

## 3335-5-04: Procedures for Complaints of Misconduct Made Against Faculty Members

SYNOPSIS: In January 2021 a restructured 04 rule was approved by Senate. The new rule created four tracks for misconduct cases: 1- failure to meet academic responsibilities; 2- research misconduct, 3- sexual misconduct, protected class discrimination and harassment, whistleblower retaliation, and workplace violence; and 4- all other misconduct. While the new 04 has been working very well since its implementation, Rules, Legal, and OAA have been maintaining a list of places in the revised rule where more clarity would be helpful or where vestiges of the original rule or poor phrasing demands revision. In addition, the new Free Speech policy required that investigations and sanctioning under this policy are included in the 04 rule. The proposed revisions offered here bring together these changes to improve upon the 2021 revisions and make the processes outlined in the rule clearer for all involved.

WHEREAS the university endeavors to provide an academic climate conducive to the pursuit of inquiry and the acquisition of knowledge and truth; AND

WHEREAS this rule is a procedure written to ensure all members of the faculty are held to the highest ethical and professional principles in each academic discipline and that they receive due process in any disciplinary proceedings; AND

WHEREAS this rule was substantially restructured and passed by University Senate on January 21, 2021; AND

WHEREAS the need for several corrections and clarifications have emerged since the revised rule has been in effect; AND

WHEREAS the separation of track 1 and track 4 in the revised rule has been found to dramatically prolong the processes in cases when both tracks are involved; AND

WHEREAS the separation of track 1 and track 4 in the revised rule has been found to create challenges in smaller colleges in constituting two separate investigative committees in which all members have no conflicts of interest; AND

WHEREAS combining the procedures for such cases while preserving distinct evidentiary standards allows for investigations to be completed in a timely manner, one of the primary goals of the 2021 revision; AND

WHEREAS new state law and the related university policy related to freedom of speech went into effect after the writing of the current 04 rules; AND

WHEREAS the rule as written was unclear as to what happens should a faculty member resign in the middle of an investigation under tracks 1 or 4; AND

WHEREAS the rule as written was unclear as to what happens should a faculty member who had resigned in the middle of an investigation under tracks 1 or 4 choose to return to the university; AND

WHEREAS the rule as written was unclear as to how the role of “department chair” as outlined in the process would be filled in cases where the college or school has no departments; AND

WHEREAS the rule as written was unclear as to how the role of “department chair” would function in cases investigating regional campus faculty; AND

WHEREAS the rule as written was unclear as to how the process would function in cases investigating regional campus faculty in which the campus dean or director is the one who filed the complaint; AND

WHEREAS the rule as written did not spell out the ability of chairs to seek out guidance when conducting probable cause reviews as specified in the process; AND

WHEREAS the rule as written included “counseling” in the list of sanctions, suggesting that mandatory mental health treatment might be imposed; AND

WHEREAS the Rules Committee revised and approved this resolution and proposed language in meetings throughout the Fall of 2023 and approved unanimously by the committee on January 26, 2024.

NOW THEREFORE

BE IT RESOLVED that the University Senate approves the proposed revisions to Faculty Rule 3335-5-04 and respectfully requests the concurrence of the Board of Trustees, said proposal to be effective upon approval by the Board of Trustees.

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