



**Motion to Amend the *Faculty Rules  
& Regulations* to Specify a Procedure  
for the Dismissal of a Member of the  
Faculty  
November 3, 2009**

**SUMMARY:** Motion to amend the *Faculty Rules and Regulations* in order to clarify and specify a procedure for the dismissal of a member of the faculty

**RATIONALE:** Brown's *Faculty Rules and Regulations* currently contain no explicit procedure for the dismissal of a member of the faculty. The procedures here are cumbersome, but we should expect them to be needed only very rarely. The structure of the procedure was designed to be broadly analogous to the procedures for awarding tenure. The new procedure has been shown to the Administration and the Office of the General Counsel, and somewhat revised to meet with their concerns.

**MOVED:** That the Faculty recommend to the Corporation that the *Faculty Rules and Regulations* be amended in Part 5, Section 11.I.A.1-14, University Regulations: Pertinent Corporation Rules Relating to the Faculty, by deleting the existing language (as struck-through below) and replacing it with the proposed new language (underlined and in bold below), effective immediately.

**Section 11. University Regulations**

**I. Pertinent Corporation Rules relating to the Faculty**

**A. Conditions of Tenure and Faculty Reappointments**

NOTE: The following is Part I of a statement on Tenure and Reappointments recommended by the Faculty to the Corporation on May 24, 1977 as a replacement for the statement of May 30, 1959, and subsequently amended (cf. pp. 33-34 of the September 1974 edition of the Faculty Rules and Regulations.)

On June 4, 1977, the Corporation voted "That Part I of the Statement on Tenure and Reappointments adopted by the Faculty at its meeting on May 24, 1977, be accepted and made the policy of the University."

Part II, referring to the Committee on Faculty Reappointments and Tenure, is found in 2,VIE, above.

For the purposes of this statement “faculty” refers only to those individuals who are primarily employed in teaching and/or research or who have tenure.

1. The awarding of tenure at Brown University determines permanent membership in the professorial faculty. It conveys both a status and a contingent right, the assurance of continuous academic employment until retirement ~~at the stipulated age.~~

2. A tenured appointment may not be terminated by the Corporation except for adequate cause and after the appointment holder has been accorded the rights of due process as prescribed in Section ~~10,I.A.~~, **11.I.B.**

~~3. Nothing herein contained shall limit the right of the Corporation to remove any member of the Faculty for adequate cause. When a case of this sort occurs, a Committee of the Faculty shall be elected by the Faculty to advise the Corporation.~~

~~4. Adequate cause for dismissal of an individual during either a term appointment or tenure refers to demonstrated incompetence, to dishonesty in teaching or research, to substantial and manifest neglect of duty, or to personal conduct which substantially impairs the individual's fulfillment of institutional responsibilities. The burden of proof in establishing cause for dismissal rests upon the University.~~

~~5.~~ **3.** All Faculty appointments are either tenurable or untenurable. A tenurable appointment may not be changed to an untenurable appointment to circumvent the limitation on the probationary period as defined below.

~~6.~~ **4.** Tenurable appointments are, by title, the Professorship, the Associate Professorship, and the Assistant Professorship, and these three only. (See exclusions in paragraph 7 below.) The Professorship and the Associate Professorship will normally be tenured. The Assistant Professorship will normally not be tenured.

~~7.~~ **5.** Untenable Appointments

a. All appointments other than the three professorial appointments specified above are untenurable and, as such, they neither involve considerations of tenure nor are they subject to the limitation of the probationary period as defined below. They are appointments to perform specific tasks. Untenable appointments include, but are not limited to, those titled Instructor, Lecturer, Research Associate; and those with the designation “Visiting,” Adjunct,” (Research), “Investigator,” “Senior Investigator,” “Associate,” and those appointments in the Division of Biology and Medicine with the title “Clinical.”

b. Those appointments in the Division of Biology and Medicine with the designation of “Specialty” in a medical area, e.g., Professor of Pediatrics, are for a specific term and renewable. Such appointments do not carry tenure and are not subject to the probationary period as defined below, but individual faculty members of senior rank may be considered for a tenured faculty position with the joint concurrence of the University and of the hospital in which they are employed.

~~8.~~ **6.** Untenured faculty members may serve no longer than seven years of full-time faculty service or its equivalent in tenurable ranks at Brown University. After seven years of full-time

faculty service or its equivalent at Brown University, such appointments must either be tenured or the appointment in tenurable rank is terminated, except that extensions of up to two years may be granted by the Dean of the Faculty (or the Dean of Medicine and Biological Sciences) for care of a newborn child or a newly adopted young child, or for other extraordinary circumstances. An interruption of a term of service for a medical leave, in accordance with University policy, no matter what its length, shall not be counted as part of the probationary period.

~~9.~~ **7.** Tenurable appointments which have been contracted for a specific term, may, when the term expires, either be terminated, or renewed without tenure, or changed to a tenured appointment. A first tenurable appointment may have a term no longer than three years.

~~10.~~ **8.** Recommendations to renew or not to renew contracts and recommendations to award or not to award tenure are initiated by the appointee's department, division, or program. In cases of negative recommendation, and, at the request of the appointee, he or she shall be given, in writing, the rationale of the decision made by the department, division, or program. If the appointee holds a joint appointment, such recommendations shall be made individually by the departments, divisions, and/or programs concerned. The recommendations may be reviewed by the Tenure, Promotion and Appointments Committee. Only the Corporation can grant tenure.

~~11.~~ **9.** Tenure considerations for faculty appointees who hold part-time appointments shall be in accordance with the "Resolution on Part-time Faculty Appointments" adopted by the Faculty on 21 May 1974. (See Section 10,I,C.)

~~12.~~ **10.** All recommendations must be prepared and sent forward and all reviews concluded early enough to enable the University to give notice to the appointee of the action it intends to take at least twelve months before the expiration of the term appointment, except that for persons whose term appointments at Brown University total three years or less, notice shall be given at least eight months before the appointment expires. Initial faculty appointments of a duration of one year or less, and "Visiting" appointments of whatever duration are to be considered as terminal appointments, not requiring additional notice from the University regarding possible reappointment.

~~13.~~ **11.** An untenured faculty appointee has a right to the following:

- a. A written statement of the department's, program's, or division's criteria for recommending renewal of an appointment or award of tenure and of the procedures prefatory to making such recommendations.
- b. A yearly professional evaluation by his or her Chair, together with an explanation of the department's, program's, or division's needs so far as these may affect the appointee.
- c. A conscientious documentation by the department, program, or division of his or her professional career.
- d. A review of his or her case by the tenured members of the department, program, or division sufficiently before the dates of crucial decisions.
- e. A personal appearance before the tenured members of the department, program, or division during consideration of his or her case.
- f. A recommendation from the department, program, or division about his or her renewal or tenuring made ready by the proper date; an explanation of what that recommendation will be and to whom and when it will be sent.

The failure of a department, program, or division, or of the Tenure, Promotion and

Appointments Committee, or of the Administration to secure any or all of these rights to a candidate shall not be sufficient cause for renewing an appointment or for awarding tenure.

14. **12.** Instructors and other faculty members who held tenurable rank prior to July 1, 1977, may elect to be governed by the Corporation Rules on Tenure as adopted in 1959 and subsequently amended.

## **B. Procedures Governing Dismissal of a Member of the Faculty**

**1. The dismissal of a member of the faculty during either a term appointment or tenure is a rare event. When circumstances arise that might lead to such an action, they must be handled fairly and expeditiously. It is essential to have a process that protects both the rights of a member of the faculty and the University. These procedures outline the process by which a member of the faculty may be dismissed from a term or tenured appointment. Nothing herein shall limit the right of the Corporation to remove any member of the faculty for adequate cause.**

**2. Adequate cause for dismissal of an individual during either a term appointment or tenure refers to: demonstrated incompetence which substantially impairs the individual's fulfillment of institutional responsibilities; dishonesty in teaching, research, scholarship, or other academic responsibilities; substantial and manifest neglect of duty; personal conduct which substantially impairs the individual's fulfillment of institutional responsibilities; or illegal activities which have a substantial negative impact on the University's operations or obligations.**

**The responsibility for establishing cause for dismissal of a member of the faculty with tenure or a member of the faculty during a term appointment rests upon the University Administration.**

### **3. Basis for Action by the Dean:**

**If the Dean of the Faculty or the Dean of Medicine, as appropriate, independently determines that there is adequate cause to consider dismissal of a tenured member of the faculty or a member of the faculty during a term appointment, the Dean will provide notice in writing to the member of the faculty of the basis for consideration of dismissal.**

**Complaints against a member of the faculty should be reported in writing in a timely manner to the Dean of the Faculty or the Dean of Medicine and Biological Sciences, as appropriate. Following receipt of the complaint, the Dean shall determine whether the complaint provides credible information which, if true, would warrant dismissal of a tenured member of the faculty or a non-tenured member of the faculty during a term of appointment. If the Dean makes such a determination, the Dean shall provide notice to the member of the faculty, in writing, identifying the allegations and the reasons why the allegations, if determined to be true, may subject the member of the faculty to dismissal. If the basis for the Dean's consideration is a complaint of conduct submitted by a third party to the Dean which, if determined to be true, could warrant dismissal of the member of the**

faculty, the Dean shall provide notice in writing to the member of the faculty of receipt of a complaint.

When the action is informed by a complaint, the notice to the member of the faculty shall also include the name of the person(s) filing the complaint. In very unusual circumstances, the Dean may choose not to include the name(s) of the complainant(s). If so, the Dean must provide the member of the faculty the reason(s) for not divulging the identity of the complainant. The member of the faculty shall be asked to meet with the Dean to respond to the allegations. The faculty member may have an advisor or legal counsel present, who may not participate in the proceedings. If the Dean determines that it is necessary or desirable and justifiable for others to attend the meeting based on the information to be presented to the member of the faculty, the Dean will inform the member of the faculty of all other attendees in advance of the meeting. If the matter can be resolved by agreement between the parties, the Dean shall take the appropriate action and inform the President and Provost of the agreement reached between the parties. Other officers of the faculty or the University shall be informed only as may be necessary to implement the agreement or by agreement of the parties.

If, after the Dean's review and/or investigation, he/she recommends the dismissal of the member of the faculty, the Dean shall so inform the member of the faculty, the chair of the faculty member's department, the President, the Provost, and the Chair of the Faculty Executive Committee or, in the case of a hospital-based member of the faculty, the Chair of the Medical Faculty Executive Committee, as appropriate. The Faculty Executive Committee or the Medical Faculty Executive Committee, as appropriate, shall be responsible for appointing an Ad Hoc Hearing Committee (AHHC) of the faculty to conduct a hearing of the charges by the Dean. The member of the faculty has the right to request that the recommendation of the Dean not be reviewed by the AHHC by providing such a request in writing to the Chair of the Faculty Executive Committee or of the Medical Faculty Executive Committee, as appropriate. If the faculty member so elects, the Dean's recommendation will be forwarded to the Provost for the Provost's recommendation to the President. If the member of the faculty chooses to have the recommendation reviewed by the AHHC, the procedures below will be followed.

#### 4. The AHHC

The AHHC of the faculty shall consist of no less than three and no more than seven tenured members of the faculty, appointed by the Faculty Executive Committee or the Medical Faculty Executive Committee, as appropriate. Members of the AHHC shall have had no involvement with or relationship to the member of the faculty or the circumstances under review. A chair of the AHHC, who shall retain the right to vote, shall be elected from among the members of the committee at their first meeting.

The AHHC shall not be bound by rules of legal evidence, and it may elect to admit any evidence that it deems of probative value in determining the issues, making every effort to consider any information which it deems to be both reliable and relevant in order to safeguard the rights of the faculty member to a fair hearing. All proceedings, deliberations,

records and documents reviewed and generated by the AHHC, shall be maintained as confidentially as possible.

The Chair of the AHHC shall:

- (i) confirm that the member of the faculty has received written notification and supportive information regarding the alleged conduct/misconduct from the Dean;
- (ii) provide the member of the faculty with a copy of these procedures;
- (iii) obtain from the Dean a written summary of the information/documents he or she intends to present and a provisional list of witnesses, if any, to be called;
- (iv) obtain from the member of the faculty a written response and a provisional list of witnesses, if any, to be called;
- (v) determine, in consideration of the evidence to be presented and the witnesses to be heard, the schedule and location of hearings and notify all parties promptly of them. Hearings shall be scheduled not less than twenty-one (21) days after the member of the faculty receives notice of the charges, unless an earlier date is agreed upon by all concerned.

## 5. The AHHC Hearing

During the hearings, the member of the faculty shall represent herself or himself, i.e. present information and/or documents on his/her behalf. Although only the member of the faculty may represent himself or herself, the member of the faculty may have the presence and assistance of another member of the faculty and/or, at his/her expense, legal counsel. Such person may assist the member of the faculty but may not present information or testimony in lieu of the member of the faculty's participation, or participate directly in the proceedings. Similarly, the Dean may be accompanied by a member of the faculty or staff member to assist in the presentation of the Dean's case subject to the same constraints as pertain to the member of the faculty.

Persons assisting the member of the faculty or the Dean may not engage in any behavior which has a disruptive or deterrent effect on the hearing proceedings. The Chair shall have the authority to dismiss any such persons from the hearing.

The Dean shall make the first presentation to the Committee. The Dean may present information orally and/or through written materials. Following presentation by the Dean of the allegations and supporting information/documents, the member of the faculty shall have the opportunity to make a presentation to the Committee. The member of the faculty may present information orally and/or through written materials. If either party intends to include written materials in their presentation, these materials should be submitted to the Chair at least three working days in advance of the hearing. It shall be the responsibility of the Chair to provide a secure mechanism for the committee members to review the written materials in advance of the hearing and make copies of the materials for review at the meeting. All materials presented to the Committee shall be collected at the conclusion of the meeting and secured to protect the confidentiality of the proceedings.

A party desiring to present witnesses to corroborate his/her statements may request that the committee require the attendance of such witnesses. The party shall provide sufficient information for the committee to determine how the witness's involvement in the hearing will be germane to the issues before the committee. When the AHHC determines that the witness's statements are vital to fair consideration of the issues before it but the witness cannot or will not appear, the AHHC will attempt to obtain a statement from the witness.

All testimony must be directed to the Committee. Parties may ask questions of witnesses only through the Chair of the AHHC.

#### 6. Report to the Provost

Upon completion of the hearings the AHHC shall prepare a written report expeditiously, based solely upon the evidence and argument (oral and written) presented in the hearings and available to the faculty member and the Dean. This report shall state the committee's findings on each part of the charge, and may include recommendations. The report shall go for action and response to the Provost, with copies to the member of the faculty, the Dean, the Chair of the Faculty Executive Committee or of the Medical Faculty Executive Committee, as appropriate. Either the member of the faculty or the Dean may submit a written statement directly to the Provost for his or her consideration, within a period of time to be specified by the Provost (normally not exceeding 10 days).

The Provost shall review the recommendation of the Dean together with the report, findings and recommendations of the AHHC and following this review, if the Provost determines that the Dean's recommendation, in light of the findings of the AHHC, if pertinent, warrants dismissal of the member of the faculty during either a term appointment or tenure, he or she shall make a recommendation to that effect in writing to the President along with a copy of the AHHC's report. The member of the faculty, the Dean, and the Chair of the Faculty Executive Committee or of the Medical Faculty Executive Committee, shall receive a copy of the Provost's recommendation to the President.

#### 7. The President's Review

The President shall consider the recommendation of the Provost and the report of the AHHC. The President may grant to the member of the faculty under review an opportunity to discuss the recommendation with the President, in person.

If the President determines that the circumstances require a recommendation to the Corporation that the member of the faculty be dismissed during either a term appointment or tenure, the President shall so recommend in writing to the Corporation. The member of the faculty, the Dean, the Provost, the chair of the AHHC, and the Chair of the Faculty Executive Committee or of the Medical Faculty Executive Committee, as appropriate, shall receive a copy of the President's recommendation to the Corporation.

## **8. Action by the Corporation**

**The Corporation has sole authority to dismiss a member of the faculty from a term appointment or tenure for adequate cause. Upon receipt of the recommendation of the President, the Corporation shall consider the report of the AHHC and the recommendations of the President and the Dean. The Corporation may also review such other information as it deems necessary to reach its decision.**

**The decision of the Corporation shall be final. The Corporation's decision shall be communicated to the President. The President shall notify the member of the faculty, the Department Chair, the Dean, the Provost, the chair of the AHHC, and the Chair of the Faculty Executive Committee or of the Medical Faculty Executive Committee, as appropriate, of the decision.**

## **9. Suspension of Member of the Faculty Pending Decision**

**The President shall have the power to suspend a member of the faculty accused of any conduct which could warrant dismissal if there is a threat of immediate harm to the member or others or sustained harm to the University by his/her continued active employment during the intervening period. During the period of this suspension, the regular salary and benefits of the member of the faculty shall be continued.**

## **B. C. Statement on Academic Freedom for Faculty and Students**

NOTE: The Faculty voted on April 12, 1966, to recommend the following statement to the Corporation for adoption as the public policy of Brown University. On June 4, 1966, the Corporation approved the recommendation with the proviso as noted in the footnote.

1. Academic Freedom is essential to the function of education and to the pursuit of scholarship in universities.
2. Therefore, Brown University, mindful of its historic commitment to scholarship and to the free exchange of ideas, affirms that faculty members and students alike shall enjoy full freedom in their teaching, learning, and research.
3. Brown University also affirms that faculty members and students shall have the freedom of religious belief, of speech, of press, of association and assembly, of political activity inside and outside the University, the right to petition the authorities, public and University, to invite speakers of their choice to the campus,<sup>1</sup> and that students and faculty members as such should not be required to take any oath not required of other citizens. The time, place, and manner of exercising these rights on the campus shall be subject to reasonable regulation only to prevent interference with the normal functions of the University.

## **C. D. Definition of Policies Concerning Sabbatic Leave of Members of the Faculty**

Sabbatic leave is granted to members of the Faculty as recognition of notable service through teaching and scholarly contributions, and as an aid and inspiration to further achievements. Sabbatic leave is intended to provide teachers with opportunities for scholarly development and

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<sup>1</sup>Reference to the rights of students to invite speakers to the campus refers to recognized student groups.

contacts which shall contribute to their professional effectiveness and to the value of their later services to Brown University. It is not intended that such leave shall be used primarily for the purposes of recreation and recuperation.<sup>2</sup>

1. Eligibility and Opportunity for Sabbatic Leave

Sabbatic leave is granted only to tenured faculty and such officers of the University as the President may nominate and in consideration of the nature and period of service with such rank of Brown University. The candidate for leave shall have served at Brown for at least six years, but nothing herein contained shall limit the right of the Corporation to enter into a special agreement concerning the time of the first sabbatic leave of a member of the Faculty or officer brought from another institution or organization.

The opportunity for taking sabbatic leave at regular intervals is not absolutely guaranteed by the University and will be granted only when the condition of the department involved, and of the University in general, is such that the absence on leave will not seriously impair the interests of the University. It is understood that consideration will be given to the special conditions in small departments, even though special expense to the University be involved.<sup>3</sup>

2. Periods of Leave, Compensation During Leave

Following six semesters in residence, a faculty member shall be eligible for a sabbatic leave of absence for one semester, and shall receive seventy-five percent of the usual semester salary during that time. The faculty member may choose instead to continue teaching for an additional six semesters, after which time the sabbatic leave may involve absence for an entire academic year (or for two semesters), during which period the professor or officer shall receive three-quarters of the academic year salary; or it may involve absence for only one semester, with full academic year salary. It is presumed that a member of the Faculty or an officer on sabbatic leave is not receiving compensation for services in another institution or organization.<sup>4</sup>

3. Time and Requirements of Application for Leave

Application for leave shall be made in writing, and addressed to the Corporation not later than December 15th of the academic year preceding the one for which leave is requested. The applicant must have a well considered plan for spending the leave in a manner clearly calculated to contribute to the best interests of the University. A detailed written statement of this plan, together with clear indications of its professional advantages, shall accompany the application.

4. Leave of Absence and Sabbatic Leave

Leave of absence, without pay, may be granted at any time. Such periods of leave will ordinarily not be counted as part of the consecutive years of service

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<sup>2</sup>Amended by the Advisory and Executive Committee of the Corporation, December 13, 1963, March 12, 1965, January 14, 1966, and November 13, 1970.

<sup>3</sup>As amended March 12, 1965.

<sup>4</sup>As amended November 13, 1970.

which are a prerequisite to sabbatic leave.<sup>5</sup>

5. Required Report

Upon returning to the University after sabbatic leave, the professor shall write a detailed report of his or her activities during leave, and shall transmit the same to the President in a form suitable for publication. Less formal comments supplementary to this report will be welcomed.

6. Special Sabbatic Leaves of Absence

A program of special sabbatic leaves of absence was approved beginning July 1, 1966, for untenured faculty and, in special cases, the time used for such special sabbatic leaves not to count toward entitlement under the regular sabbatic program.<sup>6</sup>

~~D.~~ **E. Policy on Retirement Benefits**

1. The Corporation policy and information on retirement benefits for faculty is available on the web at:

[http://www.brown.edu/Administration/Dean\\_of\\_the\\_Faculty/policies/policies-faculty.html#srp](http://www.brown.edu/Administration/Dean_of_the_Faculty/policies/policies-faculty.html#srp)

~~E.~~ **F. Conflict of Interest, Statement and Procedure (the Faculty)**

1. The Corporation policies and information on Conflict of Interest applicable to all members of the Brown Community, and policies particularly applicable to officers of instruction and research, is available on the web at:

<http://research.brown.edu/policies/coidisclosure.php>

~~F.~~ **G. Patent and Invention Policy**

1. The Corporation of Brown University approved and adopted the Brown University Patent and Invention Policy and Copyright Policy on May 27, 2005, replacing the University Patent and Invention Policy approved and adopted May 30, 1981, and is available on the web at:

<http://research.brown.edu/pdf/newpatent%20policy.pdf>

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<sup>5</sup>As amended December 13, 1963.

<sup>6</sup>Voted by Advisory and Executive Committee of the Corporation, January 14, 1966.