

CHAPTER VI

RULES GOVERNING COMPLAINTS AND GRIEVANCES AGAINST FACULTY UNDER UWS CHAPTER 6 OF THE WISCONSIN ADMINISTRATIVE CODE

(Approved by Board of Regents on February 5, 1982 and August 18, 2006. Reviewed and Approved by UW-Whitewater Faculty Senate on August 8, 2016. Approved by Chancellor on August 19, 2016. Approved by Board of Regents on October 7, 2016.)

SECTION A. GENERAL PRINCIPLES AND DEFINITIONS

1. Definitions:

a. **Statement of Charge(s):** A written statement issued by the Chancellor in response to a complaint filed against a faculty member that directs specific disciplinary action and penalties against said faculty member. The charge(s) shall describe the conduct alleged in the complaint, the university rule or policy that the faculty member's alleged conduct or pattern of conduct violated, and/or how the faculty member's alleged conduct or pattern of conduct adversely affected the faculty member's performance of his or her obligations to the university. [Note: Any complaint against a faculty member for conduct described in Section C shall be defined therein and subject to the regulations of the United States Department of Health and Human Services (See 42 C.F.R., Part 50.102)]

b. **Complaint:** A formal allegation of conduct against a faculty member which violates university rules or policies or which adversely affects the faculty member's performance of his or her obligation to the university and could lead to discipline or dismissal under UWS 4 or UWS 6.

c. **Conflict Resolution:** A voluntary alternative means of resolving disputes by which a neutral third party facilitates a mutually acceptable resolution between the complainant and faculty member to resolve all outstanding complaints, grievances, disputes or concerns.

d. **Grievance:** An allegation of dissatisfaction or wrongdoing in regard to a faculty member's working conditions, unfair treatment or dispute that does not rise to the level of a formal complaint. A grievance generally seeks some form of corrective resolution for the alleged conduct rather than punitive or disciplinary action.

e. **Penalty or Remedy:** As a part of the disciplinary process under this Chapter, the Chancellor may impose a penalty or remedy (or a combination thereof) as stated below which shall be included in the Statement of Charge(s):

i. **Reprimand:** A written warning by the Chancellor that the faculty member must cease the specified conduct which violated university rules or policies or adversely affected the faculty member's performance of his/her contractual obligations to the university.

ii. **Corrective intervention:** Counseling, training, or other appropriate and reasonable remedies which would support necessary changes in behavior.

iii. **Fine:** A one-time forfeiture of up to but not to exceed 10% of the faculty member's annual base salary.

iv. **Reduction of base salary:** A reduction of up to but not to exceed 5% of the

faculty member's annual base salary.

v. Suspension without pay: Suspension without pay from all employment by the university and suspension of all rights and privileges derived from faculty appointment or rank or from departmental or college faculty membership up to but not more than a period equal to one contractual year.

2. General Principles:

a. Sections B and C of these rules shall apply when a complaint is filed against a faculty member by a student, university staff, academic staff, faculty member, administrator or member of the public. In cases involving allegations of misconduct related to research, Section C will apply. For all other complaints against faculty members, Section B will apply.

b. Section D of these rules shall apply when a faculty member files a grievance during his or her employment at the University of Wisconsin-Whitewater. These rules shall ensure a fair, just, and timely process in regard to the proceedings herein.

c. No person shall be denied recourse to the other means of relief specified in these rules, for example, conflict resolution. At any time in the process, the complainant, faculty member, and Chancellor by mutual written consent may choose to engage in a conflict resolution process.

d. Any complaint or grievance that would violate a faculty member's constitutional rights or protections or negatively impact the principles of academic freedom shall be dismissed, in whole or in part.

e. Any dispute, complaint or grievance filed by a student against a faculty member for a grade dispute or appeal shall be referred to the applicable provisions under UWS Chs. 14, 17 or the UW-Whitewater handbook for student grade appeals.

f. All proceedings shall be conducted in a climate of presumed innocence. Every effort shall be made to preserve the rights and dignity of all parties.

g. If disciplinary action is imposed against a faculty member under Section B or C of this Chapter, the faculty member may not be disciplined twice for the original conduct under which the original complaint was made. This does not prevent the Chancellor from taking additional disciplinary action against a faculty member for conduct that was not considered during the original disciplinary charges, penalties or remedies.

h. During the pendency of the disciplinary process under Section B or C of this Chapter, the Chancellor may place a faculty member on administrative leave with pay or reassign the faculty member to different duties or obligations. Said action does not constitute disciplinary action (e.g. a penalty or remedy) under this Chapter.

i. Unless specifically stated otherwise during proceedings under Section B or C of this Chapter, a faculty member shall remain employed and fulfill his or her contractual obligations to the University during the proceedings under Section B, unless immediate suspension without pay is initiated under UWS 4 or 7.

3. Class Reassignment of Student:

During the proceedings herein, if an administrator seeks to reassign a student from a faculty member's class to a comparable class taught by another faculty member, the administrator will make every reasonable effort to obtain the verbal consent of the student and receiving faculty member unless reassignment is necessary to address a health or safety concern of the student or faculty member. The administrator, or his or her designee, shall inform the faculty member under investigation, his or her department chair and dean of the college of the basis for the reassignment. All reasonable efforts shall be taken to ensure that the reassignment does not disadvantage the student or the receiving faculty member.

4. Voluntary Resolution:

At any point during the process, the Chancellor, complainant or faculty member may initiate a mutually acceptable resolution of the complaint. If a resolution is considered, the Chancellor and faculty member shall agree to such resolution in writing and stipulate to a mutually agreeable extension of any deadlines herein. Any agreement to seek conflict resolution shall be voluntary in nature, uncoerced and without precondition as to outcome. If necessary, a facilitator may be assigned by the Chancellor to assist the parties in seeking a mutual resolution.

SECTION B. COMPLAINTS AGAINST FACULTY

1. Receipt of a Complaint:

a. Time to File: A complaint must be signed by the complainant (or his or her representative) and filed with the Chancellor's Office within one hundred twenty (120) calendar days of the alleged acts or omissions that led to the complaint unless said allegations are a part of a consistent and continuing pattern of similar behavior(s) that occurred prior to the 120 calendar day period.

b. Notice to Faculty Member: Within twenty-one (21) calendar days from the Chancellor's receipt of a complaint against a faculty member, the Chancellor, or his or her designee, shall notify the faculty member in writing by email and first class mail to last known residence that a complaint has been received. The Chancellor, or his or her designee, shall provide the faculty member with a copy of the complaint or in the alternative, a written summary of the allegations contained in the complaint.

c. Initial Action by Chancellor: Upon consideration of the complaint, the Chancellor may request additional information from the complainant, dismiss the complaint for lack of merit or untimeliness, or initiate an investigation into the allegations through the use of an investigator to determine whether there is sufficient evidence to issue a Statement of Charge(s).

- i. If the Chancellor dismisses the complaint for lack of merit or untimeliness, the Chancellor will notify the complainant and faculty member in writing of the decision within twenty-one (21) calendar days with the stated reasons for dismissal. The complainant shall be notified of any rights to appeal said decision under any applicable university or system policy or procedure.
- ii. If the Chancellor concludes that an investigation is necessary to determine whether to file a charge, the process under subsection B.2 below will be initiated.
- iii. If the faculty member admits to all of the allegations contained in the complaint, then the Chancellor may proceed to issuing a Statement of Charge(s) pursuant to subsection B.3.

d. At any time during this process under Section B, either the complainant and/or the faculty member may request that the Chancellor assign an impartial administrator or employee of the university to serve as an advocate for either party throughout the process to ensure that all rights and responsibilities are clearly understood.

e. In accordance with Title IX of the Education Amendments of 1972 and the Violence Against Women Reauthorization Act of 2013, if a complaint or allegation involves sexual harassment, sexual assault, domestic or dating violence or stalking, the complainant or person who was allegedly subjected to said conduct shall have all procedural rights and protections provided to the faculty member during the process, including a right to be simultaneously notified of any action, decision or appeal rights that the faculty member receives from the Chancellor, or designee.

2. Investigation:

a. The Chancellor will assign an individual to conduct an investigation into the allegations contained in the complaint. The investigation shall be completed within one hundred twenty (120) calendar days from the date it is assigned to the investigator, unless additional time is required to conduct a thorough and complete investigation. During the investigation, the investigator will provide the complainant, pertinent witnesses and the faculty member with an opportunity to provide verbal or written information related to the allegations within a twenty-one (21) calendar day period. At the conclusion of the investigation, the investigator will submit his or her findings in writing to the Chancellor with the following: i) a summary of the allegations; ii) the names of all individuals interviewed; iii) findings of fact based on the evidence considered; and iv) copies of all documents that were relied upon for the findings of facts.

b. Within thirty (30) calendar days from receipt of the investigative report, the Chancellor shall either dismiss the complaint or issue a Statement of Charge(s) against the faculty member. If the Chancellor dismisses the complaint in light of the investigative findings, the Chancellor will notify the complainant and faculty member by email and first class mail to last known residence of the decision with the stated reasons for dismissal. The complainant shall be notified of any rights to appeal the decision under any applicable university or system policy or procedure. If the Chancellor determines that there is sufficient evidence to conclude that the faculty member's conduct violates university rules or policies or adversely affects the faculty member's performance of his or her obligation to the university, a Statement of Charge(s) shall be issued in accordance with subsection 3 below.

3. Statement of Charge(s):

If the Chancellor determines that there is sufficient evidence to conclude that the faculty member's conduct violates university rules or policies or adversely affects the faculty member's performance of his or her obligation to the university, the Chancellor shall prepare a written Statement of Charge(s) to be delivered to the faculty member's official university email account and by U.S. First Class mail to the faculty member's last known home address. The Statement of Charge(s) shall include the following:

- a. A description of the conduct alleged in the complaint;
- b. The university rule or policy that the faculty member's alleged conduct or pattern of conduct violated;

- c. A description of how the faculty member's alleged conduct or pattern of conduct adversely affected the faculty member's performance of his or her obligation to the university;
- d. The name of the complainant(s)(unless there is a privacy or safety concern that would prevent the disclosure of personal information of the complainant or other individuals);
- e. The name of the individual who investigated the allegation(s), if applicable;
- f. The names of any individuals who may have pertinent information in relation to the charge;
- g. A copy of non-redacted documents or materials that were relied upon by the Chancellor to issue or support the charge, unless privacy laws require redaction;
- h. The Chancellor's initial determination as to whether the charge seeks disciplinary action pursuant to UWS 6 and UW-Whitewater Ch. VI, Section B rather than UWS 4;
- i. A description of any penalty and/or remedy;
- j. The faculty member's right to an advocate or legal representation at his or her own expense at any point in the process; and
- k. The faculty member's right to request a hearing before the Faculty Appeals, Grievance and Disciplinary Hearing Committee in regard to either the findings and/or the penalties or remedies no later than twenty-one (21) calendar days from the date of the Statement of Charge(s).

4. Response by Faculty Member:

Within twenty-one (21) calendar days from the date of the Statement of Charge(s), the faculty member may submit a written request for a hearing to the Chancellor. Failure to file a written request for a hearing within the timeframe herein shall result in the charge(s) being final and any penalties and/or remedies may be immediately imposed against the faculty member.

5. Request for Hearing:

If a faculty member submits a written request to the Chancellor for a hearing within the timeframe herein, then the Chancellor shall stay any penalty or remedy until the hearing process is concluded. The Chancellor shall contact the Faculty Senate Chair and request that a five (5) member hearing panel be formed (plus 2 alternative members) from the membership of the Faculty Appeals, Grievance and Disciplinary Hearing Committee. The Chancellor shall provide the Faculty Senate Chair with a copy of the Statement of Charge(s) (with attachments).

6. Composition of Hearing Panel:

a. Within twenty-one (21) calendar days from receipt of the Chancellor's request for a hearing panel, the Faculty Senate Chair shall select five (5) eligible Faculty Appeals, Grievance and Disciplinary Hearing Committee members and two (2) alternatives to serve as the Hearing Panel. Upon the Faculty Senate Chair's receipt of each selected member's confirmation of their availability to serve

as a Hearing Panel member, the Faculty Senate Chair will submit the member's and alternate's names and titles in writing to the Chancellor and faculty member.

b. The Chancellor or the faculty member may each object to one Hearing Panel member or alternate, in which case a new panel member may be chosen.

c. No Hearing Panel member or alternate shall be a member of the faculty member's department, nor shall a member or alternate have a conflict of interest or personal relationship which would impact the member's or alternate's ability to be an impartial and unbiased Hearing Panel member.

7. Initial Meeting of Hearing Panel:

Within twenty-one (21) calendar days of the official composition of the Hearing Panel, the Faculty Senate Chair shall meet with the Hearing Panel in person or by teleconference and provide the Hearing Panel with a copy of the Statement of Charge(s) and attachments. During this meeting, the Hearing Panel shall appoint a Chairperson to officiate the hearing proceedings, conduct all necessary communication with the parties during the process and respond to any procedural matters on behalf of the Hearing Panel.

8. Legal Advisor to Hearing Panel:

Upon the Hearing Panel's request to the Chancellor, an attorney from the UW System Office of General Counsel may be assigned to work with the Hearing Panel in regard to procedural matters and/or drafting of written communications during the hearing process. The function of legal counsel shall be to advise the Hearing Panel, consult with Hearing Panel members on legal matters, and such other responsibilities as shall be determined by the Hearing Panel within the provisions of these rules and procedures.

9. Confidential Materials:

During this hearing process, all documents received by the Faculty Senate Chair and Hearing Panel shall be considered confidential in nature. Only individuals who are involved in the hearing proceedings shall have access to the information contained therein as necessary to participate in the hearing, unless otherwise subject to disclosure by law.

10. Preliminary Meeting:

a. Procedural Issues: Within thirty (30) calendar days from the initial meeting between the Faculty Senate Chair and the Hearing Panel, the Chair of Hearing Panel shall meet with the parties for a preliminary meeting (in person or by teleconference) in order to determine the following:

- i. The date, time and location of the hearing;
- ii. The order in which the parties will present their cases and the time allotted for such presentations;
- iii. Submission and exchange of any documents that the parties would like the Hearing Panel to consider;
- iv. A date in which the disclosure and exchange of the names and contact information of any witnesses will be provided to the Chair of the Hearing Panel and parties;

- v. The names and contact information of any advocate or legal representative, if any, that will be assisting either party during the hearing proceedings;
- vi. The method of recording the hearing;
- vii. Whether the hearing shall be conducted in open or closed session; and
- viii. Any objections or concerns from either party related to the hearing process.

b. Substantive Procedural Errors: If the faculty member alleges, through credible information, that there has been one or more significant procedural errors in the process, the Chair of the Hearing Panel, in consultation with UW System Office of General Counsel, shall review the alleged error and determine whether such error is substantial enough to prevent a fair, prompt and impartial proceeding. If so, the Chair of the Hearing Panel shall suspend further proceedings and issue a written statement to the Chancellor for consideration within seven (7) calendar days of the date of the allegations. Upon receipt of said statement, and within ten (10) calendar days, the Chancellor shall review said information and issue a determination as to whether, in light of such information, the charge(s) should be dismissed, modified or remain as written. The Chancellor's determination shall be issued in writing to the faculty member and Chair of the Hearing Panel. If the charge(s) are not dismissed, the Chair of the Hearing Panel shall proceed to the hearing stage of this process.

11. Hearing Proceedings:

a. Hearing Date: A hearing shall be conducted within sixty (60) calendar days from the initial meeting between the Faculty Senate Chair and the Hearing Panel. The Chair of the Hearing Panel shall notify all parties of the date, time and location of the hearing by email and First Class mail to the last known residence no less than five (5) calendar days prior to the hearing. The Chair of the Hearing Panel, in consultation with the parties, may extend the hearing date due to a break in the academic calendar, the unavailability of Hearing Panel members, parties or pertinent witnesses, or other extenuating circumstances.

b. Procedural Rights: During the hearing, the faculty member shall have the following procedural rights and protections:

- i. A fair and impartial hearing;
- ii. Reasonable access to all documents presented in evidence;
- iii. Be represented by a university advocate or legal counsel (at the party's expense). Said advocate or legal counsel may speak on behalf of the party and present the case on behalf of the party;
- iv. Be heard on the party's own behalf;
- v. Present witnesses to testify on behalf of the party;
- vi. Receive a reasonable opportunity to cross examine any witnesses called by the other party;
- vii. Request a temporary recess if necessary, to consider new evidence or information not previously known or reasonably discovered prior to the hearing; and
- viii. Upon request, obtain a copy of any transcript or recording of the hearing at the party's expense, if applicable.

c. Open Meetings Law: The hearing shall be conducted in accordance with the Wisconsin Open Meetings Law pursuant to Wis. Stat. Ch. 19.85, et. al. The faculty member may request that the hearing be conducted in either open or closed session. However, the Chair of the Hearing Panel shall determine whether to grant said request, considering both the personnel nature of the proceedings and the sensitive information that may be disclosed through testimony during the proceedings. All

deliberations of the Hearing Panel shall be conducted in closed session.

d. Documentation: No less than three (3) calendar days prior to the scheduled hearing, the parties shall submit an electronic copy of all documentation that the parties intend to submit to the Hearing Panel for consideration (labeled with numbers and a table of contents), a list of all potential witnesses that either party intends to call to testify during the hearing and the name of each party's representative(s) or legal counsel, if applicable.

e. Hearing Procedures and Rules of Evidence: The Hearing Panel shall not be bound by common law or statutory rules of evidence and may admit evidence having reasonable probative value but shall exclude immaterial, irrelevant, or unduly repetitious testimony, and shall give effect to recognized legal privileges. The Hearing Panel may take reasonable steps to maintain order, and to adopt procedures for conducting the hearing in a manner that will provide a reasonable opportunity for both parties to present their cases and question witnesses, provided, however, whatever procedure is adopted, the parties are allowed to effectively present and refute evidence.

f. Recording of Hearing: The Chair of the Hearing Panel shall be responsible for creating a recording of the hearing with a reliable recording device. If the hearing is conducted in open session, any person may record the open meeting unless said recording unduly interferes with the hearing proceedings. If the hearing is conducted in closed session, the Chair of the Hearing Panel shall be responsible for securing the record to prevent any improper disclosure. Either party may request a copy of the recording at their own expense which shall be provided as soon as reasonably practicable.

g. Burden of Proof: The Chancellor shall have the burden of proof to present evidence that proves by a preponderance of the evidence that the allegations contained in the Statement of Charge(s) occurred.

h. Failure to Appear: If either party fails to appear at the hearing, the Chair of the Hearing Panel may proceed with the hearing in their absence or postpone the hearing to a later date.

i. Witnesses: During the hearing, either party may call to testify any individual who is reasonably likely to have relevant or material information that is pertinent to the substantive issues contained in the Statement of Charge. Any witness who is an employee of the University may appear, upon request by either party, but said attendance is voluntary and no discipline shall be imposed against an employee for failing or refusing to appear as a witness at the hearing. If an employee appears at the hearing, the supervisor shall excuse the employee from work to attend the hearing. If either party is unable to secure a witness to attend the hearing, the Chair of the Hearing Panel may consider alternative options of receiving any relevant information the witness may have, such as a video conference or teleconference.

j. Evidence Considered: During the hearing, the Hearing Panel shall accept evidence in the form of statements by the parties, testimony by witnesses and written documentation submitted prior to or during the hearing. The Hearing Panel shall only consider evidence that is credible, relevant and probative in value. The Hearing Panel shall not consider any evidence that it determines to be redundant, immaterial or lacking in probative value. At the conclusion of the hearing, the Hearing Panel shall deliberate in closed session to consider the evidence and issue its findings of facts and recommendations. At the conclusion of the deliberations, the Hearing Panel members shall take a vote to affirm or oppose each charge listed in the Chancellor's statement of charge letter and affirm, oppose or propose a lesser penalty and/or remedy contained in the Statement of Charge(s). An affirmative vote of a simple majority of the Hearing Panel members shall be required to sustain a motion.

12. Hearing Panel's Report:

Within twenty-one (21) calendar days from the conclusion of the Hearing Panel's deliberations, the Chair of the Hearing Panel shall prepare a written report to the Chancellor, with a copy to the faculty member by email and First Class mail to last known residence, which includes the Hearing Panel's findings of facts, conclusions and recommendations in regard to each of the Chancellor's charge(s), penalties and/or remedies contained in the Statement of Charge(s).

13. Chancellor's Decision:

Within thirty (30) calendar days from receipt of the Hearing Panel's report, the Chancellor shall issue a final decision. The Chancellor may impose a lesser or different penalty and/or different remedy than originally proposed. The Chancellor's decision shall be final except that the Board of Regents may, at its discretion, grant a review on the record in accordance with UWS 6.01(5).

14. Retention of Records:

All documentation (including hard copies, email communications, photos, videos, cell phone messages, etc...) that was a part of the evidentiary record considered by the Hearing Panel, including the recording of the hearing, shall be submitted to the Faculty Senate Chair for collection and secure forwarding to the Office of the Provost and Vice Chancellor for Academic Affairs to be placed in the faculty member's personnel file and in the University Archives.

SECTION C. COMPLAINTS OF MISCONDUCT IN SCIENCE

1. Definitions and Policy:

Recognizing that honesty in the conduct of academic research is fundamental to its integrity and credibility, and to the maintenance of public trust in the university, the UW-Whitewater adopts these policies and procedures for reviewing and investigating allegations of scientific misconduct. For purposes of these policies and procedures, "misconduct in science" or "misconduct" means fabrication, falsification, plagiarism or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. Misconduct in science is prohibited at the UW-Whitewater, and may be cause for discipline or dismissal.

2. Initial Inquiry and Evaluation or Other Evidence of Possible Misconduct:

a. Informal allegations or reports of possible misconduct in science shall be directed initially to the person with immediate responsibility for the work of the individual against whom the allegations or reports have been made. The person receiving such an informal report or allegation is responsible for either resolving the matter or encouraging the submission of a formal allegation or report. Upon receipt of formal allegations or reports of scientific misconduct, the person with immediate responsibility for the work of the individual against whom the allegations or reports have been made shall immediately inform, in writing, the Vice Chancellor.

b. The Vice Chancellor shall appoint an individual or individuals to conduct a prompt inquiry into the allegation or report of misconduct.

i. The individual or individuals conducting the inquiry shall prepare a written report for the Vice Chancellor describing the evidence reviewed, summarizing relevant

interviews and including the conclusions of the inquiry.

ii. The inquiry must be completed within 30 calendar days of its initiation unless circumstances clearly warrant a longer period. If the inquiry takes longer than 30 days to complete, the reasons for exceeding the 30-day period shall be documented and included with the record.

iii. The individual against whom the allegation was made shall be given a copy of the report of the inquiry by the Vice Chancellor, and shall have an opportunity to respond to the report within 10 days of receipt. Any response must be in writing, and will become a part of the record of the inquiry.

iv. To protect the privacy and reputation of all individuals involved, including the individual in good faith reporting possible misconduct and the individual against whom the report is made, information concerning the initial report, the inquiry and any resulting investigation shall be kept confidential and shall be released only to those having a legitimate need to know about the matter. [Note: Following Chapter VI Rules Governing Complaints Against and Grievances of Faculty Under UWS 6 of the Wisconsin Administrative Code as outlined in Section VI-F of the University Handbook the accused person shall be considered a person with a legitimate need to know.]

c. If the inquiry concludes that the allegation of misconduct is unsubstantiated and if the inquiry concludes that an investigation is not warranted, then the reasons and supporting documentation for this conclusion shall be reported to the Vice Chancellor, who shall be responsible for reviewing the conclusion of the inquiry. If the Vice Chancellor concurs in the conclusion that an investigation is not warranted, his or her determination, and all other supporting documentation from the inquiry shall be recorded and the record maintained confidentially for a period of three years after the termination of the inquiry. If the inquiry or the Vice Chancellor determines that an investigation is warranted, the procedure in paragraph (2) shall be followed.

3. Investigation of Reported Misconduct in Science:

a. If an investigation is determined to be warranted under paragraph (1), the Vice Chancellor shall so inform the Chancellor. The Chancellor shall immediately appoint a committee to conduct the investigation. The committee shall be composed of impartial faculty members possessing appropriate competence and research expertise for the conduct of the investigation, and no faculty member having responsibility for the research under investigation, or having any other conflict with the university's interest in securing a fair and objective investigation, may serve on the investigating committee. If necessary, individuals possessing the requisite competence and research expertise who are not affiliated with UW-Whitewater may be asked to serve as consultants to the investigating committee.

b. The investigation must be initiated within 20 days of the completion of the inquiry. The investigation normally will include examination of all documentation, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. Interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as others who might have information regarding the allegations. Summaries of interviews conducted shall be prepared and provided to the parties interviewed for their comment or revision. These summaries shall be made a part of the record of the investigation.

c. The individual making the allegation and the individual against whom the allegation is made, and all others having relevant information, shall cooperate fully with the work of the investigating committee, and shall make available all relevant documents and materials associated with the research under investigation.

d. The investigation should ordinarily be completed within 60 days of its initiation. This includes conducting the investigation, preparing the report of the findings, making that report available for comment by the subjects of the investigation, and submitting the report to the Chancellor. If the investigating committee determines that it cannot complete the investigation within the 60-day period, it shall submit to the Chancellor a written request for an extension explaining the need for delay and providing an estimated date of completion. If the research under investigation is funded by an agency within the Public Health Service (PHS), the procedures under paragraph (3)(d) of this policy shall also apply.

e. The report of the investigation should include a description of the policies and procedures under which the investigation was conducted, information obtained and the sources of such information, an accurate summary of the position of the individual under investigation, the findings of the committee, including the bases for its findings, and the committee's recommendation to the Chancellor concerning whether the evidence or scientific misconduct is sufficient to warrant discipline or dismissal under the applicable faculty or academic staff personnel rules. Upon completion of the investigation, all documentation substantiating the findings and recommendation of the investigating committee, together with all other information comprising the record of the investigation, shall be transmitted to the Chancellor with the report.

f. A copy of the investigating committee's report shall be provided to the individual being investigated. Before taking action under paragraph (3) of this policy, the Chancellor or appropriate administrative officer shall afford the individual under investigation an opportunity to discuss the matter.

4. Reporting to the Office of Scientific Integrity (OSI) Where research is Funded by PHS Grants, or Where Research is Funded by an Agency within PHS:

a. A determination that an investigation should be initiated under paragraph (1) (c) must be reported by the Vice Chancellor in writing to the OSI Director on or before the date the investigation begins. The notification should state the name of the individuals against whom the allegations of scientific misconduct have been made, the general nature of the allegations, and the PHS application or grant numbers involved.

b. During the course of the investigation, the granting agency should be apprised of any significant findings that might affect current or potential funding of the individual under investigation or that might require agency interpretation of funding regulations.

c. The OSI must be notified at any stage of an inquiry or investigation if the university determines that any of the following conditions exist:

- i. There is an immediate health hazard involved;
- ii. There is an immediate need to protect federal funds or equipment;
- iii. There is an immediate need to protect the interests of the person making the allegations or of the individual who is the subject of the allegations as well as his or her co-investigators and associates, if any;
- iv. It is probable that the alleged incident is going to be reported publicly;

v. There is a reasonable indication of possible criminal violation. In that instance, the university must inform OSI within 24 hours of obtaining that information.

d. If the university is unable to complete the investigation within the 60-day period, as described above, the Vice Chancellor must submit to OSI a written request for an extension and an explanation of the delay, including an interim progress report and an estimated date of completion of the investigation. If the request is granted, the institution must file periodic progress reports as requested by the OSI. If satisfactory progress is not made in the institution's investigation, the OSI may undertake an investigation of its own.

e. If the university plans to terminate an inquiry or investigation for any reason within completing all the relevant requirements, a report of such planned termination, including a description of the reasons for such termination, shall be made by the Vice Chancellor to OSI, which will then decide whether further investigation should be undertaken.

f. Upon completion of the investigation, the Vice Chancellor will notify OSI of the outcome, in a report which shall include the information and documentation specified in paragraph (2) (e) of this policy.

5. Other Action Following Completion of Investigation:

a. If the allegation of scientific misconduct is substantiated by the investigation, the Vice Chancellor shall notify the agency, if any, sponsoring the research project of the result of the investigation. In such a case, the individual involved will be asked to withdraw all pending abstracts and papers emanating from the scientific misconduct, and the Vice Chancellor will notify editors of journals in which relevant papers appeared. In addition, other institutions and sponsoring agencies with which the individual has been affiliated shall be notified if, based on the results of the investigation, it is believed that the validity of previous research by the individual under investigation is questionable.

b. Where scientific misconduct is substantiated, the UW-Whitewater will take appropriate action, which may include discipline or dismissal, with regard to the employment status of the individual or individuals involved. Applicable personnel rules, policies and procedures set forth in Chapters UWS 4, 6, 11 and 13, Wisconsin Administration Code and related university policies shall govern discipline or dismissal actions resulting from an investigation of scientific misconduct.

c. Where allegations of scientific misconduct are not substantiated by the investigation, the UW-Whitewater shall make diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct, and to protect the positions and reputations of those persons who, in good faith, made the allegations.

SECTION D. GRIEVANCES OF FACULTY MEMBERS

1. Definition:

For purposes of these rules, a grievance of a faculty member is a claim that an act of an employee of the university in his or her capacity as an employee, which affected the faculty member in his or her capacity as a faculty member, was unfair, improper, or contrary to law or the university rules or policies, or interfered with the faculty member's performance of university responsibilities, provided that if formal appeal procedures have been established by the faculty and the chancellor for acts of the type complained of, the act shall not be subject to these grievance procedures unless the rules establishing the formal appeal procedures specifically allow resort both to the formal appeal procedures

and to these grievance procedures in the same matter.

2. Responsibility for Initial Investigation and Effort to Remedy a Grievance of a Faculty Member:

- a. The dean of a college is responsible for dealing with grievances against the acts of employees and committees of the college, except the dean.
- b. The vice chancellor is responsible for dealing with grievances against the acts of deans of colleges, employees in the division of academic affairs not in any college, except the vice chancellor, and university faculty committees.
- c. An assistant chancellor is responsible for dealing with grievances against the acts of employees under the supervision of the assistant chancellor.
- d. The chancellor is responsible for dealing with grievances against the vice chancellor or an assistant chancellor and against any employee or agency of the university not otherwise provided for; if any doubt or dispute exists as to the responsibility for dealing with any grievance, it shall be decided by the chancellor.

3. Presentation, investigation, and resolution of a grievance of a faculty member:

- a. A faculty member with a grievance shall present it to the responsible officer, or to the chancellor for referral to the appropriate responsible officer, in a written statement which tells what act is complained of and why and what the faculty member has done to resolve the problem.
- b. If the responsible officer believes that he or she can promptly remedy a grievance or satisfy a faculty member that a grievance is not well founded, without resort to the formal procedures here provided, the responsible officer may attempt to do so, but shall not delay the initiation of formal grievance procedures more than 7 days without the consent of the aggrieved faculty member.
- c. If informal resolution is not achieved in this manner, a grievance officer shall be appointed by agreement between the faculty member and the responsible officer. If they cannot agree, the faculty member shall select one of three or more persons proposed by the responsible officer from a list of persons established by the Faculty Senate.

4. Investigation and Effort at Resolution by the Grievance Officer:

- a. The grievance officer shall make inquiries of persons having knowledge of the grievance, examine university records relevant to it, and gather information useful in the determination of whether it is in whole or in part well founded. In the process of this investigation the grievance officer may, with the consent of the aggrieved faculty member, amend the statement of the grievance to clarify or correct it. The grievance officer shall determine that the grievance is well founded if he or she finds that the act complained of was in fact done and that it constitutes a grievance as defined in VI, C, (1) of these rules. If the grievance officer finds that the faculty member's grievance is not well founded even in part, the grievance officer shall so report to the faculty member in writing, with the reasons for the finding.
- b. If the grievance officer determines that the grievance is at least in part well founded, he or she shall so report in writing to the aggrieved faculty member and to the employee complained of, with the reasons for the finding; and the grievance officer shall, after consulting the aggrieved faculty member and the employee complained of, attempt to devise a remedy, including, if possible, a particular remedy for the injury done the aggrieved faculty member with a schedule for its accomplishment, and, when appropriate, a general remedy to prevent a recurrence of the basis for the grievance. If the grievance officer can devise a particular remedy, he or she shall propose it in writing to the aggrieved faculty member and to the employee whose act constitutes the basis for the grievance.

c. An employee whose act constitutes the basis for a grievance shall respond to the proposal of a particular remedy within 10 days, either by agreeing to accomplish the remedy, or by refusing to do so, in which case the reasons for the refusal shall be stated, or by proposing an equivalent alternative remedy, or by setting date by which one of these responses will be made, with the reasons for the delay.

d. If a grievance officer devises a general remedy for a grievance, he or she shall propose it to the employee whose act constitutes the basis for the grievance, to the responsible officer, to the aggrieved faculty member, and to any officer or agency of the university which has the authority to implement the general remedy or the consent of which is required for its implementation.

e. If the grievance officer can devise no particular remedy for a well-founded grievance, he or she shall so report in writing to the aggrieved faculty member and to the responsible officer with the reasons for the inability.

f. If the grievance officer proposes a particular remedy for a grievance, the grievance officer shall consider the response of the employee to the proposal, and shall monitor the compliance of the employee with the proposed remedy, until the grievance officer concludes that the proposed remedy or an equivalent alternative remedy has been accomplished in a timely manner, or that the employee has not responded or accomplished the remedy in a timely manner. Upon reaching any of these conclusions, the grievance officer shall report it in writing to the aggrieved faculty member, to the employee, and to the responsible officer.

g. Prior to being discharged of duty in the matter, a grievance officer may withdraw or modify any finding, conclusion, or proposed remedy.

h. If the grievance officer is unable for any reason to perform the duties of a grievance officer, he or she shall so report to the responsible officer and the aggrieved faculty member, with the reason for the inability.

i. A grievance officer shall present to the responsible officer a final report and all papers gathered in the course of the investigation of and effort to resolve the grievance, deliver a copy of the final report to the faculty member, and be discharged from duty as a grievance officer in the matter, when:

- i. the grievance officer reports that the grievance is not well founded even in part; or
- ii. the grievance officer reports that he or she can devise no particular remedy for the grievance; or
- iii. the grievance officer concludes that the proposed particular remedy or an equivalent alternative remedy has been accomplished in a timely manner; or,
- iv. the grievance officer concludes that the employee whose act forms the basis for the grievance has not responded to the proposed remedy or accomplished the remedy in a timely manner; or
- v. the grievance officer has reported to the responsible officer and the faculty member his or her inability to perform the duties of a grievance officer; or
- vi. the aggrieved faculty member requests in writing to the responsible officer that the grievance officer be discharged; or
- vii. the responsible officer directs the grievance officer to do so.

j. The grievance officer's final report shall briefly describe what he or she has done in the

matter and what findings, proposals, or conclusions have been made, and shall be accompanied by all papers gathered by the grievance officer and by all correspondence of the grievance officer.

k. A grievance officer shall act independently in the interest of the university and justice, and not merely as the agent of the aggrieved faculty member or the responsible officer. Service as a grievance officer by any faculty member other than the responsible officer or an assistant to the responsible officer shall be considered a contribution to the university.

5. Duties and Authority of the Responsible Officer When Not Personally Acting as Grievance Officer:

a. The responsible officer shall give the grievance officer such advice as the responsible officer deems appropriate.

b. The responsible officer shall give the grievance officer clerical assistance.

6. Referral of a Grievance to the University Grievance Committee:

a. When a grievance officer is discharged in accordance with VI, C, (4), (i) of these rules, the grievance shall be referred to the University Grievance Committee unless the aggrieved faculty member and the responsible officer agree either;

i. that the grievance has been remedied, or

ii. that another grievance officer shall be appointed.

b. The responsible officer shall refer a grievance to the University Grievance Committee by delivering the statement of the grievance, and the final report of the grievance officer with all accompanying papers to the chairperson of the University Grievance Committee, but if the grievance officer fails to present a final report promptly, the responsible officer shall refer the grievance by delivering the statement of grievance along with copies of any papers in the responsible officer's possession which relate to the matter.

7. University Grievance Committee: Formation and Functions:

A University Grievance Committee shall be established or designated in accordance with the rules of the faculty governing the establishment of and assignment of duties to standing committees, but pending or in the absence of such action to establish or designate a University Grievance Committee, the Faculty Senate shall establish a University Grievance Committee.

8. Investigation and Effort at Resolution of a Grievance by the University Grievance Committee:

When a grievance is referred to the University Grievance Committee under these rules, the committee shall investigate it and attempt to remedy it if it is well founded, and shall have all powers and responsibilities of a grievance officer under these rules, but shall report to the chancellor rather than to the responsible officer and shall retain jurisdiction over any grievance referred to it until it presents its final report to the aggrieved faculty member.

9. Recommendation by University Grievance Committee:

The University Grievance Committee may recommend a remedy for a grievance to the board of regents if the grievance is not resolved or cannot be resolved at the university.

10. Final Report:

Upon completion of its investigation of and attempt to resolve a grievance, the University

Grievance Committee shall make a final report to the aggrieved faculty member, stating its findings as to whether the grievance was well founded, the solution proposed by it, if any, and the results of its efforts.

11. Appeal to Chancellor:

If an aggrieved faculty member whose grievance is referred to the University Grievance Committee is not satisfied with the final report of the committee, he or she may appeal to the chancellor, whose decision shall terminate proceedings in the matter under these rules.