



Ohio Administrative Code

Rule 3335-5-04.5 Procedures for post-tenure review complaints.

Effective: September 4, 2025

(A) This rule applies to complaints made against tenured faculty members under the post-tenure review process set forth in section 3345.453 of the Revised Code and the faculty annual review, post-tenure review, and reappointment policy. A tenured faculty member shall be required to undergo a post-tenure review if they: (1) receive a rating of "does not meet expectations" in the same area on their annual performance evaluation twice within any three-year period; (2) receive a rating of "does not meet expectations" in any area on their annual performance evaluation within two years following the conclusion of a previous post-tenure review; or (3) the faculty member's department chair or dean or the provost determines that there is cause to find that the faculty member has a documented and sustained record of significant underperformance outside of the faculty member's annual performance evaluation, provided that cause may not be based on an allowable expression of academic freedom as defined by the university or Ohio law. Post-tenure reviews arising from performance evaluations shall only be based on areas in which the faculty member spent at least five percent of their effort for the evaluation year. A tenured faculty member may be disciplined up to and including termination for violations established under this rule.

(B) Preliminary proceedings.

(1) Within thirty days after a tenured faculty member meets one of the conditions set forth in paragraph (A) of this rule, the faculty member's department chair shall submit a letter to the vice provost for faculty affairs explaining the concerns set forth in the evaluations or a separate statement outlining an alleged documented and sustained record of significant underperformance outside the evaluations, and providing copies of the faculty member's five most recent performance evaluations and any responses submitted by the faculty member for consideration as part of the post-tenure review as well as any other documentation that the department chair deems relevant. This letter shall serve as the complaint for the purposes of the post-tenure review.

(a) For the purposes of this rule, the term "department chair" shall include school directors as well as associate deans for colleges without departments. For regional campus faculty, the campus dean and



director shall be responsible for filing the complaint in consultation with the TIU head.

(2) The vice provost shall have fourteen days to review the complaint and ensure that it contains all required information to conduct the post-tenure review. Thereafter, the vice provost shall provide a copy of the complaint to the respondent and refer the complaint to the relevant college investigation and sanctioning committee, which shall officially begin the post-tenure review process.

(3) Only allegations stated in the complaint shall be considered at the various stages of deliberation. However, additional facts relevant to the allegations set forth in the complaint may be presented throughout the process.

(C) College investigation and sanctioning committee.

(1) Each college shall appoint a standing college investigation and sanctioning committee, which shall fulfill the responsibilities set forth in this section and shall be comprised solely of tenured faculty. A college may include faculty members from other colleges on its committee. Should a college have more than one complaint, it has the authority to convene multiple panels of the committee as needed. Each member of the standing college investigation sanctioning committee must receive required training before conducting an investigation under this rule.

(2) Upon receipt of a referral of a complaint from the vice provost, the committee shall be responsible for reviewing the faculty member's performance as documented in the annual reviews and any accompanying information, with a specific focus on those areas in which the faculty member received "does not meet expectations" ratings that triggered the post-tenure review, or on the information provided when the complaint alleges a documented and sustained record of significant underperformance outside of the faculty member's annual performance evaluation. The committee shall meet with the department chair and the respondent and shall review any documentary evidence provided by these parties. The respondent shall be given copies of any documentary evidence provided to the committee as part of the investigation and be given an opportunity to respond to all such documentation. The committee shall have the authority to gather information relevant to the complaint, including by interviewing individuals other than the complainant and respondent as the committee sees fit or as recommended by the complainant or respondent. The committee shall strive to maintain confidentiality in the proceedings.



(3) At the conclusion of the investigation, the committee shall prepare a preliminary report that identifies the proposed findings of fact regarding whether the faculty member's performance was substantiated as "does not meet expectations," or whether an allegation of a documented and sustained record of significant underperformance outside of the faculty member's annual performance evaluation was substantiated. In making this determination, the committee must recognize that department chairs and deans have discretion to set performance expectations for their units and to evaluate performance according to those expectations, and that the committee may not substitute its judgment for the legitimate exercise of such discretion. However, the committee must still find that the alleged performance failures are supported by clear and convincing evidence to sustain a finding, and document its conclusions in the preliminary report. The committee shall provide that document to both the department chair or dean as applicable and respondent for review. Each party shall have seven days to respond and to identify any alleged errors or omissions in the findings.

(4) Following review of any comments by the parties, the committee shall thereafter make any modifications to the report that it deems appropriate and issue a final report which shall include its proposed sanctions.

(5) In evaluating sanctions, the committee shall consider the totality of the circumstances, including aggravating and mitigating factors.

(a) Aggravating factors may include, but are not limited to:

(i) The significance and impact of the faculty member's failure to meet expectations;

(ii) The strength of the evidence presented;

(iii) Whether there is a demonstrated pattern of failing to meet expectations;

(iv) The extent to which the respondent's conduct impacted students, staff, other faculty, their tenure-initiating unit's operations, and/or the university's reputation; and



(v) The respondent was offered feedback and resources to improve performance that were not utilized.

(b) Mitigating factors may include, but are not limited to:

(i) The respondent's conduct did not have a significant negative impact on students, staff, other faculty, their tenure-initiating unit's operations, and/or the university's reputation;

(ii) The respondent's performance met or exceeded expectations in some areas of their evaluation, and/or the respondent has a consistent history of meeting or exceeding expectations in the areas in which they currently do not meet expectations;

(iii) Documented external factors beyond the respondent's control contributed to the failure to meet expectations; and

(iv) The respondent accepted responsibility for the failure to meet expectations.

(6) The committee shall have the authority to recommend sanctions as it sees fit as long as the sanctions are commensurate with the nature of the complaint and the committee's analysis of any aggravating and mitigating factors. Sanctions may be of a discrete or continuing nature, but sanctions of a continuing nature must specify the period of time in which they are applicable. Sanctions may include, but are not limited to the following, and may further include a combination of sanctions:

(a) Verbal reprimand;

(b) Written reprimand;

(c) Mandatory training and professional development or other rehabilitation;

(d) Reduction of salary base;

(e) Reduction of twelve-month appointment to nine-month appointment;



(f) Reduction of full-time equivalent (FTE) appointment;

(g) Reduction of rank;

(h) Revocation of tenure;

(i) Termination of employment.

(7) The committee shall complete its investigation and submit its report to the respondent's dean within forty-five days of the delivery of the complaint to the committee. The committee may seek a single, fifteen-day extension from the provost if needed pursuant to rule 3335-5-04(K).

(D) Decision by the dean.

(1) After reviewing the report and recommendation of the college investigation and sanctioning committee, the dean may:

(a) Dismiss the complaint if the committee found that the complaint was not substantiated and the dean concurs with that finding;

(i) If the dean determines that the committee erred in recommending dismissal of the complaint, the dean may return the case to the committee to address the error. In the event that a case is returned to the committee, the dean must specify the error at issue, and the committee shall address that error in accordance with the requirements of this rule and resubmit its finding to the dean within fourteen days.

(b) Impose the committee's proposed sanction;

(c) Impose what would reasonably be interpreted as an equivalent or lesser sanction to the committee's sanction; or

(d) Increase the committee's sanction.



(2) The dean shall make a decision in seven days. The final report of the college investigation and sanctioning committee and the dean's decision shall be sent to the complainant and the respondent.

(a) Appeals:

(i) The dean's decision shall be final in all cases in which the sanction imposed is a verbal reprimand, a written reprimand, or mandatory counseling or training, but a respondent may place a response to this sanction in their primary personnel file.

(ii) If the dean imposes any other sanction except for revocation of tenure or termination of employment, the respondent shall have the right to appeal in writing to the provost.

(iii) If the dean imposes a sanction that revokes tenure or terminates employment, the matter shall be automatically appealed to the provost.

(iv) In all appeals, whether discretionary or automatic, the respondent may identify their position on the case in writing to the provost. All such submissions and all discretionary appeals must be filed within seven days after notice of the dean's decision was mailed.

(E) Review of appeals by the provost.

(1) After reviewing the record of a case appealed by a respondent or referred by the dean, the provost may:

(a) Affirm the dean's sanction;

(b) Impose what would reasonably be interpreted as an equivalent or lesser sanction to the dean's sanction;

(c) Increase the sanction; or

(d) In the event that the provost determines that substantial new evidence exists (evidence that was not available at the time of the initial investigation and that may reasonably have affected the finding



of misconduct) or there was conflict of interest or procedural error in the previous steps of the process that resulted in material harm or prejudice to the respondent, the provost shall return the case back to a previous step of the process for further proceedings as appropriate. If the provost returns the case to the committee, the committee shall address the error or new evidence and resubmit its finding to the dean within fourteen days. If the provost returns the case to the dean, the dean shall address the error or new evidence and resubmit their decision to the provost within seven days.

(2) The provost shall make a decision within seven days of receiving materials from the dean and respondent as applicable.

(3) If the provost affirms the dean's decision to terminate employment, or imposes or upholds a sanction set forth in section (C)(6)(g) through (i) of this rule, the respondent may appeal to the faculty hearing committee. In all other cases, the provost's decision shall be final.

(4) An appeal by the respondent must be in writing and must be filed with the faculty hearing committee within fourteen days after notice of the provost's decision was mailed. Appeals to the faculty hearing committee shall be limited to one or more of the following grounds:

(a) The sanction is disproportionate to the violations committed in view of the aggravating and mitigating factors;

(b) Substantial new evidence has been discovered (evidence that was not available at the time of the initial investigation and that may reasonably have affected the finding); or

(c) There was a conflict of interest or procedural error in the previous steps of the process that resulted in material harm or prejudice to the respondent.

(F) The faculty hearing committee.

(1) Within three days of receipt of an appeal from a respondent, the faculty hearing committee established by rule 3335-5-48.10 shall convene a hearing panel to consider the appeal and to provide a recommendation to the president regarding the appropriate action. The respondent and the provost or designee may each make one peremptory challenge to the seating of one person on the hearing



panel and one peremptory challenge to the selection of a presiding officer. Any peremptory challenges must be made within twenty-four hours of receipts of the panel and presiding officer names.

(2) The parties to this hearing shall be the respondent and the provost, or designee.

(3) The hearing panel may restrict the attendance of persons at the proceedings. However, the respondent and the provost shall have the right to have one observer of their choosing present at all times.

(4) The provost, or designee, shall present the case to the hearing panel. In presenting the case, the provost may be advised and represented by the general counsel, or designee. The provost shall have the right to present witnesses and evidence and to examine witnesses and evidence presented by the respondent.

(5) Respondents shall have the right to represent themselves or to be represented by legal counsel or any other person of their choice. The respondent shall have the right to examine the witnesses and evidence presented against them in the hearing, to present witnesses and evidence on their own behalf, and to refuse to testify or be questioned in the proceedings without prejudice to their cause.

(6) The hearing panel shall receive testimony and other evidence as it deems relevant and material to the issues appealed, and may decline to receive evidence presented by the provost or the respondent that is not material and relevant to the appeal.

(7) An electronic recording shall be kept of all proceedings at a hearing panel. The recording shall be conveyed by the chair of the faculty hearing committee to the Office of Academic Affairs.

(8) At the conclusion of the proceedings, the hearing panel shall make written conclusions with respect to each substantive issue raised at the hearing:

(a) If the respondent challenges the appropriateness of the sanction, the faculty hearing committee shall set forth what their recommended sanction is in accordance with the factors set forth in section (C)(5) of this rule.



(b) If the respondent alleges conflict of interest, procedural error, or substantial new evidence, the faculty hearing committee shall set forth what their conclusions are and whether they believe that further proceedings are appropriate.

(9) The faculty hearing committee's report, together with a recording of the proceedings, shall be transmitted to the president, provost, and respondent within thirty days of the date that the final hearing panel is convened.

(G) The president.

(1) Upon receipt of the written recommendation and a record of the proceedings from a hearing panel, the president shall review the matter. The president may:

(a) Impose any sanction less than termination of employment whether or not it accords with the recommendation of the hearing panel;

(b) Recommend to the board of trustees termination of employment;

(c) Remand the case to the hearing panel for reconsideration; or

(d) In the event that the president determines that substantial new evidence exists (evidence that was not available at the time of the initial investigation and that may reasonably have affected the finding of misconduct) or there was conflict of interest or procedural error in the previous steps of the process that resulted in material harm or prejudice to the respondent, the president shall return the case back to a previous step as appropriate.

(2) The president's decision on all sanctions less than termination of employment is final.

(3) Any decision of the president shall be communicated in writing to the hearing panel, the provost, and the respondent.

(4) The president shall make a decision within fourteen days.



(H) Board of trustees.

(1) The board of trustees, in reviewing and deciding upon a case in which termination of employment has been recommended, has the ultimate authority to take that action necessary to promote the best interest of the university and to protect the rights of the individual. In such cases, the board shall have the discretion to decide whether the respondent has an opportunity to present to it arguments in writing, or in person, or both.