Proposed Changes 8-17-11

**Appendix: Termination Procedures**

Dismissal will be pursuant to the procedures specified below:

I. Recommendations for Dismissal
Dismissal of a faculty member with tenure, or with a special or probationary appointment before the end of the specified term, will be preceded by:
   A. Discussions between the faculty member and appropriate administrative officers looking toward a settlement;
   B. A written recommendation for dismissal, together with a statement of charges framed with reasonable particularity, to be forwarded by the dean to the President and the faculty member. The statement of charges shall notify the faculty member of the right of appeal to the University Faculty Grievance Committee and the right to a hearing before the Board of Trustees according to Chapter 164 of the Kentucky Revised Statutes. In the event the faculty member chooses to have the appeal held before the University Faculty Grievance Committee in accordance with this section, the faculty member shall so notify the chair of said committee and the President of the University and agree in writing that any further appeal or defense within the University made from the decision of the University Faculty Grievance Committee shall be made and conducted on the record made before the University Faculty Grievance Committee with this being in lieu of a de novo hearing. In the event of a subsequent appeal, the faculty member's right to make a defense before the Board by way of oral argument personally or by counsel shall be unimpaired, but the testimony considered by the Board shall consist of the record made before the University Faculty Grievance Committee and transmitted to the Board of Trustees.

II. Hearing before the University Faculty Grievance Committee
   A. The University Faculty Grievance Committee shall have exclusive jurisdiction to hear appeals from recommendations for dismissal.
   B. If the aggrieved is to have a hearing, it must be requested in writing to the chair of the Committee within fifteen working days after receipt of notification that the dismissal is to be recommended. The Chair of the Faculty Grievance Committee will appoint a seven-member panel to hear the appeal. Before the hearing begins either party may request that any member of the Committee be disqualified for bias or interest. Requests for disqualification shall be honored if the panel ~~Committee~~ approves except that panel ~~Committee~~ approval shall not be required for the first request by either party for one disqualification. The Chair of the Faculty Grievance Committee will appoint replacement members for any disqualified member. The new member may be challenged based on bias or interest with the final decision of panel membership resting with the Chair of the Faculty Grievance Committee..

   C. Membership in a faculty from which the appeal originates shall not be automatic grounds for disqualification~~. In the case of disqualification of a majority of Committee members, alternates shall serve where possible; otherwise replacements for the particular hearing involved shall be drawn by lot from the list of those faculty members who have served on the Committee in the previous five years.~~

III. Waiver of Hearing
The faculty member whose dismissal has been recommended may waive a hearing while still retaining the right to respond to the charges by addressing an appeal in writing to the Chair of the University Faculty Grievance Committee within fifteen working days after receipt of written notification. In such case, a panel of the Committee will evaluate all the evidence available to it and rest its recommendation upon the evidence in the record.

IV. Rules for the Hearing

A. The University Faculty Grievance Committee panel that is hearing the appeal, in consultation with the President and the faculty member involved, will exercise its judgment as to whether the hearing should be public or private.
B. During the proceedings, the faculty member will be permitted to have an advisor and counsel of the faculty member's own choosing.
C. The University Faculty Grievance Committee panel, on request of either party or on its own initiative, may permit a representative of a responsible professional association to attend the proceedings as an observer.
D. A record of hearings shall be kept, which shall include a verbatim recording of testimony.
E. The burden of proof that there is adequate cause for dismissal rests with the University and shall be satisfied only by clear and convincing evidence in the record considered as a whole.
F. The University Faculty Grievance Committee panel will grant reasonable adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
G. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence, and the administration of the University will, insofar as it is possible for it to do so, secure the cooperation of such witnesses and make available necessary documents and other evidence within its control.
H. The faculty member and the University will have the right to confront and cross-examine all witnesses. All witnesses shall be sworn. When a witness cannot or will not appear, but the panel ~~Committee~~ determines that the interest of justice requires admission of the witness' statement, the Committee will identify the witness, disclose the statement, and if possible, provide for interrogatories.
I. The panel ~~Committee~~ may select a nonmember to preside over a hearing but such a person shall have no vote in the final deliberations.
J. The panel ~~Committee~~ will not be bound by strict rules of evidence, and may admit any evidence of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.
K. The panel ~~Committee~~ shall make its findings of fact and decision in executive session based solely on the hearing record.
L. Except for such simple announcements as may be required governing the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or the University will be avoided so far as possible until the proceedings have been completed, including consideration by the Board of Trustees of the University. The President and the faculty member will be notified in writing of the panel's ~~Committee's~~ decision.
M. If the panel ~~Committee~~ concludes that the evidence has not established adequate cause for dismissal in the record, it will so report to the Office of the President. If the Office of the President disagrees with the conclusion of the report, the reasons for doing so will be stated in writing to the committee and to the faculty member, and an opportunity for response will be provided before the President submits any recommendation for dismissal to the Board of Trustees. Any response will be presented with the President's recommendation to the Board.