Section 8  Termination of a Tenured Faculty Member and Procedures for Termination of a Tenured Faculty Member for Adequate Cause

8.1  Termination of a Tenured Faculty Member’s Appointment

The appointment of a tenured faculty member may be terminated because of: (a) resignation; (b) retirement; (c) death; (d) extraordinary circumstances due to financial exigencies or discontinuance of a program or function; (e) forfeiture of tenure; or (f) adequate cause. Adequate cause is defined in Section 8.2, and the procedures for termination of employment for adequate cause are contained in Section 8.3.

In every case of termination by UTHSC, the tenured faculty member may have the issue(s) reviewed by the Faculty Senate Grievance Committee (FSG Committee) (Section 7.3). For a tenured faculty member, the burden of proof in appealing such a termination action is on UTHSC to justify why such action should be taken.

8.1.1  Termination of a Tenured Faculty Member’s Appointment Due to Resignation

Notification of resignation should be made early enough to obviate embarrassment or inconvenience to UTHSC. Faculty members who wish to resign should make their resignations effective at the end of the academic year, or under exceptional circumstances, at the end of an academic semester. A tenured faculty member relinquishes tenure upon resignation from UTHSC. Thus, for a tenured faculty member, his or her appointment term is considered to end or expire on the date of resignation.

Changing clinical practice affiliation without the prior written approval of the Chair and Dean constitutes resignation of a faculty member’s academic appointment and consequently, relinquishment of tenure (See Section 4.13).

8.1.2  Termination of a Tenured Faculty Member’s Appointment Due to Retirement

Policies and procedures governing retirement, including disability retirement, are found in Personnel Policies and Procedures (§305, §375, §380, §385, §390, and §397). A tenured faculty member relinquishes tenure upon retirement from UTHSC. Thus, for a tenured faculty member, his or her appointment term is considered to end or expire on the date of retirement.

8.1.3  Termination of a Tenured Faculty Member’s Appointment Due to Extraordinary Circumstances

Extraordinary circumstances warranting termination of tenure may involve either financial exigency or academic program discontinuance.

4 Notice requirements for non-renewal of a tenure track faculty member’s appointment are provided in Section 4.10. Non-renewal of a tenure track appointment may be appealed through the grievance process (Section 7). Termination of a tenure track faculty member for adequate cause before the expiration of the annual term of appointment is governed by the procedures applicable to termination of a tenured faculty member for adequate cause (Section 8.3).
In the case of financial exigency, the criteria and procedures outlined in the Board-approved Financial Exigency Plan for each campus shall be followed. The UTHSC Financial Exigency Plan is contained in Appendix G. Financial exigencies affecting UTHSC may require the termination of services of one or more tenured faculty members. In every case of financial exigency resulting in the termination of a tenured faculty appointment, the faculty member concerned will be given notice as soon as possible, and every effort will be made to give not less than twelve months’ notice or twelve months’ salary.

In the case of academic program discontinuance, the termination of tenured faculty may take place only after consultation with the Faculty through appropriate committees of the department, the college, and the Faculty Senate in accordance with the UTHSC policy on academic discontinuance (Appendix H) unless this decision is made by an authority outside The University. In every case of academic program discontinuance affecting tenured faculty, the Administration shall exert every effort to make suitable reassignments of personnel; if reassignments are not feasible and terminations of appointment are required, the tenured faculty member concerned will be given notice as soon as possible, and never less than twelve months’ notice or twelve months’ salary.

According to the Board’s policy, if termination of tenured faculty positions becomes necessary because of financial exigency or academic program discontinuance, the UTHSC Administration shall attempt to place each displaced tenured faculty member in another suitable position. This does not require that a faculty member be placed in a position for which he or she is not qualified, that a new position be created where no need exists, or that a faculty member (tenured or nontenured) in another department be terminated in order to provide a vacancy for a displaced tenured faculty member. The position of any tenured faculty member displaced because of financial exigency or academic program discontinuance shall not be filled within three years, unless the displaced faculty member has been offered reinstatement and a reasonable time in which to accept or decline the offer.

8.1.4 Termination of a Tenured Faculty Member’s Appointment Due to Forfeiture of Tenure

A tenured faculty member forfeits tenure upon taking an unauthorized leave of absence or failing to resume the duties of his or her position following an approved leave of absence.

Forfeiture results in automatic termination of employment. The UTHSC Chief Academic Officer shall give the faculty member written notice of the forfeiture of tenure and termination of employment.

8.2 Adequate Cause – Definition

Adequate cause refers to the types of permissible reasons for termination of the employment of a tenured faculty member. Adequate cause includes the following and similar types of reasons:

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5 The same definition of adequate cause applies to termination of a tenure track faculty member before the expiration of the annual term of appointment (Section 8.3).
1. **Category A: Unsatisfactory Performance in Teaching, Research, or Service**
   a. Failure to demonstrate professional competence in teaching, research, or service;
   b. failure to perform satisfactorily the duties or responsibilities of the faculty position, including but not limited to: (1) failure to comply with a lawful directive of the Chair, Dean, or UTHSC Chief Academic Officer with respect to the faculty member's duties or responsibilities; or (2) inability to perform an essential function of the faculty position, given reasonable accommodation, if requested;
   c. loss of professional licensure if licensure is required for the performance of the faculty member's duties; or with respect to Health Sciences faculty, failure to be granted or loss of medical staff membership and privileges at affiliated teaching hospitals; or
   d. dishonesty or other serious violation of professional ethics or responsibility in teaching, research, or service; or serious violation of professional responsibility in relations with students, other faculty members, employees, or members of the community.

2. **Category B: Misconduct**
   a. Failure or persistent neglect to comply with University policies, procedures, rules, or other regulations, including but not limited to violation of The University's policies against discrimination and harassment;
   b. falsification of a University record, including but not limited to information concerning the faculty member's qualifications for a position or promotion;
   c. theft or misappropriation of University funds, property, services, or other resources;
   d. admission of guilt or conviction of: (1) a felony; or (2) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration; or
   e. any misconduct directly related to the fitness of the faculty member to engage in teaching, research, service, or administration.

### 8.3 Termination of a Tenured Faculty Member’s Appointment for Adequate Cause

Termination procedures for UTHSC incorporate and are consistent with the provisions cited in The University of Tennessee Policies Governing Academic Freedom, Responsibility and Tenure. Unless waived by the faculty member, the UTHSC procedures for terminating for adequate cause the employment of a tenured faculty member are those described in Sections 8.3.1, 8.3.2, and 8.3.3.

Except for such simple announcements as may be required, covering the time of the hearing and similar matters, all individuals involved in a case of termination of the employment of a faculty member for adequate cause – Tribunal or Special Committee members (Sections 8.3.1 and 8.3.2),
the faculty member, the tenured departmental faculty, the administrative officers, and/or the counsels – will avoid making public statements or release publicity about the case, until the proceedings have been completed, including consideration by the Board of Trustees. If the final decision is against termination or a lesser sanction, the faculty member will not ultimately suffer the loss of normal pay and other compensations.

8.3.1 Termination Procedure for Category A - Adequate Cause: Unsatisfactory Performance in Teaching, Research or Service

Note: The phrase “teaching, research or service” in this section includes scholarly activity and clinical practice.

1. Preliminary Steps – The following preliminary steps shall be followed in cases of termination for unsatisfactory performance in teaching, research, or service, unless the faculty member has been under a remediation plan as described in the Cumulative Performance Review section of Board policy (see http://www.tennessee.edu/system/academicaffairs/docs/BdTenurePolicy.pdf). If a faculty member has been under a remediation plan and the Review Committee, Dean, UTHSC Chief Academic Officer, and Faculty Senate President or Faculty Senate Executive Committee recommend initiation of termination proceedings, the Chancellor shall proceed to consult with the President and to decide whether to initiate termination proceedings without following these preliminary steps. During this time, the Chair, the Division Chief, if appropriate, and Dean will counsel the faculty member with a view toward a mutually satisfactory resolution. A written summary of these discussions shall be prepared for the faculty member and his or her personnel file.

2. Tenured Faculty's Recommendation – The Chair shall direct the tenured departmental faculty to review the faculty member's performance in teaching, research, and service and to vote on the question of whether termination proceedings should be initiated (Section 4.4.2). The tenured departmental faculty will write a report to the Chair. This report shall contain the following: a list of the tenured faculty members in attendance, the majority and minority views, if relevant, and the summary vote. The faculty vote shall be advisory to the Chair.

3. Chair’s Recommendation – If the Chair concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the Dean and the UTHSC Chief Academic Officer. The Chair’s recommendation shall include the history of efforts to encourage the faculty member to improve his or her performance and the vote of the tenured faculty on the question of whether proceedings should be initiated.

4. Dean's Recommendation – If the Dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the UTHSC Chief Academic Officer.

5. UTHSC Chief Academic Officer's Recommendation –
a. If the UTHSC Chief Academic Officer concludes termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.

b. If a mutually satisfactory resolution is not achieved, the UTHSC Chief Academic Officer shall within 30 days ask the Faculty Senate Grievance (FSG) Committee to conduct an informal inquiry and make a recommendation to him or her within 30 days as to whether termination proceedings should be initiated. The recommendation of the FSG Committee shall be advisory to the UTHSC Chief Academic Officer.

c. After considering the recommendation of the FSG Committee, the UTHSC Chief Academic Officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated. If appropriate, step 7 below may be combined with this step.

6. Chancellor's Decision to Initiate Termination Proceedings – If, after consulting with the President, the Chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including

a. a statement of the grounds for termination, framed with reasonable particularity;

b. notice of the faculty member's right to contest the proposed termination in a hearing before a Tribunal, as described below, or in a hearing conducted under the provisions of the Tennessee Uniform Administrative Procedures Act; and

c. notice that the faculty member has 10 days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The Chancellor shall send a copy of the written notice to the President of the Faculty Senate at the same time.

7. Suspension With Pay or Reassignment Pending Completion of Termination Proceedings – After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of The University's termination proceedings. This step may be combined with step 5(c) above. The faculty member’s salary will continue during the period of the suspension.

8. Failure to Contest – If the faculty member does not contest the charge(s) in writing and make the required request for a hearing within 10 days after receipt of the written notice, the faculty member shall be terminated, and no appeal of the matter will be heard within The University.

9. Hearing under the Tennessee Uniform Administrative Procedures Act –

a. Contested Case Procedures – If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA),
the Chancellor shall appoint a hearing examiner, and the matter shall proceed in accordance with the contested case procedures promulgated by The University under the TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee (http://statetn.us/sos/rules/1720/1720-01/1720-01-05.pdf) and are available in the UTHSC Library and in the Office of the General Counsel.

b. Initial Order – In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the Chancellor within 10 days. In addition, the Chancellor, on his or her own motion, may elect within 10 days to review the hearing officer's initial order.

c. Final Order – The hearing examiner's initial order shall become the final order unless review is sought by either party or the Chancellor within the 10-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within The University. If the allegations are not upheld, full restitution of normal pay and other compensations lost during the termination or suspension will be made.

d. Judicial Review – If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act.

10. Hearing Before a Tribunal – If the faculty member makes a timely election to contest the charge(s) and to waive the right to a hearing under the Tennessee Uniform Administrative Procedures Act, the Chancellor shall ask the Faculty Senate President to appoint a hearing Tribunal within 15 days and shall notify the faculty member of this action. The President of the Faculty Senate will appoint this Tribunal, with the advice and consent of the Executive Committee of the Faculty Senate. The matter then shall proceed in accordance with the tribunal procedures described below.

a. Composition of the Tribunal – A UTHSC Tribunal shall consist of at least seven members of the Faculty and the Administration not concerned previously with the case. The members of the Tribunal should be chosen on the basis of their reputations for objectivity and competence and the regard in which the academic community holds them. The Tribunal elects its own chair. The Tribunal should determine the order of proof, should normally conduct questioning of witnesses, and, if necessary, secure the presentation of evidence important to the case. Either the Chancellor or the faculty member may challenge the appointment of a Tribunal member on the ground of bias or conflict of interest. Members of the Tribunal deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party to the dispute or on their own initiative. In addition, each party will have a maximum of two challenges without stated cause. A challenge
shall be judged by the Faculty Senate Executive Committee, whose decision on the challenge shall be final and not subject to appeal. The Executive Committee of the Senate will fill vacancies on the Tribunal resulting from disqualification, challenge without stated cause, illness, resignation, or any other reason.

b. Notice of Hearing – The Chancellor shall give the faculty member written notice of the hearing date at least 20 days in advance. The Committee, in consultation with the President of the Senate and the faculty member, will exercise its judgment as to whether the hearing should be private.

c. Representation – If UTHSC intends to be represented by legal counsel, the written notice of the hearing date shall so advise the faculty member. The written notice shall also state the faculty member's right to be represented by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the chair of the Tribunal within 10 days of receipt of the written notice of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at UTHSC's request.

d. Waiver of Hearing – If, at any time prior to the hearing date, the faculty member decides to waive his or her right to a hearing and respond to the charges only in writing, the Tribunal shall proceed to evaluate all available evidence and rest its recommendation upon the evidence in the record.

e. Pre-Hearing Preparation – The faculty member and UTHSC shall have a reasonable opportunity prior to the hearing to obtain witnesses, specific documents, or other specific evidence reasonably related to the charge(s). The Administration will cooperate with the Tribunal in securing witnesses and making available documentary and other evidence. The faculty member should have the aid of the Tribunal, when needed, in securing the attendance of witnesses.

With the consent of the parties concerned, the Tribunal may hold joint prehearing meetings with the parties in order to (a) clarify the issues; (b) effect stipulations of facts; (c) provide for the exchange of documentary or other information; or (d) achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious.

f. Evidence – The Tribunal is not bound by legal rules of evidence and may admit any evidence of probative value in determining the issues. The Tribunal shall make every reasonable effort, however, to base its recommendation on the most reliable evidence. If the charge is "failure to demonstrate professional competence in teaching, research, or service," the evidence shall include the testimony of qualified faculty members from this and/or other comparable institutions of higher education. All evidence should be duly recorded. If any facts are in dispute, the testimony of witnesses or other evidence should be received.

g. Confrontation and Cross-Examination of Witnesses – The Board’s policy states that the faculty member and UTHSC shall have the right to confront and cross-examine all
witnesses. During a hearing at UTHSC, the faculty member, the Administration, or their respective counsels will have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member will have the opportunity to question all adverse witnesses. If a witness cannot or will not appear, but the Tribunal determines that his or her testimony is necessary to a fair adjudication of the charge(s), the Tribunal may admit as evidence the sworn affidavit of the witness. In that event, the Tribunal shall disclose the affidavit to both parties and allow both parties to submit written interrogatories to the witness. In addition, the Tribunal should give opportunity to the faculty member, the Administration, or the respective counsels to argue orally before it. The Tribunal may request written briefs and proposed findings of fact and conclusions of law.

h. Adjournments – The Tribunal shall grant adjournments to allow either party to investigate evidence to which a valid claim of surprise is made.

i. Burden of Proof – The burden of proof that adequate cause exists rests with UTHSC and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

j. Findings and Conclusions – The Tribunal should reach its decision in conference on the basis of the hearing and/or the evidence in the record. The Tribunal may proceed to decision promptly, without having the record of the hearing transcribed, where it feels that a just decision can be reached by this means; or it may await the availability of a transcript of the hearing if its decision would be aided thereby. The Tribunal should make explicit findings with respect to each of the grounds of removal presented, and a reasoned opinion may be desirable. The Tribunal shall make written findings and conclusions and shall provide a copy to the faculty member at the time of submission to the Chancellor.

(1) If the Tribunal concludes adequate cause for termination has not been established, it shall so report to the Chancellor.

(2) If the Tribunal concludes adequate cause for termination has been established but that a sanction other than termination should be imposed, it shall so recommend to the Chancellor, with supporting reasons.

(3) If the Tribunal concludes adequate cause for termination has been established and that termination is the appropriate sanction, it shall so report to the Chancellor.

k. Transcript of the Hearing – A verbatim record of the hearing shall be made, and a transcript shall be provided to the faculty member without cost and to the Chancellor at the time of the Tribunal's submission of its findings and conclusions.

11. Chancellor's Recommendation on Termination –

a. If the Chancellor concludes adequate cause has been established and that termination is the appropriate sanction, he or she shall transmit the hearing record and his or her
recommendation to the Board of Trustees through the President. In addition, he or she shall notify the Tribunal and the faculty member in writing of this decision. However, if the conclusion of the Chancellor differs from that of the Tribunal, the Chancellor shall give the Tribunal and the faculty member a written statement of reasons and shall allow the faculty member an opportunity to respond before transmitting the case to the President and Board of Trustees.

b. If the Chancellor concludes adequate cause has been established but that a sanction other than termination should be imposed, the Chancellor may impose the lesser sanction (Section 78.4). He or she shall notify the Tribunal and the faculty member in writing of this decision. The faculty member may appeal the lesser sanction to the President.

12. Review by the Board of Trustees – The Board of Trustees shall review a recommendation of termination for adequate cause on the record of the Tribunal hearing. The Board shall provide an opportunity for oral and written argument by the parties. The faculty member and UTHSC may be represented before the Board by legal counsel or other representative. If the Board concludes adequate cause has been established and that the faculty member's tenure and employment should be terminated, the Board shall set the effective date of termination. If the allegations are not upheld, full restitution of normal pay and other compensations lost during the termination or suspension will be made.

8.3.2 Termination Procedure for Category B Adequate Cause: Misconduct

1. Preliminary Steps – During this time, the Chair, the Division Chief, if appropriate, and Dean will counsel the faculty member with a view toward a mutually satisfactory resolution. A written summary of these discussions shall be prepared for the faculty member and his or her personnel file.

   a. Consultation with Tenured Faculty – The Department Chair shall consult with the tenured faculty before making a recommendation that termination proceedings be initiated against a tenured faculty member for alleged misconduct within the Category B definition of adequate cause (Section 4.4.2). After reviewing the charges and evidence presented by the Department Chair, the tenured departmental faculty will write a report to the faculty member’s Chair. This report shall contain the following: a list of the faculty members in attendance, the majority and minority views, if relevant, and the summary vote. The committee vote shall be advisory to the Chair.

   b. Chair's Recommendation – If the Department Chair concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the Dean and the UTHSC Chief Academic Officer. The recommendation shall include a report of the Chair's consultation with the tenured faculty.

   c. Dean's Recommendation – If the Dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the UTHSC Chief Academic Officer.
d. UTHSC Chief Academic Officer's Recommendation –

(1) If the UTHSC Chief Academic Officer concludes termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.

(2) If a mutually satisfactory resolution is not achieved, the UTHSC Chief Academic Officer may at his or her discretion within 30 days ask the Faculty Senate Grievance Committee (FSG Committee) to conduct an informal inquiry and make a recommendation to him or her within 30 days as to whether termination proceedings should be initiated. The recommendation of the FSG Committee shall be advisory to the UTHSC Chief Academic Officer. After considering the recommendation of the FSG Committee, the UTHSC Chief Academic Officer shall make a recommendation to the Chancellor as to whether termination proceedings should be initiated. If appropriate, step 3 below may be combined with this step.

2. Chancellor's Decision to Initiate Termination Proceedings – If, after consultation with the President, the Chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including

a. a statement of the grounds for termination, framed with reasonable particularity;

b. notice of the faculty member’s right to contest the proposed termination in a hearing under the provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA);

c. notice of the faculty member’s right to waive a hearing under TUAPA and be heard by a Special Committee composed of members of the UTHSC Faculty and Administration; and

d. notice that the faculty member has 10 days after receipt of the written notice to elect in writing to contest the termination and select the type of hearing. The Chancellor shall send a copy of the written notice to the President of the Faculty Senate at the same time.

3. Suspension or Reassignment Pending Completion of Termination Proceedings –

a. Suspension With Pay – After consultation with the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of UTHSC's termination proceedings. This step may be combined with step 1(d) above. The faculty member’s salary will continue during the period of the suspension.

b. Suspension Without Pay – After consultation with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, the Chancellor may suspend the faculty member without pay only for the following types of alleged misconduct and only in accordance with the procedures outlined in the section
entitled "Expeditied Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct" (Section 8.3.3):

(1) alleged misconduct involving:
   a. acts or credible threats of harm to a person or University property; or
   b. theft or misappropriation of University funds, property, services, or other resources;

(2) indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for:
   a. a felony; or
   b. a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

This step may be combined with step 1(d) above. If the allegations are not upheld, full restitution of normal pay and other compensations lost during the suspension will be made.

4. Failure to Contest – If the faculty member does not contest the charge(s) of misconduct in writing within 10 days after receipt of the written notice, the faculty member shall be terminated, and no appeal of the matter will be heard within The University.

5. Waiver of Hearing Under the Tennessee Uniform Administrative Procedures Act – If the faculty member contests the charge(s) of misconduct but elects to waive his or her right to formal hearing under the contested case procedures of the TUAPA, the Chancellor shall appoint a Special Committee to conduct an informal hearing on the charges. The faculty member may be represented before the hearing committee by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the committee chairperson within 10 days of the hearing date. If the faculty member fails to give timely notice of legal representation the hearing date shall be postponed at the request of UTHSC.

   a. Composition of the Special Committee – The Special Committee is composed of at least seven members of the Faculty and Administration not concerned previously with the case. The members of the Special Committee should be chosen on the basis of their reputations for objectivity and competence and the regard in which the academic community holds them. The Special Committee elects its own chair. Members of the Special Committee deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party to the dispute or on their own initiative. Each party will have a maximum of two challenges without stated cause. The Chancellor will fill vacancies on the Special Committee resulting from disqualification, challenge without stated cause, illness, resignation, or any other reason.

   b. Notice of Hearing by a Special Committee – Service of notice of hearing with specific charges in writing will be made at least 20 days prior to the hearing. The Special Committee, in consultation with the President of the Senate and the faculty member, will exercise its judgment as to whether the hearing should be private.
c. Waiver of Hearing by a Special Committee – The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges against him or her or asserts that the charges do not support a finding of adequate cause, the Special Committee will evaluate all available evidence and rest its recommendation upon such evidence.

d. Representation – During the proceedings the faculty member will be permitted to have an academic advisor and counsel of his choice.

e. Prehearing Meetings – The Special Committee may, with the consent of the parties concerned, hold joint prehearing meetings with the parties in order to (a) clarify the issues; (b) effect stipulations of facts; (c) provide for the exchange of documentary or other information; or (d) achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious.

f. Witnesses and Evidence – The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The Administration will cooperate with the Special Committee in securing witnesses and making available documentary and other evidence. The faculty member should have the aid of the Special Committee, when needed, in securing the attendance of witnesses. The Special Committee will not be bound by strict rules of legal evidence, and may admit any evidence, which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available. All evidence should be duly recorded. If any facts are in dispute, the testimony of witnesses or other evidence should be received.

g. Conduct of Hearing – The Special Committee should determine the order of proof, should normally conduct questioning of witnesses, and, if necessary, secure the presentation of evidence important to the case.

h. Questioning of Witnesses – The faculty member, the Administration, and/or their respective counsels will have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member will have the opportunity to question all adverse witnesses. Where unusual and urgent reasons move the Special Committee to withhold this right, the identity of witnesses, as well as the statements of the witness, should nevertheless be disclosed to the faculty member. Where the witnesses cannot or will not appear, but the Committee determines that the interest of justice requires admission of their statements, the Committee will identify the witnesses, disclose their statements, and if possible, provide for interrogatories.

i. Oral or Written Arguments – The Special Committee should give opportunity to the faculty member, the Administration, or the respective counsels to argue orally before it. The Special Committee may request written briefs and proposed findings of fact and conclusions of law.
j. Adjournments – The Special Committee will grant adjournments to enable either party to investigate evidence for which a valid claim of surprise is made.

k. Burden of Proof – The burden of proof that adequate cause exists rests with UTHSC and shall be satisfied only by clear and convincing evidence of record considered as a whole.

l. Record of the Hearing(s) – A verbatim record of the hearing or hearings will be taken and a copy will be made available to the faculty member without cost.

m. Report of the Special Committee – The Special Committee shall make a written report of its findings and conclusions to the Chancellor. The findings of fact and the decision will be based on the hearing record and/or the evidence in the record. The Chancellor and the faculty member will be notified of the decision in writing and will be given a copy of the record of the hearing, if any. If the Special Committee concludes that adequate cause for termination has not been established by the evidence in the record, it will so report to the Chancellor. If the Special Committee concludes that adequate cause for administrative action has been established, but that an academic penalty less than termination would be more appropriate, it will so recommend with the supporting reasons to the Chancellor.

n. Decision of the Chancellor – If the Chancellor decides adequate cause for termination of tenure and employment has been established, he or she shall submit a written recommendation of termination to the Board of Trustees through the President. In addition, the Chancellor shall notify the Special Committee and the faculty member in writing.

o. Review by the President and the Board of Trustees – The Chancellor will transmit the hearing record and his recommendations to the President and the Board of Trustees. The Board of Trustees shall review a recommendation of termination for adequate cause on the record of the Special Committee hearing. The Board shall provide an opportunity for oral and written argument by the parties. The faculty member and UTHSC may be represented before the Board by legal counsel or other representative. If the Board concludes adequate cause has been established and that the faculty member's tenure and employment should be terminated, the Board shall set the effective date of termination. If the allegations are not upheld, full restitution of normal pay and other compensations lost during the termination or suspension will be made.

p. Imposition of a Lesser Sanction than Termination – If the Chancellor decides a lesser sanction should be imposed, he or she may impose the sanction. The faculty member may appeal the lesser sanction to the President.

6. Hearing under the Tennessee Uniform Administrative Procedures Act –

a. Contested Case Procedures – If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA), the Chancellor shall appoint a hearing examiner, and the matter shall proceed in accordance with the contested case procedures promulgated by the University under the
TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee (http://state.tn.us/sos/rules/1720/1720-01/1720-01-05.pdf) and are available in the UTHSC Library and in the Office of the General Counsel.

b. **Initial Order** – In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the Chancellor within 10 days. In addition, the Chancellor, on his or her own motion, may elect within 10 days to review the hearing officer's initial order.

c. **Final Order** – The hearing examiner's initial order shall become the final order unless review is sought by either party or the Chancellor within the 10-day period. If review is sought, the Chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the Chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within The University.

d. **Judicial Review** – If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act. If the allegations are not upheld, full restitution of normal pay and other compensations lost during the termination or suspension will be made.

**8.3.3 Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct**

In the following cases of alleged misconduct by a faculty member, the Chancellor, after consulting with the President of The University and the President of the Faculty Senate or the Faculty Senate Executive Committee, may invoke an expedited procedure to accomplish termination or suspension without pay, with comprehensive due process procedures to be offered after termination or suspension without pay:

1. alleged misconduct involving: (i) acts or credible threats of harm to a person or University property; or (ii) theft or misappropriation of University funds, property, services, or other resources; or

2. indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

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6 The procedures for termination of a tenured faculty member for adequate cause also apply to termination of a tenure track faculty member for adequate cause before the expiration of the annual term of appointment.
Under the expedited procedure, the faculty member shall be offered the following process before termination or suspension without pay: (a) notice of the charges; (b) an explanation of the evidence; and (c) an informal opportunity to refute the charges in a meeting with the UTHSC Chief Academic Officer. After termination or suspension without pay, the faculty member shall be offered the full range of due process options available to faculty members in other adequate cause proceedings. If the allegations are not upheld, full restitution of normal pay and other compensations lost during the termination or suspension will be made.

8.4 Disciplinary Sanctions Other than Termination for Adequate Cause

Disciplinary sanctions other than termination may be imposed against a faculty member for conduct within or outside the definition of adequate cause. If the proposed sanction is suspension without pay for a definite term (no more than one year), the procedures applicable to termination shall be offered prior to suspension, except (a) suspension without pay for a definite term (no more than one year) may be imposed as a sanction by the Chancellor without review by the President and the Board of Trustees; and (b) the Chancellor may determine that the expedited procedure for suspension without pay is applicable to the conduct (Section 8.3.3).

If the proposed sanction does not involve suspension without pay, the Department Chair shall make a recommendation to the Dean, and the Dean shall make a recommendation to the UTHSC Chief Academic Officer. The UTHSC Chief Academic Officer shall give the faculty member written notice of the proposed sanction and the supporting reason(s) and shall offer him or her an opportunity to respond both in writing and in person. The faculty member may appeal the proposed sanction through established appeal procedures of the Faculty Senate (Section 7.3), and the sanction shall be held in abeyance until conclusion of the appeal.