

**IDAHO STATE UNIVERSITY**  
**POLICIES AND PROCEDURES (ISUPP)**  
**Policy and Procedures for Faculty Suspension/Dismissal/Termination for Cause**  
**Policy No. 4039**

**Policy Area:** *Academic Affairs*

**Policy Title:** *Policy and Procedures for Faculty Suspension/Dismissal/Termination for Cause*

**Responsible Executive:** *Executive Vice President and Provost*

**Sponsoring Organization:** *Office of Academic Affairs*

**Dates: Effective Date:** *April 7, 2014*

**Revised:** *April 7, 2014*

## **I. POLICY STATEMENT**

The Policy and Procedures for Faculty Suspension/Dismissal/Termination for Cause applies to faculty and all employees of equivalent faculty rank and provides for grievance procedures in the case of suspension, dismissal or termination for cause.

This Policy and Procedures for Faculty Suspension/Dismissal/Termination for Cause satisfies two objectives:

- a. to affirm a faculty member's right to be informed of and question personnel recommendations at any level, and
- b. to provide a mechanism for grieving an institutional decision to suspend, dismiss, or terminate a faculty member for adequate cause. (The grievance procedures provided herein shall also be used for faculty grievances of other matters under Policy No. 4041.)

This policy and the procedures set forth herein do not apply in the case of nontenured faculty members who are notified that they will not be reappointed, or in the case of a reduction in force approved by the State Board of Education and resulting from a declaration of financial exigency. In the event a faculty member alleges that an action was taken for illegally discriminatory reasons, the matter should be grieved under the Affirmative Action grievance procedures.

This policy and the procedures set forth herein are internal to the University. If at any time a faculty member seeks resolution of a matter covered by this policy in any forum other than Idaho State University, Idaho State University is not obligated to proceed further with the matter pursuant to the procedures herein.

## **II. AUTHORITY AND RESPONSIBILITIES**

The Office of Academic Affairs has the authority and responsibility to update and review this policy as necessary in consultation with the Office of Human Resources.

## **III. PROCEDURES TO IMPLEMENT**

- A. Notification of Recommended Action. To assure a faculty member of his or her right to be informed of and question any personnel recommendations regarding suspension, dismissal, or termination for cause, a faculty member must be notified of any action being contemplated and recommended to the President or his designee that the faculty member be suspended, dismissed, or terminated for adequate cause. The President has designated the Provost to act on recommendations of suspension, dismissal, or termination for cause. This notification must be given in writing by the dean or unit director of the faculty member's college or unit and must include the reasons for the recommended action

and a statement of the evidence supporting it. Notification must be given to the faculty member prior to the informal review provided for in III.B.

- B. Informal Review. Before a recommendation of suspension, dismissal, or termination for cause can be made to the Provost, the faculty member must be given an opportunity to meet with the person(s) making the recommendation so that the faculty member may present any information or evidence in mitigation or opposition to the recommendation. This meeting is deemed to be an informal review and is intended to facilitate the resolution of disputed matters at the earliest possible point in time. The following process will apply:
1. The meeting will be scheduled by the office of the dean or unit director and must occur prior to the recommendation to the Provost.
  2. In the event the faculty member declines to participate in the meeting or fails to attend a scheduled meeting, the requirement of an informal review under III.B. will be deemed to have been satisfied and the recommendation may be made to the Provost.
- C. Notification by the Provost. If a recommendation of suspension, dismissal, or termination for cause is made to the Provost, the Provost must consider the recommendation and act on it within a reasonable time. The Provost may find that there is no cause for discipline and notify the faculty member accordingly; accept the recommendation and order the suspension, dismissal, or termination of the faculty member for cause, providing notice as provided below; or find that cause exists for some discipline short of suspension, dismissal, or termination, and notify the faculty member of the finding.

The Provost shall notify the faculty member of any discipline for cause in the following manner:

1. The notice must be in writing and delivered to the faculty member by personally serving the notice upon the faculty member or by sending it by certified mail to the last known address of the faculty member.
2. The notice must contain the following information:
  - a. a concise statement of the assertions about the faculty member,
  - b. the Provost's finding as to whether cause exists for suspension, dismissal, termination, or some lesser degree of discipline, and whether discipline is ordered, and
  - c. a statement of the faculty member's right to exercise the applicable Idaho State University grievance procedures as set forth herein or in Policy No. 4041, Grievance Procedures for Institutional Faculty.

Except as otherwise provided in these or State Board of Education policies, the recommended action may be effective prior to the faculty member's initiation of the formal grievance process under III.D. In the event of a recommendation to dismiss or terminate a faculty member for cause, the faculty member will be suspended with pay until he or she has had the opportunity to exercise his or her grievance rights within the University.

- D. Formal Grievance Process. The formal grievance process defined herein must be used by the faculty member who wishes to grieve a recommendation made to the Provost to suspend, dismiss, or terminate that faculty member for cause. The scope of permissible grievance is limited to those assertions set forth in the notification by the Provost given pursuant to III.C. The formal grievance process is an internal administrative procedure; it is not a judicial proceeding.

The faculty member must initiate his or her grievance within ten (10) working days of the date of receipt of the notice given by the Provost under III.C. In this policy and the procedures herein, the term "working days" is defined as the regular business days of operation for the University. Those responsibilities given to the Provost and Vice President for Academic Affairs (the Provost) under the formal grievance process may be delegated by the

Provost, and a representative may be designated to represent the Provost throughout the process. All references to “the Provost” in this policy and procedures will be construed as “the Provost or his/her designee.”

1. Notice of grievance.

- a. The faculty member (“grievant”) initiates the formal grievance process by submitting a written notice of grievance to the Provost. The notice of grievance must include the following:
  - i. all correspondence and materials relating to the informal review required under III.B.
  - ii. a summary of the informal review prepared by the grievant that includes the date on which the meeting was held, the names of the persons present, the nature of the discussion, and the outcome of the meeting.
  - iii. any other information the grievant deems relevant to the grievance.
- b. Upon the Provost’s receipt of the written notice of grievance, the Provost will notify the President in writing of the grievance.

2. Formation and composition of appeal panels.

- a. A Standing Appeals Panel comprised of faculty members at the associate, senior instructor or equivalent rank who will serve a three (3) year term will constitute the pool of panelists from which panel members may be selected to form an ad hoc Appeals Panel for a particular grievance. The following units shall each appoint two faculty at the associate, senior instructor or equivalent rank as members to the Panel: the College of Science and Engineering, the College of Arts and Letters, the College of Business, the College of Education, the College of Technology, the College of Pharmacy, and the Kasiska Division of Health Sciences. Panelists will be appointed to serve on the Standing Appeals Panel by the respective dean (or the executive dean of the Division of Health Sciences), in consultation with the college/division executive committee, selecting appointees in such manner as each shall choose. The Faculty Senate shall appoint four faculty members at the associate, senior instructor or equivalent rank, who are not required to be members of the Faculty Senate. The Standing Appeals Panel will convene for an initial meeting to select a chair.
- b. The ad hoc Appeals Panel for an individual faculty grievance will consist of three (3) members selected from the Standing Appeals Panel provided for in III.D.2.a. Hereinafter in this policy and procedures the ad hoc Appeals Panel formed for a particular grievance is referred to as the “Appeals Panel.”
- c. Upon the Provost’s receipt of the notice of grievance, the Provost will refer the grievance to the Director of Human Resources to appoint the three (3) members of the Appeals Panel by lot from among those members of the Standing Appeals Panel who are eligible to be appointed. A faculty member may not be appointed to serve on the Appeals Panel if the Director determines he/she comes within any one of the following criteria:
  - i. is a member of the grievant’s department or program.
  - ii. has any special relationship to the grievant or to the administrator whose decision is the subject of the grievance, which relationship might reasonably be said to raise a claim of conflict of interest.
  - iii. has received notice of layoff or nonrenewal as a result of financial exigency or has received notice of termination or nonrenewal for any other reason.
  - iv. has any grievance, appeal, or litigation pending against any officer of the University.

- v. has made recommendations, offered comment, or otherwise participated in the deliberations leading to the institutional decision being grieved.
  - d. In the event there are not enough eligible members of the pool to form a panel, the Director of Human Resources will request nominations for additional members from the heads of the units eligible to appoint members (excluding members of the grievant's academic department).
  - e. In the event one or more of the members of the Appeals Panel are removed from the Panel at the request of the grievant, are successfully challenged for cause, or are otherwise unable to serve, the Director of Human Resources shall repeat these procedures to appoint replacements.
  - f. The Director shall immediately report the members of the Appeals Panel to the Provost.
3. Procedures for challenging and resolving challenges to Appeals Panel membership.
- a. The Provost will notify the grievant of the names of the Appeals Panel members within five (5) working days of the filing of a grievance, so that the grievant may have the opportunity to challenge members selected.
  - b. The grievant may submit a one-time request that a member be removed from the Appeals Panel without showing cause for removal. Any further challenge to Panel members may be for cause only. Challenges must be made in writing and delivered to the Provost within three (3) working days of the date the grievant received the list of Panel member names. Upon receipt of a challenge for cause, the Provost will contact the chair of the Standing Appeals Panel and request the panel be convened to hear the challenge. All for-cause challenges to the membership of the Appeals Panel will be ruled on by the members of the Standing Appeals Panel. Vacancies, however created, will be filled by the appointing procedure as described in III.D.2.c.
  - c. Alternatively, in the event an Appeals Panel cannot be formed, and upon recommendation by the Provost, the Director of Human Resources may appoint a Hearing Officer, who may be an attorney from outside the University, to hear the grievance.
4. Appeals Panel Proceedings. [Reference to the Appeals Panel, Panel, or Chair throughout this policy will also be to the Hearing Officer as applicable.]
- a. The Appeals Panel is responsible for providing to the Provost its advisory opinion whether or not information presented during a hearing, or otherwise available as part of the grievance record, supports the recommended action. The Appeals Panel may consider whether the University has applied its disciplinary action in accordance with the policies and procedures of the State Board of Education and Idaho State University. The Appeals Panel has final authority in all procedural matters, including the number and duration of hearings, as well as a final report of their findings submitted to the Provost, provided the report is submitted within the time limits established by III.D.5.h.
  - b. The Provost will designate one of the Appeals Panel members to be responsible for initially convening the panel and for providing panel members with the record of the grievance available to date. The first meeting of the Appeals Panel must be called by the designated panel member within fifteen (15) working days of the final formation of the Appeals Panel. The Appeals Panel members will first choose a Chair and familiarize themselves with the grievance policy and procedures. The Panel shall immediately convene in the presence of the Provost and the grievant for the following purposes:
    - i. to consider the nature of the parties' expected evidence, including the number and nature of witnesses and advisors to be called, and

- ii. to set mutually agreeable dates for the hearing(s), including time and duration of the presentations of evidence.

Both the grievant and the Provost may request that the Appeals Panel summon other parties who participated in the deliberations leading to the recommendation that is the subject of the grievance. The Chair of the Appeals Panel will communicate its determinations in writing to the parties regarding c.i. and c.ii. above, within five (5) working days following this meeting. The Appeals Panel Chair will rule on all disputed matters concerning this subsection.

- d. As a general rule, the Appeals Panel will admit rather than exclude evidence that either party wishes to present and will defer decisions on the relevance and weight to be given such evidence until subsequent deliberations. The Appeals Panel Chair may, however, rule against presentations that are clearly repetitive or irrelevant. The Appeals Panel has the responsibility to review all evidence presented to it.
- e. The University has the burden to produce sufficient information to demonstrate adequate cause for suspension, dismissal or termination of the faculty member for the reasons set forth in the Provost's notice to the grievant required by III.C.
- f. Unless extenuating circumstances can be shown to the Appeals Panel, failure of the grievant to appear at the time and place set for the hearing constitutes a waiver of further proceedings.

5. Procedural standards for Appeals Panel hearings.

- a. The procedural requirements of a formal judicial hearing do not govern hearings conducted by the Appeals Panel. The following minimal standards of procedure are required:
  - i. Tape/digital recordings will be made of each hearing session. Upon written request, a grievant and/or the Provost may obtain duplicate copies of the tapes with the cost to be borne by the requesting party. The original tapes will be kept in the Office of Academic Affairs, and requests for duplicate copies should be addressed to this office.
  - ii. The written grievance and subsequent information presented by the grievant and Provost will be made a part of the record.
- b. The grievant will be afforded the opportunity to appear before the Appeals Panel and discuss the issues contained in the written grievance.
- c. Witnesses may be asked to appear before the Appeals Panel by the grievant, the Provost, or the Appeals Panel Chair to give testimony that is material and directly relevant to the decision being grieved. Those asked to appear have the responsibility to respond as though summoned by the President of the University. Upon request of the witness, and for good cause, the Panel may make reasonable accommodations for the witness, including permitting the witness to testify outside of the presence of the grievant. In the event a witness refuses to appear and give testimony after being requested to do so, the Appeals Panel, at its discretion, may recommend that the witness be subject to the same discipline as if the witness had refused to respond to a request of the President. Each party may request the Chair to ask specific questions of an adverse witness, and the Chair will comply if the questions posed appear to be probative, relevant, and fair. The Chair will allow a party to directly question an adverse witness only if the questions are asked without antagonism and are not argument.
- d. The grievant may choose to have present an advisor of his or her choice during the grievance hearing(s). This advisor will act only in an advisory capacity to the grievant and may not present or speak on behalf of the grievant during the hearing(s). Although this is not a judicial hearing, either party may elect to have an attorney serve as his or her advisor.

- e. The Appeals Panel and the grievant will be afforded access to any documentation and evidence that was considered by the Dean or Provost in reaching the decision being grieved.
- f. Any votes taken during the Appeals Panel proceedings must be made by written secret ballot to be kept on file for the record.
- g. The Appeals Panel has the power to establish its own procedural rules subject to the limitations imposed in III.D.5.a.-f.
- h. The Appeals Panel must file its report of conclusions and advisory opinion within ten (10) working days after completion of the hearings as required by III.D.6., and in no event later than ninety (90) days after formation of the Appeals Panel, unless the Appeals Panel Chair requests an extension of time for good cause shown and such request is granted by the Provost.

6. Appeals Panel report of conclusions and advisory opinion.

- a. Within ten (10) working days after the completion of the hearing(s), the Appeals Panel will forward a report of its conclusions and advisory opinion to the grievant, the Provost, and the President.
- b. The Chair of the Appeals Panel will have the responsibility for polling panel members for their opinion, for drafting the report based upon the majority opinion, and for giving all members an opportunity to read and sign the report prior to submission to the grievant and the President.
- c. A minority report may accompany the report submitted by the Chair of the Appeals Panel.
- d. A copy of all Appeals Panel reports must be included with the summary notes and tape recordings at the end of the hearing.

7. President's decision.

- a. The President will render a decision on the grievance within ten (10) working days after receiving the Appeals Panel report, and will notify, by certified mail, the grievant and the Chair of the Appeals Panel of his or her decision.
- b. In the event the President determines that the original decision to recommend suspension, termination, or dismissal was in error, the decision will be declared null and void, and the President's final decision will be documented in the grievant's personnel file. All documents related to the original decision, recommendation or other grievable event, and the formal and informal grievance proceedings will be retained.
- c. A copy of the President's decision will be included with the summary notes and tape recordings, which will be stored in the Office of Academic Affairs.

E. Board Initiated Discipline. If, under extraordinary circumstances, the Board itself initiates discipline, up to and including dismissal, against a faculty member, it must, by a majority vote, direct the President, or any other administrator as may be appropriate, to follow established procedures for discipline of the faculty member.

**PRESIDENTIAL CERTIFICATION**

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 Approved by Arthur C. Vailas  
 President, Idaho State University

Date: \_\_\_\_\_