appropriate Faculty Senate committees will review these proposals and prepare a recommendation for consideration on October 24. The recommendation will be circulated to members of the Faculty Senate prior to the meeting.

If you are unable to attend, please designate an alternate and send his/her name to me, 427 Morrill Hall, prior to the beginning of the meeting. Alternates are entitled to vote and should be reminded of that fact. Additionally, a limited number of parking spaces have been reserved for senators with special parking needs (e.g., disability). If you need to request parking, please call my office at least two days in advance of the meeting and a reservation will be made for you.

cc: Academic Officers and Deans

**UNIVERSITY OF MINNESOTA**

**REGULATIONS CONCERNING**

**FACULTY TENURE**



**Effective July 1, 1985**

**Containing all revisions and  
interpretations through  
October 13, 1995**

## REGULATIONS CONCERNING FACULTY TENURE

Recommended by the Faculty Senate, June 7, 1984, and amended, January 24, 1985.  
Adopted by the Board of Regents, February 8, 1985.

These regulations supersede earlier regulations which had been adopted in 1945.

### AMENDMENTS (See Section 19)

Amendment to Section No.:	Recommended by Faculty Senate:	Adopted by Board of Regents:
14 and 15	April 18, 1991	September 13, 1991
3	December 10, 1992	March 12, 1993
5	December 10, 1992	March 12, 1993
5	May 19, 1994	November 10, 1994
14.1 and 14.2	May 19, 1994	October 13, 1995

### INTERPRETATIONS (See Section 16.2)

Printed beginning at page 18

Interpretation Number:	Recommended by Tenure Subcommittee:	Adopted by Board of Regents:
1.	June 8, 1995	October 13, 1995
2.	December 10, 1992	March 12, 1993
3.	May 19, 1994	November 10, 1994
4.	March 15, 1985	May 10, 1985
5.	March 8, 1988	September 9, 1988
6.	June 8, 1995	October 13, 1995
7.	June 8, 1995	October 13, 1995

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The University of Minnesota is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, national origin, sex, age, marital status, disability, public assistance status, veteran status, or sexual orientation.

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# REGULATIONS CONCERNING FACULTY TENURE

## SECTION 1. ACADEMIC FREEDOM

1.1 *Principles.* Every member of the faculty is entitled to due process and academic freedom as established by academic tradition and the Constitutions and laws of the United States and the State of Minnesota and as amplified by Resolutions of the Board of Regents. The Board of Regents hereby reaffirms its policies concerning academic freedom and tenure announced in its resolution of January 28, 1938, and the statement of December 14, 1963, which are set forth in the Appendix to these regulations.

1.2 *Protection of faculty.* Denial of faculty appointment or reappointment or removal or suspension from office or censure or other penalty must not be based upon any belief, expression or conduct protected by law or by the principles of academic freedom.

## SECTION 2. APPLICABILITY OF REGULATIONS AND CONTINUITY OF APPOINTMENTS

2.1 *Employment Contracts.* These regulations govern the relationship between the Board of Regents and every faculty member employed by the University of Minnesota, except as inconsistent with the provisions of collective bargaining agreements. These regulations are part of the contract between the Board of Regents and every faculty member employed by the University outside of collective bargaining units.

2.2 *Continuation of Existing Appointments.* On the effective date of these regulations, every person holding a faculty appointment governed by the 1945 *Regulations Concerning Faculty Tenure* as amended, will hold the same kind of appointment under these regulations, whether or not their appointments are appropriate for such status under these regulations.

## SECTION 3. FACULTY RANKS AND TYPES OF APPOINTMENTS

3.1 *In General.* The faculty ranks are Professor, Associate Professor, Assistant Professor, and Instructor. Appointments at these ranks are either regular or non-regular. An appointment must be designated regular or non-regular when it is made.

3.2 *Regular Appointments.* A regular appointment is either with indefinite tenure or is probationary, leading to a decision concerning indefinite tenure within a specified period of time. A faculty member with indefinite tenure is entitled to retain that position until retirement in accordance with University regulations or until the appointment is terminated pursuant to the provisions of Sections 10. or 11. A faculty member on probationary appointment (a) is entitled to considerations for indefinite tenure, and (b) is entitled to timely notice of termination in accordance with Section 6. A regular appointment may only be held in an academic unit<sup>1</sup> of a degree-granting college,<sup>2</sup> or similar unit. A regular appointment must be for two-thirds time or more over the academic year.

3.3 *Non-regular Appointments.* A non-regular appointment is date-specific; that is, the appointment terminates at the end of a period specified in the appointment without further notice to the appointee. The Vice President<sup>3</sup> must give every person appointed to a non-regular faculty position a statement in writing setting forth the conditions of the non-regular appointment, including the fact that it terminates without further notice. No number of renewals of a non-regular appointment creates a right to further renewals or to a decision concerning tenure. Every renewal of a non-regular appointment for the seventh or succeeding year must be reported to the Tenure Committee with a justification of the reasons for non-regular status.

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<sup>1</sup> As used in these Regulations, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head, or director.

<sup>2</sup> As used in these Regulations, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, provost, or similar officer.

<sup>3</sup> As used in these Regulations, "Vice President" means the Vice President for Academic Affairs.

3.4 *Limitation on Use of Non-Regular Appointments.* Faculty appointments must be regular (either probationary or with indefinite tenure) unless one or more of the following conditions is met, in which case the appointment may be classified as non-regular:

(a) The duration, the percentage of time, or both require less than service for two-thirds time for the academic year.

(b) The appointment is designated a Visiting appointment because the faculty member is from another educational institution or is a qualified professional from a government or private agency on a leave of absence to accept a temporary appointment at this University.

(c) The appointment is designated a Clinical appointment because the faculty member is a clinician in the community who gives service to the University part-time.

(d) The appointment is designated an Adjunct appointment because the faculty member's primary employment is outside the University or is in another unit of the University.

(e) The appointment extends courtesy faculty rank without salary.

(f) The position is subject to the joint control of the University and another institution.

(g) The specific funding for the position is subject to the discretion of another agency.

(h) The funding for the position is for a limited time.

(i) The appointment is in a unit or program that is experimental or otherwise restricted in duration.

(j) The person is enrolled in a University of Minnesota degree program. A regular faculty member on a probationary appointment may transfer to non-regular status during enrollment in such a program if the faculty member and the Vice President agree. This transfer suspends the running of the maximum period of probationary service, but the faculty member retains other rights of regular appointment, including annual review, the right to timely notice and a terminal appointment period as provided in Section 6.

3.5 *Administrators' Appointments.* Academic administrators may hold regular or non-regular faculty appointments. Administrative titles and duties are distinct and severable from such individuals' faculty appointments. Removal from an administrative position does not impair any rights the individual holds as a faculty member.

3.6 *Special Contracts.* These regulations do not bar a faculty appointment pursuant to a special contract specifying terms or conditions of employment which are different from those prescribed in these regulations. All other provisions of these regulations apply to such appointments. Every special contract must be in writing and must state that it is a special contract entered into pursuant to this Subsection. It must be signed by the faculty member concerned, by the dean of the collegiate unit in which the faculty member will be employed and by the Vice President and must be authorized by the Board of Regents or its expressly authorized delegate. In addition, the Vice President will annually report to the Tenure Committee the terms of all special contracts and the reasons for their use.

A special contract may be used to reduce the minimum time of a regular appointment to one-half time in order to permit a faculty member to devote more time to family responsibilities. Such a contract must provide for the mutual responsibilities of the faculty member and the academic unit, including the type and percent time of the appointment, if any, to which the faculty member is entitled at the expiration of the special contract. In the case of a probationary faculty member, the contract will regulate the length of the probationary period, but the total probationary period may be extended by no more than a total of two years pursuant to this Section and Section 5.5.

## SECTION 4. TERMS OF FACULTY EMPLOYMENT

4.1 *Written Notice of Appointment.* Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must include the following:

- (1) whether the appointment is regular or non-regular;
- (2) whether it is full or part-time and the percentage of time involved;
- (3) if for a fixed term, its expiration date;
- (4) if regular, whether it is probationary or with indefinite tenure;
- (5) whether it is on a twelve-month, academic year or other specified annual basis;
- (6) the rank of appointment;
- (7) the academic unit or units to which the individual is being appointed; and
- (8) the salary.

The notice is only evidence of the appointment; clerical or computer errors in a notice of appointment do not affect the terms of the appointment unless the faculty member reasonably relied upon the mistake and suffered an injustice because of that reliance. Notices required by this Section should be delivered before the effective date of the appointment or change of status, or as soon thereafter as is administratively feasible. A probationary appointee must also be given notice of the applicable maximum probationary period.

4.2 *Action by the Board of Regents.* Faculty appointments and renewals or changes of status become effective when approved by the Board of Regents or its authorized delegate.

4.3 *Changes in Terms of Appointment.* Except for raises in rank or salary and except for action expressly authorized by these regulations, no changes of any of the items listed in Subsection 4.1 may be made during the term of an appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate.

## SECTION 5. MAXIMUM PERIOD OF PROBATIONARY SERVICE

5.1 *General Rule.* To give the University ample opportunity to determine the qualifications of those faculty members whom it is considering for regular appointments with indefinite tenure, the maximum period of probationary service of a faculty member is six academic years, whether consecutive or not. At the end of this six-year period, the faculty member must either be given a regular appointment with indefinite tenure or a one-year terminal appointment.

5.2 *Early Decisions Permitted.* These regulations do not prevent the granting of indefinite tenure prior to the expiration of the maximum period of probationary service and do not prevent a decision to terminate an appointee's probation prior to the end of the appointee's maximum probationary service, if timely notice is given.

5.3 *Definition of Academic Year.* A faculty member is considered to have served an academic year if the appointee serves at least two-thirds time for three quarters or full-time for two quarters of the nine month academic year or any equivalent combination. An academic year during which the faculty member serves for less than this amount is not counted in computing the number of years for purposes of this section.

Unless otherwise agreed in writing, periods during which a faculty member is on paid leave for professional development (single quarter leave, sabbatical furlough, etc.) or on leave to teach or conduct research at another academic institution count as service, but periods in which the faculty member is on sick or disability leave or on leave in some non-faculty capacity do not count as service.

If a faculty member transfers to a position in the non-regular faculty, the time spent in the non-regular position does not count for the purpose of this section.

### 5.4 *Prior Service*

5.41 *In this University.* Every academic year during which a faculty member has previously served at least two-thirds time under a regular appointment at this University reduces the maximum period of probationary service by one year.

5.42 *Elsewhere.* If a faculty member has previously served in regular faculty positions, as defined in these regulations, in one or more accredited universities or colleges, every academic year of such service (not exceeding three) reduces the maximum period of probationary service by one year.

5.43 *Exceptions Permitted.* If the prior service was in a different discipline, was in an academic unit or institution with teaching or research goals not comparable to those of the present appointment, or was too long ago to provide good evidence of the appointee's current professional development, the Board of Regents or its expressly authorized delegate may make an exception in writing at or near the beginning of the probationary period.

5.5 *Exception for New Parent or Caregiving.* The maximum period of probationary service will be extended by one year at the request of a probationary faculty member (1) on the occasion of the birth of that faculty member's child or adoptive/foster placement of a child with that faculty member, or (2) when the faculty member is

a major caregiver for a family member<sup>4</sup> who has an extended serious illness, injury, or debilitating condition. A faculty member may use this provision no more than two times. The request for extension must be made in writing within three months of the events giving rise to the claim and no later than June 30 preceding the year a final decision would otherwise be made on an appointment with indefinite tenure for that faculty member.

## SECTION 6. TENURE OF FACULTY ON REGULAR PROBATIONARY APPOINTMENTS

6.1 *In General.* A regular probationary appointee is a candidate for indefinite tenure. A probationary appointment continues until it is superseded by an appointment with indefinite tenure or until terminated by timely notice or by resignation. Regular probationary appointments are generally made at the rank of Assistant Professor, but may be made at any rank.

6.2 *Notice Requirements.* Except as provided below, a probationary appointment may be terminated at the end of any academic year by giving notice of termination (in the form provided in Section 17) not later than May 15 of the preceding academic year. The notice must inform the faculty member of the right to request a hearing before the Judicial Committee and must advise the faculty member of the applicable time limit for making such a request.

6.21 *Associate Professors and Professors on Probationary Appointments.* An initial probationary appointment at the rank of Associate Professor or Professor may specify in writing that it is for a minimum period of three years. In that case, the earliest time at which notice of termination can be given is before May 15 of the second year of service, to take effect at the end of the third year of service.

6.22 *Instructors on Probationary Appointments.* An initial probationary appointment at the rank of Instructor may specify in writing that it is only for a minimum period of one year. The appointment may be terminated at the end of the first year by notice given not later than March 1 of that year, or at the end of the second year by notice given not later than December 15 of that year. In all other respects such appointments are governed by Subsection 6.2. A promotion of an Instructor to the rank of Assistant Professor without a grant of tenure does not affect the operation of this subsection.,

6.3 *Promotions.* The promotion of a probationary appointee to the rank of Associate Professor or Professor must be accompanied by an appointment with indefinite tenure. A promotion to Assistant Professor does not affect the faculty member's tenure status.

6.4 *Rank of Appointees with Indefinite Tenure.* The grant of tenure to an Instructor must be accompanied with a promotion to Assistant Professor. Since the standards for granting tenure are ordinarily at least as rigorous as those for promotion to Associate Professor, the granting of tenure to an Assistant Professor will ordinarily be accompanied by a promotion to Associate Professor. Otherwise, a grant of indefinite tenure need not be accompanied with a promotion in rank.

6.5 *Effect of Failure to Comply with this Section.* No one is entitled to an appointment with indefinite tenure merely because the University failed to comply with this section. If an individual is given an extension of appointment beyond the maximum probationary period or is not given timely written notice, the University may either:

- (1) grant an appointment with indefinite tenure; or
- (2) grant a further probationary appointment, if this would not exceed the maximum probationary period;

or

- (3) grant a terminal appointment ending at the end of the first full academic year which follows the May 15th after proper notice is given.

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<sup>4</sup> The term "family member" is meant to include a blood relative, or a marital partner, or a domestic partner (registered with the University), or an adoptive/foster child.

## SECTION 7. PERSONNEL DECISIONS CONCERNING PROBATIONARY FACULTY

### 7.1 *Criteria for Decisions.*

7.11 *General Criteria.* The basis for awarding indefinite tenure is the determination that the achievements of an individual have demonstrated the individual's potential to continue to contribute significantly to the mission of the University and to its programs of teaching, research, and service over the course of the faculty member's academic career.<sup>5</sup> The primary<sup>6</sup> criteria for demonstrating this potential are effectiveness in teaching<sup>7</sup> and professional distinction in research<sup>8</sup>; outstanding discipline-related service contributions<sup>9</sup> will also be taken into account where they are an integral part of the mission of the academic unit. The relative importance of the criteria may vary in different academic units, but each of the criteria must be considered in every decision.<sup>10</sup>

The individual's participation in the governance of the institution and other services to the University and service to the academic unit may be taken into consideration, but are not in themselves bases for awarding tenure.

Indefinite tenure may be granted at any time when the candidate has satisfied the requirements. A probationary appointment must be terminated when the appointee fails to satisfy the criteria in the last year of probationary service and may be terminated earlier if it appears that the appointee is not making satisfactory progress toward meeting the criteria within that period.

7.12 *Departmental Statement.* Each academic unit must have a document that articulates with reasonable specificity the indices and standards which will be used to evaluate whether candidates meet the criteria of Section 7.11. The document must comply with those standards, but should make their application more specific. Each such document is subject to review by the dean or other appropriate academic administrator and by the Vice President. Each academic unit must provide each probationary faculty member with a copy of the document at the beginning of the probationary service.

7.2 *Annual Review.* The tenured faculty<sup>11</sup> of each academic unit annually reviews the progress of each probationary faculty member toward satisfaction of the criteria for receiving tenure. The head of the unit prepares a written summary of that review and discusses the candidate's progress with the candidate, giving a copy of the report to the candidate.

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<sup>5</sup> For interpretation and possible applications, see the interpretative comment that will be provided in accordance with the provisions of Section 16.2

<sup>6</sup> Criteria other than those expressly listed in this sentence must be explicitly stated and justified in terms of the mission of the University. Such additional criteria may not impinge upon the academic freedom of the probationary faculty member.

<sup>7</sup> "Teaching" is not limited to credit-producing classroom instruction. It encompasses other forms of communication of knowledge (both to students registered in the University and to other persons in the community) as well as the supervision or advising of individual graduate or undergraduate students.

<sup>8</sup> "Research" is not limited to the publication of scholarly works. It includes activities which lead to the public availability of products or practices which have a significance to society, such as artistic production or the development of new technology or scientific procedures.

<sup>9</sup> "Service" means performance within the faculty member's academic expertise and the mission of the academic unit. It does not include performance of quasi-administrative functions such as membership on faculty or Senate committees or other similar activities; those activities are relevant only to the limited extent set forth in the following paragraph.

Where service is not an integral part of the mission of the academic unit, a faculty member's service may be considered, but is not a prerequisite to the awarding of tenure.

<sup>10</sup> Because of the special mission of the Crookston and Waseca campuses, disciplined inquiry in their field of endeavor may be substituted for research in appraising faculty members there.

Other exceptions may be made only in exceptional circumstances by means of special contract, as provided in Section 3.6.

<sup>11</sup> As used in these Regulations, "tenured faculty" means those members of the faculty who hold indefinite tenure.

7.3 *Formal Action by the Faculty.* The tenured faculty of the academic unit may recommend that a probationary faculty member be granted indefinite tenure or that the appointment be terminated. If it does neither, it is presumed to recommend a renewal of the appointment. In the final probationary year, if the tenured faculty does not recommend an appointment with indefinite tenure, it must recommend termination of the appointment. The recommendation is made by a vote of the regular faculty with indefinite tenure in the unit. The presiding officer is not disqualified from voting merely because of office.

7.4 *Procedures for Taking Formal Action.* The academic unit must observe University procedures established as provided in Section 16.3. These procedures will provide that:

(1) There is a good faith effort to gather all relevant information necessary to the decision. The academic units have the primary obligation to assemble the file, but the faculty member also has the right to add any material the faculty member considers relevant.

(2) The decision is made by vote, by written unsigned secret ballot, at a meeting of the regular faculty who have indefinite tenure in the academic unit. The rules may provide for absentee ballots by informed absent faculty members.

(3) Persons who have or have had a family or similar relationship to the candidate do not participate in the decision. The procedures may establish methods for raising and ruling on such questions in advance of the decision.

(4) Action is taken by majority vote. An academic unit may adopt a uniformly applicable rule that a motion to recommend tenure must achieve a specified exceptional majority in order to constitute an affirmative recommendation of that unit. In such case a motion which achieves a majority, but not the required exceptional majority, must be sent forward for review by the appropriate review process despite the absence of the unit's affirmative recommendation.

(5) The unit reports the vote of the faculty, together with the reasons for the action taken. This statement of reasons must take the form of a summary of both majority and minority views which have substantial support which were expressed in the course of formal consideration of the action. All statements must be made without personal attribution. A preliminary draft is open to members of the faculty eligible to vote so they may comment and suggest changes. The final draft is sent to the affected faculty member and is open to the faculty eligible to vote.

(6) In academic units which are widely scattered geographically so that collegial deliberation is difficult, the rules may specify special procedures which, to the maximum extent practicable, conform to the procedures generally required.

(7) Before submitting a formal recommendation for an appointment with indefinite tenure or for termination of a probationary appointment, the head of the academic unit informs the appointee of the recommendation and gives the appointee a copy of the final report. The appointee may submit any comments upon the report to the academic administrator who will review the report, with a copy to the head of the academic unit.

7.5 *Non-disclosure of grounds for recommendation of termination.* The reasons for a recommendation to terminate a probationary appointment may not be disclosed, except as part of the review process, unless the faculty member requests such disclosure or makes a public statement concerning the reasons for termination.

7.6 *Review of Recommendations.* Recommendations of academic units to grant indefinite tenure or to terminate probationary appointments are reviewed at the collegiate and University levels.

7.61 *Procedures.* The review must be conducted according to University procedures, established as provided in Section 16.3. These procedures must provide for review and recommendations by the head of the academic unit, by the dean of the collegiate unit, by faculty committees at the collegiate or University level, and, when appropriate, by other academic administrators. The review must be conducted on the basis of the standards and criteria established by subsections 7.11 and 7.12 and the applicable rules and procedures. The rules may permit an administrator to refer the matter back to the unit for reconsideration, but if the administrator and the unit do not agree after such reconsideration, both the recommendation and the administrator's comments must be sent forward for final administrative action. A copy of each review or recommendation must be supplied to the faculty member. The faculty member may comment thereon in writing to those who will review the matter further.

7.62 *Conflict of Interest.* No one may participate both in an initial recommendation by an academic unit and in a subsequent review of that recommendation, except that the head of the academic unit may make the initial administrative review. No one who has participated in a recommendation or review may thereafter serve as a member of the Judicial Committee in further consideration of that case.

Members of the Judicial Committee may not serve on collegiate or University review committees. Members of the Judicial Committee may participate in initial recommendations by their own academic units, but are disqualified from thereafter participating in Judicial Committee consideration of those decisions.

7.63 *Final Administrative Action.* The University may not act contrary to the recommendation of the academic unit which made the initial recommendation except for substantive reasons which must be stated in writing by the Vice President (or a person designated by the Vice President) to the faculty member, to the members of the academic unit which made the recommendation, and to the President. The fact that participants in the review process have recommended against the unit's initial recommendation is not, by itself, a substantive reason.

The Vice President takes the steps necessary to make the necessary appointment or to give notice of termination.

7.7 *Improper Termination of Probationary Appointments.* A person holding a regular probationary appointment who has been given notice of termination may petition the Judicial Committee to review the action. The Judicial Committee will not base its ruling on the merits of the decision itself, but will review allegations that the decision was based in significant degree upon any of the following:

- (a) Personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the Constitutions and laws of the United States and the State of Minnesota;
- (b) Factors proscribed by applicable federal or state law regarding fair employment practices;
- (c) Substantial and prejudicial deviation from the procedures prescribed in Subsections 7.4 and 7.6 and the procedural rules promulgated pursuant to those subsections;
- (d) Failure to consider data available at the time of decision bearing materially on the faculty member's performance;
- (e) Demonstrable material prejudicial mistakes of fact concerning the faculty member's work or conduct;
- (f) Other immaterial or improper factors causing substantial prejudice; or
- (g) Other violation of University policies or regulations.

Such proceedings are governed by Section 15.

## **SECTION 8. IMPROPER REFUSAL OF A NEW APPOINTMENT TO A NON-REGULAR FACULTY MEMBER**

A person holding a non-regular faculty appointment who has been refused a renewal of that appointment or has applied for and been refused a regular or a different non-regular faculty appointment within six months of the end of that appointment may petition the Judicial Committee to review the refusal, but only on the ground that the decision was based in significant degree upon one or more of the following:

- (a) Personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the Constitutions and laws of the United States and the State of Minnesota;
- (b) Factors proscribed by applicable federal or state law regarding fair employment practices;
- (c) Essential and substantial written misrepresentation of the nature of the original appointment; or
- (d) Other violation of University policies or regulations.

Such proceedings are governed by Section 15.

## **SECTION 9. APPOINTMENT OF ASSOCIATE PROFESSORS AND PROFESSORS WITH INDEFINITE TENURE**

Initial appointments with indefinite tenure may only be made at the rank of Associate Professor or Professor. Such appointments may be made only after receiving the recommendation of the regular faculty holding indefinite tenure in the academic unit concerned.

## SECTION 10. UNREQUESTED LEAVE OF ABSENCE FOR DISABILITY; TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE

10.1 *Unrequested Leave of Absence for Disability.* A faculty member who is physically or mentally unable to perform reasonably assigned duties may be placed on unrequested leave of absence. The faculty member is entitled to sick pay and disability insurance payments in accordance with University policy. The faculty member has a right to return to the faculty upon termination of the disability or upon cessation of disability payments.

10.2 *Termination or Suspension of a Faculty Appointment Before Its Expiration.* A faculty appointment may be terminated or suspended before its ordinary expiration only for one or more of the following causes:

- (a) Sustained refusal or failure to perform reasonably assigned duties adequately.
- (b) Unprofessional conduct which severely impairs a faculty member's fitness in a professional capacity.
- (c) Egregious or repeated misuse of the powers of professional position to solicit personal benefits or favors.
- (d) Sexual harassment or any other egregious or repeated unreasonable conduct destructive of the human rights or academic freedom of other members of the academic community.

10.3 *Procedures.* A faculty member may be placed on unrequested leave of absence or a faculty appointment may be terminated or suspended for these reasons only in accordance with the procedures set forth in Section 14.

## SECTION 11. FISCAL EMERGENCY

11.1 *Faculty Rights.* The Board of Regents, if faced with the necessity of drastic reduction in the University budget, has the power to suspend or abolish positions, or even entire departments, divisions, or other administrative units. If confronted with such adverse contingency, the Board will consult with and secure the advice of faculty representatives, as provided in this section. Faculty members have the right to full access to information about the situation and the alternatives being considered. In effecting retrenchment because of financial necessity, the Regents will make reductions in faculty positions only to the extent that, in their judgment, is necessary after exploring various alternative methods of achieving savings. The Regents fully intend that the tenure system as a whole and the tenure rights of each individual faculty member be protected in every feasible manner during periods of such retrenchment.

11.2 *General Principles of Priority.* The following general principles of priority apply in any financial crisis:

--First, the University must fully utilize all means consistent with its continued existence as an institution of high academic quality to reduce expenses or to increase income which do not involve the termination of faculty positions or the impairment of faculty rights.

--Second, the University may consider alternatives which involve only the temporary reduction or postponement of faculty compensation or the reduction of fringe benefits.

--Only thereafter may the University suspend or terminate faculty positions in accordance with this section.

11.3 *First Stage: Alternative Approaches.* If there has been a serious reduction in the University's income, the President will report the matter to the Senate Consultative Committee. The President will identify the magnitude of the shortfall, the measures which might be taken to alleviate it (which must not involve impairment of faculty rights), and alternative measures which have been rejected. The President will give the Committee full access to all available information and will respond specifically to additional proposals suggested by the Committee. At this stage, the University will consider reductions of non-faculty staff, allowing non-regular appointments to lapse in accordance with their terms, and reductions in other expenses. It will also consider increases in tuition, sales of assets, and borrowing. These steps will be implemented by the President or the Board of Regents as is appropriate.

11.4 *Second Stage: Reduction or Postponement of Compensation.* If the University has implemented all of the measures which are required to be considered in the first stage, which are consistent with its continued operation as an institution of high academic quality, and they are inadequate to meet the shortfall, the President may, after consultation with the Faculty Consultative Committee, propose the temporary reduction or postponement of faculty compensation for a predetermined period not to exceed one year, according to a mathematic formula or similar device. The Faculty Consultative Committee will report on the adequacy of the steps taken in the first stage and

make its recommendations on the proposal. If the Faculty Senate approves the proposed action (or any modification of it) by an absolute majority of its membership or by a two-thirds vote of the members present and voting (a quorum being present), the Board of Regents may take that action (or any less stringent action) and, to that extent, modify the terms of the appointments of all faculty members. The Board of Regents may rescind the action at any time thereafter. Such actions may be repeated by the same procedures.

11.5 *Third Stage: Fiscal Emergency.* If there has been a reduction of the University's income which is so drastic as to threaten its survival, and this threat cannot be alleviated by the measures specified above, the Board of Regents may declare a fiscal emergency. During such an emergency, the Board of Regents may terminate or suspend faculty appointments as provided in this section.

11.51 *Preliminary Procedures.* Before recommending to the Board of Regents that it declare a fiscal emergency, the President must meet with the Senate Consultative Committee to examine alternatives to and the consequences of such a declaration. The President must provide the Committee access to all available information. The President must provide a written report identifying the dollar amount to be saved by reducing faculty positions. This report must also identify the dollar amount proposed to be saved by any other measures to be taken, including the level of any concurrent reductions in non-faculty staff during the emergency. The Faculty Consultative Committee will prepare a written report on the President's proposal, to which the Senate Consultative Committee may add additional comments. The Faculty Senate will first consider and act on the proposal and reports. Thereafter, the University Senate may consider them. The President must attend both Senate meetings to explain the proposal and to answer questions. After receiving the President's recommendation and the resolutions of the Senates, the Board of Regents may declare a state of fiscal emergency. Before action contrary to the recommendation of the University Senate is subsequently taken, the President must report in writing and in person the reasons for this action to the Senate Consultative Committee. The Board of Regents' resolution states the maximum amount to be realized from termination or suspension of faculty appointments.

11.52 *Duration.* A fiscal emergency lasts no longer than 12 months unless renewed by the same procedure. A fiscal emergency may be rescinded at any time by the Board of Regents.

11.53 *Allocation of Shortfall.* After consultation with the Faculty Consultative Committee and the Senate Consultative Committee, the President proposes an initial allocation of the shortfall to the various collegiate units, which need not be prorated. The Committee must obtain the views of the faculty in the affected units and must hold an open meeting at which anyone may comment upon the proposed action. It may also request the assistance of other University or Senate committees in studying all or particular aspects of the educational policies and priorities involved in the action. The colleges and campuses then allocate the shortfall to the various academic units after similar consultation with the representative bodies and academic units in the colleges and similar open meetings. The plans must reflect the principles and priorities established in Subsection 11.6. The colleges and campuses return their plans to the Vice President, who prepares a comprehensive plan for the University, including a list of the persons whose appointments will be suspended or terminated. This plan is submitted to the University Senate and the Faculty Senate for their recommendation. The recommendations of the Senates and the Vice President's plan will be presented to the President and the Board of Regents for action.

## 11.6 *Principles Governing Termination or Suspension.*

### 11.61 *General Principles.*

(a) Savings achieved through resignations, retirements, renegotiation of contracts, inloading or other measures must be credited to the assigned shortfall before terminating or suspending faculty appointments.

(b) A good faith effort should be made to use temporary suspensions or voluntary furloughs rather than terminations. In this third stage, the Board of Regents may impose the temporary or permanent reduction of faculty compensation or the reduction of fringe benefits, in excess of those approved in the second stage. Suspensions without pay for one quarter in any year may be ordered in accordance with objective criteria, provided that faculty members are given at least six months notice.

(c) Terminations may not be used in case of a short-term financial crisis, but only if the circumstances are such that the shortfall is reasonably expected to continue over a substantial number of years.

(d) A good faith effort must be made to cover as much of the shortfall as possible by allowing non-regular appointments to lapse and by giving notice to probationary faculty in accordance with the terms of their appointments.

(e) A good faith effort must be made to cover as much of the shortfall as possible by transferring faculty members to other positions for which they are qualified or by offering them retraining for available positions.

(f) The selection of faculty members within an academic unit for termination must be made on objective criteria. It may not involve a comparative evaluation of the relative merits of individuals or a repetition of the tenure-granting process.

11.62 *Priorities.*

(a) Unless the unit can demonstrate that essential functions could not otherwise be performed:

--All non-regular faculty within an academic unit must be suspended or terminated before any regular faculty may be suspended or terminated in that unit.

--All probationary faculty within an academic unit must be suspended or terminated before any tenured faculty may be suspended or terminated in that unit.

(b) Care must be taken to protect the employment of women and minorities entitled to affirmative action. The Vice President must insure that for the University as a whole the plan which is submitted does not reduce the proportion of appointments with indefinite tenure held by women and minorities entitled to affirmative action, does not reduce the proportion of probationary appointments held by women or minorities entitled to affirmative action, and does not reduce the proportion of non-regular appointments held by women or minorities entitled to affirmative action.

11.63 *Notice and Severance Pay.* A faculty member whose appointment is to be terminated or suspended is entitled to a minimum of one full academic year's notice or to one year's salary as severance pay in lieu of notice, unless the appointment would otherwise expire earlier.

11.64 *Reemployment Rights.* The University will not fill any faculty position for which a faculty member with indefinite tenure who has been terminated is qualified for five years after notice of termination, unless it first offers the position to each such faculty member and gives a reasonable time for the faculty member to accept or reject it.

11.7 *Judicial Committee Review.* A faculty member whose appointment is terminated or suspended may make a written request for review by the Judicial Committee. The review will be conducted in accordance with Section 15. The Judicial Committee will not reexamine the determination that a fiscal emergency exists, nor will it reexamine the educational policies and priorities pursued unless it finds a substantial failure to follow the procedures established in this section. It will only examine whether the action was taken in accordance with the procedures and standards set forth in this section, whether the action was based on a violation of academic freedom or constitutional or legal rights, or was substantially based on immaterial or improper factors. It may consolidate cases involving common issues for a single hearing.

## SECTION 12. PROGRAMMATIC CHANGE

12.1 *Programmatic Change.* The University and faculty recognize that changes in academic programs are an essential part of the development and growth of an institution. These changes should reflect long-term policy and planning.

12.2 *Faculty Rights and Duties.* In the event that programmatic change leads to discontinuation of a program in which a member of the faculty is employed, the University recognizes the obligation to continue the employment of regular faculty in accordance with the terms of their employment, and to continue the employment of non-regular faculty for the term of appointment. In case of fiscal emergency, the provisions of Section 11 apply.

Regular faculty members who are so retained have the responsibility to accept teaching or other assignments for which they are qualified, and to accept training to qualify them for assignment in other fields. The University has the responsibility to assign such faculty members to responsibilities as closely related to their original field of tenure as is practicable, to allow them time in which to continue scholarship in their original field if they wish, and to recognize scholarly contributions in that field as valuable in assessing their contribution to the University for pay, promotion and other purposes.

In addition to the steps mentioned above, the University has the right to offer inducements to faculty members voluntarily to change fields of study, to seek employment elsewhere, or to accept early retirement.

## **SECTION 13. JUDICIAL COMMITTEE**

13.1 *Membership.* The Judicial Committee is composed of at least nine members of the regular faculty. The number of members and manner of appointment is governed by the University Senate Bylaws.

13.2 *Procedures.* Proceedings before the Judicial Committee will be conducted in conformity with these regulations. The Judicial Committee may adopt additional rules with the approval of the Tenure Committee.

In every case before the Judicial Committee the Vice President may designate the academic administrator who will represent the University as respondent.

13.3 *Duty to Testify.* Faculty members and administrators have an obligation to appear before the Judicial Committee to give testimony in matters pending before it.

13.4 *Panels.* The Judicial Committee may sit in panels to hear individual cases. In cases under Sections 10 and 14, the panel must consist of at least five members. In all other cases, the panel must consist of at least three members. The rules of the Judicial Committee will establish the respective functions of the Committee as a whole and of the individual panels.

## **SECTION 14. PROCEDURES IN CASES OF UNREQUESTED LEAVE OF ABSENCE OR TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE**

14.1 *Preliminary Proceedings.* Only a dean or an academic administrator specially designated by the Vice President may initiate preliminary proceedings leading to unrequested leave of absence or to suspension or removal. The administrator must first attempt to discuss and resolve the matter with the faculty member involved.

The administrator must then submit the matter to the tenured faculty of the academic unit involved for their recommendation. (The tenured faculty may decide to submit the issue to the entire regular faculty of the unit.)

If the Vice President and the Faculty Senate have expressly approved the submission of allegations of the violation of a specified policy to another body for preliminary recommendation, in place of submission to the tenured faculty of the academic unit, the administrator must submit the matter to that body for its recommendation.

Both the administrator and the faculty member may submit their views, in person or in writing, to the body making the recommendation, but neither of them may participate in the deliberation or vote. The body making the recommendation makes a written report to the administrator within 40 days of submission of the issue to it, indicating the number of votes for and against the proposed action and the reasons articulated. Within 15 days after receiving the report, the administrator makes a written recommendation to the Vice President. The recommendation must include a copy of the report of the panel or of the tenured faculty, as the case may be. A copy of the report must be sent to the faculty member.

14.2 *Formal Action.* After receiving the administrator's recommendation, and giving the faculty member an opportunity to comment, the Vice President will decide whether to proceed. If the Vice President does not proceed within 40 days, the charges are dropped and the faculty member and the academic unit are so notified in writing. If the Vice President decides to proceed with formal action, the Vice President must give written notice to the faculty member. The notice must specify the action proposed, identify the specific grounds upon which it has been taken, and summarize the evidence in support. It must inform the faculty member of the right to request a hearing before the Judicial Committee and advise the faculty member of the applicable time limit for making such a request.

If the faculty member does not request a hearing within 30 days, the President may take the action proposed in the Vice President's notice, without further right to a hearing.

14.3 *Judicial Committee Hearing.* The faculty member may request a hearing before the Judicial Committee by written request to the Chair of the Committee, filed within 30 days of the notice. The Judicial Committee may extend the 30 day period for good cause. The Vice President designates the administrator who will present the case. The administrator has the burden of proving the case for the proposed action by clear and convincing evidence and also has the burden of demonstrating the appropriateness of the proposed action, rather than some lesser measure.

The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case. If the Committee finds that action is warranted, it may recommend action which is less

severe than that requested in the written notice, including action which does not involve the termination or suspension of an appointment. It may not recommend more severe measures than those proposed in the Vice President's notice.

The Judicial Committee sends its report to the President with copies to the faculty member and the administrator.

14.4 *Action by the President.* The President must give the faculty member and the administrator the opportunity to submit written comments on the report and to make oral presentations. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The President may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the Senate Judicial Committee. Such administrators may communicate with the President in writing, but only if the full text of the communication is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The President shall not take action materially different from that recommended by the panel unless, prior to the action, the President has consulted with the committee. The parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the President may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The President may impose the action recommended by the Committee, or any action more favorable to the faculty member. The President may impose action less favorable to the faculty member only for compelling reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved. The President's written statement must be given to the parties and to the Judicial Committee. If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the President's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member.

14.5 *Appeal to the Board of Regents.* If the action involves removal or if the action involves a sanction more severe than that recommended by the Judicial Committee, the faculty member may appeal to the Board of Regents. In cases in which the President imposes a sanction more severe than that recommended by the Judicial Committee, the faculty member and the President may present to the Board evidence with respect to issues on which the President differs from the recommendation of the Judicial Committee. The request for a hearing must be made to the Secretary of the Board within 10 days of the President's action.

14.6 *Temporary Suspension During Proceedings.* The Vice President may temporarily suspend a faculty member during the proceedings, but only if there is clear evidence that the faculty member is likely to cause serious harm or injury or is not available for work. The suspension will be with full pay, unless the faculty member is not available for work. Before ordering such suspension, the Vice President must present the evidence to a special panel of the Faculty Consultative Committee and receive their written report. The faculty member must be given the opportunity to contest the suspension before the panel.

14.7 *Resignation During Proceedings.* A faculty member may submit a written notice of resignation to the President at any time during Judicial Committee proceedings pursuant to this Section. Upon the effective date of such resignation, the proceedings will be discontinued unless the faculty member concurrently files a written request with the Judicial Committee that they be carried to completion.

## **SECTION 15. APPEALS TO THE JUDICIAL COMMITTEE**

15.1 *Right to Review.* Any faculty member who claims that his or her rights or status under these regulations have been adversely affected without his or her consent may seek review before the Judicial Committee. Cases arising under Sections 7, 8, 10, or 11 may be brought directly to the Judicial Committee. In other cases the faculty member must exhaust all other available University remedies before bringing the case to the Judicial Committee; the Judicial Committee will not proceed with such a case until the appropriate University body has either decided it or has refused to consider it.

15.2 *Procedure for Securing Review.* A written request for review must be filed with the Chair of the Judicial Committee within 30 days of written notice of the action challenged. The request must specify the action complained of and the remedial action the individual seeks. Within 30 days of filing, the Chair of the Judicial Committee must send copies of the request to the head of the academic unit concerned and to the senior vice president for academic affairs.

The Judicial Committee, however, may extend the time for filing for review for reasons that seem compelling to the Committee, such as mental or physical illness, or serious personal or family problems, or doubt concerning when final action was taken.

15.3 *Hearings Before the Judicial Committee.* The person seeking review has the burden of proving by the preponderance of the evidence that the action complained of was improper unless the Judicial Committee, for good cause, otherwise directs.

The Judicial Committee does not itself decide whether the faculty member is professionally worthy of a faculty position, but only determines whether the action was based in significant degree upon any of the factors specified in Subsection 7.7 (Termination of Probationary Appointment) or Section 8 (Refusal of a New Appointment to a Non-Regular Faculty Member).

In cases involving Section 7 (Termination of Probationary Appointment), 8 (Refusal of New Appointment to a Non-Regular Faculty Member), or 11 (Fiscal Emergency), the Judicial Committee hears the merits of the case, as provided in those sections. In other cases, if there is an appropriate University body to review the matter, the Judicial Committee will only determine whether that body has given the faculty member due process and whether, on the basis of the facts found by that body, there has been a violation of these regulations or of the faculty member's academic freedom. If there is no appropriate University body to hear such a case, or if the Judicial Committee finds that the body which heard the case did not provide due process, the Judicial Committee may hear the merits or may appoint an *ad hoc* tribunal to hear them.

15.4 *Action by the Judicial Committee.* The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case.

If the Judicial Committee finds that the action complained of was improper, it also specifies the respects in which it finds the action to have been improper and recommends appropriate remedial action. If it recommends reconsideration, it may specify the manner in which reconsideration will be undertaken to avoid the influence of improper factors. If a probationary faculty member has reached the maximum probationary period, the Committee may recommend a non-regular appointment for an additional academic year to provide for reconsideration.

The Judicial Committee sends its report to the President with copies to the faculty member and the administrator who appeared as respondent.

15.5 *Action by the President.* The President must give the faculty member and the administrator the opportunity to submit written comments on the report. In determining what action to take, the President may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The President may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the Senate Judicial Committee. Such administrators may communicate with the President in writing, but only if the full text of the communications is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The President shall not take action materially different from that recommended by the panel unless, prior to the action, the President has consulted with the committee. The parties and their representatives shall not be present at any meeting between the President and the committee nor shall their consent be required for such meeting.

In addition, the President may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The President may impose the action recommended by the committee or any action more favorable to the faculty member. The President may impose action less favorable to the faculty member only for important substantive reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved. The President's written statement must be given to the parties and to the Judicial Committee. If the Judicial Committee decides that the President has imposed an action that is less favorable to the faculty member than it has recommended, it shall inform the faculty by publication of the President's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the

full text of the statement will be published. Otherwise, a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member.

15.6 *Actions Requiring Reconsideration.* If the Judicial Committee recommends reconsideration of an action, that reconsideration will be undertaken under the supervision of the Vice President, unless otherwise specified. The Judicial Committee may retain provisional jurisdiction of the matter to review allegations that the reconsideration itself was improper, and may make supplementary findings, conclusions, and recommendations in this regard.

15.7 *Recommendations for Changes in University Policies and Procedures.* As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure Committee or the Vice President may initiate steps to clarify or improve University rules or policies involved. The changes will not affect the outcome of the case before the Committee.

## **SECTION 16. TENURE COMMITTEE**

16.1 *Membership.* The Tenure Committee is composed of at least seven members of the faculty and such other persons as the University Senate Bylaws shall provide. The manner of appointment is governed by the University Senate Bylaws.

16.2 *Interpretations.* The Vice President and the Tenure Committee may propose formal interpretations of these regulations, consistent with their terms. Such interpretations must be reported to the Faculty Senate and the Board of Regents. If adopted by the Board of Regents, such interpretations will be binding in all cases subsequently arising.

16.3 *Procedures.* The Vice President and the Tenure Committee may jointly adopt the procedures provided by Sections 7.4 and 7.61. Such procedures must be reported to the Faculty Senate and the Board of Regents before they go into effect.

16.4 *Additional Functions.* The Tenure Committee also advises the University and makes recommendations concerning the interpretation and amendment of these regulations, but such advice and recommendations are not binding on the Judicial Committee.

## **SECTION 17. WRITTEN NOTICE**

Notices of termination of a probationary appointment, of suspension or termination of an appointment, or of placement on unrequested leave of absence for disability, must be sent by registered or certified mail to the last known residence address of the faculty member concerned and also by campus mail to the faculty member's campus address, if any. The written notice satisfies the applicable time requirement if it is postmarked at or before midnight of the applicable date.

Failure to comply fully with this section is immaterial if, in fact, the faculty member was not prejudiced by such failure.

## **SECTION 18. PUBLICATION**

These regulations, and the interpretations referred to in Section 16, will be published and made available to all faculty members. Every faculty member who holds a regular or non-regular appointment, except for courtesy faculty appointments without salary, must be given a copy of the current regulations and copies of subsequent amendments or published interpretations.

**SECTION 19. AMENDMENT**

These regulations are subject to amendment by the Board of Regents. Proposed amendments from any source will be submitted to the Faculty Senate for its advice and recommendation before final action by the Board of Regents. The Faculty Senate will solicit the recommendations of the Faculty Affairs Committee, the Judicial Committee, and the Tenure Committee, before giving its advice and recommendation.

## APPENDIX

### ACADEMIC FREEDOM

The University of Minnesota was founded in the faith that men are ennobled by understanding; it is dedicated to the advancement of learning and the search for truth; it is devoted to the instruction of youth and the welfare of the state. These purposes, carved in stone upon the facade of its stately building, embody the tradition of scholarship upon which rests the development of higher education and the continuous progress of democratic society. It is this tradition that sustains the human mind and spirit when beset by human passions and prejudices. It is to this tradition that the Board of Regents of the University of Minnesota reaffirms its adherence. In so doing, it reiterates its acceptance of the corollary principles of academic freedom. The Board of Regents of the University of Minnesota bears witness to its faith by entering upon its record the following statements concerning academic freedom:

1. The University of Minnesota should not impose any limitation upon the teacher's freedom in the exposition of his own subject in the classroom or in addresses and publications.
2. No teacher may claim as his right the privilege of discussion in his classroom controversial topics that are not pertinent to the course of study that is being pursued.
3. The University of Minnesota should not place any restraint upon the teacher's freedom in the choice of subjects for research and investigation undertaken on his own initiative.
4. The University of Minnesota should recognize that the teacher in speaking or writing outside of the institution upon subjects beyond the scope of his own field of study is entitled to the same freedom and is subject to the same responsibilities as attach to all other citizens but in added measure.
5. It is clearly understood that the University of Minnesota assumes no responsibility for views expressed by members of its staff; and the faculty members themselves, should, when necessary, make it clear that they are expressing their personal opinions.
6. If the conduct of a teacher in his classroom or elsewhere should give rise to doubts concerning his fitness for his position, the question should in all cases be submitted first to a committee of the faculty, and in no case should any member of the teaching staff be dismissed before the normal termination of his period of appointment without full and open hearing before the Board of Regents, should he desire it, and only upon sufficient notice.

APPROVED BY THE BOARD OF REGENTS - January 18, 1938

### ACADEMIC FREEDOM

We, as the Board of Regents, are responsible to the public for the health and vitality of the University. It is our responsibility to inquire continuously into the conduct of the University to make sure this health and vitality are preserved.

The University community is a city of more than fifty thousand people; they come from every part of the country; of the undergraduates, 94 percent come from somewhere in Minnesota. They represent a cross section of our population, differing from a random cross section only because they are especially selected for intellectual interests and intellectual competence. We assume that almost every type of political conviction is to be found among them, just as in any city of fifty thousand adults one would expect to find the complete variety of political, social, economic, and religious beliefs.

The University, the city, and the state do have facilities to ensure order in such a community. For varying problems of public safety we have provided for us a University security staff, a city police, and the Federal Bureau of Investigation. We have confidence in the effectiveness of these law enforcement agents, and we cooperate with them. We believe the American community is fundamentally law abiding; that it abhors both resort to violence in the affairs of men, and the use of extra legal methods in the examination of alleged violations of law.

Of all crimes or violations, the American philosophy and tradition require that we assume the citizen innocent until proven guilty. We believe it proper that the University leave the law enforcement role in American society to established law enforcement agencies. The University's tasks are learning, research, constructive criticism, and intellectual inquiry. By fulfilling its role, the University makes its contribution to public order by nourishing devotion to the rule of reason in the conduct of human affairs.

It cannot be too strongly stated that the only atmosphere in which a university can fulfill its assigned role is the atmosphere of freedom. Nor is it surprising that in America, where free discussion is the first principle of our

political faith, universities have flourished best, and have at the same time made the most remarkable contribution to the public good.

Those universities contributing most have been those which are most free. From the first days of our independence, the giants of American history have revered the principle of free speech; they have had enough faith in our form of government to state affirmatively that if truth and error were allowed to contest in free debate, truth would triumph. They have also recognized that any effort to close by force a free discussion is destructive of the dictator and of those dictated to. The first is poisoned by power; the latter is denied a share in the public dialogue. The man denied participation in free discussion loses, at the very least, his participating right as a citizen, but he may also be robbed of the dignity and self respect which freedom encourages.

The inherent validity of free competition among ideas is as apparent in the economic community as in the educational community. No one who has observed the development of the American economy can deny the efficiency of freedom. But perhaps an example of the creativity of freedom in the economic marketplace will serve to clarify the importance of freedom to the marketplace of ideas. As recently as forty years ago, the typical market was a corner grocery store. Whether found in the country or city it was heated by a potbellied stove, its aisles were crowded, its shelves crammed. Its proprietor helped each customer through the wilderness of items one by one. Gradually, in a kind of merchandising conversation, the entire enterprise was changed. One merchant, to increase the attraction of his business, widened the aisles; he was answered by a competitor who lowered shelves to put all items within easy reach; he in turn was answered by another who encouraged self service. Step by step the modern supermarket was born. But no one firm jumped directly from the narrow, crowded, confused grocery store of 1920 to the specially-designed supermarket of today. It required a merchant's conversation in which free men challenged and answered each other in a free and competitive atmosphere.

The marketplace of ideas is comparable, but even more dependent upon a completely free conversation. The student and the professor must live in an atmosphere where questioning is encouraged; where every alternative can be explored; where their free minds may be allowed to test the validity of each idea, and where they feel free to follow wherever truth may lead. Such a free atmosphere is not only merely necessary to university freedom; it is also the way of life which we have a right to associate with America. To ask that the University be respected in its right to this freedom is not to ask for special privilege, but rather to ask for the opportunity to demonstrate the efficiency of the freedom in which we all believe and for which so many brave Americans have died. The most American activity of them all is to think, to speak and to inquire freely. The un-American activity is to deny such freedom.

A university must cherish freedom or be untrue to its own nature. Equally it cherishes responsibility, the natural corollary of freedom. In this connection the Regents endorse the following statement adopted by the Association of American Universities in 1953 and reprinted in 1962;\*

"Historically the word 'university' is a guarantee of standards. It implies endorsement not of its members' views but of their capability and integrity. Every scholar has an obligation to maintain this reputation. By ill-advised, though not illegal, public acts or utterances he may do serious harm to his profession, his university, to education, and to the general welfare. He bears a heavy responsibility to weigh the validity of his opinions and the manner in which they are expressed. His effectiveness, both as scholar and teacher, is not reduced but enhanced if he has the humility and the wisdom to recognize the fallibility of his own judgment. He should remember that he is as much a layman as anyone else in all fields except those in which he has special competence. Others, both within and without the university, are as free to criticize his opinions as he is free to express them."

University teachers, as teachers, are judged for scholarly competence by their peers from the moment they aspire to membership on a faculty. The demands of such judgement are heavy, for the academic professional insists that its members be both skillful and devoted in their search for truth. The profession grants status and tenure to its members in proportion to their publicly demonstrated competence within a given academic discipline. And just as the medical profession must assume responsibility for establishing the standards of competence which admit members to the practice of medicine, so must the academic profession assume responsibility for establishing the standards of competence which qualify its members for the practice of teaching.

Just as the atmosphere of freedom within a university is the best guarantee of productive and responsible instruction, so also is it the best guarantee that students will grow toward responsible citizenship. A free society calls for citizens well schooled in the wisdom traditional to that society. It also calls for citizens accustomed to grappling with new ideas, to participating in the give and take of public discussion, and to assuming public responsibility for one's own thinking. Students properly assert their right to learn responsibilities of choice and decision which they must bear as citizens, and the free university properly provides the most appropriate setting for such learning.

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\* The Rights and Responsibilities of Universities and their Faculties.

We cannot emphasize too strongly the importance of a free university to the development of citizens able to carry responsibility in a free society. The dangers of fanatic, angry and irrational behavior were brought home to every American with the assassination of President Kennedy. It is time for Americans to draw closer together in dedication to our national goals. These include continued freedom, concern for the rights of others, political and spiritual tolerance, equality of opportunity, equality before the law and protection from the law's delays, and access to the blessings of justice and public order. These goals will not be won through angry and emotional outbursts which divide our people.

They can be won by systematic, rational and thoughtful analysis of the obstacles to our national purposes. The university is of paramount importance to our nation as it seeks to bring the methods of reason to bear upon our problems -- to find better means to public peace, as well as more effective ways to deter threats of violence which may be directed toward our nation. To do its rational work wisely, a university by its very nature requires freedom to inquire.

The people of Minnesota have been wise in their support of education. Their agricultural and industrial economy as well as their public peace and safety, are the better because of this wisdom. The University, operating in an atmosphere of freedom, has made great contributions to the healthy, stable society of which we are all now so proud. We as Regents are satisfied that to a very high degree the faculty of the University, and its administration, understand the mission of the University and are using their freedom responsibly. We are satisfied that the existing agencies for enforcement of law and for protection of national peace and safety are alert and adequate to their tasks. We are also sure that the University officials are prepared to and do cooperate with them in assuring national safety. We are impressed by the great responsibilities related to national safety and prosperity that are continuously entrusted to University personnel, and we wish to take this opportunity to reaffirm our faith in the University and in the efficiency of freedom.

**APPROVED BY THE BOARD OF REGENTS - December 14, 1963**

## **INTERPRETATIONS**

### **1. Interpretation of Sections 3-9: Promotion and Tenure Decisions Permitted by Provosts and Chancellors during 1995-96**

To accommodate current restructuring of the central administration, final review and related aspects of the promotion and tenure process may occur at the level of provosts and chancellors during the 1995-96 academic year. Provosts and chancellors will receive consultation regarding proper procedures from the Dean of the Graduate School.

### **2. Interpretation of 5.5: Retroactive Application**

A probationary faculty member may elect to extend his or her probationary period by one year if s/he (1) became a parent, by birth or by adoptive/foster placement, within five years before the effective date of Subsection 5.5 and (2) has not been given notice of termination.

### **3. Interpretation of Section 5.5: Major Caregiving Responsibilities**

A request for extension of the maximum probationary period for major caregiving responsibilities should be made only if those responsibilities are very substantial and continue over an extended period of time. The probationary faculty member must submit a written application to the head of the academic unit, who will forward it for action and approval through the appropriate University channels. If an administrator does not approve the request, the faculty member may file a grievance under applicable University policies.

### **4. Interpretation of 7.11: Consideration of Factors Other than Primary Tenure Criteria**

The use of any factor other than teaching, research, and service in making the decision about a probationary faculty member must be specifically stated and justified at the time of the decision. This rule applies both when that

factor is a criterion for judging the candidate's progress and when it is an element in establishing or modifying the standard which the faculty member should achieve.

A change in the program of a unit or college may be used as a factor in a decision only when the change has been adopted in accordance with the established procedures of the University, after consultation as required by those procedures. It must be explicitly identified. If such changes affect the prospects of probationary faculty members to achieve tenure, the faculty members should be given the earliest possible notice of the potential impact of such changes.

**5. Interpretation of 7.11: Discipline-Related Service**

Discipline-related service, as one of the primary criteria for tenure evaluation, is limited to those endeavors specifically related to the individual's academic expertise and faculty appointment in accordance with the academic unit's Mission Statement. This service must be defined in the Mission Statement as central and necessary to the operation of the academic unit. An equivalent term might be "unit mission-related service" -- for example, clinical service in a teaching hospital situation that does not involve students directly.

**6. Interpretation of Sections 14 and 15: Working Days**

The word "days" is interpreted to imply working days, not calendar days.

**7. Interpretation of Amendments to Sections 14.1 and 14.2: Timely Responses in Cases of Unrequested Leave of Absence, Termination, or Suspension**

The timelines for responses by either the involved faculty member or the administrator(s) may be extended by agreement of the parties to the proceeding or for extraordinary circumstances. An agreement of the parties to extend the time limit shall be in writing, signed by both parties or their representatives. If the parties do not agree, either party may apply to the chair of the Senate Judicial Committee for an extension of the time in which to take the steps required in this section. If the faculty member has failed to act within the time limits prescribed in these sections, the responsible administrator may request the chair of the Senate Judicial Committee to set a specific date by which the faculty member must take action; if the faculty member fails to do so, the petition for review will be dismissed without further proceedings and the requested disciplinary action (or any lesser sanction) may be taken. If the responsible administrator has failed to act within the time limits prescribed in these sections, the faculty member may request the chair of the Senate Judicial Committee to set a specific date by which the administrator must take action; if the administrator fails to do so, the proceedings shall be dismissed and further action can be taken only by reinitiating the entire proceedings.

The following interpretations to the *Regulations Concerning Faculty Tenure* were approved by the Tenure Subcommittee on May 31, 1996.

**INTERPRETATION 1:**

The Tenure Subcommittee proposes to adopt the following formal Interpretation of Section 10.2. It does not require formal Faculty Senate action. (The entire text is new.)

1 FACULTY MEMBERS ARE FREE TO CHOOSE TOPICS FOR RESEARCH OR OUTREACH  
2 AND TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, IN ACCORDANCE  
3 WITH THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THE HEAD OF  
4 THE ACADEMIC UNIT WILL ASSIGN INDIVIDUAL FACULTY MEMBERS TO TEACH  
5 SPECIFIC COURSES IN ACCORDANCE WITH THE ACADEMIC WORKLOAD STATEMENT  
6 AND OTHER POLICIES ADOPTED BY THE FACULTY OF THAT UNIT. A FACULTY  
7 MEMBER MAY CHALLENGE AN ASSIGNMENT BY SHOWING THAT IT IS  
8 UNREASONABLE. AN ASSIGNMENT IS UNREASONABLE IF: (A) TAKEN AS A WHOLE,  
9 IT EXCEEDS THE WORKLOAD EXPECTED IN THE WORKLOAD STATEMENT OF THAT  
10 UNIT, (B) THE FACULTY MEMBER LACKS THE BASIC QUALIFICATIONS TO TEACH THE  
11 COURSE, OR (C) THE ASSIGNMENT WAS MADE IN VIOLATION OF THE FACULTY  
12 MEMBER'S ACADEMIC FREEDOM OR IN VIOLATION OF ANOTHER SPECIFIC  
13 UNIVERSITY POLICY. THE FACULTY MEMBER SHOULD CARRY OUT THE TEACHING  
14 ASSIGNMENT PENDING RESOLUTION OF ANY GRIEVANCE, UNLESS THE RESPONSIBLE  
15 GRIEVANCE OR HEARING OFFICER OR PANEL INDICATES THAT PROVISIONAL  
16 MEASURES ARE APPROPRIATE.

Comment

This Interpretation is intended to reinforce the common understanding that faculty members must cooperate in the ongoing work of the department or other academic unit. The department head (or equivalent officer) has the responsibility to assign faculty members to particular teaching assignments. In doing so the skills, experience, and interest of faculty members should be taken into account, but the department head has the duty and responsibility to distribute equitably the workload among all faculty members in accordance with the policies formally adopted in the unit. A faculty member has the obligation to teach the courses assigned, as long as the assignment is reasonable.

Disagreements about assignment should be resolved informally, if possible. Otherwise, a formal grievance may be filed. The faculty member should carry out the assigned duty pending resolution of that grievance, unless provisional measures are indicated.

**INTERPRETATION 2:**

The Tenure Committee proposes to adopt the following Interpretation of Section 12: (The entire text is new.)

1 SECTION 12.2 OF THE TENURE REGULATIONS RECORDS AN UNDERSTANDING  
2 THAT, IN CASE OF PROGRAMMATIC CHANGE, "THE UNIVERSITY RECOGNIZES ITS  
3 OBLIGATION TO CONTINUE THE EMPLOYMENT OF REGULAR FACULTY IN  
4 ACCORDANCE WITH THE TERMS OF THEIR EMPLOYMENT" AND "REGULAR FACULTY  
5 MEMBERS WHO ARE SO RETAINED HAVE THE RESPONSIBILITY TO ACCEPT TEACHING  
6 OR OTHER ASSIGNMENTS FOR WHICH THEY ARE QUALIFIED." THIS INTERPRETATION  
7 CLARIFIES THE PROCESSES TO BE FOLLOWED TO EFFECTUATE SECTION 12.2.

8 IN CASE OF PROGRAMMATIC CHANGE THAT LEADS TO THE DISCONTINUATION  
9 OF A PROGRAM, THE ASSIGNMENT OF NEW RESPONSIBILITIES WILL BE MADE BY A  
10 UNIVERSITY OFFICER DESIGNATED BY THE PRESIDENT. THE OFFICER WILL  
11 CONSULT WITH THE FACULTY MEMBER AND THE POTENTIAL RECEIVING UNIT AND  
12 WILL SEEK A MUTUALLY SATISFACTORY ASSIGNMENT.

13 IF AGREEMENT CANNOT BE REACHED, THE UNIVERSITY OFFICER WILL ASSIGN  
14 NEW RESPONSIBILITIES AFTER CONSULTATION WITH THE INDIVIDUAL. THE  
15 ASSIGNMENT WILL BE AS CLOSELY RELATED TO THE ORIGINAL APPOINTMENT AS  
16 PRACTICABLE. THE FORMAL ASSIGNMENT WILL BE IN WRITING AND WILL INDICATE  
17 THE CONTINUING NATURE OF THE FACULTY MEMBER'S TENURE.

18 FOR FIVE YEARS AFTER THE REASSIGNMENT, THE FACULTY MEMBER WILL BE  
19 INFORMED OF VACANCIES IN HIS/HER ORIGINAL DEPARTMENT (OR IN SUCCESSOR  
20 OR RELATED DEPARTMENTS) AND WILL BE GIVEN PREFERENCE IN FILLING ANY  
21 SUCH POSITIONS FOR WHICH HE/SHE IS QUALIFIED.

22 EVERY EFFORT SHOULD BE MADE TO SEEK A SATISFACTORY PERMANENT  
23 ASSIGNMENT. IF THIS CANNOT BE ACCOMPLISHED, TEMPORARY ASSIGNMENTS CAN  
24 BE MADE.

25 AS PROVIDED IN SECTION 12.2, THE UNIVERSITY MAY GIVE THE FACULTY  
26 MEMBER "OTHER ASSIGNMENTS" ONLY IF ASSIGNMENTS TO TEACHING IN THE  
27 FACULTY MEMBER'S DISCIPLINE ARE NOT FEASIBLE. FOR EXAMPLE, FACULTY  
28 MIGHT BE ASSIGNED

29 -- TO TEACH IN ANOTHER FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED,  
30 BUT WHICH IS NOT WITHIN THE AREA OF ORIGINAL TENURE.

31 -- TO PERFORM PROFESSIONAL OR ADMINISTRATIVE DUTIES, INCLUDING  
32 PROFESSIONAL PRACTICE IN A FIELD IN WHICH THE INDIVIDUAL IS  
33 QUALIFIED.

34 -- TO TRANSFER EFFORT BY ASSIGNMENT IN A SUITABLE PROFESSIONAL  
35 CAPACITY AT ANOTHER EDUCATIONAL INSTITUTION OR SIMILAR ENTITY,  
36 WHILE RETAINING UNIVERSITY TENURE, COMPENSATION, AND BENEFITS.

37 -- TO UNDERTAKE EDUCATIONAL OR TRAINING PROGRAMS TO DEVELOP OR  
38 REFINE SKILLS THAT LATER MAY BE USEFUL TO THE UNIVERSITY; THE  
39 COSTS OF SUCH PROGRAMS WILL BE BORNE BY THE UNIVERSITY.

40 IF SUCH ASSIGNMENTS ARE MADE, THE UNIVERSITY WILL PROVIDE AN  
41 OPPORTUNITY FOR THE FACULTY MEMBER TO CONTINUE RESEARCH IN THE  
42 ORIGINAL FIELD.

43 IT WILL NOT ALWAYS BE POSSIBLE TO IDENTIFY MUTUALLY AGREEABLE  
44 ASSIGNMENTS. IF THE FACULTY MEMBER BELIEVES (I) THAT HE OR SHE IS UNABLE  
45 TO PERFORM THE ASSIGNED DUTIES OR (II) THAT HE OR SHE IS QUALIFIED FOR SOME  
46 OTHER OPEN POSITION THAT IS MORE CLOSELY RELATED TO HIS OR HER ORIGINAL  
47 APPOINTMENT, THE FACULTY MEMBER SHOULD INFORM IN WRITING THE  
48 UNIVERSITY OFFICER MAKING THE ASSIGNMENT. IF THEY CANNOT REACH  
49 AGREEMENT, THE FACULTY MEMBER MAY FILE A FORMAL GRIEVANCE ON THESE  
50 ISSUES. IF THE ASSIGNED RESPONSIBILITIES ARE LOCATED A SUBSTANTIAL  
51 DISTANCE AWAY FROM THE PREVIOUS WORK LOCATION, THE UNIVERSITY WILL  
52 PROVIDE FOR TRAVEL EXPENSES (IF TEMPORARY) OR MOVING EXPENSES (IF  
53 PERMANENT).

54 THE UNIVERSITY MAY ALSO OFFER INDUCEMENTS TO FACULTY MEMBERS TO  
55 SEEK THEIR VOLUNTARY SEPARATION FROM THE UNIVERSITY. THESE MAY  
56 INCLUDE:

57 --EARLY RETIREMENT PACKAGES;

58 --REDUCED TIME APPOINTMENTS;

59 --SEVERANCE AGREEMENTS, INCLUDING CONTINUATION OF BENEFITS.

60 THE UNIVERSITY MAY MAKE THESE OPTIONS AVAILABLE ON A SELECTIVE BASIS,  
61 AND NEED NOT EXTEND THE SAME OFFER TO ALL MEMBERS OF THE FACULTY.

### Comment

This interpretation clarifies the consequences of the understanding recorded in section 12.2 of the Tenure Regulations. Faculty members make extensive and long-term commitments to the development of their academic disciplines. In order to encourage that commitment, the University makes a similar long-term commitment to the faculty members. Both of them recognize that scientific and social changes may lead to changes in the programs that the University can offer. In order to increase the benefit for both parties, the University agrees to offer other appropriate employment to faculty members whose programs are discontinued, and the faculty members agree to be flexible in accepting alternative assignments.

This issue was extensively considered by the Board of Regents when the Tenure Regulations were adopted. The Board then accepted the importance of guaranteeing tenure appointments.

This solution presents neither the extreme of abandoning by lay-offs individuals who have invested heavily in the development of the academic stature of the University nor the opposite extreme of lifetime employment in an unwanted field. Rather, it seeks an intermediate solution in which both parties seek in good faith to accommodate their mutual expectations to changing circumstances.

The interpretation seeks to clarify the procedures that will be used to make reassignments of faculty effort in cases of programmatic change.

The following amendments were approved by the Faculty Senate on May 30 and June 6, 1996, after consultation with the Tenure Subcommittee, Senate Faculty Affairs Committee and Senate Judicial Committee, as provided by in Section 19 of the *Regulations Concerning Faculty Tenure*.

## **PROPOSED AMENDMENTS TO THE REGULATIONS CONCERNING FACULTY TENURE**

### **PREAMBLE TO MOTION A:**

The following proposed amendments are considered to be "housekeeping" in nature. The 1985 Tenure Regulations provided that the Senior Vice President for Academic Affairs would be the final decision-maker on most individual cases relating to tenure. The 1995 reorganization of the University administration split that authority among the several chancellors and provosts, although the Vice President retains authority with respect to the units that report directly to him. The amendments in Motion A accommodate that reorganization, but do so in a way that will permit future presidents of the University to create new administrative structures. It allows the President to appoint one or more "senior administrative officers," who will have final authority regarding the granting of tenure, and to define the scope of their authority (one or more colleges, campuses, etc.) In the present structure these officers would be the three chancellors, the three provosts, and (for University Libraries and a few other special cases) the Vice President for Academic Affairs. The Vice President for Academic Affairs will, however, retain University-wide authority for the development of tenure policy, although not for its administration in individual cases. If approved by the Faculty Senate and accepted by the Board of Regents, these amendments will replace the current interpretation of this topic which expires June 30, 1996.

### **MOTION A:**

To amend the *Regulations Concerning Faculty Tenure* as follows: (new language is in CAPS; language to be deleted is ~~struck out~~)

[Please note that additional amendments to Section 3 are proposed under Motion C—only the "housekeeping" amendments are included under Motion A.]

### **Section 3. Faculty Ranks and Types of Appointments**

**3.3 Non-regular Appointments.** A non-regular appointment is date-specific; that is, the appointment terminates at the end of a period specified in the appointment without further notice to the appointee. The ~~Vice President~~ SENIOR ADMINISTRATIVE OFFICER FOR THE CAMPUS OR AREA (footnote 3) must give every person appointed to a non-regular faculty position a statement in writing setting forth the conditions of the non-regular appointment, including the fact that it terminates without further notice. . . .

**3.4 Limitation on Use of Non-Regular Appointments.**

(j) . . . . A regular faculty member on a probationary appointment may transfer to non-regular status during enrollment in such a program if the faculty member and the ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR agree. . . .

**3.6 Special Contracts**

. . . . It must be signed by the faculty member concerned, by the dean of the collegiate unit in which the faculty member will be employed and by the ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR and must be authorized by the Board of Regents or its expressly authorized delegate. In addition, the ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR will annually report to the Tenure Committee the terms of all special contracts and the reasons for their use. . . .

**Section 7. Personnel Decisions Concerning Probationary Faculty**

**7.12 Departmental Statement**

. . . . Each such document is subject to review by the dean or other appropriate academic administrator, by the ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR AND BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS. . . .

**7.63 Final Administrative Action**

The University may not act contrary to the recommendation of the academic unit which made the initial recommendation except for substantive reasons which must be stated in writing by the ~~Vice President (or a person designated by the Vice President)~~ SENIOR ACADEMIC ADMINISTRATOR to the faculty member . . . . The ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR takes the steps necessary to make the necessary appointment or to give notice of termination.

**Section 11. Fiscal Emergency**

**11.53 Allocation of Shortfall**

. . . . The colleges and campuses return their plans to the ~~Vice President~~ SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS, who prepares a comprehensive plan for the University . . . . The recommendations of the Senates and the SENIOR Vice President's plan will be presented to the President and the Board of Regents for action.

**11.62 Priorities**

(b) . . . . The SENIOR Vice President FOR ACADEMIC AFFAIRS must insure that for the University as a whole the plan which is submitted does not reduce the proportion of appointments with indefinite tenure held by women and minorities entitled to affirmative action, . . . .

**Section 13. Judicial Committee**

**13.2 Procedures**

. . . . In every case before the Judicial Committee the ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR may designate the academic administrator who will represent the University as respondent. IF THE CASE INVOLVES TWO OR MORE CAMPUSES OR AREAS, THE PRESIDENT OR THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS MAY DESIGNATE THE RESPONDENT.

**Section 15. Appeals to the Judicial Committee**

**15.2 Procedure for Securing Review**

. . . . Within 30 days of filing, the Chair of the Judicial Committee must send copies of the request to the head of the academic unit concerned and to the senior ~~Vice President~~ ACADEMIC ADMINISTRATOR.

**15.6 Actions Requiring Reconsideration**

. . . . If the Judicial Committee recommends reconsideration of an action, that reconsideration will be undertaken under the supervision of the ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR, unless otherwise specified. . . . .

**15.7 Recommendations for Changes in University Policies and Procedures**

. . . . As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure Committee or the SENIOR Vice President FOR ACADEMIC AFFAIRS may initiate steps to clarify or improve the University rules or policies involved. . . . .

**Section 16. Tenure Committee**

**16.1 Membership**

The ~~Tenure Committee~~ TENURE SUBCOMMITTEE OF THE SENATE FACULTY AFFAIRS COMMITTEE (REFERRED TO ELSEWHERE IN THESE REGULATIONS AS THE TENURE COMMITTEE) is composed of at least seven members of the faculty and such other persons as the University Senate Bylaws shall provide. . . . .

**16.2 Interpretations**

The SENIOR Vice President FOR ACADEMIC AFFAIRS and the Tenure Committee may propose formal interpretations of these regulations, consistent with their terms. . . . .

**16.3 Procedures**

The SENIOR Vice President FOR ACADEMIC AFFAIRS and the Tenure Committee may jointly adopt the procedures provided by Sections 7.4 and 7.61. . . . .

**Footnotes**

2 . . The "academic administrator" or "dean" of a collegiate unit is a dean, ~~provost~~, or similar officer.

3 ~~As used in these Regulations, "Vice President" means the Vice President for Academic Affairs.~~ A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS TO HAVE RESPONSIBILITY FOR ACADEMIC MATTERS FOR ALL OR PART OF THE UNIVERSITY, AND WILL DEFINE THEIR RESPECTIVE JURISDICTIONS.

10 Because of the special mission of the Crookston ~~and Waseca~~ campus es, disciplined inquiry in ~~their~~ ITS field of endeavor may be substituted for research in appraising faculty members there.

## **PREAMBLE TO MOTIONS B-G:**

The Subsequent motions are presented on the assumption that Motion A is approved. If it is not, the words "vice president" should be reinserted in the appropriate places.

## **MOTION B:**

To amend Section 1.1 as follows: (new language is in CAPS; language to be deleted is ~~struck out~~)

### **Section 1. Academic Freedom**

1       **1.1 Principles.** Every member of the faculty is entitled to due process and academic freedom  
2 as established by academic tradition and the Constitutions and laws of the United States and the State  
3 of Minnesota and as amplified by Resolutions of the Board of Regents. The Board of Regents hereby  
4 reaffirms its ~~policies concerning~~ COMMITMENT TO academic freedom and tenure AS  
5 REFLECTED ~~announced~~ in its resolution of January 28, 1938, and IN the statement of December  
6 14, 1963, which are set forth in the Appendix to these regulations. THE POLICIES OF THE  
7 BOARD OF REGENTS REGARDING ACADEMIC FREEDOM ARE CURRENTLY STATED IN  
8 THE BOARD'S STATEMENT OF SEPTEMBER 8, 1995, WHICH PROVIDES:

9 THE REGENTS OF THE UNIVERSITY OF MINNESOTA REAFFIRM THE PRINCIPLES OF  
10 ACADEMIC FREEDOM AND RESPONSIBILITY. THESE ARE ROOTED IN THE BELIEF  
11 THAT THE MIND IS ENNOBLED BY THE PURSUIT OF UNDERSTANDING AND THE  
12 SEARCH FOR TRUTH AND THE STATE WELL SERVED WHEN INSTRUCTION IS  
13 AVAILABLE TO ALL AT AN INSTITUTION DEDICATED TO THE ADVANCEMENT OF  
14 LEARNING. THESE PRINCIPLES ARE ALSO REFRESHED BY THE RECOLLECTION THAT  
15 THERE IS COMMUNE VINCULUM OMNIBUS ARTIBUS--A COMMON BOND THROUGH  
16 ALL THE ARTS.

17 ACADEMIC FREEDOM IS THE FREEDOM TO DISCUSS ALL RELEVANT MATTERS IN THE  
18 CLASSROOM, TO EXPLORE ALL AVENUES OF SCHOLARSHIP, RESEARCH AND  
19 CREATIVE EXPRESSION AND TO SPEAK OR WRITE AS A PUBLIC CITIZEN WITHOUT  
20 INSTITUTIONAL DISCIPLINE OR RESTRAINT. ACADEMIC RESPONSIBILITY IMPLIES THE  
21 FAITHFUL PERFORMANCE OF ACADEMIC DUTIES AND OBLIGATIONS, THE  
22 RECOGNITION OF THE DEMANDS OF THE SCHOLARLY ENTERPRISE AND THE CANDOR  
23 TO MAKE IT CLEAR THAT THE INDIVIDUAL IS NOT SPEAKING FOR THE INSTITUTION  
24 IN MATTERS OF PUBLIC INTEREST.

### **Comment**

This item incorporates into the Tenure Code the most recent statement of the Board of Regents with regard to academic freedom. The statements of 1938 and 1963 are retained in the appendix because of their importance in the interpretation of academic freedom at this University.

## MOTION C:

To amend Sections 3 and 8 of the Tenure Regulations (new language is in CAPS; language to be deleted is ~~struck out~~)

Amend Section 3 of the Tenure Regulations to read as follows:

### Section 3. Faculty Ranks and Types of Appointments.

1       **3.1 In General.** The faculty ranks are Professor, Associate Professor, Assistant Professor, and  
2 Instructor. **FACULTY APPOINTMENT IS APPROPRIATE ONLY IF THE INDIVIDUAL IS**  
3 **ENGAGED IN TEACHING OR RESEARCH AS DEFINED IN SECTION 7.11.** Appointment at  
4 these ranks are either regular **TENURED OR TENURE-TRACK APPOINTMENTS** or ~~non-regular~~  
5 **TERM APPOINTMENTS.** An appointment must be designated AS A regular or ~~non-regular~~ A  
6 **TERM APPOINTMENT** when it is made.

7       **3.2 Regular TENURED OR TENURE-TRACK Appointments.** A regular appointment is  
8 either with indefinite tenure or is probationary leading to a decision concerning indefinite tenure within  
9 a specified period of time. A faculty member with indefinite tenure is entitled to retain that position  
10 until retirement in accordance with University regulations or until the appointment is terminated  
11 pursuant to the provisions of Sections 10 or 11. A faculty member on probationary appointment (a)  
12 is entitled to consideration for indefinite tenure, and (b) is entitled to timely notice of termination in  
13 accordance with Section 6. A regular appointment may only be held in an academic unit (footnote  
14 1) of a degree-granting college (footnote 2), or similar unit. A regular appointment must be for two-  
15 thirds time or more over the academic year.

16       **3.3 ~~Non-regular~~ TERM Appointments.** A ~~non-regular~~ TERM appointment is date-specific:  
17 that is, the appointment terminates at the end of a period specified in the notice of appointment  
18 without further notice to the appointee. The ~~Vice President~~ SENIOR ACADEMIC  
19 ADMINISTRATOR FOR THE CAMPUS OR AREA (footnote 3) must give every person appointed  
20 to a ~~non-regular~~ TERM faculty position a statement in writing setting forth the conditions of the  
21 ~~non-regular~~ appointment, including the fact that it terminates without further notice. No number of  
22 renewals of a ~~non-regular~~ TERM appointment creates a right to further renewals or to a decision  
23 concerning tenure. Every renewal of a ~~non-regular~~ TERM appointment for the seventh or succeeding  
24 year must be reported to the Tenure Committee with a justification of the reasons for ~~non-regular~~  
25 **THE CONTINUATION OF TERM** status.

26       **3.4 ~~Limitation on Use of Non-Regular Appointments.~~ APPROPRIATE USES OF TERM**  
27 **APPOINTMENTS.** ~~Faculty appointments must be regular (either probationary or with indefinite~~  
28 ~~tenure) unless one or more of the following conditions is met, in which case the appointment may~~  
29 ~~be classified as non-regular.~~ **TERM APPOINTMENTS ARE APPROPRIATE AND MAY BE USED**  
30 **PROVIDED ONE OR MORE OF THE FOLLOWING CONDITIONS IS MET:**

- 31           (a) The duration, the percentage of time, or both require less than service for  
32 two-thirds time for the academic year.
- 33           (b) The appointment is designated as a Visiting appointment because the faculty  
34 member is from another educational institution or is a qualified professional from  
35 a government or private agency on a leave of absence to accept a temporary

- 36 assignment at this University.
- 37 (c) The appointment is designated a Clinical appointment because the faculty member
- 38 is a clinician in the community who gives service to the University part-time.
- 39 (D) THE APPOINTMENT CONCERNS A FACULTY MEMBER WHO
- 40 PRINCIPALLY IS ENGAGED IN AND PRIMARILY IS SUPPORTED BY
- 41 CLINICAL ACTIVITIES OR BY DISCIPLINE-RELATED SERVICE (new
- 42 footnote \*).
- 43 (d) (E) The appointment is designated an Adjunct appointment because the faculty
- 44 member's primary employment is outside the University or is in another unit of
- 45 the University.
- 46 (e) (F) The appointment extends courtesy faculty rank without salary.
- 47 (f) (G) The position is subject to the joint control of the University and another
- 48 institution.
- 49 (g) (H) The specific funding for the position is subject to the discretion of another
- 50 agency.
- 51 (h) (I) The funding for the position is for a limited time.
- 52 (i) (J) The appointment is in a unit or program that is experimental or otherwise
- 53 restricted in duration.
- 54 (j) (K) The person is enrolled in a University of Minnesota degree program. A regular
- 55 faculty member on a probationary appointment may transfer to ~~non-regular~~
- 56 TERM status during enrollment in such a program if the faculty member and the
- 57 ~~Vice President~~ SENIOR ACADEMIC ADMINISTRATOR agree. This transfer
- 58 suspends the running of the maximum period of probationary service, but the
- 59 faculty member retains other rights of regular appointment, including annual
- 60 review, the right to timely notice and a terminal appointment period as provided
- 61 in Section 6.

62 **3.5 Administrators' Appointments.** Academic administrators may hold regular or

63 ~~non-regular~~ TERM faculty appointments. Administrative titles and duties are distinct and severable

64 from such individual faculty appointments. Removal from an administrative position does not impair

65 any rights the individual holds as a faculty member. UPON LEAVING AN ADMINISTRATIVE

66 POSITION, THE INDIVIDUAL RETURNS TO FACULTY STATUS, WITH SALARY AND

67 TERM OF APPOINTMENT REDUCED BY THE AMOUNT OF THE ADMINISTRATIVE

68 AUGMENTATION, IF ANY.

#### Footnotes

- (1) As used in these Regulations, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head, or director.
- (2) As used in these Regulations, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, ~~provost~~, or similar officer.

- (3) ~~As used in these regulations, "Vice President" means the Vice President for Academic Affairs.~~  
 THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS (VICE PRESIDENTS, CHANCELLORS, PROVOSTS, ETC.) TO HAVE RESPONSIBILITY FOR ACADEMIC MATTERS FOR ALL OR PART OF THE UNIVERSITY, AND WILL DEFINE THEIR RESPECTIVE JURISDICTIONS.
- (\*) NEW FOOTNOTE TO ITEM 3.4(D): "SERVICE" MEANS PERFORMANCE WITHIN THE FACULTY MEMBER'S EXPERTISE, OTHER THAN TEACHING AND RESEARCH AS DEFINED IN SECTION 7.11.

And amend the title and introductory language of Section 8 as follows:

**Section 8. Improper Refusal of a New Appointment to a Non-Regular TERM Faculty Member**

1 A person holding a ~~non-regular~~ TERM faculty appointment who has been refused a renewal of  
 2 that appointment or has applied for and been refused a regular or a different ~~non-regular~~ TERM  
 3 faculty appointment within six months of the end of that appointment may petition the Judicial  
 4 Committee to review the refusal, but only on the ground that the decision was based in significant  
 5 degree on one or more of the following: . . .  
 6 [remainder of text unchanged]

**Comment**

This proposal changes terminology in the Tenure regulations and also permits the University to employ clinical faculty on term contracts.

Many have felt that the terminology "nonregular" appointment carried a derogatory connotation. In order to eliminate that implication, the word "nonregular" has been changed to "term" throughout the Regulations. Term appointments are those which have a fixed duration and do not lead to probationary or tenured appointments.

Section 3(d) permits such appointments to be made for faculty whose principal commitment is to clinical or service duties and who are primarily supported by funds generated by those activities. This recognizes the variable funding of such clinical activities and does not commit the University to maintaining the income of future clinicians if the clinical revenues will not support them.

This section is prospective only. Faculty currently holding tenured or tenure-track appointments cannot be shifted to term appointments without their consent.

**MOTION D:**

To amend Sections 4.1 and 4.3 and add a Section 4.4, as follows: (new language is in CAPS; language to be deleted is ~~struck out~~)

Amend Section 4.1 as follows:

**Section 4. Terms of Faculty Employment**

- 1       **4.1 Written notice of appointment.** Each faculty appointment or change of status is specified  
2 in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must  
3 specify the following:
- 4       (1) whether the appointment is regular or ~~non-regular~~ TERM;
  - 5       (2) whether it is full or part-time and the percentage of time involved;
  - 6       (3) if for a fixed term, its expiration date;
  - 7       (4) if regular, whether it is probationary or with indefinite tenure;
  - 8       (5) whether it is on a twelve-month, academic year or other specified annual basis;
  - 9       (6) the rank of appointment;
  - 10      (7) the academic unit or units to which the individual is being appointed; ~~and~~
  - 11      (8) the BASE salary; AND
  - 12      (9) OTHER COMPENSATION OR AUGMENTATION AS DESCRIBED IN SECTION 4.4.

Amend Section 4.3 as follows:

- 1       **4.3 Changes in Terms of Appointments.** Except for raises in rank or BASE salary and except  
2 for action expressly authorized by these regulations, no changes of ~~any of the~~ items (1) THROUGH  
3 (8) listed in Subsection 4.1 may be made during the term of an appointment except with the agreement  
4 of the faculty member and the Board of Regents or its authorized delegate.

Add a new Subsection 4.4 to read as follows:

- 1       **4.4 FACULTY COMPENSATION.** EACH FACULTY MEMBER SHALL RECEIVE A  
2 BASE SALARY, WHICH SHALL NOT BE DECREASED EXCEPT AS EXPRESSLY  
3 AUTHORIZED IN THESE REGULATIONS. THE BASE SALARY SHALL CONSIST OF THE  
4 INITIAL BASE SALARY PLUS ANY SUBSEQUENT INCREASE IN BASE SALARY. IN  
5 GENERAL, IT IS EXPECTED THAT SALARY INCREASES WILL BE ADDED TO THE BASE.  
6 THE UNIVERSITY MAY ALSO PROVIDE A FACULTY MEMBER WITH ADDITIONAL  
7 COMPENSATION THAT IS NOT PART OF THE BASE SALARY. THE ADDITIONAL  
8 COMPENSATION MAY BE FOR SPECIAL AWARDS OR FOR ACTIVITIES IN ADDITION TO  
9 REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE,  
10 ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING, AND  
11 SUMMER RESEARCH SUPPORT. THE FACULTY MEMBER DOES NOT HAVE A RIGHT TO

12 CONTINUATION OF THIS ADDITIONAL COMPENSATION BEYOND THE TIME FOR  
13 WHICH IT IS GRANTED. AT THE TIME AN APPOINTMENT IS MADE, THE OFFER AND  
14 WRITTEN NOTICE OF APPOINTMENT SHALL SEPARATELY STATE THE BASE SALARY  
15 AND ANY ADDITIONAL COMPENSATION, AS DESCRIBED ABOVE, THAT THE FACULTY  
16 MEMBER WILL RECEIVE. (FOR FACULTY MEMBERS EMPLOYED AT THE TIME THIS  
17 SECTION TAKES EFFECT, THE INITIAL BASE SALARY SHALL BE THE SALARY  
18 GUARANTEED UNDER THESE REGULATIONS AT THE TIME THIS AMENDMENT TAKES  
19 EFFECT.) IN EACH SUBSEQUENT YEAR, THE FACULTY MEMBER SHALL BE  
20 PROVIDED WITH A WRITTEN NOTICE SEPARATELY STATING ANY INCREASE IN BASE  
21 SALARY AND ANY CHANGES IN THE ADDITIONAL COMPENSATION FOR THE  
22 FOLLOWING ACADEMIC YEAR. INCREASES WILL BE PRESUMED TO BE IN BASE  
23 SALARY UNLESS OTHERWISE IDENTIFIED.

### Comment

Each faculty member will receive a base salary, but may be given additional incentive sums to reward temporary assignments, such as overload teaching, summer school, administrative service. Clinical compensation will also be outside of the base salary. While the base salary will be guaranteed from year to year, the additional payments will be subject to review and adjustment. Apart from raises, adjustments in base pay may be made only voluntarily or as provided in other sections of the Regulations.

Base salary will be identified in annual appointment documents for each faculty member. Base salary may only be changed as expressly provided in these Regulations. Other provisions permit reduction of base salary in case of financial exigency or disciplinary action.

Tenured or tenure-track faculty whose appointments are partially supported by grant funds will continue to hold their full base salaries.

The current base salary of faculty members will be guaranteed under this system. Salary increases would be either permanent (added to base) or temporary (for one year or a period of years only), as is already permissible. The change simply clarifies this practice and provides official language to describe it. New faculty members would have base and temporary elements of their salaries identified in the letter of offer and in the initial appointment documents.

The appropriate Senate committees will annually review the methods used to allocate salary increases between additions to base and temporary increases and will make necessary recommendations to the Senate and administration.

## **MOTION E:**

To amend Section 5.1 as follows: (new language is in CAPS; language to be deleted is ~~struck out~~)

### **Section 5. Maximum Period of Probationary Service**

1       **5.1 General rule.** To give the University ample opportunity to determine the qualification of  
2 those faculty members whom it is considering for regular appointment with indefinite tenure, the  
3 maximum period of probationary service of a faculty member is NORMALLY six academic years,  
4 whether consecutive or not. THE FACULTY ASSEMBLY OF A COLLEGIATE UNIT MAY  
5 PROPOSE TO ALTER THE MAXIMUM PROBATIONARY PERIOD FOR ALL OF THAT  
6 COLLEGE, OR FOR CERTAIN UNITS WITHIN IT, TO NO MORE THAN NINE YEARS. THE  
7 TENURED FACULTY OF A COLLEGE, BY SIMPLE MAJORITY VOTE TAKEN BY SECRET  
8 BALLOT, MAY ADOPT SUCH A CHANGE, WITH THE APPROVAL OF THE DEAN AND OF  
9 THE SENIOR ACADEMIC ADMINISTRATOR. ANY SUCH CHANGE IN THE MAXIMUM  
10 PROBATIONARY PERIOD APPLIES TO ALL PROBATIONARY FACULTY HIRED IN THAT  
11 COLLEGE (OR THOSE UNITS) AFTER THE DECISION, BUT ANY INCUMBENT  
12 PROBATIONARY FACULTY MEMBER MAY CHOOSE TO BE CONSIDERED UNDER THE  
13 NEW RULE. At the end of this ~~six-year~~ PROBATIONARY period, the faculty member must either  
14 be given a regular appointment with indefinite tenure or a one-year terminal appointment.

### **Comment**

The amendment would formally permit collegiate units to extend the probationary period from six to nine years by general rule. Many colleges will wish to retain the current six-year maximum, while others may see advantages in a longer probationary period. It would thus recognize officially a practice which has been allowed by special interpretation of the Tenure Committee in the past few years. This recognizes the problems in some units of the University in which the ability to obtain external research support is a major consideration in the research element of the tenure decision. The design of research projects for which the probationary professor is to be a principal investigator and procurement of funding for them sometimes requires several years. The six-year probationary period is felt by many in those colleges to cut short the effective time for evaluation of the candidate's performance. The extension of time is believed to be necessary to permit full consideration of the candidates' qualifications.

A proposal to extend the probationary period would be made by the faculty assembly or similar body, and would require approval by the tenured faculty of the college, by its dean, and by the provost (or equivalent official). Current probationary faculty members could decide to be governed by the old or by the new rule.

A college could later decide to return to the general six-year pattern, following the same procedures. Again, incumbent probationary faculty could choose to be governed by the old system or the new one.

Other provisions of the current Tenure Regulations for "stopping the tenure clock," would not be affected. In those cases, the probationary faculty member would have an addition to the maximum probationary period for the collegiate unit as established under this section.

**MOTION F:**

To add a new Section 13.5 as follows: (entire text is new)

**Section 13. Judicial Committee**

1     **13.5 LEGAL OFFICER.** THE JUDICIAL COMMITTEE SHALL HAVE ITS OWN LEGAL  
2 OFFICER, APPOINTED BY THE JUDICIAL COMMITTEE IN CONSULTATION WITH THE  
3 PRESIDENT OR THE PRESIDENT'S DELEGATE. THE LEGAL OFFICER SHALL NOT BE A  
4 MEMBER OF THE UNIVERSITY GENERAL COUNSEL'S OFFICE. THE LEGAL OFFICER  
5 ASSISTS THE JUDICIAL COMMITTEE IN THE EFFICIENT CONDUCT OF ITS WORK AND  
6 IN THE PREPARATION OF ITS REPORTS AND PERFORMS ADDITIONAL FUNCTIONS AS  
7 AUTHORIZED BY THE JUDICIAL COMMITTEE. THE LEGAL OFFICER MAY BE PRESENT  
8 AND PARTICIPATE IN THE DELIBERATION OF A PANEL, BUT SHALL HAVE NO VOTE.  
9 IN THE CASE OF THE ABSENCE OR DISQUALIFICATION OF THE LEGAL OFFICER, A  
10 DEPUTY MAY PERFORM THE FUNCTIONS OF THE OFFICE.

**Comment**

Over the past two decades, parties before the Judicial Committee have increasingly been represented by attorneys. As a result, the Committee has consulted with independent counsel to assist it in carrying out its functions. This amendment recognizes the position of a Legal Officer to assist the Judicial Committee in its work.

The Legal Officer gives legal advice to the Committee, independent of the legal advice supplied by the University's General Counsel Office to administrative officers in the proceedings. At the Committee's discretion, the Legal Officer may preside at hearings and perform other functions. The Committee will appoint a Deputy Legal Officer in case of the absence or disqualification of the Legal Officer.

The amendment makes clear that the Legal Officer does not vote and that decisions are made by members of the Committee. The function of the Legal Officer is to advise the Committee in making proceedings fair and efficient.

## MOTION G:

To amend Sections 14.1 through 14.5 as follows: (new language is in CAPS; language to be deleted is ~~struck out~~)

### Section 14. Procedures in Cases of Unrequested Leave of Absence or Termination or Suspension of a Faculty Appointment for Cause.

1       **14.1 Preliminary Proceedings.** Only a dean (new footnote \*\*) or an academic administrator  
2 specially designated by the SENIOR Vice President FOR ACADEMIC AFFAIRS OR BY THE  
3 SENIOR ACADEMIC ADMINISTRATOR may initiate proceedings leading to unrequested leave of  
4 absence or to suspension or removal OR TO TEMPORARY OR PERMANENT REDUCTION IN  
5 SALARY OR RANK. The ~~administrator~~ DEAN must first attempt to discuss and resolve the matter  
6 with the faculty member involved.

7       The ~~administrator~~ DEAN must then submit the matter to the tenured faculty of the academic unit  
8 involved for their recommendation. (~~The tenured faculty may decide to submit the issue to the entire~~  
9 ~~faculty of the unit.~~)

10       If the SENIOR Vice President FOR ACADEMIC AFFAIRS and the Faculty Senate have expressly  
11 approved the submission of allegations of the violation of a specified policy to another body for  
12 preliminary recommendation in place of submission to the tenured faculty of the academic unit, the  
13 ~~administrator~~ DEAN must submit the matter to that body for its recommendation.

14       Both the ~~administrator~~ DEAN and the faculty member may submit their views, in person or in  
15 writing, to the body making the recommendation, but neither of them may participate in the deliberation  
16 or vote. The body making the recommendation DOES SO BY SECRET BALLOT AND makes a  
17 written report to the ~~administrator~~ DEAN within 40 days of the submission of the issue to it,  
18 indicating the number of votes for and against the proposed action and the reasons articulated. ~~Within~~  
19 ~~15 days after receiving the report, the administrator makes a written recommendation to the Vice~~  
20 ~~President. After receiving the report the administrator makes a written recommendation to the Vice~~  
21 ~~President. The recommendation must include a copy of the report of the panel or of the tenured~~  
22 ~~faculty, as the case may be. A copy of the report must be sent to the SENIOR ACADEMIC~~  
23 ~~ADMINISTRATOR AND TO THE~~ faculty member.

24       **14.2 Formal action.** ~~After receiving the administrator's recommendation and giving the faculty~~  
25 ~~member an opportunity to comment, the Vice President will decide whether to proceed. WITHIN 40~~  
26 ~~DAYS AFTER RECEIVING THE RECOMMENDATION OF THE TENURED FACULTY OR~~  
27 ~~OTHER BODY, THE DEAN MUST DECIDE WHETHER TO PROCEED WITH FORMAL~~  
28 ~~ACTION. BEFORE TAKING FORMAL ACTION, THE DEAN MUST CONSULT WITH THE~~  
29 ~~SENIOR ACADEMIC ADMINISTRATOR. If the Vice President DEAN does not proceed within~~  
30 ~~40 days, the charges are dropped and the faculty member and the academic unit are so notified in~~  
31 ~~writing. If the Vice President DEAN decides to proceed with formal action, the Vice President~~  
32 ~~DEAN must give written notice to the faculty member. The notice must specify the action proposed,~~  
33 ~~identify the specific grounds upon which it has been taken, and summarize the evidence in support.~~  
34 ~~It must inform the faculty member of the right to request a hearing before the Judicial Committee and~~  
35 ~~advise the faculty member of the applicable time limit for making such a request. If the faculty~~  
36 ~~member does not request a hearing within 30 days, the President may take the action proposed in the~~  
37 ~~Vice President's DEAN'S notice, without further right to a hearing.~~

38 **14.3 Judicial Committee Hearing.** The faculty member may request a hearing before the Judicial  
39 Committee by written request to the Chair of the Committee, filed within 30 days of the notice.  
40 The Judicial Committee may extend the 30 day period for good cause. The ~~Vice-President designates~~  
41 ~~the administrator who~~ DEAN will ~~present~~ BE RESPONSIBLE FOR PRESENTING the case. The  
42 ~~administrator~~ DEAN has the burden of proving the case for the proposed action by clear and  
43 convincing evidence and also has the burden of demonstrating the appropriateness of the proposed  
44 action, rather than some lesser measure.

45 The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the  
46 disposition of the case. If the Committee finds that action is warranted, it may recommend action  
47 ~~which~~ THAT is less severe than that requested in the written notice, INCLUDING, BUT NOT  
48 LIMITED TO, PERMANENT OR TEMPORARY REDUCTION IN SALARY OR RANK ~~including~~  
49 ~~action which does not involve the termination or suspension of an appointment.~~ It may not recommend  
50 more severe measures than those proposed in the ~~Vice-President's~~ DEAN'S notice.

51 The Judicial Committee sends its report to the President with copies to the faculty member ~~and the~~  
52 ~~administrator~~, THE DEAN AND THE SENIOR ACADEMIC ADMINISTRATOR.

53 **14.4 Action by the President.** The President must give the faculty member and the  
54 ~~administrator~~ DEAN the opportunity to submit written comments on the report ~~and to make oral~~  
55 ~~presentations.~~ In determining what action to take, the President may consult privately with any  
56 administrators, including attorneys, who have had no previous responsibility for the decision at issue  
57 in the case and have not participated in the presentation of the matter to the Judicial Committee. The  
58 President may not discuss the case with any administrator who was responsible for the decision at issue  
59 or who participated in the presentation of the matter to the Judicial Committee. Such administrators  
60 may communicate with the President in writing, but only if the full text of the communication is given  
61 to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

62 The President shall not take action materially different from that recommended by the panel unless,  
63 prior to the action, the President has consulted with the committee. The parties and their  
64 representatives shall not be present at any meeting between the president and the committee nor shall  
65 their consent be required for such meeting.

66 In addition, the President may request the Judicial Committee to make further findings of fact, to  
67 clarify its recommendations or to reconsider its interpretation. The reconsideration will be made by  
68 those who have heard all of the evidence in the case, but the full Judicial Committee may consult with  
69 them on questions of general policy.

70 The President may impose the action recommended by the Committee, or any lesser measure which  
71 appears to be appropriate. The President may impose action less favorable to the faculty member only  
72 for compelling reasons, which must be stated in writing, with specific detailed reference to the report  
73 of the Judicial Committee, the evidence presented, and the policies involved. The President's written  
74 statement must be given to the faculty member and to the Judicial Committee. Unless the faculty  
75 member requests confidentiality, its full text must be published in the next docket of the Faculty Senate;  
76 if the faculty member requests confidentiality a summary of the relevant considerations must be so  
77 published without identification of the faculty member.

78 **14.5 Appeal REPORT to the Board of Regents.** THE PRESIDENT SHALL REPORT ANY  
79 ACTION WHICH INVOLVES THE TERMINATION OR SUSPENSION OF AN APPOINTMENT  
80 FOR CAUSE OR AN UNREQUESTED LEAVE OF ABSENCE TO THE BOARD OF REGENTS,  
81 AND SHALL INCLUDE THE REPORT OF THE JUDICIAL COMMITTEE. ~~If the action involves~~  
82 ~~removal or if the action involves a sanction more severe than that recommended by the Judicial~~  
83 ~~Committee, the faculty member may appeal to the Board of Regents. In cases in which the President~~  
84 ~~imposes a sanction more severe than that recommended by the Judicial Committee, the faculty member~~  
85 ~~and the President may present to the Board evidence with respect to issues on which the President~~  
86 ~~differs from the recommendation of the Judicial Committee. The request for a hearing must be made~~  
87 ~~to the Secretary of the Board within 10 days of the President's action.~~

#### Footnote

(\*\*) NEW FOOTNOTE TO ITEM SECTION 14.1: THROUGHOUT THIS SECTION THE WORD "DEAN" MEANS THE DEAN OF THE COLLEGIATE UNIT OR OTHER EQUIVALENT OFFICER OR AN ACADEMIC ADMINISTRATOR SPECIALLY DESIGNATED FOR THIS PURPOSE BY THE SENIOR ACADEMIC ADMINISTRATOR OR BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS.

#### Comment

This amendment is intended to simplify proceedings for unrequested leaves of absence, suspensions, or terminations. Many believe that these proceedings are unduly time-consuming and cumbersome as presently designed.

Under the present policy, before a dean's decision to seek termination or suspension of a faculty member can be made effective, that decision must be reviewed by (1) the tenured faculty of the department, (2) the Vice President (in the future: the Provost or Chancellor), (3) by the Judicial Committee, (4) by the President, and finally (5) by the Board of Regents. This five-step procedure builds so many safeguards into the process that serious cases may be jeopardized.

This proposal eliminates steps (2) and (5).

The new version retains the processes which we believe to be most important: (1) review of the proposal by the tenured faculty of the unit, (2) review by the Judicial Committee and all-University panel of tenured faculty who will hear all of the evidence, and (3) final action by the President. We believe that three steps of review is sufficient within the University system. Both of the steps that have been deleted simply contributed to unnecessary delay.

The new version places administrative responsibility for pursuing the case in the hands of the dean. While retaining overall responsibility for the conduct of the case, the dean may delegate to others the duty of presenting it before the tenured faculty and the Judicial Committee.

The new version also clarifies the authority of the Judicial Committee to recommend sanctions less severe than suspension or removal, if it finds that a faculty member charged with misconduct is culpable, but that the extreme sanctions of removal or suspension are disproportionate to the offense.

**MOTION H:**

To add a new Section 7A and amend Section 15.1, as follows: (new language is in CAPS)

Add a new Section 7A, as follows:

1 **SECTION 7A. PEER REVIEW OF FACULTY PERFORMANCE**

2 **7A.1. GOALS AND EXPECTATIONS. THE FACULTY OF EACH ACADEMIC UNIT MUST**  
3 **ESTABLISH GOALS AND EXPECTATIONS FOR ALL FACULTY MEMBERS, INCLUDING**  
4 **GOALS AND EXPECTATIONS REGARDING TEACHING, SCHOLARLY PRODUCTIVITY, AND**  
5 **CONTRIBUTIONS TO THE SERVICE AND OUTREACH FUNCTIONS OF THE UNIT. THE**  
6 **FACTORS TO BE CONSIDERED WILL PARALLEL THOSE USED BY THE UNIT IN THE**  
7 **GRANTING OF TENURE, BUT WILL TAKE INTO ACCOUNT THE DIFFERENT STAGES OF**  
8 **PROFESSIONAL DEVELOPMENT OF FACULTY. THE GOALS AND EXPECTATIONS WILL**  
9 **BE ESTABLISHED IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE**  
10 **UNIVERSITY SENATE. THEY CAN PROVIDE FOR FLEXIBILITY, SO THAT SOME FACULTY**  
11 **MEMBERS CAN CONTRIBUTE MORE HEAVILY TO THE ACCOMPLISHMENT OF ONE**  
12 **MISSION OF THE UNIT AND OTHERS TO THE ACCOMPLISHMENT OF OTHER MISSIONS.**  
13 **THE GOALS AND EXPECTATIONS SHALL NOT VIOLATE THE INDIVIDUAL FACULTY**  
14 **MEMBER'S ACADEMIC FREEDOM IN INSTRUCTION OR IN THE SELECTION OF TOPICS**  
15 **OR METHODS FOR RESEARCH. THEY SHALL INCLUDE REASONABLE INDICES OF**  
16 **ACCEPTABLE PERFORMANCE IN EACH OF THE AREAS (E.G., TEACHING**  
17 **CONTRIBUTIONS AND EVALUATIONS, SCHOLARLY PRODUCTIVITY, SERVICE,**  
18 **GOVERNANCE AND OUTREACH ACTIVITIES). THE DEAN REVIEWS THE GOALS AND**  
19 **EXPECTATIONS OF EACH UNIT AND MAY REQUEST CHANGES TO MEET THE**  
20 **STANDARDS OF THE UNIVERSITY AND OF THE COLLEGIATE UNIT.**

21 **7A.2. ANNUAL REVIEW. EACH ACADEMIC UNIT, THROUGH ITS MERIT REVIEW**  
22 **PROCESS (ESTABLISHED IN ACCORDANCE WITH THE STANDARDS ADOPTED BY THE**  
23 **SENATE), ANNUALLY REVIEWS WITH EACH FACULTY MEMBER THE PERFORMANCE OF**  
24 **THAT FACULTY MEMBER IN LIGHT OF THE GOALS AND EXPECTATIONS OF THE**  
25 **ACADEMIC UNIT ESTABLISHED UNDER SECTION 7A.1. THIS REVIEW IS USED FOR**  
26 **SALARY ADJUSTMENT AND FACULTY DEVELOPMENT. THE FACULTY MEMBER WILL**  
27 **BE ADVISED OF THE EVALUATION AND, IF APPROPRIATE, OF ANY STEPS THAT SHOULD**  
28 **BE TAKEN TO IMPROVE PERFORMANCE AND WILL BE PROVIDED ASSISTANCE IN THAT**  
29 **EFFORT.**

30 **IF THE HEAD OF THE UNIT AND A PEER MERIT REVIEW COMMITTEE ELECTED FOR**  
31 **ANNUAL MERIT REVIEW WITHIN THAT UNIT BOTH FIND A FACULTY MEMBER'S**  
32 **PERFORMANCE TO BE SUBSTANTIALLY BELOW THE GOALS AND EXPECTATIONS**  
33 **ADOPTED BY THAT UNIT, THEY SHALL ADVISE THE FACULTY MEMBER IN WRITING,**  
34 **INCLUDING SUGGESTIONS FOR IMPROVING PERFORMANCE, AND ESTABLISH A TIME**  
35 **PERIOD (OF AT LEAST ONE YEAR) WITHIN WHICH IMPROVEMENT SHOULD BE**  
36 **DEMONSTRATED.**

37 **7A.3. SPECIAL PEER REVIEW IN CASES OF ALLEGED SUBSTANDARD**  
38 **PERFORMANCE BY TENURED FACULTY.** IF, AT THE END OF THE TIME PERIOD FOR  
39 IMPROVEMENT DESCRIBED IN THE PREVIOUS PARAGRAPH, A TENURED FACULTY  
40 MEMBER'S PERFORMANCE CONTINUES TO BE SUBSTANTIALLY BELOW THE GOALS AND  
41 EXPECTATIONS OF THE UNIT AND THERE HAS NOT BEEN A SUFFICIENT IMPROVEMENT  
42 OF PERFORMANCE, THE HEAD OF THE ACADEMIC UNIT AND THE ELECTED PEER  
43 MERIT REVIEW COMMITTEE MAY JOINTLY REQUEST THE DEAN TO INITIATE A SPECIAL  
44 PEER REVIEW OF THAT FACULTY MEMBER. BEFORE DOING SO, THE DEAN SHALL  
45 INDEPENDENTLY REVIEW THE FILE TO DETERMINE THAT SPECIAL PEER REVIEW IS  
46 WARRANTED. (IN THE CASE OF AN ACADEMIC UNIT THAT IS ALSO A COLLEGIATE  
47 UNIT, THE REQUEST SHALL BE MADE TO AND THE REVIEW CONDUCTED BY THE  
48 RESPONSIBLE SENIOR ACADEMIC ADMINISTRATOR.)

49 THE SPECIAL PEER REVIEW SHALL BE CONDUCTED BY A PANEL OF FIVE TENURED  
50 FACULTY MEMBERS OF EQUAL OR HIGHER RANK, SELECTED TO REVIEW THAT  
51 INDIVIDUAL. THE FACULTY MEMBER UNDER REVIEW SHALL HAVE THE OPTION TO  
52 APPOINT ONE MEMBER. THE REMAINING MEMBERS SHALL BE ELECTED BY SECRET  
53 BALLOT BY THE TENURED FACULTY OF THE UNIT. THE MEMBERS OF THE SPECIAL  
54 REVIEW PANEL NEED NOT BE MEMBERS OF THE ACADEMIC UNIT. THE SPECIAL  
55 REVIEW PANEL SHALL PROVIDE ADEQUATE OPPORTUNITY FOR THE FACULTY  
56 MEMBER TO PARTICIPATE IN THE REVIEW PROCESS AND SHALL CONSIDER  
57 ALTERNATIVE MEASURES THAT WOULD ASSIST THE FACULTY MEMBER TO IMPROVE  
58 PERFORMANCE. THE TENURE SUBCOMMITTEE MAY ADOPT RULES AND PROCEDURES  
59 REGULATING THE CONDUCT OF SUCH REVIEWS.

60 THE SPECIAL REVIEW PANEL SHALL PREPARE A REPORT ON THE TEACHING,  
61 SCHOLARSHIP, SERVICE, GOVERNANCE, AND (WHEN APPROPRIATE) OUTREACH  
62 PERFORMANCE OF THE FACULTY MEMBER. IT WILL ALSO IDENTIFY ANY SUPPORTING  
63 SERVICE OR ACCOMMODATION THAT THE UNIVERSITY SHOULD PROVIDE TO ENABLE  
64 THE FACULTY MEMBER TO IMPROVE PERFORMANCE. DEPENDING ON ITS FINDINGS,  
65 THE PANEL MAY RECOMMEND:

- 66 (A) THAT THE PERFORMANCE IS ADEQUATE TO MEET STANDARDS AND THAT  
67 THE REVIEW BE CONCLUDED;
- 68 (B) THAT THE ALLOCATION OF THE FACULTY MEMBER'S EXPECTED EFFORT  
69 AMONG THE TEACHING, RESEARCH, SERVICE AND GOVERNANCE FUNCTIONS  
70 OF THE UNIT BE ALTERED IN LIGHT OF THE FACULTY MEMBER'S STRENGTHS  
71 AND INTERESTS SO AS TO MAXIMIZE THE FACULTY MEMBER'S  
72 CONTRIBUTION TO THE MISSION OF THE UNIVERSITY;
- 73 (C) THAT THE FACULTY MEMBER UNDERTAKE SPECIFIED STEPS TO IMPROVE  
74 PERFORMANCE, SUBJECT ONLY TO FUTURE REGULAR ANNUAL REVIEWS AS  
75 PROVIDED IN SECTION 7A.2.;
- 76 (D) THAT THE FACULTY MEMBER UNDERTAKE SPECIFIED STEPS TO IMPROVE  
77 PERFORMANCE SUBJECT TO A SUBSEQUENT SPECIAL REVIEW UNDER  
78 SECTION 7A.3, TO BE CONDUCTED AT A SPECIFIED FUTURE TIME;
- 79 (E) THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE AS TO  
80 JUSTIFY LIMITED REDUCTIONS OF SALARY, AS PROVIDED IN SECTION 7A.4.;
- 81 (F) THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE THAT  
82 THE DEAN SHOULD COMMENCE FORMAL PROCEEDINGS FOR TERMINATION  
83 OR INVOLUNTARY LEAVE OF ABSENCE AS PROVIDED IN SECTIONS 10 AND  
84 14; OR

85 (G) SOME COMBINATION OF THESE MEASURES.

86 THE PANEL WILL SEND ITS REPORT TO THE DEAN, THE HEAD OF THE ACADEMIC UNIT,  
87 AND THE FACULTY MEMBER. WITHIN 30 WORK DAYS OF RECEIVING THE REPORT, THE  
88 FACULTY MEMBER MAY APPEAL TO THE JUDICIAL COMMITTEE, WHICH SHALL  
89 REVIEW THE REPORT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE  
90 DECISIONS (SEE SECTION 7.7).

91 **7A.4. SALARY REDUCTIONS.** IF THE SPECIAL REVIEW PANEL RECOMMENDS THAT  
92 THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE TO JUSTIFY LIMITED  
93 REDUCTIONS OF BASE SALARY, THE HEAD OF THE ACADEMIC UNIT, WITH THE  
94 APPROVAL OF THE DEAN, MAY REDUCE THE FACULTY MEMBER'S BASE PAY, SUBJECT  
95 TO THE FOLLOWING LIMITATIONS:

96 (A) THE AMOUNT OF THE DECREASE WILL NOT EXCEED 10% OF THE FACULTY  
97 MEMBER'S BASE SALARY ON THE BASIS OF ANY ONE SPECIAL REVIEW;

98 (B) BASE SALARY MAY NOT BE REDUCED BY MORE THAN 25% FROM THE  
99 HIGHEST LEVEL OF BASE PAY EVER HELD BY THE FACULTY MEMBER;

100 (C) AT LEAST SIX MONTHS' NOTICE OF THE DECREASE MUST BE GIVEN;

101 (D) ANY DECREASE IN SALARY MAY BE RESTORED BY THE ANNUAL REVIEW  
102 PROCESS PROVIDED IN SECTION 7A.2.

103 WITHIN 30 WORK DAYS OF NOTICE OF THE DECREASE, THE FACULTY MEMBER MAY  
104 APPEAL THIS ACTION TO THE JUDICIAL COMMITTEE, WHICH SHALL REVIEW THE  
105 ACTION AND THE RECOMMENDATION LEADING TO IT. IT IN A MANNER ANALOGOUS  
106 TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 7.7). THIS REVIEW MAY NOT  
107 RECONSIDER MATTERS ALREADY DECIDED BY THE JUDICIAL COMMITTEE UNDER  
108 SECTION 7A.3.

109 ANY DECREASE IN BASE PAY BEYOND THE LIMITS SPECIFIED IN THIS SUBSECTION  
110 CAN ONLY BE IMPOSED PURSUANT TO SECTIONS 10 AND 14.

Amend Section 15, as follows:

**Section 15. Appeals to the Judicial Committee**

1 **15.1. Right to Review.** Any faculty member who claims that his or her rights or status under  
2 these regulations have been adversely affected without his or her consent may seek review before the  
3 Judicial Committee. Cases arising under Sections 7, 7A ("7A" was added to this section), 10, or  
4 11 may be brought directly to the Judicial Committee. In other cases the faculty member must exhaust  
5 all other available University remedies before bringing the case to the Judicial Committee; the Judicial  
6 Committee will not proceed with such a case until the appropriate University body has either decided  
7 it or has refused to consider it.

## Comment

This amendment makes formal provision for review of faculty performance. The section provides for two forms of review: annual review of every faculty member and special review of faculty members whose performance is substantially below the goals and expectations adopted by the faculty of the department.

This system of post-tenure review builds on the existing system of annual reviews. That review involves establishment of departmental standards by the faculty of the unit and annual review of individual faculty members. This system of annual review may be further elaborated by the Senate and University administration. It is a critical element of this process and must be carefully followed in all units.

Under this proposal, there will be a regular annual review of each faculty member. More intensive special reviews will be reserved for those instances in which the regular review process reveals serious deficiencies in the faculty member's performance and the deficiencies are not corrected. If those deficiencies continue, the department can ask the dean to initiate special review. Before doing so, the dean will independently review the case.

If such special review is necessary, the faculty member will be notified and given an opportunity to name a member of the review panel and to participate in the review. The review will be conducted by a panel of faculty elected by the tenured faculty of the unit, together with one member selected by the faculty member under review. The Tenure Subcommittee can establish more detailed procedural guidelines for such special review committees. The review could reaffirm the quality of the faculty member's performance or could identify shortcomings which the faculty member ought to address. It may also identify assistance or accommodation that may be necessary to enable the faculty member to provide the best service possible to the University. The review is intended as a positive and proactive measure that can assist faculty members in realizing their full potential.

This form of review is intended to deal primarily with cases of substandard, but not totally inadequate, performance. In cases of substandard performance, the post-tenure review could lead to a salary reduction for the individual, subject to some limitations. In response to a special review recommendation, the department could begin proceedings to terminate the appointment for "failure to perform reasonably assigned duties adequately" as provided in sections 10 and 14. This provision does not, however, limit the direct applicability of sections 10 and 14 without resorting to special review, if the facts justify that action.

The regularity of the review is subject to appeal to the Judicial Committee under section 15. As in tenure denial cases, the Judicial Committee will review the proceedings to ensure procedural regularity, absence of discrimination, and the protection of academic freedom, but will not substitute its judgment on the merits.

## **MOTION I:**

To amend Section 7.11 as follows: (New language is in CAPS; language to be deleted is ~~struck out~~. Footnotes will be renumbered to conform to the remainder of the Regulations.)

### **Section 7. Personnel Decisions Concerning Probationary Faculty**

1       **7.11 General Criteria.** The basis for awarding indefinite tenure is the determination that the  
2 achievements of an individual have demonstrated the individual's potential to continue to contribute  
3 significantly to the mission of the University (FOOTNOTE 1) and to its programs of teaching, research,  
4 and service, over the course of the faculty member's academic career. (footnote 2) The primary  
5 (footnote 3) criteria for demonstrating this potential are effectiveness in teaching (footnote 4) and  
6 professional distinction in research (footnote 5); outstanding discipline-related service (footnote 6)  
7 ~~contributions~~ will also be taken into account where they are an integral part of the mission of the  
8 academic unit. The relative importance of the criteria may vary in different academic units, but each  
9 of the criteria must be considered in every decision. (footnote 7)

10       The individual's participation in the governance of the institution and other services to the  
11 University and service to the academic unit may be taken into consideration, but are not themselves  
12 bases for awarding tenure.

13       Indefinite tenure may be granted at any time when the candidate has satisfied the requirements.  
14 A probationary appointment must be terminated when the appointee fails to satisfy the criteria in the  
15 last year of probationary service and may be terminated earlier if it appears that the appointee is not  
16 making satisfactory progress toward meeting the criteria within that period.

### **Footnotes**

- (1) THE MISSION OF THE UNIVERSITY INCLUDES, WHERE APPROPRIATE, OUTREACH ACTIVITY THAT EXTENDS A FACULTY MEMBER'S TEACHING, RESEARCH AND SERVICE BEYOND THE CAMPUS OR TO NONTRADITIONAL GROUPS OF STUDENTS AND CITIZENS. NOT EVERY FACULTY MEMBER WILL HAVE OUTREACH RESPONSIBILITIES.
- (2) For interpretation and possible applications, see the interpretative comment that will be provided in accordance with the provisions of Section 16.2.
- (3) Criteria other than those expressly listed in this sentence must be explicitly stated and justified in terms of the mission of the University. Such additional criteria may not impinge upon the academic freedom of the probationary faculty member.
- (4) "Teaching" is not limited to credit-producing classroom instruction. It encompasses other forms of communication of knowledge (both to students registered in the University and to other persons in the community) as well as the supervision or advising of individual graduate or undergraduate students.
- (5) "Research" is not limited to the publication of scholarly works. It includes activities which lead to the public availability of products or practices which have a significance to society, such as artistic production or the development of new technology or scientific procedures.

- (6) "Service" means performance within the faculty member's academic expertise and the mission of the academic unit. It does not include performance of quasi-administrative functions such as membership on faculty or Senate committees or other similar activities; those activities are relevant only to the limited extent set forth in the following paragraph OF THE TEXT. Where service is not an integral part of the mission of the academic unit, a faculty member's service may be considered, but is not a prerequisite to the awarding of tenure.
- (7) Because of the special mission of the Crookston ~~and Waseca campuses~~ CAMPUS, disciplined inquiry in their field of endeavor may be substituted for research in appraising faculty members there.

Other exceptions may be made only in exceptional circumstances by means of special contract, as provided in section 3.6.

### Comment

This amendment formally recognizes the outreach mission of the University and includes it in the qualifications for tenure. As the footnote indicates, outreach can be part of the teaching, research, or service functions of the University. It is important to note that our mission is not only campus-based, nor is it limited to our traditional academic environments, but can also involve communication of teaching, research, and service throughout the community that we serve.

While this amendment recognizes the outreach mission of the University, it does not require any faculty member to add outreach to other functions performed. Many faculty members have outreach activities and will continue to do so; others will continue to function entirely in more traditional teaching, research, and service.

**MOTION J:**

To add the following paragraphs at the beginning of the document: (The entire item is new.)

1

**PREAMBLE**

2 THE BOARD OF REGENTS ADOPTS THESE REGULATIONS WITH THE CONVICTION  
3 THAT A WELL-DEFINED STATEMENT OF RULES IS ESSENTIAL TO THE PROTECTION OF  
4 ACADEMIC FREEDOM AND TO THE PROMOTION OF EXCELLENCE IN THIS UNIVERSITY.  
5 A WELL DESIGNED PROMOTION AND TENURE SYSTEM ENSURES THAT  
6 CONSIDERATIONS OF ACADEMIC QUALITY WILL BE THE BASIS FOR ACADEMIC  
7 PERSONNEL DECISIONS, AND THUS PROVIDES THE FOUNDATION FOR ACADEMIC  
8 EXCELLENCE.

9 TENURE IS THE KEystone FOR ACADEMIC FREEDOM; IT IS ESSENTIAL FOR  
10 SAFEGUARDING THE RIGHT OF FREE EXPRESSION AND FOR ENCOURAGING  
11 RISK-TAKING INQUIRY AT THE FRONTIERS OF KNOWLEDGE. BOTH TENURE AND  
12 ACADEMIC FREEDOM ARE PART OF AN IMPLICIT SOCIAL COMPACT WHICH  
13 RECOGNIZES THAT TENURE SERVES IMPORTANT PUBLIC PURPOSES AND BENEFITS  
14 SOCIETY. THE PEOPLE OF MINNESOTA ARE BEST SERVED WHEN FACULTY ARE FREE  
15 TO TEACH, CONDUCT RESEARCH, AND PROVIDE SERVICE WITHOUT FEAR OF REPRISAL  
16 AND TO PURSUE THOSE ACTIVITIES WITH REGARD FOR LONG TERM BENEFITS TO  
17 SOCIETY RATHER THAN SHORT TERM REWARDS. IN RETURN, FACULTY HAVE THE  
18 RESPONSIBILITY OF FURTHERING THE INSTITUTION'S PROGRAMS OF RESEARCH,  
19 TEACHING, AND SERVICE, AND ARE ACCOUNTABLE FOR THEIR PERFORMANCE OF  
20 THESE RESPONSIBILITIES. ADDITIONALLY, A WELL-DESIGNED TENURE SYSTEM  
21 ATTRACTS CAPABLE AND HIGHLY QUALIFIED INDIVIDUALS AS FACULTY MEMBERS,  
22 STRENGTHENS INSTITUTIONAL STABILITY BY ENHANCING FACULTY  
23 MEMBERS' INSTITUTIONAL LOYALTY, AND ENCOURAGES ACADEMIC EXCELLENCE BY  
24 RETAINING AND REWARDING THE MOST ABLE PEOPLE. TENURE AND PROMOTION  
25 IMPLY SELECTIVITY AND CHOICE; THEY ARE AWARDED FOR ACADEMIC AND  
26 PROFESSIONAL MERIT, NOT FOR SENIORITY. THE LENGTH AND INTENSITY OF THE  
27 REVIEW LEADING TO THE GRANT OF TENURE ENSURES THE RETENTION ONLY OF  
28 WELL-QUALIFIED FACULTY COMMITTED TO THE UNIVERSITY'S MISSION.

29 THE IDEAL ATTRIBUTES OF THE COLLECTIVE FACULTY OF ANY UNIT ARE  
30 SCHOLARLY CREATIVITY, PROFESSIONAL COMPETENCE AND LEADERSHIP,  
31 INTELLECTUAL DIVERSITY, THE ABILITY AND DESIRE TO TEACH EFFECTIVELY AND  
32 THE WILLINGNESS TO COOPERATE WITH OTHER UNITS IN PROMOTING THE WORK AND  
33 WELFARE OF THE UNIVERSITY AS A WHOLE. THE ADMINISTRATION AND FACULTY  
34 SHOULD ENSURE, WITHIN EACH UNIT, NOT ONLY A PROPER BALANCE AMONG THESE  
35 ACTIVITIES BUT ALSO THE MAINTENANCE OF EACH AT THE HIGHEST LEVEL,  
36 TOGETHER WITH ACCOUNTABILITY AND SUITABLE RECOGNITION OF INDIVIDUAL  
37 ACHIEVEMENT AND SERVICE.

38 THE TENURE REGULATIONS PROVIDE A COMPREHENSIVE SET OF POLICIES DEALING  
39 WITH THE RELATIONSHIP BETWEEN THE UNIVERSITY AND ITS FACULTY. THE  
40 REGULATIONS CLASSIFY THE FACULTY AS TENURED, PROBATIONARY AND TERM.  
41 THEY PROVIDE FOR ANNUAL PERFORMANCE REVIEWS OF ALL FACULTY, AS WELL AS

42 ESPECIALLY THOROUGH REVIEWS BEFORE THE GRANTING OF TENURE, ON  
43 PROMOTION IN RANK, AND WHEN THE PERFORMANCE OF A TENURED FACULTY  
44 MEMBER IS ALLEGED TO BE SUBSTANDARD. THEY PROVIDE FOR THE REASSIGNMENT  
45 OF FACULTY IN CASE OF THE REORGANIZATION OF THE UNIVERSITY OR CHANGES IN  
46 ITS SCHOLARLY DIRECTION, AND FOR DISCIPLINE WHEN A FACULTY MEMBER FAILS  
47 TO MEET PRESCRIBED STANDARDS OF CONDUCT.

### Comment

This amendment adds a preamble to the Tenure Regulations. The preamble sets forth, in general terms, the purposes and benefits of tenure. This provides a general introduction to the Regulations and provides members of the public who read those Regulations with an understanding of the importance of this institution. (We have heard from many sources that members of the public do not understand that purpose at present.)

The first two paragraphs of the proposal are drawn from ideas articulated in the Tenure Regulations of Penn State University; the third paragraph is adapted from the MIT Code. The final paragraph provides an introduction and description for these University of Minnesota Tenure Regulations.

**MOTION K:**

To add a new Section 2.3 and delete current footnotes 1, 2, 3 (as amended) and 11, as follows:  
(New language is in CAPS; language to be deleted is ~~struck out~~)

**Section 2. Applicability of Regulations and Continuity of Appointments**

- 1       **SECTION 2.3 DEFINITIONS. AS USED IN THESE REGULATIONS,**  
2       (A)    AN "ACADEMIC UNIT" IS A DEPARTMENT OR SIMILAR UNIT. A SCHOOL,  
3       COLLEGE OR DIVISION THAT IS NOT FURTHER SUBDIVIDED IS ALSO AN  
4       ACADEMIC UNIT.  
5       (B)    THE "HEAD" OF AN ACADEMIC UNIT IS THE ACADEMIC ADMINISTRATOR  
6       IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A CHAIR, HEAD OR DIRECTOR.  
7       (C)    A "COLLEGIATE UNIT" OR "COLLEGE" IS A MAJOR ACADEMIC ENTITY OF THE  
8       UNIVERSITY. IT MAY BE A COLLEGE, SCHOOL, INSTITUTE OR CAMPUS.  
9       (D)    THE "DEAN" OF A COLLEGIATE UNIT IS THE ACADEMIC ADMINISTRATOR  
10       IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A DEAN OR DIRECTOR OR (ON  
11       A CAMPUS THAT IS NOT SUBDIVIDED INTO COLLEGES) A VICE-CHANCELLOR.  
12       (E)    A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL  
13       ADMINISTRATIVE REVIEW AUTHORITY ON ACADEMIC PERSONNEL  
14       DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND  
15       REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE  
16       PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC  
17       ADMINISTRATORS AND DEFINE THEIR RESPECTIVE JURISDICTIONS.  
18       (F)    THE "SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS" IS THE OFFICER (OF  
19       WHATEVER TITLE) HOLDING PRIMARY RESPONSIBILITY FOR THE  
20       DEVELOPMENT OF UNIVERSITY-WIDE ACADEMIC POLICY. THIS OFFICER  
21       MAY ALSO SERVE AS SENIOR ACADEMIC ADMINISTRATOR FOR SOME OR ALL  
22       OF THE UNIVERSITY, IF SO DESIGNATED BY THE PRESIDENT.  
23       (G)    "TENURED FACULTY" ARE THOSE FACULTY WHO HOLD INDEFINITE TENURE.

**Footnotes**

- ~~1 — As used in these Regulations, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head or director.~~
- ~~2 — As used in these Regulations, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, provost, or similar officer.~~

~~3 A "Senior Academic Administrator" is an officer who has final review authority on academic personnel decisions, and who reports directly to the president and Regents, such as a vice president, chancellor or provost. The president will designate one or more senior academic administrators to have responsibility for academic matters for all or part of the University, and will define their respective jurisdictions.~~

~~11 As used in these Regulations, "tenured faculty" means those members of the faculty who hold indefinite tenure.~~

### **Comment**

This housekeeping amendment places the definitions in the text, close to the beginning of the Regulations, rather than in footnotes. This should make it easier for readers to understand the Regulations.

**MOTION L:**

To add the following footnote at the end of the first sentence of new Section 4.4 approved by the Faculty Senate on May 30, 1996: (new language is in CAPS.)

1       **4.4 Faculty Compensation.** Each faculty member shall receive a base salary, which shall not be  
2 decreased except as expressly authorized in these regulations. (FOOTNOTE \*\*\*) The base salary shall  
3 consist of the initial base salary plus any subsequent increase in base salary. In general, it is expected  
4 that salary increases will be added to the base. The University may also provide a faculty member with  
5 additional compensation that is not part of the base salary. The additional compensation may be for  
6 special awards or for activities in addition to regular faculty responsibilities such as clinical practice,  
7 administrative service, overload duties, summer school teaching, and summer research support. The  
8 faculty member does not have a right to continuation of this additional compensation beyond the time  
9 for which it is granted.

10       At the time an appointment is made, the offer and written notice of appointment shall separately  
11 state the base salary and any additional compensation, as described above, that the faculty member will  
12 receive. (For faculty members employed at the time this amendment takes effect, the initial base salary  
13 shall be the salary guaranteed under these regulations at the time this amendment takes effect.) In each  
14 subsequent year, the faculty member shall be provided with a written notice separately stating any  
15 increase in base salary and any changes in the additional compensation for the following academic year.  
16 Increases will be presumed to be in base salary unless otherwise identified.

**Footnotes**

(\*\*\*) SEE SECTIONS 7A.3 (SALARY REDUCTION FOR PERFORMANCE SUBSTANTIALLY BELOW GOALS AND EXPECTATIONS), 11.4 (FORMULA REDUCTION OR POSTPONEMENT OF SALARY IN CASE OF FISCAL EMERGENCY), AND 14 (DISCIPLINARY ACTIONS WITH JUDICIAL COMMITTEE REVIEW).

# Regents' Proposal - Oct 11, 1996

## Tenure Policy for University of Minnesota Twin Cities (UMTC) Law School

The attached revised proposed tenure policy is written to be applicable only to the UMTC Law School, and contains changes from the suggested revisions proposed at the September meeting in Morris. The UMTC Law School is not part of the units that have filed with the Bureau of Mediation Services and there is no maintenance of status quo order with respect to this unit. Consideration of this proposal by the Board of Regents is preliminary to submitting the proposal to the Faculty Senate for their "advice and recommendation" pursuant to Section 19 of the current tenure code.

Changes in the attached proposal are indicated by brackets [ ]. Briefly, the changes are as follows:

- Faculty Compensation, Section 4.4 (page 10): the new document has been changed to make clear that faculty base salaries will not be decreased absent the exceptional and highly limited circumstances expressly authorized by the policy regarding Faculty Tenure, including circumstances recommended in the Faculty Senate proposal. Section 4 is also modified to make clearer that the policy does not change existing authority regarding additional compensation (i.e., the part of compensation that is not base salary).
- Review of Faculty Performance, Section 7A (page 19): the new document replaces the Board's suggested revisions with the peer review system proposed by the Faculty Senate (adding only a provision authorizing the Faculty Senate to approve in its discretion an alternative system that meets the needs of a particular collegiate unit -- in this case, the Law School).
- Disciplinary Actions, Section 10.2 (page 26): this section of the document changes in several respects. First, the introductory language has been deleted in its entirety. Secondly, language regarding the grounds for discipline has been changed to signify that the sole grounds for discipline are those identified in the Section. Third, the ground "other grave misconduct" has been refined.
- Programmatic Change, Section 12.1 (page 31): the new version has been substantially amended from the prior proposal. The current version makes explicit that any decision to discontinue a University program will be based on a judgment that the educational mission of the University as a whole will be enhanced by the discontinuance; will be based on long-range considerations, not temporary shortfalls; will be preceded by a report from the President that takes into account among other pertinent factors faculty views known to the President; will be further preceded by faculty review of that report; and will be further preceded by consultation of faculty by the Regents or their designee. Further, Section 12.1 deletes authority provided in the prior proposal to lay-off faculty incident to the restructuring of an academic program.

**BOARD OF REGENTS' POLICY ON  
FACULTY TENURE**

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## **FACULTY TENURE**

### **PREAMBLE**

THE BOARD OF REGENTS ADOPTS THESE REGULATIONS WITH THE CONVICTION THAT A WELL-DEFINED STATEMENT OF RULES IS ESSENTIAL TO THE PROTECTION OF ACADEMIC FREEDOM AND TO THE PROMOTION OF EXCELLENCE IN THIS UNIVERSITY. A WELL DESIGNED PROMOTION AND TENURE SYSTEM ENSURES THAT CONSIDERATIONS OF ACADEMIC QUALITY WILL BE THE BASIS FOR ACADEMIC PERSONNEL DECISIONS, AND THUS PROVIDES THE FOUNDATION FOR ACADEMIC EXCELLENCE.

TENURE IS THE KEYSTONE FOR ACADEMIC FREEDOM; IT IS ESSENTIAL FOR SAFEGUARDING THE RIGHT OF FREE EXPRESSION AND FOR ENCOURAGING RISK-TAKING INQUIRY AT THE FRONTIERS OF KNOWLEDGE. BOTH TENURE AND ACADEMIC FREEDOM ARE PART OF AN IMPLICIT SOCIAL COMPACT WHICH RECOGNIZES THAT TENURE SERVES IMPORTANT PUBLIC PURPOSES AND BENEFITS SOCIETY. THE PEOPLE OF MINNESOTA ARE BEST SERVED WHEN FACULTY ARE FREE TO TEACH, CONDUCT RESEARCH, AND PROVIDE SERVICE WITHOUT FEAR OF REPRISAL AND TO PURSUE THOSE ACTIVITIES WITH REGARD FOR LONG TERM BENEFITS TO SOCIETY RATHER THAN SHORT TERM REWARDS. IN RETURN, FACULTY HAVE THE RESPONSIBILITY OF FURTHERING THE INSTITUTION'S PROGRAMS OF RESEARCH, TEACHING, AND SERVICE, AND ARE ACCOUNTABLE FOR THEIR PERFORMANCE OF THESE RESPONSIBILITIES. ADDITIONALLY, A WELL-DESIGNED TENURE SYSTEM ATTRACTS CAPABLE AND HIGHLY QUALIFIED INDIVIDUALS AS FACULTY MEMBERS, STRENGTHENS INSTITUTIONAL STABILITY BY ENHANCING FACULTY MEMBERS' INSTITUTIONAL LOYALTY, AND ENCOURAGES ACADEMIC EXCELLENCE BY RETAINING AND REWARDING THE MOST ABLE PEOPLE. TENURE AND PROMOTION IMPLY SELECTIVITY AND CHOICE; THEY ARE AWARDED FOR ACADEMIC AND PROFESSIONAL MERIT, NOT FOR SENIORITY. THE LENGTH AND INTENSITY OF THE REVIEW LEADING TO THE GRANT OF TENURE ENSURES THE RETENTION ONLY OF WELL-QUALIFIED FACULTY COMMITTED TO THE UNIVERSITY'S MISSION.

THE IDEAL ATTRIBUTES OF THE COLLECTIVE FACULTY OF ANY UNIT ARE SCHOLARLY CREATIVITY, PROFESSIONAL COMPETENCE AND LEADERSHIP, INTELLECTUAL DIVERSITY, THE ABILITY AND DESIRE TO TEACH EFFECTIVELY AND THE WILLINGNESS TO COOPERATE WITH OTHER UNITS IN PROMOTING THE WORK AND WELFARE OF THE UNIVERSITY AS A WHOLE. THE ADMINISTRATION AND FACULTY SHOULD ENSURE, WITHIN EACH UNIT, NOT ONLY A PROPER BALANCE AMONG THESE ACTIVITIES

BUT ALSO THE MAINTENANCE OF EACH AT THE HIGHEST LEVEL, TOGETHER WITH ACCOUNTABILITY AND SUITABLE RECOGNITION OF INDIVIDUAL ACHIEVEMENT AND SERVICE.

THE TENURE REGULATIONS PROVIDE A COMPREHENSIVE SET OF POLICIES DEALING WITH THE RELATIONSHIP BETWEEN THE UNIVERSITY AND ITS FACULTY. THE REGULATIONS CLASSIFY THE FACULTY AS TENURED, PROBATIONARY AND TERM. THEY PROVIDE FOR ANNUAL PERFORMANCE REVIEWS OF ALL FACULTY, AS WELL AS ESPECIALLY THOROUGH REVIEWS BEFORE THE GRANTING OF TENURE, ON PROMOTION IN RANK, AND WHEN THE PERFORMANCE OF A TENURED FACULTY MEMBER IS ALLEGED TO BE SUBSTANDARD. THEY PROVIDE FOR THE REASSIGNMENT OF FACULTY IN CASE OF THE REORGANIZATION OF THE UNIVERSITY OR CHANGES IN ITS SCHOLARLY DIRECTION, AND FOR DISCIPLINE WHEN A FACULTY MEMBER FAILS TO MEET PRESCRIBED STANDARDS OF CONDUCT.

## **SECTION 1. ACADEMIC FREEDOM.**

**1.1 Principles.** Every member of the faculty is entitled to due process and academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota and as amplified by resolutions of the Board of Regents. The Board of Regents hereby reaffirms its ~~policies concerning~~ COMMITMENT TO academic freedom and tenure AS REFLECTED ~~announced~~ in its resolution of January 28, 1938, and IN the statement of December 14, 1963, which are set forth in the Appendix to these regulations. THE POLICIES OF THE BOARD OF REGENTS REGARDING ACADEMIC FREEDOM ARE CURRENTLY STATED IN THE BOARD'S STATEMENT OF SEPTEMBER 8, 1995, WHICH PROVIDES:

THE REGENTS OF THE UNIVERSITY OF MINNESOTA REAFFIRM THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THESE ARE ROOTED IN THE BELIEF THAT THE MIND IS ENNOBLED BY THE PURSUIT OF UNDERSTANDING AND THE SEARCH FOR TRUTH AND THE STATE WELL SERVED WHEN INSTRUCTION IS AVAILABLE TO ALL AT AN INSTITUTION DEDICATED TO THE ADVANCEMENT OF LEARNING. THESE PRINCIPLES ARE ALSO REFRESHED BY THE RECOLLECTION THAT THERE IS COMMUNE VINCULUM OMNIBUS ARTIBUS -- A COMMON BOND THROUGH ALL THE ARTS.

ACADEMIC FREEDOM IS THE FREEDOM TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, TO EXPLORE ALL AVENUES OF SCHOLARSHIP, RESEARCH AND

CREATIVE EXPRESSION AND TO SPEAK OR WRITE AS A PUBLIC CITIZEN WITHOUT INSTITUTIONAL DISCIPLINE OR RESTRAINT. ACADEMIC RESPONSIBILITY IMPLIES THE FAITHFUL PERFORMANCE OF ACADEMIC DUTIES AND OBLIGATIONS, THE RECOGNITION OF THE DEMANDS OF THE SCHOLARLY ENTERPRISE AND THE CANDOR TO MAKE IT CLEAR THAT THE INDIVIDUAL IS NOT SPEAKING FOR THE INSTITUTION IN MATTERS OF PUBLIC INTEREST.

**1.2 Protection of Faculty.** Denial of faculty appointment or reappointment or removal or suspension from office or censure or other penalty must not be based upon any belief, expression or conduct protected by law or by the principles of academic freedom.

## **SECTION 2. APPLICABILITY OF REGULATIONS AND CONTINUITY OF APPOINTMENTS.**

**2.1 Employment Contracts.** These regulations govern the relationship between the Board of Regents and every faculty member employed by the University of Minnesota, except as inconsistent with the provisions of collective bargaining agreements. These regulations are part of the contract between the Board of Regents and every faculty member employed by the University outside of collective bargaining units.

**2.2 Continuation of Existing Appointments.** On the effective date of these regulations, every person holding a faculty appointment governed by the 1945 Regulations Concerning Faculty Tenure as amended, will hold the same kind of appointment under these regulations, whether or not their appointments are appropriate for such status under these regulations.

**2.3 DEFINITIONS.** AS USED IN THESE REGULATIONS,

- (A) AN "ACADEMIC UNIT" IS A DEPARTMENT OR SIMILAR UNIT. A SCHOOL, COLLEGE OR DIVISION THAT IS NOT FURTHER SUBDIVIDED IS ALSO AN ACADEMIC UNIT.
- (B) THE "HEAD" OF AN ACADEMIC UNIT IS THE ACADEMIC ADMINISTRATOR IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A CHAIR, HEAD OR DIRECTOR.
- (C) A "COLLEGIATE UNIT" OR "COLLEGE" IS A MAJOR ACADEMIC ENTITY OF THE UNIVERSITY. IT MAY BE A COLLEGE, SCHOOL, INSTITUTE OR CAMPUS.
- (D) THE "DEAN" OF A COLLEGIATE UNIT IS THE ACADEMIC ADMINISTRATOR IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A DEAN OR DIRECTOR OR (ON A CAMPUS THAT

IS NOT SUBDIVIDED INTO COLLEGES) A VICE-CHANCELLOR.

- (E) A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL ADMINISTRATIVE REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS AND DEFINE THEIR RESPECTIVE JURISDICTIONS.
- (F) THE "SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS" IS THE OFFICER (OF WHATEVER TITLE) HOLDING PRIMARY RESPONSIBILITY FOR THE DEVELOPMENT OF UNIVERSITY-WIDE ACADEMIC POLICY. THIS OFFICER MAY ALSO SERVE AS SENIOR ACADEMIC ADMINISTRATOR FOR SOME OR ALL OF THE UNIVERSITY, IF SO DESIGNATED BY THE PRESIDENT.
- (G) "TENURED FACULTY" ARE THOSE FACULTY WHO HOLD INDEFINITE TENURE.

### **SECTION 3. FACULTY RANKS AND TYPES OF APPOINTMENTS.**

**3.1 In General.** The faculty ranks are professor, associate professor, assistant professor, and instructor. FACULTY APPOINTMENT IS APPROPRIATE ONLY IF THE INDIVIDUAL IS ENGAGED IN TEACHING OR RESEARCH AS DEFINED IN SECTION 7.11. Appointment at these ranks are either regular TENURED OR TENURE-TRACK APPOINTMENTS or ~~non-regular~~ TERM APPOINTMENTS. An appointment must be designated AS A regular or ~~non-regular~~ A TERM APPOINTMENT when it is made.

**3.2 Regular Appointments.** A regular appointment is either with indefinite tenure or is probationary, leading to a decision concerning indefinite tenure within a specified period of time. A faculty member with indefinite tenure is entitled to retain that position until retirement in accordance with University regulations or until the appointment is terminated pursuant to the provisions of sections 10 or 11.

A faculty member on probationary appointment:

(1) is entitled to consideration for indefinite tenure; and

(2) is entitled to timely notice of termination in accordance with section 6.

A regular appointment may only be held in an academic unit<sup>1</sup> of a degree-granting college,<sup>2</sup> or similar unit. A regular appointment must be for two-thirds time or more over the academic year.

**3.3 Non-Regular TERM Appointments.** A non-regular TERM appointment is date-specific; that is, the appointment terminates at the end of a period specified in the appointment without further notice to the appointee. The ~~vice-president<sup>2</sup>~~ SENIOR ACADEMIC ADMINISTRATOR FOR THE CAMPUS OR AREA (footnote 3) must give every person appointed to a non-regular TERM faculty position a statement in writing setting forth the conditions of the non-regular appointment, including the fact that it terminates without further notice.

No number of renewals of a non-regular TERM appointment creates a right to further renewals or to a decision concerning tenure. Every renewal of a non-regular TERM appointment for the seventh or succeeding year must be reported to the Tenure Committee with a justification of the reasons for non-regular THE CONTINUATION OF TERM status.

~~3.4 Limitation on Use of Non-Regular Appointments.~~  
**APPROPRIATE USES OF TERM APPOINTMENTS.** ~~Faculty appointment must be regular (either probationary or with indefinite tenure) unless one or more of the following conditions is met, in which case the appointment may be classified as non-regular:~~ TERM APPOINTMENTS ARE APPROPRIATE AND MAY BE USED PROVIDED ONE OR MORE OF THE FOLLOWING CONDITIONS IS MET:

(1) the duration, the percentage of time, or both require less than service for two-thirds time for the academic year;

(2) the appointment is designated a Visiting appointment because the faculty member is from another educational institution or is a qualified professional from a government or private agency on a leave of absence to accept a temporary appointment at this University;

(3) the appointment is designated a Clinical appointment because the faculty member is a clinician in the community who gives service to the University part-time;

(4) THE APPOINTMENT CONCERNS A FACULTY MEMBER WHO PRINCIPALLY IS ENGAGED IN AND PRIMARILY IS SUPPORTED BY CLINICAL ACTIVITIES OR BY DISCIPLINE-RELATED SERVICE (new footnote#).

(4)(5) the appointment is designated an Adjunct appointment because the faculty member's primary employment is outside the University or is in another unit of the University;

(5)(6) the appointment extends courtesy faculty rank without salary;

(6)(7) the position is subject to the joint control of the University and another institution;

(7)(8) the specific funding for the position is subject to the discretion of another agency;

(8)(9) the funding for the position is for a limited time;

(9) (10) the appointment is in a unit or program that is experimental or otherwise restricted in duration; and

(10) (11) the person is enrolled in a University of Minnesota degree program.

A regular faculty member on a probationary appointment may transfer to ~~non-regular~~ TERM status during enrollment in such a program if the faculty member and the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR agree. This transfer suspends the running of the maximum period of probationary service, but the faculty member retains other rights of regular appointment, including annual review, the right to timely notice and a terminal appointment period as provided in section 6.

**3.5 Administrators' Appointments.** Academic administrators may hold regular or ~~non-regular~~ TERM faculty appointments. Administrative titles and duties are distinct and severable from such individuals' faculty appointments. Removal from an administrative position does not impair any rights the individual holds as a faculty member. UPON LEAVING AN ADMINISTRATIVE POSITION, THE INDIVIDUAL RETURNS TO FACULTY STATUS, WITH SALARY AND TERM OF APPOINTMENT REDUCED BY THE AMOUNT OF THE ADMINISTRATIVE AUGMENTATION, IF ANY.

**3.6 Special Contracts.** These regulations do not bar a faculty appointment pursuant to a special contract specifying terms or conditions of employment which are different from those prescribed in these regulations. All other provisions of these regulations apply to such appointments. Every special contract must be in writing and must state that it is a special contract entered into pursuant to this subsection. It must be signed by the faculty member concerned, by the dean of the collegiate unit in which the faculty member will be employed and by the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR and must be authorized by the Board of Regents or its expressly authorized delegate. In addition, the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR will annually report to the Tenure Committee the terms of all special contracts and the reasons for their use.

A special contract may be used to reduce the minimum time of a regular appointment to one-half time in order to permit a faculty member to devote more time to family responsibilities. Such a contract must provide for the mutual responsibilities of the faculty member and the academic unit, including the type and percent time of the appointment, if any, to which the faculty member is entitled at the expiration of the special contract. In the case of a probationary faculty member, the contract will regulate the length of the probationary period, but the total probationary period may be extended by no more than a total of two years pursuant to this section and subsection 5.5.

## **SECTION 4. TERMS OF FACULTY EMPLOYMENT.**

**4.1 Written Notice of Appointment.** Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must include the following:

- (1) whether the appointment is regular or ~~non-regular~~ TERM;
- (2) whether it is full or part-time and the percentage of time involved;
- (3) if for a fixed term, its expiration date;
- (4) if regular, whether it is probationary or with indefinite tenure;
- (5) whether it is on a twelve-month, academic year or other specified annual basis;
- (6) the rank of appointment;
- (7) the academic unit or units to which the individual is being appointed; ~~and~~
- (8) the BASE salary; AND
- (9) ADDITIONAL COMPENSATION AS DESCRIBED IN SECTION 4.4.

The notice is only evidence of the appointment; clerical or computer errors in a notice of appointment do not affect the terms of the appointment unless the faculty member reasonably relied upon the mistake and suffered an injustice because of that reliance. Notices required by this section should be delivered before the effective date of the appointment or change of status, or as soon thereafter as is administratively feasible. A probationary appointee must also be given notice of the applicable maximum probationary period.

**4.2 Action by the Board of Regents.** Faculty appointments and renewals or changes of status become effective when approved by the Board of Regents or its authorized delegate.

**4.3 Changes in Terms of Appointment OTHER THAN FACULTY COMPENSATION.** Except for raises in rank or salary and except for action expressly authorized by these regulations, no changes of any of the (1) THROUGH (7) items listed in subsection 4.1 may be made during the term of an appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate.

**4.4 FACULTY COMPENSATION. EACH FACULTY MEMBER SHALL RECEIVE A BASE SALARY. [ABSENT REASONS FOUND TO BE COMPELLING BY THE BOARD OF**

~~REGENTS OR ITS DELEGATE, IT IS EXPECTED THAT] A FACULTY MEMBER'S BASE SALARY WILL NOT BE DECREASED EXCEPT BY ACTION EXPRESSLY AUTHORIZED IN SECTIONS 7A, 10, 11, OR 14 OF THESE REGULATIONS OR WITH THE AGREEMENT OF THE FACULTY MEMBER. IF A FACULTY MEMBER'S BASE SALARY IS DECREASED, THE AMOUNT OF THE DECREASE AND THE REASON THEREFOR SHALL BE SET FORTH IN A WRITTEN NOTICE AND PROVIDED TO THE FACULTY MEMBER. NO DECREASE IN BASE SALARY SHALL OCCUR IN VIOLATION OF THE ACADEMIC FREEDOM OF THE AFFECTED FACULTY MEMBER.~~

THE UNIVERSITY ALSO MAY [FROM TIME TO TIME] PROVIDE A FACULTY MEMBER WITH ADDITIONAL COMPENSATION THAT IS NOT PART OF THE BASE SALARY. SUCH ADDITIONAL COMPENSATION MAY BE FOR SPECIAL AWARDS, FOR EXCEPTIONAL PERFORMANCE, OR FOR ACTIVITIES IN ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING, SUMMER RESEARCH SUPPORT AND SIMILAR ACTIVITIES. ~~[THERE IS NO EXPECTATION THAT ADDITIONAL COMPENSATION WILL CONTINUE BEYOND THE TIME FOR WHICH IT IS GRANTED OR IN WHICH THE RELEVANT PERFORMANCE OR ACTIVITIES CONTINUE, OR BEYOND SUCH PERIOD AS THE BOARD OF REGENTS OR ITS DELEGATE DETERMINE TO BE APPROPRIATE.]~~

AT THE TIME AN APPOINTMENT IS MADE, THE OFFER AND WRITTEN NOTICE OF APPOINTMENT SHALL SEPARATELY STATE THE INITIAL BASE SALARY AND ANY ADDITIONAL COMPENSATION, AS DESCRIBED ABOVE, THAT THE FACULTY MEMBER WILL RECEIVE. IN EACH SUBSEQUENT YEAR, THE FACULTY MEMBER WILL BE PROVIDED WITH A WRITTEN NOTICE SEPARATELY STATING ANY CHANGES IN BASE SALARY AND ANY CHANGES IN ADDITIONAL COMPENSATION FOR THE FOLLOWING ACADEMIC YEAR. A FACULTY MEMBER'S BASE SALARY SHALL CONSIST OF THE INITIAL BASE SALARY ADJUSTED BY ANY SUBSEQUENT INCREASE OR DECREASE IN BASE SALARY PROVIDED FOR IN A SUBSEQUENT WRITTEN NOTICE. FOR A FACULTY MEMBER EMPLOYED AT THE TIME THIS SECTION TAKES EFFECT, THE INITIAL BASE SALARY WILL BE THE FACULTY MEMBER'S SALARY AT THE TIME THIS SECTION TAKES EFFECT, EXCLUSIVE OF ANY COMPENSATION RECEIVED FOR SPECIAL AWARDS OR FOR ACTIVITIES IN

ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING, SUMMER RESEARCH SUPPORT AND SIMILAR ACTIVITIES.

A FACULTY MEMBER MAY FILE A GRIEVANCE REGARDING THE FACULTY MEMBER'S BASE SALARY A DECREASE UNDER THE UNIVERSITY GRIEVANCE POLICY. ANY GRIEVANCE REGARDING BASE SALARY MUST BE INITIATED WITHIN 30 DAYS OF RECEIPT OF THE WRITTEN NOTICE FIRST SETTING FORTH THE BASE SALARY OR DECREASE IN BASE SALARY TO BE CHALLENGED.

## **SECTION 5. MAXIMUM PERIOD OF PROBATIONARY SERVICE.**

**5.1 General Rule.** To give the University ample opportunity to determine the qualifications of those faculty members whom it is considering for regular appointments with indefinite tenure, the maximum period of probationary service of a faculty member is NORMALLY six academic years, whether consecutive or not. THE FACULTY ASSEMBLY OF A COLLEGIATE UNIT MAY PROPOSE TO ALTER THE MAXIMUM PROBATIONARY PERIOD FOR ALL OF THAT COLLEGE, OR FOR CERTAIN UNITS WITHIN IT, TO NO MORE THAN NINE YEARS. THE TENURED FACULTY OF A COLLEGE, BY SIMPLE MAJORITY VOTE TAKEN BY SECRET BALLOT, MAY ADOPT SUCH A CHANGE, WITH THE APPROVAL OF THE DEAN AND OF THE SENIOR ACADEMIC ADMINISTRATOR. ANY SUCH CHANGE IN THE MAXIMUM PROBATIONARY PERIOD APPLIES TO ALL PROBATIONARY FACULTY HIRED IN THAT COLLEGE (OR THOSE UNITS) AFTER THE DECISION, BUT ANY INCUMBENT PROBATIONARY FACULTY MEMBER MAY CHOOSE TO BE CONSIDERED UNDER THE NEW RULE. At the end of this ~~six-year~~ PROBATIONARY period, the faculty member must either be given a regular appointment with indefinite tenure or a one-year terminal appointment.

**5.2 Early Decisions Permitted.** These regulations do not prevent the granting of indefinite tenure prior to the expiration of the maximum period of probationary service and do not prevent a decision to terminate an appointee's probation prior to the end of the appointee's maximum probationary service, if timely notice is given.

**5.3 Definition of Academic Year.** A faculty member is considered to have served an academic year if the appointee serves at least two-thirds time for three quarters or full-time for two quarters of the nine month academic year or any equivalent combination. An academic year during which the faculty member serves for less than this amount is not counted in computing the number of years for purposes of this section.

Unless otherwise agreed in writing, periods during which a faculty member is on paid leave for professional development (single quarter leave, sabbatical furlough, etc.) or on leave to teach or conduct research at another academic institution count as service, but periods in which the faculty member is on sick or disability leave or on leave in some non-faculty capacity do not count as service.

If a faculty member transfers to a position in the non-regular faculty, the time spent in the non-regular position does not count for the purpose of this section.

#### **5.4 Prior Service.**

**5.41 In This University.** Every academic year during which a faculty member has previously served at least two-thirds time under a regular appointment at this University reduces the maximum period of probationary service by one year.

**5.42 Elsewhere.** If a faculty member has previously served in regular faculty positions, as defined in these regulations, in one or more accredited universities or colleges, every academic year of such service (not exceeding three) reduces the maximum period of probationary service by one year.

**5.43 Exceptions Permitted.** If the prior service was in a different discipline, was in an academic unit or institution with teaching or research goals not comparable to those of the present appointment, or was too long ago to provide good evidence of the appointee's current professional development, the Board of Regents or its expressly authorized delegate may make an exception in writing at or near the beginning of the probationary period.

**5.5 Exception for New Parent or Caregiver.** The maximum period of probationary service will be extended by one year at the request of a probationary faculty member:

(1) on the occasion of the birth of that faculty member's child or adoptive/foster placement of a child with that faculty member;  
or

(2) when the faculty member is a major caregiver for a family member<sup>4</sup> who has an extended serious illness, injury, or

debilitating condition. A faculty member may use this provision no more than two times.

The request for extension must be made in writing within three months of the events giving rise to the claim and no later than June 30 preceding the year a final decision would otherwise be made on an appointment with indefinite tenure for that faculty member.

## **SECTION 6. TENURE OF FACULTY ON REGULAR PROBATIONARY APPOINTMENTS.**

**6.1 In General.** A regular probationary appointee is a candidate for indefinite tenure. A probationary appointment continues until it is superseded by an appointment with indefinite tenure or until terminated by timely notice or by resignation. Regular probationary appointments are generally made at the rank of assistant professor, but may be made at any rank.

**6.2 Notice Requirements.** Except as provided below, a probationary appointment may be terminated at the end of any academic year by giving notice of termination (in the form provided in section 17) not later than May 15 of the preceding academic year. The notice must inform the faculty member of the right to request a hearing before the Judicial Committee and must advise the faculty member of the applicable time limit for making such a request.

**6.21 Associate Professors and Professor on Probationary Appointments.** An initial probationary appointment at the rank of associate professor or professor may specify in writing that it is for a minimum period of three years. In that case, the earliest time at which notice of termination can be given is before May 15 of the second year of service, to take effect at the end of the third year of service.

**6.22 Instructors on Probationary Appointments.** An initial probationary appointment at the rank of instructor may specify in writing that it is only for a minimum period of one year. The appointment may be terminated at the end of the first year by notice given not later than March 1 of that year, or at the end of the second year by notice given not later than December 15 of that year. In all other respects such appointments are governed by subsection 6.2. A promotion of an instructor to the rank of assistant professor without a grant of tenure does not affect the operation of this subsection.

**6.3 Promotions.** The promotion of a probationary appointee to the rank of associate professor or professor must be

accompanied with an appointment with indefinite tenure. A promotion to assistant professor does not affect the faculty member's tenure status.

**6.4 Rank of Appointees With Indefinite Tenure.** The grant of tenure to an instructor must be accompanied with a promotion to assistant professor. Since the standards for granting tenure are ordinarily at least as rigorous as those for promotion to associate professor, the granting of tenure to an assistant professor will ordinarily be accompanied by a promotion to associate professor. Otherwise, a grant of indefinite tenure need not be accompanied with a promotion in rank.

**6.5 Effect of Failure to Comply With This Section.** No one is entitled to an appointment with indefinite tenure merely because the University failed to comply with this section. If an individual is given an extension of appointment beyond the maximum probationary period or is not given timely written notice, the University may either:

- (1) grant an appointment with indefinite tenure;
- (2) grant a further probationary appointment, if this would not exceed the maximum probationary period; or
- (3) grant a terminal appointment ending at the end of the first full academic year which follows the May 15th after proper notice is given.

## **SECTION 7. PERSONNEL DECISIONS CONCERNING PROBATIONARY FACULTY.**

### **7.1 Criteria for Decisions.**

**7.11 General Criteria.** The basis for awarding indefinite tenure is the determination that the achievements of an individual have demonstrated the individual's potential to continue to contribute significantly to the mission of the University (FOOTNOTE 1) and to its programs of teaching, research, and service over the course of the faculty member's academic career.<sup>5</sup> The primary<sup>6</sup> criteria for demonstrating this potential are effectiveness in teaching<sup>7</sup> and professional distinction in research,<sup>8</sup> outstanding discipline-related service contributions<sup>9</sup> will also be taken into account where they are an integral part of the mission of the academic unit. The relative importance of the criteria may vary in different academic units, but each of the criteria must be considered in every decision.<sup>10</sup> c

**7.12 Departmental Statement.** Each academic unit must have a document that articulates with reasonable specificity the indices and standards which will be used to evaluate whether

candidates meet the criteria of subsection 7.11. The document must comply with those standards, but should make their application more specific. Each such document is subject to review by the dean or other appropriate academic administrator and by the ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR AND BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS. Each academic unit must provide each probationary faculty member with a copy of the document at the beginning of the probationary service.

**7.2 Annual Review.** The tenured faculty<sup>11</sup> of each academic unit annually reviews the progress of each probationary faculty member toward satisfaction of the criteria for receiving tenure. The head of the unit prepares a written summary of that review and discusses the candidate's progress with the candidate, giving a copy of the report to the candidate.

**7.3 Formal Action by the Faculty.** The tenured faculty of the academic unit may recommend that a probationary faculty member be granted indefinite tenure or that the appointment be terminated. If it does neither, it is presumed to recommend a renewal of the appointment. In the final probationary year, if the tenured faculty does not recommend an appointment with indefinite tenure, it must recommend termination of the appointment. The recommendation is made by a vote of the regular faculty with indefinite tenure in the unit. The presiding officer is not disqualified from voting merely because of office.

**7.4 Procedures for Taking Formal Action.** The academic unit must observe University procedures established as provided in subsection 16.3. These procedures will provide the following.

(a) A good faith effort is made to gather all relevant information necessary to the decision. The academic units have the primary obligation to assemble the file, but the faculty member also has the right to add any material the faculty member considers relevant.

(b) The decision is made by vote, by written unsigned secret ballot, at a meeting of the regular faculty who have indefinite tenure in the academic unit. The rules may provide for absentee ballots by informed absent faculty members.

(c) Persons who have or have had a family or similar relationship to the candidate do not participate in the decision. The procedures may establish methods for raising and ruling on such questions in advance of the decision.

(d) Action is to be taken by majority vote. An academic unit may adopt a uniformly applicable rule that a motion to recommend tenure must achieve a specified exceptional majority in order to constitute an affirmative recommendation of that unit. In such case a motion which achieves a majority, but not the required

exceptional majority, must be sent forward for review by the appropriate review process despite the absence of the unit's affirmative recommendation.

(e) The unit shall report the vote of the faculty, together with the reasons for the action taken. This statement of reasons must take the form of a summary of both majority and minority views which have substantial support which were expressed in the course of formal consideration of the action. All statements must be made without personal attribution. A preliminary draft is open to members of the faculty eligible to vote so they may comment and suggest changes. The final draft is sent to the affected faculty member and is open to the faculty eligible to vote.

(f) In academic units which are widely scattered geographically so that collegial deliberation is difficult, the rules may specify special procedures which, to the maximum extent practicable, conform to the procedures generally required.

(g) Before submitting a formal recommendation for an appointment with indefinite tenure or for termination of a probationary appointment, the head of the academic unit informs the appointee of the recommendation and gives the appointee a copy of the final report. The appointee may submit any comments upon the report to the academic administrator who will review the report, with a copy to the head of the academic unit.

**7.5 Nondisclosure of Grounds for Recommendation of Termination.** The reasons for a recommendation to terminate a probationary appointment may not be disclosed, except as part of the review process, unless the faculty member requests such disclosure or makes a public statement concerning the reasons for termination.

**7.6 Review of Recommendations.** Recommendations of academic units to grant indefinite tenure or to terminate probationary appointments are reviewed at the collegiate and University levels.

**7.61 Procedures.** The review must be conducted according to University procedures, established as provided in subsection 16.3. These procedures must provide for review and recommendations by the head of the academic unit, by the dean of the collegiate unit, by faculty committees at the collegiate or University level, and, when appropriate, by other academic administrators. The review must be conducted on the basis of the standards and criteria established by subsections 7.11 and 7.12 and the applicable rules and procedures. The rules may permit an administrator to refer the matter back to the unit for reconsideration, but if the administrator and the unit do not agree after such reconsideration, both the recommendation and the administrator's comments must be sent forward for final

administrative action. A copy of each review or recommendation must be supplied to the faculty member. The faculty member may comment thereon in writing to those who will review the matter further.

**7.62 Conflict of Interest.** No one may participate both in an initial recommendation by an academic unit and in a subsequent review of that recommendation, except that the head of the academic unit may make the initial administrative review. No one who has participated in a recommendation or review may thereafter serve as a member of the Judicial Committee in further consideration of that case.

Members of the Judicial Committee may not serve on collegiate or University review committees. Members of the Judicial Committee may participate in initial recommendations by their own academic units, but are disqualified from thereafter participating in Judicial Committee consideration of those decisions.

**7.63 Final Administrative Action.** The University may not act contrary to the recommendation of the academic unit which made the initial recommendation except for substantive reasons which must be stated in writing by the ~~vice president (or a person designated by the vice president)~~ SENIOR ACADEMIC ADMINISTRATOR to the faculty member, to the members of the academic unit which made the recommendation, and to the president. The fact that participants in the review process have recommended against the unit's initial recommendation is not, by itself, a substantive reason.

The ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR takes the steps necessary to make the necessary appointment or to give notice of termination.

**7.7 Improper Termination of Probationary Appointments.** A person holding a regular probationary appointment who has been given notice of termination may petition the Judicial Committee to review that action. The Judicial Committee will not base its ruling on the merits of the decision itself, but will review allegations that the decision was based in significant degree upon any of the following:

- (1) personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota;
- (2) factors prescribed by applicable federal or state law regarding fair employment practices;
- (3) substantial and prejudicial deviation from the procedures prescribed in subsections 7.4 and 7.6 and the procedural rules promulgated pursuant to those subsections;

- (4) failure to consider data available at the time of decision bearing materially on the faculty member's performance;
  - (5) demonstrable material prejudicial mistakes of fact concerning the faculty member's work or conduct;
  - (6) other immaterial or improper factors causing substantial prejudice; or
  - (7) other violation of University policies or regulations.
- Such proceedings are governed by section 15.

## SECTION 7A. REVIEW OF FACULTY PERFORMANCE

~~7A.1. PURPOSE. THIS SECTION PROVIDES A FRAMEWORK FOR EACH COLLEGIATE UNIT TO DEVELOP AND IMPLEMENT A POLICY FOR REVIEW OF FACULTY PERFORMANCE. THE POLICY SHALL BE SUITED TO THE PARTICULAR CIRCUMSTANCES OF THE UNIT AND BASED ON THE UNIT'S GOALS AND EXPECTATIONS FOR FACULTY MEMBERS, INCLUDING GOALS AND EXPECTATIONS REGARDING TEACHING, SCHOLARLY PRODUCTIVITY, AND CONTRIBUTIONS TO THE SERVICE AND OUTREACH FUNCTIONS OF THE UNIT. THE PURPOSE OF THE POLICIES ESTABLISHED UNDER THIS SECTION IS TO ASSURE THAT THE TALENTS OF EACH FACULTY MEMBER ARE DEVELOPED AND USED IN A MANNER THAT SERVES THE BEST INTERESTS OF THE STUDENTS, THE UNIVERSITY, AND THE INDIVIDUAL FACULTY MEMBER. NEITHER THIS SECTION NOR ANY ACTION TAKEN BY ACADEMIC UNITS UNDER IT SHALL LIMIT IN ANY WAY THE AVAILABILITY OF ACTIONS THAT ARE AUTHORIZED UNDER OTHER SECTIONS OF THESE REGULATIONS OR THAT OTHERWISE MAY BE AVAILABLE INDEPENDENT OF THIS SECTION. THE POLICIES DEVELOPED AND THE GOALS AND EXPECTATIONS RELIED ON BY UNITS UNDER THIS SECTION SHALL RESPECT THE ACADEMIC FREEDOM OF FACULTY MEMBERS.~~

~~7A.2. ANNUAL REVIEW. THE HEAD OF THE ACADEMIC UNIT WILL ANNUALLY REVIEW WITH EACH FACULTY MEMBER THE PERFORMANCE OF THE FACULTY MEMBER IN LIGHT OF THE GOALS AND EXPECTATIONS OF THE ACADEMIC UNIT. THE PERFORMANCE REVIEW MAY BE USED FOR SALARY ADJUSTMENT, PROMOTION, AND OTHER RECOMMENDATIONS BY AND DECISIONS WITHIN THE UNIT, AS APPROPRIATE.~~

~~7A.3. POLICY ON INTENSIVE PEER REVIEWS. EACH COLLEGIATE UNIT MUST HAVE A POLICY GOVERNING INTENSIVE PEER REVIEW. THE POLICY~~

~~SHOULD ESTABLISH THE STANDARDS TO BE USED TO EVALUATE WHETHER FACULTY MEMBERS MEET EXPECTATIONS OF THE UNIT. THE POLICY SHOULD INDICATE CRITERIA FOR IDENTIFYING FACULTY MEMBERS WHOSE PERFORMANCE REQUIRES INTENSIVE REVIEW AND PROVIDE PROCEDURES TO BE USED FOR SUCH INTENSIVE REVIEWS. EACH COLLEGIATE UNIT'S POLICY WILL BE REVIEWED BY AND SUBJECT TO THE APPROVAL OF THE SENIOR ACADEMIC ADMINISTRATOR FOR THE CAMPUS OR AREA.~~

~~7A.4. STANDARDS AND PROCEDURE FOR INTENSIVE REVIEWS. THE INTENSIVE PEER REVIEW POLICY WILL SET FORTH PERFORMANCE STANDARDS THAT BEARS A REASONABLE RELATIONSHIP TO THE DEPARTMENTAL TENURE EXPECTATIONS ESTABLISHED PURSUANT TO SECTION 7.12. AFFECTED FACULTY WILL BE PROVIDED WITH NOTICE THAT THEY HAVE BEEN IDENTIFIED FOR AN INTENSIVE REVIEW, UNLESS THE FACULTY MEMBER HAS INITIATED THE REQUEST FOR REVIEW. THE PROCEDURES ESTABLISHED IN THE POLICY WILL PROVIDE ADEQUATE OPPORTUNITY FOR THE FACULTY MEMBER TO PARTICIPATE IN THE REVIEW PROCESS, WILL BE CONSISTENT WITH THE PRINCIPLE OF PEER EVALUATION, AND WILL REQUIRE CONSIDERATION OF POSSIBLE INTERVENTIONS TO ASSIST THE FACULTY MEMBER IN IMPROVING THE LEVEL OF PERFORMANCE, INCLUDING A SCHEDULE FOR LATER INTENSIVE REVIEWS. THE PEER REVIEW MAY ALSO RECOMMEND DISCIPLINARY ACTION UNDER SECTIONS 10 AND 14 OF THESE REGULATIONS, BUT THIS SECTION DOES NOT MODIFY THE PROCEDURES OR GROUNDS FOR ACTION AUTHORIZED UNDER THOSE SECTIONS.~~

~~7A.5. CONSEQUENCES OF INTENSIVE REVIEW. IN APPROPRIATE CASES OF SUBSTANDARD PERFORMANCE, THE INTENSIVE PEER REVIEW MAY ALSO RESULT IN A RECOMMENDATION OF A PERMANENT OR TEMPORARY DECREASE IN THE FACULTY MEMBER'S BASE SALARY WITHOUT RECOURSE TO SECTIONS 10 OR 14, BUT SUCH A RECOMMENDATION IS SUBJECT TO THE FOLLOWING LIMITATIONS:~~

~~(A) THE AMOUNT OF THE RECOMMENDED DECREASE MAY NOT EXCEED 10% OF THE FACULTY MEMBER'S BASE SALARY IN ANY GIVEN YEAR; AND~~

~~(B) WITHIN 30 WORK DAYS OF RECEIVING SUCH NOTICE, THE FACULTY MEMBER MAY BRING A~~

~~GRIEVANCE UNDER THE UNIVERSITY GRIEVANCE  
POLICY TO CONTEST AN ADVERSE DECISION.]~~

**[7A.1. GOALS AND EXPECTATIONS.** THE FACULTY OF EACH ACADEMIC UNIT MUST ESTABLISH GOALS AND EXPECTATIONS FOR ALL FACULTY MEMBERS, INCLUDING GOALS AND EXPECTATIONS REGARDING TEACHING, SCHOLARLY PRODUCTIVITY, AND CONTRIBUTIONS TO THE SERVICE AND OUTREACH FUNCTIONS OF THE UNIT. THE FACTORS TO BE CONSIDERED WILL PARALLEL THOSE USED BY THE UNIT IN THE GRANTING OF TENURE, BUT WILL TAKE INTO ACCOUNT THE DIFFERENT STAGES OF PROFESSIONAL DEVELOPMENT OF FACULTY. THE GOALS AND EXPECTATIONS WILL BE ESTABLISHED IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE UNIVERSITY SENATE. THEY CAN PROVIDE FOR FLEXIBILITY, SO THAT SOME FACULTY MEMBERS CAN CONTRIBUTE MORE HEAVILY TO THE ACCOMPLISHMENT OF ONE MISSION OF THE UNIT AND OTHERS TO THE ACCOMPLISHMENT OF OTHER MISSIONS. THE GOALS AND EXPECTATIONS SHALL NOT VIOLATE THE INDIVIDUAL FACULTY MEMBER'S ACADEMIC FREEDOM IN INSTRUCTION OR IN THE SELECTION OF TOPICS OR METHODS FOR RESEARCH. THEY SHALL INCLUDE REASONABLE INDICES OF ACCEPTABLE PERFORMANCE IN EACH OF THE AREAS (E.G., TEACHING CONTRIBUTIONS AND EVALUATIONS, SCHOLARLY PRODUCTIVITY, SERVICE, GOVERNANCE AND OUTREACH ACTIVITIES). THE DEAN REVIEWS THE GOALS AND EXPECTATIONS OF EACH UNIT AND MAY REQUEST CHANGES TO MEET THE STANDARDS OF THE UNIVERSITY AND OF THE COLLEGIATE UNIT.

**7A.2. ANNUAL REVIEW.** EACH ACADEMIC UNIT, THROUGH ITS MERIT REVIEW PROCESS (ESTABLISHED IN ACCORDANCE WITH THE STANDARDS ADOPTED BY THE SENATE), ANNUALLY REVIEWS WITH EACH FACULTY MEMBER THE PERFORMANCE OF THAT FACULTY MEMBER IN LIGHT OF THE GOALS AND EXPECTATIONS OF THE ACADEMIC UNIT ESTABLISHED UNDER SECTION 7A.1. THIS REVIEW IS USED FOR SALARY ADJUSTMENT AND FACULTY DEVELOPMENT. THE FACULTY MEMBER WILL BE ADVISED OF THE EVALUATION AND, IF APPROPRIATE, OF ANY STEPS THAT SHOULD BE TAKEN TO IMPROVE PERFORMANCE AND WILL BE PROVIDED ASSISTANCE IN THAT EFFORT. IF THE HEAD OF THE UNIT AND A PEER MERIT REVIEW

COMMITTEE ELECTED FOR ANNUAL MERIT REVIEW WITHIN THAT UNIT BOTH FIND A FACULTY MEMBER'S PERFORMANCE TO BE SUBSTANTIALLY BELOW THE GOALS AND EXPECTATIONS ADOPTED BY THAT UNIT, THEY SHALL ADVISE THE FACULTY MEMBER IN WRITING, INCLUDING SUGGESTIONS FOR IMPROVING PERFORMANCE, AND ESTABLISH A TIME PERIOD (OF AT LEAST ONE YEAR) WITHIN WHICH IMPROVEMENT SHOULD BE DEMONSTRATED.

**7A.3. SPECIAL PEER REVIEW IN CASES OF ALLEGED SUBSTANDARD PERFORMANCE BY TENURED FACULTY.** IF, AT THE END OF THE TIME PERIOD FOR IMPROVEMENT DESCRIBED IN THE PREVIOUS PARAGRAPH, A TENURED FACULTY MEMBER'S PERFORMANCE CONTINUES TO BE SUBSTANTIALLY BELOW THE GOALS AND EXPECTATIONS OF THE UNIT AND THERE HAS NOT BEEN A SUFFICIENT IMPROVEMENT OF PERFORMANCE, THE HEAD OF THE ACADEMIC UNIT AND THE ELECTED PEER MERIT REVIEW COMMITTEE MAY JOINTLY REQUEST THE DEAN TO INITIATE A SPECIAL PEER REVIEW OF THAT FACULTY MEMBER. BEFORE DOING SO, THE DEAN SHALL INDEPENDENTLY REVIEW THE FILE TO DETERMINE THAT SPECIAL PEER REVIEW IS WARRANTED. (IN THE CASE OF AN ACADEMIC UNIT THAT IS ALSO A COLLEGIATE UNIT, THE REQUEST SHALL BE MADE TO AND THE REVIEW CONDUCTED BY THE RESPONSIBLE SENIOR ACADEMIC ADMINISTRATOR.) THE SPECIAL PEER REVIEW SHALL BE CONDUCTED BY A PANEL OF FIVE TENURED FACULTY MEMBERS OF EQUAL OR HIGHER RANK, SELECTED TO REVIEW THAT INDIVIDUAL. THE FACULTY MEMBER UNDER REVIEW SHALL HAVE THE OPTION TO APPOINT ONE MEMBER. THE REMAINING MEMBERS SHALL BE ELECTED BY SECRET BALLOT BY THE TENURED FACULTY OF THE UNIT. THE MEMBERS OF THE SPECIAL REVIEW PANEL NEED NOT BE MEMBERS OF THE ACADEMIC UNIT. THE SPECIAL REVIEW PANEL SHALL PROVIDE ADEQUATE OPPORTUNITY FOR THE FACULTY MEMBER TO PARTICIPATE IN THE REVIEW PROCESS AND SHALL CONSIDER ALTERNATIVE MEASURES THAT WOULD ASSIST THE FACULTY MEMBER TO IMPROVE PERFORMANCE. THE TENURE SUBCOMMITTEE MAY ADOPT RULES AND PROCEDURES REGULATING THE CONDUCT OF SUCH REVIEWS. THE SPECIAL REVIEW PANEL SHALL PREPARE A REPORT ON THE TEACHING, SCHOLARSHIP, SERVICE, GOVERNANCE, AND (WHEN

APPROPRIATE) OUTREACH PERFORMANCE OF THE FACULTY MEMBER. IT WILL ALSO IDENTIFY ANY SUPPORTING SERVICE OR ACCOMMODATION THAT THE UNIVERSITY SHOULD PROVIDE TO ENABLE THE FACULTY MEMBER TO IMPROVE PERFORMANCE. DEPENDING ON ITS FINDINGS, THE PANEL MAY RECOMMEND:

(A) THAT THE PERFORMANCE IS ADEQUATE TO MEET STANDARDS AND THAT THE REVIEW BE CONCLUDED;

(B) THAT THE ALLOCATION OF THE FACULTY MEMBER'S EXPECTED EFFORT AMONG THE TEACHING, RESEARCH, SERVICE AND GOVERNANCE FUNCTIONS OF THE UNIT BE ALTERED IN LIGHT OF THE FACULTY MEMBER'S STRENGTHS AND INTERESTS SO AS TO MAXIMIZE THE FACULTY MEMBER'S CONTRIBUTION TO THE MISSION OF THE UNIVERSITY;

(C) THAT THE FACULTY MEMBER UNDERTAKE SPECIFIED STEPS TO IMPROVE PERFORMANCE, SUBJECT ONLY TO FUTURE REGULAR ANNUAL REVIEWS AS PROVIDED IN SECTION 7A.2.;

(D) THAT THE FACULTY MEMBER UNDERTAKE SPECIFIED STEPS TO IMPROVE PERFORMANCE SUBJECT TO A SUBSEQUENT SPECIAL REVIEW UNDER SECTION 7A.3, TO BE CONDUCTED AT A SPECIFIED FUTURE TIME;

(E) THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE AS TO JUSTIFY LIMITED REDUCTIONS OF SALARY, AS PROVIDED IN SECTION 7A.4;

(F) THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE THAT THE DEAN SHOULD COMMENCE FORMAL PROCEEDINGS FOR TERMINATION OR INVOLUNTARY LEAVE OF ABSENCE AS PROVIDED IN SECTIONS 10 AND 14; OR

(G) SOME COMBINATION OF THESE MEASURES. THE PANEL WILL SEND ITS REPORT TO THE DEAN, THE HEAD OF THE ACADEMIC UNIT, AND THE FACULTY MEMBER. WITHIN 30 WORK DAYS OF RECEIVING THE REPORT, THE FACULTY MEMBER MAY APPEAL TO THE JUDICIAL COMMITTEE, WHICH SHALL REVIEW THE REPORT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 7.7).

**7A.4. SALARY REDUCTIONS.** IF THE SPECIAL REVIEW PANEL RECOMMENDS THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE TO JUSTIFY LIMITED REDUCTIONS OF BASE SALARY, THE HEAD OF THE ACADEMIC UNIT, WITH THE APPROVAL OF

THE DEAN, MAY REDUCE THE FACULTY MEMBER'S BASE PAY, SUBJECT TO THE FOLLOWING LIMITATIONS:

(A) THE AMOUNT OF THE DECREASE WILL NOT EXCEED 10% OF THE FACULTY MEMBER'S BASE SALARY ON THE BASIS OF ANY ONE SPECIAL REVIEW;

(B) BASE SALARY MAY NOT BE REDUCED BY MORE THAN 25% FROM THE HIGHEST LEVEL OF BASE PAY EVER HELD BY THE FACULTY MEMBER;

(C) AT LEAST SIX MONTHS' NOTICE OF THE DECREASE MUST BE GIVEN;

(D) ANY DECREASE IN SALARY MAY BE RESTORED BY THE ANNUAL REVIEW PROCESS PROVIDED IN SECTION 7A.2.

WITHIN 30 WORK DAYS OF NOTICE OF THE DECREASE, THE FACULTY MEMBER MAY APPEAL THIS ACTION TO THE JUDICIAL COMMITTEE, WHICH SHALL REVIEW THE ACTION AND THE RECOMMENDATION LEADING TO IT. IT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 7.7). THIS REVIEW MAY NOT RECONSIDER MATTERS ALREADY DECIDED BY THE JUDICIAL COMMITTEE UNDER SECTION 7A.3. ANY DECREASE IN BASE PAY BEYOND THE LIMITS SPECIFIED IN THIS SUBSECTION CAN ONLY BE IMPOSED PURSUANT TO SECTIONS 10 (11), AND 14.]

[7A.5. PEER REVIEW OPTION UPON APPLICATION TO IT BY THE DEAN OF AN ACADEMIC UNIT, THE FACULTY SENATE MAY ADOPT A SYSTEM OF PEER REVIEW OF PERFORMANCE OF FACULTY OF THAT UNIT DIFFERENT FROM THE SYSTEM SET FORTH IN SECTION 7A.1 THROUGH 7A.4 IF IN THE FACULTY SENATE'S JUDGMENT SO PROCEEDING IS IN THE UNIVERSITY'S INTEREST.]

## **SECTION 8. IMPROPER REFUSAL OF A NEW APPOINTMENT TO A NON-REGULAR TERM FACULTY MEMBER.**

A person holding a ~~non-regular~~ TERM faculty appointment who has been refused a renewal of that appointment or has applied for and been refused a regular or a different ~~non-regular~~ TERM faculty appointment within six months of the end of that appointment may petition the Judicial Committee to review the refusal, but only on the ground that the decision was based in significant degree upon one or more of the following:

(1) personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota;

- (2) factors proscribed by applicable federal or state law regarding fair employment practices;
  - (3) essential and substantial written misrepresentation of the nature of the original appointment; or
  - (4) other violation of University policies or regulations.
- Such proceedings are governed by section 15.

**SECTION 9. APPOINTMENT OF ASSOCIATE PROFESSORS AND PROFESSORS WITH INDEFINITE TENURE.**

Initial appointments with indefinite tenure may only be made at the rank of associate professor or professor. Such appointments may be made only after receiving the recommendation of the regular faculty holding indefinite tenure in the academic unit concerned.

**SECTION 10. UNREQUESTED LEAVE OF ABSENCE FOR DISABILITY; TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE AND DISCIPLINARY ACTION**

**10.1 Unrequested Leave of Absence for Disability.** A faculty member who is physically or mentally unable to perform reasonably assigned duties may be placed on unrequested leave of absence. The faculty member is entitled to sick pay and disability insurance payments in accordance with University policy. The faculty member has a right to return to the faculty upon termination of the disability or upon cessation of disability payments.

**10.2 DISCIPLINARY ACTIONS.** ~~[AMONG THE FUNCTIONS OF THE UNIVERSITY IS THE ESTABLISHMENT OF A PROPER ENVIRONMENT OF INTELLECTUAL INTEGRITY AND MUTUAL RESPECT AMONG THE FACULTY, BETWEEN THE FACULTY AND THE STUDENTS, AND BETWEEN THE FACULTY AND THE LARGER COMMUNITY. THE MAINTENANCE OF SUCH AN ENVIRONMENT IS FOSTERED WHEN FACULTY MEMBERS ARE MINDFUL OF THEIR RESPONSIBILITIES TO MAINTAIN STANDARDS OF COMPETENCE AND A PROPER ATTITUDE OF INDUSTRY AND COOPERATION WITH OTHERS WITHIN AND WITHOUT THE UNIVERSITY COMMUNITY. IF AN ENVIRONMENT OF INTELLECTUAL INTEGRITY AND MUTUAL RESPECT IS TO BE MAINTAINED, IT IS NECESSARY TO TAKE DISCIPLINARY ACTION WHEN COMMONLY HELD STANDARDS OF~~

~~CONDUCT ARE VIOLATED. THUS,]~~ DISCIPLINARY ACTION, UP TO AND INCLUDING THE TERMINATION OF A FACULTY APPOINTMENT, MAY BE UNDERTAKEN WHERE ADEQUATE CAUSE FOR SUCH ACTION EXISTS. DISCIPLINARY ACTION OR THREAT OF DISCIPLINARY ACTION SHALL NOT BE USED TO RESTRAIN THE EXERCISE OF ACADEMIC FREEDOM.

**10.2 10.21. Termination or Suspension of a Faculty Appointment Before Its Expiration.** A faculty appointment may be terminated or suspended before its ordinary expiration only for ADEQUATE CAUSE, INCLUDING ~~[BUT NOT LIMITED TO]~~ one or more of the following causes:

(1) ~~sustained~~ refusal or failure to perform ~~reasonably~~ assigned duties adequately UNLESS IT IS SHOWN THE ASSIGNED DUTIES WERE UNREASONABLE;

(2) unprofessional conduct RELATED TO THE FACULTY MEMBER'S EMPLOYMENT;

(3) ~~egregious or repeated~~ misuse of the powers of a professional position to solicit personal benefits or favors; ~~and~~

(4) sexual harassment or any other egregious CONDUCT or repeated unreasonable conduct destructive of the human rights or academic freedom ~~of other members of the academic community;~~  
OR

(5) OTHER GRAVE MISCONDUCT [MANIFESTLY INCONSISTENT WITH CONTINUED FACULTY APPOINTMENT.]

**10.22. OTHER DISCIPLINARY ACTIONS.** DISCIPLINARY ACTION LESS SEVERE THAN TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT MAY BE IMPOSED WHERE THERE EXISTS ADEQUATE CAUSE FOR A LESSER SANCTION. SUCH DISCIPLINARY ACTIONS MAY INCLUDE, BUT ARE NOT LIMITED TO:

(1) WRITTEN ADMONITIONS PLACED IN THE FACULTY MEMBER'S PERSONNEL FILE;

(2) TEMPORARY OR PERMANENT REDUCTIONS IN BASE SALARY;

(3) SUSPENSION OF SPECIFIED FACULTY DUTIES, NOT TO EXCEED A PERIOD OF THREE BUSINESS DAYS.

**10.3 Procedures.** A faculty member may be placed on unrequested leave of absence or a faculty appointment may be terminated or suspended ~~for these reasons~~ only in accordance with

the procedures set forth in section 14. BEFORE ANY DISCIPLINARY ACTION IS TAKEN UNDER SECTION 10.22, THE AFFECTED FACULTY MEMBER WILL BE GIVEN NOTICE OF THE PROPOSED DISCIPLINARY ACTION AND THE REASON IT HAS BEEN PROPOSED AS WELL AS AN OPPORTUNITY TO RESPOND. THE ADVANCE NOTICE AND OPPORTUNITY TO RESPOND WITH RESPECT TO DISCIPLINARY ACTIONS OTHER THAN TERMINATION OR SUSPENSION OF AN APPOINTMENT NEED NOT INVOLVE FORMAL PROCEEDINGS OF ANY KIND. A FACULTY MEMBER MAY FILE A GRIEVANCE UNDER THE UNIVERSITY GRIEVANCE POLICY REGARDING DISCIPLINARY ACTIONS TAKEN UNDER SECTION 10.22.

## **SECTION 11. FISCAL EMERGENCY.**

**11.1 Faculty Rights.** The Board of Regents, if faced with the necessity of drastic reduction in the University budget, has the power to suspend or abolish positions, or even entire departments, divisions, or other administrative units. If confronted with such adverse contingency, the Board will consult with and secure the advice of faculty representatives, as provided in this section. Faculty members have the right to full access to information about the situation and the alternatives being considered. In effecting retrenchment because of financial necessity, the regents will make reductions in faculty positions only to the extent that, in their judgment, is necessary after exploring various alternative methods of achieving savings. The regents fully intend that the tenure system as a whole and the tenure rights of each individual faculty member be protected in every feasible manner during periods of such retrenchment.

**11.2 General Principles of Priority.** The following general principles of priority apply in any financial crisis.

(a) First, the University must fully utilize all means consistent with its continued existence as an institution of high academic quality to reduce expenses or to increase income which do not involve the termination of faculty positions or the impairment of faculty rights.

(b) Second, the University may consider alternatives which involve only the temporary reduction or postponement of faculty compensation or the reduction of fringe benefits.

(c) Only thereafter may the University suspend or terminate faculty positions in accordance with the section.

**11.3 First Stage: Alternative Approaches.** If there has been a serious reduction in the University's income, the president will report the matter to the Senate Consultative Committee. The

president will identify the magnitude of the shortfall, the measures which might be taken to alleviate it (which must not involve impairment of faculty rights), and alternative measures which have been rejected. The president will give the committee full access to all available information and will respond specifically to additional proposals suggested by the committee. At this stage, the University will consider reductions in other expenses. It will also consider increases in tuition, sales of assets, and borrowing. These steps will be implemented by the president or the Board of Regents as is appropriate.

It will also consider increases in tuition, sales of assets, and borrowing. These steps will be implemented by the president or the Board of Regents as is appropriate.

**11.4 Second Stage: Reduction or Postponement of Compensation.** If the University has implemented all of the measures which are required to be considered in the first stage, which are consistent with its continued operation as an institution of high academic quality, and they are inadequate to meet the shortfall, the president may, after consultation with the Faculty Consultative Committee, propose the temporary reduction or postponement of faculty compensation for a predetermined period not to exceed one year, according to a mathematic formula or similar device. The Faculty Consultative Committee will report on the adequacy of the steps taken in the first stage and make its recommendations on the proposal. If the Faculty Senate approves the proposed action (or any modification of it) by an absolute majority of its membership or by a two-thirds vote of the members present and voting (a quorum being present), the Board of Regents may take that action (or any less stringent action) and, to that extent, modify the terms of the appointments of all faculty members. The Board of Regents may rescind the action at any time thereafter. Such action may be repeated by the same procedures.

**11.5 Third Stage: Fiscal Emergency.** If there has been a reduction of the University's income which is so drastic as to threaten its survival, and this threat cannot be alleviated by the measures specified above, the Board of Regents may declare a fiscal emergency. During such an emergency, the Board of Regents may terminate or suspend faculty appointments as provided in this section.

**11.51 Preliminary Procedures.** Before recommending to the Board of Regents that it declare a fiscal emergency, the president must meet with the Senate Consultative Committee to examine alternatives to and consequences of such a declaration. The president must provide the committee access to all available information. The president must provide a written report

identifying the dollar amount to be saved by reducing faculty positions. This report must also identify the dollar amount proposed to be saved by any other measures to be taken, including the level of any concurrent reductions in non-faculty staff during the emergency. The Faculty Consultative Committee will prepare a written report on the president's proposal, to which the Senate Consultative Committee may add additional comments. The Faculty Senate will first consider and act on the proposal and reports. Thereafter, the University Senate may consider them. The president must attend both Senate meetings to explain the proposal and to answer questions.

After receiving the president's recommendation and the resolutions of the senates, the Board of Regents may declare a state of fiscal emergency. Before action contrary to the recommendation of the University Senate is subsequently taken, the president must report in writing and in person the reasons for this action to the Senate Consultative Committee. The Board of Regents' resolution states the maximum amount to be realized from termination or suspension of faculty appointments.

**11.52 Duration.** A fiscal emergency lasts no longer than 12 months unless renewed by the same procedure. A fiscal emergency may be rescinded at any time by the Board of Regents.

**11.53 Allocation of Shortfall.** After consultation with the Faculty Consultative Committee and the Senate Consultative Committee, the president proposes an initial allocation of the shortfall to the various collegiate units, which need not be prorated. The Committee must obtain the views of the faculty in the affected units and must hold an open meeting at which anyone may comment upon the proposed action. It may also request the assistance of other University or Senate committees in studying all or particular aspects of the educational policies and priorities involved in the action. The colleges and campuses then allocate the shortfall to the various academic units after similar consultation with the representative bodies and academic units in the colleges and similar open meetings. The plans must reflect the principles and priorities established in subsection 11.6. The colleges and campuses return their plans to the ~~vice-president~~ SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS, who prepares a comprehensive plan for the University, including a list of the persons whose appointments will be suspended or terminated. This plan is submitted to the University Senate and the Faculty Senate for their recommendation. The recommendations of the Senates and the SENIOR vice president's plan will be presented to the president and the Board of Regents for action.

## **11.6 Principles Governing Termination or Suspension.**

### **11.61 General Principles.**

(a) Savings achieved through resignations, retirements renegotiations of contracts, inloading or other measures must be credited to the assigned shortfall before terminating or suspending faculty appointments.

(b) A good faith effort should be made to use temporary suspensions or voluntary furloughs rather than terminations. In this third stage, the Board of Regents may impose the temporary or permanent reduction of faculty compensation or the reduction of fringe benefits, in excess of those approved in the second stage. Suspensions without pay for one quarter in any year may be ordered in accordance with objective criteria, provided that faculty members are given at least six months notice.

(c) Terminations may not be used in case of a short-term financial crisis, but only if the circumstances are such that the shortfall is reasonably expected to continue over a substantial number of years.

(d) A good faith effort must be made to cover as much of the shortfall as possible by allowing non-regular appointments to lapse and by giving notice to probationary faculty in accordance with the terms of their appointments.

(e) A good faith effort must be made to cover as much of the shortfall as possible by transferring faculty members to other positions for which they are qualified or by offering them retraining for available positions.

(f) The selection of faculty members within an academic unit for termination must be made on objective criteria. It may not involve a comparative evaluation of the relative merits of individuals or a repetition of the tenure-granting process.

### **11.62 Priorities.**

(a) Unless the unit can demonstrate that essential functions could not otherwise be performed:

(1) all non-regular faculty within an academic unit must be suspended or terminated before any regular faculty may be suspended or terminated in that unit; and

(2) all probationary faculty within an academic unit must be suspended or terminated before any tenured faculty may be suspended or terminated in that unit.

(b) Care must be taken to protect the employment of women and minorities entitled to affirmative action. The SENIOR vice president FOR ACADEMIC AFFAIRS must insure that for the University as a whole the plan which is submitted does not reduce the proportion of appointments with indefinite tenure held by women or minorities entitled to affirmative action, and does not reduce the proportion of non-regular appointments held by women or minorities entitled to affirmative action.

**11.63 Notice and Severance Pay.** A faculty member whose appointment is to be terminated or suspended is entitled to a minimum of one full academic year's notice or to one year's salary as severance pay in lieu of notice, unless the appointments would otherwise expire earlier.

**11.64 Reemployment Rights.** The University will not fill any faculty position for which a faculty member with indefinite tenure who has been terminated is qualified for five years after notice of termination, unless it first offers the position to each such faculty member and gives a reasonable time for the faculty member to accept or reject it.

**11.7 Judicial Committee Report.** A faculty member whose appointment is terminated or suspended may make a written request for review by the Judicial Committee. The review will be conducted in accordance with section 15. The Judicial Committee will not reexamine the determination that a fiscal emergency exists, nor will it reexamine the educational policies and priorities pursued unless it finds a substantial failure to follow the procedures established in this section. It will only examine whether the action was taken in accordance with the procedures and standards set forth in this section, whether the action was based on a violation of academic freedom or constitutional or legal rights, or was substantially based on immaterial or improper factors. It may consolidate cases involving common issues for a single hearing.

## **SECTION 12. PROGRAMMATIC CHANGE.**

**12.1 Programmatic Change.** The University and faculty recognize that changes in academic programs are an essential part of the development and growth of the institution. These changes should reflect long-term policy and planning.

[THE DECISION TO DISCONTINUE A UNIVERSITY PROGRAM WILL BE BASED UPON A JUDGMENT THAT THE EDUCATIONAL MISSION OF THE UNIVERSITY AS A WHOLE WILL BE ENHANCED BY THE DISCONTINUANCE. THE DECISION WILL BE MADE BY THE BOARD OF REGENTS AND WILL BE PRECEDED BY CONSULTATION, BY THE BOARD OR ITS DESIGNEE, WITH A COMMITTEE OF THE FACULTY DESIGNATED BY THE FACULTY SENATE AS WELL AS BY SUCH CONSULTATION OF FACULTY OF THE AFFECTED PROGRAM. THE DECISION WILL BE ESSENTIALLY BASED ON LONG-RANGE CONSIDERATIONS AND NOT ON SUCH IMMEDIATE FACTORS AS CURRENT

YEAR OR TEMPORARY VARIATIONS IN ENROLLMENT OR IN REVENUE ATTRIBUTABLE TO THE PROGRAM.] AT LEAST [60] [90] DAYS BEFORE THE UNIVERSITY DISCONTINUES [~~OR RESTRUCTURES~~] ANY PROGRAM IN A WAY THAT MAY LEAD TO THE TERMINATION OF REGULAR FACULTY APPOINTMENTS BEFORE THEIR ORDINARY EXPIRATION, THE PRESIDENT SHALL PROVIDE THE BOARD OF REGENTS WITH A REPORT [WHICH SHALL TAKE INTO ACCOUNT, AMONG OTHER PERTINENT FACTORS, FACULTY VIEWS KNOWN TO THE PRESIDENT,] WHICH DESCRIBES THE PROPOSED ACTION, THE [~~EDUCATIONAL CONSIDERATIONS OR OTHER~~] REASONS THAT SUPPORT THE PROPOSED ACTION, THE MANNER IN WHICH THE PROPOSED ACTION FITS WITHIN THE LONG-TERM POLICY AND PLANNING OF THE UNIVERSITY, AND THE FACULTY APPOINTMENTS THAT WOULD LIKELY BE AFFECTED BY THE ACTION. THE REPORT ALSO SHALL DESCRIBE THE UNIVERSITY'S PLANS AND GUIDELINES FOR OFFERING REASSIGNMENT, RETRAINING, AND OTHER BENEFITS FOR DISPLACED REGULAR FACULTY UNDER SECTION 12.2. [BEFORE THE CONSULTATIONS REQUIRED BY THIS SECTION 12.1,] A COPY OF THE REPORT SHALL BE PROVIDED TO THE UNIVERSITY SENATE AND THE FACULTY SENATE FOR COMMENT. THE DISCONTINUATION [~~OR RESTRUCTURING~~] OF A PROGRAM SHALL NOT BE PROPOSED OR IMPLEMENTED IN VIOLATION OF THE ACADEMIC FREEDOM OF A FACULTY MEMBER.

**12.2 Faculty Rights and Duties.** In the event that ~~programmatic change leads to discontinuation of a program in which a member of the faculty is employed, the University recognizes its obligation to continue the employment of regular faculty in accordance with the terms of their employment, and to continue the employment of non-regular faculty for the term of appointment. In case of fiscal emergency, the provisions of section 11 apply.~~

~~Regular faculty members who are so retained have the responsibility to accept teaching or other assignments for which they are qualified, and to accept training to qualify them for assignment in other fields. The University has the responsibility to assign such faculty members to responsibilities as closely related to their original field of tenure as is practicable, to allow them time in which to continue scholarship in their original field if they wish, and to recognize scholarly contributions in that field as valuable in assessing their contribution to the University for pay, promotion and other purposes.~~

~~In addition to the steps mentioned above, the University has the right to offer inducements to faculty members voluntarily to~~

~~change fields of study, to seek employment elsewhere, or to accept early retirement.~~ DISCONTINUATION [OR RESTRUCTURING] OF A PROGRAM RESULTS IN THE ELIMINATION OF FACULTY POSITIONS AND DISPLACEMENT OF A REGULAR FACULTY MEMBER, THE UNIVERSITY SHALL, TO THE EXTENT PRACTICABLE, DO THE FOLLOWING:

(1) REASSIGN THE DISPLACED FACULTY MEMBER TO ANOTHER UNIVERSITY PROGRAM FOR WHICH THE FACULTY MEMBER IS QUALIFIED AND WHICH, IF PRACTICABLE, IS CLOSELY RELATED TO THE FACULTY MEMBER'S CURRENT FIELD; AND

(2) OFFER RETRAINING OPPORTUNITIES TO PERMIT THE DISPLACED FACULTY MEMBER TO BECOME QUALIFIED FOR POTENTIAL ASSIGNMENT TO ANOTHER UNIVERSITY PROGRAM WITHIN A REASONABLE PERIOD.

IF IN THE UNIVERSITY'S JUDGMENT REASSIGNMENT OR RETRAINING WITHIN A REASONABLE PERIOD IS NOT PRACTICABLE, IS NOT SUCCESSFUL, OR IS REJECTED BY THE FACULTY MEMBER, THEN THE UNIVERSITY MAY TERMINATE THE FACULTY MEMBER'S APPOINTMENT BEFORE ITS ORDINARY EXPIRATION, PROVIDED THAT THE UNIVERSITY SHALL PROVIDE FOR FACULTY MEMBERS WHOSE APPOINTMENTS ARE SO TERMINATED:

(1) ASSISTANCE IN LOCATING OTHER EMPLOYMENT;

(2) A MINIMUM OF ONE FULL ACADEMIC YEAR'S NOTICE OR ONE YEAR'S SALARY AS SEVERANCE PAY IN LIEU OF NOTICE, UNLESS THE APPOINTMENT WOULD OTHERWISE EXPIRE EARLIER.

(3) CONTINUATION OF THE UNIVERSITY'S CONTRIBUTION TO HEALTH BENEFITS FOR ONE YEAR AFTER THE DATE OF THE TERMINATION OF THE APPOINTMENT.

IN PLACE OF THE SEVERANCE PAYMENT PROVIDED BY THIS SECTION, A FACULTY MEMBER MAY SELECT ANOTHER SEVERANCE PROGRAM FOR WHICH THE FACULTY MEMBER IS OTHERWISE ELIGIBLE AT THE TIME THE APPOINTMENT IS TERMINATED.

THIS SECTION DOES NOT LIMIT IN WAY THE UNIVERSITY'S ABILITY TO TERMINATE OR SUSPEND AN APPOINTMENT OR TO TAKE OTHER ACTION AS AUTHORIZED IN OTHER SECTIONS OF THESE REGULATIONS. TO THE EXTENT THAT THE UNIVERSITY TERMINATES A FACULTY MEMBER'S APPOINTMENT UNDER AUTHORITY PROVIDED FOR IN ANOTHER SECTION OF THESE REGULATIONS, THE FACULTY MEMBER IS NOT ELIGIBLE TO RECEIVE THE OPPORTUNITIES AND BENEFITS PROVIDED FOR IN THIS SECTION.

### **SECTION 13. JUDICIAL COMMITTEE.**

**13.1 Membership.** The Judicial Committee is composed of at least nine members of the regular faculty. The number of members and manner of appointment is governed by the University Senate Bylaws.

**13.2 Procedures.** Proceedings before the Judicial Committee will be conducted in conformity with these regulations. The Judicial Committee may adopt additional rules with the approval of the Tenure Committee. RULES ADOPTED BY THE JUDICIAL COMMITTEE ALSO WILL BE SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF REGENTS.

In every case before the Judicial Committee the ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR may designate the academic administrator who will represent the University as respondent. IF THE CASE INVOLVES TWO OR MORE CAMPUSES OR AREAS, THE PRESIDENT OR THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS MAY DESIGNATE THE RESPONDENT.

**13.3 Duty to Testify.** Faculty members and administrators have an obligation to appear before the Judicial Committee to give testimony in matters pending before it.

**13.4 Panels.** The Judicial Committee may sit in panels to hear individual cases. In cases under sections 10 and 14, the panel must consist of at least five members. In all other cases, the panel must consist of at least three members. The rules of the Judicial Committee will establish the respective functions of the committee as a whole and of the individual panels.

**13.5 LEGAL OFFICER.** THE JUDICIAL COMMITTEE SHALL HAVE ITS OWN LEGAL OFFICER, APPOINTED BY THE JUDICIAL COMMITTEE, WITH THE APPROVAL OF THE PRESIDENT OR THE PRESIDENT'S DELEGATE. THE

JUDICIAL COMMITTEE ALSO MAY, WITH THE APPROVAL OF THE PRESIDENT OR THE PRESIDENT'S DELEGATE, APPOINT A DEPUTY LEGAL OFFICER, AS NECESSARY. THE LEGAL OFFICER AND DEPUTY SHALL NOT BE EMPLOYEES OF THE UNIVERSITY AND SHALL BE PERSONS WHO HOLD QUALIFICATIONS FOR APPOINTMENT AS A JUDGE IN THE STATE OF MINNESOTA. THE LEGAL OFFICER WILL PRESIDE AT ALL HEARINGS OF JUDICIAL COMMITTEE PANELS, WILL REGULATE THE PROCEDURE IN JUDICIAL COMMITTEE CASES, AND WILL ASSIST PANELS IN THE PREPARATION OF THEIR REPORTS. THE LEGAL OFFICER MAY BE PRESENT AND PARTICIPATE IN THE DELIBERATION OF A PANEL, BUT SHALL HAVE NO VOTE. IN CASE OF THE ABSENCE OR DISQUALIFICATION OF THE JUDICIAL OFFICER, THE DEPUTY WILL PERFORM THE FUNCTIONS OF THE OFFICE. IF BOTH THE LEGAL OFFICER AND THE DEPUTY ARE UNAVAILABLE FOR A MATTER, THE JUDICIAL COMMITTEE SHALL APPOINT A SUBSTITUTE LEGAL OFFICER, WITH THE APPROVAL OF THE PRESIDENT OR THE PRESIDENT'S DELEGATE.

**SECTION 14. PROCEDURES IN CASES OF UNREQUESTED LEAVE OF ABSENCE OR TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE.**

**14.1 Preliminary Proceedings.** Only a dean or an academic administrator specially designated by the ~~vice-president~~ SENIOR Vice President FOR ACADEMIC AFFAIRS OR BY THE SENIOR ACADEMIC ADMINISTRATOR may initiate preliminary proceedings UNDER THIS SECTION leading to unrequested leave of absence or to suspension or removal OR TO TEMPORARY OR PERMANENT REDUCTION IN RANK. The ~~administrator~~ DEAN [new footnote \*] must first attempt to discuss and resolve the matter with the faculty member involved.

The ~~administrator~~ DEAN must then submit the matter to the tenured faculty of the academic unit involved for their recommendation. ~~(The tenured faculty may decide to submit the issue to the entire regular faculty of the unit.)~~

If the ~~vice-president~~ SENIOR Vice President FOR ACADEMIC AFFAIRS and the Faculty Senate have expressly approved the submission of allegations of the violation of a specified policy to another body for preliminary recommendation, in place of submission to the tenured faculty of the academic unit, the ~~administrator~~ DEAN must submit the matter to that body for its recommendation.

Both the ~~administrator~~ DEAN and the faculty member may submit their views, in person or in writing, to the body making the recommendation, but neither of them may participate in the deliberation or vote. The body making the recommendation DOES SO BY SECRET BALLOT AND makes a written report to the ~~administrator~~ DEAN within 40 days of submission of the issue to it, indicating the number of votes for and against the proposed action and the reasons articulated. ~~Within 15 days after receiving the report, the administrator makes a written recommendation to the vice president. The recommendation must include a copy of the report of the panel or of the tenured faculty, as the case may be.~~ A copy of the report ~~must~~ SHALL be sent to the SENIOR ACADEMIC ADMINISTRATOR AND TO THE faculty member.

**14.2 Formal Action.** ~~After receiving the administrator's recommendation, and giving the faculty member an opportunity to comment, the vice president will decide whether to proceed.~~ WITHIN 40 DAYS AFTER RECEIVING THE RECOMMENDATION OF THE TENURED FACULTY OR OTHER BODY, THE DEAN MUST DECIDE WHETHER TO PROCEED WITH FORMAL ACTION. BEFORE TAKING FORMAL ACTION, THE DEAN MUST CONSULT WITH THE SENIOR ACADEMIC ADMINISTRATOR. If the ~~vice president~~ DEAN does not proceed within 40 days, the charges are dropped and the faculty member and the academic unit are so notified in writing. If the ~~vice president~~ DEAN decides to proceed with formal action, the ~~vice president~~ DEAN must give written notice to the faculty member. The notice must specify the action proposed, identify the specific ground upon which it has been taken, and summarize the evidence in support. It must inform the faculty member of the right to request a hearing before the Judicial Committee and advise the faculty member of the applicable time limit for making such a request.

If the faculty member does not request a hearing within 30 days, the president may take the action proposed in the ~~vice president's~~ DEAN'S notice, without further right to a hearing.

**14.3 Judicial Committee Hearing.** The faculty member may request a hearing before the Judicial Committee by written request to the chair of the committee, filed within 30 days of the notice. The Judicial Committee may extend the 30 day period for good cause. ~~The vice president designates the administrator who will present the case. The administrator~~ DEAN will BE RESPONSIBLE FOR PRESENTING the case. The DEAN has the burden of proving the case for the proposed action by clear and convincing evidence and also has the burden of demonstrating the appropriateness of the proposed action, rather than some lesser measure.

The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case. If the committee finds that action is warranted, it may recommend action ~~which~~ THAT is less severe than that requested in the written notice, including ~~action which does not involve the termination or suspension of an appointment~~ BUT NOT LIMITED TO, PERMANENT OR TEMPORARY REDUCTION IN SALARY OR RANK. It may not recommend more severe measures than those proposed in the ~~vice president's~~ DEAN'S notice.

The Judicial Committee sends its report to the president with copies to the faculty member, ~~and the administrator~~ THE DEAN AND THE SENIOR ADMINISTRATOR.

**14.4 Action by the President.** The president ~~must~~ SHALL give the faculty member and the ~~administrator~~ DEAN the opportunity to submit written comments on the report ~~and to make oral presentations~~. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The president may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the Senate Judicial Committee. Such administrators may communicate with the president in writing, but only if the full text of the communication is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The president ~~shall not take action materially different from that recommended by the panel unless, prior to the action, the president has consulted with the committee~~ MAY MEET OR OTHERWISE CONSULT WITH THE JUDICIAL COMMITTEE BEFORE TAKING ACTION ON THE COMMITTEE'S RECOMMENDATION. The parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the president may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard of all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The president may impose the action recommended by the committee, or any action more favorable to the faculty member. ~~The president may impose~~ IF THE PRESIDENT IMPOSES action less favorable to the faculty member ~~only for compelling reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved~~ THAN THAT RECOMMENDED BY THE

COMMITTEE, THE PRESIDENT WILL STATE THE REASONS FOR THE ACTION in writing. The president's written statement ~~must~~ SHALL be given to the parties and to the Judicial Committee. ~~If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the president's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text of the statement will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member.~~

**14.5 Appeal to the Board of Regents.** THE PRESIDENT SHALL REPORT ANY ACTION WHICH INVOLVES THE TERMINATION OR SUSPENSION OF AN APPOINTMENT FOR CAUSE OR AN UNREQUESTED LEAVE OF ABSENCE TO THE BOARD OF REGENTS AND SHALL INCLUDE THE REPORT OF THE JUDICIAL COMMITTEE. If the action involves removal or if the action involves a sanction more severe than that recommended by the Judicial Committee, the faculty member may ~~appeal to the Board of Regents. In cases in which the president imposes~~ PETITION THE BOARD OF REGENTS a ~~sanction more severe than that recommended by the Judicial Committee, the faculty member and the president may present to the board evidence with respect to issues on which the president differs from the recommendation of the Judicial Committee. The request for a hearing must be made to the secretary of the board within ten days of the president's action.~~ TO HEAR AN APPEAL FROM THE ACTION. THE PETITION MUST BE SUBMITTED IN WRITING TO THE SECRETARY OF THE BOARD WITHIN TEN DAYS OF THE PRESIDENT'S ACTION. IF THE BOARD OF REGENTS DOES NOT TAKE ACTION TO GRANT THE PETITION AND AGREE OT HEAR THE APPEAL WITHIN 30 DAYS OF ITS RECEIPT, THEN THE PETITION WILL BE DENIED WITHOUT FURTHER ACTION BY THE BOARD. IF THE BOARD OF REGENTS ELECTS TO HEAR AN APPEAL ON ONE OR MORE ISSUES RAISED BY THE FACULTY MEMBER, THEN THE FACULTY MEMBER AND THE PRESIDENT MAY PRESENT ARGUMENT TO THE BOARD ON THE ISSUES DESIGNATED BY THE BOARD.

**14.6 Temporary Suspension During Proceedings.**~~The vice president may temporarily suspend a faculty member during the proceedings, but only~~ A DEAN, WITH THE EXPRESS APPROVAL OF THE SENIOR ACADEMIC ADMINISTRATOR, MAY IMPOSE A TEMPORARY SUSPENSION OF A FACULTY MEMBER WITH PAY if there is clear evidence that the faculty member is likely to cause serious harm or injury ~~or is not available~~

~~for work. FOR OTHER COMPELLING REASON. The suspension will be with full pay, unless the faculty member is not available for work. Before ordering such suspension, the vice president must present the evidence to a special panel of the Faculty Consultative Committee and receive their written report. The faculty member must be given the opportunity to contest the suspension before the panel.~~ THE DEAN SHALL REPORT THE SUSPENSION TO THE FACULTY CONSULTATIVE COMMITTEE WITHIN 24 HOURS AND SHALL PROVIDE SUCH EXPLANATION AS THE COMMITTEE SHALL REQUEST. A TEMPORARY SUSPENSION SHALL NOT CONTINUE FOR LONGER THAN 45 DAYS UNLESS FORMAL ACTION IS COMMENCED AS PROVIDED IN SECTION 14.2.

A DEAN MAY SUSPEND WITHOUT PAY A FACULTY MEMBER WHO IS NOT AVAILABLE FOR WORK. BEFORE TAKING SUCH ACTION, THE ADMINISTRATOR SHALL SEEK TO CONTACT THE FACULTY MEMBER TO DETERMINE WHETHER THE INDIVIDUAL IS ELIGIBLE FOR SICK OR DISABILITY LEAVE OR OTHER LEAVE. THE DEAN SHALL REPORT THE SUSPENSION TO THE FACULTY CONSULTATIVE COMMITTEE WITHIN 24 HOURS AND SHALL PROVIDE SUCH EXPLANATION AS THE COMMITTEE SHALL REQUEST. A SUSPENSION UNDER THIS PARAGRAPH CONTINUES ONLY UNTIL THE FACULTY MEMBER IS AVAILABLE FOR WORK.

AFTER THE COMMENCEMENT OF FORMAL PROCEEDINGS, AS PROVIDED IN SECTION 14.2, THE DEAN MAY TEMPORARILY SUSPEND A FACULTY MEMBER WITHOUT PAY, IF A MAJORITY OF THE TENURED FACULTY OF THE ACADEMIC UNIT CONCURRED IN THE RECOMMENDATION TO TERMINATE THE APPOINTMENT. THE SUSPENSION WITHOUT PAY SHALL BECOME EFFECTIVE 30 DAYS AFTER NOTICE IS GIVEN. IF THE PRESIDENT DETERMINES THAT THE TEMPORARY SUSPENSION WITHOUT PAY WAS NOT WARRANTED, THEN THE PRESIDENT SHALL ORDER THE REPAYMENT OF BACK PAY TO THE FACULTY MEMBER WITH INTEREST THEREON FROM THE DATE IT WOULD ORIGINALLY HAVE BEEN PAID.

IN THE CASE OF ANY SUSPENSION UNDER THIS SECTION, THE FACULTY MEMBER SHALL CONTINUE TO RECEIVE FULL MEDICAL INSURANCE, AND DISABILITY BENEFITS WITHOUT REGARD TO THE SUSPENSION.

**14.7 Resignation During Proceedings.** A faculty member may submit a written notice of resignation to the president at any

time during Judicial Committee proceedings pursuant to this section. Upon the effective date of such resignation, the proceedings will be discontinued unless the faculty member concurrently files a written request with the Judicial Committee that they be carried to completion.

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\*[New footnote to Section 14.1:] THROUGHOUT THIS SECTION THE WORD "DEAN" MEANS THE DEAN OF THE COLLEGIATE UNIT OR OTHER EQUIVALENT OFFICER OR AN ACADEMIC ADMINISTRATOR SPECIFICALLY DESIGNATED FOR THIS PURPOSE BY THE SENIOR ACADEMIC ADMINISTRATOR OR BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS.

## **SECTION 15. APPEALS TO THE JUDICIAL COMMITTEE.**

**15.1 Right to Review.** Any faculty member who claims that his or her rights or status under these regulations have been adversely affected without his or her consent may seek review before the Judicial Committee. Cases arising under sections 7, 8, 10, or 11 may be brought directly to the Judicial Committee. In other cases, the faculty member must exhaust all other available University remedies before bringing the case to the Judicial Committee; the Judicial Committee will not proceed with such a case until the appropriate University body has either decided it or has refused to consider it.

**15.2 Procedure for Securing Review.** A written request for review must be filed with the chair of the Judicial Committee within 30 days of written notice of the action challenged. The request must specify the action complained of and the remedial action the individual seeks. Within 30 days of filing, the chair of the Judicial Committee must send copies of the request to the head of the academic unit concerned and to the senior ~~vice-president~~ ACADEMIC ADMINISTRATOR for academic affairs.

The Judicial Committee, however, may extend the time for filing for review for reasons that seem compelling to the committee, such as mental or physical illness, or serious personal or family problems, or doubt concerning when final action was taken.

**15.3 Hearings Before the Judicial Committee.** The person seeking review has the burden of proving by the preponderance of the evidence that the action complained of was improper unless the Judicial Committee, for good cause, otherwise directs.

The Judicial Committee does not itself decide whether the faculty member is professionally worthy of a faculty position, but only determines whether the action was based in significant degree upon any of the factors specified in subsection 7.7 or section 8.

In cases involving section 7, 8, or 11, the Judicial Committee hears the merits of the case, as provided in those sections. In other

cases, if there is an appropriate University body to review the matter, the Judicial Committee will only determine whether that body has given the faculty member due process and whether, on the basis of the facts found by that body, there has been a violation of these regulations or of the faculty member's academic freedom. If there is no appropriate University body to hear such a case, or if the Judicial Committee finds that the body which heard the case did not provide due process, the Judicial Committee may hear the merits or may appoint an ad hoc tribunal to hear them.

**15.4 Action by the Judicial Committee.** The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case.

If the Judicial Committee finds that the action complained of was improper, it also specifies the respects in which it finds the action to have been improper and recommends appropriate remedial action.

If it recommends reconsideration, it may specify the manner in which reconsideration will be undertaken to avoid the influence of improper factors. If a probationary faculty member has reached the maximum probationary period, the committee may recommend a non-regular appointment for an additional academic year to provide for reconsideration.

The Judicial Committee sends its report to the president with copies to the faculty member and the administrator who appeared as respondent.

**15.5 Action by the President.** The president ~~must~~ SHALL give the faculty member and the administrator the opportunity to submit written comments on the report. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The president may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the Senate Judicial Committee. Such administrators may communicate with the president in writing, but only if the full text of the communications is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

~~The president shall not take action materially different from that recommended by the panel unless, prior to the action, the president has consulted with the committee~~ MAY MEET OR OTHERWISE CONSULT WITH THE JUDICIAL COMMITTEE BEFORE TAKING ACTION ON THE COMMITTEE'S RECOMMENDATION. The parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the president may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The president may impose the action recommended by the committee or any action more favorable to the faculty member. ~~The president may impose~~ IF THE PRESIDENT IMPOSES action less favorable to the faculty member ~~only for important substantive reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved~~ THAN THAT RECOMMENDED BY THE COMMITTEE, THE PRESIDENT WILL STATE HIS REASONS FOR THE ACTION IN WRITING. The president's written statement ~~must~~ SHALL be given to the parties and to the Judicial Committee. ~~If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the president's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text of the statement will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member.~~ THAN THAT RECOMMENDED BY THE COMMITTEE, THE PRESIDENT WILL STATE THE REASONS FOR THE ACTION IN WRITING. The president's written statement ~~must~~ SHALL be given to the parties and to the Judicial Committee.

**15.6 Actions Requiring Reconsideration.** If the Judicial Committee recommends reconsideration of an action, that reconsideration will be undertaken under the supervision of the ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR, unless otherwise specified. The Judicial Committee may retain provisional jurisdiction of the matter to review allegations that the reconsideration itself was improper, and may make supplementary findings, conclusions, and recommendations in this regard.

**15.7 Recommendations for Changes in University Policies and Procedures.** As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure Committee or the SENIOR vice president FOR ACADEMIC AFFAIRS may initiate steps to clarify or improve University rules or policies involved. The changes will not affect the outcome of the case before the committee.

## **SECTION 16. TENURE COMMITTEE.**

**16.1 Membership.** The ~~Tenure Committee~~ TENURE SUBCOMMITTEE OF THE SENATE FACULTY AFFAIRS COMMITTEE (REFERRED TO ELSEWHERE IN THESE REGULATIONS AS THE TENURE COMMITTEE) is composed of at least seven members of the faculty and such other persons as the University Senate Bylaws shall provide. The manner of appointment is governed by the University Senate Bylaws.

**16.2 Interpretations.** The SENIOR vice president FOR ACADEMIC AFFAIRS and the Tenure Committee may propose formal interpretations of these regulations, consistent with their terms. Such interpretations must be reported to the Faculty Senate and the Board of Regents. If adopted by the Board of Regents, such interpretations will be binding in all cases subsequently arising.

**16.3 Procedures.** The SENIOR vice president FOR ACADEMIC AFFAIRS and the Tenure Committee may jointly adopt the procedures provided by subsections 7.4 and 7.61. Such procedures must be reported to the Faculty Senate and the Board of Regents before they go into effect.

**16.4 Additional Functions.** The Tenure Committee also advises the University and makes recommendations concerning the interpretation and amendment of these regulations, but such advice and recommendations are not binding on the Judicial Committee.

## **SECTION 17. WRITTEN NOTICE.**

Notices of termination of a probationary appointment, of suspension or termination of an appointment, or of placement on unrequested leave of absence for disability, must be sent by registered or certified mail to the last known residence address of the faculty member concerned and also be campus mail to the faculty member's campus address, if any. The written notice satisfies the applicable time requirement if it is postmarked at or before midnight of the applicable date.

Failure to comply fully with this section is immaterial if, in fact, the faculty member was not prejudiced by such failure.

## **SECTION 18. PUBLICATION.**

These regulations, and the interpretations referred to in section 16, will be published and made available to all faculty members. Every faculty member who holds a regular or non-regular appointment, except for courtesy faculty appointments without salary, must be given a copy of the current regulations and copies of subsequent amendments or published interpretations.

## **SECTION 19. AMENDMENT.**

These regulations are subject to amendment by the Board of Regents. Proposed amendments from any source will be submitted to the Faculty Senate for its advice and recommendation before final action by the Board of Regents. The Faculty Senate will solicit the recommendations of the Faculty Affairs Committee, the Judicial Committee, and the Tenure Committee, before giving its advice and recommendation.

## **FOOTNOTES**

1 THE MISSION OF THE UNIVERSITY INCLUDES, WHERE APPROPRIATE, OUTREACH ACTIVITY THAT EXTENDS A FACULTY MEMBER'S TEACHING, RESEARCH AND SERVICE BEYOND THE CAMPUS OR TO NONTRADITIONAL GROUPS OF STUDENTS AND CITIZENS. NOT EVERY FACULTY MEMBER WILL HAVE OUTREACH RESPONSIBILITIES.

~~1 As used in this policy, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head, or director.~~

~~2 As used in this policy, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute, or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, provost, or similar officer.~~

~~3 As used in this policy, "vice president" means the senior vice president for academic affairs. A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL~~

DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS (VICE PRESIDENTS, CHANCELLORS, PROVOSTS, ETC.) TO HAVE RESPONSIBILITY FOR ACADEMIC MATTERS FOR ALL OR PART OF THE UNIVERSITY, AND WILL DEFINE THEIR RESPECTIVE JURISDICTIONS.

NEW FOOTNOTE TO ITEM 3.4(4): "SERVICE" MEANS PERFORMANCE WITHIN THE FACULTY MEMBER'S EXPERTISE, OTHER THAN TEACHING AND RESEARCH AS DEFINED IN SECTION 7.11.

4 The term "family member" is meant to include a blood relative, or a marital partner, or a domestic partner (registered with the University), or an adoptive/foster child.

5 For interpretation and possible applications, see the interpretative comment that will be provided in accordance with the provisions of subsection 16.2.

6 Criteria other than those expressly listed in this sentence must be explicitly stated and justified in terms of the mission of the University. Such additional criteria may not impinge upon the academic freedom of the probationary faculty member.

7 "Teaching" is not limited to credit-producing classroom instruction. It encompasses other forms of communication of knowledge (both to students registered in the University and to other persons in the community) as well as the supervision or advising of individual graduate or undergraduate students.

8 "Research" is not limited to the publication of scholarly works. It includes activities which lead to the public availability of products or practices which have a significance to society, such as artistic production or the development of new technology or scientific procedures.

9 "Service" means performance within the faculty member's academic expertise and the mission of the academic unit. It does not include performance of quasi-administrative functions such as membership on faculty or Senate committees or other similar activities; those activities are relevant only to the limited extent set forth in the following paragraph OF THE TEXT.

Where service is not an integral part of the mission of the academic unit, a faculty member's service may be considered, but is not a prerequisite to the awarding of tenure.

10 Because of the special mission of the Crookston and Waseca campuses, disciplined inquiry in their ITS fields of

endeavor may be substituted for research in appraising faculty members there.

Other exceptions may be made only in exceptional circumstances by means of special contract, as provided in subsection 3.6.

The individual's participation in the governance of the institution and other services to the University and service to the academic unit may be taken into consideration, but are not in themselves bases for awarding tenure.

Indefinite tenure may be granted at any time when the candidate has satisfied the requirements. A probationary appointment must be terminated when the appointee fails to satisfy the criteria in the last year of probationary service and may be terminated earlier if it appears that the appointee is not making satisfactory progress toward meeting the criteria within that period.

~~11 As used in this policy, "tenured faculty" means those members of the faculty who hold indefinite tenure.~~

## **INTERPRETATIONS**

Dated April 12, 1985; September 8, 1988; March 12, 1993 and  
October 13, 1985

### **1. Interpretation of Sections 3-9 Promotion and Tenure Decisions Permitted by Provosts and Chancellors during 1995-96.**

To accommodate current restructuring of the central administration, final review and related aspects of the promotion and tenure process may occur at the level of provosts and chancellors during the 1995-96 academic year. Provosts and chancellors will receive consultation regarding proper procedures from the Dean of the Graduate School.

### **2. Interpretation of Subsection 5.5: Retroactive Application.**

A probationary faculty member may elect to extend the probationary period by one year if

(1) the member became a parent, by birth or by adoptive/foster placement, within five years before the effective date of subsection 5.5; and

(2) has not been given notice of termination.

### **3. Interpretation of Subsection 5.5: Major Caregiver Responsibilities.**

A request for extension of the maximum probationary period for major caregiver responsibilities should be made only if those responsibilities are very substantial and continue over an extended period of time. The probationary faculty member must submit a written application to the head of the academic unit, who will forward it for action and approval through the appropriate University channels. If an administrator does not approve the request, the faculty member may file a grievance under applicable University policies.

### **4. Interpretation of Subsection 7.11: Consideration of Factors Other than Primary Tenure Criteria.**

The use of any factor other than teaching, research, and service in making the decision about a probationary faculty member must be specifically stated and justified at the time of the decision. This rule applies both when that factor is a criterion for judging the candidate's progress and when it is an element in establishing or modifying the standard which the faculty member should achieve.

A change in the program of a unit or college may be used as a factor in a decision only when the change has been adopted in accordance with the established procedures of the University, after consultation as required by those procedures. It must be explicitly identified. If such changes affect the prospects of probationary faculty members to achieve tenure, the faculty members should be given the earliest possible notice of the potential impact of such changes.

### **5. Interpretation of Subsection 7.11: Discipline-Related Service.**

Discipline-related service, as one of the primary criteria for tenure evaluation, is limited to those endeavors specifically related to the individual's academic expertise and faculty appointment in accordance with the academic unit's Mission Statement. This service must be defined in the Mission Statement as central and necessary to the operation of the academic unit. An equivalent term might be "unit mission-related service" — for example, clinical service in a teaching hospital situation that does not involve students directly.

### **6. Interpretation of Sections 14 and 15: Working Days.**

The word "days" is interpreted to imply working days, not calendar days.

**7. Interpretation of Amendments to Subsections 14.1 and 14.2: Timely Responses in Cases of Unrequested Leave of Absence, Termination, or Suspension.**

The timelines for responses by either the involved faculty member or administrator may be extended by agreement of the parties to the proceeding or for extraordinary circumstances. An agreement of the parties to extend the time limit shall be in writing, signed by both parties or their representatives. If the parties do not agree, either party may apply to the chair of the Senate Judicial Committee for an extension of the time in which to take the steps required in this section. If the faculty member has failed to act within the time limits prescribed in these sections, the responsible administrator may request the chair of the Senate Judicial Committee to set a specific date by which the faculty member must take action; if the faculty member fails to do so, the petition for review will be dismissed without further proceedings and the requested disciplinary action (or any lesser sanction) may be taken. If the responsible administrator has failed to act within the time limits prescribed in these sections, the faculty member may request the chair of the Senate Judicial Committee to set a specific date by which the administrator must take action; if the administrator fails to do so, the proceedings shall be dismissed and further action can be taken only by reinitiating the entire proceedings.

**8. Interpretation of Amendment to Subsection 10.2: Faculty Assignments.**

FACULTY MEMBERS ARE FREE TO CHOOSE TOPICS FOR RESEARCH OR OUTREACH AND TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, IN ACCORDANCE WITH THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THE HEAD OF THE ACADEMIC UNIT WILL ASSIGN INDIVIDUAL FACULTY MEMBERS TO TEACH SPECIFIC COURSES IN ACCORDANCE WITH THE ACADEMIC WORKLOAD STATEMENT AND OTHER POLICIES ADOPTED BY THE FACULTY OF THAT UNIT. A FACULTY MEMBER MAY CHALLENGE AN ASSIGNMENT BY SHOWING THAT IT IS UNREASONABLE. AN ASSIGNMENT IS UNREASONABLE IF: (A) TAKEN AS A WHOLE, IT EXCEEDS THE WORKLOAD EXPECTED IN THE WORKLOAD STATEMENT OF THAT UNIT, (B) THE FACULTY MEMBER LACKS THE BASIC QUALIFICATIONS TO TEACH THE COURSE, OR (C) THE ASSIGNMENT WAS MADE IN VIOLATION OF THE FACULTY MEMBER'S ACADEMIC FREEDOM OR IN VIOLATION OF ANOTHER SPECIFIC UNIVERSITY POLICY. THE FACULTY MEMBER SHOULD CARRY OUT THE TEACHING ASSIGNMENT

**PENDING RESOLUTION OF ANY GRIEVANCE, UNLESS THE RESPONSIBLE GRIEVANCE OR HEARING OFFICER OR PANEL INDICATES THAT PROVISIONAL MEASURES ARE APPROPRIATE.**

# Sullivan Proposal

October 10, 1996

The Honorable Wendell Anderson  
The Honorable Julie Bleyhl  
The Honorable William Hogan  
The Honorable Jean Keffeler  
The Honorable Hyon Kim  
The Honorable Warren Larson  
The Honorable H. Bryan Neel  
The Honorable William Peterson  
The Honorable Jessica Phillips  
The Honorable Thomas Reagan  
The Honorable Stanley Sahlstrom  
The Honorable Patricia Spence

Dear Regents:

Thank you for sending me a copy of the proposed new Tenure Policy for the Law School. As Dean of the Law School, I know that an appropriate tenure policy is an important part of attracting and retaining excellent faculty. As a resident in this academic community, I know the tension that discussions of this issue have produced over the past several months. As Dean of the only unit to which this policy would apply, I would like to express my view with respect to the proposal. Let me emphasize that this is my personal view; because I only received the latest proposal in the last 24 hours, I have not had an opportunity to engage in any formal consultation with the faculty in the Law School on this issue.

As you know I was appointed dean of the Law School 15 months ago, so some of the underlying controversy is new to me. I have been in the academic world for 18 years, both as a teacher and as a dean for 8 years. I have taught as a faculty member at five research universities. I also was a trial attorney before becoming a faculty member, so I know directly some of the considerations facing your legal counsel. I think that I understand your concerns of protecting the financial integrity of the institution and promoting change; I also understand faculty concerns about academic freedom and due process. I am very concerned that the present exchanges may be damaging to the University as a whole and to the Law School in particular.

I think we all agree that there is a need to get beyond the present impasse and avoid brinkmanship. With the October 9th proposal there is reason to believe that the positions of the parties are coming closer together. Clearly, this is an issue where more common sense must prevail. The stakes are too high: we all agree that our University is the intellectual and economic engine of the state of Minnesota. We all must keep this in mind as we move forward. No one wins if we continue on this present course. As a dean, I can tell you we already are confronting serious faculty recruitment and retention issues as a result of this tenure controversy.

Letter to Regents  
October 10, 1996  
Page 2

Therefore, I would like to suggest a new approach to some of the issues. I would hope that these would meet the needs of the University as perceived both by the Regents and by the faculty. This proposal would build on the portions of the proposal that the Regents and the Faculty Senate have in common, but suggest new (or combined) language and approaches for other issues. In brief outline:

The need to accommodate change and promote financial flexibility can be met by a combination of measures. These include:

- A sharing of the risk of programmatic change between the University and the affected faculty member, under which the faculty member would accept the obligation to perform other tasks or accept a severance package, while the University would have the ability to recoup part of the faculty member's salary.
- A potential for University-wide (or possibly college-wide) pay cuts in cases of financial stringency that do not amount to a financial emergency under the Policy.

These goals can be accomplished on the basis of provisions already in the current code and in the drafts circulating. My enclosed proposal articulates an approach to this question.

The sections involving discipline and discipline-related procedures. To this end, I would propose:

- Adding a single new "gross misconduct" standard to the grounds for removal, thus reaching cases of blatant misconduct which arguably are not covered by the current policy, without creating dangerous ambiguities.
- Add an express provision for the imposition of lesser disciplinary sanctions, but limit those sanctions, assure due process, and protect academic freedom.
- Other changes in structures and procedures should be studied more carefully before enactment. Based on my experience in the administrative law area, I urge the adoption of carefully designed provisions.

I am enclosing a preliminary draft of proposed language for several sections of the proposed Policy that I believe could accomplish your goals and those of the faculty simultaneously. I ask you to consider it. Other provisions of the proposal will need to be altered to correspond to them.

Sincerely,

E. Thomas Sullivan  
Dean

c: President Nils Hasselmo  
Steven Bosacker

## PROGRAMMATIC CHANGE/FINANCIAL INTEGRITY ISSUES

My proposal in this regard builds on parts of several documents that already are in place, including the Faculty Senate proposal and the various drafts put forward by the Regents' consultants.

In brief, it would emphasize the obligation of any faculty member involved in programmatic change to accept a reasonable assignment. This is drawn from the interpretation in the Faculty Senate proposal, but I would place it in the Tenure Policy itself. It would then propose separation from the University, if the faculty member declined a reasonable assignment. This is drawn from the Regents' draft.

The key provisions would be two new subsections of section 12, which are reproduced on the following page.

To ensure financial flexibility, I would suggest that greater visibility be given to a provision already in the present Tenure Regulations. In times of financial stringency that did not constitute a "financial emergency," the President could propose temporary pay cuts for all faculty on an across-the-board basis. These would take effect only if approved both by the Faculty Senate and by the Board of Regents. I would move this provision from section 11, which it is currently located, to section 4, providing a clearer relationship to base pay issues.

With these two tools, we could meet foreseeable programmatic changes and financial challenges.

Certain other changes also would need to be made to correct cross-references, etc. (I would be happy to provide you with a complete proposal.)

**Section 12. Add two new subsections, 12.3 and 12.4 to the existing Code:**

**12.3 REASSIGNMENTS.** IN CASES OF PROGRAMMATIC CHANGE, AN OFFICER DESIGNATED BY THE PRESIDENT WILL MAKE THE REASSIGNMENT OR OFFER TRAINING. THE OFFICER WILL CONSULT WITH THE FACULTY MEMBER AND THE RECEIVING UNIT AND WILL SEEK A MUTUALLY SATISFACTORY ASSIGNMENT. IF AGREEMENT CANNOT BE REACHED, THE UNIVERSITY OFFICER WILL ASSIGN NEW RESPONSIBILITIES AFTER CONSULTATION WITH THE INDIVIDUAL.

THE UNIVERSITY MAY GIVE THE FACULTY MEMBER "OTHER ASSIGNMENTS" ONLY IF ASSIGNMENTS TO TEACHING IN THE FACULTY MEMBER'S DISCIPLINE ARE NOT FEASIBLE. FOR EXAMPLE, FACULTY MIGHT BE ASSIGNED

- TO TEACH IN ANOTHER FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED
- TO PERFORM PROFESSIONAL OR ADMINISTRATIVE DUTIES, INCLUDING PROFESSIONAL PRACTICE IN A FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED.
- TO TRANSFER EFFORT BY ASSIGNMENT IN A SUITABLE PROFESSIONAL CAPACITY AT ANOTHER EDUCATIONAL INSTITUTION OR SIMILAR ENTITY, WHILE RETAINING UNIVERSITY TENURE, COMPENSATION, AND BENEFITS.

A FACULTY MEMBER MUST ACCEPT ANY REASONABLE REASSIGNMENT OR OFFER OF RETRAINING. FOLLOWING THE FACULTY MEMBER'S ACCEPTANCE OF THE ASSIGNMENT, ANY DISPUTE ABOUT THE REASONABLENESS OF REASSIGNMENT MAY BE TAKEN TO THE JUDICIAL COMMITTEE, AS PROVIDED IN SECTION 15.

**12.4 TERMINATION OF APPOINTMENT.** A FACULTY MEMBER WHO CHOOSES NOT TO TAKE OR ACCEPT A REASONABLE REASSIGNMENT OR RETRAINING OPPORTUNITY SHALL RECEIVE:

- (1) ASSISTANCE IN LOCATING OTHER EMPLOYMENT;
- (2) A MINIMUM OF ONE FULL ACADEMIC YEAR'S NOTICE OR ONE YEAR'S SALARY AS SEVERANCE PAY IN LIEU OF NOTICE, UNLESS THE APPOINTMENT WOULD OTHERWISE EXPIRE EARLIER.
- (3) CONTINUATION OF THE UNIVERSITY'S CONTRIBUTION TO HEALTH BENEFITS FOR ONE YEAR AFTER THE DATE OF THE TERMINATION OF THE APPOINTMENT.

IN PLACE OF THE SEVERANCE PAYMENT PROVIDED BY THIS SECTION, A FACULTY MEMBER MAY SELECT ANOTHER SEVERANCE PROGRAM FOR WHICH THE FACULTY MEMBER IS OTHERWISE ELIGIBLE AT THE TIME THE APPOINTMENT IS TERMINATED.

**Section 4. Base Pay. Changes in section 4.4; add a new section 4.5.**

**4.4 FACULTY COMPENSATION.** EACH FACULTY MEMBER SHALL RECEIVE A BASE SALARY WILL NOT BE DECREASED EXCEPT BY ACTION EXPRESSLY AUTHORIZED IN THIS SECTION OR IN SECTIONS 7A, 10, 11, OR 14 OF THESE REGULATIONS OR WITH THE AGREEMENT OF THE FACULTY MEMBER. IF A FACULTY MEMBER'S BASE SALARY IS DECREASED, THE AMOUNT OF THE DECREASE AND THE REASON THEREFOR SHALL BE SET FORTH IN A WRITTEN NOTICE AND PROVIDED TO THE FACULTY MEMBER. NO DECREASE IN BASE SALARY SHALL OCCUR IN VIOLATION OF THE ACADEMIC FREEDOM OF THE FACULTY MEMBER.

THE UNIVERSITY MAY ALSO FROM TIME TO TIME PROVIDE A FACULTY MEMBER WITH ADDITIONAL COMPENSATION THAT IS NOT PART OF BASE SALARY. THE ADDITIONAL COMPENSATION MAY BE FOR SPECIAL AWARDS OR FOR ACTIVITIES IN ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING AND SUMMER RESEARCH SUPPORT AND SIMILAR ACTIVITIES.

AT THE TIME AN APPOINTMENT IS MADE, THE OFFER AND WRITTEN NOTICE OF APPOINTMENT SHALL SEPARATELY STATE THE BASE SALARY AND ANY ADDITIONAL COMPENSATION, AS DESCRIBED ABOVE, THAT THE FACULTY MEMBER WILL RECEIVE. IN EACH SUBSEQUENT YEAR, THE FACULTY MEMBER SHALL BE PROVIDED WITH A WRITTEN NOTICE SEPARATELY STATING ANY CHANGES IN BASE SALARY AND ANY CHANGES IN ADDITIONAL COMPENSATION FOR THE FOLLOWING ACADEMIC YEAR. A FACULTY MEMBER'S BASE SALARY SHALL CONSIST OF THE INITIAL BASE SALARY ADJUSTED BY ANY SUBSEQUENT INCREASE OR DECREASE IN BASE SALARY PROVIDED FOR IN A SUBSEQUENT WRITTEN NOTICE. INCREASES WILL BE PRESUMED TO BE IN BASE SALARY UNLESS OTHERWISE IDENTIFIED. FOR A FACULTY MEMBER EMPLOYED AT THE TIME THIS SECTION TAKES EFFECT, THE INITIAL BASE SALARY WILL BE THE FACULTY MEMBER'S BASE SALARY AT THE TIME THIS SECTION TAKES EFFECT, EXCLUSIVE OF ANY COMPENSATION DESIGNATED AS SPECIAL AWARDS OR FOR ACTIVITIES IN ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING, SUMMER RESEARCH SUPPORT AND SIMILAR ACTIVITIES.

A FACULTY MEMBER WHOSE SALARY HAS BEEN DECREASED MAY PETITION FOR REVIEW OF THAT ACTION UNDER SECTION 15 OF THESE REGULATIONS.

**4.5 REDUCTION OR POSTPONEMENT OF COMPENSATION.** IF THE UNIVERSITY [OR A COLLEGIATE UNIT] IS FACED WITH FINANCIAL STRINGENCY THAT DOES NOT AMOUNT TO A FISCAL EMERGENCY, THE PRESIDENT MAY PROPOSE A TEMPORARY REDUCTION OR POSTPONEMENT IN COMPENSATION TO BE ALLOCATED TO ALL FACULTY IN ACCORDANCE WITH A MATHEMATICAL FORMULA OR SIMILAR DEVICE. IF APPROVED BY THE FACULTY SENATE AND THE BOARD OF REGENTS, THE BASE PAY OF ALL FACULTY MEMBERS SHALL BE REDUCED TEMPORARILY IN ACCORDANCE WITH THE FORMULA. THE REDUCTION MAY NOT CONTINUE FOR LONGER THAN TWO YEARS, UNLESS RENEWED BY THE SAME PROCEDURE.

## DISCIPLINE AND DISCIPLINARY PROCEDURE ISSUES

My proposal in this regard is quite simple. I would urge you to adopt only the changes that are crucial at this time. Issues about the functioning of the Judicial Committee are better addressed in a more comprehensive way, including a discussion of the relationship of those proceedings to other proceedings, such as academic misconduct.

I would propose two changes to section 10. One would augment the standards for removal for cause. The other would make explicit provision for other disciplinary actions, potentially differentiating between serious actions and other actions. Both of these would be responsive to concerns raised by the Regents, but would more limited than what has been seen in the Regents' drafts.

On the removal for cause issue, I would add a provision for removal for "other grave misconduct" as determined by faculty peers. In light of this change, it should be unnecessary to add any provision about "adequate cause," since that would simply be redundant. A proposed version of section 10.21 reflects this approach.

On the issue of "other disciplinary actions," I believe that the affected individual must be given an opportunity for a hearing before a panel of peers. There is little reason to impose the sanction until that hearing has been conducted, if the faculty member requests one. A proposed revision of sections 10.22 and 10.3 reflects this approach.

The other procedural changes to the judicial process require more intensive and dispassionate study than they have been given. I would urge you to adopt neither version of changes to the structure and procedures of the Judicial Committee (except, possibly, the elimination of the preliminary decision by the provost/vice president) until that study can be completed. Thus the proposed amendments to sections 13, 14, and 15 should be tabled at this time.

**Delete proposed section 10.2; add two new sections, 10.21 and 10.22**

**10.2 10.21. Termination or Suspension of a Faculty Appointment Before Its Expiration.** A faculty appointment may be terminated or suspended before its ordinary expiration only for one or more of the following causes;

(a) sustained refusal or failure to perform reasonably assigned duties adequately;  
(b) unprofessional conduct which severely impairs a faculty member's fitness in a professional capacity;

© egregious or repeated misuse of the powers of a professional position to solicit personal benefits or favors; ~~and~~

(d) sexual harassment or any other egregious or repeated unreasonable conduct destructive of the human rights or academic freedom of other members of the academic community; OR

(E) OTHER GRAVE MISCONDUCT MANIFESTLY INCONSISTENT WITH CONTINUED FACULTY APPOINTMENT.

**10.22 OTHER DISCIPLINARY ACTIONS.** OTHER DISCIPLINARY ACTIONS MAY BE IMPOSED WHEN THERE IS A VIOLATION OF A UNIVERSITY POLICY SPECIFICALLY PROVIDING FOR SUCH SANCTIONS OR THERE IS OTHER SERIOUS UNPROFESSIONAL CONDUCT.

**10.3 Procedures.** A faculty member may be placed on unrequested leave of absence or a faculty appointment may be terminated or suspended ~~for these reasons~~ only in accordance with the procedures set forth in section 14. A DEAN MAY IMPOSE OTHER DISCIPLINARY ACTIONS ONLY AFTER THE FACULTY MEMBER HAS BEEN GIVEN NOTICE OF THE PROPOSED ACTION AND OF THE REASON THAT IT HAS BEEN PROPOSED AND HAS BEEN GIVEN AN OPPORTUNITY TO RESPOND. THE FACULTY MEMBER MAY REQUEST A HEARING ANALOGOUS TO THAT PROVIDED IN SECTION 15. TO REVIEW THE BASIS FOR THE ACTION AND THE PROPORTIONALITY OF THE DISCIPLINE IMPOSED. IF THE FACULTY MEMBER REQUESTS A HEARING, THE DISCIPLINARY ACTION WILL NOT BE IMPOSED UNTIL AFTER THE CONCLUSION OF THAT PROCESS.

## MEMORANDUM

October 14, 1996

TO: Senate Sub-Committee on Tenure  
Senate Committee on Faculty Affairs  
Senate Judicial Committee  
Faculty Consultative Committee  
Members of the Faculty Senate

FROM: Fred L. Morrison

SUBJECT: New Tenure Proposals

At its meeting on September 5, the Board of Regents requested that the Faculty Senate and its committees consider a draft revision of the Tenure Regulations that had been prepared by the Hogan and Hartson law firm. Meetings were duly scheduled, but were suspended when the Bureau of Mediation Services issued its Status Quo Order. The Faculty Consultative Committee informed the Regents that, because that proposal affected faculty covered by the Status Quo Order, it did not feel able to proceed to it unless specifically requested to do so. No such request has been made.

At its meeting on October 11, the Board of Regents formally requested that the Faculty Senate and its committees consider two new proposals that had been submitted to it that day as a new Tenure Policy to apply only to the Law School. (The Law School is not subject to the Status Quo Order). The two proposals are:

- (1) a draft, dated October 9, submitted by Regents Reagan and Spence (hereafter referred to as the "Reagan/Spence proposal"; and
- (2) a proposal, dated October 10, submitted by Dean Sullivan of the Law School.

In the course of the deliberations, one of the Regents also asked that a proposal submitted by Professor David Lykken, of the Psychology Department, also be taken into consideration. That proposal relates only to a single section of the Regulations.

At the request of the Chair of the Tenure Sub-Committee, I have prepared the following summary and analysis of the two proposals upon which the Senate has been asked to give its recommendation. (As appropriate, references are also made to the Lykken proposal.)

A chart on the following page shows the relationship between the June Faculty Senate drafts and the two alternative proposals. The subsequent text deals only with those sections in which there are differences among the several recommendations.

## TABLE OF SECTIONS

(NOTE: All three versions include the "provostial governance" changes introduced by Faculty Senate proposal A, and the change from "non-regular appointment" to "term appointment" introduced by Faculty Senate proposal C. These changes run throughout the document, involving minor amendments in virtually every section, and are not further noted here.)

<b>Section</b>	<b>Faculty Senate</b>	<b>Reagan/Spence</b>	<b>Sullivan</b>
Preamble	New text (Motion J)	Same	Same
1. Academic Freedom	Amended (Motion B)	Same	Same
2. Applicability	Amended (Motion K)	Same	Same
3. Ranks, etc.	Amended (Motion C)	Same	Same
4. Terms of app't (base pay issue)	Amended (Motions D & L)	Changes	Other changes
5. Max. probation	Amended (Motion E)	Same	Same
6. Regular faculty	No changes	No changes	No changes
7. Probationary	Amended (Motion I)	Same	Same
7A. Post-tenure review	New (Motion H)	Adds additional section 7A.5	Adds additional section 7A.5
8. Term faculty	No changes	No changes	No changes
9. App'ts with tenure	No changes	No changes	No changes
10. Fac. discipline	No changes	Major changes	Other changes
11. Fiscal emergency	No changes	No changes	Moves section
12. Program change	No changes, but adds Interpretation	Major changes	Other changes
13. Judicial Cttee.	Amended (Motion F)	Major changes	Restore 1985 text
14. Procedures-I	Amended (Motion G)	Major changes	Restore 1985 text
15. Procedures-II	No changes	Major changes	Restore 1985 text
16-19. Final clauses	No changes	No changes	No changes

## Comments on the Reagan/Spence Proposal

**Summary.** The Reagan/Spence proposal differs from the June draft proposed by the Faculty Senate in the following ways:

In section 4.4 (base pay), it differs in a number of small details from the Faculty Senate draft. It no longer provides for reductions of base pay, except in narrowly defined circumstances, and thus differs significantly from the September Hogan & Hartson draft. The draft is nevertheless based on that Hogan and Hartsen language, and thus some anomalies remain.

It follows the Faculty Senate version of section 7A (post-tenure review), but adds a new section 7A.5, which would permit colleges to adopt other post-tenure review systems, if the Faculty Senate approved.

Section 10 (faculty discipline) is also based on the Hogan and Hartsen draft, but deletes some of the most criticized language, such as the "proper attitude" passage. The language, however, still retains "adequate cause" as the basis for termination of faculty appointments, listing five specific causes as illustrations. (This is in contrast to the present Code which list four specific causes.) Each of the existing causes is expanded, making removal of faculty members easier; an additional cause is added. The text also allows "other disciplinary actions," including unlimited pay reductions, without prior hearing. Hearings in such cases would be before an outside labor arbitrator, who is prohibited from hearing academic freedom complaints.

The document retains the authority of the University to dismiss tenured faculty in section 12 (programmatic change). The section is, however, softened. It requires the decisions to be made on the basis of long-term plans and gives the faculty a slightly enlarged role in reviewing them. The procedural aspects remain, however, unchanged, including a virtual exclusion of any meaningful review of decisions to dismiss a faculty member.

Sections 13, 14, and 15, dealing with the structure of the Judicial Committee and with its procedures, remain unchanged from the Hogan & Hartsen draft that was proposed at Morris in September.

**Comments.** The following comments address each of the sections in which there is a difference between the Faculty Senate proposal and the Reagan/Spence proposal. Some of these comments are new responses to the proposal. Others were originally expressed in connection with the September Hogan and Hartsen draft that have neither been addressed in the text of the proposal, nor responded to in any other way.

Section 4.4. In this section, Regents Reagan and Spence have eliminated the express

provision for reduction of base salaries. The language of the section, however, appears to contemplate reductions, by providing for written notices and providing for appeals to a labor arbitrator. This may simply be a drafting oversight.

Section 7.5 This section would permit alternative post-tenure review processes to be adopted for a particular college, on the proposal of the dean of that college and the approval of the Faculty Senate. This introduces a welcome flexibility. The section should, however, also involve the faculty of the college (or the representative body of that college) a role in proposing and shaping the alternative processes.

Section 10.2 The proposal eliminates some of the most offensive language from this section. It appears, however, to continue to authorize discipline for "adequate cause," a vague and uncertain term. If so, it should be rejected as overbroad. If not, it is without operative purpose and should be deleted as redundant.

Section 10.21 This section has three significant features.

First, contrary to the assurances provided in the covering memorandum, it continues to provide "adequate cause" as the basis for dismissal of faculty members. This is perhaps most evident if the language is seen as it would be after adoption (without capitalizations or strikeouts):

A faculty appointment may be terminated or suspended before its ordinary expiration only for adequate cause, including one or more of the following causes...  
It is clearly not language that limits to the following list.

Second, each of the existing specified "causes" is made broader. In one case, item (1), the burden is placed on the faculty member, rather than on the administrator, to prove the case. In other cases, the current requirement that conduct be repeated or egregious is deleted, permitting dismissal proceedings for a single act. The change in item (3) alters the structure of the sentence, to permit the University to impose disciplinary sanctions for non-work-related conduct that has no impact on the workplace.

Third, a new fifth "cause" is added. It has been carefully modified to limit its application. The new limitations, which are a welcome restriction of this removal power, would apply only under this fifth paragraph

You should also note that the draft presented by the Regents does not accurately reflect the language of the present Tenure Regulations.

Section 10.22 This section was unchanged since the September draft. Comments at that time included the following, to which no response has been made:

"1. This provision contains no definition of grounds for discipline more specific than "adequate cause." This leaves a decision about what constitutes such case in the first instance in the hands of the immediate supervisor of the faculty member. Especially in light of the limited procedural protections provided, this is disturbing.

"2. This provision does not limit the sanctions that may be imposed. The three listed are only illustrations ("include, but not limited to"). Thus except for termination of the appointment,

the range of punishments is limited only by the limits on the imagination of the disciplining administrator.

"3. There is no requirement that the punishment be proportional or appropriate. Once the "adequate cause" has been shown, the level of punishment is entirely within the discretion of the administrator. A pay reduction could be of any magnitude (e.g., 50% of salary), as this is drafted. Since the level of punishment involves an exercise of the administrator's discretion, that issue could not be reviewed in a grievance under the Grievance policy, since that policy expressly excludes review of discretionary decisions.

"4. Could suspension from duties be used, e.g., to exclude a faculty member from participating in important faculty business, such as tenure decisions or selection of new faculty members?"

Section 10.3. This section is also identical to that proposed in the Hogan & Hartsen draft. There has been no response to the commentary about that draft, which stated:

"1. The language does not indicate the level of administrator authorized to act. Presumably a department or section head could impose any of these punishments without reference to or review by any dean or senior administrator. In light of the limited training and experience of these officers, it seems unwise to grant such authority to the lowest level administrators.

"2. The exclusion of "formal proceedings of any kind" before action seems excessive.

"3. The right of appeal under the Grievance policy does not provide adequate protection. First, all complaints of violations of academic freedom are excluded from consideration under the Grievance Policy (Sec. II.B. para. 3). Thus this policy would divert such claims from the Judicial Committee to the grievance process; then the grievance process would find them excluded! Second, under the Grievance Policy, the proportionality or appropriateness of a punishment would be subject to very limited review. (Sec. II.B., para. 2) Thus, as long as some minor infraction could be demonstrated, the administrator involved could impose a major penalty and escape review of its appropriateness. Third, the final decision under the Grievance Policy would be made by an outside labor arbitrator, not by peers."

Section 12.1 The new version of section 12.1 adds several limitations to the program termination provisions of the Regulations. First, it requires programmatic change decisions to be made on long-term institutional objectives, not short-term financial considerations. Second, it provides for application of this section only in cases of "discontinuation" of a program, and eliminates the word "restructuring." Third, it extends the period for faculty consultation about the program change from 60 to 90 days. The word "program" is still undefined and could be as small as a single faculty member's activities. As stated in the September commentary [modified to reflect the elimination of "restructuring" in the current draft]:

"This transforms the protection of tenure into a protection only so long as the President and Regents continue the faculty member's "program." A program can be discontinued . . . on 60 [now 90] days' notice, with only limited faculty input. The word "program" is not defined and could be as small as a single faculty member's specialty.

(E.g., in the case of the late Mulford Sibley, who was frequently attacked by politicians and others outside of the University, a discontinuation of "utopian political theories" could have led to the abolition of his position.)

Section 12.2 This section is unchanged from the September Hogan & Hartson draft. The comments at that time included:

"1. The draft does not firmly commit the University to offer reemployment or retraining. Reassignment or retraining is limited to other faculty positions and thus gives the University less flexibility in new assignments than does the Faculty Senate's proposal (e.g., it does not appear to permit transfer to administrative or professional assignments). Thus the probability of finding a suitable place for a terminated faculty member is lower under this policy than under that offered by the Faculty Senate's interpretation.

"2. Because of the way [the introductory language of the second paragraph is] drafted, a faculty member would have no enforceable right to reassignment or retraining, nor would a faculty member have a right to review. The test stated there is not whether reassignment or retraining would be "impracticable," but rather whether "in the University's judgment" it would be impracticable. The University could meet that claim simply by reciting its assertion of impracticability in its letter of dismissal, and thus avoid any review. The language is drafted in a way that excludes any possibility of independent review of the level of effort of the University to reassign or retrain faculty.

"3. Note that this section effectively renders section 11, relating to financial emergencies, a nullity. Under this proposal, it would be easier to dismiss a faculty member if there were no financial crisis, than if there were one! "

Section 13.2 This language is also identical to that proposed in September. The comments was: "The change at lines 3-5 would require Board approval of changes in Judicial Committee rules. This may be involving the board excessively in matters of detail. A better choice might be to parallel section 16.3, which requires approval of the procedures for granting tenure by the Tenure Committee and the Vice President for Academic Affairs, with reports to the Board and to the Faculty Senate."

Section 13.5 This language also remains unchanged. Although the Judicial Committee has welcomed the availability of independent legal counsel and may itself expand the functioning of that officer, it remains concerned about placing in a non-faculty member full authority to "regulate the procedure" it follows. This seems to fly in the face of the concept of "peer review."

Section 14.2 Here, again, the Regents' proposal simply follows the language of the September draft that was presented at Morris. The commentary then was:

"1. The Faculty Senate draft used this section to authorize the imposition of lesser sanctions and to provide adequate procedures to regulate them. The Regents' draft does so in section 10.22 (with only rudimentary procedures) and deletes that item here.

"2. The shift from "must" to "shall" in -[the next to last line of the draft] either reflects a

preference for archaic drafting style or a desire to "soften" the requirement that the faculty member be provided a copy of the recommendation. The Regents' draft repeats this change in some (but not all) of the instances in which the word "must" is found in the Regulations."

Section 14.4 This is another section in which the Reagan/Spence draft simply copied the Hogan and Hartsen proposal, without responding to the commentary on it, either in the text of their draft or in explanation. The commentary then was:

"1. The Regents' draft removes the requirement that the President respect the conclusions and recommendations of the panel that actually heard the case. The original text provided that he could deviate from those recommendations only for "compelling reasons." The Regents' draft would permit deviation for any reason, however trivial. . . . The President and administration have never requested such a change and apparently do not do so now. The source of the concern promoting this amendment remains mysterious.

"2. The 1985 regulations continued to give the President authority to overrule the Judicial Committee, if the reasons were sufficiently compelling. It sought to enforce this requirement of fairness and due process by imposing a legal standard (the "compelling reasons" test) and a procedural check (before doing so, the President would have to meet personally with the Judicial Committee, and the President would know that his deviation from the expectation of respect for Judicial Committee decisions would become widely known). The Regents' draft eliminates both of these checks, allowing the President to act secretly."

Section 14.5 The initial report on this section stated: " The Faculty Senate proposal eliminated the appeal to the Board of Regents as part of its effort to expedite the proceedings. Appeals to the Board have rarely, if every, been successful. Careful consideration of individual appeals would require substantial time, which might detract from other important business of the Board. If the Board wishes, however, to continue to exercise this responsibility, there is little or no reason to oppose the change."

Section 14.6 This proposal would permit suspension without pay during removal proceedings under certain circumstances. The September review of this provision, which is unchanged, stated:

"1. The Regents' draft . . . permits the initiating administrator to suspend a faculty member without pay, beginning 30 days after formal removal proceedings have commenced, if the departmental tenured faculty previously concurred in the recommendation to terminate the appointment. This is apparently aimed at discouraging the charged faculty member from dragging out the proceedings to retain salary. One issue is whether back pay should be automatic, if the faculty member is not in fact found liable for termination.

"2. Note that the standard for temporary suspensions with pay is changed to allow such suspensions for other "compelling reasons." The procedures to be followed in such cases are also simplified to keep this preliminary action from detracting from the principal proceeding. The Faculty Consultative Committee would be able vigorously to protest any unwarranted suspension."

Section 15.5 This section deals with actions by the President in reviewing certain actions of the Judicial Committee not involving the removal of a faculty member. The comments to section 14.4, above, apply in a parallel fashion.

**Conclusion.** Although the draft shows substantial improvements over the September document, it will presents substantial challenges to due process and academic freedom, and would serve as an obstacle to change in the University.

It denies or limits due process in providing for major sanctions (such as large pay cuts) without prior hearing, by eliminating the obligation of the President to give proper deference to Judicial Committee determinations, and by excluding academic freedom issues from review in many cases. The vagueness of the disciplinary standards and of other provisions leads also to this concern.

It attacks academic freedom by excluding those issues from scrutiny in cases involving programmatic change and in all discipline cases other than termination. The structure of the programmatic change section also would permit abuses of academic freedom without any possibility of review.

The proposal probably would be an impediment to change at the University, because it would place faculty member's appointments in jeopardy if change were approved.

## Comments on the Sullivan proposal

**Summary.** The Sullivan proposal is presented in an effort to find a common ground between the Regents' document and the Faculty Senate version. It focuses on two separate groups of issues: (1) programmatic change and the financial stability of the University, and (2) disciplinary actions regarding faculty members.

The "programmatic change/financial stability" portion of the package focuses on two sections of the proposals, sections 4 (base pay) and 12 (programmatic change). It takes the following approach:

With respect to programmatic change, it takes much of the Interpretation discussed in the Faculty Senate and approved by the Tenure Sub-Committee, permitting broad reassignment powers, but places this explicitly in the text of a new section 12.3. It then recognizes that some faculty members may choose not to accept reassignment and provides for the termination of their employment in language that parallels that found in the earlier drafts from the Regents.

To deal with the possibility that there may be shortfalls, this draft also draws on an existing provision of the 1985 Regulations (section 11.4) to introduce a new section (new section 4.5) permitting the Board of Regents and the Faculty Senate jointly to provide for University-wide (or college-wide) pay cuts to deal with financial stringencies short of financial exigency. These could not be applied discriminatorily against individual faculty members.

The approach thus draws from both the Regents' and the Senate drafts and would represent concessions by both sides.

The "discipline" sections are similarly constructed. The major elements include:

Elimination of the vague "adequate cause" language in sections 10.2 and 10.21, as well as the broader definitions of grounds for "removal for cause" in section 10.21. On the other hand, it would recognize a general cause of "grave misconduct manifestly inconsistent with continued faculty appointment" as a basis for removal.

It would permit the imposition of other sanctions on faculty members, but would require prior hearing before an impartial body, if the faculty member requested. In order to ensure peer review and the protection of academic freedom, such cases would be heard in the Judicial Committee, but under procedures less strict than those in removal cases.

It would postpone other controversies, involving the relationship between the Judicial Committee and the administration for further study, thus leaving the 1985

Regulations in place for these issues.

The proposal would also accept the addition of section 7.5, permitting colleges to adopt their own post-tenure review policies with the approval of the Faculty Senate. It would also have the incidental effect of preserving the appeal to the Board of Regents in removal cases, as the Regents have sought.

**Comments.** The following comments are arranged by section number, indicating the relationship of the proposal to the Faculty Senate and to the Reagan/Spence proposal.

Section 4.4 The Sullivan proposal follows the text of the Reagan/Spence proposal, but makes some small changes to eliminate language inconsistent with the fundamental proposition that base pay can only be reduced for the listed reasons. [Sullivan differs, but only slightly, from both other versions.]

Section 4.5 The Sullivan proposal would permit the President to propose across-the-board salary cuts for the entire University or for a single college, without declaring financial emergency. The cuts could take effect only if approved both by the Faculty Senate and by the Board of Regents. They must be applied by a mathematical formula, not by individualized action. It is adapted from an existing provision, section 11.4. [The Sullivan proposal is the only version to contain this section in this place.]

Section 7A.5 The Sullivan proposal adopts the Reagan/Spence suggestion of permitting colleges to fashion their own post-tenure review procedures, with the approval of the Faculty Senate. [The Sullivan proposal, like Reagan/Spence, adds a new section here.]

Section 10.2 (new numbering) The Sullivan proposal eliminates this language entirely. It thus eliminates any ambiguity as to whether this section itself provides grounds for disciplinary action or is merely an introduction to the two following sections. [The Sullivan proposal thus eliminates a new provision added by Reagan/Spence.]

Section 10.21 (Section 10.2 of the 1985 Code) This proposal is a mixture of the Reagan/Spence draft and the 1985 Code. First, it eliminates the ambiguous "adequate cause" language in the introductory part. Second, it retains the existing language for the first four grounds for termination of a faculty appointment. Third, it adds a new fifth ground, copied from the Reagan/Spence language. [The Sullivan proposal is a mixture of the two other versions.]

Section 10.22 There is a general rewrite of this section, to require serious violations before the imposition of sanctions, and to eliminate reference to any particular sanctions that could be imposed. [The Sullivan proposal differs from Reagan/Spence; there is no comparable provision in the Faculty Senate version.]

Section 10.3 The new proposal permits lesser sanctions to be imposed without resort to the full disciplinary procedures of section 14. On the other hand, unlike the Reagan/Spence draft, it requires a hearing to be held before a punishment is imposed, rather than after-the-fact, if the faculty member requests one. [The Sullivan proposal differs in detail from Reagan/Spence; there is no comparable provision in the Faculty Senate version.]

Section 12. The Sullivan proposal retains the language of sections 12.1 and 12.2 of the 1985 Code, regarding programmatic change. It then adds two further sections, 12.3, drawn from the Faculty Senate's Interpretation, and 12.4, drawn from the Reagan/Spence document.

In brief, the new draft would give faculty members a right to reassignment and retraining, but would emphasize the flexibility that the University has in making any reasonable assignment. This language of section 12.3 is drawn from the Interpretation that the Senate discussed last spring, but is now incorporated into the Tenure Policy itself to emphasize its impact. Disputes about the reasonableness of an assignment would be handled by the Judicial Committee, to assure peer review and to ensure that academic freedom concerns could be heard.

Under section 12.4 a faculty member would, however, be able to refuse reassignment and take a termination option. The language of that option is drawn from part of the text of section 12.2 in the Reagan/Spence draft.

[The Sullivan draft thus draws on both other documents, as well as the 1985 Code, to provide an alternative solution.]

General comment of sections 13-15. Dean Sullivan also proposes a review of the issues involving the relationship of the Judicial Committee to the University administration, and of other procedural matters. This is particularly appropriate, because most of these issues were not raised when the original tenure proposals were before the Senate in April and May, nor has there been any reasoned explanation of their purpose or impact. His basic approach is to retain the 1985 draft, except where there is already agreement between the Senate and Regents' proposals, until the underlying issues are articulated and discussed.

Section 13.2 The proposal would retain the present language regarding Judicial Committee rules, pending a thorough review of the proposal. [Differs from Reagan/Spence; retains existing Regulations.]

Section 13.5 The proposal would omit any formal reference to the Legal Officer, until the review could be completed. Under the existing Regulations, the Judicial Committee has appointed an attorney-adviser to assist it in its proceedings; the appointment was made with the agreement of the President and the General Counsel. The relationship between the legal adviser and the committee is evolving. Thus a decision not to make an amendment at this time would not have an immediate impact. [Differs from Reagan/Spence; retains existing Regulations.]

Section 14.1 As a consequence of providing an alternative procedure for dealing with discipline other than termination or suspension, this version eliminates the reference to lesser sanctions that was included in the Faculty Senate version. [Follows Reagan/Spence, albeit with a

different alternative procedure; differs from Faculty Senate version.]

Section 14.4 Dean Sullivan would postpone resolution of the issues involving the degree of respect that the President must give to Judicial Committee decisions until the study of Judicial Committee processes can be completed. Thus the language in this section would remain unchanged. [Differs from Reagan/Spence; retains existing Regulations.]

Section 14.5 Following the general principle stated above, Dean Sullivan would simply retain the existing 1985 language for this section. Since the Faculty Senate proposed to eliminate the possibility of appeal to the Board of Regents, but the Reagan/Spence draft would retain it in another form, this has the effect of retaining the appeal. [In practical effect, this supports the Reagan/Spence position, although in different language; differs from the Faculty Senate language.]

Section 14.6 This issue, as well, is postponed until completion of the study on faculty judicial processes. The issue of temporary suspensions of faculty during proceedings was not publicly raised during the tenure discussions last spring, nor has there been any explanation of the approach since the publication of the Morris draft in September. Thus postponement of the issue until it can be fully examined appears appropriate. [Retains original text; differs from Reagan/Spence provision; no comparable provision in Senate proposals.]

Section 15.5 The resolution of this issue parallels that of section 14.4 above.

**Conclusion.** The Sullivan proposal reflects an effort to draw on both pending documents, the Faculty Senate draft of June and the Reagan/Spence draft of October 9. It appears to address most of the concerns about the latter draft, as articulated above, while addressing the core concerns of the sponsor Regents in promoting programmatic change, maintaining financial stability, and providing for appropriate discipline. It postpones resolution of issues about the reorganization of judicial responsibilities until the underlying issues can be fully discussed in an appropriate forum.

## Comments on the Lykken Proposal

**Summary.** Professor David Lykken submitted a proposal for consolidation of some functions of the Academic Misconduct Committees (and possibly those of other similar bodies) with the functions of the Judicial Committee. The intent was both to ensure that faculty received a hearing before punishments were imposed and to eliminate wasteful duplication of effort between the two bodies.

At the October 11 Regents' meeting, one Regent asked that this proposal also be taken into consideration by the Faculty Senate.

**Comment.** The proposal was originally submitted to the Tenure Sub-Committee in May of 1996. Given the heavy load of other issues then pending and the complex interrelationships between the Tenure Regulations, the Academic Misconduct Policy, and federal guidelines, the Tenure Sub-Committee decided that addition of this issue to the complex of issues then pending would be impossible. The Sub-Committee intended, however, to begin a serious study of the issue, as soon as the present round of amendments had been concluded.

The Lykken proposal has merit. It could lead to a reduction of duplicate effort that goes into these proceedings today. It would, however, require substantial effort to adopt and implement. Provosts and deans would have to accept new responsibilities; assurances with federal agencies would need to be renegotiated. Committee procedures would need to be altered. These are not reasons to reject the proposal, but it cannot be adequately discussed and evaluated in the short time available before the November Regents' meeting.

**Conclusion.** The Lykken proposal should be made part of the study of judicial processes and procedures that is suggested by Dean Sullivan.

# UNIVERSITY OF MINNESOTA

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October 16, 1996

President Nils Hasselmo  
University of Minnesota  
202 Morrill Hall  
East Bank Campus

Dear President Hasselmo:

Dean Sullivan is unfortunately out of town because of a death in the family. Before he left, he asked the staff to prepare a copy of the tenure policy, including in it his proposed revisions. He thought that it was important that it be forwarded to you as soon as possible.

I am enclosing that document. Dean Sullivan has not yet had an opportunity to review it. He will be back in the office sometime on Friday.

Sincerely,



Linda Shimmin  
Secretary to Dean Sullivan

c: Martha Kvanbeck, University Senate  
Steven Eosacker, Board of Regents

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# TENURE POLICY

FOR THE UNIVERSITY OF MINNESOTA LAW SCHOOL FACULTY

## PREAMBLE

THE BOARD OF REGENTS ADOPTS THESE REGULATIONS WITH THE CONVICTION THAT A WELL-DEFINED STATEMENT OF RULES IS ESSENTIAL TO THE PROTECTION OF ACADEMIC FREEDOM AND TO THE PROMOTION OF EXCELLENCE IN THIS UNIVERSITY. A WELL DESIGNED PROMOTION AND TENURE SYSTEM ENSURES THAT CONSIDERATIONS OF ACADEMIC QUALITY, WILL BE THE BASIS FOR ACADEMIC PERSONNEL DECISIONS, AND THUS PROVIDES THE FOUNDATION FOR ACADEMIC EXCELLENCE.

TENURE IS THE KEYSTONE FOR ACADEMIC FREEDOM; IT IS ESSENTIAL FOR SAFEGUARDING THE RIGHT OF FREE EXPRESSION AND FOR ENCOURAGING RISK-TAKING INQUIRY AT THE FRONTIERS OF KNOWLEDGE. BOTH TENURE AND ACADEMIC FREEDOM ARE PART OF AN IMPLICIT SOCIAL COMPACT WHICH RECOGNIZES THAT TENURE SERVES IMPORTANT PUBLIC PURPOSES AND BENEFITS SOCIETY. THE PEOPLE OF MINNESOTA ARE BEST SERVED WHEN FACULTY ARE FREE TO TEACH, CONDUCT RESEARCH, AND PROVIDE SERVICE WITHOUT FEAR OF REPRISAL AND TO PURSUE THOSE ACTIVITIES WITH REGARD FOR LONG TERM BENEFITS TO SOCIETY RATHER THAN SHORT TERM REWARDS. IN RETURN, FACULTY HAVE THE RESPONSIBILITY OF FURTHERING THE INSTITUTION'S PROGRAMS OF RESEARCH, TEACHING, AND SERVICE, AND ARE ACCOUNTABLE FOR THEIR PERFORMANCE OF THESE RESPONSIBILITIES. ADDITIONALLY, A WELL-DESIGNED TENURE SYSTEM ATTRACTS CAPABLE AND HIGHLY QUALIFIED INDIVIDUALS AS FACULTY MEMBERS, STRENGTHENS INSTITUTIONAL STABILITY BY ENHANCING FACULTY MEMBERS' INSTITUTIONAL LOYALTY, AND ENCOURAGES ACADEMIC EXCELLENCE BY RETAINING AND REWARDING THE MOST ABLE PEOPLE. TENURE AND PROMOTION IMPLY SELECTIVITY AND CHOICE; THEY ARE AWARDED FOR ACADEMIC AND PROFESSIONAL MERIT, NOT FOR SENIORITY. THE LENGTH AND INTENSITY OF THE REVIEW LEADING TO THE GRANT OF TENURE ENSURES THE RETENTION ONLY OF WELL-QUALIFIED FACULTY COMMITTED TO THE UNIVERSITY'S MISSION.

THE IDEAL ATTRIBUTES OF THE COLLECTIVE FACULTY OF ANY UNIT ARE SCHOLARLY CREATIVITY, PROFESSIONAL COMPETENCE AND LEADERSHIP, INTELLECTUAL DIVERSITY, THE ABILITY AND DESIRE TO TEACH EFFECTIVELY AND THE WILLINGNESS TO COOPERATE WITH OTHER UNITS IN PROMOTING THE WORK AND WELFARE OF THE UNIVERSITY AS A WHOLE. THE ADMINISTRATION AND FACULTY SHOULD ENSURE, WITHIN EACH UNIT, NOT ONLY A PROPER BALANCE AMONG THESE ACTIVITIES BUT ALSO THE MAINTENANCE OF EACH AT THE HIGHEST LEVEL, TOGETHER WITH ACCOUNTABILITY AND SUITABLE RECOGNITION OF INDIVIDUAL ACHIEVEMENT AND SERVICE.

THE TENURE REGULATIONS PROVIDE A COMPREHENSIVE SET OF POLICIES DEALING WITH THE RELATIONSHIP BETWEEN THE UNIVERSITY AND ITS FACULTY. THE REGULATIONS CLASSIFY THE FACULTY AS TENURED, PROBATIONARY AND TERM. THEY PROVIDE FOR ANNUAL PERFORMANCE REVIEWS OF ALL FACULTY, AS WELL AS ESPECIALLY THOROUGH REVIEWS BEFORE THE GRANTING OF TENURE, ON PROMOTION IN RANK, AND WHEN THE PERFORMANCE OF A TENURED FACULTY MEMBER IS ALLEGED TO BE SUBSTANDARD. THEY PROVIDE FOR THE REASSIGNMENT OF FACULTY IN CASE OF THE REORGANIZATION OF THE UNIVERSITY OR CHANGES IN ITS SCHOLARLY DIRECTION, AND FOR DISCIPLINE WHEN A FACULTY MEMBER FAILS TO MEET PRESCRIBED STANDARDS OF CONDUCT.

## SECTION 1. ACADEMIC FREEDOM.

**1.1 Principles.** Every member of the faculty is entitled to due process and academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota and as amplified by resolutions of the Board of Regents. The Board of Regents hereby reaffirms its ~~policies concerning~~ COMMITMENT TO academic freedom and tenure AS REFLECTED ~~announced~~ in its resolution of January 28, 1938, and IN the statement of December 14, 1963, which are set forth in the Appendix to these regulations. THE POLICIES OF THE BOARD OF REGENTS REGARDING ACADEMIC FREEDOM ARE CURRENTLY STATED IN THE BOARD'S STATEMENT OF SEPTEMBER 8, 1995, WHICH PROVIDES:

THE REGENTS OF THE UNIVERSITY OF MINNESOTA REAFFIRM THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THESE ARE ROOTED IN THE BELIEF THAT THE MIND IS ENNOBLED BY THE PURSUIT OF

UNDERSTANDING AND THE SEARCH FOR TRUTH AND THE STATE WELL SERVED WHEN INSTRUCTION IS AVAILABLE TO ALL AT AN INSTITUTION DEDICATED TO THE ADVANCEMENT OF LEARNING. THESE PRINCIPLES ARE ALSO REFRESHED BY THE RECOLLECTION THAT THERE IS COMMUNE VINCULUM OMNIBUS ARTIBUS -- A COMMON BOND THROUGH ALL THE ARTS.

ACADEMIC FREEDOM IS THE FREEDOM TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, TO EXPLORE ALL AVENUES OF SCHOLARSHIP, RESEARCH AND CREATIVE EXPRESSION AND TO SPEAK OR WRITE AS A PUBLIC CITIZEN WITHOUT INSTITUTIONAL DISCIPLINE OR RESTRAINT. ACADEMIC RESPONSIBILITY IMPLIES THE FAITHFUL PERFORMANCE OF ACADEMIC DUTIES AND OBLIGATIONS, THE RECOGNITION OF THE DEMANDS OF THE SCHOLARLY ENTERPRISE AND THE CANDOR TO MAKE IT CLEAR THAT THE INDIVIDUAL IS NOT SPEAKING FOR THE INSTITUTION IN MATTERS OF PUBLIC INTEREST.

**1.2 Protection of Faculty.** Denial of faculty appointment or reappointment or removal or suspension from office or censure or other penalty must not be based upon any belief, expression or conduct protected by law or by the principles of academic freedom.

## **SECTION 2. APPLICABILITY OF REGULATIONS AND CONTINUITY OF APPOINTMENTS.**

**2.1 Employment Contracts.** These regulations govern the relationship between the Board of Regents and every faculty member employed by the University of Minnesota LAW SCHOOL, except as inconsistent with the provisions of collective bargaining agreements. These regulations are part of the contract between the Board of Regents and every faculty member employed by the University LAW SCHOOL outside of collective bargaining units.

**2.2 Continuation of Existing Appointments.** On the effective date of these regulations, every person holding a faculty appointment governed by the 1945 Regulations Concerning Faculty Tenure as amended, will hold the same kind of appointment under these regulations, whether or not their appointments are appropriate for such status under these regulations.

**2.3 DEFINITIONS. AS USED IN THESE REGULATIONS,**

(A) AN "ACADEMIC UNIT" IS A DEPARTMENT OR SIMILAR UNIT. A SCHOOL, COLLEGE OR DIVISION THAT IS NOT FURTHER SUBDIVIDED IS ALSO AN ACADEMIC UNIT.

(B) THE "HEAD" OF AN ACADEMIC UNIT IS THE ACADEMIC ADMINISTRATOR IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A CHAIR, HEAD OR DIRECTOR.

(C) A "COLLEGIATE UNIT" OR "COLLEGE" IS A MAJOR ACADEMIC ENTITY OF THE UNIVERSITY. IT MAY BE A COLLEGE, SCHOOL, INSTITUTE OR CAMPUS.

(D) THE "DEAN" OF A COLLEGIATE UNIT IS THE ACADEMIC ADMINISTRATOR IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A DEAN OR DIRECTOR OR (ON A CAMPUS THAT IS NOT SUBDIVIDED INTO COLLEGES) A VICE-CHANCELLOR.

(E) A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL ADMINISTRATIVE REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS AND DEFINE THEIR RESPECTIVE JURISDICTIONS.

(F) THE "SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS" IS THE OFFICER (OF WHATEVER TITLE) HOLDING PRIMARY RESPONSIBILITY FOR THE DEVELOPMENT OF UNIVERSITY-WIDE ACADEMIC POLICY. THIS OFFICER MAY ALSO SERVE AS SENIOR ACADEMIC ADMINISTRATOR FOR SOME OR ALL OF THE UNIVERSITY, IF SO DESIGNATED BY THE PRESIDENT.

(G) "TENURED FACULTY" ARE THOSE FACULTY WHO HOLD INDEFINITE TENURE.

**SECTION 3. FACULTY RANKS AND TYPES OF APPOINTMENTS.**

**3.1 In General.** The faculty ranks are professor, associate professor, assistant professor, and instructor. FACULTY APPOINTMENT IS APPROPRIATE ONLY IF THE INDIVIDUAL IS ENGAGED IN TEACHING OR RESEARCH AS DEFINED IN SECTION 7.11. Appointment at these ranks are either regular TENURED OR TENURE-TRACK APPOINTMENTS or ~~non-regular~~ TERM APPOINTMENTS. An appointment must be designated AS A regular or ~~non-regular~~ A TERM APPOINTMENT

when it is made.

**3.2 Regular Appointments.** A regular appointment is either with indefinite tenure or is probationary, leading to a decision concerning indefinite tenure within a specified period of time. A faculty member with indefinite tenure is entitled to retain that position until retirement in accordance with University regulations or until the appointment is terminated pursuant to the provisions of sections 10 or 11.

A faculty member on probationary appointment:

- (1) is entitled to consideration for indefinite tenure; and
- (2) is entitled to timely notice of termination in accordance with section 6.

A regular appointment may only be held in an academic unit<sup>1</sup> of a degree-granting college,<sup>2</sup> or similar unit. A regular appointment must be for two-thirds time or more over the academic year.

**3.3 Non-Regular TERM Appointments.** A non-regular TERM appointment is date-specific; that is, the appointment terminates at the end of a period specified in the appointment without further notice to the appointee. The ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR FOR THE CAMPUS OR AREA<sup>3</sup> must give every

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~~<sup>1</sup>As used in this policy, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head, or director.~~

~~<sup>2</sup>As used in this policy, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute, or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, provost, or similar officer.~~

~~<sup>3</sup>As used in this policy, "vice president" means the senior vice president for academic affairs. A "SENIOR ACADEMIC~~

person appointed to a ~~non-regular~~ TERM faculty position a statement in writing setting forth the conditions of the ~~non-regular~~ appointment, including the fact that it terminates without further notice.

No number of renewals of a ~~non-regular~~ TERM appointment creates a right to further renewals or to a decision concerning tenure. Every renewal of a ~~non-regular~~ TERM appointment for the seventh or succeeding year must be reported to the Tenure Committee with a justification of the reasons for ~~non-regular~~ THE CONTINUATION OF TERM status.

### ~~3.4 Limitation on Use of Non-Regular Appointments.~~

~~APPROPRIATE USES OF TERM APPOINTMENTS. Faculty appointment must be regular (either probationary or with indefinite tenure) unless one or more of the following conditions is met, in which case the appointment may be classified as non-regular.~~ TERM APPOINTMENTS ARE APPROPRIATE AND MAY BE USED PROVIDED ONE OR MORE OF THE FOLLOWING CONDITIONS IS MET:

(1) the duration, the percentage of time, or both require less than service for two-thirds time for the academic year;

(2) the appointment is designated a Visiting appointment because the faculty member is from another educational institution or is a qualified professional from a government or private agency on a leave of absence to accept a temporary appointment at this University;

(3) the appointment is designated a Clinical appointment because the faculty member is a clinician in the community who gives service to the University part-time;

(4) THE APPOINTMENT CONCERNS A FACULTY MEMBER WHO PRINCIPALLY IS ENGAGED IN AND PRIMARILY IS SUPPORTED BY

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ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS (VICE PRESIDENTS, CHANCELLORS, PROVOSTS, ETC.) TO HAVE RESPONSIBILITY FOR ACADEMIC MATTERS FOR ALL OR PART OF THE UNIVERSITY, AND WILL DEFINE THEIR RESPECTIVE JURISDICTIONS.

CLINICAL ACTIVITIES OR BY DISCIPLINE-RELATED SERVICE.<sup>4</sup>

(4) (5) the appointment is designated an Adjunct appointment because the faculty member's primary employment is outside the University or is in another unit of the University;

(5) (6) the appointment extends courtesy faculty rank without salary;

(6) (7) the position is subject to the joint control of the University and another institution;

(7) (8) the specific funding for the position is subject to the discretion of another agency;

(8) (9) the funding for the position is for a limited time;

(9) (10) the appointment is in a unit or program that is experimental or otherwise restricted in duration; and

(10) (11) the person is enrolled in a University of Minnesota degree program. A regular faculty member on a probationary appointment may transfer to ~~non-regular~~ TERM status during enrollment in such a program if the faculty member and the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR agree. This transfer suspends the running of the maximum period of probationary service, but the faculty member retains other rights of regular appointment, including annual review, the right to timely notice and a terminal appointment period as provided in section 6.

**3.5 Administrators' Appointments.** Academic administrators may hold regular or ~~non-regular~~ TERM faculty appointments. Administrative titles and duties are distinct and severable from such individuals' faculty appointments. Removal from an administrative position does not impair any rights the individual holds as a faculty member. UPON LEAVING AN ADMINISTRATIVE POSITION, THE INDIVIDUAL RETURNS TO FACULTY STATUS, WITH SALARY AND TERM OF APPOINTMENT REDUCED BY THE AMOUNT OF THE ADMINISTRATIVE AUGMENTATION, IF ANY.

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<sup>4</sup>"SERVICE" MEANS PERFORMANCE WITHIN THE FACULTY MEMBER'S EXPERTISE, OTHER THAN TEACHING AND RESEARCH AS DEFINED IN SECTION 7.11.

**3.6 Special Contracts.** These regulations do not bar a faculty appointment pursuant to a special contract specifying terms or conditions of employment which are different from those prescribed in these regulations. All other provisions of these regulations apply to such appointments. Every special contract must be in writing and must state that it is a special contract entered into pursuant to this subsection. It must be signed by the faculty member concerned, by the dean of the collegiate unit in which the faculty member will be employed and by the ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR and must be authorized by the Board of Regents or its expressly authorized delegate. In addition, the ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR will annually report to the Tenure Committee the terms of all special contracts and the reasons for their use.

A special contract may be used to reduce the minimum time of a regular appointment to one-half time in order to permit a faculty member to devote more time to family responsibilities. Such a contract must provide for the mutual responsibilities of the faculty member and the academic unit, including the type and percent time of the appointment, if any, to which the faculty member is entitled at the expiration of the special contract. In the case of a probationary faculty member, the contract will regulate the length of the probationary period, but the total probationary period may be extended by no more than a total of two years pursuant to this section and subsection 5.5.

#### **SECTION 4. TERMS OF FACULTY EMPLOYMENT.**

**4.1 Written Notice of Appointment.** Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must include the following:

- (1) whether the appointment is regular or ~~non-regular~~ TERM;
- (2) whether it is full or part-time and the percentage of time involved;
- (3) if for a fixed term, its expiration date;
- (4) if regular, whether it is probationary or with indefinite tenure;
- (5) whether it is on a twelve-month, academic year or other specified annual basis;

- (6) the rank of appointment;
- (7) the academic unit or units to which the individual is being appointed; ~~and~~
- (8) the BASE salary; AND
- (9) ADDITIONAL COMPENSATION AS DESCRIBED IN SECTION 4.4.

The notice is only evidence of the appointment; clerical or computer errors in a notice of appointment do not affect the terms of the appointment unless the faculty member reasonably relied upon the mistake and suffered an injustice because of that reliance. Notices required by this section should be delivered before the effective date of the appointment or change of status, or as soon thereafter as is administratively feasible. A probationary appointee must also be given notice of the applicable maximum probationary period.

**4.2 Action by the Board of Regents.** Faculty appointments and renewals or changes of status become effective when approved by the Board of Regents or its authorized delegate.

**4.3 Changes in Terms of Appointment OTHER THAN FACULTY COMPENSATION.** Except for raises in rank ~~or salary~~ and except for action expressly authorized by these regulations, no changes of ~~any of the~~ (1) THROUGH (7) items listed in subsection 4.1 may be made during the term of an appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate.

**4.4 FACULTY COMPENSATION.** EACH FACULTY MEMBER SHALL RECEIVE A BASE SALARY WILL NOT BE DECREASED EXCEPT BY ACTION EXPRESSLY AUTHORIZED IN THIS SECTION OR IN SECTIONS 7A, 10, 11, OR 14 OF THESE REGULATIONS OR WITH THE AGREEMENT OF THE FACULTY MEMBER. IF A FACULTY MEMBER'S BASE SALARY IS DECREASED, THE AMOUNT OF THE DECREASE AND THE REASON THEREFOR SHALL BE SET FORTH IN A WRITTEN NOTICE AND PROVIDED TO THE FACULTY MEMBER. NO DECREASE IN BASE SALARY SHALL OCCUR IN VIOLATION OF THE ACADEMIC FREEDOM OF THE FACULTY MEMBER.

THE UNIVERSITY MAY ALSO FROM TIME TO TIME PROVIDE A FACULTY MEMBER WITH ADDITIONAL COMPENSATION THAT IS NOT PART OF BASE SALARY. THE ADDITIONAL COMPENSATION MAY BE FOR SPECIAL

AWARDS OR FOR ACTIVITIES IN ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING AND SUMMER RESEARCH SUPPORT AND SIMILAR ACTIVITIES.

AT THE TIME AN APPOINTMENT IS MADE, THE OFFER AND WRITTEN NOTICE OF APPOINTMENT SHALL SEPARATELY STATE THE BASE SALARY AND ANY ADDITIONAL COMPENSATION, AS DESCRIBED ABOVE, THAT THE FACULTY MEMBER WILL RECEIVE. IN EACH SUBSEQUENT YEAR, THE FACULTY MEMBER SHALL BE PROVIDED WITH A WRITTEN NOTICE SEPARATELY STATING ANY CHANGES IN BASE SALARY AND ANY CHANGES IN ADDITIONAL COMPENSATION FOR THE FOLLOWING ACADEMIC YEAR. A FACULTY MEMBER'S BASE SALARY SHALL CONSIST OF THE INITIAL BASE SALARY ADJUSTED BY ANY SUBSEQUENT INCREASE OR DECREASE IN BASE SALARY PROVIDED FOR IN A SUBSEQUENT WRITTEN NOTICE. INCREASES WILL BE PRESUMED TO BE IN BASE SALARY UNLESS OTHERWISE IDENTIFIED. FOR A FACULTY MEMBER EMPLOYED AT THE TIME THIS SECTION TAKES EFFECT, THE INITIAL BASE SALARY WILL BE THE FACULTY MEMBER'S BASE SALARY AT THE TIME THIS SECTION TAKES EFFECT, EXCLUSIVE OF ANY COMPENSATION DESIGNATED AS SPECIAL AWARDS OR AS BEING FOR ACTIVITIES IN ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING, SUMMER RESEARCH SUPPORT AND SIMILAR ACTIVITIES.

A FACULTY MEMBER WHOSE SALARY HAS BEEN DECREASED MAY PETITION FOR REVIEW OF THAT ACTION UNDER SECTION 15 OF THESE REGULATIONS.

**4.5 REDUCTION OR POSTPONEMENT OF COMPENSATION.** IF THE UNIVERSITY [OR A COLLEGIATE UNIT] IS FACED WITH FINANCIAL STRINGENCY THAT DOES NOT AMOUNT TO A FISCAL EMERGENCY, THE PRESIDENT MAY PROPOSE A TEMPORARY REDUCTION OR POSTPONEMENT IN COMPENSATION TO BE ALLOCATED TO ALL FACULTY IN ACCORDANCE WITH A MATHEMATICAL FORMULA OR SIMILAR DEVICE. IF APPROVED BY THE FACULTY SENATE AND THE BOARD OF REGENTS, THE BASE PAY OF ALL FACULTY MEMBERS SHALL BE REDUCED TEMPORARILY IN ACCORDANCE WITH THE FORMULA OR SIMILAR DEVICE. THE REDUCTION MAY NOT CONTINUE FOR LONGER THAN TWO YEARS, UNLESS RENEWED BY THE SAME PROCEDURE.

**SECTION 5. MAXIMUM PERIOD OF PROBATIONARY SERVICE.**

**5.1 General Rule.** To give the University ample opportunity to determine the qualifications of those faculty members whom it is considering for regular appointments with indefinite tenure, the maximum period of probationary service of a faculty member is NORMALLY six academic years, whether consecutive or not. THE FACULTY ASSEMBLY OF A COLLEGIATE UNIT MAY PROPOSE TO ALTER THE MAXIMUM PROBATIONARY PERIOD FOR ALL OF THAT COLLEGE, OR FOR CERTAIN UNITS WITHIN IT, TO NO MORE THAN NINE YEARS. THE TENURED FACULTY OF A COLLEGE, BY SIMPLE MAJORITY VOTE TAKEN BY SECRET BALLOT, MAY ADOPT SUCH A CHANGE, WITH THE APPROVAL OF THE DEAN AND OF THE SENIOR ACADEMIC ADMINISTRATOR. ANY SUCH CHANGE IN THE MAXIMUM PROBATIONARY PERIOD APPLIES TO ALL PROBATIONARY FACULTY HIRED IN THAT COLLEGE (OR THOSE UNITS) AFTER THE DECISION, BUT ANY INCUMBENT PROBATIONARY FACULTY MEMBER MAY CHOOSE TO BE CONSIDERED UNDER THE NEW RULE. At the end of this ~~six-year~~ PROBATIONARY period, the faculty member must either be given a regular appointment with indefinite tenure or a one-year terminal appointment.

**5.2 Early Decisions Permitted.** These regulations do not prevent the granting of indefinite tenure prior to the expiration of the maximum period of probationary service and do not prevent a decision to terminate an appointee's probation prior to the end of the appointee's maximum probationary service, if timely notice is given.

**5.3 Definition of Academic Year.** A faculty member is

considered to have served an academic year if the appointee serves at least two-thirds time for three quarters or full-time for two quarters of the nine month academic year or any equivalent combination. An academic year during which the faculty member serves for less than this amount is not counted in computing the number of years for purposes of this section.

Unless otherwise agreed in writing, periods during which a faculty member is on paid leave for professional development (single quarter leave, sabbatical furlough, etc.) or on leave to teach or conduct research at another academic institution count as service, but periods in which the faculty member is on sick or disability leave or on leave in some non-faculty capacity do not count as service.

If a faculty member transfers to a position in the non-regular faculty, the time spent in the non-regular position does not count for the purpose of this section.

#### **5.4 Prior Service.**

**5.41 In This University.** Every academic year during which a faculty member has previously served at least two-thirds time under a regular appointment at this University reduces the maximum period of probationary service by one year.

**5.42 Elsewhere.** If a faculty member has previously served in regular faculty positions, as defined in these regulations, in one or more accredited universities or colleges, every academic year of such service (not exceeding three) reduces the maximum period of probationary service by one year.

**5.43 Exceptions Permitted.** If the prior service was in a different discipline, was in an academic unit or institution with teaching or research goals not comparable to those of the present appointment, or was too long ago to provide good evidence of the appointee's current professional development, the Board of Regents or its expressly authorized delegate may make an exception in writing at or near the beginning of the probationary period.

**5.5 Exception for New Parent or Caregiver.** The maximum

period of probationary service will be extended by one year at the request of a probationary faculty member:

(1) on the occasion of the birth of that faculty member's child or adoptive/foster placement of a child with that faculty member; or

(2) when the faculty member is a major caregiver for a family member<sup>5</sup> who has an extended serious illness, injury, or debilitating condition. A faculty member may use this provision no more than two times.

The request for extension must be made in writing within three months of the events giving rise to the claim and no later than June 30 preceding the year a final decision would otherwise be made on an appointment with indefinite tenure for that faculty member.

## **SECTION 6. TENURE OF FACULTY ON REGULAR PROBATIONARY APPOINTMENTS.**

**6.1 In General.** A regular probationary appointee is a candidate for indefinite tenure. A probationary appointment continues until it is superseded by an appointment with indefinite tenure or until terminated by timely notice or by resignation. Regular probationary appointments are generally made at the rank of assistant professor, but may be made at any rank.

**6.2 Notice Requirements.** Except as provided below, a probationary appointment may be terminated at the end of any academic year by giving notice of termination (in the form provided in section 17) not later than May 15 of the preceding academic year. The notice must inform the faculty member of the right to request a hearing before the Judicial Committee and must advise the faculty member of the applicable time limit for making such a request.

### **6.21 Associate Professors and Professor on Probationary**

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<sup>5</sup>The term "family member" is meant to include a blood relative, or a marital partner, or a domestic partner (registered with the University), or an adoptive/foster child.

**Appointments.** An initial probationary appointment at the rank of associate professor or professor may specify in writing that it is for a minimum period of three years. In that case, the earliest time at which notice of termination can be given is before May 15 of the second year of service, to take effect at the end of the third year of service.

**6.22 Instructors on Probationary Appointments.** An initial probationary appointment at the rank of instructor may specify in writing that it is only for a minimum period of one year. The appointment may be terminated at the end of the first year by notice given not later than March 1 of that year, or at the end of the second year by notice given not later than December 15 of that year. In all other respects such appointments are governed by subsection 6.2. A promotion of an instructor to the rank of assistant professor without a grant of tenure does not affect the operation of this subsection.

**6.3 Promotions.** The promotion of a probationary appointee to the rank of associate professor or professor must be accompanied with an appointment with indefinite tenure. A promotion to assistant professor does not affect the faculty member's tenure status.

**6.4 Rank of Appointees With Indefinite Tenure.** The grant of tenure to an instructor must be accompanied with a promotion to assistant professor. Since the standards for granting tenure are ordinarily at least as rigorous as those for promotion to associate professor, the granting of tenure to an assistant professor will ordinarily be accompanied by a promotion to associate professor. Otherwise, a grant of indefinite tenure need not be accompanied with a promotion in rank.

**6.5 Effect of Failure to Comply With This Section.** No one is entitled to an appointment with indefinite tenure merely because the University failed to comply with this section. If an individual is given an extension of appointment beyond the maximum probationary period or is not given timely written notice, the University may either:

- (1) grant an appointment with indefinite tenure;
- (2) grant a further probationary appointment, if

this would not exceed the maximum probationary period; or

(3) grant a terminal appointment ending at the end of the first full academic year which follows the May 15th after proper notice is given.

## SECTION 7. PERSONNEL DECISIONS CONCERNING PROBATIONARY FACULTY.

### 7.1 Criteria for Decisions.

**7.11 General Criteria.** The basis for awarding indefinite tenure is the determination that the achievements of an individual have demonstrated the individual's potential to continue to contribute significantly to the mission of the University<sup>6</sup> and to its programs of teaching, research, and service over the course of the faculty member's academic career.<sup>7</sup> The primary<sup>8</sup> criteria for demonstrating this potential are effectiveness in teaching<sup>9</sup> and professional distinction in

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<sup>6</sup>THE MISSION OF THE UNIVERSITY INCLUDES, WHERE APPROPRIATE, OUTREACH ACTIVITY THAT EXTENDS A FACULTY MEMBER'S TEACHING, RESEARCH AND SERVICE BEYOND THE CAMPUS OR TO NONTRADITIONAL GROUPS OF STUDENTS AND CITIZENS. NOT EVERY FACULTY MEMBER WILL HAVE OUTREACH RESPONSIBILITIES.

<sup>7</sup>For interpretation and possible applications, see the interpretative comment that will be provided in accordance with the provisions of subsection 16.2.

<sup>8</sup>Criteria other than those expressly listed in this sentence must be explicitly stated and justified in terms of the mission of the University. Such additional criteria may not impinge upon the academic freedom of the probationary faculty member.

<sup>9</sup>"Teaching" is not limited to credit-producing classroom instruction. It encompasses other forms of communication of knowledge (both to students registered in the University and to other persons in the community) as well as the supervision or advising of individual graduate or undergraduate students.

research,<sup>10</sup> outstanding discipline-related service contributions<sup>11</sup> will also be taken into account where they are an integral part of the mission of the academic unit. The relative importance of the criteria may vary in different academic units, but each of the criteria must be considered in every decision.<sup>12</sup>

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<sup>10</sup>"Research" is not limited to the publication of scholarly works. It includes activities which lead to the public availability of products or practices which have a significance to society, such as artistic production or the development of new technology or scientific procedures.

<sup>11</sup>"Service" means performance within the faculty member's academic expertise and the mission of the academic unit. It does not include performance of quasi-administrative functions such as membership on faculty or Senate committees or other similar activities; those activities are relevant only to the limited extent set forth in the following paragraph OF THE TEXT.

Where service is not an integral part of the mission of the academic unit, a faculty member's service may be considered, but is not a prerequisite to the awarding of tenure.

~~<sup>12</sup>Because of the special mission of the Crookston and Waseca campuses, disciplined inquiry in their fields of endeavor may be substituted for research in appraising faculty members there.~~

Other exceptions may be made only in exceptional circumstances by means of special contract, as provided in subsection 3.6.

The individual's participation in the governance of the institution and other services to the University and service to the academic unit may be taken into consideration, but are not in themselves bases for awarding tenure.

Indefinite tenure may be granted at any time when the candidate has satisfied the requirements. A probationary appointment must be terminated when the appointee fails to satisfy the criteria in the last year of probationary service and may be terminated earlier if it appears that the appointee is not making satisfactory progress toward meeting the criteria within that period.

**7.12 Departmental Statement.** Each academic unit must have a document that articulates with reasonable specificity the indices and standards which will be used to evaluate whether candidates meet the criteria of subsection 7.11. The document must comply with those standards, but should make their application more specific. Each such document is subject to review by the dean or other appropriate academic administrator and by the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR AND BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS. Each academic unit must provide each probationary faculty member with a copy of the document at the beginning of the probationary service.

**7.2 Annual Review.** The tenured faculty<sup>13</sup> of each academic unit annually reviews the progress of each probationary faculty member toward satisfaction of the criteria for receiving tenure. The head of the unit prepares a written summary of that review and discusses the candidate's progress with the candidate, giving a copy of the report to the candidate.

**7.3 Formal Action by the Faculty.** The tenured faculty of the academic unit may recommend that a probationary faculty member be granted indefinite tenure or that the appointment be terminated. If it does neither, it is presumed to recommend a renewal of the appointment. In the final probationary year, if the tenured faculty does not recommend an appointment with indefinite tenure, it must recommend termination of the appointment. The recommendation is made by a vote of the regular faculty with indefinite tenure in the unit. The presiding officer is not disqualified from voting merely because of office.

**7.4 Procedures for Taking Formal Action.** The academic unit must observe University procedures established as provided in subsection 16.3. These procedures will provide the following.

- (a) A good faith effort is made to gather all relevant information necessary to the decision. The academic units have the primary obligation to assemble

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<sup>13</sup>~~As used in this policy, "tenured faculty" means those members of the faculty who hold indefinite tenure.~~

the file, but the faculty member also has the right to add any material the faculty member considers relevant.

(b) The decision is made by vote, by written unsigned secret ballot, at a meeting of the regular faculty who have indefinite tenure in the academic unit. The rules may provide for absentee ballots by informed absent faculty members.

(c) Persons who have or have had a family or similar relationship to the candidate do not participate in the decision. The procedures may establish methods for raising and ruling on such questions in advance of the decision.

(d) Action is to be taken by majority vote. An academic unit may adopt a uniformly applicable rule that a motion to recommend tenure must achieve a specified exceptional majority in order to constitute an affirmative recommendation of that unit. In such case a motion which achieves a majority, but not the required exceptional majority, must be sent forward for review by the appropriate review process despite the absence of the unit's affirmative recommendation.

(e) The unit shall report the vote of the faculty, together with the reasons for the action taken. This statement of reasons must take the form of a summary of both majority and minority views which have substantial support which were expressed in the course of formal consideration of the action. All statements must be made without personal attribution. A preliminary draft is open to members of the faculty eligible to vote so they may comment and suggest changes. The final draft is sent to the affected faculty member and is open to the faculty eligible to vote.

(f) In academic units which are widely scattered geographically so that collegial deliberation is difficult, the rules may specify special procedures which, to the maximum extent practicable, conform to the procedures generally required.

(g) Before submitting a formal recommendation for an appointment with indefinite tenure or for termination of a probationary appointment, the head of the academic unit informs the appointee of the recommendation and gives the appointee a copy of the final report. The

appointee may submit any comments upon the report to the academic administrator who will review the report, with a copy to the head of the academic unit.

**7.5 Nondisclosure of Grounds for Recommendation of Termination.** The reasons for a recommendation to terminate a probationary appointment may not be disclosed, except as part of the review process, unless the faculty member requests such disclosure or makes a public statement concerning the reasons for termination.

**7.6 Review of Recommendations.** Recommendations of academic units to grant indefinite tenure or to terminate probationary appointments are reviewed at the collegiate and University levels.

**7.61 Procedures.** The review must be conducted according to University procedures, established as provided in subsection 16.3. These procedures must provide for review and recommendations by the head of the academic unit, by the dean of the collegiate unit, by faculty committees at the collegiate or University level, and, when appropriate, by other academic administrators. The review must be conducted on the basis of the standards and criteria established by subsections 7.11 and 7.12 and the applicable rules and procedures. The rules may permit an administrator to refer the matter back to the unit for reconsideration, but if the administrator and the unit do not agree after such reconsideration, both the recommendation and the administrator's comments must be sent forward for final administrative action. A copy of each review or recommendation must be supplied to the faculty member. The faculty member may comment thereon in writing to those who will review the matter further.

**7.62 Conflict of Interest.** No one may participate both in an initial recommendation by an academic unit and in a subsequent review of that recommendation, except that the head of the academic unit may make the initial administrative review. No one who has participated in a recommendation or review may thereafter serve as a member of the Judicial Committee in further consideration of that case.

Members of the Judicial Committee may not serve on collegiate or University review committees. Members of the Judicial Committee may participate in initial recommendations by their own academic units, but are disqualified from thereafter participating in Judicial Committee consideration of those decisions.

**7.63 Final Administrative Action.** The University may not act contrary to the recommendation of the academic unit which made the initial recommendation except for substantive reasons which must be stated in writing by the ~~vice president (or a person designated by the vice president)~~ SENIOR ACADEMIC ADMINISTRATOR to the faculty member, to the members of the academic unit which made the recommendation, and to the president. The fact that participants in the review process have recommended against the unit's initial recommendation is not, by itself, a substantive reason.

The ~~vice president~~ SENIOR ACADEMIC ADMINISTRATOR takes the steps necessary to make the necessary appointment or to give notice of termination.

**7.7 Improper Termination of Probationary Appointments.** A person holding a regular probationary appointment who has been given notice of termination may petition the Judicial Committee to review that action. The Judicial Committee will not base its ruling on the merits of the decision itself, but will review allegations that the decision was based in significant degree upon any of the following:

- (1) personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota;
- (2) factors prescribed by applicable federal or state law regarding fair employment practices;
- (3) substantial and prejudicial deviation from the procedures prescribed in subsections 7.4 and 7.6 and the procedural rules promulgated pursuant to those subsections;
- (4) failure to consider data available at the time of decision bearing materially on the faculty member's

performance;

(5) demonstrable material prejudicial mistakes of fact concerning the faculty member's work or conduct;

(6) other immaterial or improper factors causing substantial prejudice; or

(7) other violation of University policies or regulations.

Such proceedings are governed by section 15.

## **SECTION 7A. REVIEW OF FACULTY PERFORMANCE**

**7A.1. GOALS AND EXPECTATIONS.** THE FACULTY OF EACH ACADEMIC UNIT MUST ESTABLISH GOALS AND EXPECTATIONS FOR ALL FACULTY MEMBERS, INCLUDING GOALS AND EXPECTATIONS REGARDING TEACHING, SCHOLARLY PRODUCTIVITY, AND CONTRIBUTIONS TO THE SERVICE AND OUTREACH FUNCTIONS OF THE UNIT. THE FACTORS TO BE CONSIDERED WILL PARALLEL THOSE USED BY THE UNIT IN THE GRANTING OF TENURE, BUT WILL TAKE INTO ACCOUNT THE DIFFERENT STAGES OF PROFESSIONAL DEVELOPMENT OF FACULTY. THE GOALS AND EXPECTATIONS WILL BE ESTABLISHED IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE UNIVERSITY SENATE. THEY CAN PROVIDE FOR FLEXIBILITY, SO THAT SOME FACULTY MEMBERS CAN CONTRIBUTE MORE HEAVILY TO THE ACCOMPLISHMENT OF ONE MISSION OF THE UNIT AND OTHERS TO THE ACCOMPLISHMENT OF OTHER MISSIONS. THE GOALS AND EXPECTATIONS SHALL NOT VIOLATE THE INDIVIDUAL FACULTY MEMBER'S ACADEMIC FREEDOM IN INSTRUCTION OR IN THE SELECTION OF TOPICS OR METHODS FOR RESEARCH. THEY SHALL INCLUDE REASONABLE INDICES OF ACCEPTABLE PERFORMANCE IN EACH OF THE AREAS (E.G., TEACHING CONTRIBUTIONS AND EVALUATIONS, SCHOLARLY PRODUCTIVITY, SERVICE, GOVERNANCE AND OUTREACH ACTIVITIES). THE DEAN REVIEWS THE GOALS AND EXPECTATIONS OF EACH UNIT AND MAY REQUEST CHANGES TO MEET THE STANDARDS OF THE UNIVERSITY AND OF THE COLLEGIATE UNIT.

**7A.2. ANNUAL REVIEW.** EACH ACADEMIC UNIT, THROUGH ITS MERIT REVIEW PROCESS (ESTABLISHED IN ACCORDANCE WITH THE STANDARDS ADOPTED BY THE SENATE), ANNUALLY REVIEWS WITH EACH FACULTY MEMBER THE PERFORMANCE OF THAT FACULTY MEMBER IN LIGHT OF THE GOALS AND EXPECTATIONS OF THE ACADEMIC UNIT ESTABLISHED UNDER SECTION 7A.1. THIS REVIEW IS USED FOR SALARY ADJUSTMENT AND FACULTY DEVELOPMENT. THE FACULTY MEMBER WILL BE ADVISED OF THE

EVALUATION AND, IF APPROPRIATE, OF ANY STEPS THAT SHOULD BE TAKEN TO IMPROVE PERFORMANCE AND WILL BE PROVIDED ASSISTANCE IN THAT EFFORT. IF THE HEAD OF THE UNIT AND A PEER MERIT REVIEW COMMITTEE ELECTED FOR ANNUAL MERIT REVIEW WITHIN THAT UNIT BOTH FIND A FACULTY MEMBER'S PERFORMANCE TO BE SUBSTANTIALLY BELOW THE GOALS AND EXPECTATIONS ADOPTED BY THAT UNIT, THEY SHALL ADVISE THE FACULTY MEMBER IN WRITING, INCLUDING SUGGESTIONS FOR IMPROVING PERFORMANCE, AND ESTABLISH A TIME PERIOD (OF AT LEAST ONE YEAR) WITHIN WHICH IMPROVEMENT SHOULD BE DEMONSTRATED.

**7A.3. SPECIAL PEER REVIEW IN CASES OF ALLEGED SUBSTANDARD PERFORMANCE BY TENURED FACULTY.** IF, AT THE END OF THE TIME PERIOD FOR IMPROVEMENT DESCRIBED IN THE PREVIOUS PARAGRAPH, A TENURED FACULTY MEMBER'S PERFORMANCE CONTINUES TO BE SUBSTANTIALLY BELOW THE GOALS AND EXPECTATIONS OF THE UNIT AND THERE HAS NOT BEEN A SUFFICIENT IMPROVEMENT OF PERFORMANCE, THE HEAD OF THE ACADEMIC UNIT AND THE ELECTED PEER MERIT REVIEW COMMITTEE MAY JOINTLY REQUEST THE DEAN TO INITIATE A SPECIAL PEER REVIEW OF THAT FACULTY MEMBER. BEFORE DOING SO, THE DEAN SHALL INDEPENDENTLY REVIEW THE FILE TO DETERMINE THAT SPECIAL PEER REVIEW IS WARRANTED. (IN THE CASE OF AN ACADEMIC UNIT THAT IS ALSO A COLLEGIATE UNIT, THE REQUEST SHALL BE MADE TO AND THE REVIEW CONDUCTED BY THE RESPONSIBLE SENIOR ACADEMIC ADMINISTRATOR.) THE SPECIAL PEER REVIEW SHALL BE CONDUCTED BY A PANEL OF FIVE TENURED FACULTY MEMBERS OF EQUAL OR HIGHER RANK, SELECTED TO REVIEW THAT INDIVIDUAL. THE FACULTY MEMBER UNDER REVIEW SHALL HAVE THE OPTION TO APPOINT ONE MEMBER. THE REMAINING MEMBERS SHALL BE ELECTED BY SECRET BALLOT BY THE TENURED FACULTY OF THE UNIT. THE MEMBERS OF THE SPECIAL REVIEW PANEL NEED NOT BE MEMBERS OF THE ACADEMIC UNIT. THE SPECIAL REVIEW PANEL SHALL PROVIDE ADEQUATE OPPORTUNITY FOR THE FACULTY MEMBER TO PARTICIPATE IN THE REVIEW PROCESS AND SHALL CONSIDER ALTERNATIVE MEASURES THAT WOULD ASSIST THE FACULTY MEMBER TO IMPROVE PERFORMANCE. THE TENURE SUBCOMMITTEE MAY ADOPT RULES AND PROCEDURES REGULATING THE CONDUCT OF SUCH REVIEWS. THE SPECIAL REVIEW PANEL SHALL PREPARE A REPORT ON THE TEACHING, SCHOLARSHIP, SERVICE, GOVERNANCE, AND (WHEN APPROPRIATE) OUTREACH PERFORMANCE OF THE FACULTY MEMBER. IT WILL ALSO IDENTIFY ANY SUPPORTING SERVICE OR ACCOMMODATION THAT THE UNIVERSITY SHOULD PROVIDE TO ENABLE THE FACULTY MEMBER TO IMPROVE PERFORMANCE. DEPENDING ON ITS FINDINGS, THE PANEL MAY RECOMMEND:

(A) THAT THE PERFORMANCE IS ADEQUATE TO MEET STANDARDS AND THAT THE REVIEW BE CONCLUDED;

(B) THAT THE ALLOCATION OF THE FACULTY MEMBER'S EXPECTED EFFORT AMONG THE TEACHING, RESEARCH, SERVICE AND GOVERNANCE FUNCTIONS OF THE UNIT BE ALTERED IN LIGHT OF THE FACULTY MEMBER'S STRENGTHS AND INTERESTS SO AS TO MAXIMIZE THE FACULTY MEMBER'S CONTRIBUTION TO THE MISSION OF THE UNIVERSITY;

(C) THAT THE FACULTY MEMBER UNDERTAKE SPECIFIED STEPS TO IMPROVE PERFORMANCE, SUBJECT ONLY TO FUTURE REGULAR ANNUAL REVIEWS AS PROVIDED IN SECTION 7A.2;

(D) THAT THE FACULTY MEMBER UNDERTAKE SPECIFIED STEPS TO IMPROVE PERFORMANCE SUBJECT TO A SUBSEQUENT SPECIAL REVIEW UNDER SECTION 7A.3, TO BE CONDUCTED AT A SPECIFIED FUTURE TIME;

(E) THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE AS TO JUSTIFY LIMITED REDUCTIONS OF SALARY, AS PROVIDED IN SECTION 7A.4;

(F) THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE THAT THE DEAN SHOULD COMMENCE FORMAL PROCEEDINGS FOR TERMINATION OR INVOLUNTARY LEAVE OF ABSENCE AS PROVIDED IN SECTIONS 10 AND 14; OR

(G) SOME COMBINATION OF THESE MEASURES.

THE PANEL WILL SEND ITS REPORT TO THE DEAN, THE HEAD OF THE ACADEMIC UNIT, AND THE FACULTY MEMBER. WITHIN 30 WORK DAYS OF RECEIVING THE REPORT, THE FACULTY MEMBER MAY APPEAL TO THE JUDICIAL COMMITTEE, WHICH SHALL REVIEW THE REPORT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 7.7).

**7A.4. SALARY REDUCTIONS.** IF THE SPECIAL REVIEW PANEL RECOMMENDS THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE AS TO JUSTIFY LIMITED REDUCTIONS OF BASE SALARY, THE HEAD OF THE ACADEMIC UNIT, WITH THE APPROVAL OF THE DEAN, MAY REDUCE THE FACULTY MEMBER'S BASE PAY, SUBJECT TO THE FOLLOWING LIMITATIONS:

(A) THE AMOUNT OF THE DECREASE WILL NOT EXCEED 10% OF THE FACULTY MEMBER'S BASE SALARY ON THE BASIS OF ANY ONE SPECIAL REVIEW;

(B) BASE SALARY MAY NOT BE REDUCED BY MORE THAN 25% FROM THE HIGHEST LEVEL OF BASE PAY EVER HELD BY THE FACULTY MEMBER;

(C) AT LEAST SIX MONTHS' NOTICE OF THE DECREASE MUST BE GIVEN;

(D) ANY DECREASE IN SALARY MAY BE RESTORED BY THE ANNUAL REVIEW PROCESS PROVIDED IN SECTION 7A.2.

WITHIN 30 WORK DAYS OF NOTICE OF THE DECREASE, THE FACULTY MEMBER

MAY APPEAL THIS ACTION TO THE JUDICIAL COMMITTEE, WHICH SHALL REVIEW THE ACTION AND THE RECOMMENDATION LEADING TO IT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 7.7). THIS REVIEW MAY NOT RECONSIDER MATTERS ALREADY DECIDED BY THE JUDICIAL COMMITTEE UNDER SECTION 7A.3. ANY DECREASE IN BASE PAY BEYOND THE LIMITS SPECIFIED IN THIS SUBSECTION CAN ONLY BE IMPOSED PURSUANT TO SECTIONS 10 {11}, AND 14.

**7A.5. PEER REVIEW OPTION.** UPON APPLICATION TO IT BY THE DEAN OF AN ACADEMIC UNIT, THE FACULTY SENATE MAY ADOPT A SYSTEM OF PEER REVIEW OF PERFORMANCE OF FACULTY OF THAT UNIT DIFFERENT FROM THE SYSTEM SET FORTH IN SECTION 7A.1 THROUGH 7A.4 IF IN THE FACULTY SENATE'S JUDGMENT SO PROCEEDING IS IN THE UNIVERSITY'S INTEREST.

**SECTION 8. IMPROPER REFUSAL OF A NEW APPOINTMENT TO A ~~NON-REGULAR~~ TERM FACULTY MEMBER.**

A person holding a ~~non-regular~~ TERM faculty appointment who has been refused a renewal of that appointment or has applied for and been refused a regular or a different ~~non-regular~~ TERM faculty appointment within six months of the end of that appointment may petition the Judicial Committee to review the refusal, but only on the ground that the decision was based in significant degree upon one or more of the following:

(1) personal beliefs, expressions or conduct which fall within the liberties protected by law or by the principles of academic freedom as established by academic tradition and the constitutions and laws of the United States and the state of Minnesota;

(2) factors proscribed by applicable federal or state law regarding fair employment practices;

(3) essential and substantial written misrepresentation of the nature of the original appointment; or

(4) other violation of University policies or regulations.

Such proceedings are governed by section 15.

**SECTION 9. APPOINTMENT OF ASSOCIATE PROFESSORS AND PROFESSORS WITH INDEFINITE TENURE.**

Initial appointments with indefinite tenure may only be made at the rank of associate professor or professor. Such appointments may be made only after receiving the recommendation of the regular faculty holding indefinite tenure in the academic unit concerned.

**SECTION 10. UNREQUESTED LEAVE OF ABSENCE FOR DISABILITY;  
~~TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE AND~~  
DISCIPLINARY ACTION**

**10.1 Unrequested Leave of Absence for Disability.** A faculty member who is physically or mentally unable to perform reasonably assigned duties may be placed on unrequested leave of absence. The faculty member is entitled to sick pay and disability insurance payments in accordance with University policy. The faculty member has a right to return to the faculty upon termination of the disability or upon cessation of disability payments.

**10.2 DISCIPLINARY ACTION.**

**10.21. Termination or Suspension of a Faculty Appointment Before Its Expiration.** A faculty appointment may be terminated or suspended before its ordinary expiration only for one or more of the following causes;

- (a) sustained refusal or failure to perform reasonably assigned duties adequately;
- (b) unprofessional conduct which severely impairs a faculty member's fitness in a professional capacity;
- (c) egregious or repeated misuse of the powers of a professional position to solicit personal benefits or favors; and
- (d) sexual harassment or any other egregious or repeated unreasonable conduct destructive of the human rights or academic freedom of other members of the academic community; OR
- (E) OTHER GRAVE MISCONDUCT MANIFESTLY INCONSISTENT WITH CONTINUED FACULTY APPOINTMENT.

**10.22 OTHER DISCIPLINARY ACTIONS.** OTHER DISCIPLINARY ACTIONS MAY BE IMPOSED WHEN THERE IS A VIOLATION OF A UNIVERSITY POLICY SPECIFICALLY PROVIDING FOR SUCH SANCTIONS OR THERE IS OTHER SERIOUS UNPROFESSIONAL CONDUCT.

**10.3 Procedures.** A faculty member may be placed on unrequested leave of absence or a faculty appointment may be terminated or suspended ~~for these reasons~~ only in accordance with the procedures set forth in section 14. A DEAN MAY IMPOSE OTHER DISCIPLINARY ACTIONS ONLY AFTER THE FACULTY MEMBER HAS BEEN GIVEN NOTICE OF THE PROPOSED ACTION AND OF THE REASON THAT IT HAS BEEN PROPOSED AND HAS BEEN GIVEN AN OPPORTUNITY TO RESPOND. THE FACULTY MEMBER MAY REQUEST A HEARING ANALOGOUS TO THAT PROVIDED IN SECTION 15 TO REVIEW THE BASIS FOR THE ACTION AND THE PROPORTIONALITY OF THE DISCIPLINE IMPOSED. IF THE FACULTY MEMBER REQUESTS A HEARING, THE DISCIPLINARY ACTION WILL NOT BE IMPOSED UNTIL AFTER THE CONCLUSION OF THAT PROCESS.

## **SECTION 11. FISCAL EMERGENCY.**

**11.1 Faculty Rights.** The Board of Regents, if faced with the necessity of drastic reduction in the University budget, has the power to suspend or abolish positions, or even entire departments, divisions, or other administrative units. If confronted with such adverse contingency, the Board will consult with and secure the advice of faculty representatives, as provided in this section. Faculty members have the right to full access to information about the situation and the alternatives being considered. In effecting retrenchment because of financial necessity, the regents will make reductions in faculty positions only to the extent that, in their judgment, is necessary after exploring various alternative methods of achieving savings. The regents fully intend that the tenure system as a whole and the tenure rights of each individual faculty member be protected in every feasible manner during periods of such retrenchment.

**11.2 General Principles of Priority.** The following general principles of priority apply in any financial crisis.

- (a) First, the University must fully utilize all means consistent with its continued existence as an institution of high academic quality to reduce expenses or to increase income

which do not involve the termination of faculty positions or the impairment of faculty rights.

(b) Second, the University may consider alternatives which involve only the temporary reduction or postponement of faculty compensation or the reduction of fringe benefits.

(c) Only thereafter may the University suspend or terminate faculty positions in accordance with the section.

**11.3 First Stage: Alternative Approaches.** If there has been a serious reduction in the University's income, the president will report the matter to the Senate Consultative Committee. The president will identify the magnitude of the shortfall, the measures which might be taken to alleviate it (which must not involve impairment of faculty rights), and alternative measures which have been rejected. The president will give the committee full access to all available information and will respond specifically to additional proposals suggested by the committee. At this stage, the University will consider reductions in other expenses. It will also consider increases in tuition, sales of assets, and borrowing. These steps will be implemented by the president or the Board of Regents as is appropriate.

It will also consider increases in tuition, sales of assets, and borrowing. These steps will be implemented by the president or the Board of Regents as is appropriate.

**11.4 Second Stage: Reduction or Postponement of Compensation.** If the University has implemented all of the measures which are required to be considered in the first stage, which are consistent with its continued operation as an institution of high academic quality, and they are inadequate to meet the shortfall, ~~the president may, after consultation with the Faculty Consultative Committee, propose the temporary reduction or postponement of faculty compensation for a predetermined period not to exceed one year, according to a mathematic formula or similar device. The Faculty Consultative Committee will report on the adequacy of the steps taken in the first stage and make its recommendations on the proposal. If the Faculty Senate approves the proposed action (or any modification of it) by an absolute majority of its membership or by a two thirds vote of the members present and voting (a quorum being present), the Board of Regents may take that action (or any less stringent action) and, to that extent, modify the terms of the appointments of all faculty members. The Board of Regents may~~

~~rescind the action at any time thereafter. Such action may be repeated by the same procedures.~~ MUST CONSIDER TAKING THE STEPS PROVIDED BY SECTION 4.5.

**11.5 Third Stage: Fiscal Emergency.** If there has been a reduction of the University's income which is so drastic as to threaten its survival, and this threat cannot be alleviated by the measures specified above, the Board of Regents may declare a fiscal emergency. During such an emergency, the Board of Regents may terminate or suspend faculty appointments as provided in this section.

**11.51 Preliminary Procedures.** Before recommending to the Board of Regents that it declare a fiscal emergency, the president must meet with the Senate Consultative Committee to examine alternatives to and consequences of such a declaration. The president must provide the committee access to all available information. The president must provide a written report identifying the dollar amount to be saved by reducing faculty positions. This report must also identify the dollar amount proposed to be saved by any other measures to be taken, including the level of any concurrent reductions in non-faculty staff during the emergency. The Faculty Consultative Committee will prepare a written report on the president's proposal, to which the Senate Consultative Committee may add additional comments. The Faculty Senate will first consider and act on the proposal and reports. Thereafter, the University Senate may consider them. The president must attend both Senate meetings to explain the proposal and to answer questions.

After receiving the president's recommendation and the resolutions of the senates, the Board of Regents may declare a state of fiscal emergency. Before action contrary to the recommendation of the University Senate is subsequently taken, the president must report in writing and in person the reasons for this action to the Senate Consultative Committee. The Board of Regents' resolution states the maximum amount to be realized from termination or suspension of faculty appointments.

**11.52 Duration.** A fiscal emergency lasts no longer than 12 months unless renewed by the same procedure. A fiscal emergency may be rescinded at any time by the Board of Regents.

**11.53 Allocation of Shortfall.** After consultation with the Faculty Consultative Committee and the Senate Consultative Committee, the president proposes an initial allocation of the shortfall to the various collegiate units, which need not be prorated. The Committee must obtain the views of the faculty in the affected units and must hold an open meeting at which anyone may comment upon the proposed action. It may also request the assistance of other University or Senate committees in studying all or particular aspects of the educational policies and priorities involved in the action. The colleges and campuses then allocate the shortfall to the various academic units after similar consultation with the representative bodies and academic units in the colleges and similar open meetings. The plans must reflect the principles and priorities established in subsection 11.6. The colleges and campuses return their plans to the ~~vice president~~ SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS, who prepares a comprehensive plan for the University, including a list of the persons whose appointments will be suspended or terminated. This plan is submitted to the University Senate and the Faculty Senate for their recommendation. The recommendations of the Senates and the SENIOR vice president's plan will be presented to the president and the Board of Regents for action.

## **11.6 Principles Governing Termination or Suspension.**

### **11.61 General Principles.**

(a) Savings achieved through resignations, retirements renegotiations of contracts, inloading or other measures must be credited to the assigned shortfall before terminating or suspending faculty appointments.

(b) A good faith effort should be made to use temporary suspensions or voluntary furloughs rather than terminations. In this third stage, the Board of Regents may impose the temporary or permanent reduction of faculty compensation or the reduction of fringe benefits, in excess of those approved in the second stage. Suspensions without pay for one quarter in any year may be ordered in accordance with objective criteria, provided that faculty members are given at least six months notice.

(c) Terminations may not be used in case of a short-term

financial crisis, but only if the circumstances are such that the shortfall is reasonably expected to continue over a substantial number of years.

(d) A good faith effort must be made to cover as much of the shortfall as possible by allowing non-regular appointments to lapse and by giving notice to probationary faculty in accordance with the terms of their appointments.

(e) A good faith effort must be made to cover as much of the shortfall as possible by transferring faculty members to other positions for which they are qualified or by offering them retraining for available positions.

(f) The selection of faculty members within an academic unit for termination must be made on objective criteria. It may not involve a comparative evaluation of the relative merits of individuals or a repetition of the tenure-granting process.

#### **11.62 Priorities.**

(a) Unless the unit can demonstrate that essential functions could not otherwise be performed:

(1) all non-regular faculty within an academic unit must be suspended or terminated before any regular faculty may be suspended or terminated in that unit; and

(2) all probationary faculty within an academic unit must be suspended or terminated before any tenured faculty may be suspended or terminated in that unit.

(b) Care must be taken to protect the employment of women and minorities entitled to affirmative action. The SENIOR vice president FOR ACADEMIC AFFAIRS must insure that for the University as a whole the plan which is submitted does not reduce the proportion of appointments with indefinite tenure held by women or minorities entitled to affirmative action, and does not reduce the proportion of non-regular appointments held by women or minorities entitled to affirmative action.

**11.63 Notice and Severance Pay.** A faculty member whose appointment is to be terminated or suspended is entitled to a minimum of one full academic year's notice or to one year's salary as severance pay in lieu of notice, unless the appointments would otherwise expire earlier.

**11.64 Reemployment Rights.** The University will not fill any faculty position for which a faculty member with indefinite tenure who has been terminated is qualified for five years after notice of termination, unless it first offers the position to each such faculty member and gives a reasonable time for the faculty member to accept or reject it.

**11.7 Judicial Committee Report.** A faculty member whose appointment is terminated or suspended may make a written request for review by the Judicial Committee. The review will be conducted in accordance with section 15. The Judicial Committee will not reexamine the determination that a fiscal emergency exists, nor will it reexamine the educational policies and priorities pursued unless it finds a substantial failure to follow the procedures established in this section. It will only examine whether the action was taken in accordance with the procedures and standards set forth in this section, whether the action was based on a violation of academic freedom or constitutional or legal rights, or was substantially based on immaterial or improper factors. It may consolidate cases involving common issues for a single hearing.

## **SECTION 12. PROGRAMMATIC CHANGE.**

**12.1 Programmatic Change.** The University and faculty recognize that changes in academic programs are an essential part of the development and growth of the institution. These changes should reflect long-term policy and planning.

**12.2 Faculty Rights and Duties.** In the event that programmatic change leads to discontinuation of a program in which a member of the faculty is employed, the University recognizes its obligation to continue the employment of regular faculty in accordance with the terms of their employment, and to continue the employment of non-regular faculty for the term of appointment. In case of fiscal emergency, the provisions of section 11 apply. Regular faculty members who are so retained have the responsibility to accept teaching or other assignments for which they are qualified, and to accept training to qualify them for

assignment in other fields. The University has the responsibility to assign such faculty members to responsibilities as closely related to their original field of tenure as is practicable, to allow them time in which to continue scholarship in their original field if they wish, and to recognize scholarly contributions in that field as valuable in assessing their contribution to the University for pay, promotion and other purposes.

In addition to the steps mentioned above, the University has the right to offer inducements to faculty members voluntarily to change fields of study, to seek employment elsewhere, or to accept early retirement.

**12.3 REASSIGNMENTS.** IN CASES OF PROGRAMMATIC CHANGE, AN OFFICER DESIGNATED BY THE PRESIDENT WILL MAKE THE REASSIGNMENT OR OFFER OF TRAINING. THE OFFICER WILL CONSULT WITH THE FACULTY MEMBER AND THE RECEIVING UNIT AND WILL SEEK A MUTUALLY SATISFACTORY ASSIGNMENT. IF AGREEMENT CANNOT BE REACHED, THE UNIVERSITY OFFICER WILL ASSIGN NEW RESPONSIBILITIES AFTER CONSULTATION WITH THE INDIVIDUAL.

THE UNIVERSITY MAY GIVE THE FACULTY MEMBER "OTHER ASSIGNMENTS" ONLY IF ASSIGNMENTS TO TEACHING IN THE FACULTY MEMBER'S DISCIPLINE ARE NOT FEASIBLE. FOR EXAMPLE, FACULTY MIGHT BE ASSIGNED

--TO TEACH IN ANOTHER FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED

--TO PERFORM PROFESSIONAL OR ADMINISTRATIVE DUTIES, INCLUDING PROFESSIONAL PRACTICE IN A FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED.

--TO TRANSFER EFFORT, BY ASSIGNMENT IN A SUITABLE PROFESSIONAL CAPACITY, AT ANOTHER EDUCATIONAL INSTITUTION OR SIMILAR ENTITY, WHILE RETAINING UNIVERSITY TENURE, COMPENSATION, AND BENEFITS.

A FACULTY MEMBER MUST ACCEPT ANY REASONABLE REASSIGNMENT OR OFFER OF RETRAINING. FOLLOWING THE FACULTY MEMBER'S ACCEPTANCE OF THE ASSIGNMENT, ANY DISPUTE ABOUT THE REASONABLENESS OF REASSIGNMENT MAY BE TAKEN TO THE JUDICIAL COMMITTEE, AS PROVIDED IN SECTION 15.

**12.4 TERMINATION OF APPOINTMENT.** A FACULTY MEMBER WHO CHOOSES NOT TO TAKE OR ACCEPT A REASONABLE REASSIGNMENT OR RETRAINING OPPORTUNITY SHALL RECEIVE:

- (1) ASSISTANCE IN LOCATING OTHER EMPLOYMENT;
- (2) A MINIMUM OF ONE FULL ACADEMIC YEAR'S NOTICE OR ONE YEAR'S SALARY AS SEVERANCE PAY IN LIEU OF NOTICE, UNLESS THE APPOINTMENT WOULD OTHERWISE EXPIRE EARLIER.
- (3) CONTINUATION OF THE UNIVERSITY'S CONTRIBUTION TO HEALTH BENEFITS FOR ONE YEAR AFTER THE DATE OF THE TERMINATION OF THE APPOINTMENT.

IN PLACE OF THE SEVERANCE PAYMENT PROVIDED BY THIS SECTION, A FACULTY MEMBER MAY SELECT ANOTHER SEVERANCE PROGRAM FOR WHICH THE FACULTY MEMBER IS OTHERWISE ELIGIBLE AT THE TIME THE APPOINTMENT IS TERMINATED.

### **SECTION 13. JUDICIAL COMMITTEE.**

**13.1 Membership.** The Judicial Committee is composed of at least nine members of the regular faculty. The number of members and manner of appointment is governed by the University Senate Bylaws.

**13.2 Procedures.** Proceedings before the Judicial Committee will be conducted in conformity with these regulations. The Judicial Committee may adopt additional rules with the approval of the Tenure Committee.

In every case before the Judicial Committee the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR may designate the academic administrator who will represent the University as respondent. IF THE CASE INVOLVES TWO OR MORE CAMPUSES OR AREAS, THE PRESIDENT OR THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS MAY DESIGNATE THE RESPONDENT.

**13.3 Duty to Testify.** Faculty members and administrators have an obligation to appear before the Judicial Committee to give testimony in matters pending before it.

**13.4 Panels.** The Judicial Committee may sit in panels to hear individual cases. In cases under sections 10 and 14, the panel must consist of at least five members. In all other cases, the panel must consist of at least three members. The rules of

the Judicial Committee will establish the respective functions of the committee as a whole and of the individual panels.

**SECTION 14. PROCEDURES IN CASES OF UNREQUESTED LEAVE OF ABSENCE OR TERMINATION OR SUSPENSION OF A FACULTY APPOINTMENT FOR CAUSE.**

**14.1 Preliminary Proceedings.** Only a dean or an academic administrator specially designated by the ~~vice president~~ SENIOR Vice President FOR ACADEMIC AFFAIRS OR BY THE SENIOR ACADEMIC ADMINISTRATOR may initiate preliminary proceedings UNDER THIS SECTION leading to unrequested leave of absence or to suspension or removal OR TO TEMPORARY OR PERMANENT REDUCTION IN RANK. The ~~administrator~~ DEAN<sup>14</sup> must first attempt to discuss and resolve the matter with the faculty member involved.

The ~~administrator~~ DEAN must then submit the matter to the tenured faculty of the academic unit involved for their recommendation. ~~—(The tenured faculty may decide to submit the issue to the entire regular faculty of the unit.)~~

If the ~~vice president~~ SENIOR Vice President FOR ACADEMIC AFFAIRS and the Faculty Senate have expressly approved the submission of allegations of the violation of a specified policy to another body for preliminary recommendation, in place of submission to the tenured faculty of the academic unit, the ~~administrator~~ DEAN must submit the matter to that body for its recommendation.

Both the ~~administrator~~ DEAN and the faculty member may submit their views, in person or in writing, to the body making the recommendation, but neither of them may participate in the deliberation or vote. The body making the recommendation DOES SO BY SECRET BALLOT AND makes a written report to the ~~administrator~~ DEAN within 40 days of submission of the issue to it, indicating the number of votes for and against the proposed action and the reasons articulated. ~~Within 15 days after receiving the report,~~

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<sup>14</sup>THROUGHOUT THIS SECTION THE WORD "DEAN" MEANS THE DEAN OF THE COLLEGIATE UNIT OR OTHER EQUIVALENT OFFICER OR AN ACADEMIC ADMINISTRATOR SPECIFICALLY DESIGNATED FOR THIS PURPOSE BY THE SENIOR ACADEMIC ADMINISTRATOR OR BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS.

~~the administrator makes a written recommendation to the vice president. The recommendation must include a copy of the report of the panel or of the tenured faculty, as the case may be. A copy of the report must SHALL be sent to the SENIOR ACADEMIC ADMINISTRATOR AND TO THE faculty member.~~

**14.2 Formal Action.** ~~After receiving the administrator's recommendation, and giving the faculty member an opportunity to comment, the vice president will decide whether to proceed.~~ WITHIN 40 DAYS AFTER RECEIVING THE RECOMMENDATION OF THE TENURED FACULTY OR OTHER BODY, THE DEAN MUST DECIDE WHETHER TO PROCEED WITH FORMAL ACTION. BEFORE TAKING FORMAL ACTION, THE DEAN MUST CONSULT WITH THE SENIOR ACADEMIC ADMINISTRATOR. If the ~~vice president~~ DEAN does not proceed within 40 days, the charges are dropped and the faculty member and the academic unit are so notified in writing. If the ~~vice president~~ DEAN decides to proceed with formal action, the ~~vice president~~ DEAN must give written notice to the faculty member. The notice must specify the action proposed, identify the specific ground upon which it has been taken, and summarize the evidence in support. It must inform the faculty member of the right to request a hearing before the Judicial Committee and advise the faculty member of the applicable time limit for making such a request.

If the faculty member does not request a hearing within 30 days, the president may take the action proposed in the ~~vice president's~~ DEAN'S notice, without further right to a hearing.

**14.3 Judicial Committee Hearing.** The faculty member may request a hearing before the Judicial Committee by written request to the chair of the committee, filed within 30 days of the notice. The Judicial Committee may extend the 30 day period for good cause. ~~The vice president designates the administrator who will present the case. The administrator~~ DEAN will BE RESPONSIBLE FOR PRESENTING the case. The DEAN has the burden of proving the case for the proposed action by clear and convincing evidence and also has the burden of demonstrating the appropriateness of the proposed action, rather than some lesser measure.

The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case. If the committee finds that action is warranted, it may recommend action ~~which~~ THAT is less severe than that requested in

the written notice, including ~~action which does not involve the termination or suspension of an appointment~~ BUT NOT LIMITED TO, PERMANENT OR TEMPORARY REDUCTION IN SALARY OR RANK. It may not recommend more severe measures than those proposed in the ~~vice president's~~ DEAN'S notice.

The Judicial Committee sends its report to the president with copies to the faculty member, ~~and the administrator~~ THE DEAN AND THE SENIOR ADMINISTRATOR.

**14.4 Action by the President.** The president ~~must~~ SHALL give the faculty member and the ~~administrator~~ DEAN the opportunity to submit written comments on the report ~~and to make oral presentations~~. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The president may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the Senate Judicial Committee. Such administrators may communicate with the president in writing, but only if the full text of the communication is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The president shall not take action materially different from that recommended by the panel unless, prior to the action, the president has consulted with the committee. Parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the president may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard of all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The president may impose the action recommended by the committee, or any action more favorable to the faculty member. The president may impose action less favorable to the faculty member only for compelling reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies

involved. The president's written statement must be given to the parties and to the Judicial Committee. If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the president's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text of the statement will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member.

**14.5 Appeal to the Board of Regents.** If the action involves removal or if the action involves a sanction more severe than that recommended by the Judicial Committee, the faculty member may appeal to the Board of Regents. In cases in which the president imposes a sanction more severe than that recommended by the Judicial Committee, the faculty member and the president may present to the board evidence with respect to issues on which the president differs from the recommendation of the Judicial Committee. The request for a hearing must be made to the secretary of the board within ten days of the president's action.

**14.6 Temporary Suspension During Proceedings.** The ~~vice president~~ DEAN may temporarily suspend a faculty member during the proceedings, but only if there is clear evidence that the faculty member is likely to cause serious harm or injury or is not available for work. The suspension will be with full pay, unless the faculty member is not available for work. Before ordering such suspension, the ~~vice president~~ DEAN must present the evidence to a special panel of the Faculty Consultative Committee and receive their written report. The faculty member must be given the opportunity to contest the suspension before the panel.

**14.7 Resignation During Proceedings.** A faculty member may submit a written notice of resignation to the president at any time during Judicial Committee proceedings pursuant to this section. Upon the effective date of such resignation, the proceedings will be discontinued unless the faculty member concurrently files a written request with the Judicial Committee

that they be carried to completion.

## **SECTION 15. APPEALS TO THE JUDICIAL COMMITTEE.**

**15.1 Right to Review.** Any faculty member who claims that his or her rights or status under these regulations have been adversely affected without his or her consent may seek review before the Judicial Committee. Cases arising under sections 4, 7, 7A, 8, 10, ~~or~~ 11 OR 12 may be brought directly to the Judicial Committee. In other cases, the faculty member must exhaust all other available University remedies before bringing the case to the Judicial Committee; the Judicial Committee will not proceed with such a case until the appropriate University body has either decided it or has refused to consider it.

**15.2 Procedure for Securing Review.** A written request for review must be filed with the chair of the Judicial Committee within 30 days of written notice of the action challenged. The request must specify the action complained of and the remedial action the individual seeks. Within 30 days of filing, the chair of the Judicial Committee must send copies of the request to the head of the academic unit concerned and to the senior ~~vice president~~ ACADEMIC ADMINISTRATOR for academic affairs.

The Judicial Committee, however, may extend the time for filing for review for reasons that seem compelling to the committee, such as mental or physical illness, or serious personal or family problems, or doubt concerning when final action was taken.

**15.3 Hearings Before the Judicial Committee.** The person seeking review has the burden of proving by the preponderance of the evidence that the action complained of was improper unless the Judicial Committee, for good cause, otherwise directs.

The Judicial Committee does not itself decide whether the faculty member is professionally worthy of a faculty position, but only determines whether the action was based in significant degree upon any of the factors specified in subsection 7.7 or section 8.

In cases involving section 7, 8, or 11, the Judicial Committee hears the merits of the case, as provided in those sections. In

other cases, if there is an appropriate University body to review the matter, the Judicial Committee will only determine whether that body has given the faculty member due process and whether, on the basis of the facts found by that body, there has been a violation of these regulations or of the faculty member's academic freedom. If there is no appropriate University body to hear such a case, or if the Judicial Committee finds that the body which heard the case did not provide due process, the Judicial Committee may hear the merits or may appoint an ad hoc tribunal to hear them.

**15.4 Action by the Judicial Committee.** The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case.

If the Judicial Committee finds that the action complained of was improper, it also specifies the respects in which it finds the action to have been improper and recommends appropriate remedial action.

If it recommends reconsideration, it may specify the manner in which reconsideration will be undertaken to avoid the influence of improper factors. If a probationary faculty member has reached the maximum probationary period, the committee may recommend a non-regular appointment for an additional academic year to provide for reconsideration.

The Judicial Committee sends its report to the president with copies to the faculty member and the administrator who appeared as respondent.

**15.5 Action by the President.** The president must give the faculty member and the administrator the opportunity to submit written comments on the report. In determining what action to take, the president may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The president may not discuss the case with any administrator who was responsible for the decision at issue in the case or who participated in the presentation of the matter to the Senate Judicial Committee. Such administrators may communicate with the president in writing, but only if the full text of the communications is given to the faculty member and the

faculty member is given a reasonable opportunity to respond to it.

The president shall not take action materially different from that recommended by the panel unless, prior to the action, the president has consulted with the committee. The parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the president may request the Judicial Committee to make further findings of fact, to clarify its recommendation or to reconsider its recommendation. The reconsideration will be made by those who have heard all of the evidence in the case, but the full Judicial Committee may consult with them on questions of general policy.

The president may impose the action recommended by the committee or any action more favorable to the faculty member. The president may impose action less favorable to the faculty member only for important substantive reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved. The president's written statement must be given to the parties and to the Judicial Committee. If the Judicial Committee decides that the president has imposed an action that is less favorable to the faculty member than it had recommended, it shall inform the faculty by publication of the president's action in the docket of the Faculty Senate. If the faculty member waives rights to confidentiality, the full text of the statement will be published. Otherwise a summary of the statement will be published without identification of the faculty member or information that may indirectly identify the faculty member. The president's written statement must be given to the parties and to the Judicial Committee.

**15.6 Actions Requiring Reconsideration.** If the Judicial Committee recommends reconsideration of an action, that reconsideration will be undertaken under the supervision of the ~~vice-president~~ SENIOR ACADEMIC ADMINISTRATOR, unless otherwise specified. The Judicial Committee may retain provisional jurisdiction of the matter to review allegations that the reconsideration itself was improper, and may make supplementary findings, conclusions, and recommendations in this regard.

**15.7 Recommendations for Changes in University Policies and Procedures.** As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure Committee or the SENIOR vice president FOR ACADEMIC AFFAIRS may initiate steps to clarify or improve University rules or policies involved. The changes will not affect the outcome of the case before the committee.

## **SECTION 16. TENURE COMMITTEE.**

**16.1 Membership.** The ~~Tenure Committee~~ TENURE SUBCOMMITTEE OF THE SENATE FACULTY AFFAIRS COMMITTEE (REFERRED TO ELSEWHERE IN THESE REGULATIONS AS THE TENURE COMMITTEE) is composed of at least seven members of the faculty and such other persons as the University Senate Bylaws shall provide. The manner of appointment is governed by the University Senate Bylaws.

**16.2 Interpretations.** The SENIOR vice president FOR ACADEMIC AFFAIRS and the Tenure Committee may propose formal interpretations of these regulations, consistent with their terms. Such interpretations must be reported to the Faculty Senate and the Board of Regents. If adopted by the Board of Regents, such interpretations will be binding in all cases subsequently arising.

**16.3 Procedures.** The SENIOR vice president FOR ACADEMIC AFFAIRS and the Tenure Committee may jointly adopt the procedures provided by subsections 7.4 and 7.61. Such procedures must be reported to the Faculty Senate and the Board of Regents before they go into effect.

**16.4 Additional Functions.** The Tenure Committee also advises the University and makes recommendations concerning the interpretation and amendment of these regulations, but such advice and recommendations are not binding on the Judicial Committee.

## **SECTION 17. WRITTEN NOTICE.**

Notices of termination of a probationary appointment, of

suspension or termination of an appointment, or of placement on unrequested leave of absence for disability, must be sent by registered or certified mail to the last known residence address of the faculty member concerned and also be campus mail to the faculty member's campus address, if any. The written notice satisfies the applicable time requirement if it is postmarked at or before midnight of the applicable date.

Failure to comply fully with this section is immaterial if, in fact, the faculty member was not prejudiced by such failure.

#### **SECTION 18. PUBLICATION.**

These regulations, and the interpretations referred to in section 16, will be published and made available to all faculty members. Every faculty member who holds a regular or non-regular appointment, except for courtesy faculty appointments without salary, must be given a copy of the current regulations and copies of subsequent amendments or published interpretations.

#### **SECTION 19. AMENDMENT.**

These regulations are subject to amendment by the Board of Regents. Proposed amendments from any source will be submitted to the Faculty Senate for its advice and recommendation before final action by the Board of Regents. The Faculty Senate will solicit the recommendations of the Faculty Affairs Committee, the Judicial Committee, and the Tenure Committee, before giving its advice and recommendation.

## INTERPRETATIONS

Dated April 12, 1985; September 8, 1988; March 12, 1993 and October 13, 1985.

### **1. Interpretation of Sections 3-9 Promotion and Tenure Decisions Permitted by Provosts and Chancellors during 1995-96.**

To accommodate current restructuring of the central administration, final review and related aspects of the promotion and tenure process may occur at the level of provosts and chancellors during the 1995-96 academic year. Provosts and chancellors will receive consultation regarding proper procedures from the Dean of the Graduate School.

### **2. Interpretation of Subsection 5.5: Retroactive Application.**

A probationary faculty member may elect to extend the probationary period by one year if

- (1) the member became a parent, by birth or by adoptive/foster placement, within five years before the effective date of subsection 5.5; and
- (2) has not been given notice of termination.

### **3. Interpretation of Subsection 5.5: Major Caregiver Responsibilities.**

A request for extension of the maximum probationary period for major caregiver responsibilities should be made only if those responsibilities are very substantial and continue over an extended period of time. The probationary faculty member must submit a written application to the head of the academic unit, who will forward it for action and approval through the appropriate University channels. If an administrator does not approve the request, the faculty member may file a grievance under applicable University policies.

### **4. Interpretation of Subsection 7.11: Consideration of Factors Other than Primary Tenure Criteria.**

The use of any factor other than teaching, research, and service in making the decision about a probationary faculty

member must be specifically stated and justified at the time of the decision. This rule applies both when that factor is a criterion for judging the candidate's progress and when it is an element in establishing or modifying the standard which the faculty member should achieve.

A change in the program of a unit or college may be used as a factor in a decision only when the change has been adopted in accordance with the established procedures of the University, after consultation as required by those procedures. It must be explicitly identified. If such changes affect the prospects of probationary faculty members to achieve tenure, the faculty members should be given the earliest possible notice of the potential impact of such changes.

**5. Interpretation of Subsection 7.11: Discipline-Related Service.**

Discipline-related service, as one of the primary criteria for tenure evaluation, is limited to those endeavors specifically related to the individual's academic expertise and faculty appointment in accordance with the academic unit's Mission Statement. This service must be defined in the Mission Statement as central and necessary to the operation of the academic unit. An equivalent term might be "unit mission-related service" – for example, clinical service in a teaching hospital situation that does not involve students directly.

**6. Interpretation of Sections 14 and 15: Working Days.**

The word "days" is interpreted to imply working days, not calendar days.

**7. Interpretation of Amendments to Subsections 14.1 and 14.2: Timely Responses in Cases of Unrequested Leave of Absence, Termination, or Suspension.**

The timelines for responses by either the involved faculty member or administrator may be extended by agreement of the parties to the proceeding or for extraordinary circumstances. An agreement of the parties to extend the time limit shall be in writing, signed by both parties or their representatives. If the parties do not agree, either party may apply to the chair of the Senate Judicial Committee for an extension of the time in which

to take the steps required in this section. If the faculty member has failed to act within the time limits prescribed in these sections, the responsible administrator may request the chair of the Senate Judicial Committee to set a specific date by which the faculty member must take action; if the faculty member fails to do so, the petition for review will be dismissed without further proceedings and the requested disciplinary action (or any lesser sanction) may be taken. If the responsible administrator has failed to act within the time limits prescribed in these sections, the faculty member may request the chair of the Senate Judicial Committee to set a specific date by which the administrator must take action; if the administrator fails to do so, the proceedings shall be dismissed and further action can be taken only by reinitiating the entire proceedings.

**8. Interpretation of Amendment to Subsection 10.2:  
Faculty Assignments.**

FACULTY MEMBERS ARE FREE TO CHOOSE TOPICS FOR RESEARCH OR OUTREACH AND TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, IN ACCORDANCE WITH THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THE HEAD OF THE ACADEMIC UNIT WILL ASSIGN INDIVIDUAL FACULTY MEMBERS TO TEACH SPECIFIC COURSES IN ACCORDANCE WITH THE ACADEMIC WORKLOAD STATEMENT AND OTHER POLICIES ADOPTED BY THE FACULTY OF THAT UNIT. A FACULTY MEMBER MAY CHALLENGE AN ASSIGNMENT BY SHOWING THAT IT IS UNREASONABLE. AN ASSIGNMENT IS UNREASONABLE IF: (A) TAKEN AS A WHOLE, IT EXCEEDS THE WORKLOAD EXPECTED IN THE WORKLOAD STATEMENT OF THAT UNIT, (B) THE FACULTY MEMBER LACKS THE BASIC QUALIFICATIONS TO TEACH THE COURSE, OR (C) THE ASSIGNMENT WAS MADE IN VIOLATION OF THE FACULTY MEMBER'S ACADEMIC FREEDOM OR IN VIOLATION OF ANOTHER SPECIFIC UNIVERSITY POLICY. THE FACULTY MEMBER SHOULD CARRY OUT THE TEACHING ASSIGNMENT PENDING RESOLUTION OF ANY GRIEVANCE, UNLESS THE RESPONSIBLE GRIEVANCE OR HEARING OFFICER OR PANEL INDICATES THAT PROVISIONAL MEASURES ARE APPROPRIATE.

# **Brief Background of Tenure Crisis**

by Mary Dempsey

## **1995**

- **AHC Provost Attacks Tenure Code**
  - Hires Consulting Firm & Washington, D.C. Law Firm
  - States Tenure Code Inhibits AHC Restructuring
  - Involves Regents, Legislature and Governor
- **Regents Request Review of Tenure Code**
  - Joint Administrative/Faculty Working Group Formed

## **Winter Quarter, 1996**

- **Tenure Discussion Forums Held**
- **UFA Organizes**
- **Tenure Code Revisions Prepared by 4 Lawyers**
- **Unedited Revisions Released by Tenure Committee**
- **Group of 19 Faculty Oppose Revision Process**

## **Spring Quarter, 1996**

- **Faculty Senate Votes to Disband Tenure Working Group**
- **Tenure Revision Delegated to Senate Committees**

- **Revisions Discussed & Approved by Faculty Senate**
- **Revisions Approved by President and His Cabinet**
- **Revisions Presented to Regents -- June Meeting**
  - **Few Questions or Comments by Regents**
  - **Regents Hire a Tenure Consultant**

**Summer, 1996**

- **Regents Hold July Meeting**
  - **No Questions for Faculty**
  - **No Action on Revisions**
- **Regents Hold August Retreat**
  - **Some Discussion with Faculty**
  - **Regents Hire Washington, D.C. Lawyer**
  - **Lawyer Writes Regents' Revisions to Code**
- **Regents Hold September Meeting at Morris**
  - **Their Lawyer Presents Requested Revisions**
  - **No Questions or Comments Allowed from Faculty**
  - **Faculty Later Receive Copies of Revisions**
  - **Revisions are Radical and Out of Mainstream**
  - **Revisions will Eliminate Academic Freedom**

**Fall Quarter, 1996**

- **Regents Professors Urge Faculty to Sign UFA Cards**
- **UFA Obtains Cease and Desist Order; Law School Excluded**

- **Public Pressure on Regents Increases**
  - Legislators, Minnesota Foundation, Alumni Association
- **Regents Hold Closed Door Meetings**
- **Regents Release Spence Code Revision for Law School**
  - Inflammatory Language Removed
  - Remainder like Morris Proposal
- **Regents Hold October Meeting**
  - Dean Sullivan [Law School] Presents Code for Law School
  - Sullivan Proposal Similar to June Faculty Version
  - Regents Refer both Proposals for Law School to Faculty  
Committees & Senate
  - Referral in accord with Present Tenure Regulations
- **Faculty Committees Meet; Concerns Expressed**
  - Legality of Review
  - Code for a Single Unit??
- **Faculty Senate Meets**