Revisions to UTK Faculty Handbook for Administrative Approval

KEY:  **Strikethrough**: Existing Faculty Handbook Copy to be deleted  
**Underlined blue copy**: Additions or changes to the existing Faculty Handbook using language from BT0006  
**Highlighted underlined blue copy**: Additions or changes that differ from language in BT006

EPPR

3.4 **Faculty Review and Evaluation**

3.8.1 Annual **Performance and Planning Review (APPR)** for All Faculty Members

Except as provided in section 3.8.4.5 of this handbook relating to tenured faculty members undergoing Enhanced Post-Tenure Performance Review, every tenure-track and tenured faculty member at the University of Tennessee who is not on leave is reviewed annually. The goals of these reviews are to:

1. review accomplishments as compared to previously set specific objectives for the faculty member by the faculty member and the head consistent with this Faculty Handbook, the Manual for Faculty Evaluation, and departmental bylaws;
2. establish new objectives for the coming year, as appropriate, using clearly understood standards that are consistent with this Faculty Handbook, the Manual for Faculty Evaluation, and departmental bylaws;
3. provide the necessary support (resources, environment, personal and official encouragement) to achieve these objectives;
4. fairly and honestly assess the performance of the faculty member by the department head and, where appropriate, by colleagues; and
5. recognize and reward outstanding achievement.

The review processes are established in Board Policy, the Manual for Faculty Evaluation, and departmental bylaws.

3.8.2 **Rating Scale to be Applied in Evaluating Faculty Performance**

Faculty performance must be evaluated in a manner consistent with all applicable campus, college, and/or departmental policies, procedures, and bylaws, and must apply the following performance ratings:

- Far exceeds expectations for rank
- Exceeds expectations for rank
- Meets expectations for rank
- Falls short of meeting expectations for rank
- Fall far short of meeting expectations for rank

This section explains the articulation between this UTK/UTIA/UTSI – specific performance rating scale and the scale provided in the Board of Trustees Policies Regarding Academic Freedom, Responsibility and Tenure. That articulation is necessary for application of certain policies and procedures (for example the **APPR process and the Enhanced Post-Tenure Performance Cumulative Performance Review process**):
• A faculty member who receives an Overall performance rating of falls short or falls far short of meeting expectations for rank is required to submit an improvement plan.
• For purposes of Cumulative Performance Review, an Overall performance rating of falls short of meeting expectations for rank is consistent with “Needs Improvement for Rank” in the UT Board of Trustees “Policies Governing Academic Freedom, Responsibility, and Tenure.” An evaluation rating of falls far short of meeting expectations for rank is consistent with “Unsatisfactory for Rank” in the same document.

A faculty member with an Overall performance rating of meets, exceeds, or far exceeds expectations for rank is eligible for any merit pay or other performance-based salary increase that may be authorized under campus, college, and/or departmental rules or guidelines. He/she is also eligible for any across-the-board salary increase.

A faculty member with an Overall rating of falls short of meeting expectations for rank is not eligible for any merit pay or other performance-based salary increase that may be authorized under campus, college, and/or departmental rules or guidelines, but he/she is eligible for any across-the-board salary increase.

A faculty member with an Overall rating of falls far short of meeting expectations for rank is not eligible for any merit pay or other performance-based salary increase that may be authorized under campus, college, and/or departmental rules or guidelines, nor is he/she eligible for any across-the-board salary increase.

Within 30 days of receipt of the fully executed annual review form, any faculty member whose overall performance is rated either falls short or falls far short of meeting expectations for rank must collaborate with the Department Head on an Annual Review Improvement Plan as defined in section II.C. of the Manual for Faculty Evaluation. The Annual Review Improvement Plan is to be reviewed by the Head and recommended by him/her to the Dean for review and approval/denial. The next year’s annual review must include a progress report that clearly describes improvements in any area(s) rated at the level of falls short or falls far short of meeting expectations for rank in the evaluation that necessitated the improvement plan.

If a faculty member’s overall performance is rated falls far short of meeting expectations, the chief academic officer will initiate an Enhanced Post-Tenure Performance Review. (See section 3.8.4, below.)

If a faculty member’s overall performance is rated falls short of meeting expectations in any two years during any four consecutive annual review cycles, the chief academic officer will initiate an Enhanced Post-Tenure Performance Review. (See section 3.8.4, below.)

3.8.3 Annual Retention Review for Tenure-Track Faculty Members

In addition to (and at The University of Tennessee, Knoxville and the University of Tennessee Space Institute, coincident with) the annual performance and planning review described in Section 3.8.1, tenure-track faculty members receive an annual retention review. See Section 3.11.3.

3.8.4 Cumulative Enhanced Post-Tenure Performance Review for Tenured Faculty Members

Cumulative performance reviews for tenured faculty are triggered by evaluations from annual reviews. Faculty members whose performance is found to be “unsatisfactory” in two out of five consecutive years or whose evaluations are any combination of “needs improvement” or “unsatisfactory” in any three of
five consecutive years undergo cumulative performance review. Procedures for cumulative reviews are provided in the Manual for Faculty Evaluation. Enhanced Post-Tenure Performance Review (EPPR) is an expanded and in-depth performance evaluation conducted by a committee of tenured peers and administered by the chief academic officer. Procedures for conducting an EPPR are detailed in Appendix 10 of this handbook.

This policy recognizes that the work of a faculty member is not neatly separated into academic or calendar years. To ensure that performance is evaluated in the context of ongoing work, the period of performance subject to enhanced review is the five most recent annual performance review cycles. The chief academic officer must collect and maintain sufficient data regarding annual performance reviews to implement this policy effectively.

An Enhanced Post-Tenure Performance Review must be initiated when the chief academic officer determines that a faculty member has:

- requested an EPPR, after at least four annual performance review cycles since the last enhanced review (such as a previous EPPR or a review in connection with tenure or promotion);
- received one overall annual performance rating of “Falls Far Short of Expectations”; or
- received two overall annual performance ratings of “Falls Short of Expectations” during any four consecutive annual performance review cycles; or
- been deemed to fail to satisfy expectations for rank by a Periodic Post-Tenure Review Committee.

3.8.4.1 Administration of the EPPR by the Chief Academic Officer¹

The EPPR process will be administered under the direction and oversight of the chief academic officer. As with any performance evaluation, the chief academic officer may overrule a performance rating assigned by a department head or dean during the annual review process with a detailed, written justification. The practice ensures that when an EPPR process is activated by one or more negative performance ratings (3.8.2, above), the chief academic officer is aware of existing concerns.

The task of administering the EPPR requires implementation of this policy and the procedures detailed in Appendix 10 of this handbook, as well as any additional steps the chief academic officer finds necessary to comply with the policy objectives. For example, the chief academic officer may be required to adapt the implementation of this policy to satisfy legal requirements (such as limitations on disclosure of student information) or respond to unexpected events (such as replacement of a committee member who becomes unable to serve).

3.8.4.2 Peer Review Committee’s Charge

The peer review committee is charged to review the information relevant to the faculty member’s performance during the review period and to conclude whether or not that performance has satisfied the expectations for the faculty member’s discipline and academic rank.

¹ Where indicated in Appendix 10 of this handbook, the chief academic officer may delegate tasks associated with the EPPR to a vice provost or other appropriate academic administrator, but will remain responsible for making any decisions assigned to the chief academic officer.
As detailed in Appendix 10 of this handbook, the expectations for faculty performance may differ by campus, college, department, and even among sub-disciplines within a department or program. Those expectations may be commonly held standards in the discipline or sub-discipline. Those expectations may be stated explicitly in the faculty member’s own past annual performance reviews, work assignments, goals or other planning tools (however identified), as well as department or college bylaws, this handbook, Board policies, and in other generally applicable policies and procedures (for example, fiscal, human resources, safety, research, or information technology policies and procedures).

The peer review committee must reach a conclusion as to whether or not the performance has satisfied expectations for the faculty member’s discipline and academic rank. If the peer review committee concludes that the faculty member’s performance has not met the expectations for the discipline and academic rank, the committee must also recommend either that an EPPR improvement plan be developed as detailed in Appendix 10 of this handbook, or that tenure be terminated for Adequate Cause, as detailed in Chapter 3 of this handbook.

The committee must report its conclusions and recommendations in writing, including an explanation for each conclusion or recommendation, and enumerating the anonymously cast vote and dissenting explanation for any conclusion or recommendation that is not adopted unanimously. The faculty member must have an opportunity to review and respond to the committee’s report.

All written conclusions, reasoning upon which they are based, and recommendations of the peer review committee must be reviewed and considered by the chief academic officer and the chancellor.

3.8.4.3 Review and Action by the Chancellor

The chancellor may accept the peer review committee’s conclusions and recommendations or make different conclusions in a written explanation provided to the faculty member with copies to the chief academic officer, dean, department head, and members of the peer review committee. Based on those conclusions, the chancellor may take further action as deemed appropriate, including (without limitation) actions described in Board policy, this handbook, or in any other policy and procedures generally applicable to faculty.

If the chancellor concludes (based on the recommendation of a peer review committee or based on independent review of the EPPR materials) that an EPPR improvement plan is warranted, the chancellor will promptly direct the chief academic officer to oversee development of the plan (Appendix 10 of this handbook).

3.8.4.4 Final Review and Action Following Any EPPR Improvement Plan

If an EPPR improvement plan is implemented, the peer review committee must reconvene to review performance under the plan and to decide whether or not performance under the plan satisfies the expectations for the faculty member’s discipline and academic rank. The committee must report its conclusions and recommendations in writing, as described in Appendix 10 of this handbook. The chief academic officer and the chancellor must review all conclusions and recommendations of the peer review committee. The chancellor may: accept the committee’s conclusions and recommendations; provide a written explanation of different conclusions to the faculty member with copies to the chief academic officer, dean, department head, and members of the peer review committee; or take further action deemed appropriate, including (without
actions described in Board policy, this handbook, or any other policy and procedures generally applicable to faculty.

3.8.4.5 Coordination of the APPR and the EPPR Review Processes

In the case where a faculty member is undergoing EPPR at the same time that an APPR is due, the department head will coordinate the APPR with the EPPR peer review committee. Coordination will take one of the following forms:

a. In the case where a faculty member is undergoing an EPPR during the time that an APPR is due, when possible the department head will postpone the APPR until the EPPR committee has issued its report and the report has been accepted by the chancellor. The report will be advisory to the department head in preparing the APPR, and it will become part of the APPR materials. The faculty member has the right to respond to the report. If it is not possible to postpone the review until the EPPR committee’s report has been accepted, then the department head will perform APPR without input from the committee.

b. In the case where a faculty member is under an EPPR improvement plan, as described in section 7, Appendix 10 of this handbook, the peer review committee will provide a written interim report to the faculty member and the department head on the faculty member’s progress in satisfying the expectations established in the EPPR improvement plan. The report will be advisory to the department head, and the faculty member has the right to respond to the report. The EPPR committee’s report will become part of the APPR materials.

The overall APPR rating awarded to the faculty member undergoing EPPR or under an EPPR improvement plan will determine eligibility for merit and across-the-board pay increases, as specified in 3.8.2, above. Any APPR materials produced while a faculty member is undergoing EPPR or under an EPPR improvement plan will be made available to the EPPR committee.

Appendix 10: ENHANCED POST-TENURE PERFORMANCE REVIEW OF TENURED FACULTY

A. GENERAL INFORMATION

NOTE: PREVIOUSLY, THIS WAS PART V, “CUMULATIVE PERFORMANCE REVIEW,” OF THE MANUAL FOR FACULTY EVALUATION. ALL OF PART V FROM IS REPLACED BECAUSE OF THE NEW BOARD POLICY. PART V IS OMITTED HERE FOR BREVITY.

Procedures For Conducting The Enhanced Post-Tenure Performance Review

1. Objectives of the Enhanced Post-Tenure Performance Review (EPPR)

The EPPR policy and procedures provide a thorough, fair, and transparent process for:

- coordinating peer evaluation of a tenured faculty member’s performance for the five years immediately preceding EPPR.
• facilitating cooperation between a tenured faculty member and administrators in identifying effective strategies to assist the faculty member in meeting the expectations for the relevant discipline and academic rank; and

• distinguishing those unusual situations in which (despite efforts to facilitate improvement) the faculty member’s performance fails to satisfy expectations for the discipline and academic rank, and which may lead to disciplinary action, up to and including proceedings to consider termination of tenure.

2. Review by the Chief Academic Officer To Determine Whether EPPR is Warranted

Irrespective of other campus processes or practices through which an annual performance review is finalized, the chief academic officer must review any annual performance evaluation that would result in EPPR.

• If the chief academic officer overrules the performance rating and determines that EPPR is not warranted, the faculty member may choose to proceed with EPPR.

• If the chief academic officer determines that an EPPR is warranted, the chief academic officer should meet promptly with the faculty member to explain the decision and review the EPPR process. The chief academic officer must also provide written notice of this decision (copied to the department head, dean, and Faculty Senate president) that an EPPR will be conducted.

3. Appointment of the Peer Review Committee

Within 45 days of the written notice that an EPPR will be conducted, the chief academic officer (or designee) must appoint the peer review committee in the manner described below and meet with the committee to review its charge.

Every member of the peer review committee must be tenured; hold the same or higher academic rank as the faculty member undergoing review; and have some familiarity with the relevant performance expectations for faculty in that discipline and academic rank. In the unusual event that an appropriate peer review committee cannot be assembled using these criteria, the chief academic officer must provide to the faculty member a written explanation for the deviation from the prescribed criteria.

Consistent with the criteria for service stated above, the chief academic officer (or designee) must appoint the peer review committee using the following nomination process:

• the dean nominates one faculty member to serve both as chair and as a voting member of the peer review committee; when a faculty member has a split appointment across colleges, the dean of the college in which the faculty member holds a majority appointment (that is, the faculty member’s tenure unit) will provide the nomination;

• the department head or chair nominates three faculty members who meet the criteria above, from whom one committee member is appointed;

• the faculty member undergoing review nominates three faculty members who meet the criteria above, from whom one committee member is appointed;

• the Faculty Senate president nominates three faculty members who meet the criteria above, from whom one committee member is appointed; and
the college promotion and tenure committee or the intercollegiate promotion and tenure committee for the colleges without departments nominates three actively serving members who meet the criteria above, from whom one committee member is appointed.

To ensure diverse perspectives among members of the peer review committee, the chief academic officer should solicit nominations from faculty serving in different roles. When feasible, nominations to the peer review committee should include:

- faculty members whose tenure lies in the same department as the faculty member undergoing review, or, in a small department, faculty members who hold tenure in the same college as the faculty member undergoing review;
- at least one faculty member whose tenure resides in a different department than the faculty member undergoing review; and
- at least one faculty member who currently serves (or who served during the most recent cycle) on a college promotion and tenure review committee or an intercollegiate promotion and tenure committee.

4. **Collection of Records for Review by the Peer Review Committee**

The chief academic officer (or designee) must collect the following records with respect to the faculty member under review:

- all annual performance reviews for the past five annual performance review cycles, including materials submitted by the faculty member (or an administrator) or developed as part of the evaluation process;
- written performance expectations, which may have been established in the past five annual performance reviews, in department or college bylaws, in the Faculty Handbook, or in Board of Trustees, fiscal, human resources, research, safety, or information technology policies or procedures; and
- any work assignments, goals, or other plans (however identified) that were described in previous performance evaluations during the review period.

The faculty member undergoing review may submit additional written materials relevant to the review period for the committee’s consideration. Such materials must be submitted to the chief academic officer (or designee) for distribution to the committee. The peer review committee may also request that the chief academic officer (or designee) collect and provide additional written materials. Reasonable requests for relevant records will be honored when permitted by law and University policy.

5. **Conclusions and Recommendations by the Peer Review Committee**

The peer review committee is charged to review the available performance information and to conclude (based on that information) whether or not performance during the review period has satisfied the expectations for the faculty member’s discipline and academic rank. This review should be completed (and written report completed) within 75 days from the chief academic officer’s charge to the peer review committee.
**Interviews** – The peer review committee may conduct a reasonable number of interviews in person or electronically. If the committee chooses to conduct interviews, both the faculty member undergoing review and the administrator who assigned the negative rating(s) must be given the opportunity to be interviewed. All interviews must be conducted separately. Unavailability of the faculty member or administrator for an interview does not constitute grounds for an extension of time to complete the EPPR.

**Voting** – Voting must be conducted by anonymous ballots. No member of the committee may abstain or recuse him/herself from voting. All conclusions and recommendations are adopted upon the vote of a simple majority, except a recommendation that the Chancellor initiate tenure termination proceedings, which requires the support of at least four members of the peer review committee.

a. **Conclusions Regarding Performance and Recommended Action(s)**

All conclusions and recommendations of the peer review committee must be made in writing, with copies to all parties (faculty member, department head, dean(s), and chief academic officer). Minority reports may be attached. While the committee is not permitted to share written materials directly with the Faculty Senate, the faculty member under review remains free to do so.

Based on the judgment of its members, the peer review committee must conclude either:

1. that the performance satisfies the expectations for the faculty member’s discipline and academic rank, or
2. that the performance does not satisfy the expectations for the faculty member’s discipline and academic rank. In such a case, the committee must recommend either:
   - that an EPPR improvement plan be developed and implemented; or
   - by a vote of at least four committee members, that the Chancellor should initiate proceedings to consider termination of tenure based on Adequate Cause (Unsatisfactory Performance in Teaching, Research, or Service) as defined in Chapter 3 of this handbook and section III.J. of the Board of Trustees Policies Governing Academic Freedom, Responsibility and Tenure and the procedures detailed in Appendix B or C of the same.

b. **Review and Responses to the Peer Review Committee’s Report**

The committee’s written conclusions and recommendations must be distributed to the faculty member, department head, and dean for simultaneous review, who must submit any written responses to the chief academic officer within 14 days.

c. **Conclusions and Recommendations of the Chief Academic Officer**

The chief academic officer will review the committee’s report and all timely written responses and will make an independent evaluation of the faculty member’s performance. Within 28 days of the distribution of the peer review committee’s report (14 days for review and comment by others and 14 days for independent review by the chief academic officer), the chief academic officer must provide to the Chancellor copies of the committee’s report, all timely responses to the report, and any additional conclusions or recommendations based on the chief academic officer’s independent review of the material. The entire report, including any materials added by the faculty member, department head, dean(s), and chief academic officer, must be copied to the faculty member, peer review committee, department head, and dean(s).
6. **Review and Action by the Chancellor**

The Chancellor will make an independent evaluation of the faculty member’s performance and must provide to the faculty member (copied to the department head, dean(s), chief academic officer, and members of the peer review committee) a written explanation of the rationale for any conclusions, decisions, or further actions to be taken.

If the Chancellor concludes that the performance under review has satisfied the expectations for the faculty member’s discipline and academic rank, the EPPR process is concluded. In doing so, the Chancellor may overrule previous performance ratings and may adjust the faculty member’s salary to reflect any across-the-board raises.

If the Chancellor concludes that the performance under review does not satisfy the expectations for the faculty member’s discipline and academic rank, the Chancellor may take further action as deemed appropriate. For example (without limitation):

- The Chancellor may require that an EPPR improvement plan be implemented for a period of up to 18 months, as further described below.

- The Chancellor may propose disciplinary action, up to and including proceedings to consider tenure termination based on Adequate Cause (Unsatisfactory Performance in Teaching, Research, or Service) as defined in Chapter 3 of this handbook and section III.J. of the Board of Trustees Policies Governing Academic Freedom, Responsibility and Tenure and the procedures detailed in Appendix B or C of the same.

7. **Development and Implementation of an Improvement Plan (When Applicable)**

   a. **Written Notice to All Parties**

If the Chancellor concludes that an EPPR improvement plan should be developed, the Chancellor must promptly instruct the chief academic officer to develop and implement an improvement plan using the process detailed below. The chief academic officer must promptly notify in writing the faculty member under review that the Chancellor has determined that an EPPR improvement plan must be implemented (with copies to the department head, dean(s), and peer review committee). Only one improvement plan may be offered to a faculty member during a given EPPR process; however, the EPPR process may be implemented more than once during a faculty member’s career. An EPPR improvement plan may extend no more than 18 months from the time it is implemented by the chief academic officer.

   b. **Development of the EPPR Improvement Plan**

The department head is responsible for drafting the EPPR improvement plan in close collaboration with the peer review committee, dean(s), and chief academic officer. In drafting the improvement plan, the department head should attempt to address any written concerns raised by the faculty member during the relevant annual review cycles.

Within 30 days of notice that an improvement plan must be developed, the department head is expected to produce a plan supported by the dean(s), chief academic officer, and a majority of the peer review committee. Once such an improvement plan is developed, the chief academic officer shall forward the proposed plan to the faculty member.
If the department head fails to produce within 30 days an improvement plan supported by the chief academic officer, dean(s), and majority of the peer review committee, then the committee must assume responsibility for drafting an improvement plan. In such a case, the committee must complete the plan within 14 additional days. Upon approval by a majority of the peer review committee, the proposed plan must be provided to the dean(s) and chief academic officer for review and approval.

In either case, the chief academic officer must ensure that an improvement plan acceptable to the chief academic officer, dean(s), and majority of the peer review committee is developed and must send the proposed plan to the faculty member for review and response. The faculty member under review must be given one opportunity to review and respond to the proposed improvement plan (within 14 days). The peer review committee must review and consider the faculty member’s response, including any modifications requested by the faculty member (within another 14 days). In its discretion, the peer review committee may revise the proposed plan after considering the faculty member’s response. The committee must then forward the proposed improvement plan to the chief academic officer for review and implementation (with copies to the dean(s), department head, and faculty member).

c. Committee Review after an EPPR Improvement Plan

At the end of the time allotted for the EPPR improvement plan, the peer review committee must reconvene to review performance under the plan, and to determine whether or not such performance (in the context of the EPPR review period) has satisfied expectations for the faculty member’s discipline and academic rank. The peer review committee must vote anonymously and provide a written report of its conclusions and recommendations, including majority and minority reports (if applicable), to the faculty member, department head, and dean(s), who may respond in writing within 14 days.

The chief academic officer must review the committee’s report and any timely written responses and must independently evaluate performance under the improvement plan. The chief academic officer must then submit the reconvened committee’s report, all written responses, and his/her own conclusions and recommendations to the Chancellor, with copies to the faculty member, peer review committee, department head, and dean(s).

d. Chancellor’s Review and Action after an EPPR Improvement Plan

The Chancellor will make an independent evaluation of the performance under the EPPR improvement plan (in the context of the EPPR review period) and must provide to the faculty member (copied to the department head, dean(s), chief academic officer, and members of the peer review committee) a written explanation of the rationale for any conclusions, decisions, or further actions to be taken.

8. Timeline for Conducting the EPPR

All EPPR deadlines are counted in calendar days rather than business days, except when the last day of the time period falls during a holiday or administrative closure lasting five business days or longer (such as the administrative closure between fall and spring semesters or an extended weather-related closure). The following table summarizes key events in the EPPR process that have deadlines.

<table>
<thead>
<tr>
<th>Event begins</th>
<th>Days</th>
<th>Event ends</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written notice from the chief academic officer that EPPR is warranted</td>
<td>45</td>
<td>Chief academic officer charges the peer review committee</td>
</tr>
</tbody>
</table>
Chief academic officer charges the peer review committee

Committee report is distributed for review by the faculty member, department head, and dean

Chief academic officer reviews timely responses to the report and makes an independent evaluation

Faculty member, department head, and dean submit written responses to the chief academic officer

If the Chancellor requires implementation of an EPPR improvement plan, the chief academic officer provides written notice to all parties

Department head submits to the chief academic officer a proposed improvement plan supported by the dean, chief academic officer, and a majority of the peer review committee

If the department head fails to produce an improvement plan supported by the dean, chief academic officer, and a majority of the committee, then the peer review committee assumes responsibility for drafting a plan

Peer review committee submits the proposed improvement plan to the dean and chief academic officer for review and approval

Upon approval by the chief academic officer, the proposed improvement plan is sent to the faculty member for review

Faculty member submits to the peer review committee any written response (including any requested modifications to the improvement plan)

Peer review committee considers the faculty member’s response and may revise the proposed improvement plan

Peer review committee submits the proposed improvement plan to the chief academic officer for review and approval

Chief academic officer reviews the proposed plan, responds to the committee as needed, and approves a final improvement plan

Chief academic officer sends the approved plan to the faculty member and others for implementation

On a case-by-case basis, the chief academic officer (or designee) may approve a written request from the peer review committee for an extension of time to complete the initial review. Only one extension may be granted to the peer review committee during a single EPPR, and the chief academic officer (or designee) will determine the length of the extension.

Concurrent Appeals or Grievances – While appeal of an APPR rating (or other procedure) may overlap in time with the five-year review period, the EPPR is purposefully different from the annual performance review process. To the extent provided under this handbook or other campus policies or practices, the faculty member may choose to initiate or maintain an appeal of the most recent APPR rating while EPPR is underway. Any appeal or other process must be conducted without interference or influence from the EPPR, and vice versa. Faculty leaders should take care to ensure the integrity of all procedures by confirming that no person serves in multiple proceedings related to the same faculty member. Except as may be required by law (for example, under regulatory requirements or a judicial order) any such appeal, grievance, or other University process must proceed simultaneously with the EPPR and must have no impact on the timing or procedures described in this policy.

The Enhanced Post-Tenure Performance Review provisions of the Board Policies on Academic Freedom, Responsibility, and Tenure and the procedures outlined in Appendix E of the same were approved by the Board of Trustees on October 14, 2016 and became effective on July 1, 2017. Any faculty member who was engaged in a Cumulative Performance Review (CPR) on October 14, 2016 must complete the CPR process under the then-applicable CPR policy provisions. Otherwise, the following implementation schedule applies.

<table>
<thead>
<tr>
<th>Date of annual performance review meeting</th>
<th>Overall rating of Needs Improvement (or campus equivalent)</th>
<th>Overall rating of Unsatisfactory (or campus equivalent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before June 30, 2017</td>
<td>CPR policy applies</td>
<td>CPR policy applies</td>
</tr>
<tr>
<td>July 1, 2017 – June 30, 2018</td>
<td>Performance ratings are reviewed by the chief academic officer, who decides whether CPR or EPPR should be applied</td>
<td>EPPR policy applies</td>
</tr>
<tr>
<td>July 1, 2018 or later</td>
<td>EPPR policy applies</td>
<td>EPPR policy applies</td>
</tr>
</tbody>
</table>

Tenure Upon Initial Appointment

3.11.3 Tenure upon Initial Appointment

No faculty member shall be granted tenure upon initial appointment except by positive action of the Board of Trustees upon the recommendation of the president, which shall include documentation of compliance with all tenure review and recommendation procedures stated in 3.11.4 and 3.11.5 of this handbook. The Board of Trustees will grant tenure upon initial appointment only if (1) the proposed appointee holds tenure at another higher education institution and the Board determines that the president has documented that the proposed appointee cannot be successfully recruited to the University without being granted tenure upon initial appointment; or (2) the Board of Trustees determines that the president has documented other exceptional circumstances warranting the grant of tenure upon initial appointment.

SUBSEQUENT SECTIONS TO BE RENUMBERED BECAUSE OF THE ADDITION OF THIS NEW BOARD POLICY

Length of the Probationary Period

CLARIFICATION OF EXISTING WAYS OF ADDING YEARS TO THE PROBATIONARY PERIOD BY CREATING A HEADING TO DISTINGUISH EXTENSION FROM SUSPENSION. ALSO, CLARIFYING THAT SUSPENSIONS CAN BE GRANTED FOR LEAVE OF ABSENCE OR MODIFIED DUTIES.
3.11.4.2 Extension of Probationary Period

For good cause related to procedural error, the university and a tenure-track faculty member may agree in writing to extend a seven six-year probationary period for a maximum of two additional years. The proposed extension must be approved in advance by the chief academic officer, the chancellor, the president (or designee), and the General Counsel (or designee).

3.11.3.2 3.11.4.3 Suspension of Probationary Period

The chief academic officer shall decide whether the probationary period will be suspended when the following circumstances occur:

1. a. the faculty member accepts a part-time faculty position
2. b. the faculty member accepts an administrative position, or
3. c. the faculty member is granted a leave of absence or modified duties assignment under the UT Knoxville Family Care Policy

Termination of Tenure

UPDATING UTK FACULTY HANDBOOK TO BRING IT INTO COMPLIANCE WITH NEW POLICY APPROVED BY THE BOARD

3.11.7 Termination of Tenure

The employment of tenured faculty members may be terminated in the following ways:

3.11.7.1 Grounds for Termination

1. **a. Relinquishment or forfeiture of tenure.** A tenured faculty member relinquishes tenure upon resignation or retirement from the university. A tenured faculty member forfeits tenure upon taking an unauthorized leave of absence or failing to resume the duties of his or her position following an approved leave of absence. Forfeiture results in automatic termination of employment. The chief academic officer shall give the faculty member written notice of the forfeiture of tenure and termination of employment. The faculty member may appeal this action under the general appeals procedures outlined in Chapter 5.

2. **b. Extraordinary circumstances.** Extraordinary circumstances warranting termination of tenure may involve either financial exigency or academic program discontinuance. In the event of financial exigency, the criteria and procedures outlined in the board approved UT Knoxville Financial Exigency Plan shall be followed. The procedures and criteria to be followed in the event of an explicit declaration of financial exigency are described in detail in the. In the case of academic program discontinuance, the termination of tenured faculty may take place only after consultation with the faculty through appropriate committees of the department, the college, and the Faculty Senate.

If termination of tenured faculty positions becomes necessary because of financial exigency or academic program discontinuance, the campus administration shall attempt
to place each displaced tenured faculty member in another suitable position. This does not require that a faculty member be placed in a position for which he or she is not qualified, that a new position be created where no need exists, or that a faculty member (tenured or non-tenured) in another department be terminated in order to provide a vacancy for a displaced tenured faculty member. The position of any tenured faculty member displaced because of financial exigency or academic program discontinuance shall not be filled within three years, unless the displaced faculty member has been offered reinstatement in writing and a reasonable time in which to accept or decline the offer.

Tenured faculty given notice of termination because of financial exigency may appeal termination in accordance with the provisions of the *UT Knoxville Financial Exigency Plan*. Tenured faculty given notice of termination because of academic program discontinuance may appeal termination in accordance with the general appeal procedures outlined in Chapter 5.

3- c. Adequate Cause. Adequate cause for terminating a tenured faculty member means the following: includes the following and similar types of reasons:

Category A: (1) Unsatisfactory Performance in Teaching, Research, or Service, which includes the following and similar types of unsatisfactory performance:

a) failure to demonstrate professional competence in teaching, research, or service;

b) failure to perform satisfactorily the duties or responsibilities of the faculty position, including but not limited to failure to comply with a lawful directive of the department head, dean, or chief academic officer with respect to the faculty member's duties or responsibilities;

c) inability to perform an essential function of the faculty position, given reasonable accommodation, if requested;

d) loss of professional licensure if licensure is required for the performance of the faculty member's duties; or with respect to health sciences faculty, failure to be granted or loss of medical staff membership and privileges at affiliated teaching hospitals, or

e) loss of appointment (or substantive alteration of the faculty member’s work) with an affiliated entity unless approved in advance by the chief academic officer (or designee) (for example, loss of employment with an affiliated medical practice group or loss of “joint faculty” support from Oak Ridge National Laboratory);

f) as specified in Appendix D, paragraph 3, of the Board Policies on Academic Freedom, Responsibility and Tenure cessation of employment with an external entity/primary employer if tenure was granted contingent upon remaining employed by the external entity/primary employer; or

g) dishonesty or other serious violation of professional ethics or
responsibility in teaching, research, or service; or serious violation of professional responsibility in relations with students, employees, or members of the community.

B. Category B: (2) Misconduct, which includes the following and similar types of misconduct:

1) a) failure or persistent neglect to comply with university policies, procedures, rules, or other regulations, including but not limited to violation of the university’s policies against discrimination and harassment;

2) b) falsification of a university record, including but not limited to information concerning the faculty member’s qualifications for a position or promotion;

3) c) theft or misappropriation of university funds, property, services, or other resources;

4) d) admission of guilt or conviction of: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration; or

5) e) any misconduct directly related to the fitness of the faculty member to engage in teaching, research, service, or administration.

3.12 Procedures for Terminating Tenured Faculty

3.12.1 Termination Procedures for Adequate Cause: Category A: Unsatisfactory Performance in Teaching, Research, or Service

Termination Procedures for Adequate Cause are governed by Board Policies Governing Academic Freedom, Responsibility, and Tenure. 3.12.2 below applies in cases of unsatisfactory performance in teaching, research, or service. 3.12.3 below applies in cases of misconduct. The procedures in 3.12.2 below shall apply if the Adequate Cause grounds for termination include both (i) unsatisfactory performance in teaching, research, or service and (ii) misconduct.

The following preliminary steps shall be followed in cases of termination for unsatisfactory performance in the faculty member’s assigned role in teaching, research, or service, unless the faculty member has been under a remediation plan as described in the “Unsatisfactory Performance” section of the Manual for Faculty Evaluation. If a faculty member has been under a remediation plan and the Review Committee, dean, chief academic officer, and Faculty Senate president or Faculty Senate Executive Council recommend initiation of termination proceedings, the chancellor shall proceed to consult with the president and to decide whether to initiate termination proceedings without following these preliminary steps:

3.12.2 Termination Procedures for Unsatisfactory Performance in Teaching, Research, or Service

The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for unsatisfactory performance in teaching, research, or service within the definition of Adequate Cause, 3.11.7.1c.(1), above.
3.12.1.2 Suspension With Pay or Reassignment Pending Completion of Termination Proceedings

After consultation with the president of the Faculty Senate or the Faculty Senate Executive Council, the chancellor or chief academic officer may suspend the faculty member with pay, or change his or her assignment of duties, pending completion of the university’s termination proceedings as described in section 3.12 of this handbook. The chief academic officer may combine action under this paragraph with any other procedures in this handbook.

3.12.2.2 Tenured Faculty’s Recommendation

Tenured faculty’s recommendation. The department head shall direct the tenured departmental faculty to consider the faculty member’s performance in teaching, research, and service and, by an anonymously cast vote taken in accordance with applicable department or college bylaws, to make a recommendation on the question of whether the faculty member’s performance constitutes Adequate Cause for termination. The faculty vote shall be advisory to the department head. If an Enhanced Post-Tenure Performance Review (EPPR) has been completed in the preceding four years, the report of the EPPR peer committee shall be provided to the tenured faculty, along with any other evaluative information provided for their review. The faculty member under review shall be provided with a copy of the material provided to the tenured faculty and shall be given a reasonable opportunity to submit responsive written materials before the vote of the tenured faculty is communicated to the head in writing.

3.12.2.3 Department Head’s Recommendation

The department head shall consider the faculty member’s performance in teaching, research, and service, and the recommendation of the tenured departmental faculty, and make a recommendation on the question of whether the performance constitutes Adequate Cause for termination. The department head shall forward his or her recommendation and the reasoning supporting the recommendation to the dean, together with the history of efforts to encourage the faculty member to improve his or her performance and a report of the recommendation of the tenured faculty (including the anonymously cast vote tally) on the question of whether the faculty member’s performance constitutes Adequate Cause for termination.

2. Department head’s recommendation. If the department head concludes termination proceedings should be initiated, he or she shall forward a recommendation simultaneously to the dean and the chief academic officer. The head’s recommendation shall include the history of efforts to encourage and assist the faculty member to improve his or her performance, the reasons for recommending that termination proceedings be initiated, and the vote of the tenured faculty on the question of whether proceedings should be initiated.

3.12.2.4 Dean’s Recommendation

The dean shall consider the faculty member’s performance in teaching, research, and service, and the recommendation of the tenured departmental faculty and department head, and make a recommendation on the question of whether the performance constitutes Adequate Cause for termination. The dean shall forward his or her recommendation and the reasoning supporting the recommendation to the chief academic officer, together with the recommendations of the tenured faculty and the department head.
3. Dean’s recommendation. If the dean concludes termination proceedings should be initiated, he or she shall forward a recommendation to the chief academic officer.

3.12.2.5 Decision by the Chief Academic Officer

a. Review by the Chief Academic Officer

4. Chief academic officer’s recommendation. (1) If the chief academic officer concludes that Adequate Cause for termination may exist, termination proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.

(2) If a mutually satisfactory resolution is not achieved within 30 calendar days, the chief academic officer shall within 30 days ask the Faculty Senate Appeals Committee to conduct an informal inquiry and make a recommendation as to whether Adequate Cause for termination exists, to him or her within thirty days as to whether termination proceedings should be initiated. The recommendation of the Faculty Senate Appeals Committee, along with the supporting reasoning, shall be provided to the chief academic officer within 30 calendar days of the request and shall be advisory to the chief academic officer.

(3) If the chief academic officer concludes that Adequate Cause does not exist, then the chief academic officer shall provide the faculty member with written notice of the conclusion (with a copy to the dean and the department head), and shall include in the notice any further instructions regarding the matter as may be necessary. After considering the recommendation of the Faculty Senate Appeals Committee, the chief academic officer shall make a written recommendation to the chancellor as to whether termination proceedings should be initiated.

b. Sanctions Less than Termination for Adequate Cause

(1) If the chief academic officer concludes Adequate Cause exists but that a sanction other than termination or suspension without pay should be imposed, then the chief academic officer may impose the lesser sanction. The faculty member may appeal the lesser sanction to the chancellor, whose decision shall be final and not appealable to the president.

(2) If the chief academic officer concludes Adequate Cause exists but that the sanction should be suspension without pay rather than termination, the chief academic officer shall employ the procedures set forth in paragraph (1) of this section (3.12.2.5), all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination. If the faculty member wishes to contest the suspension without pay, the procedures shall be those set forth in section 3.12.2.7 of this handbook, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination.

c. Termination for Adequate Cause

(1) Notice of Adequate Cause and Opportunity to Respond: Before deciding that the faculty member’s appointment should be terminated for Adequate Cause, the chief academic officer shall give the faculty member written notice, including a
statement of the grounds for termination, framed with reasonable particularity, and the opportunity to respond to the stated grounds and the proposed termination in a meeting with the chief academic officer. The faculty member may choose to respond in writing instead of, or in addition to, a meeting with the chief academic officer. Any written response must be submitted to the chief academic officer within 10 calendar days of delivery of the written statement of the grounds for termination.

(2) Notice of Termination: If, after considering any information provided by the faculty member and after consulting with the chancellor and the president, the chief academic officer concludes that the faculty member’s appointment should be terminated for Adequate Cause, the chief academic officer shall provide written notice of termination to the faculty member (a) providing a statement of the grounds for termination, framed with reasonable particularity, and the date on which the termination will become effective unless the faculty member elects to contest the termination in a pre-termination hearing before a hearing tribunal (section 3.12.2.7a of this handbook); (b) providing notice of the faculty member’s right to contest the proposed termination in a pre-termination hearing before a tribunal, as described below, or in a post-termination hearing conducted under the provisions of the Uniform Administrative Procedures Act; and (c) providing notice that the faculty member has 15 calendar days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. Selection of one type of hearing waives the opportunity to contest the termination through the other type of hearing. The chief academic officer shall send a copy of the written notice to the Faculty Senate at the same time.

3.12.1.3 3.12.2.6 Failure to Contest Termination

If the faculty member does not contest the charge(s) in writing and make the required hearing election within 15 calendar days 10 days after receipt of the written notice described in paragraph 3.12.2.5c(2) above, the faculty member shall be terminated, and no appeal of the matter will be heard within the university.

3.12.1.5 Hearing Before a Tribunal

3.12.2.7 Options to Contest Termination

The rights provided in this paragraph 3.12.2.7 are in lieu of any other rights of grievance or appeal in this handbook or any appeal to the president.

a. Pre-Termination Hearing before a Tribunal and Final Decision by the Chancellor: If the faculty member makes a timely election to contest the charge(s) through a hearing by a university tribunal, the faculty member must confirm in writing the decision and to waive the right to a hearing under the Tennessee Uniform Administrative Procedures Act, and the chancellor shall ask the Faculty Senate, or a designated committee of the Faculty Senate, to appoint a hearing tribunal within 15 calendar days and shall notify the faculty member in writing of this action. The matter shall then proceed in accordance with the tribunal procedures described below with the faculty member’s termination stayed pending the conclusion of those procedures.
Composition of the tribunal. The university tribunal shall consist of five members of the tenured faculty and the administration. Members of the administration who are members of the tribunal must also hold tenure, and the majority of the tribunal must be full-time faculty members. The tribunal shall select its own chair. Either the chancellor or the faculty member may challenge the appointment of a tribunal member on the ground of bias or conflict of interest. A challenge shall be judged by the Faculty Senate, or a designated committee of the Faculty Senate, whose decision on the challenge shall be final and not subject to appeal.

Notice of Hearing: The chancellor shall give the faculty member written notice of the hearing date at least 30 calendar days in advance. The chancellor shall issue a scheduling order to ensure that the tribunal’s written findings, reasoning, and conclusions are submitted to the chancellor within 120 calendar days from the date the faculty member has been provided with written notice of termination under paragraph 3.12.2.5c(2) of this handbook. A scheduling order shall not be modified except by leave of the chancellor upon a showing of good cause.

Representation: If the university intends to be represented by legal counsel, the written notice of the hearing date shall so advise the faculty member. The written notice shall also state the faculty member’s right to be represented by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the tribunal chairperson within 10 calendar days of receipt of the written notice of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at the university’s request.

Waiver of Hearing: If, at any time prior to the hearing date, the faculty member decides to waive his or her right to a hearing and respond to the charge(s) only in writing, the tribunal shall proceed to evaluate all available evidence and rest its recommendation upon the evidence in the record.

Pre-Hearing Preparation: The faculty member and the University shall have a reasonable opportunity prior to the hearing to obtain witnesses, specific documents, or other specific evidence reasonably related to the charge(s).

Evidence: The tribunal is not bound by legal rules of evidence and may admit any evidence of probative value in determining the issues. The tribunal shall make every reasonable effort, however, to base its recommendation on the most reliable evidence. If the charge is “failure to demonstrate professional competence in teaching, research, or service,” the evidence shall include the testimony of qualified faculty members from the campus and/or other comparable institutions of higher education.

Confrontation and Cross-Examination of Witnesses: The faculty member and the university shall have the right to confront and cross-examine all witnesses. If a witness cannot or will not appear, but the tribunal determines that his or her testimony is necessary to a fair adjudication of the charge(s), the tribunal may admit as evidence the sworn affidavit of the witness. In that event, the tribunal shall disclose the affidavit to both parties and allow both parties to submit written
interrogatories to the witness.

(8) Adjournments: The tribunal shall grant adjournments to allow either party to investigate evidence to which a valid claim of surprise is made. The tribunal may grant one such adjournment for a period of no more than five calendar days. If the tribunal wishes to grant an adjournment for more than five calendar days, or wishes to grant more than one adjournment, the tribunal shall notify the chancellor of the proposed adjournment, provide an explanation of the need for the adjournment, and provide a recommendation regarding the length of the adjournment. If the chancellor concurs in the tribunal’s recommendation that an adjournment be granted, the chancellor shall give the faculty member written notice of the date on which the hearing will resume.

(9) Burden of Proof: The burden of proof that Adequate Cause exists rests with the university and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

(10) Findings and Conclusions: The tribunal shall make written findings and conclusions and shall provide a copy to the faculty member at the time of submission to the chancellor.

(a) If the tribunal concludes Adequate Cause for termination has not been established, it shall so report to the chancellor, with supporting reasons. In the case of a split decision, a minority report should be included.

(b) If the tribunal concludes Adequate Cause for termination has been established but that a sanction other than termination should be imposed, it shall so recommend to the chancellor, with supporting reasons. In the case of a split decision, a minority report should be included.

(c) If the tribunal concludes Adequate Cause for termination has been established and that termination is the appropriate sanction, it shall so report to the chancellor, with supporting reasons. In the case of a split decision, a minority report should be included.

(11) Transcript of the Hearing: A verbatim record of the hearing shall be made, and a transcript shall be provided to the faculty member and the chancellor at the time of the tribunal’s submission of its findings, reasoning, and conclusions.

(12) Final Decision by the Chancellor: Upon receipt of the tribunal’s findings, reasoning, and conclusions, the chancellor shall provide an opportunity for written argument by the parties and may provide the parties an opportunity to present oral argument. After considering the tribunal’s findings, reasoning, and conclusions and any arguments of the parties, the chancellor will determine whether Adequate Cause has been established and whether termination is the appropriate sanction.

If the chancellor concludes that Adequate Cause has not been established, the chancellor shall provide the faculty member with written notice of the conclusion (with a copy to the tribunal, chief academic officer, dean, and department head), and shall include in the notice any further instructions regarding the matter as
If the chancellor concludes that Adequate Cause has been established but that a sanction other than termination should be imposed, including without limitation suspension without pay, the chancellor may impose the lesser sanction by written notice to the faculty member (with a copy to the tribunal, chief academic officer, dean, and department head). The notice shall include the date on which the sanction will become effective. The decision of the chancellor shall be final and not appealable to the president.

If the chancellor concludes that Adequate Cause has been established and that termination is the appropriate sanction, the chancellor shall provide the faculty member with a written notice of termination stating the grounds for termination (with a copy to the tribunal, chief academic officer, dean, and department head). The notice of termination may include or adopt the written findings and conclusions of the tribunal if applicable to the chancellor’s decision. The notice shall include the date on which termination will become effective. The decision of the chancellor shall be final and not appealable to the president.

b. Post-Termination Hearing and Final Decision under the Uniform Administrative Procedures Act

(1) Contested Case Procedures: If the faculty member makes a timely election to contest the charge(s) under the Uniform Administrative Procedures Act (UAPA), the chancellor shall appoint an administrative judge, the faculty member’s employment will be terminated on the date specified in the notice provided under paragraph 3.12.2.5c(2) of this handbook, and the matter shall proceed post-termination in accordance with the contested case procedures promulgated by the university under the UAPA. The UAPA contested case procedures are published in the Compiled Rules and Regulations of the State of Tennessee, Tenn. Comp. R. & Regs. § 1720-1-5.

(2) Initial Order: In accordance with the UAPA contested case procedures, upon completion of the hearing, the administrative judge shall render an initial order, which either party may appeal to the chancellor within 15 calendar days. In addition, the chancellor, on his or her own motion, may elect within 15 calendar days to review the administrative judge’s initial order.

(3) Final Order: The administrative judge’s initial order shall become the final order unless review is sought by either party or the chancellor within the fifteen-day period. If review is sought, the chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the UAPA contested case procedures. The final order, whether rendered by the chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within the university. If the university’s final order is favorable to the faculty member and concludes that the faculty member’s employment should not have been terminated for Adequate Cause, then full restitution of salary, academic position and tenure lost during the termination will be made.

(4) Judicial Review: If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable
3.12.1.1 Chancellor's Decision to Initiate Termination Proceedings.

If, after consulting with the president, the chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including:
1. a statement of the grounds for termination, framed with reasonable particularity;
2. notice of the faculty member's right to contest the proposed termination in a hearing before a tribunal, as described below, or in a hearing conducted under the provisions of the Tennessee Uniform Administrative Procedures Act, and
3. notice that the faculty member has 10 days after receipt of the written notice to elect in writing to contest the termination and to elect in writing the form of hearing. The chancellor shall send a copy of the written notice to the Faculty Senate president and chair of the Faculty Senate Appeals Committee at the same time.

3.12.1.4 Hearing under the Tennessee Uniform Administrative Procedures Act

If the faculty member makes a timely election to contest the charge(s) under the Tennessee Uniform Administrative Procedures Act (TUAPA), the chancellor shall appoint a hearing examiner, and the matter shall proceed in accordance with the contested case procedures promulgated by the university under the TUAPA. The TUAPA contested case procedures are published in the Rules and Regulations of the State of Tennessee and are available in campus libraries and in the Office of the General Counsel. In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order that either party may appeal to the chancellor within 10 days. In addition, the chancellor, on his or her own motion, may elect within 10 days to review the hearing officer's initial order. The hearing examiner's initial order shall become the final order unless review is sought by either party or the chancellor within the 10-day period. If review is sought, the chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within the university. If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Tennessee Uniform Administrative Procedures Act.

3.12.1.6 Chancellor's Recommendation on Termination

If the chancellor concludes adequate cause has been established and that termination is the appropriate sanction, he or she shall transmit the hearing record and his or her recommendation to the Board of Trustees through the president. However, if the conclusion of the chancellor differs from that of the tribunal, the chancellor shall give the tribunal and the faculty member a written statement of reasons and shall allow the faculty member an opportunity to respond before transmitting the case to the president and the board. If the chancellor concludes adequate cause has been established but that a sanction other than termination should be imposed, the chancellor may impose the lesser sanction. The faculty member may appeal the lesser sanction to the president.

3.12.1.7 Review by the Board of Trustees

The Board of Trustees shall review a recommendation of termination for adequate cause on the record of the tribunal hearing. The board shall provide an opportunity for oral and written argument by the parties. The faculty member and the university may be represented before the board by legal counsel or other
representative. If the board concludes adequate cause has been established and that the faculty member’s tenure and employment should be terminated, the board shall set the effective date of termination.

3.12.2 3.12.3 Termination Procedures for Category B Adequate Cause: Misconduct

The following procedures shall apply to termination of a tenured faculty appointment, or termination of a tenure-track appointment before expiration of the annual term, for misconduct within the definition of Adequate Cause.

3.12.2.3 3.12.3.1 Suspension with Pay or Reassignment Pending Completion of Termination Proceedings

The chief academic officer may combine action under this paragraph with any other procedures in section 3.12 of this handbook.

a. Suspension with Pay or Reassignment of Duties: After consultation with the president of the university and the president of the Faculty Senate or the Faculty Senate Executive Council, the chancellor may suspend the a faculty member with pay, or change his or her assignment of duties, pending completion of the university’s termination proceedings described in section 3.12 of this handbook and in campus procedures incorporating this section.

b. Suspension without Pay Pending Completion of Termination Proceedings: After consultation with the chancellor, the president of the university and the president of the Faculty Senate or the Faculty Senate Executive Council, the chancellor may suspend the a faculty member without pay, pending completion of termination proceedings only for the following types of alleged misconduct and only in accordance with the procedures outlined in the section 3.12.3.8 of this policy entitled “Expedited Procedure for Termination or Suspension Without Pay in Certain Cases of Misconduct”:

(1) alleged misconduct involving: (i) acts or credible threats of harm to a person or university property; or (ii) theft or misappropriation of university funds, property, services, or other resources; or

(2) indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for: (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

If the university’s final determination after either a UAPA proceeding or an ad hoc hearing committee proceeding is favorable to the faculty member and concludes both that the faculty member’s employment should not be terminated for Adequate Cause and that the faculty member should not have been suspended without pay pending completion of termination proceedings, then full restitution of salary, academic position and tenure lost during the suspension without pay will be made.

3.12.3.2 Consultation with the tenured faculty. The department head shall consult with the tenured faculty before making a recommendation regarding whether a faculty member’s alleged misconduct constitutes Adequate Cause for termination that termination proceedings be initiated against a tenured faculty member for alleged misconduct within the Category B definition of adequate cause.
3.12.3.3 Department head’s recommendation. If the department head concludes that a faculty member’s alleged misconduct constitutes Adequate Cause for termination proceedings should be initiated, he or she shall forward a written recommendation and the reasoning supporting the recommendation simultaneously to the dean and the chief academic officer. At the same time, the department head shall send a copy of his or her recommendation to the faculty member. The recommendation shall include a report of the head’s consultation with the tenured faculty.

3.12.3.4 Dean’s recommendation. If the dean concludes that a faculty member’s alleged misconduct constitutes Adequate Cause for termination, he or she shall forward a written recommendation and the reasoning supporting the recommendation to the chief academic officer.

3.12.3.5 Decision by the Chief Academic Officer

a. Review by the Chief Academic Officer

(1) Chief academic officer’s recommendation. If the chief academic officer concludes that Adequate Cause for termination may exist, proceedings should be initiated, he or she shall call the faculty member to a meeting to discuss a mutually satisfactory resolution of the matter.

(2) If the chief academic officer concludes that Adequate Cause does not exist, the chief academic officer shall provide the faculty member with written notice of the conclusion (with a copy to the dean and the department head), and shall include in the notice any further instructions regarding the matter as may be necessary.

b. Sanctions Less than Termination for Adequate Cause

(1) If the chief academic officer concludes Adequate Cause exists but that a sanction other than termination or suspension without pay should be imposed, the chief academic officer may impose the lesser sanction. The faculty member may appeal the lesser sanction to the chancellor, whose decision shall be final and not appealable to the president.

(2) If the chief academic officer concludes Adequate Cause exists but that the sanction should be suspension without pay rather than termination, the chief academic officer shall employ the procedures set forth in paragraph 3.12.3.5c, below, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination. If the faculty member wishes to contest the suspension without pay, the procedures shall be those set forth in section 3.12.3 of this handbook, all as appropriately tailored to reflect that the proposed sanction is suspension without pay rather than termination.

c. Termination for Adequate Cause

(1) Notice of Adequate Cause and Opportunity to Respond: Before deciding that the faculty member’s appointment shall be terminated for Adequate Cause, the chief academic officer shall give the faculty member written notice, including a statement of the grounds for termination, framed with reasonable particularity, and the opportunity to respond to the stated grounds and the proposed
termination in a meeting with the chief academic officer. The faculty member may choose to respond in writing instead of, or in addition to, a meeting with the chief academic officer. Any written response must be submitted to the chief academic officer within 10 calendar days of delivery of the written statement of the grounds for termination.

(2) Notice of Termination: If, after considering any information provided by the faculty member, and after consulting with the chancellor and the president, the chief academic officer concludes that the faculty member’s appointment should be terminated for Adequate Cause, the chief academic officer shall provide written notice to the faculty member (a) providing a statement of the grounds for termination, framed with reasonable particularity, and the date on which the termination will become effective unless the faculty member elects to contest the termination in a pre-termination hearing before an ad hoc hearing committee (section 3.12.3.7a of this handbook); (b) notice of the faculty member’s right to contest the proposed termination in a pre-termination hearing before an ad hoc hearing committee (section 3.12.3.7a of this handbook) or in a post-termination hearing under the provisions of the Uniform Administrative Procedures Act; and (c) notice that the faculty member has 15 calendar days after receipt of the written notice to elect in writing to contest the termination. Selection of one type of hearing waives the opportunity to contest the termination through the other type of hearing. The chief academic officer shall send a copy of the written notice to the Faculty Senate at the same time.

3.12.2.5 3.12.3.6 Failure to Contest

If the faculty member does not contest the charge(s) of misconduct in writing within 10 15 calendar days after receipt of the written notice described in paragraph 3.12.3.5c(2) of this handbook, the faculty member shall be terminated, and no appeal of the matter will be heard within the university.

3.12.3.7 Options to Contest Termination

The rights provided in this paragraph 3.12.3.7 are in lieu of any other rights of grievance or appeal in the handbook or any appeal to the president.

a. Pre-Termination Hearing before an Ad Hoc Hearing Committee and Final Decision by the Chancellor: If the faculty member contests the charge(s) of misconduct but elects to waive his or her right to formal hearing under the contested case procedures of the UAPA, the faculty member must confirm in writing the decision to waive the right to a hearing under the UAPA, and the chancellor shall appoint an ad hoc hearing committee to conduct an informal hearing on the charges, with the faculty member’s termination stayed pending the conclusion of the procedures set forth in this section, 3.12.3.7a.

The chancellor shall give the faculty member written notice of the hearing date at least 30 calendar days in advance. The chancellor shall issue a scheduling order to ensure that the hearing committee’s written findings, reasoning, and conclusions are submitted to the chancellor within 120 calendar days from the date the faculty member has been provided with written notice of termination under paragraph 3.12.3.5c(2) of this handbook. A scheduling order shall not be modified except by leave of the chancellor upon a showing
The faculty member may be represented before the hearing committee by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the committee chairperson within 10 calendar days of receipt of the written notice of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at the university’s request.

The hearing committee shall grant adjournments to allow either party to investigate evidence to which a valid claim of surprise is made. The hearing committee may grant one such adjournment for a period of no more than five calendar days. If the hearing committee wishes to grant an adjournment for more than five calendar days, or wishes to grant more than one adjournment, the hearing committee shall notify the chancellor of the proposed adjournment, provide an explanation of the need for the adjournment, and provide a recommendation regarding the length of the adjournment. If the chancellor concurs in the hearing committee’s recommendation that an adjournment be granted, the chancellor shall give the faculty member written notice of the date on which the hearing will resume.

The hearing committee shall make a written report of its findings, reasoning, and conclusions to the chancellor. In the case of a split decision, a minority report should be included.

Upon receipt of the hearing committee’s findings, reasoning, and conclusions, the chancellor shall provide the opportunity for written argument by the parties and may provide the parties an opportunity to present oral argument. After considering the hearing committee’s findings, reasoning, and conclusions and any arguments of the parties, the chancellor will determine whether Adequate Cause has been established and whether termination is the appropriate sanction.

If the chancellor concludes that Adequate Cause has not been established, the chancellor shall provide the faculty member with written notice of the conclusion (with a copy to the hearing committee, chief academic officer, dean, and department head), and shall include in the notice any further instructions regarding the matter as may be necessary.

If the chancellor concludes that Adequate Cause has been established but that a sanction other than termination should be imposed, including without limitation suspension without pay, the chancellor may impose the lesser sanction by written notice to the faculty member (with a copy to the hearing committee, chief academic officer, dean, and department head). The notice shall include the date on which the sanction will become effective. The decision of the chancellor shall be final and not appealable to the president.

If the chancellor concludes that Adequate Cause has been established and that termination is the appropriate sanction, the chancellor shall provide the faculty member with a written notice of termination stating the grounds for termination (with a copy to the hearing committee, chief academic officer, dean, and department head). The notice of termination may include or adopt the written findings, reasoning, and conclusions of the hearing committee if applicable to the chancellor’s decision. The notice shall include the date on which termination will become effective. The decision of the chancellor shall be final and not appealable to the president.
b. Post-Termination Hearing and Final Decision under the Uniform Administrative Procedures Act

(1) Contested Case Procedures: If the faculty member makes a timely election to contest the charge(s) under the Uniform Administrative Procedures Act (UAPA), the chancellor shall appoint an administrative judge, the faculty member’s employment will be terminated on the date specified in the notice provided under paragraph 3.12.3.5e(2), and the matter shall proceed post-termination in accordance with the contested case procedures promulgated by the university under the UAPA. The UAPA contested case procedures are published in the Compiled Rules and Regulations of the State of Tennessee, Tenn. Comp. R. & Regs. § 1720-1-5.

(2) Initial Order: In accordance with the UAPA contested case procedures, upon completion of the hearing, the administrative judge shall render an initial order, which either party may appeal to the chancellor within 15 calendar days. In addition, the chancellor, on his or her own motion, may elect within fifteen calendar days to review the hearing officer’s initial order.

(3) Final Order: The administrative judge’s initial order shall become the final order unless review is sought by either party or the chancellor within the fifteen-day period. If review is sought, the chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the UAPA contested case procedures. The final order, whether rendered by the chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within the university. If the university’s final order is favorable to the faculty member and concludes that the faculty member’s employment should not have been terminated for Adequate Cause, then full restitution of salary, academic position and tenure lost during the termination will be made.

(4) Judicial Review: If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the Uniform Administrative Procedures Act.

4. If a mutually satisfactory resolution is not achieved, the chief academic officer shall make a written recommendation to the chancellor as to whether termination proceedings should be initiated.

3.12.2.2—Chancellor’s Decision to Initiate Termination Proceedings

If, after consultation with the president, the chancellor decides to initiate termination proceedings, he or she shall give the faculty member written notice, including (1) a statement of the grounds for termination, framed with reasonable particularity, (2) notice of the faculty member’s right to contest the proposed termination in a hearing under the provisions of the Tennessee Uniform Administrative Procedures Act, and (3) notice that the faculty member has 10 days after receipt of the written notice to elect in writing to contest the termination. The chancellor shall send a copy of the written notice of the Faculty Senate president at the same time.
3.12.2.6 Waiver of Hearing Under the *Tennessee Uniform Administrative Procedures Act*

If the faculty member contests the charge(s) of misconduct but elects to waive his or her right to formal hearing under the contested case procedures of the TUAPA, the chancellor shall appoint an ad hoc hearing committee to conduct an informal hearing on the charges. The faculty member has the opportunity to challenge the appointment of hearing committee members on the grounds of bias or conflict of interest and may be represented before the hearing committee by legal counsel or other representative of his or her choice. If the faculty member intends to be represented by legal counsel, he or she must notify the committee chairperson within ten days of the hearing date. If the faculty member fails to give timely notice of legal representation, the hearing date shall be postponed at the university’s request.

The hearing committee shall make a written report of its findings and conclusions to the chancellor. If the chancellor decides adequate cause for termination of tenure and employment has been established, he or she shall submit a written recommendation of termination to the Board of Trustees through the president. If the chancellor decides a lesser sanction should be imposed, he or she may impose the sanction. The faculty member may appeal the lesser sanction to the president.

3.12.2.7 Hearing under the *Tennessee Uniform Administrative Procedures Act*

If the faculty member makes a timely election to contest the charge(s) under the *Tennessee Uniform Administrative Procedures Act* (TUAPA), the chancellor shall appoint a hearing examiner, and the matter shall proceed in accordance with the contested case procedures promulgated by the university under the TUAPA. The TUAPA contested case procedures are published in the *Rules and Regulations of the State of Tennessee* and are available in university libraries and in the Office of the General Counsel. In accordance with the TUAPA contested case procedures, upon completion of the hearing, the hearing examiner shall render an initial order, which either party may appeal to the chancellor within 10 days. In addition, the chancellor, on his or her own motion, may elect within 10 days to review the hearing officer’s initial order. The hearing examiner’s initial order shall become the final order unless review is sought by either party or the chancellor within the 10-day period. If review is sought, the chancellor shall review the initial order and issue a final order in accordance with applicable provisions of the TUAPA contested case procedures. The final order, whether rendered by the chancellor or by virtue of neither party appealing the initial order, shall be the final decision on the charge(s) within the university. If the final order is unfavorable to the faculty member, he or she is entitled to judicial review of the final order in accordance with applicable provisions of the *Tennessee Uniform Administrative Procedures Act*.

3.12.3 3.12.3.8 Expedited Procedure for Termination or Suspension without Pay in Certain Cases of Misconduct

In the following cases of alleged misconduct by a faculty member, the chief academic officer, chancellor, after consulting with the chancellor, the president, of the university and the president of the Faculty Senate or the Faculty Senate Executive Council, may invoke an expedited procedure to accomplish termination or suspension without pay, with comprehensive due process procedures to be offered after termination or suspension without pay:

1. alleged misconduct involving (i) acts or credible threats of harm to a person or university property, including, without limitation, sexual harassment or other sexual misconduct; or (ii) theft or misappropriation of university funds, property, services, or other resources; or
b. indictment by a state or federal grand jury, or arrest and charge pursuant to state or federal criminal procedure, for (i) a felony; or (ii) a non-felony directly related to the fitness of a faculty member to engage in teaching, research, service, or administration.

Under the expedited procedure, the faculty member shall be offered the following process before termination or suspension without pay:

1. (a) a written notice of the charges and the basis for the charges by the chancellor
2. (b) an explanation of the evidence, and
3. (c) an informal opportunity to refute the charges in a meeting with the campus chief academic officer.

After termination or suspension without pay, the faculty member shall be offered the full range of due process options available to faculty members in other Adequate Cause proceedings as set forth in section 3.12.3.7 of this handbook, except that the termination or suspension without pay shall not be stayed pending the outcome of an ad hoc hearing committee if the faculty member elects that method of contesting the action. If the university’s final determination after either a UAPA proceeding or an ad hoc hearing committee proceeding is favorable to the faculty member and concludes that the faculty member should not have been suspended without pay or that the faculty member’s employment should not have been/should not be terminated for Adequate Cause, then full restitution of salary, academic position and tenure lost during the suspension without pay or termination will be made.