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NU-BOR-Bylaws-Chapter4

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Chapter IV. Rights and Responsibilities of Professional Staff

4.1 **Academic Responsibility.** Membership in the academic community imposes certain obligations. These obligations include the following duties of academic responsibility:

- (a) To respect: (1) the dignity of others; (2) the right of others to express differing opinions; (3) the right of others to be free from fear, from violence, and from personal abuse; and (4) the right of the University community to be free from actions that impede its normal functioning.
- (b) To enroll, teach, and evaluate the work of students without regard to considerations such as age, sex, race, color, national origin, or religious or political beliefs.
- (c) To establish and maintain a classroom or laboratory atmosphere that encourages free inquiry and the free expression of ideas by students.
- (d) To present the subject matter of courses as announced to the students and approved by authorities responsible for the curriculum.
- (e) To study current developments and maintain competence in the areas of assigned courses; to examine, continually and critically, the subject matter of such courses, as well as teaching techniques and proposals for improving higher education.
- (f) To: (1) fulfill the assigned time schedule of all classes, including quizzes, laboratories, tests, and other meetings, unless absence is caused by an emergency or approved University business. Changes in the scheduled times shall be authorized by the Dean, director, or department chair, with the agreement of the enrolled students and in the interest of an academic objective; (2) be available at frequent, regular, and scheduled times for student consultation; and (3) inform students concerning the requirements, standards, objectives, and evaluation procedures at the beginning of each course.
- (g) To participate upon request in the activities of the University in the areas of student advising and public service, and as appropriate, in the activities of the department, the college, the campus, and the University.
- (h) To make every effort to indicate that members of the professional staff are not spokesmen for the University except when authorized so to act.
- (i) To create and protect an atmosphere of intellectual honesty in the academic community.

4.2 **Academic Freedom.** The University serves the people of Nebraska and the common good through learning, teaching, extension work, research, scholarship, and public service. Fulfillment of these functions requires the preservation of intellectual freedoms of teaching, expression, research, and debate. The right to search for truth, to support a position the searcher believes is the truth, and to disagree with others whose intellect reaches a different conclusion is the fiber of America's greatness. It is, likewise, the strength of a great University, and its preservation is vital.

A teacher or researcher is entitled to freedom in research, and publication of the results of research, limited only by the precepts of scholarship and faithful performance of academic obligations. Members of the professional staff are entitled to freedom in the classroom in discussing their subjects.

Members of the professional staff are entitled to exercise their right to speak and act as citizens of the United States and of the State of Nebraska. Members of the professional staff shall not suffer sanctions or be

discriminated against with respect to the duration of association with the University, pay or other emoluments of their office, appointment, position, or their working conditions because of their enjoyment, or exercise, of their right of academic freedom, or in any case where such action would constitute a violation of federal or state civil rights laws or regulations. Staff members who violate laws prescribed by civil authorities may incur penalties attached to such laws. The University should not impose sanctions to duplicate the function of these laws. Where the University's interest as an academic community is clearly involved, the authority of the University may be asserted. The Board reaffirms belief in, pledges support of, and directs all segments of the University community to sustain and follow the foregoing principles of academic freedom.

History: Amended, 49 BRUN 300 (16 June 1984).

Several sections were consolidated and renumbered in the 1984 revised edition.

4.3 **Appointments: Apportionment of Faculty Responsibilities; Stated in Writing.** [a] Every appointment by the University to a position as defined in Section 3.1.1.1 of these *Bylaws* shall be in writing and signed by the Board or its authorized agent. The writing shall contain the following, and may contain additional mutually agreed upon terms:

(1) Identification of the type of appointment, either a “Special Appointment,” an “Appointment for a Specific Term,” “Continuous Appointment,” “Health Professions Faculty Appointment,” or a “Faculty Practice and Faculty Research Appointment” as defined in Sections 4.4.1, 4.4.2, 4.4.3, 4.4.7, and 4.4.8 of these *Bylaws*.

(2) A statement that the rights and responsibilities specified in Sections 4.1 through 4.2 of these *Bylaws* are a part of the appointment.

(3) Identification of the appointee's rank, compensation, fringe benefits, and, where applicable, the termination date of the appointment.

(b) In addition to the written appointment required by this Section, every faculty member appointed to a position as defined in Section 3.1.1.1 of these *Bylaws* shall, when initially appointed, be given a written statement specifically stating and apportioning the faculty member's initial teaching, extension, service, research, and administrative responsibilities.

(1) This written statement shall be provided by the unit administrator or other appropriate official.

(2) The specific apportionment of a faculty member's responsibilities shall be reviewed periodically. Either the faculty member or the responsible unit administrator may initiate discussions of changes in apportionment of teaching, extension, service, research, and administrative responsibilities. In the process of any such discussions, both the faculty member and the unit administrator shall act in good faith to reach a mutual agreement.

(i) If the faculty member and the unit administrator are unable to reach mutual agreement with respect to changes in apportionment of the faculty member's responsibilities, the unresolved issues between them shall be expeditiously reviewed and decided by an elected faculty committee of the faculty member's tenure home college or equivalent administrative unit established pursuant to Section 2.9 of these *Bylaws*. The rules and regulations for each such committee may provide for a representative of the faculty member's tenure home department or equivalent administrative unit to serve as member of the committee.

(ii) Each college shall develop rules and regulations pertaining to the membership of this committee. These rules may allow an elected faculty representative of any department(s) or

equivalent administrative units in which the faculty member holds a full or partial appointment to serve on the committee, as either full or nonvoting members.

(iii) The committee shall consider the positions of each party in relation to the departmental and college missions, as well as the faculty member's overall areas of professional competence and expertise. The committee shall decide whether the apportionment of the faculty member's responsibilities shall be changed and, if so, in what manner. The decision of the committee shall be reasonably within the faculty member's overall areas of professional competence and expertise; it shall be in writing and it shall not violate the rights and responsibilities of the faculty member provided in Sections 4.1 and 4.2 of these *Bylaws*. It shall be final, subject only to review by the committees established by Sections 4.13, 4.14 and 4.15 of these *Bylaws*.

(c) Within the terms of a faculty member's general apportionment of responsibilities, the details of a faculty member's specific assigned duties shall, after consultation with the faculty member, be determined by the department chair or head, unit administrator, or director concerned, consistent with the requirements of Section 3.4.4 of these *Bylaws*. Duties may vary from semester to semester, but must be reasonably within the faculty member's overall areas of professional competence and expertise, and shall not violate the rights and responsibilities of the faculty member provided in Sections 4.1 and 4.2 of these *Bylaws*. These decisions are subject to review by the committees established by Sections 4.13, 4.14, and 4.15 of these *Bylaws*.

(d) Definitions.

(1) The word "apportionment" as used in this Section 4.3 means and refers to the specified division among teaching, research, service, extension, and administrative responsibilities making up a faculty member's University appointment. It is generally expected that a faculty member's apportionment of responsibilities shall be relatively stable from year to year, unless there is reasonable justification for change.

(2) The term "assigned duties" as used in this Section 4.3 means and refers to the specific professional activities a faculty member is responsible for carrying out in a given year within each apportioned area of his or her University appointment.

History: Amended, 73 BRUN 46-48 (9 October 2015)
Amended, 63 BRUN 60 (15 July 2000)
Amended, 53 BRUN 149 (6 May 1988)

4.4 **Types of Appointments: Professional Staff.** (As defined in Section 3.1.1)

4.4.1 **Special Appointments.** Appointments to (a) all administrative and non-faculty professional staff positions, and (b) all appointments to faculty positions that are not "Appointments for a Specific Term," "Health Professions Faculty Appointments," "Faculty Practice and Faculty Research Appointments," or "Continuous Appointments" shall be "Special Appointments." The following types of faculty appointments shall be filled by Special Appointment only: (1) temporary appointments, (2) appointments to part-time positions, (3) appointments for less than one academic year in any rank, (4) courtesy appointments, (5) appointments to volunteer status, (6) annual appointments beyond retirement age, (7) appointments to the rank of instructor, assistant instructor, lecturer, or senior lecturer (8) appointments to ranks preceded by the designation "visiting," and (9) appointments supported by funds over which the University does not have control or which the University cannot reasonably expect to continue indefinitely, provided, that the total period of full-time service on a faculty Special Appointment in the rank of instructor shall not exceed seven years.

A "Special Appointment" will terminate in accordance with the time stated in the appointment to the position or in the written contract, and, if no time is stated in the appointment to the position or in the written contract, the appointment may be terminated by either party giving the other at least 90 days notice of the date of termination. Such appointments may also be terminated by the University for adequate cause, disability, bona fide discontinuance of a program or department, or extraordinary circumstances because of financial exigencies.

A member of the faculty may hold a "Special Appointment" coincident with an "Appointment for a Specific Term," "Health Professions Faculty Appointment" or a "Continuous Appointment," and the terms of the Special Appointment may be independent of the terms of the other appointment status as a faculty member.

History: Amended, 73 BRUN 46-48 (9 October 2015)
Amended, 62 BRUN 56 (25 July 1998)
Amended, 54 BRUN 132 (8 April 1989)
Amended, 53 BRUN 26 (12 September 1987)
Amended, 47 BRUN 147 (24 July 1982)
Amended, 42 BRUN 50-51 (29 July 1978)

- 4.4.2 **Appointments for a Specific Term.** An "Appointment for a Specific Term" is a probationary appointment as a faculty member with academic rank of assistant professor or above for a term of one year, unless a longer term is specified in the contract required by Section 4.3. In no event shall the specific term exceed three years. An "Appointment for a Specific Term" shall carry no presumption of renewal, and will terminate at the end of the stated term, if written notice of non-reappointment is given to the appointee by the appropriate administrative officer or by the Board in accordance with the following standards:
- (a) If the term of the appointment expires at the end of the first academic year or 12 months of service on an Appointment for a Specific Term, notice shall be given by an appropriate administrative officer, or by the Board, no later than March 1st of that first year of service, or three months in advance of the termination date, if the appointment commenced after the start of an academic or fiscal year.
 - (b) If the term of the appointment expires at the end of the second academic year or 12 months of service on an Appointment for a Specific Term, notice shall be given by an appropriate administrative officer, or by the Board, no later than December 15th, or six months in advance of the termination date, if the appointment commenced after the start of an academic or fiscal year.
 - (c) If the term of the appointment expires after two or more years of service on an Appointment for a Specific Term, notice shall be given by an appropriate administrative officer, or by the Board, 12 months in advance of the termination date.
 - (d) Notice by an appropriate administrative officer may be signed by the department chair, the Dean, or the Chancellor. Notice, by action of the Board, shall be signed in the manner directed by the Board. In the absence of specific direction, said notice shall be signed by the Corporation Secretary. Notice shall be deemed to have been properly given if mailed to the appointee's home address, as reflected by the records of the University, by certified mail, with sufficient postage attached.
 - (e) If written notice is not given to the appointee by the appropriate administrative officer or by the Board in the manner herein provided within the time specified, the appointment shall be extended one

academic year if the term expired at the end of an academic year, and shall be extended one calendar year if the term expired during the academic year. Any appointment extended as provided in this Section shall be considered to be an appointment for one year of service, and subject to reappointment in accordance with the provisions specified above.

History: Amended, 53 BRUN 26 (12 September 1987)
Amended, 42 BRUN 51-52 (29 July 1978)
Amended, 40 BRUN 3 (20 November 1976)

- 4.4.3 **Continuous Appointment.** A "Continuous Appointment" is an appointment terminable only for adequate cause, bona fide discontinuance of a program or department, retirement for age or disability, or extraordinary circumstances because of financial exigencies. The University may award a continuous appointment to a person only by the specific affirmative act of an administrative officer duly authorized in accordance with these *Bylaws* to award continuous appointments. No person shall acquire a Continuous Appointment until he or she shall receive official written notice from the University that such an appointment has been awarded. Continuous Appointment as defined herein means academic tenure.

The President, upon the recommendation of the Chancellor, may grant a Continuous Appointment to a person--not a teacher or researcher--who is a member of the academic-administrative staff as defined in Section 3.1.1.1 of these *Bylaws*, but such person may not be appointed in a specific department unless normal procedures are followed. Administrative officers shall not have a Continuous Appointment in their administrative positions. Those who have attained tenure in their immediate rank shall retain such tenure, but as administrative officers shall not have a Continuous Appointment in their administrative positions. Those who have attained tenure in their immediate rank shall retain such tenure, but as administrative officers they are subject to the provisions for termination outlined for Special Appointments.

Persons holding academic rank below Assistant Professor are not eligible for a Continuous Appointment.

History: Amended, 62 BRUN 14 (28 February 1998)

- 4.4.4 **Applicability of Academic Freedom and Responsibility.** All members of the professional staff are entitled and subject to the principles of academic responsibilities and academic freedom stated in Sections 4.1 and 4.2.
- 4.4.5 **County Employees of the Cooperative Extension Service of the University of Nebraska-Lincoln.** The terms, conditions, and length of appointments of county employees of the Cooperative Extension Service of the University of Nebraska-Lincoln Table of shall be governed by the terms of their contract and by Rules of the Board specifically applicable to them as a class, and shall not be governed by Sections 4.4.1 through 4.4.3 of these *Bylaws*.

History: Amended, 40 BRUN 3 (20 November 1976)

- 4.4.6 **Nebraska School of Agriculture at Curtis Exception.** [Repealed]

History: Repealed, 54 BRUN 132 (8 April 1989)

4.4.7 **Health Professions Faculty Appointment, University of Nebraska Medical Center.**

Notwithstanding the contrary provisions of Section 4.4.1, members of the full-time, permanent faculty at the University of Nebraska Medical Center may be employed by a Health Professions Faculty Appointment. A Health Professions Faculty Appointment shall be for a stated term not to exceed five years and shall carry no presumption of renewal. Any Health Professions Faculty Appointment may be renewed for succeeding terms not to exceed five years each. Each such appointment will terminate at the end of its stated term if written notice of non-reappointment is given to the appointee by the appropriate administrative officer or by the Board in accordance with the following standards:

(a) If the stated term of the appointment expires at the end of one year of service on a Health Professions Faculty Appointment or sooner, notice shall be given by an appropriate administrative officer or by the Board not less than three (3) months in advance of the termination date.

(b) If the stated term of the appointment expires after one year of continuous service, but not later than two years of continuous service on a Health Professions Faculty Appointment, notice shall be given by an appropriate administrative officer or by the Board not less than six (6) months in advance of the termination date.

(c) If the stated term of the appointment expires after two years of continuous service on a Health Professions Faculty Appointment, notice shall be given by an appropriate administrative officer or by the Board not less than twelve (12) months in advance of the termination date.

(d) As used in this section, the term "continuous service" shall include consecutive service from one academic year to the next succeeding academic year.

(e) If written notice is not given to the appointee by the appropriate administrative officer or by the Board in the manner herein provided and within the time specified in subsection (a), (b), or (c) of this section, as appropriate, the appointment shall be extended for a period of twelve (12) months. Any appointment extended as provided in this section shall be considered to be an appointment for one year of service, and subject to reappointment in accordance with the provisions specified above.

(f) Notice by an appropriate administrative officer may be signed by the department chair, the Dean, or the Chancellor. Notice by action of the Board, shall be signed in the manner directed by the Board. In the absence of specific direction, said notice shall be signed by the Corporation Secretary. All notices required by this section shall be deemed to have been properly given if mailed to the appointee's home address, as reflected by the records of the University, by certified mail, with sufficient postage attached.

Any person serving on a Health Professions Faculty Appointment may make application for Continuous Appointment in accordance with the University of Nebraska Medical Center standards for awarding Continuous Appointments as approved by the Chancellor pursuant to Section 4.5 of these *Bylaws*.

History: Added, 53 BRUN 150 (6 May 1988)

4.4.8 **Faculty Practice and Faculty Research Appointments, University of Nebraska-Lincoln.**

Notwithstanding the contrary provisions of Section 4.4.1, members of the full-time, permanent faculty at the University of Nebraska-Lincoln may be employed by a Faculty Practice Appointment or a Faculty Research Appointment. Such faculty appointments shall be for a stated term not to

exceed five years and shall carry no presumption of renewal. Any Faculty Practice or Faculty Research Appointment may be renewed for succeeding terms not to exceed five years each. Except for termination of a Faculty Research Appointment on shorter notice due to lack of funding as provided below in subparagraph (g), each such appointment will terminate at the end of its stated term if written notice of non-reappointment is given to the appointee by the appropriate administrative officer in accordance with the following standards:

(a) If the stated term of the appointment on a Faculty Practice Appointment or a Faculty Research Appointment expires at the end of one year of service or sooner, notice shall be given by an appropriate administrative officer not less than three (3) months in advance of the termination date.

(b) If the stated term of the appointment expires after one year of continuous service, but not later than two years of continuous service on a Faculty Practice Appointment or a Faculty Research Appointment, notice shall be given by an appropriate administrative officer not less than six (6) months in advance of the termination date.

(c) If the stated term of the appointment expires after two years of continuous service on a Faculty Practice Appointment or a Faculty Research Appointment, notice shall be given by an appropriate administrative officer not less than twelve (12) months in advance of the termination date.

(d) As used in this section, the term "continuous service" shall include consecutive service from one academic year to the next succeeding academic year.

(e) If written notice is not given to the appointee by the appropriate administrative officer in the manner herein provided and within the time specified in subsection (a), (b), or (c) of this section, as appropriate, the appointment shall be extended for a period of twelve (12) months. Any appointment extended as provided in this section shall be considered to be an appointment for one year of service, and subject to reappointment in accordance with the provisions specified above.

(f) All notices required by this section shall be deemed to have been properly given if mailed to the appointee's home address, as reflected by the records of the University, by certified mail, with sufficient postage attached.

(g) Notwithstanding the contrary provisions of subparagraphs (a), (b), (c), and (e) of this Section, in the event a Faculty Research Appointment is funded in whole or in part by funds from a specific source external to the University, such as a research grant, and such funds are reduced or discontinued, then the Faculty Research Appointment may be terminated by the University by giving the appointee at least 90 days written notice of the date of termination.

History: Added, 66 BRUN 59 (3 November 2006)

- 4.5 **Standards for Promotion, Continuous Appointment, and Salary Adjustment.** Each major administrative unit of the University shall prepare written standards that shall be used in making all decisions on promotions, awarding Continuous Appointments, and merit salary adjustments. The standards may be applicable to the entire major administrative unit or to appropriate subdivisions (such as colleges, schools, and departments) of a major administrative unit. The Chancellor of each major administrative unit is empowered to approve the content of the written standards and the scope of their applicability; provided, however, such written

standards shall not include any right of appeal to the Board of Regents, and to the extent that any such existing standards do include any provision for appeal to the Board of Regents, each such provision is hereby repealed. After such approval, the written standards shall be published and disseminated to the faculties and staff and a copy shall be provided each appointee when appointed. Each written statement shall include standards relevant to the following areas of endeavor: teaching, extension work, research, scholarship, creative activities, and service. Integrity, academic responsibility, and professional development should be included as they relate to these major areas.

History: Amended, 60 BRUN 184 (14 December 1996)

- 4.6 **Evaluation of Faculty Performance: Procedure.** Each major administrative unit, or appropriate subdivision thereof as stated in Section 4.5 of these *Bylaws*, shall establish procedures for gathering relevant information from all sources, including student evaluations and peer judgments, as part of an annual review of faculty performance in relation to the standards established under Section 4.5. Individual faculty members shall have the opportunity to submit materials deemed relevant to their remuneration and status as a part of the annual review, or as such information becomes available. When appropriate, the judgment of others in each faculty member's specialized field of competence may be included in a review. Faculty members shall have access to all material submitted for their evaluation and the opportunity to respond in writing.

The annual review shall be considered in determining merit salary adjustments, promotions, and for awarding Continuous Appointment. The results of the review will be communicated to the individual faculty member.

- 4.7 **Termination of an Appointment by a Professional Staff Member: Time.**

(1) A member of the professional staff (Section 3.1.1) employed on an academic-year basis may terminate his or her appointment at the end of an academic year, if he or she gives notice at the earliest opportunity and not later than the latest of the following:

- (a) May 15, or
- (b) Thirty days after receiving notification of the terms and conditions of appointment for the coming academic year.

(2) A member of the professional staff employed on other than an academic-year basis shall give notice at the earliest opportunity and in no case later than the latest of the following:

- (a) Four months before the termination date of the appointment, or
- (b) Thirty days after receiving notification of the terms and conditions of appointment for another term.

A member of the professional staff may properly request a waiver of the time requirements contained in this Section in case of hardship, or where he or she would otherwise be denied substantial professional advancement or other opportunity, but the member should abide by the decision on his or her request.

- 4.7.1 **Termination of a "Special Appointment" Prior to Expiration of the Stated Term: Reasons; Rights of the Appointee.** A "Special Appointment" may be terminated prior to the expiration of the stated term, or with less than 90 days' notice by the University if no term is stated, only for adequate cause, retirement for age or disability, bona fide discontinuance of a program or department, or extraordinary circumstances because of financial exigency. The President or Chancellor, as appropriate, shall be empowered to approve appeal and grievance procedures that will insure to staff with respect to termination of their non-faculty special appointments the rights similar to those

provided by Section 4.13.2 and 4.14.2 of these *Bylaws* to staff with respect to termination of faculty appointments.

History: Amended, 49 BRUN 300 (16 June 1984)
Added, 42 BRUN 52-53 (29 July 1978)

4.8 **Termination of an “Appointment for a Specific Term,” “Health Professions Faculty Appointment” or “Faculty Practice and Faculty Research Appointment” at Expiration of the Stated Term; Rights of the Appointee.** When the University notifies a person holding an Appointment for a Specific Term, Health Professions Faculty Appointment, or a Faculty Practice and Faculty Research Appointment, that his or her appointment will not be renewed at the expiration of the term stated, the appointee shall:

(a) Have the opportunity to request a reconsideration by any individual or group making a recommendation or decision not to renew such an appointment and to offer evidence for that reconsideration.

(b) Have the right to petition the Grievance Committee, if one is established at his or her major administrative unit pursuant to Section 4.13.1, and upon such petitioning shall have the rights provided by Section 4.13.2.

History: Amended, 73 BRUN 46-48 (9 October 2015)
Amended, 62 BRUN 14 (28 February 1998)
Amended, 53 BRUN 150-151 (6 May 1988)

4.9 **Termination of an “Appointment for a Specific Term,” “Health Professions Faculty Appointment” or “Faculty Practice and Faculty Research Appointment” Prior to Expiration of the Stated Term: Reasons; Rights of the Appointee.** An Appointment for a Specific Term, Health Professions Faculty Appointment, or Faculty Practice and Faculty Research Appointment may be terminated prior to the expiration of its term only for the reasons stated in Section 4.11, and before such termination the appointee shall have the rights specified in Section 4.14.2.

History: Amended, 73 BRUN 46-48 (9 October 2015)
Amended, 53 BRUN 151 (6 May 1988)

4.10 **Total Period of Service Prior to a "Continuous Appointment."** The total period of fulltime service on a faculty Appointment for a Specific Term prior to acquisition of a Continuous Appointment shall not exceed seven years, including all previous tenure-related full-time service with the rank of instructor or higher in all accredited institutions of higher education, unless a contrary agreement is specified in writing at the time the appointee is initially appointed by the University to an Appointment for a Specific Term. For faculty members with three or more years of previous tenure-related full-time service with the rank of instructor or higher at accredited institutions of higher education, such agreement will not normally extend the period of service on a faculty Appointment for a Specific Term at the University beyond four years before a Continuous Appointment is acquired, and in no case shall such agreement extend the period of service on a faculty Appointment for a Specific Term at the University beyond seven years before a Continuous Appointment is acquired. Unless a contrary agreement is reached at the time the leave of absence is granted, time spent on an academic leave of absence shall be included in the period of service. A Continuous Appointment may be granted earlier, but not later, than the time limits specified in this Section. A person who is eligible under Section 4.4.3 but not granted a Continuous Appointment in accordance with the time limits in this Section shall be given a Notice of Termination, but such notice shall comply with Section 4.4.2.

History: Amended, 62 BRUN 14 (28 February 1998)
Amended, 44 BRUN 137 (15 March 1980)
Amended, 42 BRUN 53 (29 July 1978)
Amended, 40 BRUN 3 (20 November 1976)

- 4.11 **Termination of a Continuous Appointment: Grounds.** A Continuous Appointment may be terminated only for adequate cause, retirement for age or disability, bona fide discontinuance of a program or department, or extraordinary circumstances because of financial exigency. Before any termination for cause may occur, it shall be necessary to submit the matter to the Academic Freedom and Tenure Committee in the manner provided in Section 4.14.2.
- 4.12 **Termination of Appointments for Financial Exigency or Because of Discontinuance of a Program or Department: Time.** When any type of appointment is terminated because of financial exigency or discontinuance of a program or department, whether the termination is effective on or before the date stated for termination in the written appointment contract, the University shall give notice of termination as soon as possible, and shall make reasonable efforts to notify persons twelve (12) months prior to the effective date of termination. In such a case the released faculty member's place will not be filled by a replacement within a period of two years unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.
- 4.13 **Grievance Committee.**
- 4.13.1 **Grievance Committee: Power to Create.** Pursuant to authority granted by these *Bylaws*, the faculty governing agency of each major administrative unit is empowered to create a Faculty Grievance Committee, which shall have the powers specified in Section 4.13.2, in addition to any other powers granted by the faculty governing agency pursuant to these *Bylaws*.
- 4.13.2 **Powers of Faculty Grievance Committee.** Any Faculty Grievance Committee established under Section 4.13.1 shall be empowered:
- (a) To consider a complaint filed by any faculty member alleging any grievance;
 - (b) To seek to settle the grievance by informal methods of adjustment and settlement, either itself or by using the services of any officer or body directed to settle grievances and disputes by mediation, conciliation, or other informal methods;
 - (c) To draft rules of procedure for the orderly and fair handling of grievances by the Committee, which rules shall become effective after notice and hearing when approved or modified by the Board, and, upon approval, shall be effective as a part of the Rules of the Board; and
 - (d) To proceed, if informal methods fail to resolve the matter satisfactorily, with further proceedings, to be conducted in accordance with the Rules of Procedure approved by the Board under this Section, and in accordance with the following principles:
 - (1) If the grievance alleges that inadequate consideration was given to relevant matters by the person or body that took the action or made the decision that led to the grievance, the Grievance Committee shall investigate the facts, and, if convinced that inadequate consideration of the relevant matters occurred, state the facts found and the respects in which the consideration was inadequate. The Committee may order the matter reconsidered by the appropriate person, group or groups, or recommend that other rectifying action be taken. The Grievance Committee shall not substitute its judgment on the merits for that of the person, group, or groups that previously considered the decision.

(2) If the grievance alleges that a discontinuance of a department or program is not bona fide, or that no extraordinary circumstances because of financial exigency exist, the Committee shall investigate and state its factual findings, conclusions, and recommendations in writing, which shall be filed with the Chancellor of the major administrative unit involved, the complainant, and the faculty governing agency.

4.14 **Academic Freedom and Tenure Committee.**

4.14.1 **Academic Freedom and Tenure Committee: Creation.** The faculty governing agency of each major administrative unit shall create an elected faculty Committee on Academic Freedom and Tenure, which shall have the powers specified in these *Bylaws*, and any other powers granted by the faculty governing agency and approved by the Board.

4.14.2 **Academic Freedom and Tenure Committee: Powers; Rules of Procedure.** The Committee established by Section 4.14.1 shall have the following powers and rules of procedure:

(a) The Committee shall consider any complaint filed by any member of the professional staff alleging any procedural or substantive grievance that constitutes an allegation that action taken, or threatened, violates the complainant's academic freedom or academic tenure.

(b) The Committee shall consider a complaint filed against any member of the faculty seeking to terminate his or her Continuous Appointment, his or her Appointment for a Specific Term prior to the termination date stated in the appointment, or his or her Special Appointment as a faculty member prior to its termination date, or his or her Health Professions Faculty Appointment, or his or her Faculty Practice and Faculty Research Appointment prior to the end of its stated term.

(1) The Board, or the President, shall have the authority to direct that proceedings under this subsection be instituted in the manner herein provided.

(2) Any Chancellor, Dean, director, or department chair, any Grievance Committee, or Professional Conduct Committee believing that there is reasonable cause to terminate a Continuous Appointment, an Appointment for a Specific Term, Health Professions Faculty Appointment, or a Faculty Practice and Faculty Research Appointment prior to the end of its stated term, shall certify his, her or its conclusion to that effect to the President, who shall determine if the complaint has sufficient merit to warrant investigation.

(i) In cases where the grounds for termination of a Continuous Appointment or an Appointment for a Specific Term are based in whole or in part on questions of professional competence, no such certification shall be made until the tenured members of the faculty member's school, division or department, or college in the absence of smaller units, have been consulted on the issues involving professional competence. Such consultation shall be effected through the appropriate administrator (department chair, school or division director, or dean) calling on fourteen (14) days' notice a meeting of the tenured faculty of the unit for the specific purpose of discussing the faculty member's professional competence. Votes on substantive matters relating to the faculty member's professional competence shall be by secret ballot. The report of such meeting, in the form of approved minutes containing a summary of the matters discussed and the votes taken, shall be forwarded by the administrator to the Chancellor for transmission to the President.

(ii) In cases where the grounds for termination of a UNMC Health Professions Faculty Appointment, or a UNL Faculty Practice and Faculty Research Appointment are based in whole or in part on questions of professional competence, no such certification shall be made until the faculty holding such a UNMC or UNL appointment who have received at least one promotion in academic rank while holding such an appointment and the tenured members of the faculty member's school, division or department, or college in the absence of small units, have been consulted on the issues involving professional competence. Such consultation shall be effected through the appropriate administrator (department chair, school or division director, or dean) calling on fourteen (14) days' notice a meeting of the eligible consulting faculty of the unit for the specific purpose of discussing the faculty member's professional competence. Votes on substantive matters relating to the faculty member's professional competence shall be by secret ballot. The report of such meeting, in the form of approved minutes containing a summary of the matters discussed and the votes taken, shall be forwarded by the administrator to the Chancellor for transmission to the President.

(3) If the Board or President has determined that an investigation should be made, the President shall employ an attorney to make the investigation and report to the President if he or she believes reasonable cause exists for termination of the appointment. Investigation shall be made in such manner as the attorney so employed determines to be appropriate, but shall not involve a public hearing and shall be conducted on as confidential a basis as possible. The investigator shall prepare a report of the investigation and provide it to the President. The President shall provide a copy of said report to the Chancellor of the administrative unit involved. The report shall be considered a confidential communication. If the report recommends that no basis exists for terminating the appointment, and the Board accepts said report, no further proceedings shall be had with reference to terminating the appointment. If the Board does not accept said report, it may cause such further investigation to be made by such persons and in such manner as it deems appropriate and consistent with these *Bylaws*. If the report recommends that there is reasonable cause to terminate the appointment, the President or the Board may order the attorney making the report to file a complaint with the Academic Freedom and Tenure Committee, and to take the affirmative with respect to producing evidence to support the complaint.

(c) The procedure with reference to complaints filed under paragraphs (a), (b), or (b) (1), Section 4.14.2 shall be conducted in accordance with the following principles:

(1) The complaint must be filed with the Committee and copy thereof served upon the person or persons charged in the complaint.

(2) The complaint shall state in concise terms the facts upon which it is based and the relief sought.

(3) The person(s) so charged shall have a period of twenty (20) days from the date of service of the complaint to file an answer in writing to the complaint. Copy of the answer must be served by such person(s) upon the attorney filing the complaint by regular United States mail with sufficient postage attached, properly addressed to said attorney, and mailed on or before twenty (20) days after filing the complaint.

(4) The Committee shall set the matter for hearing on as early a date as possible in order to permit the parties to reasonably prepare for the hearing.

(5) The person(s) charged shall be entitled to be represented by counsel at the expense of such person(s).

(6) The person(s) charged shall be entitled to be notified at least ten (10) days in advance of the hearing of the witnesses to be called by the attorney filing the complaint and of documents to be offered in evidence at the hearing, and the attorney conducting the hearing shall be obligated to provide such information within that time. The person(s) charged shall notify the attorney filing the complaint in writing at least five (5) days before the hearing of the witnesses to be called and documents to be offered in evidence at the hearing. No witnesses or documents not so listed shall be heard or received at the hearing, except in cases of surprise, or for the purpose of rebutting oral testimony of the other party, or for other justifiable cause found to exist by the Committee.

(7) Testimony shall be taken under oath. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

(8) The Committee may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence; provided, that any party may file with the Committee at least three (3) days before the hearing a written request that the rules of evidence followed by the District Courts in the State of Nebraska shall be applicable. If such a written request is filed, the Committee shall notify the parties that the proceedings shall comply with the principles of law with respect to proceedings in the District Courts in Nebraska, and all counsel and parties shall be bound by such rules and standards of ethics and codes of trial conduct as are applied in the District Courts.

(9) In the event any party to the proceedings desires the issuance of a subpoena, such subpoena shall be issued at the direction of the Corporation Secretary, and may be served in the manner provided for subpoenas in the Nebraska Court Rules of Discovery.

(d) Committee shall draft rules or procedures not inconsistent with these *Bylaws* for the prompt, orderly and fair hearing of all complaints filed with the Committee. Said rules shall be submitted to the Board, and when approved or modified, after notice and hearing, shall constitute a part of the Rules of the Board.

(e) The Committee shall submit to the Board the complete verbatim account of the hearing and all exhibits filed with the Committee, and report promptly to the Board and the staff member involved the Committee's findings, conclusions, and recommended action that the Committee deems advisable.

(f) The Board has power to make the final decision, but except as herein provided, the Board shall decide upon the basis of the evidence submitted to the Committee and the report of the Committee. Unless clearly erroneous, the findings of fact made by the Committee shall be accepted. The Board shall give the Committee's findings and conclusions due consideration, and shall take into account the fact that the Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Committee. In the event that the Board's decision is at variance with the recommendations of the Committee, the Board shall detail the reasons in a written opinion, and copies shall be provided to the parties concerned and the Committee. Once the Board has rendered its decision, the matter shall not be subject to further review except by appropriate court proceedings.

(g) The Board on its own motion may receive additional evidence at a public hearing, after notice to interested parties, in any case where the Board in its discretion determines that justice requires such further hearing before the Board. Any person desiring to present additional evidence to the Board may apply to the Board for hearing before the Board. Before any such hearing is granted, showing shall be required that there is additional relevant evidence that has been discovered, or has developed, or which could not be produced at the prior hearing; that the same was not available at the prior hearing and could not have been discovered or produced by reasonable diligence.

(h) In all proceedings before the Committee in which the termination of a Continuous Appointment, the termination of an Appointment for a Specific Term prior to its stated termination date, the termination of a Special Appointment as a faculty member prior to its termination date, or the termination of a Health Professions Faculty Appointment or a Faculty Practice and Faculty Research Appointment prior to its stated termination date are in issue, the University shall have the burden of proving adequate cause for the termination by the greater weight of the evidence.

(i) Prior to a decision by the Board, the staff member involved shall not be suspended from his or her duties or assigned other duties unless immediate harm to himself or herself, others or property is threatened by his or her continuance. Salary will continue during any period of suspension and an assignment to other duties shall not diminish a staff member's salary.

(j) The Committee shall have power to consider a request filed by any person, board or committee that alleges that a staff member should be subjected to sanctions less severe than appointment termination, and power to recommend in any case sanctions less severe than appointment termination where less severe sanctions seem appropriate.

History: Amended, 73 BRUN 46-48 (9 October 2015)
Amended, 70 BRUN 47-48 (8 December 2011)
Amended, 53 BRUN 151-154 (6 May 1988)
Amended, 53 BRUN 80 (12 December 1987)
Amended, 49 BRUN 300 (16 June 1984)
Amended, 42 BRUN 53-54 (29 July 1978)

4.15 Professional Conduct Committee.

4.15.1 **Professional Conduct Committee: Power to Create.** Pursuant to power granted by these *Bylaws*, the faculty governing agency of each major administrative unit is empowered to create a Professional Conduct Committee, which shall have the functions and powers specified in Sections 4.15.2 and 4.15.3, in addition to any other power granted by the faculty governing agency to the Committee pursuant to these *Bylaws*.

4.15.2 **Powers of Professional Conduct Committee.** A Professional Conduct Committee shall be empowered:

(a) To receive complaints from any person charging a member of the professional staff, as defined in Section 3.1.1 of these *Bylaws*, with professional misconduct.

(b) To investigate the facts relevant to the charge and to make factual determinations. Said investigation shall include advising the affected party of the charge, hearing his or her response, and considering any evidence produced by such party.

(c) conclude whether there are reasonable grounds to believe that the person against whom the charge is directed committed acts that amount to professional misconduct.

(d) To advise the person filing the charge, and any other appropriate person or groups, of the Committee's conclusion and factual findings.

(e) To recommend to the appropriate University officer, or group, whether action should be taken with respect to the charge, and the nature of such action.

(f) To recommend sanctions less severe than appointment termination where the Committee judges less severe sanctions appropriate.

4.15.3 **Function of Professional Conduct Committee.** The Professional Conduct Committee's function shall be to ascertain facts, to interpret standards of professional conduct applicable to persons engaged in teaching, extension work, research, service, and administration at the University, to apply those standards to the facts, to advise other persons or groups whether a violation of professional conduct has occurred, and to recommend an appropriate sanction, if it concludes a violation has occurred. The Professional Conduct Committee does not have power to impose sanctions, and its findings of fact, interpretations of professional standards, advice, and recommendation are not binding. The Professional Conduct Committee shall not serve as a prosecutor of cases involving alleged violations of professional standards. The Committee acts only in an advisory capacity.

4.16 **"Extraordinary Circumstances Because of Financial Exigencies" and "Financial Exigency" Defined.** As used in Chapter IV of these *Bylaws* the term "extraordinary circumstances because of financial exigencies" or the term "financial exigency" shall mean a bona fide, imminent financial crisis of such magnitude, caused by financial circumstances beyond the control of the Board of Regents, that within a particular major administrative unit (campus) as a whole normal operations cannot be maintained and programs of the major administrative unit must therefore be significantly altered.

History: Added, 53 BRUN 80 (12 Dec. 1987)

4.17 **Declaration of a Financial Exigency.** A state of financial exigency may only be found and declared by the Board of Regents upon the recommendation of the President in accordance with policy established by the Board for declaration of a state of financial exigency.

History: Added, 53 BRUN 80 (12 Dec. 1987)