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7.1. Statement of Principles

Section 7 was approved by the Faculty Senate on 5/01/01, by the University President on 1/31/02 and by the Board of Regents on 3/14/02.

7.1.1. Academic Freedom

Academic freedom is the foundation of the university because it encourages and guarantees the right to inquiry, discourse, and learning that characterize a community of scholars. Iowa State University supports full freedom, within the law, of expressions in teaching, investigation in research, and dissemination of results through presentation, performance, and publication. No faculty member shall be judged on any basis not demonstrably related to professional performance. Iowa State University is dedicated to ensuring that faculty have the freedom to engage in teaching, research, extension, administration, and other professional activities and it considers a strong tenure system to

be indispensable to the success of fulfilling its obligations. Iowa State University is committed to an uninhibited, robust, and unfettered pursuit of ideas. All members of the university community, faculty, staff, students, and administrators, are members of an ethical team whose goal is to create an environment in which no one hesitates to speak his or her mind for fear of reprisal. Iowa State University will take all appropriate actions to defend academic freedom, and to defend faculty who are accused or charged during the appropriate exercise of their duties.

In the exercise of academic freedom, faculty members may discuss without limitation any topic related to their professional area of expertise in the classroom, at professional meetings, or through publication. As scholars and educational officers, faculty should remember that the public might judge their profession and their institution by their utterances. Hence, they should at all times be accurate, should exercise appropriate restraint and should show respect for the opinions of others. When faculty members speak or write as individuals, they should be free from institutional censorship or discipline.

7.1.2. Professional Responsibilities

Iowa State University recognizes that membership in the academic profession carries with it special responsibilities. Faculty members, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their discipline is to seek and to state the truth as they see it. To this end faculty members devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Faculty members do not allow subsidiary interests to compromise their freedom of inquiry.

As teachers, faculty members encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Faculty members demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Faculty members foster honest academic conduct and evaluate student work with respect to its true academic merit. They respect the special nature of the relationship between professor and student. They do not exploit, harass, or improperly discriminate against students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

As administrators and colleagues, faculty members have obligations that derive from common membership in the community of scholars. Faculty members do not exploit, harass, or improperly discriminate against colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas, faculty members show due respect for the opinions of others. They acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Faculty members accept their share of faculty responsibilities for the governance of their institution.

As members of an academic institution, faculty members seek to be effective teachers, scholars, and administrators. Faculty members maintain their rights to criticize and seek revision of university regulations and actions that they believe violate academic freedom. Faculty members give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, faculty members recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

As private individuals, faculty members have the same rights and obligations as others. Faculty members measure the urgency of these obligations in the light of their responsibilities to their discipline, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As individuals engaged in a profession that depends upon freedom for its health and integrity, faculty members promote conditions of free inquiry and further public understanding of academic freedom.

7.2. Faculty Misconduct

Every faculty member of the University recognizes that certain types of behavior constitute misconduct. Such behavior compromises the integrity of the University and the trust placed upon its members. The University will take any actions necessary to prevent misconduct and discipline those it finds responsible.

Generally, adequate cause for sanction of a faculty member includes but is not limited to:

- Professional dishonesty in teaching, research, extension, or administrative activity;
- Demonstrated incompetence;
- Substantial and manifest neglect of duty; or
- Serious misconduct prohibited by law, Board of Regents policies, or official university policies.

In addition, the Board of Regents reserves the power to sanction a member of the faculty for other causes, but this power is exercised only under exceptional circumstances and then only for conduct which is clearly prejudicial to the best interests of the university.

7.2.1. Interpretation of Misconduct Rules

7.2.1.1. Protection of Academic Freedom. To ensure protection of academic freedom, this faculty conduct policy shall not be interpreted to permit discipline of faculty for immaterial violations of policy. Faculty should be disciplined only for practices that affect an important interest of the University.

7.2.1.2. Scholarly Discourse and Germaneness. When faculty are engaged in scholarly discourse they may not be disciplined for discussion or presentation of material, ideas and

topics that are germane to the scholarly subject matter. Scholarly discourse includes the investigation, discussion and presentation of scholarly subject matter, including the presentation of material in the classroom. In order to be germane, the material presented must be relevant to the scholarly subject matter, and must be presented by appropriate means.

Faculty must remember that students are constrained in their freedom of choice of classes and in continuation in classes. Teaching methods that target individual students in an unfair way so as to prevent them from full participation in a course will not be regarded as appropriate. Comments related to sex, gender, race or ethnicity that are persistent, demeaning and unnecessary are not germane. Failure to adhere to the policy on the use of Explicit Materials will be considered in making a determination of whether the material is germane. (10.5.1. Explicit Materials)

7.2.1.3. Severity of Violations. Disciplinary action will be appropriate to the severity of the underlying misconduct. Generally, violations considered more severe include but are not limited to:

- Violence or threats of violence;
- Acts intended to result in improper personal gain of the faculty member and loss to others;
- Intentional or knowing violation of laws or rules known to the faculty member;
- Acts the faculty member could anticipate will be seriously prejudicial to others;
- Acts that result in substantial interference with the learning of students, the work of colleagues and staff or the receipt of benefits intended for the public; or
- Repeated acts of a similar nature.

7.2.2. Types of Misconduct

The following sections describe general categories of misbehavior. The fact that a particular behavior is not specifically mentioned does not mean that faculty cannot be sanctioned if the behavior falls within the general definition of adequate cause indicated above.

7.2.2.1. Conflicts of Interest. Conflicts of interest include conflicts arising out of personal relationships, family relationships, and those arising out of activities outside of work.

7.2.2.1.1. Consenting Relationships. Consenting relationships that are of concern to Iowa State University are those intimate relationships to which both parties have consented, but where a reporting or evaluative relationship exists between the parties. When a relationship between a faculty member and a student is not confined to that of intellectual guide and academic counselor, it is the responsibility of the faculty member to take appropriate actions to avoid any conflict or apparent conflict of interest between the personal and academic concerns. Likewise, when such a relationship exists between faculty members or when it involves their role as supervisor, it is the responsibility of

each faculty member to take appropriate actions to avoid any conflict or apparent conflict of interest.

Because of the reporting and evaluative nature of the relationship and the uneven power inherent in such a relationship, such relationships may become exploitative. Further, other individuals in proximity to the consenting relationship may suffer as a result of the reporting or evaluative aspects of the consenting relationship. Although consenting relationships may be viewed as private, real or perceived preferential treatment at the expense of others is in violation of an environment that seeks to foster a community for learning and scholarship. Because of these reporting and evaluation relationships and the uneven power inherent in such relationships, it will be very difficult to avoid subsequent charges of sexual harassment.

The faculty member who becomes intimately involved with a student or a supervisor who becomes intimately involved with an individual who reports to him or her must immediately make arrangements to end the reporting or evaluative relationship. A faculty member must not participate in the supervision or evaluation of a student, staff member, or colleague with whom a romantic or sexual relationship exists or has existed. It is the responsibility of the supervising party to take appropriate actions to end the supervisory or reporting relationship thereby removing the possibility of a conflict of interest. Failure to end the reporting or supervisory aspect of consenting relationships shall be viewed as misconduct.

7.2.2.1.2. Family Relationships - Nepotism. Iowa State University policy prohibits persons responsible for the employment of staff members from recommending for employment anyone related to them by blood or marriage as follows: parent, child, brother, sister, first cousin, uncle, aunt, nephew, niece, spouse, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, step-parent, step-child. This restriction applies to all employees except those persons receiving a compensation of less than \$600 per year.

Faculty may not vote or formally participate in decisions to appoint, set salary, tenure, promote, or determine working conditions when the candidate is their spouse, domestic partner, or child. Nor are they permitted to supervise the academic work of their spouses, domestic partners, or children unless specific permission has been granted by the department chair, and a plan for oversight has been instituted to assure objective evaluation of the work. Generally, someone other than the faculty member should evaluate the work of such family members.

7.2.2.1.3. Outside Activities. Faculty of Iowa State University are subject to conflict of interest laws of the Chapter 68B of the Code of Iowa, as well as the University's policies on conflict of interest. Faculty and close family members may not sell goods or services to the University unless in conformity with Regents Policy. (See 8.3.7. Purchases of Goods or Services from Employees) Iowa law also forbids the acceptance of gifts from persons in circumstances, which may indicate improper influence. See *Office Procedure Guide*, <http://www.adp.iastate.edu/vpbf/prod/docs/opg/chap2.htm#2.5.6>.

Iowa State University Policy requires prior approval of certain outside activities (8.3.5. Consulting and 7.2.2.1. Conflicts of Interest).

7.2.2.2. Harassment. It is the obligation of the University to provide an environment that enables all members of the community to pursue work and study free of harassment. It is especially important to prevent and address discriminatory harassment based upon race, color, age, sex, sexual orientation, or other reasons, as described in the Iowa State University non-discrimination policy. At the same time the university is committed to preserving an environment of free debate and discussion. Harassment in any form does not occur unless the behavior or speech is severe, persistent or pervasive. In the context of scholarly discourse harassment does not occur unless the expressive activity is not germane to the subject matter.

7.2.2.2.1. Harassing Behavior. Criticism and actions taken in or as a result of disagreement can be misplaced and can result in harassment when:

- Verbal, written or physical conduct attempts to improperly influence another's academic or personal decisions with the direct or indirect threat of negative consequences if compliance does not occur;
- Verbal, written, or physical conduct is directed against another and is reasonably regarded as either abusive, intimidating, or humiliating, and substantially impairs the academic or work opportunity of the person against whom it is directed; or
- Verbal, written, or physical conduct intentionally encourages others, acting singly or in a group, to harass others.

7.2.2.2.2. Sexual Harassment. It is the policy of Iowa State University that no member of the academic community may sexually harass another. Iowa State University's Sexual Harassment policy is found at 8.2.1. Policy on Sexual Harassment.

7.2.2.2.3. Racial and Ethnic Harassment. It is the policy of Iowa State University that no member of the academic community may racially or ethnically harass another. Iowa State University's Racial and Ethnic Harassment policy is found at 8.2.2. Policy on Racial and Ethnic Harassment.

7.2.2.3. Academic Misconduct. The faculty bear the primary responsibility to the academic community, to the institution, and to each other for maintaining high standards of academic integrity in teaching, research, extension, administration, and scholarly activity. The faculty are responsible for upholding academic integrity in their pursuits and instilling academic integrity in others. By virtue of their leadership positions in the university, faculty have a special obligation to maintain a climate of academic integrity. It is important to recognize that academic misconduct cannot be excused or wrongly protected under the guise of academic freedom.

Academic misconduct includes falsification or fabrication of data, plagiarism or other practices that seriously deviate from those commonly accepted in the academic community for teaching, conducting research, administration, professional practice or

service. Academic misconduct involves deception. Making the distinctions between misconduct and honest error or differences of opinion or judgment are intrinsic parts of the special responsibilities of the faculty.

Academic misconduct consists of any of the following:

- Falsification of data, which ranges from fabrication to deceptively selective reporting, including the purposeful omission of conflicting data with the intent to falsify results;
- Plagiarism, the representation of another's work as one's own;
- Failure to follow required protocols in conducting research such as adhering to procedures for the protection of human subjects of research;
- Falsification of one's credentials;
- Retaliation against persons who file claims of academic misconduct; or
- Falsification or intentional misrepresentations of truth in teaching.

7.2.2.4. Criminal Acts or Violence. As members of the community, faculty are subject to state and federal laws. Criminal acts involving moral turpitude, acts which violate laws specifically applicable to state employees or acts of violence against persons or property are considered misconduct and make the perpetrator liable to sanction. This policy is intended to provide a sanction only for those crimes that affect the fitness of the faculty member.

7.2.2.5. Violation of Other University Principles and Policies. Violation of other University principles or policies may result in disciplinary action.

7.2.2.5.1. Abandonment of Position. Faculty members who substantially fail to perform any duties and who do not respond to inquiries regarding their status have abandoned their positions. In cases of abandonment, salary may be suspended by the Provost upon recommendation of a Faculty Review Board if the faculty member fails to respond to a charge of abandonment.

7.2.2.5.2. Assisting Others in Violating University Rules. As exemplars for others on the campus, faculty may not assist others in material violations of university rules. This applies though the specific rule may not apply to faculty. For example, a faculty member should not assist a student in violation of the University Disciplinary Regulations applicable to students.

7.2.2.5.3. Breach of the Computing Code of Ethics. Computational equipment has become a valuable tool for carrying out the mission of the institution. Faculty are expected to adhere to the university's Computing Code of Ethics. In particular, faculty shall not access data of others without authorization, nor take action intended to damage or interfere with computer equipment, software, databases and networks.

7.2.2.5.4. Breach of Confidentiality. Faculty are entrusted with confidential information on students, colleagues, clients and research subjects. Unauthorized disclosure of personal information subject to restrictions on dissemination is a form of misconduct. With respect to information on students, faculty are expected to adhere to standards set

by the Family Educational Rights and Privacy Act (FERPA). For more information about FERPA, contact the Office of the Registrar.

7.2.2.5.5. Breach of a Mediation Agreement. Faculty members are expected to adhere to their commitments made as the outcome of a mediated agreement under the mediated procedure indicated below. Failure to do so may be determined to be misconduct.

7.2.2.5.6. Breach of Professional Ethics. Faculty often are members of a profession based upon the subject of their expertise. Faculty are expected to uphold the standards applied the practice of their profession. For example, a professional counselor, whether of law, of psychology or other therapy is expected to adhere to the applicable ethical rules; a veterinarian is expected to adhere to the ethical rules applicable to veterinarians. Failure to do so may result in disciplinary action.

7.2.2.5.7. Deception. Intentionally providing false information, orally or in writing, to others with the understanding that they may rely upon such information, is damaging to the trust placed in faculty. Alteration of documents used for official purposes is both a violation of law and is misconduct.

7.2.2.5.8. Discrimination. Consistent with the University's policy against discrimination, faculty may not engage in discriminatory conduct on the basis of race, color, age, religion, national origin, sexual orientation, sex, marital status, disability, or status as a U.S. Vietnam Era Veteran, unless the conduct is consistent with university programs involving bona fide occupational qualifications, business necessity, actions designed to eliminate workforce under-utilization, and/or where this policy conflicts with federal and state laws, rules, regulations, or orders.

7.2.2.5.9. Interference with Disciplinary Procedures. Faculty members may not intentionally interfere with disciplinary processes including the following acts:

- Destroying or concealing evidence;
- Providing false or misleading information;
- Intimidation of witnesses; or
- Promising rewards to witnesses for favorable testimony.

This section does not require a faculty member to testify against him- or herself under circumstances where the faculty member may incriminate him- or herself by testifying.

7.2.2.5.10. Misuse of Funds, Equipment and Facilities. The use of funds, equipment or facilities provided for a specific purpose for other than that purpose is a form of misconduct. Iowa law forbids the use of funds, equipment or facilities for personal gain or benefit, or for private gain or benefit without following procedures for approval and reimbursement.

7.2.2.5.11. Misuse of Others' Intellectual Property. Faculty have the obligation to respect the works of their colleagues and students. Use of others' unpublished work, even with attribution, is not acceptable unless it is clear that the author or owner claims no

exclusivity in the work, or appropriate authorization has been granted. Faculty members are expected to comply with fair use rules in using copyrighted works of others.

7.2.2.5.12. Other Policies. Faculty must comply with all university policies, including but not limited to:

- Drug and Alcohol Free Workplace. (8.4.3. Drug Free Workplace)
- Occupational Safety Policy. (8.4.4. Occupational Safety Policy)
- The Board of Regents, Uniform Rules of Conduct, *Office Procedure Guide* 3.1(7), Uniform Rules of Personal Conduct (Iowa Administrative Code 681-9.1)(262) (2001), <http://www.adp.iastate.edu/vpbf/prod/docs/opg/chap3.htm#3.1.7>.

7.2.3. Addressing Claims of Misconduct

Conflicts or concerns that arise during the day-to-day functioning of the university are usually addressed through administrative channels. This involves bringing the concern to the attention of the appropriate administrator charged with responsibility for that academic unit (Chair, Dean, or Provost). An individual with a concern that a faculty member may be guilty of misconduct may bring the concern forward through these same regular administrative channels. The administrator is responsible for assessing the situation and, where appropriate, taking administrative actions to resolve concerns. The administrator may recommend the use of the complaint processes described below.

An individual with a concern that misconduct has occurred may also initiate a complaint through either the Mediated Process or the Formal Process delineated in this document. The Mediated Process is used to consider and resolve the issue through mediated discussion with the involved parties. The Formal Process begins with the presentation of a written complaint and involves peer review.

The procedures described below are designed to assess and resolve the conduct issues identified in this policy and are not intended to address grievances (9. Faculty Grievance Procedures).

7.2.4. Mediated Process

7.2.4.1. Initiating the Process. The individual wishing to bring a complaint of misconduct to mediated resolution may do so by contacting a designated mediator identified on the WEB sites of the Faculty Senate or the Office of the Provost. Mediators are individuals designated for their skill and training in mediation and for their knowledge of the policies of the university. The goal of mediation is for an impartial party to work with the individuals to resolve a charge of misconduct outside of a hearing process. Successful mediation results in a written agreement among the parties.

7.2.4.2. Complaint Review and Processing. As part of the process, the mediator will discuss the procedural options with the complainant and the respondent. To enter into the mediated process, both the respondent and complainant must agree to follow the process outlined by the mediator. The mediator will arrange for a discussion of the issues and

assist in developing a written plan to which the parties will agree. Mediators will consult with the appropriate administrators in the development of the agreement to receive advice on the impact of the resolution on the operations of the department or unit.

7.2.4.3. Resolution of Complaints. The written agreement will be provided to the parties, to the administrators responsible for overseeing the agreement, and the Provost. Chairs and Deans will keep such agreements in sealed files in a secure location separate from official personnel files. The documents and notes of the mediation process will be organized following good practice in mediation and will be retained for five years in the Provost's confidential files. They shall only be opened if the parties agree, or if there is an urgent need for access. Mediators may not be called on as witnesses, and notes and records of these proceedings (except for the agreement) may not be used as evidence in a grievance or a formal hearing except as provided by law.

If mediation is not successful a complaint may be filed through the formal complaint process.

7.2.5. Formal Complaint Process

The formal complaint process is based upon peer review and respect for due process. It is an academic and not a judicial process. The goal is to determine the truth and to recommend and apply remedies and sanctions in keeping with the freedoms and responsibilities of the academic environment.

7.2.5.1. Filing Formal Complaints. To initiate the formal complaint procedure, the complainant will file a written complaint with the appropriate administrative officer as indicated below. Multiple complaints arising out of the same conduct, or a pattern of conduct, may be consolidated into a single complaint.

7.2.5.1.1. Content of Formal Complaints. The complaint should include:

- The name, address, and telephone number of the complainant;
- The name and office of the individual(s) alleged to have engaged in misconduct;
- A short, plain statement of the alleged misconduct;
- The approximate date(s) on which the act(s) allegedly occurred;
- Persons known to have information relevant to the complaint;
- A statement of any provision of law, rule or policy believed to have been violated;
- Any other information which will assist in the investigation and resolution of the complaint; and
- The signature of the complainant.

Complaints may also indicate what action might be taken to address the alleged misconduct. Complainants are expected to cooperate by providing relevant information relating to the complaint if requested. Failure to cooperate may result in dismissal of the complaint.

7.2.5.1.2. Offices Where Formal Complaints May be Filed. The following offices are designated to receive complaints against a member of the faculty:

- Any complaint of misconduct may be filed with the Office of the Provost; and
- Discrimination complaints, including those involving sexual, racial or ethnic harassment may be filed with the Office of Equal Opportunity and Diversity. The Office of Equal Opportunity and Diversity will inform the Provost of discrimination complaints against a faculty member within one day.

7.2.5.1.3. Initial Steps by Provost. Upon receipt of a complaint, the Provost will immediately evaluate, in consultation with the respondent's Chair, and in appropriate cases, the Equal Opportunity and Diversity Officer (for discrimination complaints) or the Officer For Research Integrity (ORI) (for research misconduct cases) whether interim action should be taken in accordance with the following section on interim action. The Provost will notify the complainant, the respondent and the respondent's Chair of the complaint, of any interim action taken, and will remind the respondent of his/her obligation not to take retaliatory action against the complainant or others involved with the complaint.

7.2.5.1.4. Interim Action. There may be instances in which the Provost needs to take interim action pending investigation of the case. The Provost may take interim action if any of the following conditions exist:

- There is immediate physical danger to persons or property;
- There is reasonable indication of serious criminal violation;
- There is an immediate health hazard;
- There is immediate need to protect equipment or funds, including federal funds or federal financial assistance;
- There is immediate need to protect the safety or interests of the person(s) making the allegations, of witnesses or of the subject(s) of the allegations or his/her collaborators and associates; or
- There is a need to assure evidence is preserved or to prevent improper influence of witness testimony.

Interim action taken must be appropriate to the interests protected, and reasonably limited so as not to have an undue damaging effect on the faculty member. It is not in and of itself a sanction. Interim action may include:

- Restrictions on contact with persons;
- Limitation on access to certain areas of the campus;
- Reassignment of duties;
- Partial or total administrative leave with pay;
- Direction on conduct of activities; or
- Restrictions on university travel.

In cases where there is a reasonable indication of criminal violation related to academic misconduct allegations involving federal funding, the Provost will notify ORI for consideration of reporting to the relevant agency.

Except in cases of emergency, the Provost shall make a good faith effort to implement interim action through discussion with the faculty member prior to taking interim action. If an agreement is not reached, the Provost may impose interim action. If a faculty review board has not been appointed, the faculty member against whom interim action has been taken may request a review by the Provost. As indicated below, the Faculty Review Board will review all interim action.

The Provost will assist the Chair and the Dean in ensuring that that the interim action will have as little disruption of the teaching, research, or outreach activities of the department as possible.

7.2.5.2. Complaint Review and Resolution

7.2.5.2.1. Inquiry of the Facts of the Complaint. The Provost will initiate a preliminary inquiry into the facts of the case or will assign the complaint to either the Equal Opportunity and Diversity Officer or to the ORI to carry out such an inquiry. The inquiry agent will examine the complaint and within two days will prepare for the Provost a preliminary analysis of the complaint and a recommendation on the nature and scope of the investigation needed.

Within two days after receiving the complaint the Provost will call for the formation of a Faculty Review Board to receive and review the complaint. The Faculty Review Board will consist of three members nominated from the faculty pool by the President of the Faculty Senate and confirmed by the Provost. The Faculty Senate President will review the complaint as filed and any additional pertinent information provided by the Provost before making the nominations. The President of the Faculty Senate and the Provost will seek an objective Board with sufficient depth of expertise and experience to understand the issues in the case. The members should not have any real or apparent conflict of interest in the case. At least two of the three members must be of an equal or greater rank than that of the respondent. In the unusual circumstance that appropriate membership is not available from the faculty pool, the President of the Faculty Senate will nominate additional members from the tenured faculty for confirmation by the Provost. The complainant and the respondent have the right to challenge the nominees to the Faculty Review Board. Challenges must be made in writing in no more than two days following the naming of the nominees. The President of the Faculty Senate and the Provost will determine the standing of the challenges. If nominees are successfully challenged the President of the Faculty Senate will submit additional nominees until three members are confirmed. The Faculty Senate President and the Provost will jointly name the chair of the Faculty Review Board.

The Provost and the Faculty Review Board will review the recommendation of the inquiry agent. If they conclude the case is a grievance they will refer the case to the Faculty Senate Council on Judiciary and Appeals. If they conclude the case is a case of misconduct, the Faculty Review Board and the Provost will decide on the nature and scope of the investigation and on the individuals who will carry out the investigation. They will assess any interim action taken by the Provost and will confer on whether this

action should continue and/or whether any further or additional action is needed. The Faculty Review Board will work in conjunction with the investigating agent. When the faculty member has been charged with abandonment of position and has not responded to the charge the Faculty Review Board may recommend to the Provost the suspension of salary for the duration of the proceedings.

An investigation report will be prepared by the investigating agent and submitted to the chair of the Faculty Review Board within 30 days of the receipt of the complaint. The investigating agent may submit a request for an extension of this 30 day period to the chair of the Faculty Review Board who will transmit the request along with his/her recommendation to the Provost and the President of the Faculty Senate, who will jointly decide whether the extension should be granted. If an extension is granted the chair of the Faculty Review Board will inform all relevant parties. Extensions may be granted only for a fixed period and only for specific reasons. The Provost and ORI will be promptly advised of any development which discloses facts that may affect current or potential federal funding or otherwise affects the public interest.

7.2.5.2.2. Review and Hearing by the Faculty Review Board. After the investigative report is received, the Faculty Review Board will review the report and, if they are satisfied, will submit the report to the Provost, the complainant, and the respondent for comments. All parties will have a period of seven days to provide a response to the Faculty Review Board. After the receipt of responses from all parties, or after seven days, the Faculty Review Board will meet and will take one of three actions: to dismiss the charges and hold no hearing, to hold a minor sanction hearing or to recommend that the complaint be referred to a Major Sanction Committee. If the Faculty Review Board decides to dismiss the charges without a hearing, it will summarize its reasons as a part of its report to the Provost; the decision against a hearing is only possible if the Faculty Review Board finds no violation of the Faculty Conduct Policy by the respondent. If the Faculty Review Board decides to hold a minor sanction hearing they will inform all relevant parties and schedule the hearing. If the Faculty Review Board decides to recommend that the complaint be referred to a Major Sanction Committee, they will submit this recommendation to the Provost along with their reasons for making the recommendation. If the Provost agrees he/she will inform all relevant parties and the complaint will be referred to a Major Sanction Committee.

If at any time the Faculty Review Board concludes there is need for further interim action, they shall make a recommendation to the Provost. If the Provost disagrees, they may make a recommendation to the President.

In conducting a minor sanction hearing the Faculty Review Board will respect the due process rights of the respondent, undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations of misconduct, and will afford all individuals confidential treatment to the extent possible in the inquiry.

Minor sanction hearings will be closed to the public. During the hearing, the Faculty Review Board may receive additional evidence from the respondent or the complainant,

will hear rebuttals of evidence presented by either party, may call and question witnesses on its own behalf. During the hearing all questions, comments, or statements will be addressed to the Faculty Review Board. Witnesses may choose to participate by remote video conferencing or by telephone. The respondent may choose to waive his/her right to a formal hearing and allow a written statement to constitute the defense. The respondent and the complainant may have the advice of counsel, but counsel may not speak for them during the hearing. In all cases the charges shall be established by the preponderance of the evidence. Deliberation on the charge will be based only on the evidence relevant to the charge. The Faculty Review Board shall determine the relevance of all evidence. If evidence of additional instances of misconduct unrelated to the original charge is presented, the Faculty Review Board shall consult with the Provost on the question of whether this additional misconduct shall be included in the current case or whether a separate complaint shall be made.

Following the hearing, the Faculty Review Board will prepare a report containing a full description of the allegations, the evidence reviewed, a summary of testimony, and conclusions that have been reached. The report of the Faculty Review Board will include a recommendation about the disposition of the case. The Faculty Review Board has three options:

- If they decide that the evidence is not credible or does not sufficiently support the charge they may recommend that the case be dismissed.
- If they decide that the evidence is credible and that it supports the case, they may recommend that the Provost impose a minor sanction or that nondisciplinary corrective action be taken.
- If they decide that the evidence is credible and that there is a clear and compelling case to warrant a major sanction, they may recommend that the Provost refer the complaint to a Major Sanction Committee.

In their report the Faculty Review Board will articulate their reasons for making their recommendation. The Faculty Review Board may also make a recommendation about interim action during the remainder of the process.

The Faculty Review Board report will be sent to the respondent and the complainant, who will have ten days to respond. After receipt of the responses, or after ten days, the Faculty Review Board will submit their report and any responses to the Provost. The respondent and the complainant will receive copies. The Chair and Dean will be notified that the report has been submitted.

The Faculty Review Board will issue their report within 60 days from the receipt of the complaint from the Provost. Faculty Review Board may ask for and receive an extension beyond 60 days. A request for an extension must include documented reasons for the extension. An extension will be granted only with the concurrence of both the Provost and the President of the Faculty Senate.

7.2.5.2.3. Response of the Provost. The Provost will have 15 days to respond to the Faculty Review Board report. If the Provost disagrees with the recommendation of the

Faculty Review Board, the Provost must meet with the Faculty Review Board to discuss the reasons for the disagreement before taking any action.

The Provost will communicate to the chair of the Faculty Review Board, the respondent, and the complainant a final report containing his or her decision, and the reasons underlying that decision. If the Provost is issuing the final decision in a minor sanctions case, the Provost's report will describe what sanction is to be imposed, or the nature of any nondisciplinary corrective action to be taken.

The Provost will inform the Chair and Dean of the disposition of the case. When appropriate, the Provost will submit a report to the ORI describing the policies and procedures under which the investigation was conducted, the information obtained relevant to the investigation, the findings and the basis for the findings. The Provost will undertake reasonable measures to prevent retaliation against individuals who filed the complaint or who assisted in or participated in the misconduct process.

All proceedings will be confidential to preserve the integrity of the investigation and those involved. No public statement about the hearing or about the Faculty Review Board's recommendation will be disseminated. Public announcement of the findings and recommendations will be made at the discretion of the Provost. If the complaint is dismissed the Provost will undertake all necessary measures to restore the reputation(s) of the person(s) alleged to have engaged in misconduct immediately after the issuing of the final report.

7.2.5.3. Major Sanction Process. If a complaint is referred to a Major Sanction Committee the Provost will review the results of the previous investigation and the recommendations from the Faculty Review Board and will decide whether to accept that recommendation.

7.2.5.3.1. Appointment of Major Sanction Committee. Within two days after accepting the recommendation, the Provost will call for the formation of a Major Sanction Committee to review the complaint. A Major Sanction Committee will be chosen from a list of nine nominees selected from the faculty pool by the Faculty Senate President and confirmed by the President of the University. The list of nominees will be presented within five working days after the Provost calls for the committee. Members of the Major Sanction Committee should have no real or apparent conflict of interest with the respondent. The Provost and the respondent faculty member each have the option of one preemptory challenge from the list so committee membership may vary from seven to nine members. Challenges must be made within five days after receipt of the list. No member of the Major Sanction Committee shall be chosen from the Faculty Review Board that previously reviewed the complaint. More than half of the members of the Major Sanction Committee shall be of equal or greater rank to respondent and, except in unusual circumstances, no member of the respondent's department shall serve on this committee. The President of the Faculty Senate and the President of the University shall jointly appoint the chair of the Major Sanction Committee.

The Provost will provide the Major Sanction Committee with a statement of the charges. The Major Sanction Committee will review any interim action that has been taken and will confer with the Provost on whether this action should continue and/or whether any further or additional action is needed. If at any time the Major Sanction Committee concludes there is need for additional interim action, the committee shall make a recommendation to the President.

The Provost will inform the Chair and Dean of the respondent faculty member that a major sanction complaint has been made against that faculty member and of any interim action that is being taken. The Provost will assist the Chair and Dean in ensuring that there will be as little disruption of the teaching, research, or outreach activities of the department as possible.

At the same time the Provost calls for the formation of the Major Sanction Committee, - the Provost will also notify the respondent of the right to have the matter reviewed by an administrative law judge under the Iowa Administrative Procedure Act (an “APA hearing”). The respondent will have five days to make a choice of procedures. If the faculty member elects an APA Hearing, the provisions of Iowa Code Chapter 17A and Iowa Administrative Code Chapter 681-20 will apply instead of the *Faculty Handbook*, otherwise the hearing will be held before a Major Sanction Committee as provided by this policy.

The respondent shall be given a period of 20 days from the date of issuance of the charges in which to complete a response to the charges. The faculty member may request additional time from the Major Sanction Committee for this response. The faculty member may choose to waive the right to a formal hearing and allow a written statement to constitute his/her defense

7.2.5.3.2. Major Sanction Committee Response. The Major Sanction Committee will review the charge against the faculty member, the results of the investigation of this charge, the report of the Faculty Review Board, and the response of the respondent within 20 days after receiving the faculty member's response. The Major Sanction Committee may request additional written comments from any party, or may request additional investigation. If this requires additional time the Major Sanction Committee may extend their review for an additional 40 days, and will notify all parties of any extension and of the reasons for this extension. Extensions will be made only for a fixed period and only for specific reasons. After completion of its review the Major Sanction Committee shall hold a hearing. If the respondent waives his or her right to a formal hearing, the committee shall determine an appropriate recommendation on the basis of available information.

The Major Sanction Committee shall apprise the President and when appropriate the ORI, of any developments which disclose facts that may affect current or potential federal funding for individual(s) under investigation or that the relevant federal agency needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

7.2.5.3.3. Procedures Applicable to the Hearing. The Major Sanction Committee shall determine the procedures applicable to the hearing. The following discussion of procedures is a general guide, but the Major Sanction Committee shall have the right to amend them with the consent of both parties.

- Rules of Evidence. Formal rules of evidence applicable to court proceedings shall not apply. The Major Sanction Committee may give evidence different weight based upon its relevance and probative value. The Major Sanction Committee may determine that it will not consider evidence that it determines is irrelevant. The Committee shall respect legally recognized privilege such as that between attorney and client or physician and patient unless the person who has the right to assert the privilege waives the privilege.
- Closure of Hearings. The Hearing shall be closed.
- Communications to Major Sanction Committee. To assure the proceedings appear and in fact are fair, the parties are expected to communicate with the Major Sanction Committee and the Chair of the Major Sanction Committee in writing, with a copy to the other party, or in a manner in which the other party is able to participate.
- Exclusion of Witnesses. The Major Sanction Committee will not permit witnesses, other than the parties to be present during the questioning of other witnesses.
- Burden of Proof. Each allegation must be established by a preponderance of the evidence. The Major Sanction Committee shall base its decision upon the evidence presented to it during the proceedings.
- Presence of Advisors. The parties may have an attorney or other person present to advise them. A person who is the victim of the conduct of the respondent shall also have a right to the presence of an attorney or other person to advise them or to provide support. Attorneys, advisors, and supporters may not present any part of the case for the parties without the consent of the Major Sanction Committee.
- Right of Respondent to Attend. The respondent faculty member shall have a right to attend the hearing, the presentation of witnesses and opening and closing statements. With the consent of the Major Sanction Committee testimony of witnesses may be presented by remote video or telephonically. In the case of video or telephonic testimony, the parties shall both have a similar opportunity to view or hear the testimony.
- Record. The hearing will be recorded electronically or by use of a court reporter.
- Before the Hearing. The parties or the Major Sanction Committee may arrange for the exchange of lists of witnesses to be presented and documents to be presented. The Major Sanction Committee may set up a pre-hearing conference to assist in presentation of the case.
- Order of Presentation at the Hearing. Unless otherwise directed by the Major Sanction Committee, the order of presentation of the case shall be:
 - o Preliminary Matters, including comments by the Major Sanction Committee, discussion of order of witnesses, and exchange of documents (if not completed before the hearing);
 - o Opening statement of the Provost's representative;
 - o Opening statement of the respondent;
 - o Witnesses and evidence of the Provost's representative;
 - o Witnesses and evidence of the respondent;

- o Rebuttal witnesses and other evidence of the Provost’s representative;
- o Rebuttal witnesses and other evidence of the respondent.
- o Closing statement of the Provost’s representative;
- o Closing statement of the respondent.
- After the Hearing. With the approval of the Major Sanction Committee, the parties may present written summaries. The Major Sanction Committee shall set the time for submission, no later than 10 days after closing of the hearing. When the committee is satisfied that each side has had a complete hearing, it shall retire in private to make its findings of fact and its recommendations.

7.2.5.3.4. Report of the Major Sanction Committee. The report of the Major Sanction Committee will include a recommendation about the disposition of the case. The Major Sanction Committee has three options:

- If they decide that the evidence is not credible, or does not sufficiently support the charge, they may recommend that the case be dismissed.
- If they decide that the evidence is credible and that it supports the case, they may recommend that the President impose a minor sanction or that nondisciplinary corrective action be taken.
- If they decide that the evidence is credible and that it supports the case, they may recommend that the President impose a major sanction.

The Major Sanction committee report will contain a description of the findings of fact and recommendations, together with a transcript of the record if requested. The report will be sent to the respondent and the complainant, who will have ten days to respond to the report. After receipt of the responses, or after ten days, the Major Sanction Committee will submit their report to the President with any responses attached. The complainant and the respondent will receive copies of any responses. The Major Sanction Committee will notify the Chair and Dean that the report has been submitted. The President must meet with the committee to discuss the recommendation.

Should the entire investigation, deliberation, and major sanction hearing process not be completed within 120 days of the Major Sanction Committee receiving the complaint, a request for extension must be filed with the President. The President will notify the ORI of any extension. The request will include an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done, and an estimated date of completion.

7.2.5.3.5. Response of the President. The President will have 15 days to respond to the Major Sanction Committee report. If the President and the committee disagree, the President must meet with the committee before taking action to discuss the reasons for disagreement. After this meeting, the action shall be taken within 15 days.

The President will present to the chair of the Major Sanction Committee, the respondent, and where appropriate the ORI, a final report containing his or her decision, describing the action to be taken, and giving the reasons underlying the decision. The President will inform the Provost, the Dean, and the Chair of the respondent of the action being taken. If the faculty appointment is terminated the President shall set the date of termination. The

President will undertake all necessary measures to prevent retaliation against individuals who filed the complaint or who assisted in or participated in the misconduct process.

All proceedings will be confidential to preserve the integrity of the investigation and those involved. No public statement about the hearing or about the Major Sanction Committee's recommendation will be disseminated. Public announcement of the findings and recommendations will be made at the discretion of the President. If the complaint is dismissed the President will undertake all necessary measures to restore the reputation(s) of the person(s) alleged to have engaged in misconduct immediately after the issuing of the final report.

7.2.5.4. Records. In all cases of formal complaints, the Provost's office shall maintain detailed documentation of the case for a minimum of three years. The record shall include the complaint, the report of the investigation, the Faculty Review Board report, the Provost's response, the Major Sanction Committee report, the response of the respondent and the complainant, the Provost's response to the report, and the President's report. Access to the records will be provided to authorized personnel on request.

7.2.6. Processes for Appeal

After a decision has been made in a misconduct case this decision may be appealed using either internal or external appeals processes described in the *Faculty Handbook*. To avoid unnecessary and multiple appeals and grievances, any party with concerns about hearing procedures should make those concerns known during the hearing procedure, and those issues shall be considered by the person(s) then making the recommendation or decision. Simultaneous appeals cannot be made on the same case.

7.2.6.1. Appeals to the President. Disciplinary action taken by the Provost may be appealed in writing to the President within 20 days following receipt of the Provost's decision or, in case an appeal is filed with the Faculty Senate Judiciary and Appeals council, 20 days after being informed of their decision. The appeal should include a statement of reasons for the appeal, with references to the evidence that supports the appeal.

7.2.6.2. Appeals to the Board of Regents. Decisions of the President may be appealed to the Board of Regents. The respondent may appeal an adverse finding by the President to the Board of Regents no later than 20 days following receipt of the President's decision, or of the conclusion of an internal appeal, by filing the appeal with the Office of the President for transmission to the Board. The Board of Regents has final power in matters of faculty discipline. The appeal should include a statement of the reasons for the appeal, with references to the evidence that supports the appeal.

7.2.6.3. Appeals to the Courts. Decisions of the Board of Regents may be challenged by filing a petition for judicial review in Iowa District Court. State law and Iowa court rules determine the procedure for filing and handling such challenges.

7.2.6.4. Request to Reopen. The respondent may request to have his/her case reopened under the following circumstances:

- New evidence is discovered that was unavailable at the time of the hearing, and the new evidence clearly undermines confidence in the findings; or
- Evidence is discovered that a party provided false or misleading evidence on a key issue and this evidence clearly undermines confidence in the findings.

The request to reopen the case will be rejected if the evidence was raised during a hearing or appeal of the disciplinary action, and the hearing or appellate authority adequately considered the matter in making its decision. Requests to have a case reopened should be made to the Provost for minor sanctions or to the President for major sanctions.

7.2.6.5. Faculty Senate Appeals. The respondent may file an appeal with the Faculty Senate Judiciary and Appeals Council if he or she believes there was egregious procedural error, which fundamentally undermined the hearing process. The Judiciary and Appeals Council will examine only the procedural issues raised in the appeal. Such appeals may be rejected if the respondent knew of the defect in the procedures during the proceeding and failed to bring it to the attention of the hearing or appellate body. Should the Judiciary and Appeals Council conclude that egregious procedural errors were made they may recommend to the Provost (for minor sanctions) or the President (for major sanctions) that the case be reopened.

Appeals to the Judiciary and Appeals Council must be made within 20 days after the respondent is informed of the sanction decision.

7.2.6.6. Appeals following an APA Hearing. If an APA Hearing is held, the exclusive process for appealing is provided in Iowa Code Chapter 17A and in Iowa Administrative Code Chapter 681-20.

7.2.7. Definitions

7.2.7.1. Administrative Leave. Administrative leave is defined as removal from some or all university duties with no reduction in salary. Administrative leave is not considered a sanction, but instead is an interim action used to protect the institution, the investigation of a case, or individuals involved in a case during the conduct of an investigation or hearing.

7.2.7.2. APA Hearing. When a case is deemed serious enough to warrant a major sanctions hearing, the faculty member will be given an election to receive a formal hearing under the Iowa Administrative Procedure Act (Iowa Code Chapter 17A). Such hearings, also called "contested cases," are held before a state Administrative Law Judge. The Administrative Law Judge will hold the proceedings in accordance with found in Chapter 17A of the Iowa Code, and Iowa Administrative Code Chapter 681-20.

7.2.7.3. Days. In all references to "days" in this document, the reference shall be to working days, that is, days the University offices are open for business (even though classes may not be held).

7.2.7.4. Faculty Member. Reference to "faculty" includes all members of the faculty as defined in Article I of the Faculty Senate Constitution, http://www.facsen.iastate.edu/documents/constitution/const_approved_feb_24.html. This includes individuals simultaneously holding faculty rank and administrative positions. All faculty members who hold administrative appointments whose titles contain the term president, provost, or dean are ineligible for appointment to the faculty pool or to serve on a Faculty Review Board or a Major Sanction Committee. Chairs are ineligible for appointment to the faculty pool or to serve on a Faculty Review Board or a Major Sanction Committee.

7.2.7.5. Faculty Panels. A pool of at least 25 tenured faculty members will be identified by the Faculty Senate President and confirmed by the Provost for service on Faculty Review Boards and Major Sanction Committees. Individuals will serve a three-year term and are eligible for reappointment. The pool should include a broad range of individuals representing the ethnic, racial, gender, and disciplinary diversity of the university. Individuals should be selected for their ability to bring independence and impartiality to the proceedings and for their stature and respect gained in the course of their professorial work. In cases of alleged academic misconduct individuals may be selected for their professional expertise. Agreement to serve carries with it the responsibility to provide diligent service when asked. Each May the Faculty Senate President will confirm the continued availability of those whose terms are not yet complete and will provide names to the Provost to complete a full slate of pool membership.

Compensation will be made to members of either a Faculty Review Board or a Major Sanction Committee for work on any day that is not in accord with the B-Base contract.

7.2.7.6. Major Sanctions. For the purpose of this document, major sanctions consist of: dismissal, suspension without pay for at least one month, reduction in salary, removal of graduate supervision privileges, cancellation of graduate college membership, removal of distinguished titles, reparations of \$2,000 or more, or significant reassignment of duties.

7.2.7.7. Minor Sanctions. For purposes of this document, minor sanctions consist of: probation, suspension of less than one month without pay, minor reassignment of duties, mandatory training, a probationary period, letters of reprimand, restrictions on contact with the complainant, mandatory training, or reparations of less than \$2,000.

7.2.7.8. Non-disciplinary Corrective Action. Non-disciplinary corrective action may include issuance of a letter of direction, requiring the faculty member to review relevant

policies, requiring attendance at training, or similar action. Non-disciplinary corrective action may be suggested or required by a department chair independent of the disciplinary process as a means of assuring a faculty member is aware of the law or institutional policy.

7.2.7.9. Reassignment of Duties. Reassignment may occur as a result of action other than discipline. For example, elimination of a program may require reassignment. It is not intended that the disciplinary procedures should be used for reassignment for other than disciplinary reasons.

7.2.7.10. Suspension. Suspension is defined as severing of a university responsibility without pay. Total suspension is defined as total severing of all university responsibilities without pay.