

MEMORANDUM

TO: Faculty Senate

FROM: The Faculty Affairs Committee 

RE: Updates to the *Faculty Manual*

DATE: February 19, 2025

The Faculty Affairs Committee would like to thank Holly Ashkannejhad, our Title IX coordinator, for the attached updates to the Faculty Manual. These updates reflect changes to Title IX policy and will become effective as soon as approved.

II.F.7. No Discipline

If the complaint involves Title IX Sexual Harassment (*EP #15B*), the complainant and respondent must be afforded a formal hearing consistent with the process for formal discipline with major sanctions described in II.F.10. Otherwise, if after investigation, the provost determines that the alleged conduct either did not occur or did not constitute a violation of the Conduct Regulations, II.F.3, the provost shall notify the respondent faculty member and the complainant in writing within ten (10) business days of the completion of the investigation. In matters involving discrimination and harassment (*EP #15*), the provost must consider the CCR investigation report and recommendations. However, the provost may engage in additional interviews or review to assess credibility as needed. A determination of no violation by the provost is final, except in matters involving Title IX Sexual Harassment (*EP #15B*), which have specific appeal rights as outlined in the CCR Procedural Guidelines.

II.F.8. Summary Suspension

Summary Suspension is the responsibility of the president. Ordinarily, the disciplinary authority of the University will be invoked only after completion of the procedures established for the review of discipline cases and after the individual has utilized any appeal procedures desired as described in the following sections of the disciplinary regulations. A decision by the provost to place an individual faculty member on leave without pay while the faculty disciplinary process is pending is not considered a summary suspension if the individual is legally prohibited from performing their assigned responsibilities, as detailed in Section III.D.13.

However, if at any time the provost becomes aware of information that causes them to believe there is an immediate threat to the public health, safety, or welfare, to University property, or to the safety or welfare of any member of the University community (including the respondent faculty member), the provost shall immediately institute summary suspension procedures. These procedures require the provost to provide the faculty member, either orally or in writing, with notice of charges against them, with an oral or written statement of the evidence that supports the charges, and with an opportunity to respond to the charges. If, after receiving the faculty member's response, the provost believes that the immediate threat remains, they will recommend to the president that the faculty member be summarily suspended. The president shall consider this recommendation, including the summary of the basis therefore and the faculty member's response to the charges, and determine whether to summarily suspend the faculty member. If the faculty member is summarily suspended, salary shall not continue for the duration of the summary suspension. In all such emergency cases, the faculty member is thereafter entitled to all the formal hearing process rights as provided in this section on formal discipline.

A decision to summarily suspend a faculty member shall comply with the requirements of RCW 34.05.479. The order of summary suspension shall be served to the faculty member in person. The notice should indicate that the suspension is for an emergency purpose in accordance with this section. It shall contain a brief statement of reasons to justify the summary suspension. If personal service is not feasible the notice shall be sent by certified mail. If there is to be a restriction on the faculty member's privilege to be present on University property, the faculty member shall be notified of that constraint, and such notice will be simultaneous with the notice of summary suspension.

The provost shall issue a statement of charges within five (5) business days of the imposition of a summary suspension and shall request that the Faculty Status Committee expedite the selection of a hearing committee. The Hearing Committee shall schedule the hearing within the next thirty (30) business days. This right to an expedited hearing may be waived by the respondent faculty member.

II.F.9. Informal Discipline with Minor or Moderate Sanctions

If after investigation the provost determines:

- (a) The alleged conduct occurred,
- (b) The conduct violated the Conduct Regulations II.F.3,
- (c) The conduct does not constitute Title IX Sexual Harassment (*EP #15B*), and
- (d) The conduct subjects the faculty member to a warning or censure, which may include mandatory training and related measures and/or penalties described in section II.F.4,

then the provost notifies the respondent faculty member in writing. This notice will be kept confidential to the extent allowed by law and is shared internally on a strictly need-to-know basis. The respondent faculty member is provided the option of accepting or rejecting the informal discipline and must do so within ten (10) business days of receipt of the notice. If the respondent faculty member accepts the imposed discipline, the provost carries out the discipline accordingly and notifies the complainant and the applicable administrators, including the respondent faculty member's chair or director and dean. If the respondent faculty member rejects the imposed discipline, they will have an additional (10) business days to file an appeal with the Faculty Status Committee (FSC). If an appeal is filed with the FSC, the FSC (1) determines its own procedures for reviewing the matter, in a manner consistent with state and federal law, (2) conducts its review as expeditiously as possible, and (3) reports its findings and recommendations to the president or designee and to the respondent faculty member, within one hundred twenty (120) calendar days after the appeal is made. The committee may elect to count only days of the academic year in the one hundred twenty (120) day period if the president or designee's decision can be rendered before the sanction needs to be imposed. Following the faculty member's receipt of the FSC report, they have fifteen (15) calendar days to provide the president or designee with a written response to the report. The president or designee considers both the FSC report and the faculty member's response, if any, in making a final decision and notifies the faculty member of that decision within thirty (30) calendar days after receiving the FSC report.

If the conduct, as alleged, constitutes Title IX Sexual Harassment (*EP #15B*), even if the investigation does not find a violation, there is still a formal hearing afforded to the parties as described in Section II.F.10, Formal Discipline with Major Sanctions.

II.F.10. Formal Discipline with Major Sanctions

For matters that constitute *EP #15B* Title IX Sexual Harassment, the formal hearing procedure (see Formal Disciplinary Proceedings) described below is initiated within thirty (30) business days of receiving the CCR investigation report. Otherwise, if after investigation, the provost concludes that the preponderance of evidence indicates:

- (a) The alleged conduct occurred,
- (b) The conduct violated the Conduct Regulations, II.F.3, and
- (c) The conduct subjects the faculty member to major sanctions as described in section II.F.4,

then the provost shall notify the affected faculty member in writing. This notice shall remain confidential to the extent allowed by law and is shared internally on a strictly need-to-know basis. The affected faculty member shall be provided the option of accepting or rejecting the imposed discipline and must do so within ten (10) business days of receipt of the notice. If the affected faculty member accepts the discipline, the provost shall carry out the discipline accordingly, and notify the complainant and the cognizant administrators, including the affected faculty member's chair or director and dean. If the affected faculty member rejects the discipline, the provost shall cause formal disciplinary proceedings to commence.

Formal Disciplinary Proceedings

The formal disciplinary process includes a formal hearing.

Formal hearings are adjudicative procedures under RCW 34.05. The University has developed its procedures to comport with the requirements of the Administrative Procedures Act, to ensure that parties are afforded appropriate due process rights, and to provide protection to the rights of all parties to the dispute while maintaining the collegiality that is the hallmark of the academic community.

The formal hearing procedure includes:

(a) Statement of Charges

The first step in the formal disciplinary process is the issuance of a Statement of Charges that shall include:

- i. A reference to those portions of the Faculty Code of Professional Ethics, II.C.1, Conduct Regulations, II.F.3, or other particular rules or policies the faculty member is alleged to have violated,
- ii. A short and plain statement of the factual matters asserted upon which the violations are based,
- iii. A statement of the contemplated disciplinary action, and
- iv. For matters involving allegations of Title IX Sexual Harassment (*EP #15B*):
 - (1) A statement that the respondent is presumed not responsible and
 - (2) The statement of charges is provided to the complainant and the respondent.

(b) Response to Statement of Charges

A response to the statement of charges provision does not apply to matters involving allegations of Title IX Sexual Harassment (*EP #15*). For these matters, the complainant and the respondent may both provide written or oral statements, as provided for in the notice of hearing. Otherwise, the respondent must provide a Response to the Statement of Charges within twenty (20) business days of service thereof. The Response to Statement of Charges shall include:

- i. Admissions or denials regarding the factual allegations related to violations of the Faculty Code of Professional Ethics, II.C.1, Conduct Regulations, II.F.3, or other particular rules or policies listed in the Statement of Charges, and

- ii. Any affirmative defenses available to the faculty member.

The respondent may elect to be represented by counsel in these proceedings. If counsel is elected, the provost shall be notified immediately so that all further correspondence can be directed to counsel.

If the respondent fails to respond to the Statement of Charges within the specific period, the respondent is deemed to be in default. The provost can then proceed to impose the discipline recommended in the Statement of Charges.

(c) Hearing Committee

Within five (5) business days of the receipt of the Response to Statement of Charges, the provost shall request that the Faculty Status Committee appoint a Hearing Committee from the members of the tenured faculty. The Faculty Status Committee shall keep in mind the University's values regarding affirmative action and diversity in recommending committee members.

The Hearing Committee shall consist of three (3) tenured faculty members. One (1) alternate tenured faculty member shall also be named. All committee members will attend the hearings. Alternates will only attend the hearings if they replace a Hearing Committee member. The Faculty Status Committee shall select committee members within fifteen (15) business days of the receipt of the request. Once the Faculty Status Committee has constituted the Hearing Committee, the provost and the respondent shall each be provided the opportunity to disqualify up to one member without stated cause. The provost/ and the respondent shall also each be allowed such further challenges to the committee's membership, based on articulable cause, at the discretion of the Faculty Status Committee. The Faculty Status Committee may, at its discretion, schedule a hearing for the purpose of considering challenges to the potential committee members and finalizing the selection of the Hearing Committee. If it does not schedule a hearing, all challenges and responses thereto will be provided in writing utilizing the following timelines: Any request to strike a committee member, whether for cause or no cause, shall be provided to the Faculty Status Committee within five (5) business days of the receipt of the committee member's names. The Faculty Status Committee shall rule on all cause challenges within ten (10) business days of the receipt thereof. Once all challenges are resolved, the Faculty Status Committee shall confirm the members of the committee in writing and send the list to the provost and the respondent, or their respective attorneys.

For matters involving Title IX Sexual Harassment (*EP #15B*), the Hearing Committee shall exclude faculty who have a bias and/or conflict of interest toward the complainant or the respondent, or towards complainants or respondents generally. All members participating in a hearing must have appropriate training on Title IX regulatory requirements, as provided by Compliance & Civil Rights (CCR).

For any matter, no committee member shall have been involved in the investigation of any matter involved in the Statement of Charges, or the decision to convene a formal hearing regarding those charges. No committee member shall make or receive any *ex parte* contact regarding the subject matter of the formal proceeding from any party thereto, directly or indirectly, outside the scope of the formal hearing, nor shall any party to the hearing make or attempt to make any such contact. See RCW 34.05.455. Communications regarding purely procedural or housekeeping matters related to the proceeding shall not be prohibited by the foregoing. Any attempt at improper contact with any Hearing Committee member outside the

hearing shall be immediately reported to both the remainder of the Hearing Committee and to the other parties.

The Hearing Committee, at that first meeting, shall elect a chair to preside over its hearings. The Hearing Committee shall request the appointment of an Administrative Law Judge from the Washington Office of Administrative Hearings. Rules shall be consistent with this section of the Faculty Manual and with applicable Washington State law.

Hearing Committee members are required to attend the scheduled hearing and must be prepared to adjust their teaching and research schedule to attend hearings. Hearings will not be rescheduled or moved to accommodate Committee member schedules. It is important that those serving on the Hearing Committee understand this potential commitment. To this end, faculty selected to be on hearing committees will receive written confirmation from the Office of the President describing the responsibilities of the committee. Each committee member must sign the document, acknowledging their commitment to the process. A copy of the signed document will be shared with the committee member's chair or director and dean.

Parties will work with the Hearing Committee to set agreeable dates, but Hearing dates are ultimately set by an Administrative Law Judge, and Hearing Committee members are required to attend. This may include hearing dates set during reduced university hours, university breaks, and the summer session between the end of the spring semester and the beginning of the fall semester. The University will work with Committee members to cover class work and other responsibilities during a hearing. Hearing Committee members with nine-month appointments will be remunerated appropriately when necessary.

(d) Notice of Hearing

An Administrative Law Judge will determine a date(s) for the hearing. The Administrative Law Judge may continue the hearing date(s) at the request of either party or as justice requires. If a summary suspension has been ordered, the hearing must be scheduled to begin no later than twenty-five (25) business days from the date the Faculty Status Committee constituted the Hearing Committee, unless the respondent (and complainant in matters involving Title IX Sexual Harassment (*EP #15B*)) waives their right to have the hearing begin within this timeframe. In all other cases, the hearing must be scheduled to be no sooner than twenty-five (25) and no later than ninety (90) business days from the date that the Faculty Status Committee constituted the Hearing Committee.

The Notice of Hearing must include all the following:

- i. The names and addresses of all persons to whom the notice is sent, and of their respective representatives or attorneys (if any),
- ii. The name of the matter in which the proceeding is being held (usually the name of the faculty member),
- iii. The names, titles, and campus mailing addresses of the Hearing Committee members, including a designation of the committee chair,
- iv. A statement of the time, place, and nature of the proceeding,

- v. A statement that the hearing is being held pursuant to the Administrative Procedures Act of the State of Washington, under jurisdiction and powers granted to the University under RCW chapter 28B, and pursuant to the *Faculty Manual*, and
- vi. A statement that statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with the provisions of RCW 34.05, except in matters involving Title IX Sexual Harassment (*EP #15B*).
- vii. For cases related to Title IX Sexual Harassment (*EP #15B*), the notice of hearing must be provided to the complainant and the respondent simultaneously and also include:
 - (1) Date, time, location, participants, and purpose of the hearing
 - (2) Applicable grievance procedures and policies
 - (3) Specific allegations, including the identities of the parties involved, the alleged conduct, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available
 - (4) Notice that the respondent is presumed not responsible for the alleged conduct and that a determination is made at the conclusion of the hearing process
 - (5) A statement that retaliation is prohibited
 - (6) Rights to have an advisor, which may be a support person or attorney, participate in the hearing
 - (7) Notice that the hearing will be held in a venue that allows for separate rooms for complainant and respondent or the hearing will be held virtually
 - (8) Rights to appear virtually
 - (9) Right to review relevant evidence, as provided by CCR and/or the Office of the Provost
 - (10) Right to present relevant evidence, including the right to call witnesses
 - (11) Right to have the matter heard by a trained, impartial decision maker
 - (12) The prohibition on false statements provided in *EP #15*.

(a) Discovery

The parties shall be allowed to exchange documents and interview witnesses prior to the hearing. The provost shall turn over to the respondent (and the complainant in matters involving Title IX Sexual Harassment (*EP #15*)) all investigative materials upon which the decision to issue the Statement of Charges was based. The University will also use its best efforts to secure the cooperation of witnesses and make available such documents as are under its possession and control. All parties shall diligently share information, documents, and other relevant facts to ensure against unfair surprise at the hearing.

Formal discovery is time-consuming and costly and, therefore, is discouraged. The Hearing Committee shall allow formal discovery only upon a showing of necessity and unavailability of information by other means. The Hearing Committee shall review the factors outlined in RCW 34.05.446(3) when determining whether to exercise its discretion to allow discovery. Formal discovery includes requests for answers to interrogatories, requests for production, the taking of depositions, and all other procedures authorized by the Superior Court Civil Rules 26 through 36.

The Hearing Committee may issue subpoenas as authorized under RCW 34.05.446 and shall make such reasonable orders as may be proper to allow all parties a full and fair opportunity to be heard.

Interviews of witnesses shall be done within a reasonable time before the Hearing and shall not extend beyond the minimum time necessary to obtain relevant information. Witnesses may request that both parties provide information before an interview, including the length of the interview, the format, the general nature of questions that will be asked, and the length of time required to conduct the interview. Witnesses have the right to refuse that an interview be recorded. The Office of the Attorney General, WSU Division cannot provide legal representation to faculty witnesses. However, faculty may request an orientation to the hearing process from the Office of the Attorney General.

(b) Pre-hearing Statements

To facilitate an expedient hearing, at least ten (10) business days prior to the date of the hearing both parties shall provide to the hearing committee a Pre-hearing statement including:

- i. A list of all individuals the party intends to call to present their case in chief,
- ii. A list of all documents the party intends to present as evidence in their case in chief, and
- iii. An estimated time for the presentation of their case.

The parties need not identify witnesses or documents intended to be used only for impeachment purposes.

The parties shall also be entitled to file with the Administrative Law Judge such memoranda, position statements, objections to proffered evidence, and other procedural materials as the Judge may, in their discretion, allow.

For matters involving Title IX Sexual Harassment (*EP#15B*), the parties may submit an additional statement in response to any new evidence made available through the discovery phase.

(c) Motions

The Administrative Law Judge shall, at appropriate stages of the proceedings, allow all parties the full opportunity to submit and respond to pleadings, motions, objections and offers of settlement. See RCW 34.05.437.

(d) Formal Hearing

The Administrative Law Judge shall cause the hearing to be recorded by the most effective method and shall preserve any exhibits or other materials received during the hearing. For hearings related to Title IX Sexual Harassment (*EP #15B*), audio or audiovisual recordings or transcripts of the hearing must be available for the party's inspection and review. The Hearing Committee shall conduct its proceedings with as much dispatch as possible, while recognizing the parties' right to adequate time to present their case. The University conducts faculty disciplinary hearings pursuant to the Washington Administrative Procedure Act, RCW 34.05. That law requires all hearings to be open unless closed 1) under a provision of law expressly authorizing closure or 2) under a protective order entered by the Hearing Committee pursuant to applicable rules. The Hearing Committee and the parties shall refrain from public comments or

statements regarding the hearing, its conduct, the evidence presented before it, and any findings, recommendations, and sanctions until final action has been taken on the matter.

The Administrative Law Judge shall first allow the provost to submit those witnesses and documents identified in the Pre-hearing Statement. The Administrative Law Judge shall then allow the respondent (and the complainant in matters involving Title IX Sexual Harassment (*EP #15B*)) to submit those witnesses and documents identified in the Pre-hearing Statement. Both parties will be afforded the opportunity for rebuttal. All parties shall have the right to confront and cross-examine all witnesses, except for matters involving Title IX Sexual Harassment (*EP #15B*) where specific questioning procedures apply.

The faculty member shall have the right to have a professional colleague present at all stages of the hearing as an academic advisor. In addition, the faculty member is entitled to have counsel present, as is the University. At any party's request or at the initiation of the Hearing Committee, a representative of the responsible educational association shall be permitted to attend even those portions of the hearing that have been closed to the public. The Administrative Law Judge retains the right to determine if any other person may attend or be excluded, including witnesses.

For hearings related to Title IX Sexual Harassment, as defined in *EP#15B*, each party must be allowed an advisor, which can be a support person or attorney. If a party does not have an advisor, WSU will provide one for purposes of cross-examination at the hearing without charge to the party. The parties' advisors are permitted to ask cross-examination questions, but not the parties themselves. The Administrative Law Judge will determine relevance and permissibility. Where a question is excluded, the Administrative Law Judge will provide the party or advisor with an opportunity to clarify or revise their question. The following evidentiary and decision-making considerations apply:

- i. Evidentiary rules are applied per RCW 34.05.452 and WAC 10-08-140;
- ii. Evidence that is protected under a privileged recognized by Federal or state law is not admissible, unless the person to whom the privilege is owed has voluntarily waived their privileged, including, but not limited to:
 - (1) Spousal/domestic partner privilege;
 - (2) Attorney-client and attorney work product privileges;
 - (3) Privileges applicable to members of the clergy and priests;
 - (4) Privileges applicable to medical providers, mental health therapists, and counsellors;
 - (5) Privileges applicable to sexual assault and domestic violence advocates; and
 - (6) Other legal privileges identified in RCW 5.60.060.
- iii. Evidence that was provided to a confidential employee is not admissible, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the confidentiality;
- iv. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness are not admissible, unless the party or witness provides voluntary, written consent for use of those records in these grievance procedures;
- v. Evidence that relates to the complainant's sexual interests or prior sexual conduct is not admissible, unless evidence about the complainant's prior sexual conduct is offered to

prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

- vi. The hearing committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.
- vii. The hearing committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible.
- viii. The hearing committee may not make an inference regarding responsibility solely on a party's role as a respondent or complainant.

The Administrative Law Judge shall have the power, in its discretion, to adjourn the proceeding to enable any party to investigate evidence concerning which a valid claim of surprise is made, or at any point where it feels such adjournment will assist in its deliberations.

(e) Findings, Recommendations and Sanctions

In all formal proceedings, the University bears the burden of proving that the faculty member violated the Faculty Code of Professional Ethics, II.C.1, Conduct Regulations, II.F.3, or some other regulation or policy of the University. This burden must be satisfied by a preponderance of evidence.

The Hearing Committee shall make its findings, recommendations, and sanctions within twenty-five (25) business days of the last day of the hearing. For matters involving allegations of Title IX Sexual Harassment, the Hearing Committee may also recommend additional remedies. Remedies may include, but are not limited to: ongoing workplace management plan, employee mediation, permanent change to reporting lines, WSU job or area transfer, ongoing from home or telework options, permanent schedule change, or supportive measures as defined in EP 15. It shall submit a complete record of the hearing, including any recording or transcription of the hearing and the committee's findings, recommendations, and sanctions, to the president or, in those cases where the president considered a summary suspension and is therefore not eligible to act as a factfinder, to the Board of Regents. All findings and recommendations of the committee shall be based solely on the hearing record. The committee shall, in all cases, issue an order that includes findings and recommendations, together with a statement of the reasons and bases for them. Findings based primarily on witness credibility or demeanor shall be specifically identified. Sanctions may be recommended only based upon a finding of a violation as set forth above. Sanctions shall not be used to restrain faculty members in their exercise of academic freedom or other rights. Academic freedom, however, does not include the right to remain a faculty member while persistently failing or refusing to perform the duties and functions of a faculty member or the right to violate University policies and rules, including those governing freedom of expression.

For matters not involving allegations of Title IX Sexual Harassment (*EP #15B*), the Hearing Committee's findings, conclusions, and recommendations are preliminary recommendations in

which opinions are expressed and thus shall not be disclosed to the public until action is taken on the matter.

For matters involving allegations of Title IX Sexual Harassment (*EP #15B*), the Hearing Committee shall make a written determination available to the complainant and respondent within twenty-five (25) business days of the last day of the hearing. The written determination will include the following:

- i. Identification of allegations constituting sex discrimination or sex-based harassment as defined by *EP #15B*
- ii. Description of policies and procedural steps used to evaluate the allegations
- iii. Findings of fact supporting the determination
- iv. Conclusions relating to whether the respondent committed *EP #15B* misconduct
- v. A statement of, and rationale for, the result as to each allegation, including determination regarding responsibility
- vi. Any remedies and corrective or disciplinary actions imposed
- vii. Rights to appeal, including the time for appeal and to whom the appeal should be addressed.

All findings of the committee shall be based solely on the hearing record. Findings based primarily on witness credibility or demeanor shall be specifically identified. Sanctions may be recommended only based upon a finding of a violation as set forth above. Sanctions shall not be used to restrain faculty members in their exercise of academic freedom or other rights. Academic freedom, however, does not include the right to remain a faculty member while persistently failing or refusing to perform the duties and functions of a faculty member or the right to violate University policies and rules, including those governing freedom of expression.

(j) Appeals when the allegations do not involve Title IX Sexual Harassment (*EP #15B*).

i. Action by the President

The president shall not hear any appeal in which he has reviewed a request for summary suspension. In such cases, the record of the hearing, including the committee's findings, conclusions, and recommendations, shall be forwarded directly to the Board of Regents and handled as stated in section 11 below. In all other cases, the authority to take action and impose sanctions, if appropriate, lies with the president. Upon receipt of the full and complete record of the proceedings, including the committee's findings, conclusions, and recommendations, the president shall make a determination within twenty (20) business days.

If the president's determination is to uphold the findings, conclusions, and recommendations of the Hearing Committee, the Committee, and the respondent faculty member shall be so notified. If the president objects to or disagrees with any portion of the committee's findings, conclusions and recommendation, they shall indicate those objections or disagreements in writing and provide them to the committee, the provost and to the faculty member. The provost, committee and the faculty member shall have ten (10) business days to respond in writing to the president's objections and disagreements. Thereafter, the president will issue a determination within ten (10) business days. The determination will include findings of fact, conclusions of law, and specification of any sanctions to be imposed. The decision shall also contain an

explanation of the basis for the conclusions and sanctions, if any. The president's directive shall become final twenty (20) business days after delivery to the faculty member unless the faculty member files an appeal to the Board of Regents by that date.

The president shall not make or receive any *ex parte* contact regarding the subject matter of the formal proceeding from any party thereto, directly or indirectly, outside the scope of the formal hearing, nor shall any party to the hearing make or attempt to make any such contact. See RCW 34.05.455. Communications regarding purely procedural or housekeeping matters related to the proceeding shall not be prohibited by the foregoing. Any attempt at improper contact with the president outside the hearing shall be immediately reported to all parties.

All reports and recommendations previously withheld from public disclosure as preliminary recommendations are subject to public disclosure, as is the president's determination itself, once the president's determination is issued.

ii. Action by Board of Regents Regarding Summary Suspensions

The president shall not hear any appeal in which he has issued a summary suspension. In such cases, the committee's findings, conclusions, and recommendations shall be forwarded directly to the Board of Regents. The Board of Regents shall convene a meeting as soon as is reasonably practicable after receipt of the hearing record, including the Hearing Committee's findings, conclusions, and recommendations given the Board of Regents' schedule. It shall make a determination within twenty (20) business days of its meeting. If the final determination is to uphold the findings, conclusions and recommendations of the Hearing Committee, the committee and faculty member shall be so notified. If the Board of Regents objects to or disagrees with any portion of the committee's findings, conclusions, and recommendation, it shall indicate those objections or disagreements in writing and provide them to the committee, the provost, and the faculty member. The provost, committee, and faculty member shall have ten (10) business days to respond in writing to the committee's objections and disagreements. Thereafter, the Board of Regents will convene another meeting as soon as is reasonable after receipt of the responses and will issue a final determination.

The Board of Regents' final determination will include findings of fact, conclusions of law, and specification of any sanctions to be imposed. The decision shall also contain an explanation of the basis for the conclusions and sanctions, if any. The decision of the Board of Regents is the final decision of the University.

iii. Appeal to Board of Regents

If the president decides to impose any sanction upon the faculty member, that faculty member shall have the right to appeal that sanction to the Board of Regents. Such an appeal must be served upon the secretary to the Board of Regents within twenty (20) business days after the faculty member's receipt of the decision. No regent member shall make or receive any *ex parte* contact regarding the subject matter of the formal proceeding from any party thereto, directly or indirectly, outside the scope of the formal hearing, nor shall any party to the hearing make or attempt to make any such contact. See RCW 34.05.455. Communications regarding purely procedural or housekeeping matters related to the proceeding shall not be prohibited by the foregoing. Any attempt at improper contact with any member of the Board of Regents outside the hearing shall be immediately reported to the other regents, to the University president, and to the parties.

The Board of Regents' review shall be based on the record of the hearing, including the Hearing Committee's findings, conclusions, and recommendations to the president, and the president's decision. The Board of Regents shall afford the faculty member and the University the opportunity to present written and/or oral arguments. The Board of Regents will either sustain the decision or return it to the president with specific written objections. This decision shall be reached as soon as practicably possible by the Board of Regents within the normal constraints that arise from the infrequency of their meetings.

Sustaining of the decision by the Board of Regents shall conclude the formal proceeding. If the decision instead is returned, the president may either reconsider the decision or refer the matter back to the Hearing Committee for such further proceedings as it may deem proper. Whichever method is used, a revised final report shall thereafter be prepared for the Board of Regents, addressing its concerns and recommending action by the Board of Regents. The Board of Regents shall thereafter issue the University's final decision on the matter within fifty (50) business days of receipt of that revised report.

(k) Appeals when there are allegations of Title IX Sexual Harassment (*EP #15B*).

The complainant and the respondent may appeal to the Office of the President for review by the CCR Appeals Committee. For specifics of this process, see the CCR Procedural Guidelines.

(l) Alternate Dispute Resolution

The parties are encouraged to seek an informal resolution of the dispute described in the statement of charges. Nothing in these procedures shall preclude the parties and/or the University from reaching an informal resolution of the dispute via any mutually agreed-on method, including stipulation, agreed settlement, consent order, or through the default of a party. However, the informal resolution process cannot be used to circumvent the timelines necessary to carry out the formal hearing process. All parties have an interest in prompt resolution of these issues.

All testimony, statements, or other evidence obtained in the informal resolution process, whether obtained from a party to the dispute or a third party, shall be regarded as made in the course of settlement discussions, and shall accordingly be confidential and not disclosed in subsequent discovery in the course of a formal hearing, without the express permission of the person who provided such testimony or evidence or as allowed by law. Further, such material may not be employed in proceedings for collateral or impeachment purposes without such permission or as otherwise allowed by law. However, such information may be subject to disclosure under the Washington Public Records Act and discovery in the course of a formal legal action.

Section III: Faculty Personnel Policies

Personnel policies and procedures of Washington State University represent the cooperative efforts of the faculty, the administrative officers, and the Board of Regents to develop and maintain a superior faculty.

In matters of admission, employment, housing or services, or in the educational programs or activities it operates, WSU does not discriminate or permit discrimination by any member of its

community against any individual on the basis of sex, sexual orientation, gender identity, race, color, national or ethnic origin, physical disability, mental disability, sensory disability, use of a trained service animal, age, religion, creed, genetic information, marital status, protected veteran status, honorably discharged veteran, member of the military, and immigration or citizenship status (except as authorized by federal or state law, regulation, or government contract).

WSU policies comply with federal and state civil rights laws and regulations, including, but not limited to: Title IX of the Education Amendments of 1972 (20 USC § 1681), Title IX implementing regulations 34 CFR 106, Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq) and the Pregnancy Discrimination Act, Title I and II of the Americans with Disabilities Act (ADA) of 1990 as amended, the Rehabilitation Act of 1973 (P.L. 93-11) and 45 CFR Part 84, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq), Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq), Chapter 49.60 RCW, and the Gender Equality in Higher Education (Chapter 28B.110 RCW).

Inquiries about the application of these laws and regulations (including inquiries regarding the application of Title IX and its implementing regulations), as well as reports and complaints of discrimination and harassment, can be made verbally or in writing to WSU's Compliance and Civil Rights, the Department of Education's Office of Civil Rights, or both:

**Title IX Coordinator, Deputy Title IX Coordinator, ADA Coordinator
Compliance and Civil Rights**

Tel: 509-335-8288

Email: TitleIX.Coordinator@wsu.edu or ccr@wsu.edu or
ADA.Coordinator@wsu.edu

Online: [Online Reporting/Complaint Form](#)

In-person: French Administration Building Room 220

Address: PO Box 641022
Pullman, WA 99164-1022

**U.S. Department of Education
Office of Civil Rights**

Online: [Online Complaint Form](#)

Lyndon Baines Johnson Department of Education Bldg.

400 Maryland Avenue, SW

Washington, DC 20202-1100

Tel: 800-421-3481

FAX: 202-453-6012; TDD: 800-877-8339

Email: OCR@ed.gov

Local OCR office: <https://ocrcas.ed.gov/contact-ocr>

Reports about conduct that may constitute discrimination (including sexual harassment under Title IX) can be made verbally or in writing to Compliance and Civil Rights and the university's Title IX Coordinators at the contact information above. Complaints must be submitted in writing (see EP #15 for process). WSU's prohibition on and relevant procedural guidelines for discrimination, discriminatory harassment, sex discrimination, and sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, are available here:

- WSU's Policy Prohibiting Discrimination and Harassment, EP #15
- CCR's Procedural Guidelines



- WSU's Standards of Conduct for Students
- Employee manuals:
 - *Faculty Manual*
 - *Administrative Professional Handbook*
 - Civil Service code
 - Collective Bargaining Agreements

WSU provides equal access to the Boy Scouts (Scouts America) and other designated youth groups.

III.C.7. Annual Review of Faculty

Tenure-track, career-track, and short-term faculty eligible for rehire at the end of their contracts must be included in the formal annual review process; this includes adjunct faculty on less than 0.5 appointments. Faculty planning to leave the university before the next academic year may forego the annual review.

Faculty performance will be reviewed annually through one of the following three procedures:

II.F. Corrective Action and Disciplinary Process/Procedures

II.F.1. Purpose

All faculty members are required to adhere to the Faculty Code of Professional Ethics, II.C.1, and to the Conduct Regulations, II.F.3. This section enumerates the types of violations that may subject a faculty member to discipline and provides a process that ensures the respondent faculty member's rights, as well as the rights of the university community, are adequately protected.

Specific procedural requirements apply for all matters related to discrimination and sex-based harassment, as defined in *EP #15*, the Policy Prohibiting Discrimination and Harassment, and misconduct in research, as defined in *EP #33*, Responding to Allegation of Research Misconduct, and as described in the sections below.

II.F.2. Confidentiality

Faculty corrective action and discipline shall be kept confidential to the fullest extent provided by law, however a record must be placed in the faculty member's official personnel file with HRS. See RCW 42.56.210. Personnel information is shared internally on a strictly need-to-know basis and any corrective action is placed in the faculty member's official file with HRS. Under state law, findings of specific acts of misconduct are public records subject to public disclosure. See RCW 42.56.210. Additionally, records created as part of the formal hearing process, including the charging document, are public documents that are subject to disclosure. See RCW 42.56.040, *et seq.* Similarly, under the Administrative Procedure Act, hearings conducted to impose formal discipline may be open to the public. See WAC 504-04-120.

II.F.3. Conduct Regulations

Conduct for which faculty members are subject to University corrective action or discipline falls into the following categories:

- (a) Violation of the policy on Freedom of Expression, II.B.2.
- (b) Incompetence or serious or repeated neglect of duty. Unless the act is serious or puts individuals and/or property at risk, employees will not be disciplined for inadequate work performance or neglect of duty unless they have been given written notice of the areas in which the work is considered deficient, and an opportunity to improve their performance.
- (c) Violation of *EP #33*, the policy on Responding to Allegations of Research Misconduct as well as other serious violations of research policies and protocols, including but not limited to:
 - i. Fabrication or falsification of data, plagiarism, or other serious deviations from accepted practice in proposing, implementing, or reporting on research.
 - ii. Failure to comply with federal, state, or University requirements for protecting researchers, human subjects, and the public during research and for insuring the welfare of laboratory animals.
 - iii. Use of research funds, facilities, or staff for unauthorized and/or illegal activities.
- (d) Violation of *EP #15*, the Policy Prohibiting Discrimination and Harassment.

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- (e) Violation of *BPPM* 60.13, Consensual Romantic or Sexual Relationships Between Faculty, Staff and/or Students.
 - (f) Retaliation against any individual for engaging in protected activity, including but not limited to, filing a good faith complaint of discrimination, harassment, misconduct, workplace violence, or bullying. This includes but is not limited to, creating a hostile work environment or taking adverse employment action against another. Such acts form independent grounds for taking appropriate formal or informal discipline.
 - (g) Forgery, alteration, or misuse of university documents or identification.
 - (h) Falsification of information submitted to any University official or agency, or the offering of an intentionally false statement in any University disciplinary proceeding.
 - (i) Theft of or intentionally damaging or defacing University property, or any personal property located on a WSU campus or location-property or property belonging to any member of the University community or campus visitor.
 - (j) Violation of *EP* #20, the Alcohol and Drug Policy.
 - (k) Violation of WAC 504-31-020, including but not limited to possession or use of firearms, explosives (including fireworks), dangerous chemicals, or other dangerous weapons or instrumentalities on the university campus. This prohibition does not apply to possession of such items for authorized university purposes; possession of such items by authorized law enforcement officers; individuals who have obtained prior written approval from the university chief of police, president, or designee; or lawful possession of firearms by persons other than students in privately owned vehicles while on any university campus.
 - (l) Unlawful acts that directly affect University programs, community members, or property insofar as they materially and substantially interfere with the missions, functions, processes, and goals of the University community or unlawful acts that result in a guilty plea to or conviction of a felony.
 - (m) Illegal entry, attempted entry, or entry in violation of Washington State University rules of University-controlled property , or University-related property, such as fraternities, sororities, or co-op houses.
 - (n) Intentional disruption of the educational processes and functions of the University, including classroom and laboratory activities, offices, services, meetings, or ceremonies. Intentional and unauthorized obstruction or restriction of free movement of persons or vehicles on the campus or other University property. Expressive activities protected by the First Amendment are allowed in all of the University's "Limited public forum areas," which are defined as follows: "At each university campus, the limited public forum areas are all university facilities, with the exception of the interior or immediate vicinity of university facilities used to support university research, academic instruction, or health services." See WAC 504-33-015(4).
 - (o) Violation of *BPPM* 50.30, the University policy prohibiting Workplace Violence.
 - (p) Violation *BPPM* 50.31, the University policy on Maintaining a Professional Workplace.
 - (q) Violation of the University Ethics Policy *EP* #45.
 - (r) Willful violation of any other published University policy and/or willful violation of a lawful directive given by a supervisor in the course of employment.

Faculty members should be aware of conduct regulations for campus guests and visitors as follows: guests and visitors will observe the rules and regulations of the University while on the campus or other University property. Those who willfully refuse to obey an order of a uniformed

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campus security officer or other law enforcement officer to desist from conduct prohibited by the University rules and regulations may be ejected from the premises. Refusal to obey such an order will subject the person to arrest under the provisions of the criminal trespass statutes, in addition to such other sanctions as may be applicable.

I.A.3. Chairs of Departments and Directors of Schools or Programs

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Throughout most of this section, the term chair is used to refer to the chair of a department or, director of a school, or director of a program, and the term department is used to refer to a department or, school, or academic program—procedures for choosing directors of programs are listed at the end of this section. Reference to the provost, campus chancellors, and deans includes their designeelegates as appropriate.

Duties

A chair serves as the chief advocate for the department, championing the resource needs of the academic department and ensuring the effective use of current resources. The chair is responsible for working collaboratively with all department members to create a shared vision ~~vision~~ of the department's future. This includes the creation of strategic plans to guide the department's research direction, future hiring, and development of academic programs.

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Subject to the approval of the dean of the college, the chair is responsible for organizing and supervising the courses of instruction offered by the department, assigning workload~~distributing the teaching and research load~~, caring for the equipment and facilities assigned to or in the custody of the department, allocating and supervising department funds, conducting annual reviews of faculty and staff, and performing other duties assigned by the dean of the college and the provost. The provost provides guidelines on the duties and responsibilities of chairs and directors on the Office of the Provost website.

When an academic department has teaching and/or research programs at sites remote from the location of the headquarters of the department, school, or program, some of the responsibilities rest with or are shared with the campus chancellor or director of the remote station. Such shared responsibilities include care for equipment and facilities, supervision of funds, and day-to-day supervision of teaching and research activities.

Chairs make recommendations to the dean for appointments, promotions, and salaries of members of the department, and transact official department business with deans, other administrators, and students. In the case of~~recommend to the dean appointments, promotions, and salaries for department members and transact official department business with deans, other administrators, and students. If faculty at remote departments, the chair also shares information and coordinates recommendations with the appropriate campus chancelloradministrators.~~

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~~Chairs are expected to~~ provide leadership in the formation of department policies and ~~to hold~~ meetings with all available members of the faculty on matters of policy. Except as limited by applicable general regulations and policies or as otherwise directed by the dean or by the provost, it is the chair's responsibility to execute~~implement~~ the policies determined by the department. ~~When this is not done, members concerns arise regarding the execution of these policies, faculty members should can notify the administrative superior and other members of the faculty of the action being taken and the reasons therefortheir colleagues. However, chairs must have sufficient latitude to make day-to-day operating decisions and exercise leadership responsibilities.~~

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Eligibility to Serve as Chair

~~Faculty in the career and tenure tracks at the rank of professor or associate professor are eligible to serve as chair, irrespective of the nomination process (see below). Eligibility to serve as a chair is normally limited to career-track and tenure-track faculty at the rank of professor or associate professor.~~ Furthermore, ~~WSU~~ faculty in the career track must have a continuous appointment or a fixed-term contract (see Section I.B.3) with a term at least as long as the administrative appointment. If there are fewer than three professors and associate professors in total in the department, assistant professors are also eligible to serve as chair. Eligibility ~~is~~ ~~neither dependent upon nor restricted by academic seniority, nor is it~~ ~~not~~ limited to faculty presently in the department.

~~Assuming the role of chair significantly changes the work assignment for a faculty member. This change in workload balance and its effect on promotion should be formally discussed at the time of appointment, with the unit/department and college leadership. If pre-tenured faculty take on a major leadership role, the effect this may have on the tenure process and assessment should be discussed in consultation with the appropriate dean. See Section III.C.4.a.~~

Eligibility To Express a Preference for Chair

Persons eligible to submit preference forms for chair are career-track and tenure-track faculty of all ranks who have been members of the department for at least one semester, regardless of the location of their assignment. This includes faculty who may be on leave at the time of the search.

Faculty in the following categories are not eligible to submit preference forms for chairs:

- Faculty in the short-term track,
- Faculty who have resigned, been terminated, or notified that they will not be reappointed,
- Faculty with less than a 0.5 FTE appointment in the department,
- Faculty who have retired or who are retiring at the close of the academic or fiscal year

Appointment of an Interim Chair

~~There may be instances where it is necessary to appoint an interim chair. Examples include maintaining leadership in the department during an outside search, restarting a failed search, or the abrupt resignation or removal of the current chair. Each faculty member eligible to submit a preference for chair will be allowed to express their preferences for the interim chair from the candidates nominated for the position. Upon the dean's recommendation, the provost may appoint an interim chair for up to one year.~~

Selecting a Chair Nomination

~~Chairs are appointed by the provost.~~ The provost appoints chairs upon recommendation of the dean of the associated academic college. Chairs may be reappointed or replaced as follows:-

For potential reappointment of a sitting chair, the following process will be followed:

- The dean will poll all eligible department members eligible to submit a preference (see above) of the department, regardless of location, including those on leave, as to their

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preference to determine whether they support reappointing the sitting chair. The poll may include room for faculty members to comment on their decision. The dean and provost must keep specific comments confidential reappointing or not reappointing the sitting chair using an electronic preference form.

- (b) Each person filling out a preference poll participant form shall will be allowed at least one two weeks (ten (10) business days) to consider a decision return their poll. Forms will be returned directly to the dean electronically. The dean will make a recommendation to the provost as to recommend to the provost whether to reappoint the incumbent. The provost makes the final decision concerning reappointment and informs the dean and faculty.

For an initial appointment of a new chair, the following process shall be followed:

- (a) The dean (or their designee) will shall meet with the department faculty to discern their preference for selecting a chair from either inside the department or outside the University. After the discussion, the dean decides, following consultation with the provost, whether to select a chair from within the department or to initiate a process for recruiting a chair from outside the department University and notifies the department faculty and staff.

- (a)(b) If the dean elects to select a chair from inside the department, then the dean should update the sample preference form available on the Office of the Provost website and provide the form to each an electronic preference form shall be provided to each eligible faculty member eligible to submit a preference (see above). The preference forms should give faculty members the opportunity to recommend up to three candidates, with three (3) points awarded to their first choice, two (2) points awarded to their second choice, and one (1) point awarded to their third choice. in the department on which to express a preference. All preference forms shall ordinarily be provided by the dean of the department concerned. Each person filling out a preference form shall be allowed at least ten (10) business days to consider a decision. Forms are to be sent electronically to collected by the dean. Within twenty (20) business days after the deadline for department faculty have to submitted their preference forms, a summary of the results shall be reported by the dean the dean shall report a summary of the results to the department faculty and the provost. If the dean chooses to recommend someone other than one (1) of the top two (2) faculty receiving the most preference points, then they will provide an explanation of their recommendation to the faculty in that department and to the provost. Each summary reported to the provost must be accompanied by all departmental preference forms and must be retained in the University files for one year. The dean then provides the chair appointment recommendation to the provost. The provost makes the final decision concerning the appointment and informs the dean and faculty.

- (b) If the dean elects to select a chair from outside the department, the dean will commence a search within six (6) months. The dean will appoint a search committee, consisting of eligible faculty members eligible to submit a preference for chair (see above) of the department, to prepare review the a list of suitable candidates for consideration. The provost may, upon the recommendation of the dean, appoint an interim chair during the search for an outside chair (see above), outside the University department so that the search need not be conducted in haste. Each eligible member of a department faculty, regardless of location, including those on leave, shall be provided an opportunity to express their preferences for the interim chair to the dean and provost, and the dean, from names nominated for the position.

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(e) If the dean elects to select a chair from inside the unit/department, then a form shall be provided to each eligible faculty member on which to express a preference from among eligible faculty members of the unit/department.

(c) All preference forms shall ordinarily be provided by the dean of the unit/department concerned. Each person filling out a preference form shall be allowed at least one week to consider a decision. Forms will be returned directly to the dean. Within one month after the unit/department has indicated each preference, a summary of the results shall be reported by the dean to the unit/department faculty and the provost. The dean will provide an explanation to the faculty in the unit/department if they/he/she chooses to recommend someone other than one of the top two (2) faculty identified in the preference forms. Each summary reported to the provost shall be accompanied by the preference forms, which must be retained in the University files for one year. The dean provides the chair appointment recommendation to the provost. The provost makes the final decision concerning the appointment and informs the dean and faculty.

Appointment

In all cases, the provost, after consideration of the preferences and consultation with the appropriate administrative officers, will take any one of the following actions: (a) appoint as chair one (1) of the two (2) internal candidates, two persons having receiving the highest most preference as indicated by the preference forms; (b) appoint the highest ranked external candidate as chair based on the recommendation of the search committee and dean; (c) appoint an interim chair for up to one year (see above) pending further consideration for a chair; or (d) appoint as chair a person not recommended from either internal or external candidates, but only after consultation with the department faculty members and with the dean concerned.

Assuming the role of chair significantly changes the work assignment for an internal faculty member, this change in workload balance and its effect on promotion should be formally discussed at the time of appointment with the department and college leadership. If pre-tenured faculty take on a major leadership role, the effect this may have on the tenure process and assessment should be carefully discussed with the appropriate dean. See Section III.C.4.

The chair must be .75 FTE or greater in the department.

Term of Office

Except under special circumstances, Usually, chairs are appointed for terms of four (4) year terms and may be reappointed using the process detailed above. Terms normally commence August 16 for those on academic-year appointments and for those on annual appointments in programs with preponderantly academic-year faculty. Terms normally commence July 1 for those on annual appointments in departments with preponderantly annual faculty. When a chair is appointed effective on some other date, the four-year period shall be computed, for subsequent review purposes, from the preceding August 16 for nine months or July 1 for twelve (12) months if the appointment begins prior to January 1 and from the following August 16 or July 1 if it begins on or after January 1.

Request for removal of a Chair

A department may initiate consideration for a change in its leadership upon written request from at least one-fourth (1/4) of its members (but not fewer than two persons) sent directly to the

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provost, ~~of one-fourth (1/4) of its members (but not fewer than two persons).~~ Upon receipt of such request, the provost will arrange for an expression of opinion on such question by all ~~eligible~~ members of the department, ~~faculty eligible to submit a preference for chair.~~

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Upon request of the provost, the Faculty Status Committee will appoint an adviser who is not a member of the Faculty Status Committee. The adviser will participate in the exchange of opinion, oral or written, among all parties involved. Immediately after the collection of information and consultation with appropriate administrative officers, the provost will render a decision.

Appointments may be terminated at any time for incompetence, negligence, inability to perform the duties due to illness, or equivalent cause if, in the judgment of the provost, the best interests of the department, or the University require such change.

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~~Unless otherwise prescribed in individual cases, the term of office expires on August 15 for nine (9) months or June 30 for twelve (12) months, four (4) years from the beginning of the appointment. The cognizant dean, in consultation with the department, shall request preference recommendations from faculty six to nine (6 to 9) months preceding the expiration of the term of office.~~

~~The above policies and procedures apply equally to the director of an academic program, although the director of a program may be appointed for a two (2) year term when the director is responsible to more than one dean.~~

Payment for Services as a Chair

A chair may be paid an additional sum (determined by a formula which considers such variables as student load, faculty numbers, and budget size, including extramural funding) under the assumption that such persons render additional services.

Selecting and Appointing Directors of Programs

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~~The process for selecting and appointing program directors will be done on a case-by-case basis.~~