

DRAKE UNIVERSITY

Statements on Policy and Procedure for Dismissal of  
Tenured or Nontenured Faculty

Standing Committee of the Faculty Senate  
on  
ACADEMIC FREEDOM AND TENURE

April 1991

The following draft has been modified by the Provost's Office to reflect changes in the Academic Charter created since 1991 and changes in the name of the Governing Board. Other minor editing (page 5 Record of Proceeding") brings the document into line with standard language and technology.

## INTRODUCTION

This compilation is intended to acquaint the faculty with the policies regarding dismissal of faculty which have been established by the University and the procedures which have been established by the Standing Senate Committee of Academic Freedom and Tenure for handling disputes which may arise as a consequence of the dismissal of tenured or nontenured faculty.

The Committee on Academic Freedom and Tenure is not an all-University faculty grievance committee. Grievances considered by the Committee on Academic Freedom and Tenure are limited to matters of academic freedom and/or tenure.

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## Part I

### CHARGE OF THE COMMITTEE ON ACADEMIC FREEDOM AND TENURE

The charge of the Committee on Academic Freedom and Tenure is stated in  
the Article 9,,,

#### 9,, . Standing Committee on Academic Freedom and Tenure

- A. There shall be a Standing Committee of the Faculty Senate on Academic Freedom and Tenure elected by the Executive Committee of the Faculty Senate. The Committee shall have seven regular members and seven alternates. Members of the Committee and alternates shall be members of the Faculty of Instruction with tenure. The principle of broad representation shall be honored. The Chair shall be elected by the Committee. Alternates shall be called to serve on the Committee in the order of preference provided by the electing authority. Committee members and alternates, except those elected for short terms to fill vacancies and first elected, shall serve three-year terms. The terms of office shall be staggered on a basis of three-two-two with annual election.
- B. The Committee shall function as a standing committee of the Senate in matters pertaining to procedures or policies relating to academic freedom or to tenure, provided the Committee shall make no recommendations or reports to the Senate concerning a matter being heard by the Committee.
- C. The Committee shall be the adjudicatory body for cases and controversies relating to academic freedom or to tenure which are not resolved through informal procedures or through regular administrative channels. In cases involving tenured faculty, and in all cases involving allegations of academic freedom violations or dismissal of a faculty member whose term appointment has not expired, subject to review by the Board of Trustees, decisions of the Committee shall be final. In cases involving probationary faculty where allegations of inadequate consideration (as described in the Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments as stated in the AAUP Policy Documents & Reports, 1984) or violations of fundamental fairness are raised, the Committee shall report its finding to the President, and if the committee finds substantial procedural error or serious questions of fairness, recommend the appropriate remedial action. If the President rejects the Committee's recommendation, he/she shall state the reasons for doing so and his/her subsequent judgment and action in the case, in writing, to the hearing committee and to the faculty member. The President shall also report to the Faculty Senate that he/she has received and rejected a recommendation from the Committee. The Faculty member shall have the right to appeal the President's decision to the Board of Trustees. The Committee shall not participate in preliminary proceedings or in the development or presentation of any case, and members of the committee should exercise caution to avoid sitting in any case in which they have an immediate interest.

- D. The Committee may appoint a lawyer to act as its counsel, the cost being borne by the University.
- E. Dismissal of Tenured Faculty. Also see Appendices A, B, C, D, E, and F (of the Academic Charter)

## Part II

### POLICY ON DISMISSAL OF TENURED FACULTY

The policy on dismissal of tenured faculty is stated in the  
Article V and VII.

#### V. Conditions of Academic Tenure

- A. The term “Academic Tenure” means employment by the University to the time of retirement except for cause as outlined below.

#### VII. Dismissal of Tenured Faculty Members

- A. Tenured members of the faculty shall be dismissed only for one or more of the following causes:

1. Incompetence;
2. Moral turpitude;
3. Persistent inattention to duties;
4. Intransigent refusal to conform to University processes or policy where such behavior places the University at risk;
5. A declaration of a financial exigency of the University.
6. Discontinuance of a college, school, program or department of instruction.

- B. In cases of dismissal of tenured faculty members for cause, as stated above, Drake University adheres to the AAUP procedural standards for dismissal, as described in Appendix C, pages 22 through 26.

#### C. Dismissal of Tenured Faculty Under Conditions of a Bona Fide Financial Exigency

1. financial exigency is defined as a critical financial condition of the University as a whole, such that a failure to dismiss tenured faculty members would threaten the welfare of the University.
2. Under the conditions of a financial exigency, preserving the life of the University and protecting the welfare of the students and the remaining faculty shall be the fundamental policy objective in decisions concerning

dismissal or retention of faculty. Consistent with this broad policy, decisions concerning the dismissal of tenured faculty will be governed by the following principles:

- a. Except as essential to maintain programs, nontenured faculty will be released prior to the dismissal of any tenured faculty.
- b. Except as essential to maintain programs at the highest quality level consistent with the c

2. Before the adm

controversy. If desired, the fa

8. Attendance by Representative of Responsible Educational Association

Whether the meeting is public or private, at the request of either party or the Committee, a representative of a responsible educational association, such as the American Association of University Professors, shall be permitted to attend the proceedings as an observer.

9. Confidentiality of Pending Decision

Committee deliberations shall be in private. Announcements on Committee decisions and processes will be made only by the Chair of the hearing.

10. Adjournments

The Committee may take adjournments upon the request of either party, or upon its own initiative.

11. Order of Proceedings

The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of members (or alternates) of the Com



move the Committee to withhold this right, or unless the witness cannot appear, and then only if the identity of the witness and his or her statements are fully disclosed to both parties.

#### 14. Availability of Witnesses and Other Evidence

The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence, and the University will, insofar as possible for it to do so, secure the cooperation of such witnesses and make available necessary documents and other evidence within its control.

#### 15. Closing of Hearing

The Committee shall specifically inquire of both parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the University representative and the faculty member or their respective counsel shall be given an opportunity in that order to make closing oral arguments to the Committee. Upon the completion of such oral arguments, the Committee shall declare the hearing closed. If briefs are to be filed, the hearing shall be declared closed as of the final date set by the Committee for receipt of briefs. If documents are to be filed as provided for in Paragraph 12, and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be deemed the date of closing of the hearing.

#### 16. Reopening of the Hearing

The hearing may be reopened by the Committee on its own motion, or, in the discretion of the Committee, upon application of either party at any time before the decision is made.

#### 17. Time of Decision

The decision shall be made by the Committee promptly after the closing of the hearing. The findings of fact, if any, and the decision shall be based solely on the hearing record. The decision shall be in writing and shall be signed by the Chair of the hearing or by at least two members of the Committee. A signed copy of the decision will be immediately mailed or personally delivered to each party.

#### 18. Attendance by Representative of Responsible Educational Association

At the request of either party, or the Committee, a representative of a responsible educational association shall be permitted to attend the proceedings as an observer.

### Part III POLICY ON THE RIGHTS OF NONTENURED FACULTY

Retention, promotion, and the granting of tenure are functions of the faculty, the College Dean, the Provost, the University President and the Board of Trustees.

Rights of nontenured faculty are stated in the Academic Charter of Drake University, Articles IV, V, VI and V , ,I. The Committee on Academic Freedom and Tenure will serve as a hearing

body whenever a hearing is required as a result of a complaint that a nontenured faculty member's rights have been abridged. The necessity for impartiality when serving as a hearing body dictates that the Committee act in such controversies only when a formal complaint has been filed, and then shall act only as provided by the hearing procedures which have been adopted by this Committee.

The rights of tenured faculty differ significantly from those of untenured faculty in that decisions regarding continuation of appointment differ from decisions regarding revocation of tenure. Untenured faculty have the right to be judged according to established and reasonably constant standards, which have been published and made known to new faculty. They have a right to fair and impartial treatment, and to be judged in accordance with published procedures established in compliance with the applicable provisions of the Academic Charter. The burden is upon the University, College, or Department to show that the required standards and proper procedures have been adopted, published and followed and that the complainant has been furnished with notice of these. The burden then falls on the complainant to show that deviation from these procedures has been prejudicial, or that a denial of he

opportunity to argue the soundness of