

HANDBOOK  
FOR  
PROFESSIONAL PERSONNEL

Effective July 1, 2017

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## **I. ROLE AND MISSION STATEMENT**

Metropolitan State University of Denver is a comprehensive, baccalaureate-degree granting, urban university that offers arts and sciences, professional, and business courses and programs to a diverse student population in an atmosphere of mutual respect. Excellence in teaching and learning is MSU Denver's primary objective.

The mission of MSU Denver is to provide a high-quality, accessible, enriching education that prepares students for successful careers, post-graduate education, and lifelong learning in a multicultural, global, and technological society. To fulfill its mission, MSU Denver's diverse college community engages the community at large in scholarly inquiry, creative activity, and the application of knowledge.

With its modified open admissions policy, the University welcomes students from all walks of life and circumstances, including all levels of academic preparation consistent with statutory guidelines, all conditions of economic and income status, all ages, and all ethnic and cultural backgrounds. In addition to degree seeking students, non-degree students seeking opportunities for continuing education are welcomed.

- MSU Denver is required to serve adult students. Students who are 20 years of age or older and hold a GED or high school diploma are automatically admitted to MSU Denver, irrespective of their academic record.
- MSU Denver is required to serve traditional-age students of all levels of achievement and potential. As a result, the University enrolls a rich mix of recent high school graduates and transfer students, many with excellent grades and test scores and others with more modest achievements.
- MSU Denver is required to be accessible to all citizens. That is why, with its tuition remaining among the lowest in the state, MSU Denver is Colorado's best value in education.

The University is a teaching institution where excellence in teaching and learning is accorded the highest priority. Student success, supported in a collegial atmosphere of academic freedom is of paramount importance, and all members of the University community seek to inspire students to strive for the highest level of achievement. The University endeavors to provide students with an education that enhances the quality of their lives and enables them to be well educated, critically thinking citizens who contribute and participate in meaningful ways in community and civic life.

The University awards Bachelor of Science, Bachelor of Arts, Bachelor of Fine Arts, Bachelor of Music, and Bachelor of Music Education degrees. Undergraduate students can choose from 67 majors, 82 minors, and 8 teacher licensure programs, offered through the College of Business; the College of Letters, Arts and Sciences; the College of Professional Studies; and the School of Education. Programs range from the traditional disciplines, such as history and biology, to contemporary fields of study, such as Chicano studies and health care management. The University offers several bachelor's degree programs unique in Colorado, including aviation management, health care management, land use, meteorology,

surveying and mapping, and integrated therapeutic practices. Students may also design their own degree through the Individualized Degree Program. The University is also pleased to award the following Master of Arts degrees: Master of Social Work; Master of Professional Accountancy; and Master of Arts in Teaching with an Alternative Licensure Program in Special Education. The Master's programs at Metropolitan State University of Denver are regionally accredited by the Higher Learning Commission (HLC), an accrediting unit of the North Central Association of Colleges and Schools (NCA).

## **II. SHARED GOVERNANCE STATEMENT**

Within the University's statutory role and mission and the Board of Trustees' operational mission, all constituencies have a role of responsibility in assisting the University to achieve excellence in all areas of University activity. In pursuing excellence, the Board of Trustees welcomes and expects the participation of faculty, students, staff, and other University constituencies in the decision-making process.

The Board of Trustees encourages a broad exchange of information and ideas. To facilitate the exchange of information and ideas, the Board of Trustees looks to the President of the University as its primary liaison with the University constituencies. To be effective in this role, the President must establish an open environment of communication with all members of the University community and establish avenues for consultation and recommendation by faculty, students, and staff regarding policy matters considered by the Board of Trustees.

The Board of Trustees delegates to the President, as the chief executive officer of the University, full authority and responsibility for administering the University within the policies and procedures established by the Board of Trustees. Within this delegation is the expectation that the President will elicit the participation and facilitate the fulfillment of the roles and responsibilities of the University's campus constituencies in the University's internal decision-making processes. It is through the initiative, participation, and effort of all the University's constituencies that excellence is achieved.

## **III. PURPOSE AND ENDORSEMENT OF ACADEMIC FREEDOM**

This Handbook sets forth policies and procedures applicable to professional personnel employed by the University. It supplements the policies set forth in the Trustees' Policy Manual, and is intended to be consistent with those policies in all respects. All policies and procedures set forth herein are subject to approval by the Board of Trustees. Unlike those policies set forth in the Trustees' Policy Manual, all applicable policies and procedures set forth herein constitute part of each employee's employment contract with the University. The policies and procedures herein supersede all prior policies and procedures set forth in any prior version of this Handbook.

The Board of Trustees endorses the principle of academic freedom, which means the freedom to discuss academic subjects fully, engage in research and publish the results of research, and write or speak as citizens without fear of institutional censorship or discipline, provided individuals do not represent themselves as speaking for the University.

## **IV. RECRUITMENT AND APPOINTMENT POLICIES AND PROCEDURES**

### **A. Equal Opportunity**

1. The process of developing a position announcement, screening, and interviewing applicants, and making appointment recommendations shall adhere to the Metropolitan State University of Denver Equal Opportunity Plan.
2. Each applicant for a position has the right to be considered solely on the basis of his/her merit and qualifications for the position.
3. If an applicant believes that she/he has suffered discrimination prohibited by Federal or State law or the University's Equal Opportunity policies, she/he may seek relief through the Equal Opportunity grievance procedure or through an external equal opportunity enforcement agency.
4. Position classifications that tend either to segregate persons by race, color, religion, sex, age, national origin, sexual orientation, disability or Vietnam-era or disabled veteran status or to deprive such persons of benefits accorded others shall be rigorously avoided.
5. Vigorous and systematic efforts to identify qualified minorities, women, disabled, and Vietnam-era and disabled veterans and to encourage them to apply for positions at the University must be pursued. The University will recruit candidates from a broad base of specialized sources including local, state, and national minority, women's, handicapped, and veterans' groups. Minorities, women, and members of other protected classes should be recruited for all positions and not only for those positions in which they have traditionally been employed.

### **B. Oath or Affirmation of Allegiance**

The following procedures are prescribed by the Trustees in accordance with C.R.S. §22-61-104.

1. The oath or affirmation shall be administered to all persons employed by the University in teaching positions regardless of the length of the employment period. This shall be construed to include all ranked and unranked personnel, and any other persons engaged in teaching, whether on campus, extension, or correspondence, and whether for credit or non-credit. Any person employed to teach who is a citizen of a nation other than the United States shall not be required to take the oath or affirmation.

The oath or affirmation shall state as follows:

I solemnly swear or affirm that I will uphold the Constitution of the United States and the Constitution of the State of Colorado, and I will faithfully perform the duties of the position upon which I am about to enter.

2. The oath or affirmation shall be administered before entering upon teaching duties.

3. The oath or affirmation shall be in writing and needs to be administered only once. Only one copy of the form is required and that copy shall be retained by the University as part of the employee's personnel file indefinitely (or until such time as the law is changed).
4. The oath or affirmation shall be administered by any person authorized to administer oaths in the State of Colorado. This includes judges, court clerks, and notaries public.

#### C. Recruitment

1. The hiring authority is responsible for coordinating candidate recruitment with the Office of Equal Opportunity.
2. Job Descriptions
  - a. Job descriptions should specify the areas in which applicants are required and/or expected to possess expertise or competence, together with other qualifications that reliably predict job performance, and specific job duties.
  - b. The Equal Opportunity Executive Director may disapprove job descriptions that unlawfully discriminate against protected classes. The Executive Director shall not disapprove job descriptions on the basis of a perceived discriminatory impact where such impact is attributable to legitimate, bona fide job qualifications.
3. Recruitment must be an active process, communicating the University's staffing needs to prospective candidates through: (a) responsible public advertising, including advertisements in professional periodicals and appropriate minority, women's, disabled, and veterans' publications; (b) reasonable correspondence with colleges and universities, including minority and women's colleges; and (c) reasonable contacts with employment agencies or professional associations, including minority, women's, disabled, and veterans' groups.
4. Relationship by blood or marriage shall constitute neither an advantage nor a disadvantage regarding employment. However, candidates may not be selected directly by a relative or subsequently supervised directly by a relative. For the purposes of this paragraph, relationships include grandparent, parent, spouse, child, brother, sister, aunt, uncle, niece, nephew, and first cousins.

#### D. Non-permanent Professional Personnel Not Paid on a Per Credit Hour Basis

1. Full-time positions not expected to be permanent, other than those paid on a per credit hour basis, shall be advertised at least locally.
2. Job descriptions shall be sent to protected class organizations and periodicals in the search area.

#### E. Faculty Paid on Per Credit Hour Basis

1. Faculty paid on a per credit basis shall normally be hired from the Department Appointment Pool.



2. The President or designee may approve an appointment of an individual who is not a member of the Pool if the hiring authority provides, in writing, compelling reasons to do so.
3. Department Appointment Pools
  - a. Each department chair shall develop a pool of instructors qualified to teach in the chair's department.
  - b. Each department chair, in consultation with the Equal Opportunity Executive Director and Dean, shall determine those applicants who qualify for inclusion in the pool, considering all applications, both solicited and unsolicited, and shall place qualified candidates in the department's pool for a minimum of three years.
  - c. During February of each year, each department chair shall submit to the Office of Equal Opportunity a list containing the names of members of the department's pool.
  - d. The Equal Opportunity Executive Director, in consultation with the department chair, will announce positions and advertise in appropriate periodicals throughout Colorado, and will contact local and statewide programs, organizations, and agencies, requesting applications by qualified persons in order to add such individuals to the department's pool.
  - e. The Equal Opportunity Executive Director may permit the department chair to choose instructors from the pool without first advertising if the pool is sufficiently large and diverse, there is no underutilization of protected classes, and the department demonstrates a good faith effort to meet University affirmative action goals.

#### F. Search Policies and Procedures for Faculty and Administrators

1. Search Committees
  - a. Search committees for deans, vice presidents, and other administrators with rank equivalent to, or higher than, dean/director shall be appointed by the President.
  - b. The search committee shall undertake such duties and make such recommendations as are requested by the President.
  - c. One member of the search committee shall be responsible for seeing that the search committee complies with affirmative action policies and procedures.
  - d. Every decision to reject a candidate at any level of the search process must be in writing and include the reasons for the decision.
  - e. All reporting forms required by the Office of Equal Opportunity must be completed.

## 2. Internal Searches

- a. The hiring authority may choose to fill a position through an internal search to foster upward mobility within the University.
- b. If the hiring authority uses an internal search, the appropriate vice president must be advised in writing of the reasons for the recommendation.
- c. If the vice president concurs with the decision and the President approves the vice president's recommendation, the position will be announced to all personnel at the University.
- d. The announcement must be posted at least ten days before the application deadline.
- e. All applications from current part-time and full-time personnel must be given consideration.

## 3. External Searches

- a. All external searches for exempt positions (faculty or administrators) will be national in scope.
- b. The President may grant exemptions authorizing a regional or local search if a national search would be inappropriate or if financial consideration prohibits it. Such exemptions must be provided in writing.
- c. Position announcements will be sent by the appointing unit to professional organizations and to periodicals with national, regional, or local circulation, depending on the scope of the search. Position announcements will also be sent by the Equal Opportunity Executive Director to those national, regional, or local programs, agencies, and organizations listed by the Office of Equal Opportunity that serve protected class constituencies.

## 4. On-campus Interviews

- a. The final stage of any search process will involve interviews on campus unless an exemption is granted by the President. The President's reasons for granting an exemption must be documented in writing.
- b. Normally, at least the top two candidates for a professional position will be granted on-campus interviews.
- c. Interview expenditures must be approved and funded by the appropriate vice president.
- d. Candidates shall be informed by the hiring authority of the interview expenses that will be reimbursed by the University.

## 5. Salary upon Appointment - Faculty

- a. The Dean shall determine salary upon appointment with approval of the Provost.
- b. In determining a new appointee's salary, the Dean shall consider the education and experience of the new appointee, the University and department's salary

structure, the salaries and ranks of department Faculty, market demand, and other pertinent factors.

- c. Each year, the Office of Human Resources will provide salary information to the vice presidents based on annual survey data appropriate to the recognized peer group approved by the University and Board of Trustees.
6. Salary upon Appointment - Administrators
    - a. Human Resources will provide the hiring authority an initial salary recommendation to the Hiring Authority. The Vice President has the authority to offer a salary other than the recommendation with final approval by the President.
    - b. In determining a new appointee's salary, the appointee's education and experience is reviewed and compared to the position requirements, the University and department's salary structure, the salaries and skill sets of comparable administrators in the particular area, market demand, and other pertinent factors.
    - c. Each year the Office of Human Resources will provide salary information to the vice presidents based on annual survey data appropriate to the recognized peer group approved by the University and Board of Trustees.

7. Objections

Objections to the search process shall be made in accordance with the procedure set forth in the Affirmative Action Plan.

8. Record-keeping

The hiring authority must retain all screening records for each candidate for a period of no less than three years and make such data available to the Equal Opportunity Director upon request.

- G. Employment Contracts and Employment Status: Faculty

1. Faculty members are those employees whose primary responsibility is to provide academic services such as teaching, academic advising, and curriculum development, to the institution and its students. There are three broad categories of faculty appointment. The University President and his delegates are authorized to establish specific positions within these descriptive parameters, subject to legal and financial limitations and accreditation requirements.
  - a. Category I Faculty
    - 1) Tenured-line faculty—that is tenured faculty and tenure track (or probationary) faculty—comprise Category I.
    - 2) Category I faculty members are the core of the faculty. These tenured and tenure track faculty members are an essential element enabling the University to achieve its mission, goals, and strategic initiatives. As such, Category I should comprise a majority of the faculty.

- 3) Tenure track faculty members are full-time faculty, appointed for a term consisting of one academic year. Tenure track (or probationary) faculty members are reviewed for retention each year under the applicable criteria, standards, and guidelines of the University, and may be reappointed for up to six terms. Tenure track contracts are subject to non-renewal without a stated cause, upon notice. Faculty members holding tenure track contracts are uniquely eligible to be awarded tenure, in the sole discretion of the Trustees. Tenure track faculty members who do not receive tenure after six terms may be awarded a one-year terminal contract.
- 4) Tenure is a full-time contract for an indefinite term, which is subject to dismissal and reduction in compensation on grounds and with procedures as provided in this Handbook. Tenured faculty members are also subject to termination and reduction in compensation when a reduction in force is authorized, subject to the procedures provided in this Handbook.
- 5) Category I faculty members receive initial salaries based upon market data and are eligible for increases based on promotion and merit, as provided in this Handbook. Tenured faculty members are also subject to comprehensive performance review every five years under the criteria, standards, and guidelines of the University as provided in this Handbook and established by Colorado Revised Statutes.

#### H. Specific Guidelines for Rank Upon Appointment of Faculty

1. A new appointee must possess the minimum degree level and, as specified, years of professional experience, full-time, college or university-level teaching experience, and/or time in rank at a regionally-accredited baccalaureate-granting institution of higher education as provided for the rank conferred upon the appointee at the time of employment.
2. The department chair, dean of the school, and Provost have the responsibility for determining the requirements of the degree field, hours of study beyond the degree, professional experience, and applicable certification and/or licensure for faculty applicants.
3. Exceptions to rank upon appointment must be approved by the Provost and the President.
4. Granting rank other than assistant professor upon appointment automatically qualifies the faculty member for tenure. Decisions to grant the rank of associate or full professor must be carefully justified in writing to, and approved by, the Provost and by the President. After review of the prior recommendations, the President may recommend to the Trustees that a candidate be appointed with tenure. The Board of Trustees retains the final decision-making authority regarding the conferring of tenure. If tenure is granted by the Board of Trustees, the President may then approve rank upon appointment.

#### I. Specific Guidelines for Appointment of Administrators

1. Criteria for Initial Appointment

- a. Educational and experiential requirements for administrators at initial appointment are determined by program needs and the functional areas of the University.
  - b. Such requirements may differ significantly from one functional area to the next, and may change as the needs of the program change.
  - c. The hiring authority shall establish specific criteria at the time the position is established.
  - d. Internal and external searches are the preferred method of filling vacancies and new positions. The President may approve an alternate method for a compelling reason.
  - e. Vacant administrative positions will be advertised within two years of the vacancy unless the President authorizes a longer period for an interim assignment
2. Rank and Tenure
- a. Academic rank may be conferred on qualified administrators by the President after consultation with the affected department chair and dean and the Provost.
  - b. Tenure may be conferred upon eligible administrators in accordance with the procedures contained in the tenure section of this Handbook.
3. Salary and Workload
- a. Salaries for administrators at initial appointment shall be commensurate with education and experience, comparable positions, market demand, University resources, and other pertinent data.
  - b. Full-time administrators will work a minimum of 40 hours per week.
4. Promotions
- a. Promotion is defined as an upgrade in title in a recognized institutional progression/hierarchy.
  - b. The hiring authority may initiate a promotion without advertising provided that the following criteria are satisfied.
    - (1) Additional duties justify an upgrade in title;
    - (2) The appropriate vice president concurs with the decision and the President approves the vice president's recommendation; and
    - (3) The person chosen is more qualified than the other employees in the department/division/unit, as demonstrated through the use of evaluations and other appropriate materials.

**V. POLICIES AND PROCEDURES FOR TENURE-TRACK FACULTY:  
REAPPOINTMENT, TENURE, PROMOTION, POST-TENURE REVIEW, AND  
EMERITUS STATUS**

**A. Overview of Faculty Performance Reviews**

In accordance with AAUP Guidelines, Chapter V outlines institutional performance expectations for tenure-track faculty seeking reappointment, tenure, promotion, successful post-tenure review, and/or emeritus status. Beyond meeting faculty performance expectations delineated in Chapter 1, the duties of higher education professionals are complex and diverse. No one source can adequately reflect an individual's performance or carry the burden associated with important personnel decisions. Therefore, the review process requires multiple sources of information that encompass the complex and diverse work of faculty; collectively these data should present a holistic picture of individual faculty as each seeks tenure and/or promotion.

**B. Purpose of Faculty Performance Review**

Performance review is critical to individual and institutional accountability and renewal. Only after reviewing the performance of faculty will the University be able to recognize outstanding contributions and be able to support, guide, and foster the development of individual talents and knowledge.

1. Tenure-Track Faculty: Shall undergo annual performance reviews for the following reasons.
  - a. Reappointment and Awarding of Tenure.
    - (1) All performance reviews of a tenure-track faculty member will be part of the documentation for reappointment and for the awarding of tenure.
    - (2) The reviews shall be cumulative in nature as tenure-track faculty progress through the probationary period, normally a six-year time period.
    - (3) An award of tenure requires:
      - (a) Adherence to all contractual requirements;
      - (b) A record of conduct consistent with professional standards;
      - (c) Faculty holding the appropriate terminal degree for the discipline; the Provost may make an exception after consultation with the affected Department Chair and Dean; and
      - (d) Demonstration of performance that meets the standards defined by departmental guidelines, which:
        - (i) Should recognize contributions to teaching as the most significant factors in evaluating faculty for tenure, but acknowledge that outstanding teaching will not be sufficient to justify tenure; and

- (ii) May allow for faculty to demonstrate a holistic performance record, where extraordinary accomplishments in one area might compensate for less robust accomplishments in another.
  - b. Promotion: Tenure-track faculty seeking promotion to Associate Professor may use the same portfolio they submit for tenure.
  - c. Termination for Cause: All performance reviews will be part of all discussions and records concerning the termination of a faculty member, if the termination is performance-related. See Chapter XV for reasons tenure-track faculty may be terminated for cause.
2. Tenured Faculty: Shall undergo periodic reviews as defined below (depending on the performance review) for the following reasons.
- a. Promotion: Performance reviews conducted since the last promotion, if any, or since the time of the first tenure-track contract will be part of the documentation for promotion submitted by faculty applying for advancement in academic rank.
  - b. Post Tenure Review: Affords faculty members and their supervisors with periodic opportunities to assess the faculty member's performance and shall be conducted for two primary reasons:
    - (1) To offer tangible recognition to those faculty members who have demonstrated high or improved performance; and
    - (2) To assist tenured faculty members to improve performance if necessary by providing formative feedback.
  - c. Termination for Cause: All performance reviews will be part of all discussions and records concerning the termination of a faculty member, if the termination is performance-related. See Chapter XV for reasons tenured faculty may be terminated for cause.

### C. Definitions

- 1. Portfolios
  - a. Constitute a cumulative record of a faculty member's performance.
  - b. Shall include the following:
    - (1) Cover Sheet
      - (a) Published by the Office of the Provost and Vice President of Academic and Student Affairs (hereinafter Provost); and
      - (b) Used to enter recommendations for/against reappointment, tenure, or promotion and Committee vote tallies.
    - (2) Narrative Statement:
      - (a) Presents a reflective self-assessment, highlights accomplishments, and indicates plans for the future;

- (b) Should present one's best case to disciplinary colleagues and to colleagues across the University community;
  - (c) Shows that the faculty member has read, reflected upon and addressed student comments contained in his or her SRI evaluations in a relevant narrative; and
  - (d) Is expected to be cumulative and to grow in length from one iteration to the next. Accordingly, length expectations for narratives are as follows:
    - (i) 2<sup>nd</sup> year: 1-3 pages
    - (ii) 3rd year: 2-5 pages
    - (iii) 6th year: 3-8 pages
    - (iv) For promotion to Professor: 3-8 pages
    - (v) For Post Tenure Review: 1-3 pages
- (3) Curriculum Vitae
- (a) Annual annotated Curriculum Vitae (CV) shall include a comprehensive and detailed listing of faculty work in the Areas of Performance. (An example of an annotated CV can be found in the Guidebook for Portfolio Preparation, published by the Office of the Provost.)
  - (b) Annotations should provide brief explication of scholarly work completed or in progress or of service contributions.
  - (c) When possible, listings should include World Wide Web citations.
- (4) Student Ratings of Instruction:
- (a) All performance reviews shall include student ratings of instruction for all classes assigned using the approved "Student Ratings of Instruction" (SRIs) form. Exceptions include:
    - (i) Field experiences and internships as determined by the Department; and
    - (ii) Classes with fewer than five students must be evaluated according to Department Guidelines.
- (5) Letters of Review and Faculty Responses:
- (a) Letters of Review:
    - (i) Are required at each level of review; and
    - (ii) Must:
      - a) Be based on the evidence and the criteria established by departmental evaluation guidelines;
      - b) Contain substantive comments useful to subsequent reviewers and to the faculty candidate;



- c) Include recommended conditions for subsequent reappointment when relevant;
  - d) Include a rationale noting, if appropriate, commendable performance; and
  - e) Address any changes made to the Portfolio during the review and the reasons for those changes.
- (iii) As Letters of Review are added to the portfolio, the Committee Chair, Department Chair, or Administrator at each level of review shall promptly provide to the faculty member a copy of the Letter of Review.
  - (iv) Upon receipt of the Letter of Review and a copy of any Provost-approved information added to the Portfolio pursuant to Chapter V. C.1.b.(10)(b) below, the faculty member has the option of providing a written response within five work days. The written response will become part of the Portfolio.
- (b) Reappointment or tenure/promotion portfolios for faculty in years two through six shall include:
    - (i) All previous Letters of Review for reappointment; and
    - (ii) Any responses by the faculty member.
  - (c) Portfolios for promotion to Professor shall include:
    - (i) All Letters of Review from the previous tenure/promotion review; and
    - (ii) All Letters of Review from post-tenure reviews; and
    - (iii) Any responses to the above from the faculty member.
  - (d) Portfolios for Post Tenure Review shall include Letters of Review from the most recent comprehensive evaluation, e.g., tenure, promotion, or post tenure review.
- (6) Reassigned Time Reports and Evaluations: If faculty has received reassigned time to conduct work beyond normal duties—e.g., to engage in grant-funded activities, to work on projects for the University such as program review or assessment, to administer a program—the faculty member must provide:
    - (a) Reports of their accomplishments; and
    - (b) The evaluations of this work.
- (7) Additional Materials for Review Required:
    - (a) For Years Three and Six:
      - (i) Faculty must include additional materials to document the work they have done;

- (ii) Faculty members can choose to include as many as nine items or as few as four items; and
  - (iii) At least two must be from the Teaching category and one each from the Scholarly Activities and Service categories.
- (b) For promotion to Professor:
- (i) Faculty must include additional materials to document the work they have done;
  - (ii) Faculty members can choose to include as many as nine items or as few as four items;
  - (iii) At least two must be from the Teaching category and one each from the Scholarly Activities and Service categories; and
  - (iv) For Post Tenure Review: None beyond what is required in Department Guidelines.
- (8) Peer Observation:
- (a) There are no promotional or Post Tenure Review Peer Observation requirements beyond those required in Department Guidelines.
  - (b) The use of Formative Peer Evaluation represents effective instructional practice that encourages critical teaching reflection and may be placed in a Promotion Portfolio to demonstrate improved instructional developments.
- (9) Materials Addressing Previous Years' Reviews:
- (a) For years Four and Five: If the review letters from the previous year indicated specific areas of concern that may prevent a successful tenure application, the faculty member must include documentation addressing progress in such areas.
- (10) Supplementary Documentation and Other Official and Relevant Information:
- (a) Documents should be available for review to supplement, substantiate, or explain materials referred to in the faculty member's Portfolio.
  - (b) Any level of review may request relevant and official information not present in the faculty Portfolio to assist the evaluation process.
    - (i) Only Provost-approved requests constitute official and relevant information.
    - (ii) Any additional Provost-approved materials must be addressed in the Letters of Review and supporting documents included as an appendix thereto.
    - (iii) The faculty member will be provided copies of the correspondence to and from the Provost and have the opportunity to respond according to Chapter V.C.1.b.(5).(a).(iv).

## 2. Review Committees for Reappointment, Tenure, Promotion, and Post Tenure Review

- a. Eligibility
  - (1) Committee members must be tenured.
  - (2) Any person on a full-time administrative contract is not eligible to serve or vote on faculty review committees, regardless of faculty rank and tenure.
  - (3) Faculty members serving on review committees and simultaneously being considered for promotion cannot participate in the discussion and vote on promotion decisions for the rank they are seeking.
  - (4) No faculty member may serve as a voting member of more than one review Committee (Department/Peer Review, College/School, or Senate).
- b. Department/Peer Review Committees
  - (1) Shall consist of at least a majority of the eligible tenured faculty members in the department.
  - (2) If a Department cannot constitute a three-member Department/Peer Review Committee, a Department/Peer Review Committee will be established by the Department, which may include members from cognate departments.
- c. College/School Review Committees
  - (1) Must be representative of the range of disciplines in a College/School. Half of the members of the College/School Committee shall be elected by the College/School faculty and half appointed by the Dean.
  - (2) Size will be determined by the tenured faculty of the College/School and a vote of the tenured faculty will be required to change the number of members of the Committee.
  - (3) NOTE: Post Tenure Review does not require a College/School Review Committee.
- d. Faculty Senate Committee: Membership of the Faculty Senate Reappointment, Tenure, and Promotion Committee is established by the Senate Bylaws.
- e. University Post Tenure Review Committee: Shall consist of:
  - (1) Four tenured faculty elected from the College of Letters, Arts and Sciences;
  - (2) Two tenured faculty elected from the College of Business;
  - (3) Two tenured faculty elected from the College of Professional Studies;
  - (4) Two tenured faculty elected from the School of Education; and
  - (5) One at-large tenured faculty elected from the Faculty Senate.
- f. Appeals Committee: Shall consist of:
  - (1) Two tenured faculty elected from the College of Letters, Arts and Sciences;
  - (2) One tenured faculty elected from the College of Business;
  - (3) One tenured faculty elected from the College of Professional Studies;

- (4) One tenured faculty elected from the School of Education; and
  - (5) One at-large tenured faculty elected from the Faculty Senate.
3. Areas of Performance: University faculty are reviewed on their performance in three areas: teaching, scholarly activities, and service.
- a. Teaching: Teaching is a complex and reflective human activity that, in the higher education context, is offered in a forum that is advanced, semi-public, and essentially critical in nature. No single definition can possibly suffice to cover the range of talents that go into excellent teaching or that could be found across the board in the varied departments and disciplines of an entire college or university. Good teachers are scholars, researchers, inventors, scientists, creators, artists, professionals, investigators, practitioners or those with advanced expertise or experience who share knowledge, using appropriate methodologies and who demonstrate and encourage enthusiasm about the subject matter in such a way as to leave the student with a lasting and vivid conviction of having benefited from that interaction.

Effective teachers typically maintain high academic standards, prepare students for professional work and development, facilitate student achievement, and provide audiences for student work. Some might add that the best teaching transmits specific skills or enhances talents that students possess, while others would note that good teaching develops habits of mind or provides models of scholarly, scientific, artistic or professional behavior and inquiry much more important than particular information. Faculty typically aspire to a number of other civic purposes in the classroom that may also include encouraging their students to long for the truth, to aspire to achievement, to emulate heroes, to become just, or to do good, for example: At the instructional level, the most important responsibilities of a teacher to his/her students are the following:

- (1) Content Expertise: To demonstrate knowledge and/or relevant experience: Effective teachers display knowledge of their subject matters in the relevant learning environment (classroom, on-line, hybrid, field work, etc.), which typically includes the skills, competencies, and knowledge in a specific subject area in which the faculty member has received advanced experience, training, or education.
- (2) Instructional Design: To re-order and re-organize this knowledge/experience for student learning: Effective teachers design course objectives, syllabi, materials, activities, and experiences that are conducive to learning.
- (3) Instructional Delivery: To communicate and “translate” this knowledge/experience into a format accessible to students: Effective teachers communicate information clearly, create environments, conducive to learning, and use an appropriate variety of teaching methods.
- (4) Instructional Assessment: To evaluate the mastery and other accomplishments of students: Effective teachers design assessment procedures appropriate to course objectives, ensure fairness in student evaluation and grading, and provide constructive feedback on student work.

- (5) Advising In and Beyond the Classroom: To provide guidance for students as they pursue undergraduate and post-baccalaureate education and/or employment: Effective advisors interact with students to provide career guidance and information, degree program guidance and information (e.g., advice on an appropriate schedule to facilitate graduation), and answers to questions relating to a discipline.
- (6) NOTE: Teaching performance will be evaluated based on the teaching done by a faculty member; faculty who teach less than 12 credit hours each semester will not be penalized for performing other critical duties needed by the Department, College/School, or University. Normally, these responsibilities will be delineated in and accounted for through reassigned time awards and evaluations.
- b. Scholarly Activities: Scholarly and creative activities are disciplinary or interdisciplinary expressions or interpretations that develop ideas, frame questions, create new forms of representation, solve problems, or explore enduring puzzles.
- Purposes include, but are not limited to, the following: advancing knowledge or culture through original research or creative activities; interpreting knowledge within or across disciplines; synthesizing information across disciplines, across topics, or across time; aiding society or disciplines in addressing problems; or enhancing knowledge of student learning and effective teaching.
- Typically, to be considered scholarship, findings should be disseminated to either peer review by disciplinary scholars or professional or governmental organizations; or critical reflection by a wider community, including corporations or nonprofit organizations, for example.
- In addition to these scholarly activities, and depending on the specific Department Guidelines, this category may also include activities in which the faculty member shares other knowledge with members of the learned and professional communities; continued education and professional development activities appropriate to professional status or assignments; and other activities specific to the faculty member's discipline or assigned responsibilities.
- c. Service: Faculty engage in service when they participate in the shared governance and good functioning of the institution; service to the institution can be at the program, department, school, or college or university level. Beyond the institution, faculty engage in service when they use their disciplinary and/or professional expertise and talents to contribute to the betterment of their multiple environments, such as regional communities, professional and disciplinary associations, non-profit organizations, or government agencies. Examples of service might include:
- (1) Committee participation
  - (2) Committee leadership
  - (3) Program or department contributions

- (4) Board participation
  - (5) Unpaid public service to community and/or professional organizations
  - (6) Contributions to disciplinary associations
  - d. Other: Projects and tasks completed or undertaken on reassigned time will be evaluated in accordance with the three areas of performance delineated above as appropriate.
4. Departmental Guidelines
- a. In accordance with AAUP Guidelines, this section delineates requirements for discipline-specific guidelines that clearly describe performance expectations for tenure-line faculty seeking reappointment, tenure, promotion, a successful post-tenure review, and/or emeritus status.
  - b. Differences in disciplines and faculty activities among departments will be reflected in the departmental guidelines for teaching, scholarly activities, and service.
  - c. Departmental guidelines may include a mission statement that is aligned with the College/School and University mission statement.
  - d. Departmental guidelines shall include criteria for performance in each area of teaching, scholarly activities, and service.
  - e. All guidelines shall establish rigorous performance standards consistent with the goal of academic excellence. Departments should clearly delineate among expectations for successful reviews at each level, including reappointment, tenure, promotion, successful post tenure review, and emeritus status.
    - (1) Guidelines must include qualitative and, if appropriate, quantitative standards of achievement and examples of activities for achieving each review status.
    - (2) Guidelines shall also be the basis for the narrative used for tenure and promotion evaluation.
    - (3) Departments may use guidelines to establish expectations for additional review activities, such as peer observations.
  - f. Each Department Chair, with the input and advice of departmental faculty, shall write guidelines specific to the needs of the Department pertaining to the performance areas of teaching, scholarly activities, and service, which are consistent with the College/School and University's mission statements.
  - g. Departmental Guidelines must be approved before they take effect.
    - (1) To ensure school-level equity in Departmental Guideline performance standards, the School Dean will convene a Committee of All Department Chairs in the fall semester to review all Departmental Guidelines and recommend changes or forward to the Dean and Provost for approval.
    - (2) In the event there is disagreement concerning Departmental Guideline content, the Provost will make the final decision.

- h. Guidelines should be reviewed annually, but only updated if deemed necessary. If Department Guidelines are changed, the Chair must submit the current Department Guidelines and revised Department Guidelines, highlighting and explaining the rationale for any changes, to the College/School Committee of Department Chairs, the College/School Dean, and Provost for approval no later than March 1 of each year. The Provost may make revisions to such guidelines. The revised guidelines will be effective immediately for faculty hired in the next academic year. For probationary faculty members the revised guidelines will be effective upon completion of their tenure review. For tenured faculty members the revised guidelines will be effective upon completion of their next significant evaluation (i.e., promotion or post-tenure review) or immediately, if the next significant evaluation is more than three years away. Under extremely rare circumstances, changes can be made effective immediately (triggered, for example, by discipline-specific accreditation standards) if a majority of tenure-line faculty in an academic department and the relevant College/School Dean agree such changes are needed and reasonable.

#### D. Roles and Responsibilities

Persons at all levels are responsible for ensuring that all policies, procedures, and criteria involved in the review procedure are as follows:

1. Responsibilities common to each level of review: Each level of review
  - a. Must maintain the strictest confidentiality: Except as may be allowed by the open records law (C.R.S. §24-72-201, et seq.) or if granted permission by the faculty member, access to faculty Portfolios is limited to the candidate, the members of all recommending bodies, the President, the appropriate University staff, the Trustees, and the Appeals Committee as required;
  - b. Must show sensitivity when evaluating both the numerical SRIs and the subjective student comments (to the extent that they may be reviewed by individual reviewers) that may be related, explicitly or implicitly, to personal characteristics of faculty members. Any overt or subtle statements or other signs of racism, sexism, ageism, heterosexism, cisgenderism, or xenophobia must be completely ignored. In reviewing numerical SRIs, reviewers must ignore patterns that may emerge regarding scores for 'Faculty Contribution to the Course' which may reflect personal bias. Examples include SRI scores that appear lower (or higher) than other criteria of faculty evaluation might suggest (e.g., peer observations, faculty narrative, or supplemental materials supplied by students such as letters of appreciation). In reviewing subjective student comments, appropriate sensitivity must be maintained when observing even the slightest hint of bias about any personal characteristics of faculty members, as opposed to substantive comments that relate directly to the "Course as a Whole" and "Faculty Contribution to the Course";
  - c. Must adhere to the requirements of Section V.D.1.b above, and also the provisions of the Academic and Student Affairs' "Instructions for Portfolio Reviewers";

- d. May ask for information not presented in the Portfolio by submitting a written request to the Provost with a copy sent to the faculty member at the same time. The faculty member will be provided copies of the correspondence to and from the Provost and have the opportunity to respond according to Chapter V.C.1.b.(10).(b). Such Provost-approved additional information shall become part of the faculty member's Portfolio;
  - e. Shall review the Portfolio using departmental guidelines to determine the recommendations to be included in the Letter of Review;
  - f. Shall write a Letter of Review as defined in Chapter V.C.1.b.(5).(a)., and submit the Letter of Review to the candidate's Portfolio no later than the first day of the next review level so that all previous review levels, the Faculty Candidate, and subsequent reviewers have access to it;
  - g. Shall retain a record of procedures, actions, votes (in the case of review committees), recommendations, and comments until time limits for appeals have expired; and
  - h. Shall forward the complete Portfolio to the subsequent level of review according to the published Procedural Calendar.
2. Level-Specific Review Responsibilities
- a. Faculty Candidates for Reappointment, Tenure, Promotion, Post-Tenure, or Emeritus Status:
    - (1) Must maintain a Portfolio that contains information sufficient to permit evaluation of their performance for purposes of reappointment, tenure, promotion, post-tenure review, and/or emeritus status;
    - (2) Must update Portfolios as required by Academic Calendar deadlines;
    - (3) Shall submit the Portfolio to the first level of review, either the department chair or the Department/Peer Review Committee chair;
    - (4) May respond to any Letter of Review within five working days; and
    - (5) Faculty hired on joint appointments will select one Department at time of hire for retention, tenure, promotion, and post-tenure review.
  - b. Department/Peer Review Committee
    - (1) Shall comply with all responsibilities delineated in Chapter V.D.1.
    - (2) Shall determine all decisions based on a simple majority vote of Committee Members;
    - (3) Shall elect a Chair from among members, who will:
      - (a) Record the Committee vote on the Portfolio cover sheet; and
      - (b) Prepare a Letter of Review reflecting the Committee's recommendation; any Committee member may provide additional signed comments.
  - c. Department Chair



- (1) Must review each faculty member's Portfolio for accuracy and for compliance with the Guidebook for Portfolio Preparation;
  - (2) Should suggest to the faculty member the addition of missing material and/or request clarification of material before the Portfolio leaves the department.  
NOTE: Any alterations made to this point to the Portfolio do not require approval by the Provost; and
  - (3) Shall meet annually with probationary faculty to help clarify any issues and answer any questions raised by the candidate's performance review.
- d. College/School Review Committee
- (1) Shall comply with all responsibilities delineated in Chapter V.D.1.;
  - (2) Shall determine all decisions based on a simple majority vote of Committee Members;
  - (3) Shall elect a Chair from among members, who will:
    - (a) Record the Committee vote on the Portfolio cover sheet; and
    - (b) Prepare a Letter of Review reflecting the Committee's recommendation; any Committee member may provide additional signed comments.
  - (4) Shall interview applicants for tenure and/or promotion.
- e. College/School Dean
- (1) Shall comply with all responsibilities delineated in Chapter V.D.1.;
- f. Faculty Senate Retention, Tenure, and Promotion Committee (FSRTPC)
- (1) Shall comply with all responsibilities delineated in Chapter V.D.1.;
  - (2) Shall determine all decisions based on a simple majority vote of Committee Members.
  - (3) Shall elect a Chair from among members, who will:
    - (a) Record the Committee vote on the Portfolio cover sheet; and
    - (b) Prepare a Letter of Review reflecting the Committee's recommendation; any Committee member may provide additional signed comments.
- g. University Post Tenure Review Committee
- (1) Shall comply with all responsibilities delineated in Chapter V.D.1.;
  - (2) Shall determine all decisions based on a simple majority vote of Committee Members.
  - (3) Shall elect a Chair from among members, who will
    - (a) Record the committee vote on the Portfolio cover sheet; and
    - (b) Prepare a Letter of Review reflecting the Committee's recommendation; any Committee member may provide additional signed comments.
- h. Office of the Provost

- (1) Shall provide written suggestions for the preparation of Portfolios in the Guidebook for Portfolio Preparation;
- (2) Shall publish procedural timetables for reappointment, promotion, tenure review, post-tenure review, and emeritus status and distribute to faculty and academic administrators;
- (3) Shall publish any forms and documents used in the reappointment, tenure review, promotion, post-tenure review, and emeritus status;
- (4) Shall notify affected faculty of approved changes to Department Guidelines by the last day of classes each spring semester;
- (5) Shall, in the sixth probationary year, indicate in writing to eligible faculty that the tenure process should be initiated;
- (6) Shall archive each tenure Portfolio as part of the faculty member's official records. NOTE: Reappointment, promotion, and post-tenure review Portfolios are the property of the faculty member, will not become part of the faculty member's official records, and may be archived for the sole purpose of providing a copy to said faculty member in future years upon request; and
- (7) Shall, in the event of an appeal of any tenure, or post-tenure review decision, make available to relevant parties any relevant Portfolios until the appeal process is completed.

i. Appeals Committee

- (1) Shall comply with all responsibilities delineated in Chapter V.D.1.
- (2) Shall determine all decisions based on a simple majority vote of Committee Members.
- (3) Shall elect a Chair from among members, who will present the Committee recommendation in the form of a letter, to the appropriate level of review/decision.
  - (a) For tenure appeals, the Appeals Committee recommendation will be forwarded to the Board of Trustees.
  - (b) For Post-tenure Review appeals, the Appeals Committee recommendation will be forwarded to the President.

E. Review Process Steps

Depending upon whether the review is for reappointment, tenure, promotion, or post-tenure, the review process will involve up to nine steps.

1. Portfolio Submission
2. The Department/Peer Review Committee
3. The Department Chair—NOTE: In the case of a Department Chair being a candidate for tenure and/or promotion, the Portfolios will go directly from the Department/Peer Review Committee to the College/School Committee for review.
4. The College/School Committee

5. The College/School Dean
  6. The Faculty Senate Retention, Tenure, and Promotion Committee (FSRTPC)
  7. The Provost
    - a. Reconciliation Meeting: In the event that there is disagreement in the recommendations for tenure or promotion at any previous level of review, the Provost shall convene a reconciliation meeting. Participants shall include individual reviewers—e.g., Department Chair and College/School Dean—and the Chairs of the Department, College/School, and Faculty Senate RTP Committees.
      - (1) This meeting shall take place within seven days after the designated deadline for the candidate to respond to the Faculty Senate RTP Committee.
      - (2) The candidate shall not be a part of this meeting.
      - (3) The purposes of the meeting will be twofold:
        - (a) To understand the reasoning behind the differing evaluations; and
        - (b) To attempt to resolve differences before the Portfolio for reappointment, tenure and/or promotion is forwarded to the President.
  8. The President
    - a. The President shall make a recommendation or decision based on a review of the Portfolio
    - b. The final responsibility for reappointment or promotion rests with the President.
    - c. The final responsibility for recommending that the Trustees award or deny tenure rests with the President.
  9. The Board of Trustees retains the final decision-making authority with respect to the granting or denial of tenure. To make its decision, the Board of Trustees will consider the recommendations of the President regarding tenure and may consider any relevant information in making its decision.
  10. The recommendations made by reviewing persons and review committees are not binding on the President or the Trustees.
- F. Reappointment of Tenure-Track Faculty
1. General Policies
    - a. Reappointment policies and procedures are intended to support faculty in meeting the University criteria for tenure.
    - b. Tenure-track faculty will be reviewed annually.
    - c. It is the responsibility of the faculty candidate to seek advice and assistance in efforts to achieve reappointment and prepare for the tenure evaluation.
    - d. A Portfolio is required for all reviews. Portfolios will be due at a time set by the academic calendar.

- e. There is no appeal of a decision not to reappoint.
2. Criteria for Reappointment
    - a. Candidates for reappointment will be evaluated in the performance areas of teaching, scholarly activities, and service as outlined in l. above, and as further delineated in Departmental Evaluation Guidelines in l. above.
    - b. The faculty member must meet the contractual responsibilities defined in this Handbook and adhere to all policies and procedures set forth in this Handbook as a prerequisite to reappointment consideration.
  3. Procedures for Reappointment
    - a. Recommendations for reappointment by each level of review shall be provided to subsequent levels and to the President, who shall make the decision whether to reappoint the tenure-track faculty member.
    - b. Recommendations are not binding on any subsequent levels.
    - c. Review procedures for reappointment will differ as stated below.
      - (1) First Year: During the Spring Semester of year one, as defined in the Academic Calendar:
        - (a) Each tenure-track faculty member will submit an annotated Curriculum Vitae for review by the Department Chair and College/School Dean for purposes of reappointment.
        - (b) In cases of a recommendation of non-retention, the Provost and the President will review such recommendations, and the President will make a final determination.
      - (2) Second Year: In the Fall Semester of year two:
        - (a) Each tenure-track faculty member will, for review by the Department Chair, College/School Dean, and Provost, for purposes of reappointment, submit a:
          - (i) Curriculum Vitae;
          - (ii) All Student Ratings of Instruction;
          - (iii) A Narrative Statement (1-3 pages in length);
          - (iv) Previous review letters by the levels of review from year one and any relevant responses by the faculty member; and
          - (v) All reassigned time evaluations and reports, if relevant.
        - (b) In cases of a recommendation of non-retention, the President will review such recommendations and make a final determination.
        - (c) If the tenure-track faculty member is a Chair, the recommendation of the Department/Peer Review Committee substitutes for the recommendation of the Chair.
      - (3) Third Year: In the Fall Semester of year three:

- (a) Each tenure-track faculty member will submit a Portfolio, consisting of the following materials for review:
    - (i) Annotated Curriculum Vitae;
    - (ii) All Student Ratings of Instruction,
    - (iii) A Narrative Statement, two-to-five pages in length;
    - (iv) All previous review letters by the levels of review for reappointment and any relevant responses by the faculty member;
    - (v) All reassigned time evaluations and reports, if relevant; and
    - (vi) Selected additional materials for review (a minimum of four items and a maximum of nine items).
  - (b) These items will be reviewed by the Department/Peer Review Committee; Department Chair; College/School Review Committee; College/School Dean; Faculty Senate Retention, Tenure, and Promotion Committee; and Provost for purposes of reappointment.
  - (c) The President will review these recommendations and determine whether or not said tenure-track faculty member will be retained and will inform the faculty member of reappointment status.
- (4) Fourth Year: In the Fall Semester of year four:
- (a) Each tenure-track faculty member will, for review by the Department Chair and College/School Dean for purposes of reappointment, submit a:
    - (i) Curriculum Vitae;
    - (ii) All Student Ratings of Instruction;
    - (iii) All previous review letters by the levels of review for reappointment and any relevant responses by the faculty member;
    - (iv) All reassigned time evaluations and reports, if relevant; and
    - (v) If the review letters for year three indicate specific areas of concern that may prevent a successful tenure application, relevant documentation addressing progress on such areas should be included in the faculty member's Portfolio for year four.
  - (b) In cases of a recommendation of non-retention, the Provost and the President will review such recommendations, and the President will make a final determination.
  - (c) If the tenure-track faculty member is a Chair, the recommendation of the Department/Peer Review Committee substitutes for the recommendation of the Chair.
- (5) Fifth Year: In the Fall Semester of year five:

- (a) Each tenure-track faculty member will, for review by the Department Chair, College/School Dean, and Provost, for purposes of reappointment submit:
  - (i) Curriculum Vitae;
  - (ii) All Student Ratings of Instruction;
  - (iii) All previous review letters by the levels of review for reappointment and any relevant responses by the faculty member;
  - (iv) All reassigned time evaluations and reports, if relevant; and
  - (v) If the review letters for year four indicate specific areas of concern that may prevent a successful tenure application, relevant documentation addressing progress on such areas should be included in the faculty member's Portfolio for year five.
- (b) In cases of a recommendation of non-retention, the President will review such recommendations and make a final determination.
- (c) If the tenure-track faculty member is a Chair, the recommendation of the Department/Peer Review Committee is a Chair, the recommendation of the Department/Peer Review Committee substitutes for the recommendation of the Chair.
- d. A majority of members voting at each of the department, College/School or University committees must vote in favor of reappointment for a recommendation in favor of reappointment at that level. Review committee members are obliged to vote for or against recommending approval of each application before the committee. Failure to recommend reappointment shall not preclude the faculty member's application from proceeding to the next level of the review process.

## G. Tenure

### 1. General Policies

- a. An award of tenure is not a right, but a privilege, which must be earned on the basis of performance during a probationary period, as evaluated by peers, appropriate administrators (as defined herein, e.g., Academic Dean, Provost, etc.), the President and the Trustees.
  - (1) Tenure is not acquired automatically by length of service.
  - (2) The decision to award tenure is committed to the Trustees' sole discretion.
- b. When awarded tenure shall begin with the first day of the subsequent academic year contract.
- c. Eligible faculty may submit an application for tenure during their fourth, fifth, or sixth probationary year.
  - (1) Time on leave for one or more semesters, with or without pay, may not be counted in the probationary period.

- (2) Temporary contracts and contracts for less than a full academic year shall not be counted in determining eligibility for consideration for tenure.
- d. In all cases, it is the faculty member's responsibility to apply for tenure. Failure to apply for tenure by the sixth year deadline will result in an offer of a terminal seventh year contract for the next academic year, followed by automatic non-renewal at the end of that terminal contract.
- e. An application by an Assistant Professor for tenure also may constitute an application for promotion to the rank of Associate Professor. The Portfolio must be submitted to the Department/Peer Review Committee Chair to begin the review process for promotion.
- f. Faculty who are denied tenure during their sixth year review will be offered a seventh year terminal contract for the following academic year. The President may, at his or her discretion, offer additional one-year contracts to any such faculty member.
- g. Special Cases
  - (1) Leaves of absence (medical, without pay):
    - (a) Faculty granted a leave of absence for no more than a semester will submit a Portfolio to evaluate their activity only during that part of the year in which they were fulfilling their responsibilities as a faculty member.
    - (b) Faculty on leave for more than a semester will have no evaluation conducted during that time.
  - (2) The President may extend a faculty member's probationary period toward tenure for an additional year if there are extenuating circumstances.

## 2. Eligibility for Tenure

- a. Only full-time faculty members on probationary contracts, who hold the rank of Assistant Professor, Associate Professor or Professor, may acquire tenure.
  - (1) Candidates for who apply for tenure in their fourth or fifth probationary may withdraw their applications without prejudice at any time prior to review by the President.
  - (2) Candidates for applying for tenure in their sixth probationary year who withdraw their applications for tenure will receive a one-year terminal contract followed by an automatic non-renewal at the end of the terminal contract.
- b. Except as provided herein, administrators, non-instructional personnel, athletic coaches, and faculty on temporary contracts (whether full- or part-time) are not eligible for tenure.

## 3. Criteria for Tenure

- a. Candidates for tenure will be evaluated in the areas of teaching, scholarly activities, and service as defined in V.C.3 as further delineated by Department Guidelines.

4. Procedures for Tenure
  - a. Recommendations for tenure by each level of review shall be provided to subsequent levels and to the Board of Trustees, who shall make the decision whether to confer tenure upon faculty candidates.
  - b. Steps 1 through 9 as listed in Chapter V. E. shall be followed.
  - c. In the Fall Semester of year four, five, or six, candidates for tenure must submit a Portfolio, consisting of the following materials for review:
    - (1) Annotated Curriculum Vitae;
    - (2) All Student Ratings of Instruction;
    - (3) A Narrative Statement, three-to-eight (3-8) pages in length;
    - (4) All previous review letters by the levels of review for reappointment and any relevant responses by the faculty member;
    - (5) All reassigned time evaluations and reports, if relevant; and
    - (6) Selected additional materials for review (a minimum of four items and a maximum of nine items).
  - d. These items will be reviewed by the Department/Peer Review Committee; Department Chair; College/School Review Committee; College/School Dean; Faculty Senate Retention, Tenure, and Promotion Committee; and Provost. The President and Board of Trustees will review these recommendations and determine whether or not said tenure-track faculty member will be awarded tenure and will inform the faculty member of tenure status.
  - e. In addition, if said tenure-track faculty member has applied for promotion at the same time as candidacy for tenure, the President will inform the faculty member of promotion status at the same time as notification of tenure status.
  - f. A majority of members eligible to vote at each of the Department/Peer Review, College/School or University Committees must vote in favor of awarding tenure in order for tenure to be recommended at that level. Review Committee members are obliged to vote for or against recommending approval of each application before the Committee. Failure to recommend tenure shall not preclude a faculty member's application for tenure from proceeding to the next level of the review process.
5. Appeal of Tenure Denial: A candidate who receives notice of a negative tenure recommendation by the President and who believes there has been a procedural or substantive error during the Tenure review process may request reconsideration through the following appeals process.
  - a. The candidate must appeal to the President and to the Chair of the Appeals Committee in writing within ten working days of the notification of the negative tenure recommendation.
  - b. The Appeals Committee will review the faculty member's Portfolio, any relevant documentation of the review procedures followed up to that point, and



information, including Portfolios, relating to other faculty members in order to reach an informed appeals recommendation.

- c. The candidate will have the right to make a presentation to the Appeals Committee.
  - d. The Appeals Committee must submit a written recommendation and rationale to either uphold or reconsider the President's negative tenure recommendation. The Appeals Committee recommendation shall be shared with the President and the appellant and forwarded along with the President's recommendation to the Board of Trustees for consideration and final decision.
6. Tenure applications submitted during the fourth or fifth probationary years shall be considered in accordance with the same Handbook and institutional criteria, policies, procedures, and timetables applicable to other tenure applications submitted during the sixth probationary year.
- a. Specifically, candidates submitting application for tenure during the fourth or fifth probationary years shall be evaluated according to the same criteria, articulated in this Handbook and Departmental Guidelines, as candidates submitting application for tenure during the sixth probationary year.
  - b. Denial of tenure applications submitted during the fourth or fifth probationary years shall be final and un-appealable.
  - c. Unsuccessful candidates for tenure during the fourth or fifth probationary years may be reappointed according to the normal policies and procedures articulated in this Handbook.
7. Granting Year(s) of Credit toward Earning Tenure
- a. Year(s) of credit toward earning tenure must be offered in writing at the time of initial appointment toward probationary status. The candidate must accept or reject the service credit offer no later than December 15 of the appointment year for a fall appointment or no later than May 15 of the appointment year for a spring appointment.
  - b. Years of credit may be awarded for tenure track faculty service at a four-year accredited institution of higher education, or comparable experience (e.g., faculty who served in full-time positions at institutions of higher education which do not offer tenure).
  - c. A year of service for faculty in an academic year position is two consecutive semesters, or the equivalent. A year of service for faculty in a 12-month position is 12 months of full-time employment. A maximum of two years credit may be offered.
  - d. Any faculty awarded years of credit must apply for tenure no later than the number of credit years granted subtracted from the normal six years of probation. For example, a faculty member who was granted two years of service credit would have to apply for tenure in the fourth year of service at MSU Denver. If denied tenure, the faculty would receive a terminal one-year contract as with any other faculty denied tenure.

- e. Expectations for tenure when a faculty member is offered and accepts service credit for work completed are the same as for any tenure-track faculty member applying for tenure at the “normal” six-year mark.
  - f. When applying for reappointment or tenure/promotion to Associate Professor, faculty members granted years of credit toward tenure for prior service must document their accomplishments in the areas of teaching, scholarship and service during the time for which they are receiving credit. This will include information regarding courses taught, advising activities, student ratings of instruction, service and scholarship activities, and any other relevant materials.
8. Tenure Upon Appointment/Immediate Tenure: Tenure may be granted to a faculty member upon appointment subject to the following:
- a. Upon a request of a Chair or a Department Search Committee that a faculty candidate be awarded tenure upon appointment, a majority of the tenured faculty of the affected Department must recommend to support such a request. Any such candidate must meet the following criteria:
    - (1) The appointee was previously tenured at a regionally accredited, baccalaureate-granting institution of higher education; or
    - (2) The appointee has achieved recognized, outstanding distinction in public service or the private sector.
  - b. If the tenured faculty members of the Department recommend that tenure upon appointment be awarded, that recommendation shall be reviewed by the Chair, the Dean, and the Provost, who shall each make a recommendation to the President.
  - c. After review of the prior recommendations, the President may recommend to the Trustees that a candidate be appointed with tenure.
  - d. Per Chapter V.E.9 above, the Board of Trustees retains the final decision-making authority regarding the conferring of tenure.
9. Faculty Tenure for Academic Administrators
- a. The President may recommend to the Trustees that an academic administrator be awarded tenure upon appointment as an academic administrator if:
    - (1) The administrator has been previously tenured at a regionally accredited, baccalaureate-granting institution of higher education; and
    - (2) The immediate supervisor of the academic administrator, as well as the chair and tenured faculty in the affected department, are consulted and are provided an opportunity to vote and make a written recommendation.
  - b. Normally, individuals appointed to an academic administrative position should negotiate for tenure rights at the time of hire; the President may make an exception based on consultation with the relevant Department Tenured Faculty and Chair, College/School Dean, and the Provost.
  - c. Rights of an Academic Administrator with Tenure

- (1) An academic administrator awarded tenure will have the rights of a tenured faculty member upon returning to faculty status.
  - (2) Up to one year of service as an interim administrator may count toward seniority as a faculty member.
  - (3) Tenure is a relevant, but not a dispositive, factor if there is a reduction in force within a program.
  - (4) Academic administrators may not use the appeal process available to terminated faculty to appeal termination of their administrative positions.
- d. Tenure for the President will be governed by procedures established by the Board of Trustees.

## H. Promotion

### 1. General Policies

- a. Promotion can only be granted based on a comprehensive evaluation.
- b. Judgments on the merit of candidates will be based on performance already demonstrated
- c. Faculty applying for tenure may use their tenure Portfolio—or, where relevant, their Post-Tenure Review Portfolio—to apply for promotion if both reviews occur in the same academic year and if time in rank warrants it.

### 2. Performance Areas

- a. Candidates for promotion will be evaluated in the areas of teaching, scholarly activities, and service as indicated above and as further delineated in Departmental Evaluation Guidelines.
- b. In addition, candidates for promotion must
  - (1) Meet the performance expectations defined in this Handbook;
  - (2) Adhere to all applicable policies set forth in this Handbook as a prerequisite to promotion; and
  - (3) Have met the following minimum time-in-rank to be eligible for promotion to a higher rank, regardless of discipline.
    - (a) Instructors—no requirement
    - (b) Assistant Professor—no requirement
    - (c) Associate Professor—a minimum of six years total in rank as Assistant Professor at a regionally accredited baccalaureate-granting institution of higher education, two of which must have been at MSU Denver; the six-year minimum may be relaxed for faculty seeking the award seeking the award of tenure and simultaneous appointment to the rank of Associate Professor during the fourth or fifth probationary year.

- (d) Professor—a minimum of four years in rank as Associate Professor at a regionally accredited baccalaureate-granting institution of higher education, two of which must have been at MSU Denver.
  - (e) In determining years in rank, the current year (year in progress) during which application for promotion is made is counted as a year of service toward the requirement for time in rank.
- c. For promotion to Professor, there is an expectation for a record of significant accomplishment in all three areas.
3. Procedures for Promotion
- a. Reviews for Promotion will include the same Steps 1 through 8 as listed in V.E.1.-8. for a third or sixth year Portfolio.
  - b. Specific circumstances in the promotion process are addressed under the appropriate steps.
  - c. Portfolios for Promotion shall include the following:
    - (1) Promotion to Associate Professor
      - (a) Faculty seeking the award of tenure may submit the same Portfolio for simultaneous promotion to Associate Professor.
      - (b) Faculty seeking promotion to Associate Professor without application for tenure shall include the same documentation items as delineated below for Portfolios for promotion to Professor.
    - (2) Promotion to Professor
      - (a) Cover Sheet
      - (b) Narrative Statement—3-8 pages in length
      - (c) Annotated Curriculum Vitae
      - (d) Student Ratings of Instruction since last major review—for the award of tenure, post tenure review, or promotion to Associate Professor, whichever came most recently
      - (e) Letters of review and faculty responses (if any) since the tenure Portfolio (inclusive of those letters) and including also all letters/responses from post-tenure reviews.
      - (f) Reassigned time reports and evaluations, when relevant, since most recent major review
      - (g) Selected additional materials for review—a minimum of four and a maximum of nine
      - (h) Supplementary documentation and other official and relevant information as determined by the Provost.
  - d. There is no appeal for a denial of promotion.

- e. A faculty member who is denied promotion may apply for promotion in any subsequent year.
- f. A majority of members voting at each of the Department, College/School or University Committees must vote in favor of awarding promotion in order for a promotion to be recommended at that level. Review committee members are obliged to vote for or against recommending approval of each application before the committee. Failure to recommend promotion shall not preclude a faculty member's application for promotion from proceeding to the next level of the review process.

## I. Post-Tenure Review

### 1. General Policies

- a. Post-tenure review is a comprehensive evaluation of the performance of tenured faculty, conducted on a five-year cycle.
- b. As noted in c. above, where appropriate, faculty may submit a Portfolio for promotion in lieu of a Post Tenure Review if both reviews occur in the same academic year and if time in rank warrants it.
- c. It is the responsibility of the faculty member to submit a Post-Tenure Review Portfolio according to the appropriate five-year cycle.
- d. Failure to submit a Post-Tenure Review Portfolio constitutes a violation of contractual obligations.

### 2. Criteria for Post-Tenure Review

- a. Faculty undergoing Post-Tenure Review will be evaluated in the performance areas of teaching, scholarly activities, and service as outlined in V.C.3 above, and as further delineated in Departmental Evaluation Guidelines defined in V.C.4.
- b. All faculty must meet the contractual responsibilities defined in this Handbook and adhere to all policies and procedures set forth in this Handbook as a prerequisite to successful Post-Tenure Review.

### 3. Procedures for Post-Tenure Review

- a. No later than the second Monday in February and every fifth year after the last comprehensive evaluation, the tenured faculty member shall prepare and submit a Post-Tenure Review Portfolio (see V.I.3.c below).
- b. Following faculty submission of a Portfolio Post-Tenure Review, reviews shall be conducted by the following:
  - (1) The Department/Peer Review Committee
  - (2) The Department Chair—NOTE: In the case of a Department Chair being evaluated for Post-Tenure Review, the Portfolios will go directly from the Department/Peer Review Committee to the College/School Dean for review.
  - (3) The College/School Dean

- (4) The University-level Post—Tenure Review Committee: In the event that any level of review recommends that a faculty member needs improvement, this University-level Post Tenure Review Committee will review the Portfolio.
- (5) The Provost
- c. Post-Tenure Review Portfolio shall include the following:
  - (1) Cover Sheet
  - (2) Narrative Statement—1-3 pages in length
  - (3) Annotated Curriculum Vitae
  - (4) All Student Ratings of Instruction since the last comprehensive evaluation
  - (5) All Reassigned Time Evaluations since the last comprehensive evaluation
- 4. Post-Tenure Performance Improvement Plan: If it is determined that a faculty member needs improvement in any performance area, a post-tenure performance improvement plan (the “Plan”) will be developed designed to raise the faculty member’s performance to a satisfactory level using the following process:
  - a. The Chair, in consultation with the faculty member and the department review committee, will develop a proposed Plan within 90 days of the final recommendation from the Provost.
  - b. The Plan must address the following:
    - (1) Establish specific goals and requirements, based upon post-tenure review criteria and Department Guidelines, designed to assist the faculty member to achieve satisfactory performance;
    - (2) Describe specific actions to be taken by the faculty member that are designed to help the faculty member achieve the goals; and,
    - (3) Specify that the Plan’s goals be met by a specific evaluation date, not to exceed three years from the date the Plan is approved by the Dean (or the Provost, in the event of an appeal).
  - c. The Chair will review the proposed Plan with the faculty member and submit it to the Dean with the faculty member’s comments.
  - d. The Dean, after consultation with the Chair and the faculty member, will approve the Plan as presented, or modify the Plan and provide copies of the final Plan to the Chair and the faculty member.
  - e. A faculty member who is dissatisfied with the Plan as approved or modified by the Dean may appeal to the Provost by submitting written objections to the Plan within five working days of receiving the Dean’s decision. The Provost may modify the Plan, after consultation with the Dean and the Chair.
  - f. Any continuous service requirement of the Plan will be adjusted to the extent necessary to accommodate exceptional circumstances that are inconsistent with such a requirement, including cases in which the faculty member qualifies for forms of extended leave such as sick leave, family leave, or disability leave.

- g. Performance Under the Improvement Plan
  - (1) The Dean, in consultation with the chair of the Department Review Committee, will review the faculty member's performance under the Plan, and the Dean will make a final determination whether the faculty member has satisfied the terms and conditions of the Plan.
  - (2) A faculty member who meets the terms and conditions of the Plan by the evaluation date specified in the Plan will have met the post tenure requirements satisfactorily.
  - (3) The faculty member shall begin a new five-year cycle of periodic comprehensive evaluations.
  - (4) A faculty member who fails to satisfy the terms and conditions of the Plan with respect to any performance area will be subject to sanctions as specified in Chapters XV and XVII of this Handbook. Sanctions or termination shall be appealable and must follow the due process procedures in Chapters XV and XVII of this Handbook.
  - (5) A faculty member who is under a Performance Improvement Plan remains subject to generally applicable criteria, guidelines, and expectations of performance.
- 5. Appeal: If the Provost determines that a faculty member needs improvement in any performance area, the faculty member may appeal the determination using the following procedure:
  - a. Within ten working days of the Provost's final determination, the faculty member must deliver a written notice of appeal to the President, which specifies the errors in the Provost's analysis and identifies the criteria, guidelines, and evidence from the Post Tenure Review Portfolio that the faculty member relied upon to support a successful post tenure evaluation in the particular performance area(s).
  - b. The faculty member may also submit a maximum of five written statements from other tenured faculty members who wish to support a successful post tenure evaluation for the faculty member, based on the Portfolio, the criteria and the guidelines.
  - c. The Provost will review the notice of appeal and supporting documentation.
    - (1) If the Provost finds them persuasive, the determination will be changed; in which case, the appeal process shall terminate.
    - (2) If the Provost does not find the materials persuasive:
      - (a) The Provost will respond in writing to the faculty member's notice and supporting statements no later than ten working days after they are submitted to the President.
      - (b) The Appeals Committee will convene within three working days of the President's receipt of the Provost's response to the notice of appeal.

- (c) The Appeals Committee shall review the written record and submit a written report and recommendations to the President within 15 working days thereafter.
- (d) The President will meet with the Appeals Committee and review its recommendation.
- (e) The President will issue a written decision to the faculty member and the Provost within five working days after meeting with the appeal committee.
- (f) The President's decision shall be final.
- (g) The ten-day time for filing a notice of appeal may be extended to the beginning of the Fall Semester by the President for good cause, including, but not limited to, the unavailability of other faculty members who would otherwise be willing to submit written statements. The faculty member must submit a written request for an extension demonstrating good cause, within the above ten-day time limit.

## J. Emeritus Status of Faculty

### 1. Eligibility

- a. All faculty who have completed ten years or more of full-time service at the University shall be eligible at the time of their retirement for an emeritus title equivalent to their highest professional rank.
- b. Faculty who participate in the transitional retirement program or who continue to teach full-time at the University after retirement are considered to be members of the faculty and therefore are not yet eligible for emeritus status.

### 2. Selection

- a. A department chair or any faculty member of the department may nominate faculty for emeritus status. The nomination should be substantiated in terms of length of service, excellence in teaching, and other contributions to the University.
- b. The nomination must be endorsed by a majority of the tenured members of the department and by the dean, who then will forward the recommendation to the Provost.
- c. If the Provost concurs with the nomination, the Provost shall forward the nomination to the President.
- d. If the President concurs with the nomination, the President will transmit it to the Board of Trustees for final determination and approval.

### 3. Benefits: Faculty awarded emeritus status will have the following benefits:

- a. Be a non-voting member of the department;
- b. Have an opportunity to teach up to nine credit hours per semester as a part-time faculty member, if requested by the department;
- c. Be listed in the University Catalog following retirement for life;



- d. Be recognized at an appropriate campus function;
  - e. Be given support staff materials as available and deemed appropriate by the chair;
  - f. Be entitled to retain a University e-mail account;
  - g. Retain library privileges; and,
  - h. Be entitled to all other benefits of retired faculty.
- K. Department Chairs: Roles, Responsibilities, and Area of Performance; Selection and Appointment; and Evaluation
1. Overview of Department Chair Roles, Responsibilities, and Areas of Performance; Selection and Appointment; and Evaluation: This Chapter delineates
    - a. Its purpose,
    - b. Definitions,
    - c. Roles, Responsibilities, Areas of Performance,
    - d. Selection, Appointment, and
    - e. Evaluation.
  2. Purpose of Chapter: Academic Department Chairs play essential roles in the governance and operations of an institution of higher education. It is critical that each has clear guidance regarding performance expectations.
  3. Definitions
    - a. Department refers to Academic Departments.
    - b. Chairs are faculty who receive some reassigned time to serve as Chair; Department Chair and Chair are used interchangeably to refer to Chairs of Academic Departments.
    - c. Interim Chair is a temporary replacement until a vacant chair position is filled, which would normally begin July 1 of the new fiscal year.
    - d. Acting Chair substitutes for a sitting chair who is temporarily not available such as due to illness, professional travel or a sabbatical leave.
  4. Roles, Responsibilities, and Areas of Performance: Academic Departments develop governance and operations cultures suitable to their disciplines and size. Not every Department operates in exactly the same manner. Nevertheless, the Chair is ultimately responsible for ensuring that departmental and institutional work is completed in an equitable, efficient, effective, and timely manner. The duties and responsibilities described below are to be interpreted in terms of the governance needs of different Departments. The roles, responsibilities, and areas of performance for Department Chairs include, but are not limited to the following:
    - a. Serves as the chief representative of the department.
    - b. Provides leadership in assigning teaching duties within the Department, consistent with:

- (1) The concept that the appropriate mix of teaching, scholarly activities, and service may differ from person-to-person and from time-to-time in the career of an individual faculty colleague, and
  - (2) Enrollment management needs of the Department and University.
- c. Department Governance: In consultation with the Department faculty and appropriate Dean:
- (1) Establishes and oversees an effective governance structure within the Department, including the creation and use of committees, processes, and procedures where appropriate;
  - (2) Develops and implements the Department's long- and short-term goals and plans;
  - (3) Manages departmental resources—financial, physical, and human—in accordance with allocations and University rules and procedures to meet Department goals, objectives, and needs;
  - (4) Oversees custody and authorized use of University property charged to the Department and the assignment of Department space and facilities to authorized activities in accordance with University policy and regulations; and
  - (5) Evaluates departmental faculty and staff performance in meeting its responsibilities to the University.
- d. Promotes academic standards relevant to:
- (1) Faculty, through their oversight of:
    - (a) Faculty performance, such as recruitment, mentoring, development, evaluation, and retention of faculty in accordance to University policies; this includes:
      - (i) Teaching,
      - (ii) Scholarly Activities, and
      - (iii) Service.
    - (b) Departmental Guidelines (Chapter V.C.4.f.&h.), Department Chairs are responsible for:
      - (i) Departmental Guidelines for achieving tenure, promotion, and successful post-tenure review, which are consistent with the College/School's and University's mission statements, and
      - (ii) Changes should they be necessary upon annual review.
    - (c) Providing recommendations that contain a supporting rationale to the Dean on hiring; retention, tenure, promotion, and post-tenure review; reassigned timework; sabbatical leaves; and other leaves of absence per the Handbook detailed in Chapter XI.
  - (2) Students, through their

- (a) Supervision of student recruitment, advising, learning, development, retention, and timely graduation of students;
  - (b) Application of academic policies and procedures that affect students, as consistent with University discipline-specific, and Departmental policies and procedures; and
  - (c) Response to student concerns and works with students, faculty, staff, and other University offices to resolve concerns, conflicts, and disputes.
- (3) Curriculum, through their leadership of activities related to the development, implementation, and assessment of academic curriculum and programs.
- (4) Teaching and Learning, through their oversight of
- (a) Quality curriculum delivery and use of appropriate pedagogy in courses;
  - (b) Assessment, including Student Learning Outcomes, and Program Review of departmental and General Studies curricula;
  - (c) Accreditation, by supporting and maintaining department, College/School and/or University accreditation requirements, as appropriate; and
  - (d) The delivery of quality and relevant curricula, in alignment with federal and state law (e.g., Americans with Disability Act).
- e. Provides effective management and direction to Affiliate and Category II faculty, graduate students, support staff, and student workers.
- f. Establishes effective external relations and programs with constituencies such as alumni, advisory committees, and industry, as appropriate.
- g. Advocates for the Department professionally with peers, Deans, Provost, and others.
- h. As faculty, Department Chairs:
- (1) Teach at least three credits per year (July 1 through June 30); and determine their summer assignments with the Dean.
  - (2) Engage in scholarly and service activities appropriate to their faculty status. These activities are evaluated during faculty performance review, exclusive of the evaluation process stated in Chapter V.K.6.
  - (3) Have responsibilities and time constraints inherent to their Chair duties. These constraints and duties must be given appropriate consideration by all reviewers involved in making decisions on Chairs' Retention, Tenure, Promotion and Post-Tenure Review portfolios.
5. Appointment and Reappointment of Department Chairs
- a. Eligibility/Criteria for Appointment/Reappointment: Candidates for Chair:
    - (1) Will preferably be tenured;
    - (2) Must hold a tenure-line rank within the discipline or cognate discipline, e.g., Assistant, Associate, or Professor; and

(3) For reappointment must have met expectations in the performance of V.K.4.a.-g.

b. Procedures for Appointment/Reappointment

(1) Candidates may be internal or external to the University.

(a) If hired through an external search, the policies and procedures governing any faculty hire will apply;

(b) If internal, the following policies and procedures apply:

(i) At the completion of a Chair's term, the Department faculty will participate in a preference poll to determine whom to recommend;

(ii) The Dean is in charge of the preference poll and consults with the Department on the conduct and results of the poll.

(iii) If a chair is unable or unwilling to complete his or her term, the Dean, in consultation with the faculty, will recommend an Interim Chair to the Provost and Vice President of Academic and Student Affairs (hereinafter Provost).

(c) Candidates:

(i) May be nominated by any tenure-line faculty member within the Department; and

(ii) Must be willing to serve in the position of Chair to be listed on the preference poll.

(2) Department Chair appointments are recommended by the Dean to the Provost, who makes a recommendation to the President.

(3) The President

(a) Makes the appointment;

(b) May consider other candidates than the one recommended; and

(c) May appoint an Interim Chair for a period not to exceed one year from inside or outside the Department or University.

(4) Department Chairs

(a) Retain all rights applicable to tenure-line faculty including earned tenure where applicable;

(b) Are asked to commit to a three-year term (time served as interim Chair will count toward a three-year term if served consecutively); and

(c) Serve at the will of the President.

(5) There is no limit on the number of terms a Chair can serve.

(6) At any time, a Department's tenure line faculty, by a two-thirds vote, may conduct a preference poll for a new Chair following the process described

above, the results of which shall then be forwarded to the Dean for consideration.

- (7) New chairs will participate in workshops or other professional development activities related to chair duties sponsored by the University.

## 6. Department Chair Evaluation

- a. Goals: At the beginning of the Chair's term, the Department Chair and the Dean will develop goals extending to the end of the Chair's term (usually three years), which will address the Chair's duties as specified in Chapter V.K.4.a.-g. The goals may be modified by mutual agreement between the Chair and the Dean at the time of the annual evaluation.
  - (1) If the Chair and Dean cannot agree on the goals, the Provost will make the final decision after consulting both the Dean and the Chair.
- b. Chairs will be evaluated in writing by their Dean annually. This evaluation will assess progress on meeting established goals. Deans and Chairs will review the written evaluation to determine how to modify goals (if necessary) and/or how to continue progress toward meeting mutually agreed-upon goals.
  - (1) If at any time, the Dean identifies serious problems in the Chair's performance, the Dean may refer the issues to the Provost for resolution; this could lead to a recommendation to the President that the Chair be removed from that position.
  - (2) Chairs are evaluated as faculty for purposes of Tenure, Promotion, and Post Tenure Review. The "Needs Improvement" rating for a Chair as Chair is to be used exclusively as an aid to the administration in determining whether or not to reappoint a Chair.
- c. In a Chair's "Expiration Year" (usually the third year of a term), the evaluation will include the following:
  - (1) Chair's self-evaluation based on the Expiration Year goals (as modified, if applicable);
  - (2) Other evidence and/or information provided by the Chair and the Dean;
  - (3) A comprehensive feedback survey, to include department faculty and staff, other chairs from the same school or college and the Dean;
  - (4) Consideration of the preference poll for chair of the department; and
  - (5) The Expiration Year evaluation will result in a Needs Improvement or Meets Standards rating.
- d. Appeal of Evaluation
  - (1) If the Chair and the Dean disagree on the evaluation, the Chair will have 14 days to provide the Dean with a written statement justifying a different evaluation rating.

- (2) The Dean will review the case presented by the Chair and meet with the Chair within 14 days following the reception of the statement of disagreement to attempt to reach an agreement.
- (3) If agreement is not reached, the Dean must, within 14 days of the meeting, write a response to the justification presented by the Chair explaining why the rating was not changed.
- e. The Chair's justification and the Dean's response, along with the evaluation documentation, shall be forwarded to the Provost. The Provost shall review the documentation and make a determination of a rating within 14 days of receiving said documentation. The decision of the Provost shall be final.

**VI. POLICIES AND PROCEDURES FOR CATEGORY II FACULTY AND CATEGORY III (AFFILIATE) FACULTY: APPOINTMENT, EVALUATION, REAPPOINTMENT, AND PROMOTION**

A. Employment Contracts and Employment Status

- 1. As delineated in this *Handbook for Professional Personnel*, Category II and Category III faculty,
  - a. Are subject to the norms and expectations of academic freedom befitting an institution of higher education;
  - b. Are protected from unlawful employment practices; and
    - (1) Have the right to file a formal complaint to EO in cases of suspected discrimination;
    - (2) Have the right to respond to any information that automatically becomes part of their Portfolios where required; and
    - (3) Have the right to lodge a complaint of professional misconduct.
  - c. Must meet contractual obligations and standards of professional conduct.
- 2. Category II and Category III faculty
  - a. Credentials derive from their
    - (1) Academic qualifications,
    - (2) Experience and accomplishments as practitioners, which can appropriately enrich the academic experience of MSU Denver students and provide a link to the work communities they represent;
    - (3) Status as recent graduates of, or current students in, doctoral programs seeking experience and opportunity; or
    - (4) Work for a program or grant that spans an academic or a calendar year.
  - b. Performance expectations are delineated in Department Guidelines unique to Category II and to Category III faculty.
- 3. Category II Faculty

- a. Category II faculty members are full-time, non-tenure-line faculty.
- b. The following descriptions of appropriate titles and workload are intended to capture the wide range of Category II faculty designations and duties:
  - (1) Visiting Faculty
    - (a) Temporary appointment for exchange scholars or national or international scholars on leave from their home institution or for recently retired scholars from other institutions of higher education that become available for one semester or one academic year.
    - (b) Rank determined by rank at home institution.
    - (c) Temporary appointment to fill a vacancy in open tenure-line.
    - (d) Duties: negotiated but, teaching default is 4/4; other assignments as needed may be appropriate.
  - (2) Professional in residence, executive in residence, artist in residence, musician in residence or other title created by negotiation and tailored to unique qualifications of candidate. May be ongoing or temporary to take advantage of short-term availability of nationally or internationally known expert or practitioner.
    - (a) Used to recruit and/or retain candidates with exceptional practical experience who may or may not have usual terminal degree qualifications.
    - (b) Renewable yearly based on performance evaluation.
    - (c) Duties: negotiated but normal 4/4 teaching with service to college or school and community expectations.
    - (d) Criteria:
      - (i) Currency in discipline;
      - (ii) Scholarly Activities expectations and support at chair and dean discretion.
  - (3) Lecturer—Category II full-time position for a faculty member whose credentials meet the criteria determined by the hiring Department.
    - (a) Generally for use in departments with high service teaching loads; position primarily devoted to teaching multiple sections of lower-division or introductory courses.
      - (i) Positions depend on available funding.
      - (ii) This type of Category II appointment is intended to increase full-time coverage above the targeted 60 percent T/TT coverage target.
    - (b) Duties:
      - (i) 5/5 teaching (or equivalent); recommend no more than three preparations per semester and no expectation of scholarly activities other than that related to maintaining currency in discipline;

- (ii) A reduced teaching load may be offered for other performance expectations and support based on departmental needs and negotiated at Chair and Dean discretion (see “[Application for Category II Reduced Teaching Load](#)”).
- (4) Senior Lecturer—a Lecturer may be promoted to Senior Lecturer status if
  - (a) Their credentials meet the criteria determined by the hiring Department as articulated in the Hiring Protocols, and
  - (b) They have a total of six years (at least three of which must have been consecutive and at least one of which must have been within 18 months of the senior lecturer appointment) of performance to MSU Denver.<sup>1</sup>
    - (i) Promotion is contingent upon a recommendation from the Department Chair, the Dean and the Provost;
    - (ii) If promoted to a Senior Lecturer, the salary will be adjusted to reflect the new title.
  - (c) May be used to fill a potential tenure line especially under tight budget conditions.
    - (i) Positions depend on available funding.
    - (ii) This type of Category II appointment is usually intended to increase full time coverage above the targeted 60 percent tenure-line coverage target.
  - (d) Duties:
    - (i) 5/5 teaching (or equivalent); recommend no more than three preparations per semester and no expectation of scholarly activities other than that related to maintaining currency in discipline;
    - (ii) A reduced teaching load may be offered for other performance expectations and support based on departmental needs and negotiated at Chair and Dean discretion (see “[Application for Category II Reduced Teaching Load](#)”).
- (5) Faculty Recruitment Incentive Program (FRIP) Lecturers—Category II full-time position created to help encourage the attainment of the two major objectives of the University Affirmative Action Program:
  - (a) The fostering of a multicultural campus and the appreciation of diversity; and
  - (b) The improvement of employment opportunities for all under represented faculty.
  - (c) Special Conditions:

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<sup>1</sup> NOTE: Category II faculty shall have their years of service since time of initial appointment – as long as it is continuous – count toward the six year and 18 month eligibility requirements.



- (i) Before a FRIP appointment can be made, there must be a tenure-track position available and allocated by the Provost/Vice President for Academic and Student Affairs.
  - (ii) The President has delegated authority to offer a FRIP contract to the Provost.
  - (iii) FRIP participants will be a temporary term appointment for one academic year. Subsequent term appointments are subject to the absolute discretion of the University.
  - (iv) A FRIP candidate must have a minimum of a master's degree or the equivalent in the appropriate field of study, and must be able to demonstrate admission to an accredited terminal degree or doctoral program in that field. Strong preference will be given to those applicants who have achieved candidacy at their doctoral institutions, i.e., those who have passed comprehensive/preliminary examinations and completed all required course work, leaving only dissertation requirements to meet in order to receive the Ph.D.
- (d) Duties: 3/3 teaching load and progress toward degree.
- (e) Academic Development Awards provide financial support as determined by ASA, over a maximum period of five years to cover reimbursement for tuition and fees, dissertation expenses, and/or other incidental expenses associated with the completion of a participant's terminal degree requirements and/or other academic special conditions as defined in the participant's employment contracts. This award limit will not include the cost of any equipment assigned to the FRIP participant. Other PD support at chair and dean discretion. The amount determined by ASA does not apply to reassigned time; the latter is part of the instructional workload assignment.
- (6) Research Faculty—hired via grant or other “soft” funding (e.g., contracts)
- (a) Duties determined by the grant.
- (7) Clinical Faculty—(NOTE: The title of “Clinical Faculty” is intended to be flexible enough to apply to a variety of disciplines where this type of “field supervision faculty” are the norm—e.g., nursing, teacher education, social work, etc.). Thus, clinical faculty titles are designed to comply with criteria defined by accreditation associations, such as the Colorado State Board of Nursing (CSBN).
- (8) Other: Special cases where duties, compensation, and title are mutually determined by contract. Should be rare, determined by departmental needs, and negotiated by Chair and Dean.
- c. Category II faculty members may apply for Category I vacancies as they arise. These applications will be considered on their merits, under the same criteria as all applicants.

#### 4. Category III—Affiliate Faculty

- a. Affiliate faculty members are part-time faculty hired to teach on a per credit hour basis for specific classes, as needed, usually on a semester-by-semester basis depending on budget and enrollment.
  - b. Affiliate faculty members are normally members of Public Employee Retirement Association unless they previously participated in one of the University's Optional Retirement Programs.
  - c. Affiliate faculty members are not eligible for participation in the University's benefit programs except as required by state or federal law.
- B. Recommended Full-time Faculty Deployment—of the 60 percent Full-time Faculty
- 1. No more than ten percent should be Lecturers/Senior Lecturers.
  - 2. No more than ten percent should be Category II Faculty.
  - 3. A minimum of 80 percent should be Tenure/Tenure-Track Faculty.
- C. Specific Guidelines for Appointment of Faculty
- 1. Rank Upon Appointment
    - a. A new appointee must possess the appropriate credentials as delineated in the “Minimum Rank Upon Hiring,” see Protocols for Searching/Hiring Faculty.
    - b. Exceptions to rank upon appointment must be approved by the Provost/Vice President for Academic and Student Affairs.
  - 2. Salary Upon Appointment
    - a. The appointing authority shall determine the new appointee's salary upon appointment.
    - b. In determining a new appointee's salary, the appointing authority shall consider the education and experience of the new appointee, the University and department's salary structure, the salaries and ranks of comparable faculty in the particular discipline, market demand, and other pertinent factors.
    - c. Human Resources office will provide data and instructions for initial salaries of new hires annually.
- D. Evaluation and Reappointment
- 1. Performance evaluation is done in part to support reappointment and in part to foster improvement by both Category II and Affiliate faculty.
  - 2. Category II and Affiliate faculty reappointments are determined based on a combination of department needs, faculty member qualifications, and performance. High performance does not guarantee reappointment.
  - 3. Evaluation:
    - a. Affiliate Faculty
      - (1) Department Guidelines for Affiliate Faculty must establish expectations for Affiliate faculty members that fit their disciplinary or departmental needs.

- (2) Peer Observations: Departments will specify in the Affiliate Department Guidelines the protocols to follow for Peer Observations of Affiliate Faculty. A written record of observations, the format of which will be determined by the Department, should be kept on file in the Department.
  - (3) Student Ratings of Instruction: Student Ratings of Instruction (SRIs) for courses taught by Affiliate faculty will be administered consistent with the practice for tenure-line faculty as outlined in Chapter V.
- b. Category II Faculty
- (1) Department Guidelines for Category II Faculty must establish expectations for Category II faculty members that fit their disciplinary or departmental needs.
  - (2) Student Ratings of Instruction: Student Ratings of Instruction (SRIs) for courses taught by Category II faculty and by Affiliate faculty will be administered consistent with the practice for tenure-line faculty as outlined in Chapter V.
  - (3) Performance measures in addition to SRIs are warranted to ensure that reappointment decisions are based on multiple appropriate sources of reliable data.
    - (a) Peer Observations:<sup>2</sup>
      - (i) Peer Observations requirements are outlined in Department Guidelines
        - a) All Category II faculty will be observed, at a minimum, once in the first year of their employment as a Category II faculty member.
        - b) Beyond this requirement, Departments will delineate in their Department Guidelines for Category II Faculty the number and cycle of Peer Observations required for Category II faculty.
      - (ii) Following the first year of employment, subsequent observation(s) may be required if there are indications that they are needed. Such indications may be, but are not limited to, low SRI scores, student comments on SRIs, or student comments or concerns brought to the Chair's attention.
      - (iii) A written record of Peer Observations, the format of which will be determined by the Department, should be kept on file in the Department.
    - (b) In those cases where Category II faculty have reduced teaching-load agreements that specify duties in Scholarly Activities and/or Service (see Chapter V for definitions of Scholarly Activities and Service), evaluations should encompass work in those areas of performance.

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<sup>2</sup> Formal peer reviews conducted for Category II and Category III faculty prior to the adoption of the Chapter VI (June 2013) revisions to the *Handbook for Professional Personnel* shall be considered formal peer reviews for the purposes of reappointment, promotion, and the granting of three-year contracts.

- (c) Any Category II faculty member who wishes to be reappointed at the conclusion of their contract term will undergo a review by submitting a Portfolio to the Department Chair. Portfolios will include the following:
  - (i) Cover Sheet
    - a) Published by the Office of the Provost; and
    - b) Used to record recommendations for/against reappointment, promotion, or multi-year contracts.
  - (ii) Narrative
    - a) Is a statement of up to two-pages describing how the faculty member has met expectations for assigned duties/responsibilities;
    - b) Presents a reflective self-assessment, highlights accomplishments, and indicates plans for the future;
    - c) Presents one's best case to disciplinary colleagues and administrative levels of review; and
    - d) Indicates in the first paragraph if candidate is seeking promotion to Senior Lecturer or a Multi-Year Contract, as delineated below.
  - (iii) Annotated *Curriculum Vitae* (see Chapter V for definition of "Annotated *Curriculum Vitae*")
  - (iv) Student Ratings of Instruction per above
  - (v) Peer Observations as delineated above
  - (vi) Other documents as determined by the Department (course syllabi, exams, assignments, assessments, etc., evidence of scholarly activities or service)
- (d) Portfolios will be submitted using the same tool or format as Category I faculty and in accordance with the Academic Calendar.
- (e) Reappointment Recommendations
  - (i) The Department Chair will evaluate the Portfolio and write a letter – not to exceed two pages – recommending retention or non-retention to the Dean;
  - (ii) The Dean will evaluate the Portfolio and the Department Chair's recommendation, and determine if the Category II faculty member should be reappointed.
  - (iii) If either the Department Chair or the Dean recommends non-retention, the Portfolio and recommendations will be submitted to the Provost for a final decision regarding retention. All letters and decisions will become part of the Category II faculty member's Portfolio and will be submitted in accordance with the Academic Calendar.

#### 4. Multi-year Contracts for Category II Faculty:

- a. Per Colorado Statute CRS 24-19-104 (1.5) (d), some Category II faculty are eligible for contracts of up to three years in duration. Departments, in consultation with their Deans, determine which, if any, Category II faculty lines will be filled with faculty on multi-year contracts.
    - (1) There is no “track” toward a multi-year contract.
    - (2) Retreat lines<sup>3</sup> are only available for annual contracts. While in a retreat line, a Category II faculty member cannot be provided a multi-year contract; however their years of service would count toward eligibility should they be moved to a different (regular) line.
  - b. A faculty member must serve a minimum probationary period of three successive one-academic-year contracts before being eligible for a multi-year contract.
  - c. Category II faculty will be given credit toward eligibility for a multi-year contract if they have previously taught as an Affiliate faculty member.<sup>4</sup>
    - (1) In such cases, the equivalent of one year credit as a Category II faculty member may be granted for every two years as an affiliate faculty member teaching a maximum allowable load of 18 credit hours per academic year.
    - (2) Credit for teaching loads of less than the allowable maximum for affiliate faculty will be prorated accordingly.
    - (3) Category II faculty are eligible to receive up to a maximum of two years of credit toward eligibility through affiliate teaching.
  - d. A tenure-track or tenured faculty member who wishes to convert to a Category II faculty member may be given credit toward the three year eligibility period for a multi-year contract with each year of prior teaching counting as one year of eligibility.
  - e. If a multi-year contract position is available, an eligible Category II faculty member can apply by submitting a Portfolio for review.
  - f. Category II faculty on a multi-year contract will only submit a Portfolio for review during the final year of their contract, and only if they wish to be considered for reappointment.
  - g. There is no right of appeal for Category II faculty who do not receive multi-year contracts or renewal of multi-year contracts
5. Promotion: To qualify for Promotion the Lecturer must satisfy the conditions for promotion to Senior Lecturer, as set forth above, and will be considered according to the following process:

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<sup>3</sup> A ‘Retreat Line’ is a tenure-line position that is filled temporarily with an Affiliate or a Category II faculty member either to replace a tenure-line faculty member who is on leave (e.g., sabbatical, leave without pay, medical leave) or for an administrator who holds tenure in a department and may return to faculty ranks upon leaving an administrative position.

<sup>4</sup> Category II and Affiliate faculty shall have prior years of service count in the determination of whether they have met the minimum number of years of service to be eligible to be considered for a multi-year contract.

- a. The faculty member will make a request for promotion to the Department Chair and submit a Portfolio for review;
- b. The Department Chair will submit the recommendation for or against promotion to the Dean;
- c. The Dean will submit a recommendation for or against promotion to the Provost; and
- d. The Provost will approve or disapprove the recommendation for promotion.

## **VII. POLICIES AND PROCEDURES FOR ADMINISTRATORS: EVALUATION AND SPECIAL DESIGNATIONS**

### **A. Evaluation of Administrators**

#### **1. General Policies**

- a. An effective performance evaluation process recognizes and rewards outstanding performance and addresses areas for improvement. While accomplishing this, and if conducted fairly and objectively, the process will promote a healthy dialogue between the employee and the supervisor, which should provide an opportunity to clarify individual, departmental, and institutional goals; update and revise, if necessary, the job description; emphasize areas of importance and identify new directions; improve individual performance; and provide a basis for planning individual growth and development. If the evaluation process accomplishes this, it should lead to increased productivity and communication while positively improving the overall effectiveness and efficiency of the institution.
- b. All Administrative evaluations will include input from constituents using a 360 degree evaluation feedback system to assist the supervisor in the overall evaluation of the Administrator. Supervisors shall provide their own feedback as well as obtain feedback from faculty, subordinates, peers, co-workers and customers are applicable. The employee shall provide the supervisor with a self-evaluation.
- c. Administrators should be evaluated by their immediate supervisor with review and approval by the appropriate next level supervisor.
- d. Under these provisions, all administrators must be formally evaluated in writing once each year. It is recommended that employees and supervisors meet informally during the year to discuss goals/progress prior to the evaluation.
- e. The evaluation period shall be May 1 through April 30. Supervisors may conduct a preliminary performance review for a new employee between three and six months after initial employment. However, employees may request a preliminary performance review from their supervisors.
- f. Performance reviews may be completed at any time under special circumstances, such as a substantial change in the employee's assignment, a change in the level of performance, disciplinary action, etc.

- g. Disagreements between the supervisor and the employee will not be sufficient cause to interrupt the evaluation process.
2. The Planning and Evaluation Process
- a. The supervisor and the employee shall participate in at least one meeting for the purpose of planning and evaluation prior to April 30 of each year. A planning and evaluation meeting for new employees shall be held within 30 days after employment begins.
  - b. During the planning process, performance standards shall be established to serve as the basis for the employee's evaluation. The employee's job description shall be reviewed and revised if necessary with recommendations forwarded through the appropriate channels.
  - c. During the evaluation process, the supervisor evaluates the employee on each performance standard and discusses with the employee areas of strength and areas for improvement as defined by the performance plan.
  - d. Both parties shall sign the evaluation and the performance plan.
3. Performance Standards
- a. The key to the success of the subsequent evaluation is the determination of performance standards upon which the employee will be evaluated. The University defines core performance standards that employees will be evaluated on during the performance evaluation. In addition, the supervisor may define additional performance standards, which are position specific on the performance evaluation document.
  - b. During the planning process, the importance of each performance will be assigned to the appropriate factor on the evaluation form.
4. Performance Review
- a. At the end of the review period, the supervisor will examine each factor and assign a numerical rating to each in writing.
  - b. The supervisor must provide a written explanation for each standard rating and describe the areas of strength and those needing improvement under the comments section for each performance standard.
  - c. The scale upon which the numerical rating is based as follows:
    - (1) **Distinguished:** Far exceeds performance expectations on a consistent and uniform basis. Work is of exceptional quality in all essential areas of responsibility. In addition, makes an exceptional or unique contribution in achievement of unit, department and the University's objectives.
    - (2) **Exceeding Expectations:** Consistently achieves performance expectations and *frequently* exceeds them. Demonstrates performance of a *very* high level of quality in all areas of responsibility.

- (3) **Meeting Expectations:** Consistently fulfills performance expectations and *periodically may* exceed them. Work is of high quality in all significant areas of responsibility.
  - (4) **Below Expectations:** Frequently fails to meet expectations and improvement is needed in these areas.
  - (5) **Fails to Meet Expectations:** Consistently fails to meet expectations and improvement is needed in most aspects of this position.
- d. Any administrator retained in employment after receiving an overall rating less than *Meeting Expectations* must have a performance improvement plan developed by his/her supervisor. The supervisor must develop the performance improvement plan within 30 days of the completion of the evaluation process. The maximum period for improvement under a performance improvement plan is six months, at which time a decision on continuation of employment will be made.

## 5. Appeal Procedures

If an employee objects to the overall annual evaluation rating, the employee may appeal in writing to the next higher-level supervisor, stating areas of disagreement, within seven days of the evaluation review meeting. If the supervisor is a Vice President/Provost, the appeal will be directed to the President or the President's designee. The higher-level supervisor's decision must be made in writing to the employee within 14 days of the date the appeal was received. All decisions are final.

## 6. Performance Review Records

Upon completion of this process, the completed, signed and dated evaluation document, along with any appeal decisions will be forwarded to the Office of Human Resources for retention in the employee's permanent personnel record.

## B. Emeritus Status for Administrators

### 1. Eligibility

- a. All administrative personnel who have completed ten years of full-time service at the University shall be eligible at the time of their retirement for an emeritus title equivalent to their highest professional title.
- b. Personnel who participate in the transitional retirement program or who continue to work for the institution full time after retirement are considered to be employees at the University and therefore are not yet eligible for emeritus status.

### 2. Selection

- a. The awarding of the emeritus status may be initiated by any member of the administrative unit in which the individual is employed.
- b. The nomination shall be substantiated in terms of length of service, excellence of performance, and other contributions to the University.
- c. The nomination shall be endorsed by the members of the administrative unit and by the respective senior administrator, who then will forward the recommendation to the appropriate vice president.



- d. If the vice president concurs with the nomination, the vice president shall forward the nomination to the President.
  - e. If the President concurs with the nomination, the President will transmit it to the Board of Trustees for final determination and approval.
3. Benefits: Administrators awarded emeritus status will have the following benefits;
- a. Be listed in the University's Catalog following retirement for life;
  - b. Be recognized at an appropriate campus function;
  - c. Be entitled to all other benefits of retired administrators;
  - d. Based on department needs, the opportunity to teach as a part-time faculty member at the current part-time compensation;
  - e. Be entitled to retain a University e-mail account; and
  - f. Retain library privileges.
- C. Evaluation of Academic Deans, Provost and the University President
1. Evaluation of Deans
- a. By the Faculty
 

All tenured and probationary faculty in a College/School shall be provided the opportunity of evaluating their dean. After completion by the faculty, the evaluations will be submitted to the Provost, who shall share the results with each dean. These evaluations shall be used by the Provost as supplemental information in evaluating the dean. These evaluations shall be filed in the Office of Academic Affairs upon completion.
  - b. By the Chairs
 

All chairs in a College/School shall be provided the opportunity of evaluating their dean. The instrument to be used for this evaluation shall be determined by the Provost. After completion by the chairs, the evaluation will be submitted to the Provost, who shall share the results with each dean. These evaluations shall be used by the Provost as supplemental information in evaluating the dean. These evaluations shall be filed in the office of the Provost upon completion.
  - c. By the Provost
 

The Provost shall evaluate all deans in Academic Affairs in writing. The evaluation of the dean will be based on the job description as well as a factor relating to compliance with the Handbook requirement for the evaluation of persons reporting to the dean. The evaluations of the dean by the chairs and by the faculty shall be used as supplemental information in the Provost's evaluation of the dean. The dean shall have the opportunity to comment in writing on the Provost evaluation. These evaluations shall be filed in the Office of Academic Affairs upon completion.
2. Evaluation of the Provost

a. By the Faculty

The elected members of the Faculty Senate President's Council shall be provided the opportunity to evaluate the Provost. It shall be the obligation of these faculty members to gain a knowledgeable basis for assessment through direct association with the Provost, or from input derived from faculty who have a direct association with the Provost. The evaluation shall be based on the job description of the Provost, and shall be submitted as supplemental information to the President to be shared with the Provost and used in evaluating the Provost. These evaluations shall be filed in the Office of the President upon completion.

b. By the Deans

All deans in Academic Affairs shall be provided the opportunity to evaluate the Provost. These evaluations shall be submitted as supplemental information to the President to be shared with the Provost and used in evaluating the Provost. These evaluations shall be filed in the Office of the President upon completion.

c. By the President

The President of the University shall evaluate the Provost using a narrative format. The evaluation of the Provost will be based on the job description as well as a factor relating to compliance with the University Handbook requirement for the evaluation of persons reporting to the Provost. Evaluations of the Provost by the deans and the faculty shall be available as supplemental information for this evaluation. The Provost shall have the opportunity to comment in writing on the President's evaluation. These evaluations shall be filed in the Office of the President after completion.

3. Evaluation of the President

Evaluation of the President shall be conducted in accordance with Chapter 7.2 of the Trustees Policy Manual.

## **VIII. UNIVERSITY COMPENSATION PHILOSOPHY**

### **A. General Policies**

1. Metropolitan State University of Denver is a teaching and learning community aspiring to national pre-eminence in public urban baccalaureate education. We believe that education is the key to a successful life and career. The University recognizes that to fulfill this mission, requires a diverse group of highly-qualified employees. The University expects superior performance and productivity from these employees. The primary role of the compensation system is to establish a clear relationship between professional performance, job duties, and compensation; to ensure that employees are recognized and rewarded appropriately for their contributions; and to ensure that the University's resources are used efficiently and effectively. The University supports a compensation system that:
  - a. Balances the need to be both externally competitive and internally equitable while working within the availability of institutional and department resources.

- b. Attracts highly skilled and competent Faculty and staff and retains them by providing opportunities for learning, growth, and career development.
  - c. Provides flexibility in applying the principles of the University's compensation system.
  - d. Recognizes the value of current Faculty and staff by maintaining internal equity with comparable duties and responsibilities.
  - e. Encourages and rewards excellent performance in meeting the mission, goals, and objectives of the University by basing salary increases on merit and performance.
  - f. Allocates compensation in a fair, yet flexible, manner in compliance with all applicable legal requirements.
  - g. Uses survey data consistent with peer institutions with similar demographics such as type of institution, size of budget, enrollment, etc.
  - h. Assures communication of system principles, goals, design, procedures and relevant external market information to all departments and employees.
  - i. Remains open to emerging compensation practices to address changes in the workforce and the workplace over time.
2. The general goals of salary administration at the University are:
- a. Primarily, to establish a clear relationship between professional performance and compensation;
  - b. To encourage a high level of professional performance;
  - c. To attract and maintain a high quality faculty and administration; and,
  - d. To promote a constructive relationship between exempt personnel's professional activities and the goals and objectives of the Trustees and the University.

#### B. Salary Administration Policies

1. Increases in the base pay of the University faculty and professional personnel shall be categorized as follows:
- a. Promotion or other awards
  - b. Merit increases
    - (1) Merit increases shall not be awarded any person who receives a composite rating of less than expected or satisfactory performance.
    - (2) All persons who perform as expected or higher shall be eligible to receive a merit increase, except when no funds are allocated for salary increases.
    - (3) Administrators who are hired after July 1st will be evaluated for their partial year of employment and be eligible for a prorated merit increase based on the start of their employment and funding availability.
    - (4) Employees who have been promoted during the current evaluation period must have performance evaluations in both the positions. The combined

evaluation rating will be used to determine the amount of the annual merit increase.

c. Equity and Parity Increases

- (1) The Trustees, in their sole and exclusive discretion and in response to specific annual budget requests, will determine whether salary increases addressing issues of equity and parity will be awarded and if so, in what amount.
- (2) Equity increases address a declining relationship between salaries of presently employed personnel and newly hired personnel in the same discipline, commonly described as salary compression. “Equity” takes into account performance evaluations and other standards, including, but not limited to, education, experience, and rank.
- (3) Parity increases address the competitiveness of University salaries with the salaries of faculty at similar institutions, taking into account performance evaluations and other standards, including but not limited to education, experience, rank, discipline, and variances among local economic conditions.
- (4) Equity and parity issues will be studied periodically by the University.

2. Salary Policies Applicable to Administrators

- a. An annual review of the University’s compensation issues for contract administrators of the University will be conducted by Human Resources.
- b. Human Resources will meet with the Executive Committee of the Council of Administrators annually, at a minimum, to discuss and make recommendations pertaining to compensation philosophy, equity, parity, and performance review matters for the contract administrators of the University.
- c. Salary increases for University administrators should be set in accordance with University standard evaluation policies and procedures.
- d. The Vice President of Administration and Finance will provide the Council of Administrators with the overall salary increase recommendations for each fiscal year based on available funding.

3. Salary Policies Applicable to Faculty

- a. Sufficient money, if available, will be set aside to fund promotions and other specified awards.
- b. Equity and/or parity increases, if any, will be awarded to individuals in accordance with a plan approved by the Trustees.
- c. The administration will consult with a Faculty Senate committee of no more than eight members regarding the percentage of the overall salary increase budget to be distributed in each merit category.
- d. The Faculty Senate will deliberate in open session concerning its merit pay distribution recommendations. The Faculty Senate will present its written merit pay distribution recommendation(s) to the administration in writing, and the recommendation(s) shall be available to all faculty members.

- e. The administration will consider recommendations from the Faculty Senate and determine the amount to be distributed in each merit category.
- f. The chairs will recommend to the deans, and the deans will recommend to the Provost, specific merit salary increases for each faculty member in accordance with the allocation for each merit category. The Provost must approve all increases before they are submitted to the President for final approval.

## **IX. OUTSIDE EMPLOYMENT AND CONFLICT OF INTEREST**

### **A. Outside Employment, Personal Activities and Relationships**

1. Outside employment or business ownership shall not interfere with the performance of contractual responsibilities.
2. Employees should be aware of their obligations and responsibilities as public employees of the University. An employee is bound to observe, in all official acts, the highest standards of ethics consistent with the code of ethics of the State of Colorado (Part 18, Article 24, Colorado Revised Statutes), the advisory opinions rendered with respect thereto, and University policies.
3. Nothing in this Article is intended to discourage an employee from engaging in personal activity in order to increase the employee's professional reputation, service to the community, or income, subject to the conditions stated herein.
4. Definitions
  - a. "Personal Activity" shall mean any private practice, private consulting, teaching or research for another organization, or other similar services to third parties, whether compensated or uncompensated, which are not part of the employee's assigned duties for which the University has provided no compensation.
  - b. "Personal Relationship" shall mean any close relationship of a personal nature than can be considered to affect the professional objectivity of the employee, such as a family relationship, an amorous relationship, or a business or professional relationship arising from a personal activity.
  - c. "Conflict of Interest" shall mean:
    - (1) Any conflict between the personal activities of the employee and the public interests of the University, the Board of Trustees, or the State of Colorado, including conflicts of interest specified under Colorado Statutes;
    - (2) Any conflict between a personal activity and the full and effective performance of the employee's duties and obligations to the University; or
    - (3) Any conflict or appearance of conflict between a personal relationship and the exercise of unbiased professional judgment in performance of the employee's institutional responsibilities or obligations.
    - (4) Conflicts of Interest Prohibited: Disclosure Required.

5. Conflicts of interest are prohibited. Employees are responsible for disclosing and resolving conflicts of interest, working with their supervisors and other University officials.
6. Written Report of Personal Activities
  - a. Any employee who proposes to engage in any compensated personal activity, or any other personal activity which the employee should reasonably conclude may create a conflict of interest, shall report to the employee's supervisor, in writing, the details of such proposed activity prior to engaging therein.
  - b. The report shall include, where applicable, the name of the employer or other recipient of services; the funding source; the location where activity will be performed; the nature and extent of the activity; and any intended use of University facilities, equipment, or services.
  - c. A new report shall be submitted for personal activity previously reported at:
    - (1) The beginning of each semester for outside activity of a continuing nature; and
    - (2) Such time as there is a significant change in the outside activity (nature, extent, funding, etc.).
  - d. The reporting provisions of this section shall not apply to activities performed wholly during a period in which the employee has no appointment with the University.
  - e. Upon receipt of the employee's report, the supervisor shall consult with the appropriate vice president and the University attorney. If the supervisor is a vice president, s/he will consult with the President or the President concludes that a conflict of interest exists, the employee will be directed to cease and desist the personal activity that created the conflict. Appropriate disciplinary action may also be initiated in accordance with University procedures.

7. Use of University Resources

An employee engaging in any personal activity shall not use the facilities, equipment, or services of the University in connection with such outside activity without prior approval of the President or representative. Approval for the use of University facilities, equipment, or services may be conditioned upon reimbursement for the use thereof.

8. No University Affiliation

Any employee engaging in personal activity shall take reasonable precautions to ensure that the outside employer or other recipient of services understands that the employee is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson of the University.

## **X. COMPLAINTS**

### **A. General Policies**

1. The most satisfactory procedure for resolving problems is discussion between the persons involved in the matter at the lowest level possible before filing any formal complaint. Such persons, and other affected individuals, should reason together to identify problems, develop understanding, and reconcile differences before they develop into formal complaints.
2. A Complaint Committee is available at any stage (including before a complaint is filed) to provide counsel and assistance to the employee (see below). Use of the Committee is optional on the part of the employee.
3. Complaint Records shall be placed in the employee's personnel file and held as confidential, to the fullest extent permitted by the Colorado Open Records Act. Meetings of the Complaint Committee shall be closed to all except committee members and the affected employee.
4. Other Procedures
  - a. Disciplinary actions; termination of faculty due to cause, reduction in force, or non-renewal; and reassignment and termination of administrative personnel are discussed in this Handbook.
  - b. Allegations of discrimination must be addressed to the University's Equal Opportunity Office.
5. The University will not retaliate against a complaining individual for making a good-faith complaint under this Section. This policy shall not be used to bring frivolous or malicious complaints. Disciplinary actions may be taken against any person bringing a complaint in bad faith.

### **B. Complaint Procedure**

1. Definitions and Policies Applicable to the Complaint Procedure
  - a. "Complaint" means a claim by an affected professional employee of improper, unfair, or arbitrary treatment and is not a matter for which an alternative method of review is prescribed. This complaint procedure is intended to address complaints by professional personnel concerning treatment by supervisors acting in an official capacity. It is not intended to address disputes of any kind between professional personnel. However, assistance and guidance in resolving such disputes may be provided by the appropriate Complaint Committee.
  - b. "Improper" means inconsistent with an established fact, or with a rule that is not a University policy.
  - c. "Unfair" means unjustifiably biased or prejudiced.
  - d. "Arbitrary" means without any rational basis.

- e. Matters of academic judgment relative to reappointment, tenure or promotion, post-tenure review, proposals, awards, grants, honors, and recognition, etc., are not subject to review.
- f. “Respondent” means the party who is alleged to have treated the complainant in an arbitrary, unfair or improper manner.
- g. Failure at any step to communicate the decision in writing within the specified time limit shall permit the employee to proceed to the next step.
- h. Failure by an employee to give written notice of appeal to the next step within the specified time limits shall terminate the process and the case will be deemed closed.
- i. A complaint may be withdrawn at any time by the employee by filing a written withdrawal with the individual responsible for the step of the process that is active at the time.
- j. During any part of this complaint process, an employee may represent him/herself with or without an advisor, or may be represented by any other person except a person with legal or paralegal training.
- k. Prior to September 1 each year, the Office of Equal Opportunity shall prepare a report of the dispositions of all complaints initiated during the prior academic year. This report shall be prepared without names of the concerned parties and shall be submitted to the Faculty Senate, the Deans, the Council of Administrators, the University Vice Presidents, and the President.

## 2. Filing a Complaint

### a. Step 1

- (1) A professional employee has 30 calendar days from the time the employee knew, or reasonably should have known, of the occurrence that gave rise to the complaint, to notify the respondent and initiate an informal discussion for the purpose of resolving the complaint.
- (2) If the employee is dissatisfied with the results of the informal discussion, the complainant must file a written Notice of Complaint. The complainant is required to file the Notice of Complaint with the respondent’s supervisor (the Step 1 reviewer) and send a copy to the University’s Office of Equal Opportunity. Such Notice shall be filed no later than 60 calendar days from the date of the occurrence that gave rise to the complaint. The Step 1 Reviewer shall investigate the complaint and respond in writing to the complainant and the respondent within 30 calendar days after receipt of the Notice of Complaint.
- (3) In the Notice of Complaint, the employee (the Complainant) shall include a comprehensive and detailed statement of the facts and circumstances that form the basis of the complaint, and shall include a statement of the remedies requested.

### b. Additional Steps



- (1) In the event that the complainant is unsatisfied with the Step 1 reviewer's response, the complainant may submit a written Notice of Appeal to the immediate supervisor of the Step 1 reviewer. In the Notice of Appeal, the complainant shall include a detailed statement of the errors and other deficiencies in the Step 1 reviewer's response.
- (2) The Notice of Appeal must be submitted no more than five working days after receipt of the Step 1 reviewer's response to the complaint.
- (3) The response to an appeal (Step 2) will be issued no more than five working days after receipt of the Notice of Appeal.
- (4) No appeal is allowed beyond Step 2.

### C. Complaint Committee

#### 1. Composition of Complaint Committee

##### a. Faculty Committee

- (1) The Faculty Complaint Committee will be a standing subcommittee of the Faculty Welfare Committee of the Faculty Senate and will deal with faculty complaints. It shall be composed of eight members as follows:
  - (a) Two faculty members from the College of Business shall be elected for two-year terms by the College of Business probationary/tenured faculty.
  - (b) Two faculty members from the College of Professional Studies shall be elected for two-year terms by the College of Professional Studies probationary/tenured faculty.
  - (c) Three faculty members from the College of Letters Arts and Sciences shall be elected for two-year terms by the College of Letters, Arts, and Sciences probationary/tenured faculty.
  - (d) One senator from the Faculty Welfare Committee shall be elected for a one-year term by the Faculty Welfare Committee.
- (2) Elections to this Committee shall be conducted prior to the end of Spring Semester.
- (3) Terms of office shall commence Fall Semester of each year.
- (4) The Chair will be chosen by the Complaint Committee at its first regular meeting.

##### b. Administrators' Complaint Committee

- (1) The Administrator's Complaint Committee is to be a subcommittee of the Council of Administrators. It will deal with administrators' grievances and complaints. It shall be composed of three members as follows:
  - (a) One administrator from Student Affairs
  - (b) One administrator from Administration and Finance, the President's staff or Institutional Advancement

- (c) One administrator from Academic Affairs
- (2) Elections to this Committee shall be conducted by the Council of Administrators prior to the end of Spring Semester.
- (3) Members shall be elected for a one-year term by the personnel from the area they are to represent.
- (4) Terms of office shall commence on July 1 of each year.
- (5) The Chair will be selected by the Complaint Committee at its first regular meeting.

## **XI. POLICIES AND PROCEDURES FOR LEAVES OF ABSENCE--FACULTY**

### **A. Sabbatical Leave**

#### **1. Eligibility**

Full-time faculty members, except temporary personnel, are eligible for a paid sabbatical leave when they have completed seven academic years of continuous service to the University. A maximum of one academic year per fiscal year may be accrued toward sabbatical leave eligibility. Credit toward eligibility may not be earned by service during summer sessions or mini-terms except when such service is the result of redistributed load.

Service accrued toward eligibility for a sabbatical leave shall be lost by interruption of employment with the University, but accrued service shall not be lost because of a leave without pay or non-employment during summer sessions. Similarly, a faculty member terminated due to a reduction in force and subsequently rehired shall be reinstated without a break in service and without loss of service accrued toward sabbatical leave eligibility. (However, the time that such faculty member is not employed by the University shall not count as service accrued toward sabbatical leave eligibility.)

No faculty member shall be eligible for or granted more than one sabbatical leave every seven academic years. A faculty member who has been granted a sabbatical shall not be eligible to take a second or subsequent sabbatical until the beginning of the sixth academic year following the academic year in which the faculty member returned from his or her last sabbatical.

Eligibility for a sabbatical leave does not guarantee that a leave will be granted at the end of the seven academic year period or at any time thereafter.

#### **2. Accountability**

Every participant in the procedures for applying for, approving and granting sabbatical leaves under Subsection A of this Chapter is responsible for ensuring that each sabbatical leave complies with C.R.S. §23-5-123, and University policies. Any participant who receives, approves or grants a sabbatical leave knowingly that it is not authorized by Section 23-5-123 or University policies may be held personally liable for all salary, benefits or other compensation paid to the recipient by the University.

#### **3. General Provisions**

- a. Funding and FTE. The Provost shall set the FTE and approximate dollar budget for the support of sabbatical leaves for each year.
  - b. Application deadlines. Sabbatical application deadlines will be identified in the academic calendar.
  - c. Purpose of Sabbatical Leaves
    - (1) Sabbatical leave is granted to promote professional renewal and advancement for faculty who have demonstrated a commitment to the University.
    - (2) Sabbatical leaves are intended to provide the recipients an opportunity to engage in activities that develop and enhance their expertise, thereby supporting academic excellence. As such, sabbaticals are granted judiciously by the Trustees, for the purposes of benefiting the individual faculty member, the department, the University, and the students, and promoting excellence at the University.
  - d. Examples of Sabbatical Leaves include, but are not limited to, the following (not in rank order):
    - (1) Scholarly research;
    - (2) Additional training retraining, or study of value to the University;
    - (3) Writing a book or other document based on the applicant's research or special talents;
    - (4) Writing a textbook for use in the classroom;
    - (5) Developing a process or procedure of educational benefit to the University or the community;
    - (6) Creating an educational activity of service to the University or the community;
    - (7) Teaching and/or conducting research or program development at another educational institution in the U.S. or abroad;
    - (8) Professional or artistic development or creative work;
    - (9) Technology development or training and application to courses;
    - (10) Visiting other institutions, presenting programs, and analyzing their curricula;
    - (11) Innovative projects related to academic advising;
    - (12) Innovative projects, such as joint endeavors with community colleges or other academic institutions; and,
    - (13) Research projects with application to instruction.
4. Criteria for Evaluating Sabbatical Leave Proposals
- a. Submission of all information required by subsection 6, below, "Components of a Proposal for Sabbatical Leave";

- b. The quality of a faculty member's proposed activities while on sabbatical, including but not limited to:
    - (1) Feasibility and overall value of proposed goals and timeline;
    - (2) Availability of resources necessary to complete the proposed activities; and,
    - (3) Probability that the applicant will complete the proposed activities, based upon the background, previous experience, and accomplishments demonstrated by the vitae of the applicant and others who will be involved in the proposed activities;
  - c. University and/or external individuals who will be involved with the faculty member in support of the proposed activities; and,
  - d. The benefits to be received from such activities by the faculty member, the University, the department, and the students.
5. Faculty Senate Professional Leave Committee
- a. The Professional Leave Committee will be a permanent unit of the Faculty Senate.
  - b. Membership of the faculty Senate professional leave unit is established by the Senate by-laws.
  - c. The chair will be chosen by the Professional Leave Unit at its first regular meeting.
  - d. Department chairpersons are not eligible to serve on the committee.
  - e. The committee may aid applicants by, and only by, an announced workshop, but in no case shall members be advocates for their College/School's applicants.
6. Components of a Proposal for Sabbatical Leave
- A proposal for sabbatical leave must contain:
- a. Applicant's current vita;
  - b. A written, detailed explanation of the proposed sabbatical including:
    - (1) A statement of goals and a detailed description of the activities planned to achieve the goals;
    - (2) A description of the purpose, objectives and expected outcome of the activities;
    - (3) The places where the activities will occur;
    - (4) The timeline for the completion of each activity and the accomplishment of each objective (proposals for full academic year sabbaticals will include timelines for the completion of activities and the accomplishment of objectives in each semester of the academic year);
    - (5) Names of other people or organizations involved in the activities, including appropriate documentation, such as letters of support;

- (6) A statement describing how the proposed activities will result in the faculty member's professional growth, how the sabbatical will enhance the institution's reputation and the students' educational experience at the University, and how it will increase the overall level of knowledge in the faculty member's area of expertise;
- (7) A description of the proposed budget and budgetary support, such as grants, scholarships, and outside employment. Any financial arrangements must be approved by the President;
- (8) Evidence that support arrangements have been made or will be made such as travel and logistical arrangements; and,
- (9) The final report(s) from previously awarded sabbaticals.

## 7. Application Procedure

- a. Review by the Chair. The proposal for sabbatical leave shall be submitted to the chair of the applicant's department.
  - (1) If the department chair recommends approval of the proposal, it shall be forwarded to the dean;
  - (2) If the chair does not recommend approval of the proposal, the chair must notify the faculty member in writing of non-approval within three working days, and the faculty member may, by written request to the chair, have the proposal forwarded to the dean;
  - (3) Included with any forwarded proposal shall be evaluative comments and any additional information the chair may deem appropriate to aid the dean, the Provost, and the Professional Leave Committee in their review and evaluation of the proposal; and,
  - (4) It is the responsibility of the department chair, working with the dean, to assure that the professional responsibilities of the faculty on leave can be fulfilled by either part-time support, temporary replacement, personnel exchanges, or other means.
- b. Review by the Dean
  - (1) If the dean recommends approval of the proposal, it shall be forwarded to the Provost;
  - (2) If the dean does not recommend approval of the proposal, the dean must notify the faculty member in writing of non-approval within three working days, and the faculty member may, by written request to the dean, have the proposal forwarded to the Provost; and,
  - (3) Included with any forwarded proposal shall be the evaluative comments and additional information provided by the chair and any evaluative comments and additional information that the dean deems appropriate to aid the Provost in his or her review and evaluation of the proposal.
- c. Review by the Faculty Senate Professional Leave Unit.

- (1) The Provost shall provide copies of the proposals and other documentation to the members of the Faculty Senate Professional Leave Unit;
  - (2) The committee members will individually review and evaluate the proposals according to the criteria;
  - (3) Committee members will discuss the proposals only within the committee;
  - (4) On the basis of each committee member's evaluation, the committee will prepare a composite evaluation for each proposal; and,
  - (5) The committee will list the proposals in a recommended order of priority, based on the committee evaluations. The chair will sign the proposals, and submit the proposals, the composite evaluation for each proposal and the priority list to the Provost.
- d. Review by the Provost
- (1) The Provost will review the employment records of faculty applicants for sabbatical leave to verify eligibility;
  - (2) The Provost will review the recommendations of the Professional Leave Unit and meet with the committee to discuss any differences;
  - (3) The Provost may confer with the deans regarding departmental and/or College/School recommendations; and,
  - (4) The Provost shall recommend to the President of the University which proposals shall be funded and the extent of that funding.
- e. Review by the President
- (1) The President shall review the proposals recommended by the Provost and may either deny or approve the proposed sabbatical;
  - (2) Only proposals approved by the President shall be recommended to the Trustees for final action. The President will notify the committee and applicant which proposals he or she intends to recommend to the Trustees; and,
  - (3) The Trustees have the final authority to approve or deny sabbatical leaves.

## 8. Post-Sabbatical Reports

A written report shall be provided to the Provost and Dean within 30 days after completion of the sabbatical. The report shall include a summary of:

- a. The faculty member's activities while on sabbatical;
- b. The benefits the faculty member derived from the leave, in sufficient detail to permit a determination whether the faculty member achieved the goals specified in the sabbatical plan; and,
- c. Completion of objectives and activities as stated in the approved timeline as required by the sabbatical.

## 9. Sabbatical Evaluation

- a. The Provost will evaluate the sabbatical and provide this rating to the faculty member's chair in a timely manner.
- b. The evaluation rating will follow the rating scale in effect at the time of the Sabbatical Leave.
- c. For a spring semester sabbatical, the faculty member will remain responsible for timely submission of the Sabbatical Evaluation.
- d. For a spring semester sabbatical, the faculty member in a post-tenure review year will remain responsible for timely submission of the post-tenure review dossier.
- e. For a full year sabbatical, if applicable, the faculty member will submit a post-tenure dossier within 30 calendar days after the last scheduled day for spring final exams unless a later date and merit pay implementation was agreed in writing when the leave was approved.

#### B. Administrative Leave – Faculty

1. The President may authorize administrative leave with full or partial pay that, in the judgment of the President, is beneficial to the University or essential to the welfare of the individual. Such leaves include, but are not limited to, military leave, bereavement leave, jury duty leave, disciplinary or investigative leave not to exceed a reasonable period of time, and leave of not more than 60 calendar days to engage in professional activities.
2. Administrative leave approvals must address how and when the requirements for the annual evaluation, and when appropriate, post-tenure review, will be met.

#### C. Accountability

Every participant in the procedures for applying for, approving and granting sabbatical or administrative leaves is responsible for ensuring that each sabbatical or administrative leave complies with C.R.S. §23-5-123 and University policies. Any participant who receives, approves or grants a sabbatical or administrative leave knowing that it is not authorized by C.R.S. §23-5-123 or University policies may be held personally liable for all salary, benefits or other compensation paid to the recipient by the University or Trustees.

#### D. Leave Without Pay (Excluding Unpaid Leave Authorized by The Family and Medical Leave Act)

##### 1. Eligibility

- a. Professional personnel may be granted a leave without compensation to study, to conduct research, to travel in connection with study or research, to hold a temporary appointment at another institution of higher learning or in government service, for medical reasons, or to engage in other activities, which are deemed acceptable by the President.
- b. Leaves without compensation for purposes indicated above may be renewed. Normally, leave without pay may not exceed two successive years.

- c. Leave without pay to campaign and to serve in a state or national elective or appointive office may be granted up to one year, and may be renewed annually.

## 2. Procedures for Application

- a. A written proposal must be prepared and include a section specifying plans for the leave period. The nature and scope of the proposed activities must be indicated, including location, time periods, and people and/or organizations involved. The proposal must describe how both the individual and the University will benefit, directly or indirectly, as a result of the proposed leave; and,
- b. The proposal should be submitted in a single copy through the department chair and dean, or director, to the appropriate vice president and forwarded to the President for final approval.
- c. The due date for unpaid leave applications each year will be established in the academic calendar. Applications submitted after that date will not be considered unless the late submission was demonstrably unavoidable: e.g., an offer to each abroad on a grant or award was not made until after the deadline expired.

## 3. Conditions of Employment upon Return

Conditions of employment to be in effect upon return from leave without pay must be agreed to in writing in advance of the leave by the individual and the University. At a minimum, agreement must be reached as to position, title, or rank, evaluation method and salary consideration upon return.

## 4. Unpaid Medical Leave

If an employee is on medical leave without pay for more than four months or one semester (whichever is less) no evaluation will be conducted and the employee will be ineligible for a merit increase in salary for that year.

## E. Leave and Short-term Disability Leave

- 1. General. Full-time professional personnel shall be granted 20 workdays of fully paid sick leave per fiscal year at the salary in effect at the time the sick leave is used. An additional 46 days of short-term disability leave per fiscal year is allowed if the employee provides documentation from a medical doctor that such leave is necessary due to a diagnosed medical condition, and satisfying the certification criteria. Leave beyond the 66 workdays shall be taken as unpaid personal medical leave. If a professional either has exhausted both his/her paid sick leave/short-term disability leave and unpaid personal medical leave; or has exhausted his/her paid sick leave/long-term disability leave, and does not qualify for unpaid personal medical leave, he/she may apply for leave without pay. Sick leave and short-term disability leave do not accrue through the year.
  - a. Notice. If the sick leave/short-term disability leave is foreseeable based on planned medical treatment, the employee shall give not less than 30 days notice before the date his/her leave is scheduled to begin or such notice as is practicable if the date of treatment requires the leave to begin in less than 30 days. In either event, subject to the approval of the employee's physician, the employee shall



make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the University.

b. Certification

- (1) Any employee who takes sick leave for more than ten consecutive work days shall furnish a certificate from his/her physician stating:
  - (a) that the employee is unable to perform the functions of his/her position;
  - (b) the date on which the serious health condition commenced;
  - (c) the probable duration of the condition; and
  - (d) the appropriate medical facts within the knowledge of the health care provider regarding the condition.
- (2) Any employee requesting sick leave on an intermittent or reduced schedule shall furnish the additional certificates required upon request.
- (3) The University may require employees on sick leave/short-term disability leave to provide re-certification of the foregoing matters on a reasonable basis.
- (4) An employee who seeks to return to work following four or more consecutive calendar weeks of sick leave/short-term disability leave shall furnish the University with a certificate from his/her physician stating that the employee is able to resume work.
- (5) The certification requirements shall be construed and applied in accordance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

An employee on sick leave/short-term disability leave at the close of the fiscal year may use the remainder of his/her unused sick leave/short-term disability leave in the new fiscal year for consecutive work days missed due to the same illness. Such employee will not be granted sick leave/short-term disability leave for the next fiscal year until the employee returns to work following certification by his/her physician that employee is able to resume work.

2. Family Leave. An employee may use up to 20 workdays of the paid sick leave for the purpose of caring for a sick child, parent, spouse or other member of the employee's household who relies on the employee as his or her primary caregiver. Family leave beyond the 20 days shall be taken as family medical leave.
  - a. Notice. If the family leave is foreseeable based on planned medical treatment, the employee shall give not less than 30 days notice before the date the leave is scheduled to begin or such notice as is practicable if the date of treatment requires the leave to begin in less than 30 days. In either event, subject to the approval of the family member's physician, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the University.
3. No Pay for Sick Leave Upon Termination. Employees whose employment by the University is voluntarily or involuntarily terminated shall not be entitled to any compensation whatsoever for unused sick leave.

- F. Family and Medical Leave Act (FMLA) of 1993, to include: Parental Leave, Family Medical Leave, Personal Medical Leave, and Military Family Leave.

The following policies are intended to implement the Family and Medical Leave Act of 1993, P.L. No. 103-3, 107 Stat. 6 (1993) (the “Act”), and shall be construed accordingly. The Act shall supersede any policy that is inconsistent with its legal requirements. Some detailed provisions of the Act have been omitted from these policies, but shall be deemed to be included herein by reference. Personnel seeking additional information about the Act are invited to refer to its complete text, which is on file in University personnel or AA/EEO offices.

1. Eligibility. Professional personnel (“employees”) are eligible for parental, family medical and personal medical leave under the Act and this section if they have been employed by the University for:
  - a. at least 12 months; and
  - b. worked at least 1,250 service hours during the previous 12-month period.
2. Types of Leave
  - a. Parental Leave. Employees may take parental leave to care for their children following birth or to care for children placed with them for adoption or foster care.
  - b. Family Medical Leave. Employees may take family leave to care for certain family members who have a serious health condition. (A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical care facility; or continuing treatment by a health care provider. “Health care provider” means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery [as appropriate] by the State in which the doctor practices or any other person determined by the Secretary of the United States Department of Labor to be capable of providing health care services.)

Family leave may be taken to care for the following family members:

    - (1) biological children, adopted children, foster children, stepchildren, legal wards, or other children to whom the employee stands in loco parentis if the children are under 18, or, if 18 or over, if the children are incapable of self-care because of mental or physical disabilities;
    - (2) biological parents or persons who stood in loco parentis to the employee when the employee was an adopted child, foster child, stepchild or ward (a “parent”);
    - (3) a spouse, and
    - (4) any other member of the employee’s household who relies on the employee as his or her primary caregiver. (Collectively, “family members”)

- c. **Personal Medical Leave.** Employees may take personal medical leave if they have serious health conditions that make them unable to perform the functions of their positions.
- d. **Military Family Leave.** Employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. Military Family Leave allows an eligible employee who is the spouse, son, daughter, parent or “next-of-kin” of a covered service member with a serious injury or illness to take up to a total of 26 work weeks of unpaid leave during a “single 12-month period” to provide care for the veteran. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy.  
**Reemployment Rights:** You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and: you ensure that your employer receives advance written or verbal notice of your service; you have five years or less of cumulative service in the uniformed services while with that particular employer; you return to work or apply for reemployment in a timely manner after conclusion of service; and you have not been separated from service with a disqualifying discharge or under other than honorable conditions. If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

### 3. Length of Leaves

- a. An employee is entitled to a total of up to 12 workweeks of leave in each state fiscal year (July 1-June 30). The 12 workweeks may be taken in whole or in part of parental leave, family medical leave or personal medical leave.
  - b. Leave taken for any of these purposes shall be subtracted from the total of 12 workweeks of unpaid leave (or any remaining, unused portion thereof) to which the employee is entitled under the Act. (For example, an employee who takes six workweeks of parental leave may take only six workweeks of family medical leave during the same fiscal year.)
4. **Both Spouses Employed by the University.** If two spouses are employed by the University, parental and family medical leave shall be further limited as follows:
- a. **Parental Leave.** The aggregate leave to which both spouses are entitled is limited to 12 workweeks during a fiscal year.

- b. Family Medical Leave. When family medical leave is taken to care for a parent, the aggregate leave to which both spouses are entitled is limited to 12 workweeks during a fiscal year.

In all other cases, each employee-spouse is entitled to a total of 12 workweeks of leave in each fiscal year.

- 5. Unpaid Leave; Substitution of Paid Leave. Parental, family medical and personal medical leave shall be unpaid. However, employees either may or shall substitute unused, paid sick leave for all or a portion of their unpaid leave as provided in the following subsections:

- a. Family Medical Leave. Employees who have unused, paid sick leave may substitute up to ten days of paid sick leave for all or a portion of their family medical leave. Employees who elect to substitute paid sick for family medical leave must first use their ten days of sick leave before taking unpaid family medical leave.
- b. Personal Medical Leave. Employees with unused, paid sick leave shall substitute their paid sick leave for their personal medical leave. Employees must use all of their accrued sick leave before taking unpaid leave.

Paid sick leave substituted for unpaid parental, family, or personal medical leave shall be subtracted from the total of 12 work weeks of unpaid leave (or any remaining, unused portion thereof) to which the employee is entitled under the Family and Medical Leave Act. For example, an employee who takes 60 workdays of paid sick leave may not take any unpaid parental, family medical or personal medical leave during the same fiscal year. Similarly, an employee who substitutes ten days of paid sick leave for family medical leave, may take only four work weeks of additional, unpaid family medical leave during the same fiscal year.

- 6. Leave Schedules. Employees taking parental, family medical or personal medical leave may take such leave during consecutive work weeks or on an intermittent or reduced leave schedule as provided below. (A “reduced leave schedule” means a leave schedule that reduces the usual number of hours per workweek or hours per workday.)
  - a. Parental Leave. Parental leave must be taken during consecutive workweeks.
  - b. Family Medical Leave and Personal Medical Leave. Family and personal medical leave may be taken on an intermittent or reduced leave schedule by agreement or if such schedule is certified to be medically necessary. However, if an employee requests an intermittent or reduced leave schedule that is foreseeable based on planned medical treatment, the University may temporarily transfer the employee to an alternative position for which he/she is qualified and which has equivalent pay and benefits if the alternative position will better accommodate the recurring periods of leave than the employee’s regular position.
- 7. Notice. Employees shall give the following notice before taking any periods of foreseeable parental, family medical or personal medical leave (including any substituted Annual Leave and/or sick leave).

- a. Parental Leave. An employee shall give not less than 30 days notice before the date his/her leave is scheduled to begin or such notice as is practicable if the date of birth or placement for adoption or foster care requires the leave to begin in less than 30 days.
  - b. Family or Personal Medical Leave. If the leave is foreseeable based on planned medical treatment, an employee shall give not less than 30 days notice before the date his/her leave is scheduled to begin or such notice as is practicable if the date of treatment requires the leave to begin in less than 30 days. In either event, subject to the approval of the family member or employee's health care provider, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the University.
8. Certification. Employees who request family or personal medical leave (including substituted Annual Leave and/or sick leave) shall provide timely certification from the family member's or employee's health care provider supporting the leave.
- a. Family Medical Leave. An employee taking family medical leave for more than ten consecutive work days shall furnish a certificate from the family member's health care provider stating:
    - (1) that the employee is needed to care for the family member;
    - (2) the estimated amount of time that the employee will be needed to care for the family member;
    - (3) the date on which the serious health condition commenced;
    - (4) the probable duration of the condition; and
    - (5) the appropriate medical facts within the knowledge of the health care provider regarding the condition.
  - b. Personal Medical Leave. An employee taking personal medical leave for more than ten consecutive work days shall furnish a certificate from his/her health care provider stating:
    - (1) that the employee is unable to perform the functions of his/her position;
    - (2) the date on which the serious health condition commenced;
    - (3) the probable duration of the condition; and
    - (4) the appropriate medical facts within the knowledge of the health care provider regarding the condition.
  - c. Additional Certification Required for Intermittent Leaves and Reduced Leave Schedules. An employee who requests intermittent family or personal medical leave or family or personal medical leave on a reduced leave schedule shall also furnish a certificate from the appropriate health care provider:
    - (1) Leave for Planned Medical Treatment. Stating the dates on which such medical treatment is expected to be given and the duration of such treatment; and/or

- (2) Family Medical Leave. Stating that the employee’s intermittent leave or leave on a reduced leave schedule is necessary for the care of the family member or will assist in his/her recovery and the expected duration of the intermittent leave or reduced leave schedule.
  - (3) Personal Medical Leave. Stating the medical necessity for and expected duration of the intermittent leave or leave on a reduced leave schedule.
  - d. Recertification. The University may require employees on family or personal medical leave to provide recertification of the foregoing matters on a reasonable basis.
  - e. Certification of Ability to Return to Work. An employee seeking reinstatement to his/her former position after a period of four or more consecutive calendar weeks of personal medical leave (including substituted sick leave) shall furnish the University with a certificate from the employee’s health care provider stating that the employee is able to resume work.
  - f. Compliance with Rehabilitation and Americans with Disabilities Acts. The certification requirements of this subsection shall be construed and applied in accordance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act.
9. Reporting. The University may require employees on parental leave, family medical leave or personal medical leave to report periodically on their status and intentions regarding their return to work.
10. Insurance. For the purposes of this paragraph, “insurance” means the Trustees’ group health, dental, life, and long-term disability insurance plans (if such plans exist).
- Employees who substitute accrued, paid Annual Leave and/or sick leave for all or a portion of their parental leave, family medical leave or personal medical leave shall, during the period of substituted leave, receive the same insurance coverage they would receive if they were taking Annual Leave or sick leave. Employees who take unpaid parental leave, family medical leave or a personal medical leave, or who exhaust the paid leave they substituted for a portion of such unpaid leave, shall receive the following insurance coverage during the period of their unpaid leave:
- a. Health and Dental Insurance. An employee on unpaid leave shall remain covered by the Trustees’ group health and dental insurance if he/she personally pays the periodic employee contributions required by the group health and dental plans. However, if the employee fails to return to work at the end of his/her leave, the employee shall be liable to the University for the employer contributions paid on his/her behalf unless such failure is due to the continuation, recurrence, or onset of a serious health condition affecting a family member or the employee or some other reason beyond his/her control.
  - b. Non-contributory Life and Long-term Disability Group Insurance. An employee on unpaid leave shall remain covered by the Trustees’ group life and long-term disability insurance if coverage for the duration of the leave is authorized by the Trustees’ group insurance policies. (A “non-contributory” group insurance plan is one to which employees are not required to make employee contributions.)

11. PERA. PERA service credits shall not accrue during periods of unpaid leave.
12. Seniority. Service Toward Completion of a Probationary Period. Seniority shall not accrue during periods of unpaid leave. Unpaid leave of one or more semesters' duration shall not be included in faculty members' probationary periods.
13. Reinstatement to Position Upon Return from Leave. Except as otherwise provided herein (authorizing the University to assign an employee on an intermittent or reduced leave schedule to an alternative position), and this subsection, employees returning from parental, family medical or personal medical leave (including substituted sick leave) shall be reinstated to the positions they held when the leave began.

Employees who are subject to automatic or discretionary termination while on leave due to the expiration or non-renewal of their contracts, or at-will or for cause dismissal, may be terminated on the date on which they would have been terminated if they had remained continuously employed during the leave period. Parental, family medical, and personal medical leave shall not defer the date of such employees' terminations nor need such employees be reinstated to their former positions when their leave periods end. Per 29 C.F.R. §825.216(a) ("An employee has no greater right to reinstatement or other benefits of employment than if the employee had been continuously employed during the [Family and Medical Leave Act] leave period. An employer must be able to show that the employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.").

An employer may also deny restoration to a "key" employee under certain circumstances. A key employee is a salaried, FMLA-eligible employee who is among the highest-paid 10 percent of all of the employer's employees within 75 miles. To deny restoration to a key employee, an employer must have determined that substantial and grievous economic injury to its operations would result from the restoration, must have provided notice to the employee that he or she is a key employee and that restoration will be denied, and must provide the employee a reasonable opportunity to return to work.

#### 14. Prohibited Acts

- a. The University shall not interfere with, restrain or deny the exercise of the attempt to exercise, any right provided by the Act or this subsection.
- b. The University shall not discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by the Act.
- c. Neither the University nor any employee shall discharge or in any other manner discriminate against any individual because such individual:
  - (1) has filed any charge or has instituted or caused to be instituted any proceeding under or related to the Act;
  - (2) has given, or is about to give, any information in connection with any inquiry or proceeding relative to any right provided by the Act; or

(3) has testified, or is about to testify, in any inquiry or proceeding relative to any right provided by the Act.

#### G. Approval of Leaves

Sabbatical leaves, faculty professional development leaves, leaves without pay and administrative leaves shall be approved by the President. The President may sub-delegate the power to approve sick, Annual Leave and unpaid parental, family medical and personal medical leaves to appropriate personnel. Administrative leaves in excess of ten working days shall be reported to the Board.

#### H. Exceptions

If the strict application of a provision of this Section relating to sick, Annual Leave, and unpaid parental, family medical and personal medical leave leads in a specific case to an unreasonable and inequitable result which is plainly inconsistent with the intent of the leave policies or the Family and Medical Leave Act of 1993, the President may waive or modify the application of such provision as necessary to achieve the intended result.

## **XII. POLICIES AND PROCEDURES FOR LEAVES OF ABSENCE – ADMINISTRATORS**

### A. Administrative Leave – Administrators

1. The President may authorize administrative leave with full or partial pay that, in the judgment of the President, is beneficial to the University or essential to the welfare of the individual. Such leaves include, but are not limited to, military leave, bereavement leave, jury duty leave, disciplinary or investigative leave not to exceed a reasonable period of time, and leave of not more than 60 calendar days to engage in professional activities.
2. Administrative leave approvals must address how and when the requirements for the annual evaluation, and when appropriate, post-tenure review, will be met.

### B. Accountability

Every participant in the procedures for applying for, approving and granting administrative leaves is responsible for ensuring that each sabbatical or administrative leave complies with C.R.S. §23-5-123 and University policies. Any participant, who receives, approves or grants administrative leave knowing that it is not authorized by C.R.S. §23-5-123 or University policies may be held personally liable for all salary, benefits or other compensation paid to the recipient by the University.

### C. Leave Without Pay (Excluding Unpaid Leave Authorized by The Family and Medical Leave Act)

#### 1. Eligibility

Professional personnel may be granted a leave without compensation to study, to conduct research, to travel in connection with study or research, to hold a temporary appointment at another institution of higher learning or in government service, for



medical reasons, or to engage in other activities, which are deemed acceptable by the President.

Leaves without compensation for purposes indicated above may be renewed. Normally, leave without pay may not exceed two successive years.

Leave without pay to campaign and to serve in a state or national elective or appointive office may be granted up to one year, and may be renewed annually.

## 2. Procedures for Application

- a. A written proposal must be prepared and include a section specifying plans for the leave period. The nature and scope of the proposed activities must be indicated, including location, time periods, and people and/or organizations involved. The proposal must describe how both the individual and the University will benefit, directly or indirectly, as a result of the proposed leave; and,
- b. The proposal should be submitted in a single copy through the department chair and dean, or director, to the appropriate vice president and forwarded to the President for final approval.
- c. The due date for unpaid leave applications each year will be established in the academic calendar. Applications submitted after that date will not be considered unless the late submission was demonstrably unavoidable: e.g., an offer to teach abroad on a grant or award was not made until after the deadline expired.

## 3. Conditions of Employment upon Return

Conditions of employment to be in effect upon return from leave without pay must be agreed to in writing in advance of the leave by the individual and the University. At a minimum, agreement must be reached as to position, title, or rank, evaluation method and salary consideration upon return.

## 4. Unpaid Medical Leave

If an employee is on medical leave without pay for more than four months or one semester (whichever is less) no evaluation will be conducted and the employee will be ineligible for a merit increase in salary for that year.

## D. Sick Leave and Short-Term Disability Leave

1. General. Full-time professional personnel shall be granted 20 workdays of fully paid sick leave per fiscal year at the salary in effect at the time the sick leave is used. An additional 46 days of short-term disability leave per fiscal year is allowed if the employee provides documentation from a medical doctor that such leave is necessary due to a diagnosed medical condition, and satisfying the certification criteria. Leave beyond the 66 workdays shall be taken as unpaid personal medical leave. If a professional has either exhausted both his/her paid sick leave/short-term disability leave and unpaid personal medical leave; or exhausted his/her paid sick leave/long-term disability leave, and does not qualify for unpaid personal medical leave, he/she may apply for leave without pay. Sick leave and short-term disability leave do not accrue through the year.

- a. Notice. If the sick leave/short-term disability leave is foreseeable based on planned medical treatment, the employee shall give not less than 30 days notice before the date his/her leave is scheduled to begin or such notice as is practicable if the date of treatment requires the leave to begin in less than 30 days. In either event, subject to the approval of the employee's physician, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the University.
- b. Certification
  - (1) Any employee who takes sick leave for more than ten consecutive work days shall furnish a certificate from his/her physician stating:
    - (a) that the employee is unable to perform the functions of his/her position;
    - (b) the date on which the serious health condition commenced;
    - (c) the probable duration of the condition; and
    - (d) the appropriate medical facts within the knowledge of the health care provider regarding the condition.
  - (2) Any employee requesting sick leave on an intermittent or reduced schedule shall furnish the additional certificates required upon request.
  - (3) The University may require employees on sick leave/short-term disability leave to provide re-certification of the foregoing matters on a reasonable basis.
  - (4) An employee who seeks to return to work following four or more consecutive calendar weeks of sick leave/short-term disability leave shall furnish the University with a certificate from his/her physician stating that the employee is able to resume work.
  - (5) The certification requirements shall be construed and applied in accordance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

An employee on sick leave/short-term disability leave at the close of the fiscal year may use the remainder of his/her unused sick leave/short-term disability leave in the new fiscal year for consecutive work days missed due to the same illness. Such employee will not be granted sick leave/short-term disability leave for the next fiscal year until the employee returns to work following certification by his/her physician that employee is able to resume work.

2. Family Leave. An employee may use up to 20 workdays of the paid sick leave for the purpose of caring for a sick child, parent, spouse or other member of the employee's household who relies on the employee as his or her primary caregiver. Family leave beyond the 20 days shall be taken as family medical leave.
  - a. Notice. If the family leave is foreseeable based on planned medical treatment, the employee shall give not less than 30 days notice before the date the leave is scheduled to begin or such notice as is practicable if the date of treatment requires the leave to begin in less than 30 days. In either event, subject to the approval of

the family member's physician, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the University.

3. No Pay for Sick Leave Upon Termination. Employees whose employment by the University is voluntarily or involuntarily terminated shall not be entitled to any compensation whatsoever for unused sick leave.

#### E. Annual Leave

Administrative personnel shall be entitled to four calendar weeks of Annual Leave annually, not to exceed 20 working days. An employee may carry over a maximum of 40 Annual Leave days from one fiscal year to the next. Annual Leave must be approved by a supervisor.

The University may use discretion in requiring a terminating Administrator to use Annual Leave time prior to the termination date or prior to the end of the fiscal year.

#### F. Proration of Annual Leave, Sick Leave Benefits

Employees who have a contract for 0.50 FTE or more will be eligible to receive pro rata Annual Leave and sick leave benefits.

#### G. Family and Medical Leave Act (FMLA) of 1993, to include: Parental Leave, Family Medical Leave, Personal Medical Leave, and Military Family Leave.

The following policies are intended to implement the Family and Medical Leave Act of 1993, P.L. No. 103-3, 107 Stat. 6 (1993) (the "Act"), and shall be construed accordingly. The Act shall supersede any policy that is inconsistent with its legal requirements. Some detailed provisions of the Act have been omitted from these policies, but shall be deemed to be included herein by reference. Personnel seeking additional information about the Act are invited to refer to its complete text, which is on file in University personnel or AA/EEO offices.

1. Eligibility. Professional personnel ("employees") are eligible for parental, family medical and personal medical leave under the Act and this section if they have been employed by the University for:
  - a. at least 12 months; and
  - b. worked at least 1,250 service hours during the previous 12-month period.
2. Types of Leave
  - a. Parental Leave. Employees may take parental leave to care for their children following birth or to care for children placed with them for adoption or foster care.
  - b. Family Medical Leave. Employees may take family leave to care for certain family members who have a serious health condition. (A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical care facility; or continuing treatment by a health care provider. "Health care provider" means a doctor of medicine or osteopathy who is authorized to practice medicine

or surgery [as appropriate] by the State in which the doctor practices or any other person determined by the Secretary of the United States Department of Labor to be capable of providing health care services.)

Family leave may be taken to care for the following family members:

- (1) biological children, adopted children, foster children, stepchildren, legal wards, or other children to whom the employee stands in loco parentis if the children are under 18, or, if 18 or over, if the children are incapable of self-care because of mental or physical disabilities;
  - (2) biological parents or persons who stood in loco parentis to the employee when the employee was an adopted child, foster child, stepchild or ward (a “parent”);
  - (3) a spouse, and
  - (4) any other member of the employee’s household who relies on the employee as his or her primary caregiver. (Collectively, “family members”)
- c. **Personal Medical Leave.** Employees may take personal medical leave if they have serious health conditions that make them unable to perform the functions of their positions.
- d. **Military Family Leave.** Employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. Military Family Leave allows an eligible employee who is the spouse, son, daughter, parent or “next-of-kin” of a covered service member with a serious injury or illness to take up to a total of 26 work weeks of unpaid leave during a “single 12-month period” to provide care for the veteran. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy.
- Reemployment Rights:** You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and: you ensure that your employer receives advance written or verbal notice of your service; you have five years or less of cumulative service in the uniformed services while with that particular employer; you return to work or apply for reemployment in a timely manner after conclusion of service; and you have not been separated from service with a disqualifying discharge or under other than honorable conditions. If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

### 3. Length of Leaves

- a. An employee is entitled to a total of up to 12 workweeks of leave in each state fiscal year (July 1-June 30). The 12 workweeks may be taken in whole or in part of parental leave, family medical leave or personal medical leave.
  - b. Leave taken for any of these purposes shall be subtracted from the total of 12 workweeks of unpaid leave (or any remaining, unused portion thereof) to which the employee is entitled under the Act. (For example, an employee who takes six workweeks of parental leave may take only six workweeks of family medical leave during the same fiscal year.)
4. Both Spouses Employed by the University. If two spouses are employed by the University, parental and family medical leave shall be further limited as follows:
- a. Parental Leave. The aggregate leave to which both spouses are entitled is limited to 12 workweeks during a fiscal year.
  - b. Family Medical Leave. When family medical leave is taken to care for a parent, the aggregate leave to which both spouses are entitled is limited to 12 workweeks during a fiscal year.

In all other cases, each employee-spouse is entitled to a total of 12 workweeks of leave in each fiscal year.

5. Unpaid Leave; Substitution of Paid Leave. Parental, family medical and personal medical leave shall be unpaid. However, employees either may or shall substitute accrued, paid Annual Leave and/or unused, paid sick leave for all or a portion of their unpaid leave as provided in the following subsections:
- a. Parental Leave. Employees who have accrued, paid Annual Leave may substitute such leave for a portion of their parental leave. Employees who elect to substitute paid Annual Leave for parental leave must use all of their accrued Annual Leave before taking unpaid parental leave.
  - b. Family Medical Leave. Employees who have unused, paid sick leave and/or accrued, paid Annual Leave may substitute up to ten days of paid sick leave and/or accrued paid Annual Leave for all or a portion of their family medical leave. Employees who elect to substitute paid sick and/or Annual Leave for family medical leave must first use their ten days of sick leave and then use all of their accrued Annual Leave before taking unpaid family medical leave.
  - c. Personal Medical Leave. Employees with unused, paid sick leave and/or accrued, paid Annual Leave shall substitute their paid sick leave and may substitute Annual Leave for their personal medical leave. Employees must use all of their accrued sick leave before taking substituted Annual Leave or unpaid leave.

Paid Annual Leave and/or sick leave substituted for unpaid parental, family, or personal medical leave shall be subtracted from the total of 12 work weeks of unpaid leave (or any remaining, unused portion thereof) to which the employee is entitled under the Family and Medical Leave Act. For example, an employee who takes 60 workdays of paid sick leave may not take any unpaid parental, family medical or personal medical leave during the same fiscal year. Similarly, an

employee who substitutes 30 days of Annual Leave for parental leave and ten days of paid sick leave for family medical leave, may take only four work weeks of additional, unpaid family medical leave during the same fiscal year.

6. Leave Schedules. Employees taking parental, family medical or personal medical leave (including any substituted Annual Leave and/or sick leave) may take such leave during consecutive work weeks or on an intermittent or reduced leave schedule as provided below. (A “reduced leave schedule” means a leave schedule that reduces the usual number of hours per workweek or hours per workday.)
  - a. Parental Leave. Parental leave must be taken during consecutive workweeks.
  - b. Family Medical Leave and Personal Medical Leave. Family and personal medical leave may be taken on an intermittent or reduced leave schedule by agreement or if such schedule is certified to be medically necessary. However, if an employee requests an intermittent or reduced leave schedule that is foreseeable based on planned medical treatment, the University may temporarily transfer the employee to an alternative position for which he/she is qualified and which has equivalent pay and benefits if the alternative position will better accommodate the recurring periods of leave than the employee’s regular position.
7. Notice. Employees shall give the following notice before taking any periods of foreseeable parental, family medical or personal medical leave (including any substituted Annual Leave and/or sick leave).
  - a. Parental Leave. An employee shall give not less than 30 days notice before the date his/her leave is scheduled to begin or such notice as is practicable if the date of birth or placement for adoption or foster care requires the leave to begin in less than 30 days.
  - b. Family or Personal Medical Leave. If the leave is foreseeable based on planned medical treatment, an employee shall give not less than 30 days notice before the date his/her leave is scheduled to begin or such notice as is practicable if the date of treatment requires the leave to begin in less than 30 days. In either event, subject to the approval of the family member or employee’s health care provider, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the University.
8. Certification. Employees who request family or personal medical leave (including substituted Annual Leave and/or sick leave) shall provide timely certification from the family member’s or employee’s health care provider supporting the leave.
  - a. Family Medical Leave. An employee taking family medical leave for more than ten consecutive work days shall furnish a certificate from the family member’s health care provider stating:
    - (1) that the employee is needed to care for the family member;
    - (2) the estimated amount of time that the employee will be needed to care for the family member;
    - (3) the date on which the serious health condition commenced;

- (4) the probable duration of the condition; and
  - (5) the appropriate medical facts within the knowledge of the health care provider regarding the condition.
- b. **Personal Medical Leave.** An employee taking personal medical leave for more than ten consecutive work days shall furnish a certificate from his/her health care provider stating:
- (1) that the employee is unable to perform the functions of his/her position;
  - (2) the date on which the serious health condition commenced;
  - (3) the probable duration of the condition; and
  - (4) the appropriate medical facts within the knowledge of the health care provider regarding the condition.
- c. **Additional Certification Required for Intermittent Leaves and Reduced Leave Schedules.** An employee who requests intermittent family or personal medical leave or family or personal medical leave on a reduced leave schedule shall also furnish a certificate from the appropriate health care provider:
- (1) **Leave for Planned Medical Treatment.** Stating the dates on which such medical treatment is expected to be given and the duration of such treatment; and/or
  - (2) **Family Medical Leave.** Stating that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the family member or will assist in his/her recovery and the expected duration of the intermittent leave or reduced leave schedule.
  - (3) **Personal Medical Leave.** Stating the medical necessity for and expected duration of the intermittent leave or leave on a reduced leave schedule.
- d. **Recertification.** The University may require employees on family or personal medical leave to provide recertification of the foregoing matters on a reasonable basis.
- e. **Certification of Ability to Return to Work.** An employee seeking reinstatement to his/her former position after a period of four or more consecutive calendar weeks of personal medical leave (including substituted sick leave) shall furnish the University with a certificate from the employee's health care provider stating that the employee is able to resume work.
- f. **Compliance with Rehabilitation and Americans with Disabilities Acts.** The certification requirements of this subsection shall be construed and applied in accordance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act.
9. **Reporting.** The University may require employees on parental leave, family medical leave or personal medical leave to report periodically on their status and intentions regarding their return to work.

10. Insurance. For the purposes of this paragraph, “insurance” means the Trustees’ group health, dental, life, and long-term disability insurance plans (if such plans exist).

Employees who substitute accrued, paid Annual Leave and/or sick leave for all or a portion of their parental leave, family medical leave or personal medical leave shall, during the period of substituted leave, receive the same insurance coverage they would receive if they were taking Annual Leave or sick leave. Employees who take unpaid parental leave, family medical leave or a personal medical leave, or who exhaust the paid leave they substituted for a portion of such unpaid leave, shall receive the following insurance coverage during the period of their unpaid leave:

- a. Health and Dental Insurance. An employee on unpaid leave shall remain covered by the Trustees’ group health and dental insurance if he/she personally pays the periodic employee contributions required by the group health and dental plans. However, if the employee fails to return to work at the end of his/her leave, the employee shall be liable to the University for the employer contributions paid on his/her behalf unless such failure is due to the continuation, recurrence, or onset of a serious health condition affecting a family member or the employee or some other reason beyond his/her control.
- b. Non-contributory Life and Long-term Disability Group Insurance. An employee on unpaid leave shall remain covered by the Trustees’ group life and long-term disability insurance if coverage for the duration of the leave is authorized by the Trustees’ group insurance policies. (A “non-contributory” group insurance plan is one to which employees are not required to make employee contributions.)

11. PERA. PERA service credits shall not accrue during periods of unpaid leave.

12. Seniority, Annual Leave and Service Toward Completion of a Probationary Period. Seniority and Annual Leave shall not accrue during periods of unpaid leave.

13. Reinstatement to Position Upon Return from Leave. Except as otherwise provided herein (authorizing the University to assign an employee on an intermittent or reduced leave schedule to an alternative position), and this subsection, employees returning from parental, family medical or personal medical leave (including substituted Annual Leave and/or sick leave) shall be reinstated to the positions they held when the leave began.

Employees who are subject to automatic or discretionary termination while on leave due to the expiration or non-renewal of their contracts, or at-will or for cause dismissal, may be terminated on the date on which they would have been terminated if they had remained continuously employed during the leave period. Parental, family medical, and personal medical leave shall not defer the date of such employees’ terminations nor need such employees be reinstated to their former positions when their leave periods end. (However, employees who substitute accrued, paid Annual Leave for unpaid leave may be terminated either when their paid Annual Leave is exhausted or on the date on which they would have been terminated, if they had not taken leave.) If such employees are terminated before their paid Annual Leave is exhausted, they will be compensated for their accrued unused Annual Leave. See 29 C.F.R. §825.216(a) (“An employee has no greater right to reinstatement or other



benefits of employment than if the employee had been continuously employed during the [Family and Medical Leave Act] leave period. An employer must be able to show that the employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.”).

An employer may also deny restoration to a “key” employee under certain circumstances. A key employee is a salaried, FMLA-eligible employee who is among the highest-paid 10 percent of all of the employer’s employees within 75 miles. To deny restoration to a key employee, an employer must have determined that substantial and grievous economic injury to its operations would result from the restoration, must have provided notice to the employee that he or she is a key employee and that restoration will be denied, and must provide the employee a reasonable opportunity to return to work.

#### 14. Prohibited Acts

- a. The University shall not interfere with, restrain or deny the exercise of the attempt to exercise, any right provided by the Act or this subsection.
- b. The University shall not discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by the Act.
- c. Neither the University nor any employee shall discharge or in any other manner discriminate against any individual because such individual:
  - (1) has filed any charge or has instituted or caused to be instituted any proceeding under or related to the Act;
  - (2) has given, or is about to give, any information in connection with any inquiry or proceeding relative to any right provided by the Act; or
  - (3) has testified, or is about to testify, in any inquiry or proceeding relative to any right provided by the Act.

#### H. Approval of Leaves

Leaves without pay and administrative leaves, including professional development leave for administrators, shall be approved by the President. The President may sub-delegate the power to approve sick, Annual Leave and unpaid parental, family medical and personal medical leaves to appropriate personnel. Administrative leaves in excess of ten working days shall be reported to the Board.

#### I. Exceptions

If the strict application of a provision of this Section relating to sick, annual leave, and unpaid parental, family medical and personal medical leave leads in a specific case to an unreasonable and inequitable result which is plainly inconsistent with the intent of the leave policies or the Family and Medical Leave Act of 1993, the President may waive or modify the application of such provision as necessary to achieve the intended result.

### **XIII. TRANSITIONAL RETIREMENT**

#### **A. Application**

1. Faculty who wish to apply for transitional retirement should submit the appropriate application form to the immediate supervisor by February 1 of the calendar year in which retirement is to begin in order to discuss arrangements and work assignments. Applications for transitional retirement are available in the personnel office.
2. Approval of applications for participation in the Transitional Retirement program is committed to the President's sole discretion.
3. The period of Transitional Employment shall be mutually agreed to by the Faculty member and the President, but may not exceed one fiscal year. The applicant and the President may mutually agree to an additional period or periods not to exceed one fiscal year each. Such extensions are committed to the President's sole discretion. The total period of Transitional Employment may not exceed three fiscal years and shall end no later than three calendar years from the date of the Faculty member's retirement. Employment automatically terminates at the end of the Transitional Employment period. The fact a Transitional Employment period has been agreed to or imposed shall not affect the at-will employment status of any employee.
4. PERA or ORP must approve the individual's application for benefits before he or she begins work and/or becomes entitled to any compensation under a transitional retirement contract.
5. An application for transitional retirement shall not be approved unless the Faculty member executes a release of the University and its Trustees, employees and agents from all claims in any way arising out of or relating to the Faculty member's employment with the University.

#### **B. Renewal of Employment Period**

1. Nothing in this Section shall or shall be construed to create a contractual or other legal right to renewal of a transitional employment for any additional period(s).
2. Although renewal of the initial transitional employment period for one or more additional period(s) is committed to the President's sole discretion, the President will give good faith consideration to requests for renewals. Factors to be considered by the President will include, but not be limited to:
  - a. The Trustees' annual resident instruction allocation to the University and the University's budgetary priorities;
  - b. The best interest of the affected program;
  - c. Recommendations of appropriate University officials (including for faculty, the Department Chair, Dean, and Provost);
  - d. The University's need for the transitional employee's continued service; and
  - e. The transitional employee's annual performance review(s) for preceding transitional employment periods.

### C. Duties, Rights, and Responsibilities During Employment Period

1. Transitional retirees shall not retain their tenure or other rights to continued employment or reemployment by the University. They shall, however, retain their academic rank, if any.
2. During their periods of transitional employment, transitional retirees shall remain subject to those provisions of this Handbook, which are not inconsistent with this section or with the terms of their transitional retirement contracts.
3. Transitional retirees shall perform the duties and undertake the responsibilities as specified in the transitional retirement employment contract.
4. Transitional retirees may serve on committees at the discretion of the dean or department chair.

### D. Salary

1. The salary for transitional retirees will be the percentage of the retiree's regular base salary for the year preceding retirement which corresponds to the contract FTE plus the corresponding percentage of any salary improvement given as part of the University's salary administration plan.
2. Salary improvement for additional transitional retirement contracts will be based on an annual review of performance of teaching and other duties agreed on the transitional contract consistent with the University evaluation procedures and annual salary administrative plan.

### E. Leave and Insurance Benefits

1. Sick leave time accruals will be prorated according to the contract FTE.
2. Transitional retirees on contracts for 0.50 FTE or more during any fiscal year are eligible to participate in the University's group life, health and dental insurance plans on the same terms and conditions that apply to non-retired employees.
3. Transitional retirees on contracts for less than 0.50 FTE during any fiscal year are eligible to participate in the University's retiree life, health and dental insurance plan, if available on the terms and conditions applicable to other retirees.

## **XIV. POLICIES RELATING TO EMPLOYEE AND STUDENT CONDUCT**

In addition to those policies set forth elsewhere in this Handbook, all University employees and students must adhere to the following policies. For employees, including faculty, adherence to these policies is a condition of employment, and failure to follow these policies constitutes cause for termination. The failure of a student to adhere to these policies may result in sanctions, up to and including expulsion.

### A. Harassment, Sexual Harassment and Violence

The University prohibits harassment against anyone (including any employee or student) based on the individual's race, color, gender, national origin, religion, disability, age, veteran or marital status, sexual orientation, or based on those aspects in an individual's relatives, friends or associates. Harassment means threats, intimidation or hostile acts.

Harassment also includes threats of violence against any individual or property of any individual. It is not the intent of this policy to inhibit the peaceful, free expression of ideas, which is an essential mission of the University.

Harassing an employee or student will lead to disciplinary action. In the case of employees, such discipline may include termination. In the case of students, such discipline may include termination. In the case of students, such discipline may include expulsion.

## 1. Sexual Harassment

The University prohibits any person, including employees, invitees, and students, from making unwelcome sexual advances, or requests for sexual favors, or any other unwelcome verbal or physical conducts of a sexual nature, where such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive work or educational environment; or when it is obvious or implied that submission to such conduct is a condition of an individual's employment or academic evaluation or will be used for the basis of any employment or academic decision (all such conduct is described in this policy as "Sexual Harassment").

The University does not tolerate Sexual Harassment in any form. No employee, invitee, or student should be subjected to unsolicited and unwelcome sexual overtures or behavior. No employee, invitee or student should be led to believe that any employment or academic opportunity or benefit will in any way depend on his or her cooperation with sexual demands or submission to an offensive sexual environment.

Members of the University community, whether faculty members or administrative staff, put academic and professional trust and ethics at risk when they engage in amorous romantic/sexual relationships with people whose academic and/or professional benefits and opportunities are, or appear to be, subject to their authority, supervision, or influence. Accordingly, the University prohibits such relationships, as well as any attempt to initiate or engage in such relationships. Any faculty member or administrator who engages in, or attempts to engage in, an amorous relationship with a student or subordinate shall report any such relationship or attempt to the EEO Officer.

Sexual harassment of an employee or student will lead to disciplinary action. In the case of employees, such discipline may include termination. In the case of students, such discipline may include expulsion.

Courts and administrative agencies generally draw a distinction between "quid pro quo" and "hostile environment" sexual harassment.

- a. Quid pro quo sexual harassment occurs when submission to, or rejection of, unwelcome sexual conduct is used as a basis for academic, educational or employment decisions affecting an individual. Quid pro quo sexual harassment is perpetrated by someone who is in a position of authority over the victim. Such harassment can occur between members of the opposite or same sexes. The law does not require the victim of sexual harassment to expressly notify the perpetrator that the conduct is unwelcome. Nor does the law require that the

perpetrator explicitly or deliberately base a decision on submission to or rejection of the conduct. Circumstantial evidence linking sexual conduct with an adverse or favorable employment or educational decision may justify a finding of quid pro quo sexual harassment by a jury, court, or administrative tribunal.

Examples of quid pro quo sexual harassment include, but are not limited to:

- (1) Direct propositions of a sexual nature that expressly or by implication link employment, work status, promotion, wage increases, course or program status, grades, letters of recommendation, or other tangible employment or educational actions to submission to sexual advances;
  - (2) Direct or implied promises or threats linking employment, work status, promotion, wage increases, course or program status, grades, letter of recommendation, or other tangible employment or educational actions to submission to sexual advances.
- b. Hostile environment sexual harassment is unwelcome conduct, generally, although not necessarily, of a sexual nature, that insults, demeans, ridicules or evinces hostility toward a person because of his or her gender, and that is sufficiently severe or pervasive that it alters the conditions of employment or education and creates an environment that a reasonable person would find hostile, intimidating, or offensive. In determining whether conduct has created an impermissibly hostile environment, all of the relevant circumstances must be considered. These circumstances include, but are not limited to, the severity and frequency of the conduct, its context, and whether it is physically threatening or humiliating.

Hostile environment sexual harassment can be perpetrated by students, faculty, staff, or administrators, and by some third parties authorized to use the University facilities, such as contract employees and service and repair personnel.

Hostile environment sexual harassment can occur between peers (co-workers and fellow students) and between members of the opposite or same sexes. The conduct must offend the victim, but it does not have to be offensive to everyone. Conduct that offends the victim but would not offend a reasonable person in his or her position does not constitute hostile environment sexual harassment. The test is whether, considering all of the circumstances, the conduct would offend a reasonable person in the victim's position. As with quid pro quo sexual harassment, a finding of hostile environment sexual harassment may be justified even if the perpetrator did not intend to offend the victim.

The following subparagraphs describe some, but not all, kinds of conduct that can constitute sexual harassment if they are sufficiently severe or pervasive to alter the conditions of employment or education and create an environment that a reasonable person would find hostile, intimidating, or offensive:

- (1) Sexual assault (nonconsensual physical contact of a sexual nature);

Note: Sexual assaults are also criminal acts. All sexual assaults should be reported to the local law enforcement agency with jurisdiction over the crime.

- (2) Direct propositions of a sexual nature;
- (3) Conduct which is offensive or humiliating in nature that includes, but is not limited to:
  - (a) Sexually explicit comments, statements, questions, jokes or anecdotes;
  - (b) Comments, statements, questions, jokes anecdotes, or innuendoes with sexual connotations;
  - (c) Display of sexually explicit materials in the workplace or classroom or their use in the classroom without a defensible academic purpose;
  - (d) Unnecessary touching, patting, hugging, or brushing against a person's body;
  - (e) Remarks about sexual activity or speculation about sexual experiences;
  - (f) "Wolf whistling," obscene sounds, or obscene gestures; or
  - (g) Non-sexual physical or verbal conduct which insults, demeans, ridicules or otherwise evinces hostility toward a person because of her or his sex. Examples include, but are not limited to, hazing pranks, horseplay, and ridicule.

## 2. Violence

The University has zero tolerance for violence. Any employee or student who is violent or who threatens to be violent in the University, whether toward any employee, invitee, student, or member of the public, will be subject to discipline. In the case of employees, such discipline may include termination. In the case of students, such discipline may include expulsion. All such conduct shall be reported to appropriate law enforcement authorities.

## 3. Reporting Harassment, Sexual Harassment or Violence

Employees and students have an important responsibility in the effective implementation of the University policies against harassment, sexual harassment and violence. Any employee or student, who believes that he or she has been subjected to harassment or sexual harassment, or who has witnessed anyone else connected with the University experience or commit such conduct, should promptly report such conduct to the appropriate office:

The University will promptly investigate a complaint or report of harassment, sexual harassment or violence made in accordance with this Subsection A.3. The University will make reasonable efforts to preserve the confidentiality of everyone involved with any harassment, sexual harassment or violence complaint and investigation. The University will protect complaining employees, students and witnesses against retaliation for making a harassment, sexual harassment or violence complaint or report pursuant to this subsection 3. This policy shall not be used to bring frivolous or malicious charges. Disciplinary action may be taken under the appropriate University policy against any person bringing a charge of harassment, sexual harassment or violence in bad faith.

4. The President shall formulate a policy for the reporting, investigation and disposition of complaints of harassment, sexual harassment, and violence, for inclusion in this Handbook.

#### B. Drug-Free Workplace Policy

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace or a state-owned vehicle by employees of the University is prohibited.

As a term of his or her employment, every University employee shall:

1. Abide by the terms of this Policy Statement; and
2. Notify the appropriate personnel officer of any criminal drug statute conviction for a violation occurring in the workplace or a state-owned vehicle no later than five days after such conviction.

Any employee who violates the provisions of this Policy Statement shall be subject to appropriate disciplinary action, which may include termination.

#### C. Policy Prohibiting the Unlawful Possession, Use or Distribution of Illicit Drugs and Alcohol

1. **Standards of Conduct.** The Trustees hereby prohibit the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees on the property or as part of the activities of the University.
2. **Disciplinary Sanctions.** Students and employees who violate the foregoing standards of conduct shall be subject to disciplinary sanctions which may include, without limitation, completion of an appropriate rehabilitation program, reprimand, probation, suspension from the University, expulsion from the University, corrective action, a fine, temporary adjustment of pay to a lower Step 1 in the assigned pay grade, demotion, reassignment with or without a salary adjustment, suspension with or without pay, and termination. Disciplinary sanctions shall be consistent with local, state and federal law and shall be administered in accordance with applicable student disciplinary procedures, state personnel system rules and procedures, and Handbook for Professional Personnel policies. In addition to the foregoing disciplinary sanctions, violations shall be reported to law enforcement authorities for criminal prosecution.
3. **Definitions**
  - a. "Illicit drugs" shall mean controlled substances listed in Schedules I-V of the Controlled Substances Act, 21 U.S.C. §812, and related federal regulations, 21 C.R.S. §§1308.11-1308.15, as they may be amended from time to time and Schedules I-V of title 12, article 22, part 3 of the Colorado Revised Statutes as it may be amended from time to time. "Illicit drugs" shall include controlled substance analogs as defined by federal and state law.
  - b. "Alcohol" shall mean any beverage containing not less than 0.5% ethyl alcohol by weight.

- c. "Property" shall mean any real or personal property owned, leased, chartered or occupied by the University including, but not limited to, motor vehicles, boats and aircraft.
  - d. "Activities" shall mean any act or event sponsored or participated in by the University; including its constituent administrative units and approved student organizations. Without limitation, "activities" shall include all intercollegiate and intramural athletic events; faculty, staff and student meetings, conferences, field trips, retreats and all other acts or events for which the University (including approved student organizations) pays expenses, or provides facilities, services, supplies or transportation.
 

"Activities" shall not include incidental work- or study-related activities which students or employees perform in their personal, off-campus residences (e.g., studying, class preparation, writing or reading) or purely social events, which are held off-campus and are organized or attended by students or employees solely in their personal capacities.
  - 4. Implementation. The University shall implement a drug and alcohol abuse prevention program which, at a minimum, meets the requirements of the Drug-Free Schools and Communities Act Amendments of 1989, 20 U.S.C. §1145(g), and shall review its program biennially to determine its effectiveness, implement changes if needed and ensure that the sanctions authorized by this policy are consistently enforced.
  - 5. Other Policies: This policy is supplemental to and does not supersede or repeal other related State policies, including the State of Colorado Substance Abuse Policy promulgated by the Governor.
- D. Policy Governing Electronic Mail and Other Electronic Communications; Policy Regarding the Retention, Archiving and Destruction of Records Kept Only in Digital or Miniaturized Form.

The University's policy is posted on its web site and incorporated herein by reference.

E. Policy on Intellectual Property

1. Copyright Policy

- a. Encouragement of Scholarly and Creative Work. In the course of teaching and professional development duties and other intellectual and administrative activity at the University, faculty, staff, student employees and others may create works that are protected by copyright. Federal copyright law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form. Copyrightable works or authorship include, among other categories, books, articles and other written works; musical and dramatic works; pictures, sculpture and other works of art; computer software; and electronic chip designs. Works created by faculty, staff, and student employees in the course of their responsibilities may be found in any of these categories. As a matter of fundamental policy, the Board of Trustees encourages the wide dissemination of scholarly and creative work produced by members of the University community, including copyrightable works.



b. **Ownership:** Under the Copyright Act, the copyright to work created by a person in the course of his or her employment belongs to the employer rather than to the individual creator. The Act provides, therefore, that works created by faculty members in the course of their teaching and professional development activities, and works created by staff members in the course of their jobs, are property of the University. In addition, policy has previously provided that works created by employees using institutional resources are the property of the University. However, to encourage members of the academic community to write and to publish what they wish, most colleges and universities have not asserted their claims of ownership to certain scholarly works. Instead, books, articles, lecture notes and outlines, computerized “courseware” and other forms of scholarly writing intended to fulfill the regular classroom teaching and professional development responsibilities of faculty have traditionally been treated as the property of the author, who is entitled to determine how the works are disseminated and to keep any income they produce. In recognition of this longstanding academic tradition, the University disclaims ownership of works by faculty, staff, and students, whether in traditional or nontraditional forms except in the following cases:

- (1) **Assigned Tasks.** The University will own the copyright to works created;
  - (a) by administrative/professional or classified staff members of the University in the course of their assigned duties or employment;
  - (b) by student employees in the course of their assigned duties (“student employees” includes students who work on a university-funded project, with or without academic credit); or
  - (c) by faculty members as part of an agreed assignment, when the assignment explicitly states that the work will be owned by the University.
- (2) **Outside Agreements and Consultant Agreements.** When copyrighted materials are developed by an investigator in the course of sponsored research funded by an outside agency or organization pursuant to an agreement approved by the University, ownership of the copyright will be determined by the applicable terms of the funding agreement if the agreement addresses the issue. When University resources are used to retain the services of a consultant or independent contractor for the specific purpose of creating a copyrightable or patentable work, the contract shall provide that the consultant will assign the work to the University unless the University Provost approves other terms.
- (3) **Patentable Works.** When a copyrighted work is also patentable, such as certain computer software source code among other categories of work, the University’s patent policy will apply to it, notwithstanding any inconsistent provisions of this policy.
- (4) **Online and Other Distance Learning Course Materials.** Online and other distance learning course materials (including course materials delivered over the Internet or a campus intranet, by TV or radio broadcasts, or fixed in

machine-readable digital storage media, videotape, or audio tape) cannot be treated as traditional works because of the legal and business consideration that affect them. The University devotes significant material and technical resources to the design, development and distribution of these course materials. Also, contracts involving display, reproduction, or distribution of copyrighted material commonly require assurances as to ownership and protection against infringement claims. The University must retain sufficient rights in online and distance learning course material to provide such assurance if they are to pursue distance education opportunities that may arise in an uncertain business environment. Also, the University must retain sufficient rights in online and distance learning materials to enter appropriate and mutually acceptable relationships with external organizations. Because the terms of such relationships cannot be foreseen, it is not possible to provide specific guarantees of any kind as to what the University may be able to provide faculty members the form of compensation and terms. However, the Trustees recognize that University ownership and use of academic work that is created by faculty may involve important consideration of academic integrity. Before entering a contract with an external public or private organization that would involve such academic consideration, the University will consider the faculty member's interest in using and protecting the integrity of the work, including but not limited to interests in:

- (a) using the work in future scholarly activity and employment;
  - (b) controlling the use of the faculty member's name in association with the work; and
  - (c) revise the work to assure that it is current. Unless otherwise agreed in writing, the University will retain ownership of scholarly or creative work that is delivered, transmitted, or fixed as provided in this subparagraph. However the Trustees encourage joint ownership agreements with faculty members who create online or other distance learning courses, which agreements would grant the institution the exclusive right to license the work to others for a specific period of time, allow each party to retain a nonexclusive right to use the work for non-commercial educational purposes, and address the issues of attribution and revision. The Trustees authorize the President to establish institutional contract terms and revenue sharing policies for distance learning courses that as may be, in the President's judgment, financially prudent and consistent with the University's commitments and objectives.
- (5) Special Circumstances. Where the University makes an unusual and significant commitment of resources to a project, the University may retain ownership of any works created. The President or Provost will determine whether such commitments exist in a particular case and whether the University will retain ownership of such works. When feasible, the President or Provost will make this determination before the work is created and at the beginning of this project, and will so inform the principal investigator or other responsible party.

Although sabbatical leave involves such an unusual significant commitment of resources, works created by faculty members on sabbatical leave traditionally have been treated as the property of the author. Except as provided in subparagraphs (1), (2), (3), and (4) of this policy, the University disclaims ownership of works by a faculty member on sabbatical leave.

Works that do not meet the criteria stated in these subparagraphs and works created by a University employee outside the scope of employment and without the use of institutional assistance, support, facilities or resources shall be the exclusive personal property of the employee.

In any case in which there is a question about the ownership of a work, the President or Provost will decide the issue.

- c. Students. Because students who are not University employees may work with faculty members or other University employees on intellectual property in with the University claims an interest as provided herein, the Copyright Act does not automatically grant the University ownership of the copyright to student work. However, to assure fairness, students who serve on University-funded projects, with or without salary and with or without academic credit, are covered by this policy as student employees. Students acting in such capacity are subject to this policy as a condition of their enrollment, employment, or association with the University-funded project. Students will be the sole owners of works that they create solely in their capacity as students or individuals and not as “student employees” as that term is defined above.
2. Use of Income from University-owned Works
    - a. Division. Any income which the University receives from the commercial licensing, sale, lease, or other commercial use of copyrighted works owned by the University pursuant to this copyright policy will be shared as determined by the University in its sole discretion. The University will ordinarily share 50 percent of net revenues from such commercial uses with the individual employee who created the work.
    - b. Disposition of University Shares. The portion of net income that is not paid to the creator or creators of a work will be used as determined by the University in its sole discretion.
    - c. Assistance from the University. A faculty member, staff member, or student employee who has created and under this policy owns a copyrighted work, and who wishes to engage the resources of the University for assistance in licensing or otherwise exploiting the copyright, may request such assistance from the Office of Academic Affairs or other office designated by the Board. If the University provides such assistance, all net income from its licensing efforts will be shared between the University and the creator(s) as provided in paragraph 4 above.
    - d. Authors are Responsible for Registering and Defending their Copyrights. Except as provided in paragraph 4 of this policy, faculty members, staff, and students are solely responsible for identifying, registering and taking any other legal action

necessary to protect and defend their copyrights and any related rights to or arising from work in which the University has disclaimed ownership interests.

- e. **Modification: Effective Date.** This policy is subject to modification or revocation by the Board of Trustees at any time, in its sole discretion. This policy is effective from the date of approval by the Board of Trustees with respect to works created after that date and shall remain in effect until modified or revoked.

### 3. Patent Policy

- a. **Encouragement of Patents.** In the course of teaching, professional development, and other intellectual and administrative activity at the University, faculty, staff, student employees (as defined above), and others may make discoveries or inventions both patentable and practical. Encouraging such inventions in appropriate ways both supports the public interest and is consistent with the advancement and dissemination of knowledge, the primary purpose of teaching and professional development. The University's patent policy establishes the procedure to be followed in the administration of inventions, which result from teaching, professional development, and other intellectual activity performed under University auspices as defined and clarified in paragraph 5 below.
- b. **Purpose of Patent Policy.** The purposes of this patent policy are:
  - (1) to help assure, in the public interest, that the patentability (or other means of protection) and practicality of inventions will be evaluated by qualified persons, and that the income from inventions will be used to support professional development or other desirable University activities; and
  - (2) to allocate remuneration between the inventor or investors (hereinafter the "inventor") and the University if the invention produces Net Revenues from commercial use.

### 4. Procedure as to Inventions

- a. **Patent Applications.** All inventions described in paragraph 1 shall be reported promptly in writing to the President or Provost. The President or Provost, with the advice of legal counsel, shall conduct an initial screening followed, if appropriate, by a detailed evaluation of the invention. The evaluation may be conducted internally or referred to an external organization. After the evaluation, the University, with or without the assistance of an external organization, may make application for letters patent or other means of protecting and marketing the invention. At the President's or Provost's request, the inventor shall execute assignments or other documents assigning to the University all rights in the invention and any patent applications or resulting patents on the invention. The University will retain title to all such patent applications and resulting patents. If the University decides that it does not wish, and/or has no obligation to participate in patenting or licensing an invention, the University may release the University's interest in the invention to the inventor, and the inventor shall then be free to dispose of the invention as he or she wishes.
- b. **License Agreements**

- (1) If the University decides to participate in patenting or licensing an invention, the University will seek to enter into appropriate licensing arrangements to commercialize the invention. The University's objectives are to assure the development of its technology in furtherance of its own educational mission and to the benefit of society in general. Therefore, as a general policy, the University will establish license terms that further these objectives. Exclusive licenses will be granted if it appears to the University that this is the most effective way of ensuring that development will proceed to the point that the public will benefit. Any exclusive license agreement will protect against the licensee's failure to develop and market the invention within a specified time.
  - (2) Grants or contracts sponsored by government agencies and private businesses typically include a section covering patents on future inventions, if any. When deemed appropriate, the sponsor may be granted a license to any inventions developed during the terms of the grant or contract in accordance with the policies outlined in (1) above.
- c. Division of Net Revenues

The Net Revenues as defined below shall be divided between the inventor(s) (as defined under the patent law) and the University as follows:

Fifty percent to the inventor(s), 50 percent allocated to University purposes pursuant to paragraph 5.

As used in this document, the term "inventor" may represent two or more individuals. These individuals will be expected to agree among themselves on the fractional distribution of the "inventor" share of any Net Revenues. A written agreement must be signed by all the individuals involved, and deposited for the record in the President or Provost's office. If no written agreement has been deposited at the time of a distribution of Net Revenues, the inventors' share of such distribution shall be divided equally among the inventors.

- d. University Use of Net Revenues. The University's share of Net Revenues will be used for such University purposes, as the President shall determine.
- e. Inventions Not Under University Auspices. Inventions by University employees usually result from teaching, professional development, or other intellectual activity involving University facilities or personnel.

Accordingly, all inventions by University employees must be reported to the President or Provost' Office. If the University determines that an invention by a University employee is unrelated to the activities for which the individual is employed and has not involved the use of University facilities, property, or personnel, the University will make no claim to such an invention. All inventions made or conceived under circumstances involving University facilities, property or personnel are the property of the University.

An invention made by a faculty member in the course of a paid consulting engagement for a company may be assigned to the company only if it is unrelated to the activities for which the faculty member is employed by the University and it was not made or conceived under circumstances involving University facilities,

property, or personnel. Such an invention will be considered unrelated to the activities for which the faculty member is employed by the University if the invention arises directly out of consulting activity paid for by the company, and, for example, it is made in response to a problem posed by the company or is based on nonpublic information provided by the company to the faculty member for use in the consulting engagement. All inventions made by University faculty members in the course of consulting, and any assignments of rights to such inventions, must be reported promptly to the President or Provost' Office. The University will agree to abide by reasonable confidentiality restrictions for disclosures of inventions and assignments made in the course of consulting.

An invention will be considered not to have involved the use of University facilities if no University facilities or resources (including, but not limited to, space, computers, laboratory equipment and supplies), no University-administered funds, no University property and no University personnel other than the faculty member himself or herself, are involved in the conception or reduction to practice of the invention.

- f. **When Arrangements with Outside Organizations Override this Policy.** Arrangements with outside people and organizations that propose terms, which are exceptions to this policy, must be submitted to the President or Provost for review. If approved by the University, the terms shall be binding upon all members of the faculty, staff, and employees of the University conducting such projects or utilizing such facilities, and will supersede the provisions of this patent policy to the extent that the terms are inconsistent herewith.
- g. **Inventions by Staff Resulting from Performance of the Responsibilities of Their Employment.** If administrative/professional or classified staff make commercially valuable discoveries or inventions in the course of carrying out their assigned duties (e.g., the employee received a salary or wage for the purpose of developing the discovery or invention or for work which directly resulted in the discovery or invention), there is no presumption that the University will share any resulting net revenues with the employee. The University does not share venues with such staff except in cases where it appears that the invention or commercially valuable property has not resulted from the performance of assigned duties. However, the President or Provost may decide to share revenues on any basis.
- h. **Governmental Rights in Certain Inventions.** Current governmental regulations permit educational institutions to retain rights and title to patentable inventions, which results from federally, funded experimental, developmental and research work. Retention of rights by a college or university is contingent upon the satisfaction of a number of obligations by the University and the inventor(s). These obligations must be met to protect the parties' interests. Though the University may retain rights and title to such patentable inventions, the federal government retains a royalty free license and places certain other restrictions upon the ultimate disposition of the patent(s). Details of the implementing regulations may be obtained from the office of the President or Provost. Members of the University community who apply for and receive federal funding to support research or who use federal monies in the conduct of their research must execute a

written agreement that they will promptly disclose patentable inventions to the University and will execute all instruments necessary to protect the rights of the government and/or the University. Forms for this agreement will be provided to all faculty and will be available for other participants from the office of the President or Provost.

- i. Revocation or Amendment. This patent policy is subject to revocation or amendment by the Board of Trustees in its sole discretion. In case of doubt as to the interpretation of this patent policy, a definitive interpretation will be provided by the President or Provost. This patent policy is effective as to all inventions/discoveries made on or after the date of adoption.

## 5. Definition

For purposes of this policy:

- a. “Intellectual property” means a work, creation, invention or idea that can be owned, protected or controlled under the laws of the United States, the state of Colorado, or other governments, concerning copyrights, patents, and similar legal interests.
- b. “Copyright” is the exclusive right of the owner to reproduce a work, prepare derivative works, distribute the work by sale or otherwise, and display or perform the work publicly. Copyright subsists in “original works of authorship” as defined by law, which have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. In contrast to a patent, which protects an “idea,” copyright protects the “expression” in the particular work.
- c. A “patent” is a grant issued by the U.S. Patent and Trademark Office or a similar right granted by a foreign country. Generally, in the United States, a patent gives an inventor of a novel, useful, and non-obvious creation, invention, or idea the right to exclude all others from making, using or selling the invention within the United States its territories and possessions for a period of 20 years after the U.S. Filing Date of the parent patent application. Patent procedures, criteria for patentability, and terms in foreign countries vary considerably from country to country.
- d. “Creator,” “Inventor,” and “Author” are used in this policy to describe any person who possesses or claims any legal rights to intellectual property through conception, creation or other lawful means of acquisition.
- e. “Contractor” is any person or entity that receives payment for goods and/or services that is reported by the University to the Internal Revenue Service on form 1099.
- f. “Net revenues” or “net income” means gross income received from the commercial uses of intellectual property (including, but not limited to, earnings, gains, investments, license fees, rents, royalties, or sales) less all direct or indirect costs of producing, protecting and enhancing the value of, the intellectual property (including but not limited to personnel costs and overhead, consulting fees, legal fees, and the other costs associated with securing the copyright or

patent, for defending it against claims of infringement, and for licensing, marketing, otherwise using the work for commercial purposes).

- g. “Commercial,” when used in this policy to describe the transfer, sale and/or other use of intellectual property owned by the University, shall refer to a use that is intended to produce profit or net revenues in the commerce of intellectual property. The word shall not include uses of intellectual property for the education of students duly enrolled in the University, or for other non-profit educational purposes. The University will not share net revenues with the creator or inventor for such non-profit educational uses.

## F. Workplace Bullying Policy

### Description

This document describes the MSU Denver workplace bullying policy, which addresses all employees, including student employees, applicants for employment and others in the workplace environment, including members of the public.

### Policy Statement

MSU Denver shall provide a secure work environment for all employees free from bullying, and will not tolerate any behavior in the workplace that constitutes bullying activity as defined in this policy. Bullying may be directed toward an employee by a manager; co-worker, subordinate, appointing authority, vendor, contractor or member of the public. Bullying conduct may be challenged even if the complaining party is not the intended target of the conduct.

This policy is not intended to, and will not be applied in a way that would violate rights and responsibilities with regard to academic freedom and freedom of expression, nor will it be interpreted in a way that undermines a supervisor’s authority to appropriately manage their work unit.

This policy prohibits retaliation against employees who report potential workplace bullying or participate in the investigation of the complaint.

Any employee violating this policy will be subject to corrective or disciplinary action, up to and including dismissal.

### Definition

Unwanted repeated aggressive behavior that manifests as verbal abuse, conduct that is threatening, humiliating, intimidating, or acts of sabotage that interfere with work, consequently creating a hostile, offensive and toxic workplace. For more detail, please see the Workplace Bullying Complaint Procedures.

### Reporting

When an employee, including a student employee, believes that he or she is the target of behavior that they believe may satisfy the definition of workplace bullying, as defined in the University policy on bullying, the employee should report any and all incidents immediately to their supervisor, or the supervisor of the alleged bully.

Administrators and Classified employees have the right to report alleged bullying activity directly to Human Resources by submitting a written complaint with supporting documentation.



Tenured, Tenure Track, Category II and III faculty have the right to report alleged bullying activity directly to their Dean's Office by submitting a written complaint with supporting documentation.

#### Mandatory Cooperation

All employees, supervisors, managers, appointing authorities and agents of MSU Denver shall cooperate, unless there are extraordinary circumstances, (such as conflict of interest) with any investigative process or resolution, whether informal or formal, by the appropriate investigator. Any MSU Denver employee who fails to cooperate and/or attempts to impede participation in an investigation will be subject to disciplinary action, up to and including dismissal. To enable MSU Denver to achieve the goals of this policy, Human Resources and the Deans' Offices shall have access to all relevant and necessary information.

#### Non-retaliation

This policy prohibits retaliation against employees who report potential workplace bullying or participate in the investigation of the complaint. Any employee bringing a complaint under this policy, or assisting in the investigation of such a complaint, will not be adversely affected in terms and conditions of employment, nor dismissed because of the complaint. Anyone who engages in retaliatory action will be subject to disciplinary action, up to and including dismissal. Retaliation is defined as activity that may dissuade a reasonable person from exercising his or her rights under this policy.

Employees who report alleged bullying complaints that they know are false may be subject to disciplinary action within the University, and/or external legal action from those they have falsely accused.

#### Confidentiality

To the extent feasible, information provided in the complaint and investigation process will be treated as confidential. However, MSU Denver will disclose information if deemed reasonably necessary to investigate and take appropriate corrective or disciplinary action, or to defend such corrective or disciplinary action, if required by law.

#### Witnesses

When an employee has witnessed or been made aware of behavior that they believe may satisfy the definition of workplace bullying (as defined in the University policy on bullying), the employee should report any and all incidents to their supervisor, or the supervisor of the alleged bully, Human Resources or the appropriate Dean's Office if a faculty member is involved.

#### Supervisors

When a supervisory level employee is notified about possible workplace bullying behavior he or she must immediately notify Human Resources or the appropriate Dean's Office if a faculty member is involved.

#### Training

In order to prevent and reduce the number of incidences of bullying, the University Offices of Equal Opportunity, Human Resources and Institutional Diversity will implement workshops for employees (including student employees) on what constitutes

bullying, what the University's policies and procedures are, the employees' role in reporting incidents of bullying and how to access the grievance process.

#### Policy Review

The Offices of Equal Opportunity, Human Resources, Diversity and Inclusion, and General Counsel shall review this policy on an annual basis and make updates as necessary.

a.

## **XV. TERMINATION OF FACULTY APPOINTMENTS**

The University may terminate the employment of a faculty member either through nonrenewal or through dismissal for cause or by layoff due to program reduction or elimination or financial exigency. The Handbook sets forth the definitions, standards and procedures that govern termination of faculty.

### A. Definitions

#### 1. Faculty Types:

- a. Category I faculty hold a tenure line. There are two types of Category I faculty:
  - (1) Probationary faculty members who have not yet been tenured and hold a contract for a one-year term.
  - (2) Tenured faculty members who hold a contract of continuing employment.
- b. Category II faculty are full-time and non-tenured and hold one of the titles, classification or rank defined in Chapter VI.
- c. Category III faculty are Affiliate part-time faculty hired to teach part-time on a per credit hour basis for specific classes.

#### 2. Termination of faculty appointments:

- a. Nonrenewal: Nonrenewal means not offering an additional contract to a faculty member who has been hired on a yearly or semester-by-semester basis at the expiration of the existing contract.
  - (1) Probationary Category I faculty members may be non-renewed according to procedures specified in Chapter V.
  - (2) Category II and Category III faculty may be non-renewed for any legitimate reason or no reason and have no right of appeal except as provided in other University policies and procedures.
- b. Dismissal:
  - (1) Dismissal means severing the employment contract, including a tenure contract, at any time for adequate cause.
  - (2) All Categories of faculty members may be dismissed for cause.

- c. Layoff: Layoff means terminating a tenured faculty member due to a program reduction or elimination or the declaration of financial exigency and the faculty member maintains certain rights of return.
  - d. Program Reduction and Elimination: Reducing the number of faculty in a program or eliminating the program for essentially educational reasons.
  - e. Financial Exigency: A financial exigency is an imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated by less drastic means. It involves the reduction of the number of tenured faculty members in the employment of the University.
3. Computation of time: All references to “days” mean calendar days. The number of days specified for an act or process shall be extended during campus holidays or closures. The number of days specified for an act or process may be modified upon agreement of the faculty member and administration for good cause.
- B. Nonrenewal of Non-Tenured Faculty Contracts
- 1. Grounds Unspecified for Nonrenewal of Non-Tenured Faculty:
    - a. Part-time, temporary and probationary faculty may not appeal a decision of nonrenewal. No reason need be given for the nonrenewal of the contract of a non-tenured faculty member in the final notification.
    - b. A faculty member who has been notified of a tenure denial is subject to the procedures specified in Chapter V of this Handbook.
  - 2. Notice of Nonrenewal of Probationary Faculty:
    - a. Time of Notice:
      - (1) First Probationary Contract. In the case of a probationary faculty member’s first contract with the institution, notice of nonrenewal shall be given no later than March 15th of the academic year in which the contract is to expire.
      - (2) Additional Probationary Contracts. In the case of a probationary faculty member’s second through fifth year contract with the institution, notice of nonrenewal shall be given no later than the end of the Fall semester of the academic year in which the contract is to expire.
      - (3) Tenure Denial. In the case of a probationary faculty member who is not awarded tenure, notice of a terminal one year contract shall be given no later than the end of the academic year in which the tenure decision was made in accordance with the procedures in Chapter V.
    - b. Form of Notice: Notice shall be given in writing and shall be either delivered in person or by electronic transmission and by certified mail to the home address shown on personnel records of the institution.
    - c. Source of Notice. The President has the responsibility for giving notice of nonrenewal.

- d. Content of the Notice. Notice shall inform the faculty member of the nonrenewal and of his/her right to a hearing and review, if any, pursuant to this Handbook.

### C. Dismissal of Faculty for Cause

After the expiration of a probationary period, faculty members who attain tenure have permanent and continuous employment with the University and their service should be terminated only for adequate cause. Untenured faculty members with term appointments are subject to the same standard of adequate cause if the University seeks to dismiss them during such appointment period. "Adequate cause" is an appropriate standard under which to terminate faculty so long as the justification for dismissal involves behavior related directly and substantially to the fitness of the faculty member in his or her professional capacity as a teacher or researcher. Adequate cause refers especially to certain substantive grounds for dismissal, including but not limited to: demonstrated incompetence or dishonesty in teaching or research; substantial and manifest neglect of duty; personal conduct which substantially impairs the individual's fulfillment of his or her institutional responsibilities or incapacity. The following list of substantive grounds is not an exhaustive list, but is instead intended to assist decision makers in determining whether the contemplated dismissal is supported by adequate cause.

1. Grounds for dismissal constituting adequate cause include:
  - a. Academic fraud or dishonesty (e.g., misrepresentation of academic credentials or professional contributions, falsification of research data or results, plagiarism or similar unethical behavior.)
  - b. A mental or physical disability, which even with reasonable accommodation, substantially interferes with the person's ability to perform the essential functions of the job. Dismissal under these grounds shall be in compliance with Federal law, which prohibits discrimination against disabled persons.
  - c. Neglect of duty (the willful and repeated nonperformance of duties or responsibilities reasonably required of faculty or willful and repeated noncompliance with reasonable directives of another that is within the authority of that person).
  - d. Unlawful conduct, commission of a crime or conviction of a felony or acceptance of a guilty plea or a plea of nolo contendere to a felony that renders the faculty member unable or unfit to perform his or her duties.
  - e. Incompetence (the inability to perform in a manner considered to be minimally adequate according to institutional standards).
  - f. Failure to meet material standards of performance included in this Handbook, written job descriptions, post-tenure performance improvement plans or other specific performance improvement plans or warnings instituted under this Handbook.
  - g. Unprofessional conduct as described in Chapter XV.C.2. if the nature, gravity, and/or frequency of the unprofessional conduct justifies dismissal.

- h. Violation of University policies which apply to all employees and which are detailed in this Handbook if the nature, gravity and/or frequency of the violation justifies dismissal.
- 2. Professional Conduct, Ethics and Responsibilities of Faculty:
    - a. Professional Conduct: Lists of specific unprofessional or unethical acts that would subject a faculty member to dismissal are inevitably incomplete or susceptible to overly broad or narrow interpretations. Therefore, faculty shall be guided by a common sense interpretation and application of the general standards of professional conduct summarized in this section relating to academic responsibilities and responsibilities to students, colleagues, staff and the University, as well as responsibilities as citizens. The University hereby adopts and incorporates by reference the AAUP's 1987 Statement on Professional Ethics as the standard against which faculty conduct will be measured.
- 3. Notice of Dismissal of Faculty for Cause:
    - a. Time of Notice. Notice of dismissal for cause may be given at any reasonable time.
    - b. Form of Notice. Notice shall be given in writing and shall be either delivered in person or by electronic transmission and by certified mail to the address shown on the personnel records of the institution.
    - c. Source of Notice. The President has responsibility for giving notice of dismissal.
    - d. Contents of Notice. The notice shall set out each ground claimed as justification for the dismissal with reasonable particularity. In addition, the notice shall inform the faculty member of the effective date of the dismissal and of his or her right to a hearing and review pursuant to this Handbook.
- 4. Effective Date of Dismissal for Faculty:
    - a. Salary and benefits remain in force until the effective date of dismissal.
    - b. The effective date of a dismissal for cause is one of the following:
      - (1) If no timely request for a hearing is made, the day following the day on which the time for requesting a hearing expires, or any subsequent day designated in the notice; or
      - (2) If the faculty member withdraws a timely request for a hearing, the day after the withdrawal.
      - (3) If a timely request for a hearing is made, the day on which the hearing officer makes an initial decision upholding the dismissal; or,
      - (4) If a timely request for a hearing is made and the hearing officer makes an initial decision reversing the dismissal, the date on which the Board of Trustees upholds the dismissal.
      - (5) If the Board of Trustees reverses the dismissal and a hearing officer's decision upholding the dismissal, the faculty member's salary and benefits shall be restored retroactively.

#### D. Appeal of the Decision of Dismissal for Cause

A faculty member who has been notified of a dismissal for cause may appeal the decision using the process described below.

##### 1. Formal Review of Dismissal Decisions:

###### a. Hearing Officer Review

- (1) The affected faculty member is entitled, upon timely and complete application, to a full and fair hearing before a hearing officer in accordance with this Chapter XV.D.1.a. It is solely the faculty member's prerogative to decide whether to request a hearing before a hearing officer.
- (2) An application for hearing before a hearing officer is timely if it is delivered in writing to the office of the President within fourteen calendar days after the faculty member receives the notice of dismissal. The application must include the notice, a written reply thereto by the faculty member, and a written request for a hearing in accordance with this section. The written reply may be in the form of a letter or memorandum. A timely application for a hearing shall be deemed a request for all documents considered by the University President to be relevant to dismissal of the faculty member. Within fourteen days after the receipt of a timely application for hearing, the President shall make available to the faculty member all requested documents, subject to restrictions pertaining to the confidentiality of personnel records of other employees. The hearing officer shall be empowered to rule on all issues pertaining to the production of records.
- (3) Upon receipt of a timely application for hearing before a hearing officer, the faculty member and President shall select a hearing officer from a panel of individuals provided by a neutral external source (e.g., American Arbitration Association, Judicial Arbitrator Group, or the Colorado Office of Administrative Courts.) Three names from the panel will be chosen by lot, and the faculty member and the President shall each strike one name from the list and the remaining person will serve as hearing officer. The selection shall be made no more than fourteen days after the receipt of the list from the external source.
- (4) Costs for the hearing officer procedure, including the recording of the hearing, shall be borne by the University, except that the faculty member and the University shall each be responsible for expenses incurred at their individual requests during the grievance process, such as the expenses for transcripts, witnesses, and attorneys.
- (5) The hearing is governed by the provisions of this subsection. The faculty member is entitled to the active participation of legal counsel of his or her own choosing and at his or her own expense. The President is entitled to legal counsel by the University's General Counsel's office. The hearing officer shall give notice of a hearing to be held within fourteen days after the hearing officer's initial appointment or at such other time as is agreed to by the faculty member and the administration. The notice of dismissal and the reply of the faculty member shall be deemed to be the pleadings for purposes of the

hearing, except that the faculty member may amend his or her reply at any time at or before the commencement of the hearing. The President, or his/her representative, shall bear the burden to go forward with evidence and the burden of persuasion, with respect to the grounds for dismissal stated in the notice. The burden of going forward with the evidence and the burden of persuasion rest upon the faculty member as to any affirmative assertion or allegation contained in the reply as amended, other than a denial of any ground or reason stated in the notice. No evidence may be admitted at the hearing which is not relevant either to a ground stated in the notice or to an assertion contained in the reply.

(6) Upon conclusion of the hearing, the hearing officer shall have 35 days to make findings of fact and conclusions, and issue an initial decision.

b. Trustees' Review

(1) The hearing officer shall promptly transmit the initial decision, along with the record and the findings of fact and conclusions, to the President of the University for review by the Trustees.

(2) The Trustees shall review and take action on the decision of the hearing officer at its next regularly scheduled meeting or as soon as practicable.

E. Layoff of Faculty due to Program Reduction or Elimination not Mandated by Financial Exigency

1. Layoff of faculty with an appointment of continuous tenure, or of a probationary appointment before the end of the specified term, may occur as a result of bona fide formal reduction or discontinuance of a program or department of instruction.
2. The decision to reduce or discontinue formally a program or department of instruction will be based essentially upon educational considerations as determined primarily by the faculty as a whole. Educational considerations do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by discontinuance.
3. In recognition of the importance of the faculty's expertise in academic decision making, and consistent with the recommendations of the AAUP, the Provost shall present all proposals to eliminate or reduce programs or departments for essentially educational reasons to a body elected by the faculty, currently the Faculty Senate. That elected body shall review the matter and shall report to both the President and the Board of Trustees.
4. If the Board of Trustees determines that faculty positions should be eliminated due to the reduction or elimination of an educational program, faculty members, including tenured faculty, may be laid off in accordance with the "Considerations for Layoff" stated forth below. The Board of Trustees shall require that program changes that entail layoff of faculty be planned and justified sufficiently in advance to permit compliance with the Handbook's requirements on notice of layoff.
5. This section is subject to the provisions of the "Notice of Layoff of Faculty" below. If placement in another position would be facilitated by a reasonable period of

training, financial and other support for such training will be proffered. If no position is available within the institution, with or without retraining, the faculty member's appointment may then be terminated, but only with provision for notice and/or severance detailed below.

#### F. Layoff of Faculty due to Financial Exigency

Faculty may be laid off due to a financial exigency as defined in this Handbook. This policy defines the rights and privileges to be accorded to tenured faculty when programs are reduced, reorganized, or terminated due to a financial exigency.

1. **Definition:** A financial exigency is an imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated, in the judgment of the Board of Trustees, by less drastic means. Examples of these events include, but are not limited to significant declining student enrollments, reductions in state appropriations, loss of other income, or some serious event or events requiring unanticipated major expenditure reductions.
2. **Declaration of Financial Exigency:** A financial exigency can be declared by the Board of Trustees after consideration of a recommendation by the President or on its own motion after considering the positions of the President and Faculty Senate as described below. In seeking a declaration of financial exigency the President shall make a presentation to the Board of Trustees concerning the reasons that the President believes a financial exigency exists. The President shall also describe the steps taken to evaluate and alleviate the financial condition of the University. The presentation shall include a review of all reasonable alternatives to a financial exigency.
3. **Response to a Financial Exigency:** The President shall develop a plan to respond to the exigency, considering the criteria below as appropriate in his or her judgment, and present it to the Faculty Senate for its review, comment, and recommendations, which shall also be presented to the Board of Trustees along with the President's plan. The President has the final responsibility for the development of the administration's plan presented to the Board of Trustees. The Faculty Senate may make a presentation to the Board of Trustees, giving the board an opportunity to hear the range of opinions and recommendations considered.
  - a. Educating students is the University's reason for existence and its highest priority. Consequently the response plan shall place priority on preserving and supporting academic programs. The President should consider taking any of the approaches listed below, without limitation, prior to recommending layoff of tenured faculty:
    - (1) Offering cash funded courses and other options;
    - (2) Offering early retirement and/or temporary leave programs;
    - (3) Reductions in compensation; and
    - (4) Program reduction or elimination.
4. **Implementation of the Response Plan:** For a response to be put into effect the Board of Trustees must approve the plan.



## G. Considerations for Layoffs

1. In cases where faculty members are to be terminated due to program reduction or elimination or financial exigency, the following priority process shall be used:
  - a. First, any part-time faculty;
  - b. Second, any temporary faculty;
  - c. Third, any probationary faculty; and
  - d. Finally, and as a last resort, any tenured faculty.
2. Tenured Faculty:
  - a. In reducing the number of tenured faculty, the department chairs and deans shall strive to maintain the viability of academic programs. Decisions regarding reduction of the tenured faculty within a program shall be based on the following information: length of service at the University, experience, department needs, affirmative action considerations, documented evidence of past performance, and other information appropriate to the decision. Recommendations regarding layoff of tenured faculty will be made to the Provost for review and recommendation and thereafter to the President for final decision. When a recommendation is made primarily on criteria other than seniority, the dean and the department chair must present a statement supporting the recommendation to the Provost.
  - b. Before layoff of a tenured faculty member, the institution, with faculty participation, will make every effort to place the faculty member in another suitable position within the institution.

In all cases of layoff of tenured faculty, the place of the faculty member affected will not be filled by a replacement within a period of three years, unless the affected faculty member has been offered reinstatement and a reasonable time in which to accept or decline it or the faculty member has notified the University that the faculty member has retired and will not return.

### 3. Notice of Layoff of Faculty:

#### a. Time of Notice:

##### (1) Tenured Faculty.

- (a) In the case of tenured faculty laid off because of program reduction or elimination not due to financial exigency, notice of layoff shall be given no later than one academic year prior to the layoff.
- (b) In cases of layoff due to financial exigency, tenured faculty shall be given notice as soon as practicable and severance shall be considered if institutional resources permit to give the faculty member a combination of notice and severance equal to one academic year.

##### (2) Non-tenured Faculty. Notice shall be given as soon as practicable.

- b. Form of Notice: Notice shall be given in writing and shall be either delivered in person or by electronic transmission and by certified mail to the address shown on the personnel records of the institution.
- c. Source of Notice: The President has the responsibility for giving notice of layoff.
- d. Content of the Notice: Notice shall inform the faculty member of the effective date of the layoff and of his/her right to a hearing and review, if any, pursuant to this Handbook. The notice shall set out each ground claimed as justification for the layoff.

#### H. Appeal Procedure for Layoffs

1. Appeal Process: Any tenured faculty member who has been notified of his or her layoff may appeal the decision using a hearing officer as described below. Failure to appeal as provided herein shall be deemed the faculty member's acceptance of the layoff decision and a waiver of his or her right to a hearing. This policy shall not prevent the faculty member from filing complaints to State and Federal agencies responsible for enforcing the civil rights laws.
2. Stage One: Within twenty-one calendar days after receiving a notice of layoff the affected faculty member may initiate an appeal of the decision by filing a notice of appeal. To be effective, the notice of appeal does not require detail and may be a simple notification of the appeal, without specific grounds stated. The notice of appeal must be received at the office of the President within this twenty-one day period, except that the President may, at his or her sole discretion and for demonstrated good reason, accept a late notice. A timely notice of appeal shall be deemed a denial of each and every ground for layoff. A timely notice of appeal shall be deemed a request for all documents considered by the President to be relevant to the selection of the individual faculty member for layoff.
3. Stage Two:
  - a. The President shall notify the appealing faculty member of receipt of the appeal notice within seven days. Within fourteen days after receipt of the appeal notice, the President shall make available to the faculty member all requested documents, subject to restrictions pertaining to confidentiality of personnel records of other employees.
  - b. The hearing officer shall be empowered to rule on all issues pertaining to the production of records.
4. Stage Three: Twenty-one calendar days after the receipt of the requested records, the faculty member must submit a comprehensive appeal statement. This document shall outline the reason(s) for the appeal and shall fully set out his or her rebuttal.
5. Hearing Officer Review: Upon the President's receipt of a timely stage three comprehensive appeal statement, the faculty member and President shall select a hearing officer and a hearing shall be conducted and a decision rendered in accordance with section "D" of this Chapter.

- a. If more than one appeal arises from the layoff, the hearing officer may consider consolidating the hearings so long as consolidation is consistent with all parties' rights of due process of law and taking into account similarities among the comprehensive appeal statements.
  - b. The notice of layoff, the notice of appeal and the comprehensive appeal statement shall be deemed to be the pleadings for purposes of the hearing.
  - c. The Board's financial exigency declaration shall be affirmed by the hearing officer unless s/he finds that the decision was not based on substantial evidence.
  - d. The hearing officer shall determine in the initial decision whether the University has violated the policies and procedures concerning layoff.
6. Trustees' Review: The transmittal of the initial decision of the hearing officer and the Trustees' review shall take place in accordance with section "D" of this Chapter.

## **XVI. REASSIGNMENT AND TERMINATION OF ADMINISTRATIVE PERSONNEL**

### **A. Reassignment of Administrative Personnel**

Administrators and administrative/regular personnel serve in administrative positions at the will and pleasure of the President. The Trustees delegate the authority to reassign administrators and administrative/regular personnel to any other exempt position within the University to the President. Administrators and administrative/regular personnel may be reassigned to other exempt positions in the President's discretion without cause or advance notice of reassignment. The authority to reassign administrative and administrative/regular personnel may not be sub-delegated to subordinate officers or employees of the University. Reassignments may not be grieved.

### **B. Termination of Administrative Personnel**

1. At-Will Employment Under Article 19 of Title 24 of the Colorado Revised Statutes, administrative personnel employed by the University are employees-at-will and may be terminated at any time, without cause or advance notice of termination. No pre-termination promise, contract or other agreement purporting to employ administrators for fixed terms shall be valid or enforceable against the State of Colorado, the Trustees, the University or any of their officers or employees, nor shall any compensation, whether as a buy-out of the remaining term of any contract, as liquidated damages, or as any other form of remuneration, be owed or paid to administrators upon or after termination except for compensation that was earned prior to the date of termination prorated to such date.
  - a. Notice. Advance notice of termination or reassignment may be given as a courtesy to administrators. However, in no event shall failure to give such notice entitled administrators to reinstatement, back pay, damages or any form of post-employment compensation.
  - b. Severance Pay. Notwithstanding the prohibition against paying unearned post-employment compensation to terminated administrators, the Trustees, at their option and in their sole discretion, may award severance pay consisting of:

- (1) payment of up to a maximum of three months of salary; and
  - (2) the provision of up to a maximum of three months of employee benefits to terminated administrators who have been employed by the University for fewer than five years. Such severance pay must be approved at the time of termination. No pre-termination promise, contract or other agreement purporting to entitle administrators to severance pay or any other form of post-employment compensation shall be valid or enforceable against the State of Colorado, the Trustees, the University or any of their officers or employees. Severance pay shall not be granted to any employee unless such employee executes a release of the University and its trustees, employees and agents from all claims arising out of or relating to the employee's employment with the University.
- c. Administrators with Faculty Tenure. Terminated administrators who possess faculty tenure and, under certain circumstances, terminated administrators who held probationary faculty positions before transferring to the administration, may return to the faculty in accordance with the following provisions.
- (1) Transfer from Faculty Status to Administrative Status. Probationary and tenured faculty who transfer to full-time administrative positions retain the seniority earned as faculty members and, if tenured, retain their tenure as faculty members, but shall be issued administrative contracts. Probationary faculty who transfer to full-time administrative positions have the right to return to faculty status subject to the availability of a position and to assurance that they are qualified to teach in their academic disciplines. As more fully set forth above, any academic year during which probationary faculty members are employed as administrators for one or more semesters shall not be included in their probationary periods. Tenured faculty members who transfer to full-time administrative positions have the right to return to the University department, program area or other similar academic unit in which they acquired tenure. Should a faculty member's right to return to the faculty under this Section conflict with another faculty member's retention rights under this Handbook, the faculty member with retention rights shall be appointed to the position if both faculty members are either probationary or tenured. However, if one faculty member is tenured and the other is probationary, the tenured faculty member shall be appointed to the position.
  - (2) For individuals returning to faculty that served in interim or reassigned administrative roles, the annual salary upon return to faculty shall be calculated based on the faculty rank at time of administrative appointment and at a base salary resulting from the projected salary as a result of any increases which occurred during the administrative appointment and with the average of "n" number of evaluations.
  - (3) Executives (Provost, Vice Presidents, Deans) upon leaving office through termination or resignation who have been awarded tenure by the Board may choose to remain at the University as a professor with a tenured appointment.

The salary shall be no less than the salary of the highest paid full professor in the affected department.

- (4) Transfer from Administrative Status to Faculty Status. Professional employees initially hired in administrative positions who were neither appointed with nor subsequently granted academic rank and tenure do not have a right to faculty status or positions. This policy does not preclude administrators from being appointed to part-or full-time faculty positions, but faculty seniority and other faculty rights must be earned through service as a faculty member.

Administrators who, prior to September 18, 1981, and prior to assuming administrative positions, were given faculty status shall retain a right to return to faculty status subject to the availability of a position and to assurance that they are qualified to teach in their assigned academic disciplines. Such eligible individuals are to be identified and their names reported to the Board.

Chief academic officers and senior academic deans who were appointed with or granted rank and tenure on or after March 10, 1989, have the right to transfer to the University department, program area or other similar academic unit in which they were tenured. This right shall be subject to the limitations applicable to tenured faculty members returning to the faculty from administrative positions.

- (5) Transfer from a Temporary Appointment to Either a Faculty or an Administrative Appointment. Professional personnel serving in a temporary capacity may be appointed to probationary faculty positions or to administrative positions if they are selected following the normal selection procedures of the University for such positions. However, time spent on temporary contracts, whether full-time or part-time, does not count as service time for seniority or, in the case of faculty appointments, probation, and such faculty appointees must be given probationary contracts and begin de novo the accrual of probationary service time.

2. Relationship of Academic Rank and Tenure to Professional Status. The classification of professional personnel as faculty or administrator is independent classification of professional personnel as faculty or administrator is independent of faculty rank and tenure. Thus, certain administrators may hold faculty rank and tenure if they are qualified therefore if they have been awarded rank and tenure the Trustees. However, the procedure applicable in the case of termination is to be determined solely by professional status and not by rank and tenure.
3. Source of Authority. The Trustees delegate the President the authority to terminate and, at his or her option and in his or her discretion, award severance pay to administrative personnel under his or her supervision. The authority to terminate administrative personnel and award them severance pay may not be sub-delegated to subordinate officers or employees of the University.
4. Review of Termination of Administrators. Administrators who are terminated in accordance with this section may request informal conferences with the President. Terminations may not be grieved.

### C. Termination of Administrative/Regular Personnel

“Administrative/regular personnel” are defined as non-faculty professional personnel who were formerly defined as faculty in this Handbook in accord with C.R.S. §23-10-102(4); namely, counselors, librarians, and student services personnel.

1. Grounds for Termination. Administrative/regular personnel may be terminated for cause or due to a reduction in force.
  - a. For Cause. Administrative/regular personnel may be terminated for cause in accordance with Chapter XVI. of this Handbook. If grounds for suspension exist, administrative regular personnel may be suspended in accordance with this Handbook.
  - b. Reduction in Force. Administrative/regular personnel may be terminated due to a reduction in force.
  - c. Unprofessional conduct as described in this Handbook if the nature, gravity and/or frequency of the unprofessional conduct justifies dismissal.

## **XVII. DISCIPLINARY PROCEDURES AND SANCTIONS**

### A. Disciplinary Procedures

1. Coordination with Grievance Procedures
  - a. Grievance procedures have been adopted by the University to review allegations that professional personnel violated institutional rules prohibiting unlawful discrimination (including sexual harassment).
  - b. In order to avoid duplicative proceedings and the risk of inconsistent decision, affirmative action grievance proceedings that satisfy constitutional due process requirements shall constitute the preliminary and review steps in this procedure.
  - c. The President may impose any of the disciplinary sanctions authorized in this Handbook except termination for cause on a professional determined pursuant to such an institutional affirmative action grievance proceeding to have violated University anti-discrimination policies. Should the affirmative action grievance proceeding result in a recommendation of termination for cause, the President may commence a termination proceeding in accordance with the articles of this Handbook.
  - d. An appealable sanction imposed by the President under this paragraph may be appealed to the Trustees within ten working days of receipt of the President’s decision.
2. Preliminary Investigation (Non-Affirmative Action Matters)
  - a. Following the receipt of a complaint or other information that a professional has engaged in unprofessional conduct, the President, in his or her sole discretion, may appoint an investigatory committee or individual to investigate the allegations or may dismiss the matter without further proceedings.

- (1) The investigatory committee or investigator should interview the complainant (if any), the professional, and other persons who may have relevant information and review any relevant documentary evidence contained in University files or provided by any person.
  - (2) The investigatory committee or investigator shall prepare and deliver to the President a written report summarizing the investigation and the information received from interviews and other sources.
- b. If the President believes that further review is warranted or that disciplinary action may be appropriate, the President shall either refer the matter to a campus ethics committee for a hearing or meet with the professional.
  - c. If the President believes that further investigation is not warranted and that disciplinary action is not appropriate, the President may either dismiss or suggest appropriate non-disciplinary action to resolve the matter.
3. Review of Preliminary Investigation. The preliminary investigation shall be reviewed in a campus ethics committee hearing or a presidential meeting with the professional.
    - a. Campus Ethics Committee Hearing
      - (1) A campus ethics committee responsible for reviewing allegations of unprofessional conduct may be a standing or ad hoc institutional committee.
      - (2) The campus ethics committee shall be convened and hold hearings in accordance with published institutional procedures which shall afford the professional the same due process safeguards as those afforded by the Hearing Officer hearing and appeal procedure.
      - (3) The campus ethics committee shall conduct a hearing on the matter referred to it, make a record of the hearing, and transmit its findings and recommendations to the President.
      - (4) Within ten working days of receipt of the findings and recommendations of the campus ethics committee, the President shall decide whether the professional engaged in unprofessional conduct and, if so, shall impose an appropriate disciplinary sanction.
      - (5) An appealable sanction imposed by the President after a campus ethics committee hearing may be appealed to the Trustees within ten working days of receipt of the President's decision.
    - b. Presidential Meeting with the Professional. In the meeting with the President, the professional shall be given an opportunity to admit or rebut the charges and the statements or other information contained in the report and/or to present information regarding mitigating circumstances or affirmative defenses. This meeting is not a formal hearing, but an opportunity for the President and the professional to exchange information. The following provisions shall govern the meeting:
      - (1) The professional shall be given written notice of the possible need to take disciplinary action fixing the date, time and place of the meeting with the

President. The notice shall describe the charge(s) of unprofessional conduct and factual bases therefore, identify the witness(es) upon whose information and/or testimony the charges are based and describe the sanctions that may be imposed for the alleged unprofessional conduct. A copy of the investigative report shall be included with the notice. The notice shall be given at least ten working days prior to the meeting either by certified mail, return receipt requested, or by hand delivery. The professional may submit a written response to the President at or before the meeting.

- (2) The President and the professional may each designate a representative to attend the meeting. Non-attorney representatives may participate in the meeting. Attorney representatives may not participate in the meeting but may confer with and advise their clients during the meeting.
  - (3) The President shall consider all written and oral information presented by the professional before deciding whether to take disciplinary action.
  - (4) Statements made at the meeting, including the written response submitted by the professional (if any), shall be admissible in evidence in any subsequent proceeding.
  - (5) Within ten working days after meeting with the professional (or if the professional fails or refuses to attend the meeting, within ten working days after the scheduled date of the meeting), the President shall decide whether the professional engaged in unprofessional conduct and, if so, shall impose an appropriate disciplinary sanction.
  - (6) An appealable sanction imposed by the President after a meeting with the professional may be appealed to a Hearing Officer within ten working days of receipt of the President's decision.
4. The President's Decision. In making this decision, the President shall consider the investigative report, written or oral information presented by the professional, and the findings and recommendations of the hearing committee, as applicable.
- a. Termination. If the President decides to terminate the professional on one or more of the grounds set forth in this Handbook, termination proceedings shall be commenced in accordance with the articles of the Handbook. However, the President, in his/her sole discretion, may commence termination proceedings without first following the procedures set forth in this Chapter.
  - b. Other Sanctions. If disciplinary action is taken, the President shall notify the professional thereof either by certified mail, return receipt requested, or by a hand-delivered notice. The notice shall specify the unprofessional conduct giving rise to the disciplinary action, shall summarize the information and/or testimony (including the identities of any informant(s) or witness(es)) on which the President relied in reaching his or her decision, and shall notify the professional of the disciplinary sanction to be imposed, the effective date of the sanction, and the professional's right to appeal the action (if any). Except as otherwise provided, the effective date of the disciplinary action and imposition of the sanction may precede the date on which the action becomes final. If the sanction is a written



warning or a formal reprimand, the warning or reprimand shall accompany the notice.

5. The Professional's Right to Appeal a Disciplinary Action

- a. **Appealable Sanctions.** Sanctions which involve suspension, demotion, reassignment, reduction in salary, a reduction or denial of a salary increase or ineligibility to serve on official University bodies may be appealed as provided in the applicable appeal procedure.
- b. **Terminations.** Termination proceedings shall be commenced and contested in accordance with this Handbook, as applicable, and shall not be otherwise appealable.
- c. **Non-appealable Sanctions.** Written warnings, formal written reprimands, and sanctions not specifically designated as appealable shall not be appealable. However, the professional may submit a written rebuttal or other response to a reprimand which shall be attached to the copy of the reprimand placed in his or her personnel file and which shall be furnished to any person to whom the institution furnishes a copy of the reprimand.
- d. **Final Action.** If the professional chooses not to appeal an appealable sanction, the action and sanction shall become final without further proceedings or notice to the professional. An appeal shall not stay or delay the effective date of the sanction specified in the notice of the disciplinary action.

B. Appeal Procedures

1. Appeal to the Trustees

- a. A professional's appeal to the Trustees shall be filed with the President and shall contain a statement of the reason for the appeal.
- b. The President shall promptly transmit the record of the grievance proceeding, the campus ethics committee's findings, conclusions, report or recommendation, the President's notice of disciplinary action and the professional's statement of the reason for the appeal to the President.
- c. If the professional does not file a timely appeal, the President's action shall become final without further notice or proceedings. If the professional files a timely appeal, the Trustees shall take action on the appeal. For purposes of such action, the committee's findings, conclusions, report, or recommendation and the President's notice of disciplinary action shall be the equivalent of the initial decision of a hearing officer.

2. Appeal to a Hearing Officer

- a. An appeal to a Hearing Officer shall be accompanied by a short and specific statement giving the reason for the appeal. The application and statement shall be filed by delivering them in writing to the office of the President. If an application is untimely, the appeal shall be dismissed and the action and sanction shall

become final without further proceedings or notice to the professional unless the President agrees to extend the filing deadline for good cause shown.

- b. After a timely application for a hearing before a hearing officer has been filed, the professional and the President shall select a hearing officer from among a panel of three individuals appointed biennially by the Trustees. The professional and the President shall each strike one name from the list and remaining person shall serve as the hearing officer. The selection shall be completed within five working days from the date the application was delivered.
- c. The cost of the hearing including the hearing officer's fee and expenses shall be borne by the University except that the professional and the University shall each be responsible for expenses incurred at their individual requests during the appeal process such as expenses for transcripts, witnesses and attorney fees.
- d. The hearing shall be governed by the following guidelines:
  - (1) The professional is entitled to representation by an attorney of his or her choice at his or her own expense.
  - (2) The President is entitled to representation by an assistant attorney general or special assistant attorney general.
  - (3) After consultation with the parties, the hearing officer shall notify them of the date, time and place of the hearing. The hearing officer shall attempt to schedule the hearing for a date no later than 20 working days following his or her selection.
  - (4) The notice of disciplinary action and the professional's statement of the reason for the appeal shall be deemed to be the pleadings for purposes of the hearing. The President has the burdens of production and persuasion by a preponderance of the evidence with respect to the unprofessional conduct on which the disciplinary action is based. The professional has the burdens of production and persuasion by a preponderance of the evidence with respect to any mitigating circumstances, affirmative defenses, counterclaims or new matter asserted in the statement of the reason for the appeal. No evidence may be admitted at the hearing, which is not relevant either to the bases for the disciplinary action and/or sanction set forth in the notice or to an assertion in the statement of the reason for the appeal. The hearing shall be electronically recorded.
  - (5) As promptly as possible after the hearing, the hearing officer shall make findings of fact and conclusions and prepare a decision. If the hearing officer concludes that the professional engaged in unprofessional conduct, he or she may recommend a lesser sanction than that imposed by the President. The hearing officer's decision shall be deemed to be an initial decision for purposes of review.
- e. The hearing officer shall transmit his or her initial decision, findings of fact and conclusions together with the record of the hearing (including the electronic recording) to the President and the professional.

- f. Either party may appeal the hearing officer's initial decision to the Trustees. The notice of appeal together with a statement of the party's specific exceptions to the hearing officer's initial decision must be received in the office of the President within 15 working days after the date on which the decision was mailed to the parties unless the President extends the filing deadline for good cause shown. If the parties choose not to appeal or if the notice of appeal is not timely filed, the initial decision of the hearing officer shall become the final decision of the Trustees without further proceedings or notice to the parties.
- g. If either or both parties file timely notices of appeal, the Trustees shall, at their convenience, review and take action on the hearing officer's initial decision in accordance with the provisions of Section C.R.S. §24-4-105(15), (16).
- h. The disciplinary action and sanction (or any modification(s) thereof) shall become final if and when it is adopted in the final decision of the Trustees.
- i. An order by the Trustees remanding an appeal to the hearing officer for such further proceedings as the Trustees may direct is not final action by the Trustees and is not subject to judicial review.
- j. A final decision by the Trustees affirming, setting aside or modifying the hearing officer's initial decision is subject to such judicial review as may be provided by law. Judicial review shall not delay or stay the enforcement of any disciplinary sanction unless the court orders otherwise.
- k. The President may, at any time before a final decision is issued by the Trustees, rescind any disciplinary action or sanction by notifying the professional in writing that the action has been rescinded. In such event, any hearing or review proceedings pending with respect to that disciplinary action shall cease.

### C. Disciplinary Sanctions

The President may impose disciplinary sanctions for violations of the standards of professional conduct described in this Handbook (hereafter "unprofessional conduct"), including, but not limited to:

1. A written warning
2. A formal written reprimand placed in the professional's personnel file.
3. Counseling, participation in a rehabilitation program, remedial instruction, or other training to be paid for by the University or by the professional.
4. Removal from and/or ineligibility to serve on University committees or other official University bodies for a period not to exceed one academic year (faculty) or one fiscal year (administrators).
5. Reassignment to other professional positions or different job duties, with or without a reduction in pay.
6. Reduction in salary or a reduction or denial of a salary increase.
7. Suspension with or without pay not to exceed one academic year (faculty) or non fiscal year (administrators). A suspension without pay exceeding five days or any

other sanction resulting in a reduction in a professional's then current salary shall not take effect unless and until a disciplinary action becomes final.

8. Termination for cause in accordance with this Handbook, as applicable, if the nature, gravity, and/or frequency of the unprofessional conduct justifies termination.

#### D. Progressive Discipline not Required

The disciplinary sanctions listed in this Section need not be administered progressively. Two or more of the sanctions may be reasonably proportional to the nature, gravity, and/or frequency of the professional's unprofessional conduct. Prior disciplinary actions may be taken into account in making this determination.

### **XVIII. UNIVERSITY HANDBOOK COMMITTEE**

There shall be a University Handbook Committee comprised of two members of the Faculty Senate, elected by the Faculty Senate; two exempt administrators, elected by the Council of Administrators; one department chair, elected by the Council of Chairs; one Dean, appointed by the President; University Counsel, and the Associate Vice President of Human Resources or designee. The Associate Vice President of Human Resources or designee shall serve as Handbook Committee Chair. University Counsel and the Associate Vice President of Human Resources are non-voting representatives.

The Faculty Senators and the exempt administrators shall be elected for two-year terms beginning with one faculty senator and one exempt administrator elected for a two-year term in 2004-05 and one faculty senator and one exempt administrator elected for a one-year term in 2004-05.

Committee members shall secure input from their constituent represented group and provide such input to the Handbook Committee as a whole prior to the Committee's final recommendation. The Committee shall have a reasonable opportunity to submit written comments and/or suggested modification to any proposed change in the Handbook as a recommendation before the President or the Board of Trustees acts on the proposal.

Unless otherwise noted and approved by the Board of Trustees, all revisions to the Handbook are effective July 1 of each year. When there are Handbook revisions, the complete revised Handbook will be published once between June 1 and July 1 annually. No revisions or edits will be published at any other time during the academic year nor will they go into effect except on the July 1 effective date, unless otherwise noted and approved by the Board of Trustees.

Handbook for Professional Personnel approved by the Board of Trustees – February 2, 2005

Handbook for Professional Personnel approved by the Board of Trustees – April 6, 2005

Chapter I. Role and Mission Statement—Revised December 2006

Chapter II. Shared Governance Statement—Revised April 1, 2009 and June 1, 2011

Chapter V. Policies and Procedures for Tenure-line Faculty: Reappointment, Tenure, Promotion, Post-tenure Review, and Emeritus Status—Revised September 3, 2008, December 3, 2008, February 9, 2009 and June 1, 2011

Chapter VI. Salary Administration and Outside Activity—Revised May 14, 2013 and Approved June 6, 2013

Chapter VII. Complaints—Revised March 2010

Chapter IX. Transitional Retirement—Revised November 7, 2007

Chapter XII. Termination of Faculty Appointments—Revised 2013 and Approved June 6, 2013

Section XIV. Disciplinary Procedures and Sanctions—Revised March 26, 2007

Appendix A—Revised November 5, 2008 and May 6, 2009. Removed from Handbook effective July 1, 2013.

Effective July 1, 2013: Chapters were renumbered beginning with Chapter VI due to approval by the Board of Trustees on June 6, 2013 of revisions to Chapter V that addressed Faculty only. Content referencing Administrators was delegated to separate Chapters subsequent to the revised Chapter V. There was no change to content due to renumbering of subsequent Chapters.

Chapter V. Department Chairs: Roles, Responsibilities and Areas of Performance; Selection and Appointment; and Evaluation – Revised July 1, 2014

Chapter VII. A. Policies and Procedures for Administrators: Evaluation and Special Designations – Revised July 1, 2015

Chapter XI– Policies and Procedures for Leave of Absence – Faculty – Revised July 1, 2015

Chapter XII– Policies and Procedures for Leave of Absence – Administrators – Revised July 1, 2015

Chapter XVIII. University Handbook Committee – Revised July 1, 2015

Chapter V. C. 4. h. Revision of application period of department evaluation guidelines for faculty evaluation process. – Revised October 1, 2015

Chapter V. C. 1. b (2) ( c ) and new Section V. D. 1. b. and new Section V. D. 1. c. Revision of levels of review process of student evaluation comments. – Revised October 1, 2015