

PROPOSED NEW VERSION OF

APPENDIX B TO FACULTY HANDBOOK

FACULTY MEDIATION AND GRIEVANCE SYSTEM

I. Introduction

A. General Principles

The University of Alabama endeavors to promote the fair and equitable treatment of all members of the University community, including faculty members. In light of that goal, the University maintains a grievance procedure for faculty members as defined herein so that serious faculty disputes may be handled as fairly, rationally, and expeditiously as possible. Because it is important that faculty members participate in their own governance and that of the University, the faculty maintains an important role in this mediation and grievance process. This faculty involvement, along with the process itself, is meant to help uphold the fundamental principles of academic rights, academic freedom, and contractual understanding.

B. Purpose and Scope of Mediation and Grievance System

Purpose: This Mediation and Grievance System provides members of the faculty with a means of presenting grievances to other members of the faculty for evaluation, resolution, and in certain circumstances, recommendation to the President. These procedures adhere to the principles of professional academic practices and are not considered to be judicial or legal in nature. They provide a standard administrative process that ensures that faculty grievances receive fair and prompt consideration.

Scope: The process described herein is applicable only to grievances regarding actions taken directly and specifically against the Grievant or conduct directed specifically toward the grievant.

Review by the Mediation Committee discussed below must be based on any of the following:

- official disciplinary sanctions taken against (or proposed to be taken against) the faculty member
- a violation of a written and duly approved departmental, divisional, or University policy, rule, or regulation, the violation of which has a substantial negative impact on the faculty member as determined by the Mediation Committee
- significant procedural improprieties occurred in matters of retention, tenure or promotion
- an improper and prejudicial action by an administrator or faculty committee, if the Mediation Committee determines that the issues raised by that action are sufficiently related to the concerns of an academic community.

Issues not Subject to Review: Decisions made by administrators in the ordinary course of their administration (including but not limited to teaching assignments, single course assignments,

teaching schedules (date/time of class), room assignments, administrative duties, classroom equipment, teacher recognition, assigning office or lab space, allocating departmental travel funds, committee assignments, annual performance evaluations, setting hiring salaries, awarding merit or equity raises, etc.) are not subject to review by the Mediation Committee or a Tribunal discussed below. Faculty members serving in an administrative role (department chair, program director, dean, etc.) serve at the pleasure of the administration. Loss of an administrative appointment cannot be the subject of a grievance reviewable by either the Mediation Committee or by a Tribunal. In those situations in which faculty receive supplemental or extra pay for performing extra duties, decisions made by administrators in removing those opportunities for supplemental or extra pay are also not subject to review by the Mediation Committee.

Likewise, factual determinations by Title IX Investigators, EEO Investigators, or other university administrators appointed to investigate issues regarding sexual misconduct, illegal discrimination or harassment (based on genetic information, race, color, religion, national origin, sex-which includes sexual orientation, gender identity, and gender expression-, age, disability, or veteran status) or related retaliation are not subject to review by the Mediation Committee or a Tribunal. Those issues and resulting sanctions are reviewable/appealable only pursuant to the Faculty Sexual Misconduct Policy and Procedures set forth below and/or the University's Consensual Romantic Relationships Policy and/or Harassment Policy.

Review by the Tribunal discussed below is determined by the Mediation Committee or by the nature of the sanction and is limited to:

- a review of severe sanctions as defined in Section C.6 below or
- whenever the Mediation Committee, after conducting a factual investigation, determines that one of the following occurred:
 - Significant procedural improprieties occurred in matters of retention, tenure or promotion
 - a written and duly approved departmental, divisional, or University policy, rule, or regulation was blatantly violated causing a substantial negative impact on the faculty member that is of concern to the entire academic community.

Restrictions in Grievances before Mediation Committee and/or Tribunal: It is not within the purview of the Mediation Committee or Tribunal to make any judgment regarding professional qualifications or professional competence of a grievant. That responsibility is vested in the department, college or school peer groups; academic administrators; and consultants used by the department, college or school peer groups. In response to a claim of inadequate review, the role of the Mediation Committee (or Tribunal, if applicable) shall be limited to inquiring whether the decision was a bona fide, conscientious exercise of professional academic judgment, using relevant standards of the institution.

Consistent with that overall limitation, the role of a Mediation Committee and/or Tribunal is restricted when considering grievances arising from retention, tenure, or promotion recommendations, or from recommendations made by departmental or divisional faculty committees elected by the faculty or from recommendations made by the departmental or

divisional faculty as a whole. In such cases, neither the Mediation Committee nor the Tribunal shall substitute its judgment on the merits for that of the faculty committees or administrators. The Tribunal will restrict its attention to claims that the procedures followed were not in accord with the Faculty Handbook and with any supplementary procedures adopted by the departmental and divisional faculties. Neither the Mediation Committee nor the Tribunal likewise have jurisdiction to review a decision to non-renew an appointment or contract at the end of a renewable or non-renewable appointment.

C. Definitions

1. “University” means The University of Alabama in Tuscaloosa, Alabama.
2. “Faculty” or “faculty members” means one or more persons with tenured or probationary/tenure-track appointments or renewable contract appointments to the faculty of the University. Except where otherwise clarified herein, “faculty” does not include part-time, temporary or adjunct faculty members.
3. “Administrators” or “administrative faculty” are faculty members whose assignment to administrative duties is at least 50 percent or who hold administrative assignments at or above the level of departmental chairperson.
4. A “work day” is any day on which the University is in session, excluding weekends, University holidays, and the periods between the last day of final examinations and the first day of classes for the next term (Fall, Spring, Summer I and Summer II).
5. A “work week” is five work days.
6. “Severe sanction” is a type of serious discipline that has been imposed or is proposed to be imposed on a faculty member. Decisions made by administrators in the ordinary course of their administration (including but not limited to teaching assignments, single course assignments, teaching schedules (date/time of class), room assignments, administrative duties, classroom equipment, teacher recognition, assigning office or lab space, allocating departmental travel funds, committee assignments, annual performance evaluations, setting hiring salaries, awarding merit or equity raises, etc.) and minor discipline as defined in the Progressive Discipline section of the Faculty Handbook shall not be considered severe sanctions. In addition, non-renewal of an appointment or contract at the end of a contract period is not a severe sanction.

Examples of a severe sanction include when an administrator does or seeks to:

- Revoke tenure and/or dismiss a tenured faculty member for adequate cause
- Dismiss a tenure-track (probationary) faculty member for adequate cause, before the end of the term specified by the Faculty Handbook
- Dismiss a renewable contract faculty member before the end of the term specified in a contract or appointment letter between the University and the faculty member

- Suspend, with or without pay, a faculty member from service for a stated period (This does not include paid administrative leave pending outcome of an investigation or mediation or tribunal)
- Reduce a faculty member's rank (demotion)
- Reduce an academic year salary before the end of that academic year

7. Definitions of other terms may appear in other sections of this document.

D. Description and Selection of the Mediation Committee, Tribunal, and Compliance Tribunal

The Faculty Mediation and Grievance Procedure involves four opportunities for faculty input into the resolution of faculty grievances or proposed severe sanctions: as the Faculty Liaison, as a member of the Mediation Committee, as a member of a Tribunal if the matter is eligible for a hearing, or as a member of a Compliance Tribunal, if the matter involves alleged violations of the Sexual Misconduct Policy, Harassment Policy, or Consensual Romantic Relationships Policy and the sanction imposed or sought to be imposed constitutes a severe sanction as described in Section I.C. above.

1. Faculty Liaison

Annually, the Provost, with consultation of the President of the Faculty Senate, will select a senior tenured faculty member as Faculty Liaison, who will act as a liaison between the Petitioner, the Respondent, and the Mediation Committee and/or Tribunals and/or Compliance Tribunals. The Faculty Liaison will also be responsible for supplying any support services or advice needed by Tribunals, including helping with investigations, arranging hearings, and establishing timetables and schedules which will result in fair and expeditious hearings. In particular, the Faculty Liaison will prepare a model set of timetables for a Tribunal to consider when adopting its rules. The Faculty Liaison will also be responsible for training the Mediation Committee and Tribunals discussed below.

2. Mediation Committee Membership

The Mediation Committee is composed of six tenured faculty members who are not administrators and two administrators. The six faculty members serve staggered three-year terms such that two terms conclude on August 15 each year, and are elected by the Faculty Senate at its annual March meeting to begin serving the next academic year. No more than one faculty representative may be from any one academic division. Faculty members completing a term on the committee are ineligible for re-election until two years have passed from completion of their respective terms. Any non-administrative faculty vacancy occurring on the committee may be filled on a temporary basis by a majority vote of the rest of the committee but shall be filled for the full remainder of the term by the Faculty Senate.

The President of the University or his or her designee chooses the two administrative members of the committee from among the administrators of the University who are tenured in one of the academic programs and who hold an administrative appointment in an academic area.

Mediation Committee Chair. At the start of the Fall semester, the Mediation Committee selects its chairperson from among the non-administrative faculty members. The chairperson is responsible for coordinating and expediting the work of the committee, ensuring that grievances are resolved or, if eligible, submitted to a Tribunal generally within eight work weeks (excluding University closings and

summer terms) from the time the grievances are received by the committee. If additional time is needed to effectuate a resolution, the Mediation Committee may extend this time. In that instance, the Mediation Committee should notify the parties of the extended time period and articulate a rational basis for the need for additional time.

Grounds for Recusal/Disqualification of Mediation Committee. Members of the Mediation Committee shall disqualify/recuse themselves from participating in a particular grievance if they or reasonable persons would believe they cannot render an impartial decision because of personal affiliation and/or a conflict of interest. Members disqualifying themselves on one of these bases should seek to provide a written communication to the Chairperson to that effect within seven (7) calendar days of their receipt of information regarding their responsibility to disqualify/recuse themselves. The Mediation Committee may decide a grievance with one less member; if multiple recusals occur, however, the Mediation Committee shall elect a tenured faculty member to fill in on a temporary case-specific basis until resolution of that grievance.

3. Hearing Panel from Which Tribunals Are Selected

Each Tribunal selected to hear eligible grievances and proposed serious sanctions (see Section I.C. above) will consist of five (5) tenured faculty members selected by the processes described below.

11-member Hearing Panel List. When a Tribunal is needed to hear a matter and make a recommendation, the Provost's office will prepare a list of all tenured faculty members (including faculty members holding administrative rank) eligible to serve on a Tribunal. To be eligible, a tenured faculty member must have worked at the University for at least three years and must not be a member of the Mediation Committee. The Provost, in conjunction with the President of the Faculty Senate, will use a random selection process to identify a panel of 11 tenured faculty members. (The random selection process will consist of using a random number generator to select names from an ordered list of eligible faculty members who are not expected to be on leave during the academic year.) All faculty who have administrative positions of department or division chair or higher and faculty members in the department, school or college of the primary appointment of the Petitioner or Respondent will be excluded from participation (and not included in the random selection process).

Recusals of Hearing Panel for Tribunal. When a Tribunal must be convened for a particular eligible matter, the Chair of the Mediation Committee, with assistance from the Provost's Office and Faculty Liaison, will notify the 11-member Hearing Panel in a confidential communication of the salient issue(s) that will be presented to the Tribunal and of the identity of the Petitioner, Respondent, and department and college involved. A Hearing Panel member shall disqualify/recuse themselves from participating in a particular grievance hearing if they or reasonable persons would believe they cannot render an impartial decision because of personal affiliation and/or a conflict of interest. A Hearing Panel member disqualifying themselves on one of these bases should seek to provide a written communication to the Grievance Committee Chairperson to that effect within seven (7) calendar days of their receipt of information regarding their responsibility to disqualify/recuse themselves.

After giving Hearing Panel members an opportunity to recuse themselves, the Mediation Committee Chair will then provide the parties with a list of those who have not recused themselves or otherwise been removed by the Mediation Committee. This list should contain at least nine (9) names. Parties to the

grievance may then object to the appointment of a Tribunal member by presenting a reason for objection to the Mediation Committee Chairperson, who will then decide whether to force recusal of any other Hearing Panel members.

Selection of Tribunal. The Tribunal will consist of five members. Each of the parties will have one work week after receipt of the list of available Hearing Panel members in which to choose two persons from the list to serve on the Tribunal. The remaining member (or members if the parties choose the same persons) will be selected in a meeting led by the Faculty Liaison with the two parties to the matter alternately striking a name from the list (with the Petitioner having the first strike) until the requisite five names remain.

If a Tribunal member retires or otherwise leaves the University during the course of a grievance, or if a Tribunal member is otherwise unable to continue, the remaining members of the Tribunal shall proceed. If Tribunal members have a compelling reason why, after the beginning of the dispute, they cannot proceed, the Tribunal will continue without them. If two Tribunal members cannot proceed, a new Tribunal will be chosen, and the formal hearing will recommence from the beginning.

Tribunal Chairperson. The Tribunal will promptly elect its own chairperson from among the Tribunal members. The Faculty Liaison will work with the Tribunal Chairperson and Grievance Committee Chairperson to effectuate a timely and effective transition to the Tribunal process.

4. Compliance Tribunal

A Compliance Tribunal described below will be utilized when dealing with allegations of Prohibited Conduct as defined in the University's Sexual Misconduct Policy or due to other allegations of conduct in violation of the University's Consensual Romantic Relationships Policy or Harassment Policy.

Each year, the Provost's Office, in consultation with the Faculty Senate, will appoint tenured faculty members from different colleges who have worked at the University at least three years to serve as members of a Compliance Tribunal. These faculty members shall receive specialized training with regard to processing of complaints of Prohibited Conduct under the Sexual Misconduct Policy and complaints of violations of the Consensual Romantic Relationships Policy and Harassment Policy.

A Compliance Tribunal member shall disqualify/recuse themselves from participating in a particular grievance hearing if they or reasonable persons would believe they cannot render an impartial decision because of personal affiliation and/or a conflict of interest. A Compliance Tribunal member disqualifying themselves on one of these bases should seek to provide a written communication to the Provost's Office to that effect within seven (7) calendar days of their receipt of information regarding their responsibility to disqualify/recuse themselves.

Selection of Compliance Tribunal. When a Compliance Tribunal must be convened, the Provost (or their designee), in consultation with the Faculty Liaison, will within seven (7) business days identify at least five members of the trained Compliance Tribunal who are not employed in the pertinent college(s) involved, who do not appear to have a personal affiliation and/or a conflict of interest with the Complainant and/or Respondent, and who are available to hear the matter. The Faculty Liaison will thereafter provide those names to Complainant and Respondent, who will then have three (3) business days to provide to the Faculty Liaison and Provost written objections to any of the potential Compliance

Tribunal members. The objections must articulate facts that would support a conclusion that the potential Compliance Tribunal member should be recused or disqualified from participating in their hearing because of personal affiliation and/or conflict of interest that would impact their ability to render an impartial decision. A final selection of the three-member Compliance Tribunal will be made by the Provost (or their designee) and Faculty Liaison after the Faculty Liaison has sought and timely received feedback from Complainant(s) and Respondent(s) or those who will be significantly involved as a witness in the hearing.

A Compliance Tribunal member who has been selected shall disqualify/recuse themselves from participating in a particular grievance hearing if they or reasonable persons would believe they cannot render an impartial decision because of personal affiliation and/or a conflict of interest. A Compliance Tribunal member disqualifying themselves on one of these bases should seek to provide a written communication to the Provost's Office to that effect within seven (7) calendar days of their receipt of information regarding their responsibility to disqualify/recuse themselves. If a recusal occurs, the Provost, in consultation with the Faculty Liaison, will select a replacement. The parties will have the same opportunity to object to the replacement (as noted in the paragraph above), and the Compliance Tribunal member, after hearing more of the details, will have an opportunity to recuse themselves. This process will continue until a three-member Compliance Tribunal is selected to hear the matter.

If a Compliance Tribunal member who has been selected retires or otherwise leaves the University prior to or during the course of a hearing, or if a Compliance Tribunal member is otherwise unable to participate or continue, the two remaining members of the Tribunal shall proceed. If a Compliance Tribunal member has a compelling reason why, after being selected, they cannot proceed, the two-member Compliance Tribunal will continue. If two Compliance Tribunal members cannot proceed, a new Compliance Tribunal of three members will be chosen, and the hearing will recommence from the beginning.

Compliance Tribunal Chairperson. Members of the Compliance Tribunal will select the Chairperson from among the three selected Compliance Tribunal members. The Faculty Liaison will work with the Investigative Office (e.g., Title IX or EOP or Designated Harassment Resource Person) and the Compliance Tribunal Chairperson to promptly start the Compliance Tribunal process discussed in Section IV.

II. Mediation Committee Procedures

A. Attempted Informal Administrative Resolution of Grievances Required

An informal resolution to a dispute is preferable to resorting to the formal grievance procedure. Therefore, faculty members are required to make reasonable and good faith efforts to resolve disputes informally before availing themselves of the formal grievance process. In order to fulfill the requirement of attempted informal resolution, faculty members who believe that an improper action by a University administrator or faculty committee has affected them prejudicially shall attempt to resolve their problems first through verbal and written discussions with the appropriate academic administrative chain. For faculty members, this chain is the head of their administrative subunits (if any), then their department chair or assistant/associate dean (if any), and then their dean. A faculty member who does not receive an

acceptable decision within two work weeks after discussing with the appropriate administrator in the chain is entitled to initiate verbal and written discussions with the next higher administrator, or if the last discussion in the chain was at the Dean's level, may seek guidance from the Mediation Committee. Prior to seeking review by the Mediation Committee, the faculty member may, but does not have to, consult the Provost (or designee) if the Dean has not provided an acceptable solution to the grievance. If a faculty member makes a reasonable good faith effort to address an issue with the proper administrators and does not receive an acceptable response, then the faculty member has met the informal resolution requirement and may seek to use the formal grievance procedure by submitting a written complaint to the Mediation Committee.

B. Petitioner's Complaint to Mediation Committee

1. The Written Complaint As First Step in Formal Grievance Process

If a faculty member has been unable to resolve a grievance informally, they should submit a written complaint to the Mediation Committee. The complaint shall:

- describe in detail the nature of the grievance
- include a concise statement of the facts from which the grievance arose
- identify the date of the decision by the individual that serves as the basis for the grievance
- describe how the grievance falls within the scope of permitted grievances set forth in Section I. B. of this document
- identify against whom the grievance is directed (Respondent)
- summarize all attempts to informally resolve the dispute
- describe the relief sought

The Petitioner may provide any information deemed pertinent to the grievance. If the Petitioner is the administrator seeking to impose a severe sanction for which review must occur before imposition of the sanction, then the administrator should provide all information that would support the administrator's proposed severe sanction. To the extent the Mediation Committee creates complaint intake forms, the Petitioner shall use those to submit the information identified above. All materials provided by the Petitioner will be shared with the Respondent within one work week of being received by the Mediation Committee.

2. Time Limit Within Which to File A Written Complaint to Mediation Committee

In order to be considered by the Mediation Committee, the written complaint must demonstrate that the Petitioner initiated the resolution process at the first level within eight (8) work weeks of the time that the Petitioner first knew or reasonably should have known about the matter or administrative decision that is the subject of the grievance. The time during which the faculty member is seeking informal resolution is included in the eight work-week time limit.

3. Mediation Committee's Work

1. Decision to Accept or Dismiss Complaint

Based on the contents of the complaint and any additional information that the Mediation Committee may seek from the faculty Grievant, and/or Respondent or others involved, the Committee will decide, based on the guidelines in Section I. B. above, whether the complaint shall be accepted initially for its review and whether mediation may be attempted. The Committee, acting either as a whole or through specifically designated members may meet with the faculty Grievant and/or with the Respondent or others to clarify and ensure adequate factual support for the allegations presented. If the facts alleged in the grievance, even if shown to be true, would not constitute a grievable action as defined in Section I. B. above (e.g. actions taken by administrators in the routine course of their duties), the Mediation Committee may dismiss the complaint without any fact finding efforts.

After fact finding and other review, the Committee will vote by simple majority to determine whether sufficient grounds exist consistent with Section I. B. above to support a grievance before the Mediation Committee and whether the faculty grievant has made a sufficient good faith effort to reach informal resolution. If it is determined that the matters discussed in the complaint are outside the scope of reviewable issues or if there has not been sufficient good faith efforts to reach informal resolution, then the Committee will dismiss the complaint. The Committee may require specific further attempts at informal resolution and/or require the parties to submit additional evidentiary support for their positions before making a final official decision to accept or dismiss.

If the Committee decides to dismiss the complaint, written notice will be provided to the Grievant and Respondent. A decision to dismiss a complaint can be appealed to the Provost who, at their discretion, can overrule the Committee's decision and require that the Committee accept the complaint.

If the Committee accepts the complaint, it will (1) promptly notify the Grievant which aspects of the complaint, consistent with Section I.B., have been accepted for review and resolution; (2) notify the Respondent and provide a copy of the complaint and the Mediation Committee's rationale consistent with Section I.B. for accepting the grievance; (3) and provide an opportunity for both parties to submit relevant written responses and other evidence to the Committee. For each allegation made by the grievant, the Committee must determine whether it is within the scope of an eligible grievance as defined in Section I.B.

2. Mediation Committee's Work Once It Has Accepted a Grievance For Action

After a complaint has been officially accepted for action, the Mediation Committee will provide Petitioner and Respondent(s) with the option of engaging in mediation to resolve the dispute. If both parties agree to attempt mediation, the Mediation Committee will require the Respondent to submit a written response to all allegations made by the Petitioner and accepted by the Mediation Committee for review (unless a full response has previously been provided). The Committee will, in an informal process, attempt to facilitate a resolution by whatever techniques and procedures it deems most appropriate. This could include, but is not limited to, designation of an investigator (on or off the committee) to interview parties and witnesses and review documents or retention of an individual with dispute resolution expertise to assist the Mediation Committee or the parties. The Mediation Committee or members thereof or their designees may meet privately with either of the parties or with other informed persons to determine the evidence in support of or in defense of the allegations and to explore the possibility of finding a resolution upon which the parties can agree.

Every effort will be made to maintain an atmosphere that encourages collegial resolution of the grievance. In particular, neither party may be represented or accompanied by an attorney as part of the mediation process, though the parties may consult with an attorney outside of the Mediation Committee proceedings at their own expense.

A Petitioner reserves the right to withdraw a grievance at any time. Unless withdrawn, the Respondent must respond to a grievance accepted for action. If a settlement is agreed to by both parties, that settlement will be referred to the Provost for review with the intent of executing a binding agreement in the best interest of the parties and The University of Alabama. In those cases, the process is over and no further action shall be taken.

The Mediation Committee has the power to conclude a mediation without settlement if it finds that both parties have participated in good faith and that settlement is impossible or inappropriate. In those cases, the Mediation Committee will detail its efforts in a memo to the Provost with a recommendation that the matter be closed or that, if eligible under Section I.B. above, it be referred to a Tribunal.

3. Mediation Committee's Referral of Eligible Matters to Tribunal

If a satisfactory resolution is not reached through the Mediation Committee proceedings and the matter is eligible for review by a Tribunal pursuant to Section I B. above, the Mediation Committee shall prepare a confidential report for the benefit of the Tribunal identifying the specific grounds upon which it accepted the grievance and which of those actions would be eligible for review by a Tribunal. Both parties to the grievance may inspect that report but may not make or otherwise obtain a copy of it.

If the grievant has made allegations that are not within the purview of the Mediation Committee, those issues should be identified and the Mediation Committee must articulate why it did not deem those matters to be within the scope of the Mediation Committee. Subject to section I.B. above, the Mediation Committee has the authority to decide whether a particular matter is entitled to a Tribunal; a decision adverse to the Petitioner may be reversed upon appeal to the Provost.

4. Confidentiality of the Process and Document Retention

All Mediation Committee proceedings involving faculty grievances will be kept confidential to the extent possible. Information will be shared only on a need-to-know basis. Every person involved in mediation is expected to respect the confidentiality of the process, and every effort will be made to maintain an atmosphere that encourages collegial resolution of the problem. A breach of confidentiality by any party to mediation or by a Mediation Committee member may subject the individual to disciplinary action and resulting sanctions.

The Chair of the Mediation Committee shall maintain a file of each active mediation (with all parties' submitted documents, any committee members' email discussion, notes, etc.). At the close of a mediation, the Chair of the Mediation Committee shall direct committee members to deposit all notes, emails, and everything related to the grievance in a confidential repository. Upon providing materials to the Chair, all other documentation retained by the individuals should be destroyed. The Chair shall organize the content of the confidential repository file and remove duplicate materials. Once the case is closed, the Committee Chairperson will remove access to the file. Unless subpoenaed by an agency or court with subpoena power or subject to production in discovery in litigation, efforts will be made to

protect the release of mediation committee files to third parties. If the matter was referred to the Tribunal, the Tribunal would have the original referral report, and a copy would be retained in the Mediation Committee's file.

At the conclusion of a mediation, whether successful or not, the Chair shall deposit the paper and electronic file(s) in the University Archives, with access thereto limited to the President and Provost of the University and/or their designees. Unless the University's record retention schedule notes otherwise or unless subject to a litigation hold, the mediation records shall be retained for three years after action taken on the matter and resolution of all claims. To the extent a resolution agreement is signed, that document shall be maintained by the Provost's office in a confidential file until two years after the grievant is no longer employed at the University.

III. Tribunal Procedures

A faculty member becomes eligible to receive a formal hearing by a Tribunal if the Mediation Committee is satisfied that the faculty member has sought appropriate administrative reviews and the Mediation Committee has determined that the issue is eligible under Section I.B. for a Tribunal's review. In such instances, when an eligible faculty member wishes to proceed, the Mediation Committee will help the parties establish a Tribunal. When an administrator seeks to impose a severe sanction or to dismiss a faculty member in circumstances set forth in Section I.B. above, the Mediation Committee will establish the Tribunal, unless the faculty member declines review by the Tribunal.

A. Tribunal Procedure

1. The Tribunal will, in consultation with the parties, set a time for the hearing.
2. Before setting a time for the hearing, the Tribunal will consult the parties and may, with or without the assistance of the Faculty Liaison, hold joint or separate pre-hearing meetings to simplify the issues, stipulate facts, provide for the exchange of documentary or other information, or achieve anything else that the Tribunal believes will be helpful to conduct a fair, effective, and expeditious hearing.
3. The Tribunal, with the assistance of the Faculty Liaison, may also engage in any necessary investigation.
4. At least twenty (20) days prior to the hearing, the Petitioner will supply the Respondent and the Tribunal with a written statement of specific charges that sets forth the facts and issues that the Petitioner wishes the Tribunal to consider. This statement need not be identical to the original complaint presented to the Mediation Committee, but it shall be limited to those issues that are within the scope of the issues eligible for a Tribunal's review as determined by the Mediation Committee.
5. The Respondent will supply the Petitioner and the Tribunal with a response to the charges no later than one week prior to the hearing.
6. Each party, and the Tribunal if it so desires, may present witnesses and evidence at the hearing, subject to cross-examination. Character witnesses will generally not be allowed, but a character witness may be permitted at the discretion of the chairperson. The Petitioner and Respondent must provide a list of potential hearing witnesses to the chairperson of the Tribunal at least four (4) calendar days prior to the hearing. The chairperson will provide the witness list(s) to all relevant parties involved in the matter at least three (3) calendar days prior to the hearing.

7. Based solely on the evidence in the hearing record, the Tribunal will make findings of fact concerning each allegation in the statement of charges, deciding whether the allegation has been established by a preponderance of the evidence.
8. When hearing a case which involves dismissal of a faculty member or imposition of a severe sanction, the Tribunal will decide whether adequate cause for the proposed action has been established by a preponderance of the evidence in the record.
 - a. If the Tribunal finds adequate cause for dismissal, it also may report that the adequate cause involves “moral turpitude.” The concept of moral turpitude identifies the exceptional case in which the faculty member may be denied a year’s pay in whole or in part (if the Faculty Handbook or appointment letter required such). Moral turpitude is behavior which goes beyond simply warranting discharge or dismissal and is so utterly blameworthy as to make it inappropriate to require the offering of a year’s teaching or pay. Some examples include, but are not limited to, sexual assault; embezzlement of funds; commission of a serious violent offense such as murder, robbery or rape, child pornography, fraud in securing employment or in the promotion or tenure process; or academic dishonesty in teaching and research.
 - b. If the Tribunal finds that adequate cause for dismissal or imposition of a severe sanction has been established, but believes that a less severe penalty would be more appropriate, it will so recommend, with supporting reasons.
9. Following its deliberations, the Tribunal will provide a written report of its findings and a recommendation of action to the University President, except as limited below.

B. Hearing Rules

1. The Tribunal and both parties have the option of retaining an advisor/observer of their choice at their own expense. An observer can be present at all proceedings except for deliberation. Petitioners are responsible for presenting their own case; and, therefore, advisors/observers have no right to speak or participate directly in any hearing before the Tribunal. An advisor/observer’s failure to comply with these participation limitations may cause the advisor/observer to be removed from the proceeding.
2. The Tribunal itself may request procedural legal advice from the University Office of Counsel.
3. The proceedings are confidential, and no part of the proceedings shall be made public.
4. The Tribunal may bar prospective witnesses from hearing the testimony of other witnesses.
5. The hearing by the Tribunal is an administrative hearing, and the proceedings will be informal rather than those used in courts of law.
6. The Tribunal is not bound by legal rules of evidence. It may choose to admit any evidence that is of probative value subject to its determination of relevance and credibility. The Tribunal may also ask parties to produce evidence on specific issues, may question witnesses, or may produce its own evidence.
7. Each party will have the right to confront and cross-examine all witnesses. If witnesses cannot or will not appear, but the Tribunal determines that the interest of justice requires admission of their statements, the Tribunal will identify the witnesses and disclose their statements. Each party will have the right to rebut any evidence heard by the Tribunal.
8. The Tribunal may grant adjournments of reasonable length to enable either party to investigate evidence if the Tribunal believes there is a valid claim of inequitable surprise.
9. In case of severe sanction or dismissal, the burden of proof rests on the administrator seeking the action. In all other cases, the burden of proof rests on the Petitioner.

10. The burden of proof will be satisfied only by a preponderance of the evidence in the record considered as a whole.
11. The University administration will cooperate with the Tribunal in securing witnesses and making available documentary and other evidence needed by the parties for the Tribunal.
12. A record of the hearing will be made by the Tribunal and provided to the President.

C. Restrictions on the Role of Tribunals

The role of a Tribunal is restricted when considering grievances arising from issues regarding retention, tenure, or promotion recommendations, or from recommendations made by the departmental or divisional faculty as a whole. In such cases, the Tribunal will not substitute its judgment on the merits for that of the faculty committees or administrators; the Tribunal will instead restrict its attention to claims that the procedures followed were not in accord with the Faculty Handbook and any supplemental procedures adopted by the departmental and/or divisional faculties. If the Tribunal believes that proper procedures were not followed, it should indicate with specificity the respects in which it believes that the procedures may have been improper or inadequate and request reconsideration by the involved faculty committee(s) or administrator(s). Copies of the Tribunal's report and recommendation shall be provided to the Petitioner, the faculty committee(s) or administrator(s) concerned, and the Provost.

D. Review and Final Decision by President

1. Except in cases covered by the section immediately above (Section III C), the Tribunal will report its findings and recommendations to the University President. The parties will be given a copy of the Tribunal's report to the President.
2. The parties have up until two work weeks after being provided the Tribunal's report to submit to the President any written arguments that are based on the evidence in the record. Untimely submissions and evidence not within the record will not be considered by the President.
3. The President will review the hearing record and the Tribunal's report and recommendation and make a final decision. The Tribunal's recommendation is not binding upon the President.
 - a. Either the decision of the Tribunal will be sustained or the proceeding will be returned to the Tribunal with specific issues to be addressed.
 - b. The Tribunal will then reconsider, taking into account the stated objections and receiving new evidence if necessary.
 - c. The Tribunal will once again report its findings and recommendations to the President.
 - d. The President will make a final decision regarding what action needs to be taken only after study of the Tribunal's reconsideration.
 - e. The President's decision is final and cannot be appealed.

E. Confidentiality of the Process and Document Retention

All Tribunal proceedings involving faculty grievances will be kept confidential to the extent possible. Information will be shared only on a need-to-know basis. Every person involved in a Tribunal is expected to respect the confidentiality of the process, and every effort will be made to maintain an atmosphere that encourages collegial resolution of the problem. A breach of confidentiality by any party

before a Tribunal or by a Tribunal hearing panel member or a witness may subject the individual to disciplinary action and resulting sanctions.

The Chair of the Tribunal shall maintain a record of the matter before the Tribunal. At the close of a hearing, the Chair of the Tribunal shall direct hearing panel members to deposit everything related to the grievance and hearing in a confidential repository and to then destroy individually retained copies of documents that are in the repository. The Chairperson will provide a copy of the record to the President for their decision. Once the matter is closed, the President will return the file to the Tribunal Chairperson, who will then secure the file by depositing the paper and electronic file(s) in the University Archives, with access thereto limited to the President and Provost of the University or their designees. Unless subpoenaed by an agency or court with subpoena power, or subject to production in discovery in litigation, efforts will be made to protect the release of Tribunal files to third parties.

Unless the University's record retention schedule notes otherwise or unless subject to a litigation hold or other conditions noted in resolving the matter, the mediation records shall be retained for three years after action taken on the matter and resolution of all claims. To the extent a resolution agreement is signed, that document shall be maintained by the Provost's office in a confidential file until two years after the grievant is no longer employed at the University.

IV. Procedures When Faculty Are Alleged to Have Violated Harassment, Sexual Misconduct, or Consensual Romantic Relationship Policies

A. Sexual Misconduct Policy, Harassment Policy, and Consensual Romantic Relationships Policy Applicable to Faculty

The University's Harassment Policy, Sexual Misconduct Policy, and Consensual Romantic Relationships Policy apply to all faculty (including temporary, part-time and/or adjunct); therefore, all faculty are required to familiarize themselves and comply with those policies. Except where limited herein, the procedures below apply to all faculty (including temporary, part-time and adjunct) alleged to have engaged in conduct covered in the policies (including related claims of retaliation). In addition, to the extent those policies address investigations, informal and formal complaint processes and procedures, sanctions, and reviews/appeals, those provisions apply when a faculty member is the Respondent, except as modified below.

If the faculty member against whom a complaint has been filed does not have faculty grievance rights (including, but not limited to, part-time, temporary or adjunct appointment), then the fact-finder's investigative finding, and the dean's decision as to sanctions, as applicable, is final and there is no right of appeal for any party to the matter.

B. Processing and Resolution of Sexual Misconduct, Consensual Romantic Relationships, or Harassment Complaint Against Faculty

1. *Authority to Investigate, Provide Interim Measures and Letter of Findings.* Designated Harassment Resource Persons and the Offices of the Title IX Coordinator and Equal Opportunity Programs and/or their designees conduct investigations, recommend interim measures where appropriate, make factual

conclusions, and prepare letters of findings that outline whether the evidence more likely than not supports a finding of a policy violation. If it is determined that the evidence supports a finding that a violation occurred, the letter of findings will also include a recommendation for sanctions or corrective actions, which ultimately will be determined by the appropriate decision-making officials (usually a dean) and will be based on the evidence obtained in the investigation.

2. *Impact of Faculty Member Separating from Employment Prior to Complaint Resolution.* If the faculty member Respondent separates from employment from the University before a letter of findings is issued or, if applicable, a hearing is conducted, that faculty member may, depending on all the facts and circumstances, be prohibited from subsequently being re-hired by the University or from entering campus or attending campus-sponsored events. The investigation file may indicate that they separated employment after a complaint was asserted. Resolution of the case and/or consultation with the offices that conducted the investigation may be required before such a faculty member could be re-hired. Even if a faculty Respondent separates from employment, the appropriate University officials may still elect to issue a letter of findings or, if applicable, move forward with a hearing. A Complainant involved in the allegations against the no longer employed faculty Respondent will continue to have access to all reasonably available resources and accommodations outlined in the policies referenced above following the faculty member's separation from employment and the Complainant will be notified of the faculty member's separation from employment.
3. *Informal Procedures.* Informal Procedures set forth in the Sexual Misconduct, Consensual Romantic Relationships and/or Harassment policies, to the extent applicable, will be followed.
4. *Formal Procedures for Faculty.* Formal procedures set forth in the Sexual Misconduct, Consensual Romantic Relationships or Harassment policies, to the extent applicable, will be followed except as modified below. To the extent there is a conflict between procedures below and those in the respective policies, the procedures below will apply. In addition, with respect to allegations involving violations of these three policies, no faculty member may seek initial review/resolution by the Mediation Committee. An alternative process is set forth below.
 - a. *Preliminary Inquiry Resulting in Failure to State a Viable Claim.* The designated fact-finder under the applicable policy (Title IX Coordinator, EOP Office, Harassment Resource Person, and/or their designees) may conduct a preliminary inquiry to determine if the allegations fall under the applicable policy or if a formal investigation is warranted. The designated fact-finder may speak with parties, witnesses, and/or gather other information to make a determination regarding whether to proceed with an investigation. If the complaint, as it is reported, would not support a violation of one of the three policies identified above, an investigation will not be conducted. The fact-finder will close its investigation and not issue a finding. Neither the complainant nor the Respondent has the right to appeal the finding that the complaint, assuming to be true, would not support a policy violation and therefore an investigation. The appropriate University offices may offer resources and/or interim measures as it deems appropriate based on the information learned in the preliminary inquiry. The University reserves the right to reopen an inquiry or conduct a full investigation at any time.

- b. *Insufficient Evidence of Policy Violation.* If the complaint, if true, would support a violation, but the authorized investigative official conducts an investigation and finds that there was not a preponderance of evidence to support a violation of the above-referenced policies, the Complainant will be notified in writing that the information obtained does not establish by a preponderance of evidence that the Respondent has violated the pertinent policy. A finding that insufficient information exists to support a violation does not necessarily certify that Respondent was in compliance with the Policy. If the Respondent faculty member's employment status would entitle the faculty member to a review, then the Complainant will be advised of the option to request a review to independently determine if a preponderance of evidence supports a finding that the Respondent violated the Sexual Misconduct, Consensual Romantic Relationships or Harassment policies.
1. If the Complainant fails to request a review within one work week of receiving notice that the information obtained does not establish by a preponderance of evidence that the Respondent has violated the pertinent policy, the determinations contained in the letter of findings will be deemed final.
 2. If the review by the Provost or Compliance Tribunal concludes there is sufficient evidence of a policy violation, then the matter will be returned to the appropriate dean (or appropriate University official) to determine an appropriate sanction within one work week of receipt of the determination. If, after the parties are notified of the sanction imposed, one work week passes without the Respondent or Complainant challenging the sanctions (per guidelines below), then the sanctions imposed will be deemed final. If the sanctions are timely challenged, the Provost or Compliance Tribunal will review those pursuant to the procedures in sections e. and f. below.
- c. *Accepting Responsibility.* If the Respondent faculty member admits or does not dispute that a preponderance of evidence indicates a policy violation occurred, the appropriate University official, in consultation with the appropriate compliance office, will impose (or, if applicable, seek to impose) a sanction proportionate to the policy violation. If the Respondent faculty member's employment status and nature of the sanction imposed or, if applicable, sought to be imposed, entitles the faculty member to seek a hearing or further review under the Mediation and Grievance System, then either the faculty Respondent or the Complainant may request a formal hearing before a Compliance Tribunal of the sanctions within one work week. If the sanctions are not challenged, it will be deemed final. If the sanctions are challenged, the Provost or Compliance Tribunal will, if applicable, review them pursuant to the procedures in sections e. and f. below.
- d. *Sufficient Evidence of Policy Violation.* If the authorized investigative official concludes that there is a preponderance of evidence to support a violation of one or more of the above-referenced policies, the Complainant and Respondent will be notified in writing that the information obtained does establish by a preponderance of evidence that the Respondent has violated the pertinent policy and what sanction will be imposed by the dean or other appropriate University official. If the Respondent faculty member's employment status and nature of the sanction imposed or, if applicable, sought to be imposed, entitles the faculty member to seek a hearing or further review under the Mediation and Grievance System, then either the faculty

Respondent or the Complainant may seek review of the findings and/or sanctions within one work week. If a request for a review is not timely made, the findings and sanctions will be deemed final. If the request for review is timely made, the Compliance Tribunal will, if applicable, review pursuant to the procedures in sections e. and f. below.

e. Review by Provost When No Severe Sanction Has Been Imposed

1. If the faculty member who is accused of violating one of the three policies mentioned above has grievance rights, then either the complainant or the faculty respondent may request a review of the sanctions (or findings) by the Provost within one work week of delivery of the Notification of Findings. If the sanctions to be imposed are severe as defined in Section I. C. 6, the Provost will refer the matter to the Compliance Tribunal. Only if no sanction is imposed or sanctions less than severe sanctions are imposed will the Provost (or Provost's designee) accept review. Requests for consideration may be emailed to provost@ua.edu or may be hand-delivered to the Provost's Office during regular business hours.
2. A request for consideration by the Provost should include a statement by the party describing in detail the grievance (i.e., nature of the disagreement with the investigative findings or sanctions imposed or sought to be imposed), against whom the grievance is directed, and any information/documentation the grievant deems pertinent to the case. There are limited circumstances under which review by the Provost may be requested. The party(ies) seeking review must show:
 - i. The factual findings are clearly erroneous, or
 - ii. Significant evidence, which was not known to the individual during the investigation process, was not considered or available during the investigation and would have altered the outcome of the investigation.
 1. Evidence not available during the investigation must be evidence not known to the party seeking review during the investigation process.
 2. The party's failure to provide evidence that they knew or reasonably should have known shall not be considered new evidence; or
 - iii. A material failure to follow the procedures set forth in the Sexual Misconduct, Consensual Romantic Relationships, or Harassment policies or this Mediation and Grievance System; or
 - iv. The sanction imposed or sought to be imposed is disproportionately severe to the inappropriate conduct; or
 - v. The sanction imposed or sought to be imposed should be increased as it is too lenient; or
 - vi. There is a preponderance of evidence that the investigators and/or decision makers were biased or prejudiced in handling the matter.
3. When a request for consideration is received by the Provost, the Provost's office will notify both parties of the request for consideration. The party not filing the request for consideration shall have one work week from delivery of notice of the request to

provide a statement in support of the finding and/or disciplinary action. The non-requesting party is not, however, required to provide a statement.

4. The investigative office or individual will provide each party's statement, the investigation file, and Notification of Findings to the Provost.
5. Determination by the Provost: The Provost may make the following findings:
 - i. Affirm the factual findings and the disciplinary action taken by the decision-making official.
 - ii. Determine that a material failure occurred that may have impacted the finding or determination of disciplinary action. In that instance, the Provost may remand the case back to the applicable investigative office (for factual findings) and/or decision-making official (for sanction decision) for further consideration.
 - iii. Determine if significant new evidence was not considered or available during the investigation, which would have altered the outcome of the investigation. In that instance, the Provost may remand the case back to the applicable investigative office for further investigation.
 - iv. Determine if the disciplinary action imposed is disproportionately severe with regard to the inappropriate conduct. In that instance, the Provost would render a lesser sanction.
 - v. Determine that the suggested sanction is too lenient and that the appropriate sanction should be increased to a severe sanction, in which case the parties would have the right to review by a Compliance Tribunal.
6. Notification of the Provost's Decision: The Complainant and Respondent shall be informed concurrently in writing via their campus-provided email or other agreed-upon means of notification of the Provost's decision. If the Provost supports the dean or other appropriate administrative official's sanction, then the matter is final.
7. The decision made by the Provost is final, unless the Provost modifies the sanction to increase it to a severe sanction, in which case, the matter will be referred to a Compliance Tribunal.

f. Review by Compliance Tribunal When Severe Sanction is Imposed

1. A Complainant or Respondent only has the right to seek review by a Compliance Tribunal if the Respondent faculty member's employment status and nature of the sanction imposed or, if applicable, sought to be imposed by the Dean (i.e, a severe sanction), would otherwise entitle the Respondent faculty member to seek a hearing or

further review under the Mediation and Grievance System. In such instances, a Compliance Tribunal will be established.

2. A request for hearing must be made by the Respondent faculty member or Complainant in writing to the Provost within one work week of notification that severe sanctions are being sought. The request for hearing may be made by emailing provost@ua.edu or hand delivery of the request to the Provost's Office.
3. *Grounds for a Hearing Request:* There are limited circumstances under which a compliance hearing may be requested. The Respondent faculty member or Complainant must allege:
 - i. The factual findings are clearly erroneous;
 - ii. Significant evidence was not considered or available during the investigation, which would have altered the outcome of the investigation;
 1. Evidence not available during the investigation must be evidence not known to the Complainant or Respondent faculty member during the investigation process.
 2. The Complainant or Respondent faculty member's failure to provide evidence that they knew or reasonably should have known shall not be considered new evidence; or
 - iii. A material failure to follow the procedures set forth in the Sexual Misconduct, Consensual Romantic Relationships, or Harassment policies or this Mediation and Grievance Systems Policy occurred; or
 - iv. The disciplinary action taken by the decision-making official is excessive with regard to the inappropriate conduct and should not have risen to the level of a severe sanction as defined herein; or
 - v. The level of severe sanction sought to be imposed is too lenient, and should be increased to an even more severe sanction.
4. The hearing will be conducted by the Compliance Tribunal.
5. Efforts will be made to schedule a hearing date within four (4) work weeks from selection of the Compliance Tribunal. The parties will be concurrently notified by the Chairperson of the Compliance Tribunal of the hearing date, time, and location in writing via their campus-provided email or other agreed upon means of notification. The Chairperson of the Compliance Tribunal will, in consultation with the other members of the Compliance Tribunal, grant or deny any requested rescheduling of a hearing date.
6. The appropriate investigative office(s) will prepare a summary of the investigation, with pertinent evidence, and the disciplinary action taken (or proposed to be taken) which will be provided to the Compliance Tribunal Chairperson at least two work weeks prior to the hearing. The summary along with any other documents to be provided to the Compliance Tribunal will be available for in-person review by either party at least two work weeks prior to the hearing date.
7. Either party may provide a written statement to the members of the Compliance Tribunal for their review. The written statement may be in support of their position and/or a response to the summary of the investigation. The written statement must be

received by the appropriate investigator's office one work week prior to the hearing date. The investigating office will immediately make the statements available to the members of the Compliance Tribunal and will notify the parties of the opportunity to inspect the statements for their review.

8. *Witnesses.* Either party may seek to present witnesses with relevant information to the asserted grounds mentioned in the appeal, subject to cross examination by the Compliance Tribunal. Character witnesses will generally not be allowed, but a character witness may be permitted at the discretion of the Chairperson. The parties must provide a list of potential hearing witnesses to the chairperson of the Compliance Tribunal at least four (4) calendar days prior to the hearing. The chairperson will provide the witness list(s) to all relevant parties involved in the matter at least three (3) calendar days prior to the hearing.
9. *Participation.* Neither party is required to participate in a Compliance Tribunal. Either party may submit a written statement, oral statement, or no statement.
10. *Questioning of Parties and Witnesses.* Parties may not question other parties or witnesses directly. The parties may submit proposed questions to the Compliance Tribunal to ask the other party or witness. The Chairperson will determine if a proposed question is relevant. The Chairperson may also rephrase the question when appropriate. The Compliance Tribunal may directly question either party or witness.
11. *Attorneys/Support Person Participation.* Both the Complainant and Respondent have the option of being accompanied by one attorney or support person during the hearing at their own expense. The attorney or support person may not speak on the Complainant's or Respondent's behalf or otherwise directly participate in any part of the hearing process. The attorney or support person's role is to provide support, assistance, or consultation to the Complainant or Respondent. An attorney or support person's failure to comply with the participation limitations outlined in this Policy and/or the Sexual Misconduct Policy, Consensual Romantic Relationship Policy or Harassment Policy may cause the attorney or support person to be removed from the hearing.
12. *Private Hearing.* All hearings involving disciplinary action taken pursuant to a violation of the Sexual Misconduct Policy, Consensual Romantic Relationship Policy, or Harassment Policy will be private. Only those deemed necessary will be allowed in the proceeding. Any witnesses will be sequestered until their participation is requested by the Compliance Tribunal.
13. *Determination by the Compliance Tribunal.* The Compliance Tribunal may make the following recommendations:
 - i. Affirm the factual findings and the disciplinary action taken or sought to be taken by the decision-making official.
 - ii. Determine that a material failure occurred that may have impacted the finding or determination of disciplinary action (or proposed disciplinary action). If it is determined that a material failure occurred in the investigation or disciplinary action process, the Compliance Tribunal will remand the case back to the applicable investigative office (for

factual findings) and/or decision-making official (for sanction decision) for further consideration.

1. After remand, the Compliance Tribunal may hear the matter again only if a severe sanction stands.
 - iii. Determine if significant evidence was not considered or available during the investigation that would have altered the outcome of the investigation. If it is determined that significant evidence was not considered or available during the investigation process, the Compliance Tribunal will remand the case back to the applicable investigative office for further investigation.
 1. After remand, the Compliance Tribunal may hear the matter again only if a severe sanction stands.
 - iv. Determine if the disciplinary action imposed is disproportionately severe with regard to the inappropriate conduct and issues a modified disciplinary action. If the Compliance Tribunal recommends that the disciplinary action taken is disproportionately severe, the case will be sent to the President for his/her review.
 - v. Determine if the severe sanction imposed is too lenient and an even more severe sanction should be imposed. In this instance, the case will be sent to the President for his/her review.
14. *Notification of the Compliance Tribunal's Recommendation:* The Complainant and Respondent shall be informed concurrently in writing via their campus-provided email or other agreed upon means of notification of the Compliance Tribunal's recommendation.

g. *Review and Final Decision by President*

1. Except in cases of remand, the Compliance Tribunal will report its findings and recommendations to the University President. The parties may review a copy of the Compliance Tribunal's report to the President.
2. The parties have up until one work week after being offered the opportunity to review the report to submit to the President any written arguments that are based on the evidence in the record. Untimely submissions and evidence not within the record will not be considered by the President.
3. The President will review the hearing record and the Compliance Tribunal's report and recommendation and make a final decision. The Compliance Tribunal's recommendation is not binding upon the President.
4. Either the decision of the Compliance Tribunal will be sustained or the proceeding will be returned to the Compliance Tribunal with specific objections.
5. The Compliance Tribunal will then reconsider, taking into account the stated objections and receiving new evidence if necessary.
6. The Compliance Tribunal will once again report its findings and recommendations to the President.

7. The President will make a final decision regarding what action needs to be taken only after study of the Tribunal's reconsideration.
8. The President's decision is final and cannot be appealed.