

A Senate committee's review of ETSU's Faculty Handbook's section on Termination of Tenure for Adequate Cause found that the ETSU procedure is not aligned with that of TBR (memo of committee's findings attached as a separate document). As a result of this review, the Senate has approved the following change to the Faculty Handbook. This change removes the ETSU procedure and, as in many instances in the Handbook, links to the most current Board policy.

Termination for Adequate Cause

A faculty member with tenure or a faculty member on a tenure-track appointment prior to the end of the term of appointment may be terminated for adequate cause, which includes the following:

- a. Incompetence or dishonesty in teaching or research.
- b. 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, the university or the department, or to carry out specific assignments, when such policies or assignments are reasonable and non-discriminatory.
- c. Conviction of a felony or a crime involving moral turpitude.
- d. Improper use of narcotics or intoxicants, which substantially impairs the faculty member's fulfillment of his/her departmental and university duties and responsibilities.
- e. Capricious disregard of accepted standards of professional conduct.
- f. Falsification of information on an employment application or other information concerning qualifications for a position.
- g. Failure to maintain the level of professional excellence and ability demonstrated by other members of the faculty in the department or academic program unit of the university.

Procedures for Termination for Adequate Cause

Termination of a faculty member with a tenure appointment or a tenure-track appointment prior to the end of the annual specified term of the appointment, shall follow the procedure outlined in ~~be subject to~~ TBR Policy 5:02:03:60 (Academic Tenure for Universities) section IV, subsection I.

Refer to the TBR procedure found at

<https://policies.tbr.edu/policies/academic-tenure-universities#Termination-for-Adequate-Cause>

~~the following procedures:~~

~~The proposed termination will be preceded by discussion between the faculty member and appropriate administrative officers in an attempt to reach a mutually agreeable settlement. In the event that a mutually agreeable settlement cannot be achieved the president shall appoint an informal inquiry committee consisting of five tenured faculty members.~~

~~Although not mandatory, every attempt shall be made to appoint committee members acceptable to the faculty member concerned. This committee shall attempt to arrange a mutually agreeable settlement between the various parties. Failing in~~

~~this, the committee shall render a recommendation to the president concerning the desirability of initiating formal dismissal proceedings. This recommendation shall not be binding upon the president.~~

~~A dismissal will be preceded by a written statement of reasons, and the faculty member concerned will have the right to be heard by a hearing committee consisting of members of the faculty and administration (and not including any member of the faculty committee referred to in the preceding paragraph). This hearing committee shall consist of seven members appointed jointly by the presidents of the university and the Faculty Senate. The president of the university shall appoint one of the seven to chair the committee. The committee shall, at its first meeting, determine its own rules and procedures not otherwise specified in this document.~~

~~Any party to the case has the right to challenge hearing committee members for cause. In the event of such challenges, replacement members will be chosen in the manner specified in the ETSU Faculty Handbook.~~

~~Pending a final recommendation by the hearing committee, the faculty member will be suspended or assigned to other duties in lieu of suspension only if the president determines that immediate harm to the faculty member himself or herself or others or significant disruption to any university operation is threatened by continuance. Before suspending a faculty member, pending an ultimate determination of his/her status through the institution's hearing procedures, the administration will consult with the hearing committee concerning the propriety, the length, and the other conditions of the suspension. Suspension is appropriate only pending a hearing. Salary will continue during the period of suspension.~~

~~The hearing committee may, with the consent of the parties concerned, hold joint pre-hearing meetings with the parties to define and clarify the issues, effect stipulations of facts, provide for the exchange of documentary or other information, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.~~

~~Service of notice of hearing, with a statement of the time and place of the hearing and with specific charges in writing, will be made at least twenty (20) days prior to the hearing. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause, the hearing tribunal will evaluate all available evidence and base its recommendation upon the evidence in the record.~~

~~During the proceedings the faculty member will be permitted to have an advisor and/or counsel of his or her choice. This advisor or counselor may be present during the hearing but may not participate.~~

~~A court reporter will transcribe the hearing or hearings and, at the faculty member's request, a transcript will be made available without cost to the faculty member.~~

~~The burden of proof that adequate cause exists rests with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole.~~

~~The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the hearing committee in securing witnesses and making available documentary and other evidence.~~

~~The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and if possible provide for interrogatories.~~

~~In the hearing of charges of incompetence, the testimony may include that of qualified faculty members from East Tennessee State University and other institutions of higher education.~~

~~The hearing committee will not be bound by strict rules of legal evidence, and may admit any evidence which is of value in determining the issues involved. The committee will seek to obtain the most reliable evidence available.~~

~~Except for such simple announcements as may be required concerning the time of the hearing and similar matters, public statements and publicity about the case by the faculty member, members of the hearing committee, or administrative~~

~~officers will be avoided until the proceedings have been completed, including consideration by the Board. The president and the faculty member will be notified of the decision in writing and will be given copies of the record of the hearing.~~

- ~~a.—If the hearing committee concludes that adequate cause for dismissal has been established by the evidence in the record, the faculty member may appeal that decision to the president within ten days. The hearing committee may recommend to the president, with supporting reasons, that a penalty other than dismissal would be more appropriate. If the hearing committee concludes that adequate cause for dismissal has not been established by the evidence in the record, it will so report to the president, who may reject the report with a written statement of reasons. Any decision by the president may be appealed to the Board within twenty calendar days of the decision pursuant to the following subsection: If dismissal or other severe sanction is recommended, the president will, on request of the faculty member, transmit to the chancellor the record of the case. The review of the record by the Board or its designee will be based on the record of the committee hearing, and will provide for written argument by the principals or by their representatives. The decision of the president will either be sustained, or the proceeding returned to the president with specific objections. The president will then reconsider, taking into account the stated objections, and return the case to the hearing committee if necessary. The Board or its designee will make a final decision only after study of the president's reconsideration.~~
- ~~b.—If the president determines that adequate cause for dismissal, or other lesser sanctions, has not been established the hearing record will be expunged.~~

05/04/87; 07/91; 05/92; 07/92; 09/96; 07/97 (Effective 1998-99 review cycle); 01/02; TBR 04/02/04; 02/12/09; 10/13/11; 08/01/13; INSERT DATE OF APPROVAL