



EAST TENNESSEE STATE
UNIVERSITY

Faculty Misconduct Policy

Policy Name: Faculty Misconduct Policy

Policy Purpose

This policy specifies the disciplinary process under which the University will evaluate misconduct by tenured faculty and non-tenured faculty.

Applicability

This policy applies to disciplinary action taken by the University against tenured and non-tenured faculty in relation to any allegation of misconduct. This policy does not apply to the process of evaluating performance, qualification, and institutional needs for awarding tenure.

Responsible Official, Office, and Interpretation

The Academic, Research, and Student Success Committee of the ETSU Board of Trustees (Board) is responsible for the review and revision of this policy. For questions about this policy, please contact the Secretary of the Board of Trustees. The Board of Trustees, in consultation with the Office of University Counsel, has the final authority to interpret this policy.

Defined Terms

A defined term has a specific meaning within the context of this policy.

Academic Responsibilities

Academic Responsibilities include the following faculty activities: teaching, librarianship, clinical practice, research, scholarship, creative activities, service, and/or administrative activity.

Appropriate University Official

The Appropriate University Official is determined on a case-by-case basis and is dependent on the type of alleged misconduct and the controlling university policy. For example, the Director of Compliance is the Appropriate University Official for Title IX allegations; the Director of Internal Audit is the Appropriate University Official for a

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fraud, waste, or abuse claim; and the Vice Provost of Research is the Appropriate University Official for allegations of research misconduct. In the absence of a controlling university policy, if the alleged misconduct warrants suspension or termination, then the Provost is the Appropriate University Official. In the absence of a controlling university policy, if the alleged misconduct would not warrant suspension or termination, then the faculty member's supervisor is the Appropriate University Official.

Professional Standards of Conduct

ETSU faculty are committed to seeking and communicating truth through intellectual honesty, continuous scholarly development, and disciplined judgment, while protecting their freedom of inquiry. As teachers and colleagues, they uphold high academic and ethical standards, respect others, treat students and colleagues fairly, and contribute responsibly to the academic community and shared institutional governance. As members of society, they balance their professional responsibilities with civic duties, support academic freedom, and act in ways that preserve public trust in higher education. These professional standards of conduct were modeled after the AAUP policy titled Academic Freedom and Tenure which was in effect on June 2023.

Misconduct Warranting Suspension or Termination

The following conduct, as recognized by the AAUP, may warrant suspension or termination:

- Continued or habitual professional incompetence previously addressed through Faculty Progressive Discipline;
- Willful failure to perform the duties and responsibilities for which the faculty member was employed or refusal or continued failure to comply with the policies of the board, institution or department or to carry out specific assignments, when the policies or assignments are reasonable;
- Willful disregard of professional standards of conduct and responsibilities;
- Conduct that adversely affects the institution's ability to operate;

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- Conduct that adversely affects the faculty member's ability to perform their employment responsibilities;
- Violation of federal or state law, or university policies;
- Conviction of a felony;
- Conviction of a crime affecting the fitness of the faculty member to engage in teaching, research, professional service, outreach, clinical activities, or administration;
- Falsification or misrepresentation of the faculty member's academic credentials;
- Falsification or misrepresentation in scholarly work or research data, or other research misconduct;
- Conduct rising to the level of academic fraud or misconduct, including but not limited to fabrication, falsification, plagiarism, or misrepresenting publications;
- Failure to maintain credentials or licenses required to perform job duties;
- Taking an unauthorized leave of absence, aside from an unforeseen emergency; or
- Failure to resume duties after an authorized leave of absence.

Notice of Intent

A written notice from the Office of the Provost to the faculty member advising that the alleged misconduct rises to the level of Misconduct Warranting Suspension or Termination that specifically advises the faculty member which course of action the University will be pursuing: (1) suspension without pay; (2) suspension with pay; or (3) termination of Tenure and employment.

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Tenure

An employment status subject to the laws of the State of Tennessee that provides a faculty member with continued employment in a specific Academic Unit until the award of tenure is terminated pursuant to the Termination of Tenure Policy or state law. Tenure is intended to protect academic freedom and may only be acquired after approval of the Board of Trustees.

Unsatisfactory Performance

Failure of a faculty member to complete their Academic Responsibilities or failure of a faculty member to meet the Professional Standards of Conduct.

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This policy governs how the university will: (1) process allegations of misconduct by a faculty member; (2) process allegations of Unsatisfactory Performance by a faculty member; and (3) review allegations that rise to the level of Misconduct Warranting Suspension or Termination. This policy supersedes all other university and department policies.

This policy does not govern the process of evaluating performance, qualification, and institutional needs for awarding Tenure. The [Tenure](#) Policy governs the evaluation and qualification for Tenure. [Faculty Progressive Discipline](#) governs the evaluation of performance.

1. University Processing for Evaluating Allegations.

Upon receipt of an allegation, the recipient of the allegation shall forward it to the Appropriate University Official for review as described herein below.

If the allegation of misconduct is unrelated to Academic Responsibilities or Professional Standards of Conduct, it will be forwarded to the Appropriate University Official who will determine which university policy will control (e.g., a Title IX allegation will be forwarded to the Office of University Compliance for investigation under the University's Title IX Rule; an allegation of theft will be forwarded to Office of Internal Audit for review under the Fraud, Waste, and Abuse policy; misconduct in scholarship and research will be forwarded to the Office of Research and Sponsored Programs for review under the Research Misconduct policy). At the conclusion of the investigation, if there is a finding, the investigating office will forward their report to the Provost for review under this policy. If at the conclusion of the investigation, there is no finding, the investigating office will forward their report to the recipient of the allegation.

If the allegation of misconduct: (1) relates to Academic Responsibilities or Professional Standards of Conduct; and (2) includes conduct that must be reviewed under a university investigative process pursuant to state or federal law (e.g., Title IX, fraud, waste, and abuse, etc.), the initial review of the allegation will be reviewed/investigated under the appropriate university process first before the Provost reviews the misconduct related to Academic Responsibilities or Professional Standards of Conduct. At the conclusion of the investigation, the investigating office will forward their report to the Provost for review under this policy.

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While investigating an allegation, the investigating office shall follow the standard university process for determining if an interim administrative measure is needed, including, but not limited to, placing the employee on paid administrative leave, restricting access to university property, restricting access to university systems, or reassignment of responsibilities; provided, however, that the faculty member shall not be suspended or terminated and the Tenure status of the faculty member shall not be affected until after notice and a hearing are offered as required in this Policy. The University's implementation of interim administrative measures does not constitute a finding of misconduct or a disciplinary determination.

1.1. Allegations of Misconduct.

1.1.1. Allegations Do Not Rise to the Level of Misconduct Warranting Suspension or Termination.

If, upon initial assessment, the Appropriate University Official determines that if the allegation of misconduct, even if proven at some point in the future, would not rise to the level of Misconduct Warranting Suspension or Termination and no other university policy controls, then the allegation shall be forwarded to the faculty member's supervisor, who will serve as the Appropriate University Official. The faculty member's supervisor shall review the allegations and if necessary impose disciplinary action pursuant to [Faculty Progressive Discipline](#).

If after the initial assessment, the faculty member's supervisor investigating the allegations uncovers new information that if true would rise to the level of Misconduct Warranting Suspension or Termination, then the investigating individual shall immediately refer the matter to the Provost or Appropriate University Official and Section 1.2.2 below shall apply.

1.1.2. Allegations Do Rise to the Level of Misconduct Warranting Suspension or Termination.

If, upon initial assessment, the Appropriate University Official determines the alleged conduct, if true, would rise to the level of Misconduct Warranting Suspension or Termination and/or the allegation relates to Academic Responsibilities or Professional Standards of Conduct, the allegation will be forwarded to the Provost for review.

1.2. Allegations of Unsatisfactory Performance.

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If an allegation is related to Unsatisfactory Performance that does not involve Misconduct Warranting Suspension or Termination, the allegations will be processed and reviewed pursuant to [Faculty Progressive Discipline](#). If necessary, after review and processing pursuant to [Faculty Progressive Discipline](#), the faculty supervisor, chair, or dean, as appropriate may impose disciplinary action pursuant to the procedures for [Faculty Progressive Discipline](#).

If a faculty member's Unsatisfactory Performance does not improve or if the faculty member repeatedly fails to meet Academic Responsibilities and/or Professional Standards of Conduct, the Appropriate University Official may determine it rises to the level of Misconduct Warranting Suspension or Termination and will follow section 1.2.2.

2. Provost Review.

Within five (5) business days of receiving: (1) an allegation that may rise to the level of Misconduct Warranting Suspension or Termination; or (2) a report of findings from the investigating office that the allegations rise to the level of Misconduct Warranting Suspension or Termination, the Provost will review all documents received and make a determination, or if the information provided to the Provost is insufficient to make a determination, the Provost may convene an administrative committee. The administrative committee shall include no more than five (5) individuals to investigate the allegations, gather evidence, and submit a written report to the Provost. The written report must include the following: (1) a detailed summary of allegations; (2) a detailed statement of the facts, including a summary of the statements of all individuals interviewed and all evidence reviewed; and (3) applicable policies or laws. All evidence reviewed must be attached to the report.

2.1. Misconduct Does Not Warrant Suspension or Termination.

If the Provost determines the conduct does not rise to the level of Misconduct Warranting Suspension or Termination, the Provost or designee may impose any disciplinary action pursuant to [Faculty Progressive Discipline](#).

2.2. Misconduct Does Warrant Suspension or Termination.

If the Provost determines misconduct does warrant suspension or termination, the Provost provides a written recommendation to the President of the Provost's recommendation of suspension or termination. The Provost's written recommendation shall include at minimum:

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- 2.2.1. The recommendation for suspension or termination;
- 2.2.2. The grounds for the Provost's determination;
- 2.2.3. The procedural review history of the allegations, including a timeline of review and parties involved;
- 2.2.4. Any applicable university policies, state, or federal laws;
- 2.2.5. Investigative reports, if any; and
- 2.2.6. Any other evidence or relevant documents.
- 2.2.7. The sole authority to determine disciplinary action shall remain with the Provost and the President without any recommendation or vote by another faculty member at the institution.

3. President Review of Recommendation of Misconduct Warranting Suspension or Termination.

Within five (5) business days of receiving the Provost's recommendation for suspension or termination, the President will accept, reject, or modify the recommendation, or request more information from the Provost. If the President rejects the Provost's recommendation, the President shall direct the Provost in writing that the matter be reviewed under the [Faculty Progressive Discipline](#).

If the President accepts or modifies the Provost's recommendation for suspension or termination, the Office of the President will advise the Provost of a hearing date to be provided to the faculty member and direct the Provost to send a Notice of Intent based on the applicable hearing date. The hearing date shall occur no later than (15) business days after the date of the Notice of Intent. The Provost's written Notice of Intent shall include:

- 3.1.1. A detailed list of the allegations;
- 3.1.2. The university's intent to either: (1) suspend with pay;(2) suspend without pay; (3) terminate employment; and/or (4) terminate Tenure (as applicable);
- 3.1.3. The findings that rise to the level of Misconduct Warranting Suspension or Termination of Tenure;
- 3.1.4. The applicable university policy, regulation, state, or federal law;
- 3.1.5. The faculty member's right to a hearing with the President prior to suspension, termination of employment and/or Tenure;
- 3.1.6. The date of the hearing with the President; and

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- 3.1.7. A statement that if the faculty member fails to attend the hearing or declines the hearing, the date on which the proposed action will go into effect (e.g., failure to attend the hearing or declining the right to a hearing will result in termination effective on Month Day, Year).

The Provost will copy the President on the Notice of Intent. The University President may grant extensions to the deadlines in this section in the President's discretion.

4. Hearing on Misconduct Warranting Suspension or Termination.

4.1. Faculty Member Declines Hearing or Fails to Appear

The faculty member may decline the hearing. If the faculty member declines the hearing, the President shall issue a final written determination. If a faculty member fails to appear at their scheduled hearing, the President shall issue a final written determination.

4.2. Inability to Appear.

If the faculty member is physically unable to appear due to a legal reason, the faculty member may appoint a representative to appear on behalf of the faculty member; provided, however, that there shall be no extension granted to the date/time previously scheduled for the hearing. The Office of the President must receive notice written notice at least twenty-four (24) hours before the hearing of the legal need for a representative, the representative's name and occupation.

4.3. Faculty Member Participates in Hearing.

The faculty member may submit written documentation before the hearing to the President or during the hearing for review. Neither the Provost nor the faculty member may submit documentation to the President after the hearing concludes, unless the President specifically requests such information.

4.3.1. Provost Responsibilities at Hearing.

At the hearing, the Provost must present the grounds for termination or suspension. If the Provost is unavailable due to an emergency situation, the President shall designate a replacement. The Provost may present witnesses, and the faculty member shall be provided the opportunity to ask the witnesses questions.

4.3.2. Faculty Member's Opportunity to Respond.

The faculty member has the opportunity to personally respond to the grounds at the hearing and has the right to present evidence refuting the grounds for termination or suspension. The faculty member may present witnesses, and the Provost shall be provided the opportunity to ask the witnesses questions.

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The faculty member has the right to have one (1) advisor attend the hearing. The advisor may accompany and confer with the faculty member, but the advisor may not speak on behalf of the faculty member, and may not interrupt the proceedings or actively participate in the hearing. If an advisor interrupts the proceedings and fails to follow the requirements of this policy, the President may stop the proceedings and have the advisor removed. The faculty member shall not be permitted to have a substitute advisor. The faculty member must notify the President in writing at least twenty-four (24) hours before the hearing that the faculty member will utilize an advisor and identify the advisor by name and occupation.

4.4. Final Written Determination.

If the faculty member declines the hearing or at the conclusion of the hearing, the President will have five (5) business days to review the information provided at the hearing and issue a final written determination to the faculty member, the Provost, and the Office of Human Resources.

The written determination shall include:

- 4.4.1. The final outcome (termination or suspension);
- 4.4.2. The grounds for the outcome;
- 4.4.3. The effective date of the termination or suspension; and
- 4.4.4. A statement that the faculty member may contest the outcome and the deadline by which the written request to contest the outcome must be received by the Office of the President.

Following termination or placement on suspension, the faculty member may request to contest the outcome.

5. Request to Contest Outcome.

Following termination or placement on suspension pursuant to this policy, the faculty member shall have ten (10) business days from the effective date of termination or suspension to file a written request with the Office of the President for a contested case proceeding pursuant to the University's Contested Cases subject to the Uniform Administrative Act. A faculty member who does not request a contested case by the ten (10) business day deadline waives the right to a contested case hearing. If at the conclusion of a contested case, the outcome is favorable to the faculty member and a conclusion is reached that the faculty member should not have been terminated and/or

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the faculty member should not have been suspended, then to the extent permitted by law, the University shall provide lost salary and benefits, if any, and restore the faculty member's employment position, including Tenure if applicable.

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Procedures

N/A

Applicable Forms and Websites

Insert links to websites and forms.

Authority and Revisions

Authority: T.C.A. § 49-8-203, et seq.

Previous Policy: N/A

The ETSU Board of Trustees is charged with policy making pursuant to TCA § 49-8-203, et seq. This policy may only be revised by the Board of Trustees. Before a substantive change to the policy section may take effect, the requested changes must be: (1) presented to the Academic, Research, and Student Success Committee of the Board of Trustees for review and approval; and (2) if approved by the Academic, Research, and Student Success Committee, presented for a vote of the Board of Trustees and approved by a majority of the Board of Trustees. The Secretary of the Board will provide a notification to the Board of Trustees if a technical revision to this policy is implemented or a revision to the procedure section is implemented