

## **FACULTY REVIEW COMMITTEE**

### **Formal Review Procedures**

The procedures to be followed in all appeals conducted by the Faculty Review Committee (FRC) for petitions brought under Section IX(B)(3) of the Faculty Handbook are set forth below. These procedures supplement and restate portions of the same Section of the Faculty Handbook.

1. Following the election of the new FRC members each fall, the FRC shall meet to elect its Chair. The Chair shall serve until the new Chair is elected.

2. Upon receipt of a petition for review, the Chair shall convene the FRC to distribute the petition and begin considering the allegations contained in it. The FRC shall proceed as appropriate to reach a recommendation for disposition of the petition. No member of the FRC who played a role in the original decision shall be qualified to participate, and in the event that disqualifications reduce the available membership of the FRC below six (6) members, qualified alternates shall be chosen at random from the elected alternates to constitute a committee of six members, if possible.<sup>1</sup> If the addition of qualified alternates fails to bring the committee size to six (6), those committee members and alternates who are qualified to serve shall proceed to consider the case and make a recommendation. Additionally, if the term of any member of the FRC expires while an appeal is pending before the FRC under these procedures (that is, a petition has been filed with the Chair and the FRC has met at least once to discuss the case), any such member shall continue to serve on that case until a final recommendation is reached therein, at which time his/her term shall expire. The successor member of the FRC shall become a member on July 1 of that year but shall not be involved in any case that was filed and underway before the new member's initial year in his or her term. The service period of each member of the FRC shall run from July 1 through June 30 although the full term of each member is to be staggered in accordance with the Faculty Handbook. If more than one case is brought forward to the FRC, the cases will ordinarily be handled in order of their receipt by the chair of the FRC.

3. Questions of procedure may be ruled upon by the Chair.

4. The sole responsibility of the FRC is to investigate the process by which the original decision was reached to determine whether it was the result of improper or inadequate consideration. The FRC shall not substitute its judgment on the substantive merits for the judgment of those who made the original decision.

5. In some cases, it is anticipated that the written record containing submissions made by the faculty member, and by the person or committee whose decision is at issue (hereinafter, "Deciding Authority") will be sufficient in itself to allow the FRC to dispose of the case. In the event that the FRC believes that that record is not sufficient to allow it to dispose finally of the case, the FRC may consider relevant documentary materials. The FRC also may interview witnesses whom the FRC believes to have reliable information relevant to the inquiry. Neither the Deciding Authority nor the

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<sup>1</sup> In the case of a law school petition, a law school member of the FRC shall be treated as having "played a role in the original decision" and therefore be subject to automatic disqualification only if he or she served (i) as a member of the petitioner's Tenure Support Committee; (ii) as a member of the petitioner's Tenure Committee; or (iii) as Dean or Associate Dean for Academic Affairs at any time during the pre-tenure or pre-promotion period for the petitioner. In the event of disqualification under this rule, a qualified alternate shall be chosen at random from the elected law school alternates. If no law school alternate is qualified to serve under this rule, the proceedings shall continue without a law school representative.

faculty member shall have the right to be present during the FRC's interview of witnesses, if any. Any witnesses shall be interviewed on an individual basis by at least two members of the FRC. Under ordinary circumstances, only the FRC and witnesses may be present during interviews, and no verbatim transcript or official minutes of interviews shall be made.

6. The burden of proving improper or inadequate consideration remains with the faculty member throughout the review. For the review to proceed, the FRC must make a threshold determination as to whether the faculty member has established a prima facie case in his or her petition. To establish a prima facie case, the faculty member (i) must make specific and detailed allegations, which, if true, would warrant remedial action or relief under Section IX(B)(3) of the Faculty Handbook, and (ii) must present credible and reliable support for those allegations. If a prima facie case is not established, the review shall terminate with the recommendation of the FRC to be communicated in accordance with Section IX(B)(3) of the Faculty Handbook. If a prima facie case is established, the review shall proceed, with the burden resting with the faculty member to demonstrate to the FRC that it is more likely than not that the decision was the result of improper or inadequate consideration.

7. All meetings and discussions of the FRC shall remain closed, and the FRC shall maintain and treat as confidential all of its deliberations, materials consulted, and facts learned in the course of the review process.

8. The decision being reviewed shall be effective pending the outcome of the FRC's review and any subsequent decision of the President or Board of Trustees.

9. During its deliberations, the FRC may consider the faculty member's petition and written response, if any, made to that petition by the Deciding Authority. In some cases, the evidence also may include relevant documentary materials and witness interviews, which must be conducted by at least two members of the FRC, who shall summarize such interviews for the entire FRC. Conclusions of the FRC shall be based entirely upon the evidence obtained by or presented to the FRC as a whole during the review process. The FRC's findings shall be reached by a majority vote.

10. The FRC shall deliver a report of its findings in writing to the President, to the appropriate academic dean, to the department head, to the Deciding Authority (if not already included herein), and to the petitioner, if possible by the end of the October following the petition, in accordance with Section IX(B)(3) of the Faculty Handbook, unless the Chair, upon consultation with the petitioner and the FRC, causes revision to this timetable. The content of the FRC recommendation shall otherwise remain confidential, beyond a single-sentence statement to faculty that the Faculty Review Committee has concluded its work and issued a report to the President. The decision of the President shall be final and the petitioner may initiate no further appeal within the University, unless the petition alleges improper conduct by the President, in which case the report also shall be sent to the Executive Committee of the Board of Trustees whose decision shall be final.

11. Attached is a sample schedule for reconsideration and appeal of tenure and reappointment decisions at Washington and Lee University.

12. Upon completion of a case, the FRC may, for the benefit of enhancing institutional procedures, request meetings with faculty, administrators, or groups of faculty and administrators to discuss procedural issues raised by the case, as long as doing so does not violate confidentiality.

**Sample Schedule for Reconsideration and Appeal at Washington and Lee**  
(Tenure and Fourth- Year Reappointment)

1. By May 1: Faculty member receives oral and written communication from the dean of a decision not to reappoint.
2. By October 1: Written request for reconsideration must be received within two (2) months of original notification.
3. By October 15: The decision whether or not to reconsider must be communicated within two weeks of date of the request.
4. By December 15: Reconsideration must be completed within two months of the decision to reconsider.
5. By January 15: After hearing results of reconsideration, faculty member has one month to initiate a review (appeal).
6. By March 15: Review committee must complete the investigation within two months of the receipt 'of the petition of the faculty member.

**Sample Schedule for Reconsideration and Appeal at Washington and Lee**  
(Second- Year Reappointment)

1. By December 15: Faculty member receives oral and written communication from the dean of a decision not to reappoint.
2. By February 15: Written request for reconsideration must be received within two (2) months of original notification.
3. By March 1: The decision whether or not to reconsider must be communicated within two weeks of date of the request.
4. By May 1: Reconsideration must be completed within two months of the decision to reconsider.
5. By June 1: After hearing results of reconsideration, faculty member has one month to initiate a review (appeal).
6. By November 1: Review committee must complete the investigation within two months of the receipt of the petition of the faculty member.

**PLEASE NOTE THAT THESE PROCEDURES MAY BE REVISED FROM TIME TO TIME  
SO BE CERTAIN TO CHECK THE LATEST EFFECTIVE DATE FOR THE PROCEDURES  
WHICH SHALL APPLY.**

Adopted administratively: Effective: February 1996  
Revised and changes adopted administratively by Provost: May 2005  
Revised and changes adopted administratively by Provost: April 17, 2006 (added last sentence Sec. 2)  
Sample Timetables added, April 27, 2006