

University of Illinois at Chicago

Severe Sanctions Other Than Dismissal for Cause

Background

On July 18, 2002, the University of Illinois Board of Trustees approved the amendment entitled “*Severe Sanctions Other Than Dismissal for Cause*” to the University of Illinois Statutes, as *Article IX, Section 6*. The implementation procedures were to be developed for each campus by the Chancellor in consultation with the campus Senate.

Procedures for Implementation

Introduction:

Although faculty¹ strive to achieve high ideals and standards, there may occasionally arise an instance where sanctions other than dismissal for cause may need to be imposed². In the eventuality that such steps are needed, Article IX, Section 6 of the statutes will be followed. The following procedures for implementation have been established as outlined in Article IX, Section 6 (a)³ and are based on the recommendations of the UIC Senate.

As deemed in Article IX, Section 6 (c)⁴, all attempts will have been made toward a mutual settlement at the level of the unit/College before such charges and a campus procedure are initiated. In cases where complaints involve two or more units/Colleges all attempts should be made to resolve them by the respective unit Heads and Deans before a campus procedure is

¹ Identified by the Senate as defined by *Article II, Section 3 (a) (1)* “*The faculty of the University and any of its units except for the Graduate College consists of those members of the academic staff with the rank or title in that unit of professor, associate professor, or assistant professor who are tenured or receiving probationary credit toward tenure, and those administrators in the direct line of responsibility for academic affairs (persons who hold the title director or dean in an academic unit, provost, chancellor and president). Administrative staff members not in the direct line of responsibility for academic affairs are members of the faculty only if they also hold faculty appointments*”.

² *Article IX, Section 6 (d)* Adequate due cause for severe sanctions are provided in Appendix A.

³ *Article IX, Section 6 (a)* “*Severe sanctions other than dismissal for cause may be imposed on a member of the faculty, as defined in Article II, Section 3a(1) of the Statutes, provided that procedures on a campus adopted by the campus Chancellor in consultation with that campus Senate are followed. In all cases, the Chancellor or the Chancellor’s designee (Provost) shall exercise the duties assigned to the President for academic staff who are members of campus units and in all cases the process to be followed will be that of the campus on which the unit resides*”.

⁴ *Article IX, Section 6 (c)* “*The campus procedures will be initiated only after discussions are held between the faculty member and appropriate administrative officers looking toward a mutual settlement. The initiation or pendency of proceedings under this Section 6 shall not be deemed to prevent or delay the University or any other person from pursuing any other remedy available to such person against the faculty member for conduct allegedly violating subsection (d) below*”.

initiated. All attempts will be made to ensure that the confidentiality of all parties will be strictly maintained to the extent permissible by law. It is also a violation of campus policy to retaliate against an individual for participation in any aspect of such a sanctions procedure. Retaliatory actions and/or violations of confidentiality will be subject to review and sanction by the Provost and/or Chancellor.

The timeline described in the following document is designed for a thorough and efficient process. If additional time is required at any step of the process, a request with justification needs to be sent to the Chancellor for approval to extend the deadline. Additional time will be granted in five business day allotments.

Determination that Cause Exists to Initiate Proceedings:

If attempts to resolve the matter at the level of the College have failed, the charge will normally be brought by the Dean to the Provost. The Provost will consult with the Senate Committee on Academic Freedom and Tenure (SCAFT) whether there is cause to initiate proceedings against the faculty member. As per Article IX, Section 6 (b)1⁵, the SCAFT was identified by the UIC Senate to advise the Provost that “cause exists”. The Provost will submit the relevant material to the SCAFT within ten business days of having received the charge. Within fifteen business days of submitting the material, he will consult with SCAFT. The quorum of the SCAFT will be determined according to its defined procedures. This consultation shall be done in closed session and the recommendation conveyed in writing to the Provost. As mentioned above, all proceedings and communications shall be confidential to the extent permissible by law.

Initiation of Sanction Proceedings:

If the Provost, after consultation with the SCAFT, deems that there is cause to initiate proceedings, the provost shall inform the faculty member in writing of the charges, their nature and source, and that sanction proceedings will be initiated. A copy of Article IX, Section 6 of the *Statutes*, the mechanics of the process, including the appeal process and the proposed timeline, will be included as part of this notice⁶. All the material in writing will be delivered by courier, requiring a signature or by registered mail. This will be done within five business days of cause being established. Sanction proceedings can be brought against a faculty member for the same incident only once. Subsequent incidences of significance of the same cause or incidences of a different cause can be brought against the faculty member. A copy of the charges will also be filed with the Chancellor.

⁵ **Article IX, Section 6 (b) 1.** “A determination by the provost, in consultation with a committee identified by the senate, that cause exists to initiate proceedings that may result in the imposition of serious sanctions...”

⁶ **Article IX, Section 6 (b) 2.** “notice to the faculty member of the charges and initiation of the sanction proceedings...”

Hearing Process:

The case will be heard by an elected committee⁷. The Chancellor will bring the charge to the Faculty Advisory Committee⁸, which has been identified and approved by the UIC Senate as the elected committee “to provide ‘opportunity for a hearing’ and make a recommendation on whether there is cause to impose sanctions”. The details of the charge against the faculty member will be provided in writing to FAC. The committee will be given a period of at least 40 business days to complete its investigation, including the hearing, in a thorough and expeditious manner and will be requested to submit its recommendations to the Provost. Within 20 business days of its being charged, FAC has to set a date for the hearing. As mentioned above, if additional time is required for the investigation period, a request with justification needs to be sent to the Chancellor for approval to extend the hearing date. Additional time will be granted in five business day allotments. The date of the hearing will be notified by FAC to the faculty member being charged and to the Provost, in writing, at least fifteen business days before the proposed date of the hearing.

Members of FAC will need to recuse themselves in cases of potential conflict of interest with the case (faculty member against whom sanction proceedings are being initiated). These shall include, but **may not be limited** to the following: if they belong to the same department; if they have been involved in an attempt to resolve the case at an earlier stage, e.g., in SCAFT; if they have a personal or close professional relationship; or if there are other compelling reasons that might be viewed as conflict. For a hearing, all eligible FAC members shall participate from the beginning (namely nine, less members to be recused for conflict). Thus, there shall be no participation in the hearing in absentia. There should be a minimum of **five** members at a hearing. In case conflicts do not allow this minimum number of standing FAC members to participate in the hearing, the Senate and FAC will select alternates according to standing procedures⁹.

The FAC can have deliberation sessions prior to and following the hearing, and a written summary of these deliberations may be maintained for its use. All deliberations will be confidential. At the hearing, both the faculty member being charged and the Provost or the Provost’s designee will have the opportunity to be present. Advisors or legal counsel can accompany either the faculty member or the Provost/Provost’s designee and can be consulted during the hearings. The faculty being charged and the Provost/Provost’s designee will have an opportunity to respond to the evidence presented to the FAC. The FAC shall ensure that all parties have been given due consideration and that the deliberations and hearings are conducted to obtain adequate and substantive evidence in an ethical and respectful manner. When FAC has acquired sufficient material for its deliberations, it will declare the hearing as having concluded

⁷ **Article IX, Section 6 (b) 3.** “*opportunity for a hearing before an elected committee specified by the senate...*”

⁸ The campus Faculty Advisory Committee (FAC) is an elected committee as described in the *Statutes, Article II, Section. 4*. This committee is comprised of 9 members. As per the articles of procedure of FAC, only tenured professors with $\geq 75\%$ appointment are eligible to serve on FAC.

⁹ Procedures need to be established by the Senate and FAC for selection of alternates to meet the minimal number five and for the recommendation that will be forwarded if there is a split opinion.

and will meet in closed session for the final deliberations. The hearing committee (all FAC members who are eligible and who have participated in the deliberations, i.e., a minimum of five shall cast a vote by secret ballot as to whether the sanction should be recommended and, if so, what specific sanction (see below) should be recommended. Abstentions will not be recognized and the vote will be determined by a simple majority. The FAC shall submit to the Provost the vote, in writing, and a written report of its deliberations and rationale that reflects all views of the committee within ten business days of the conclusion of the hearing.

Action¹⁰:

If FAC recommends that sanction **not** be imposed, then the recommendation is final and the proceedings pertaining to the sanctions other than dismissal for cause will be terminated. The Chancellor, Provost, faculty member and originator of the charge will be so informed in writing.

If FAC recommends that a sanction be imposed, then FAC will provide a written report of its deliberations and rationale and one that reflects all views of the committee to the Provost. The FAC will also convey to the Provost its recommendation of the specific sanction. If there is no clear recommendation on the type of sanction, the Committee shall summarize the underlying discussion.

The Provost shall consider the report of FAC and make a determination of whether sanction is necessary; the Provost can consult with FAC while making a determination. The Provost's decision has to be made no later than ten business days following receipt of the FAC recommendations to sanction.

If the Provost concurs that a sanction should be imposed, then the type of sanction should be determined, again based on the recommendations of FAC. If the faculty member is to be sanctioned, then the recommendation, the decisions of the Provost, the specific sanction and the process of appeal including the timeline shall be provided in writing to the faculty member, the Dean, the Chancellor and FAC¹¹. The "normal appointment period" shall be the appointment year, which is generally 8/16/Year 01 → 8/15/Year 02. This allows equal consideration for faculty who are appointed for twelve months (service and pay) and for those appointed for a nine-month service period and a twelve-month pay period.

If upon consideration of the FAC report, and after any necessary consultation with FAC, the Provost decides that sanction is **not warranted**, the faculty member being charged, FAC, the Dean, and the Chancellor should be so notified in writing.

¹⁰ **Article IX, Section 6 (b).4.** *"provision that a recommendation by the elected committee against sanction will be final..."*

¹¹ **Article IX, Section 6 (e)** *"When misconduct is determined to have occurred, a severe sanction other than dismissal consists of suspension with or without salary (full or partial) for a period not to exceed one-half of the individual's normal appointment period. During the suspension period, health and retirement benefits shall be maintained."*

Appeal:

The faculty member being charged may submit a written appeal to the Chancellor within 20 business days¹² of receipt of the Provost's decision to sanction. The letter should include a justification of the grounds under which the decision is being appealed¹³. The objections in the appeal could be either substantive, procedural or both¹⁴.

Chancellor's Decision on Appeal¹⁵:

No actions with respect to sanction will be taken until a decision has been reached with respect to the appeal. A response to the appeal will take no longer than 20 business days following the receipt of the appeal by the Chancellor. The Chancellor may consult with the FAC, as the elected body to have already been involved in the process, in determining the outcome of the appeal.

The decision of the Chancellor on the appeal is final and will be conveyed in writing to the faculty member, the faculty member's unit head/chair, Dean, Provost, legal council, SCAFT and FAC, and, if applicable, Office of Access and Equity and any other committee that had been consulted. All communications will be held confidential. The only documents to be filed in the faculty member's home unit file will be the communication from the Provost, based on the outcome of the hearing, the faculty member's appeal and the communication from the Chancellor regarding the final decision on the appeal. **All other documentation and records** pertaining to the case have to be collated and submitted to the Chancellor. The Chancellor's office will retain the information in confidence to the extent permitted by law.

¹² The amended statutes states "20 days" without qualification

¹³ **Article IX, Section 6 (b) 5.** "*the opportunity for the faculty member to file an appeal with the chancellor within 20 days following the provost's decision to impose sanctions...*"

¹⁴ **Article IX, Section 6 (b) 6.** "*an appeal process encompassing both substantive and procedural objections...*"

¹⁵ **Article IX, Section 6 (b) 7.** "*a process wherein the chancellor's decision on the merits of an appeal is final. These campus procedures are the exclusive process for determining whether severe sanctions other than dismissal for cause may be imposed*".

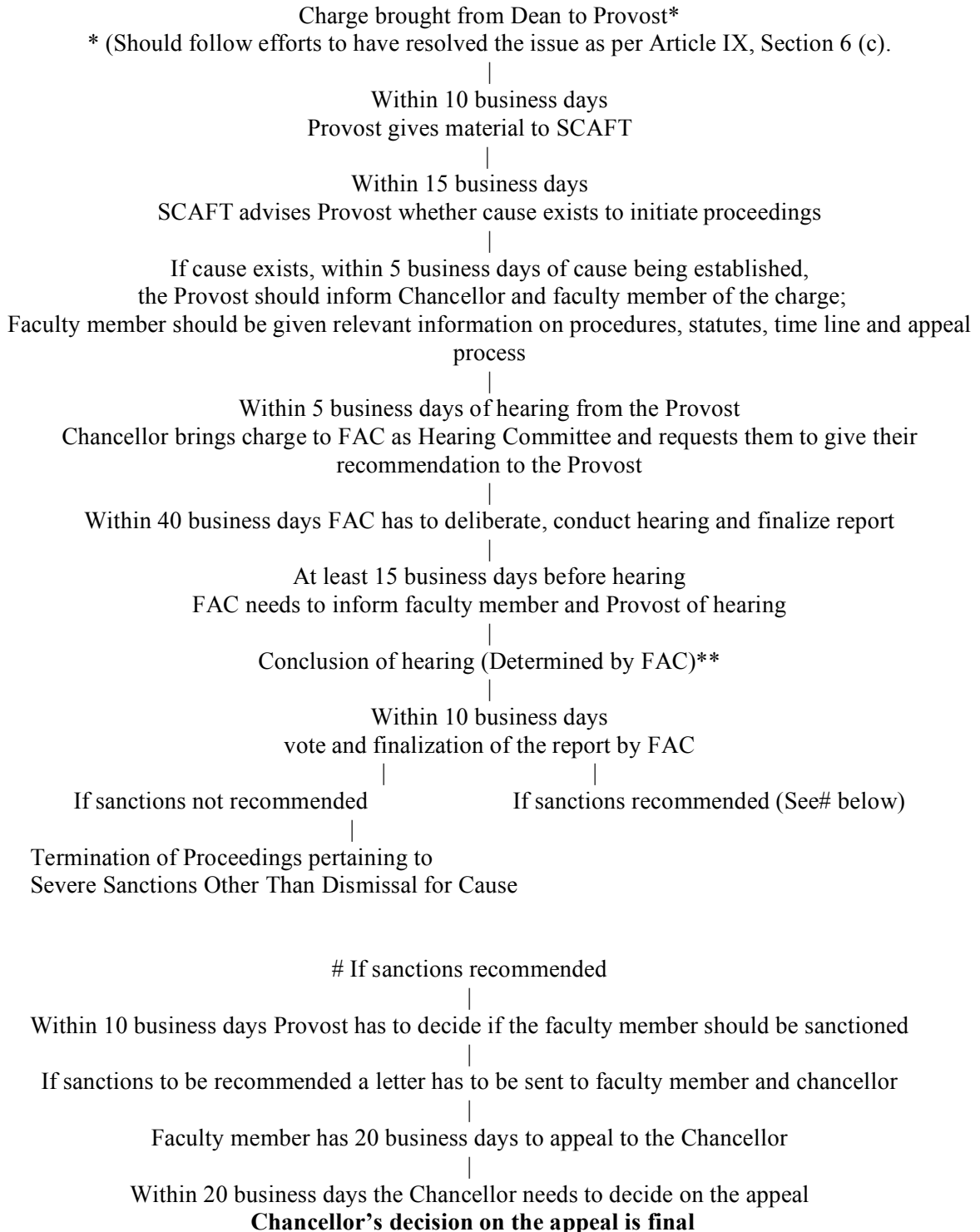
APPENDIX A

Article IX, Section 6 (d)

“Adequate due cause for severe sanctions other than dismissal shall be restricted to actions clearly related to University activities and shall be limited to the following:

- (1) Engaging in professional misconduct in the performance of University duties or academic activities,*
- (2) Neglecting or refusing to perform reasonable assigned academic duties,*
- (3) Violating Senate-approved Campus or University regulations or policies related to conduct of academic duties,*
- (4) Acting outside the appropriate exercise of University responsibilities so as willfully to physically harm, threaten, physical harm to, harass or intimidate a visitor or a member of the University community with the effect of interfering with that person’s performance of University duties or academic activities,*
- (5) Willfully damaging, destroying or misappropriating property owned by the University or any property used in connection with a University function or approved activity, or*
- (6) Conviction in a court of law for a felony that is clearly related to the performance of University duties or academic activities. Findings of fact made in prior proceedings under policies established by the President with the advice of the Senates and University Senates Conference under procedures described in Article XIII, Section 8 of the **Statutes** shall be presumed to have been established subject to rebuttal on grounds inter alia of the thoroughness and fairness of the proceeding giving rise to them.”*

Overall Timeline¹⁶: (Using maximum allowable times: 125 business days – or 25 weeks).



¹⁶ If additional time is required at any step of the process, a request with justification needs to be sent to the Chancellor for approval to extend the deadline. Additional time will be granted in five business day allotments.