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The order of information in this document is as follows:

1. The rationale for the changes as provided by J&A Council.
2. The rationale provided by University Counsel for why requested changes were needed. J&A accepted rationales 1-4, but not 5.
3. The current Chapter 7 wording. (Beginning on the third page of this document, but labeled pages 92-114.)
4. The marked up Chapter 7 wording. (Labeled with page numbers 92-108.)
5. The "final" Chapter 7 wording with changes accepted. (Labeled with page numbers 92-106)

Note that the page numbers reflect Handbook Page numbers rather than page numbers in this document.

Rationale for changes to Chapter 7 in the Faculty Handbook

The Associate Provost brought forward to the J & A Council a number of suggested changes to Chapter 7 (Faculty Conduct Policy). These changes were generally for consistency and clarity. However, there was a substantive change to 7.2.2.5.2 Abandonment of Position. Further, the Associate Provost and ISU Legal Counsel brought forward a number of changes that are necessary to comply with federal rules. The J & A Council met a number of times and determined that there were many more changes that were required, again in order to improve consistency and clarity. One change that was requested by the Associate Provost was to eliminate 7.2.6.5 Faculty Senate Appeals; after discussion, the J & A Council decided that this section should be in the Faculty Handbook. In summary, the J & A Council have made a number of changes in Chapter 7 but most do not change the basic tenets of the handbook but will improve how the handbook can be applied. The change to 7.2.2.5.2 Abandonment of Position are much needed to provide specific guidelines and details about this particular section. The rest of the numerous changes improve the utilization of these sections of Chapter 7.

Rationale for FCP Proposed Amendments Requested by University Council and Accepted by J&A Council

1. **Abandonment of Position:** Our current language does not allow us to take disciplinary action if a faculty member is responsive to communications but still refuses to perform, such as refusing to meet classes or otherwise conduct the activities in the PRS. The proposal defines abandonment as failure to perform position responsibilities while showing a lack of care for accomplishment of them. (7.2.2.5.2) Language allowing suspension of salary for a faculty member who has abandoned their position from Section 7.2.5.2.2 to the section on Interim Action, Section 7.2.5.1.4.
2. **Integration of Research Misconduct changes:** Recommended changes to integrate amendments to the Research Misconduct Policy into the Faculty Handbook were not fully implemented. The Office of University Counsel is requesting implementation of those recommendations.
 - a. Definition: We need clearly to define the research misconduct allegations that go through the federally required process separately from other academic misconduct. 7.2.2.3.
 - b. Reporting and Process: The Research Integrity Officer is the primary person responsible for research misconduct. Amendments clarify that role. 7.2.3, 7.2.5.1, 7.2.5.1.2 and 7.2.5.1.3.
3. **Rights of Persons Affected by Conduct:** The FCP is unclear in some respects on notices to complainants, on persons who are affected by the conduct but are not the complainant (termed “referring party”) and appeal rights. These changes will also place us in compliance under recent federal legislation (the Violence Against Women Act, Public Law 113-4, March 2013) in those rare cases that involve allegations of sexual violence. The referring party:
 - a. Will be consulted regarding interim action (7.2.5.1.4);
 - b. Will receive final notice of the outcome of a minor sanction (7.2.5.2.3) or major sanction hearing (7.2.5.3.5).
 - c. Will have a right to appeal the decision of the Provost to the President (7.2.6.1)
4. **Procedural Clarifications—FRB action.** Section 7.2.5.2.2 has been revised to conform to actual practice. It clarifies the recommendations the FRB may make, and the Provost’s review of the recommendations.
5. ~~**Elimination of Separate Route of Appeal.** The Section allowing the filing of a separate appeal through the Faculty Senate (7.2.6.5) has been deleted. Parties should be required to challenge procedural issues during the FCP process so that there are not multiple proceedings. Since such a second appeal may end up with the Board of Regents after they have taken final action on the disciplinary action, the separate appeal is of little value. Ultimately, if the accused faculty member believes the disciplinary process was flawed, the best appeal would be through the courts rather than through individuals who have already decided the case.~~

Chapter 7 from the August 2013 FH

Faculty Handbook - 7. Faculty Conduct Policy

Changes to this section were approved by the Faculty Senate, November 14, 2006.

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. ([FH Section 10.6.1](#))

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.

[PLEASE NOTE: A new university Conflict of Interest and Commitment Policy went into effect on July 1, 2011. See Policy Library.](#) 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.

A faculty member must not participate in the supervision, instruction, or evaluation of a student, staff member, or colleague with whom a romantic or sexual relationship exists or has existed. The faculty member must take appropriate actions to end the supervisory, instructional, or reporting relationship, thereby removing the possibility of a conflict of interest. Failure to do so shall be viewed as misconduct. See [Consenting Relationships Policy in the Policy Library](#).

7.2.2.1.2 Family Relationships - Nepotism

The State of Iowa Board of Regents 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. See [Board of Regents Policy Manual chapter 4.11](#).

7.2.2.1.3 Outside Activities

[PLEASE NOTE: A new university Conflict of Interest and Commitment Policy went into effect on July 1, 2011. See Policy Library.](#)

Faculty of Iowa State University are subject to conflict of interest laws of Chapter 68B of the Code of Iowa, as well as the University's policies on **conflict of interest** (an external activity, significant financial interest or management role that has the potential to negatively impact objectivity in the execution of the university duties) as well as **conflict of commitment** (an external activity with the potential to reduce the time and attention an employee can devote to his/her university responsibilities, and thus negatively impact his/her performance of assigned university duties). <http://policy.iastate.edu/policy/>. Faculty and close family members may not sell goods or services to the University unless in conformity with Board of Regents Policy. ([FH Section 8.3.7](#)) Iowa law also forbids the acceptance of gifts from persons in circumstances, which may indicate improper influence. See [Gratuities and Gifts, Procurement in the Policy Library](#). Iowa State University Policy requires prior approval of certain outside activities.

Approved by the Faculty Senate on 3/6/2012; approved by the president and provost on 4/10/2012

7.2.2.2 Discrimination and Harassment

The obligation of the University is to provide an environment that enables all members of the community to pursue work and study free of discrimination and harassment. Especially important is to prevent and address discrimination and harassment based upon race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age (40 and over), marital status, sexual orientation, gender identity, genetic information, status as a US veteran (disabled, Vietnam, or other), or other protected classes, 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.

Changes to this section were approved by the Faculty Senate, November 14, 2006.

7.2.2.2.1 Discrimination

Consistent with the University's policy against discrimination, faculty may not engage in discriminatory conduct, as prohibited by the [University's Discrimination and Harassment policy in the Policy Library](#).

7.2.2.2.2 Harassing Behavior

Criticism and actions taken in or as a result of disagreement can be misunderstood 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 environment 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.

7.2.2.2.3 Harassment

The policy of Iowa State University is that no member of the academic community may engage in harassment as prohibited by the [University's Discrimination and Harassment policy in the Policy Library](#).

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.

7.2.2.3.1 Research Misconduct

Research misconduct is a subject of academic misconduct that has its own reporting and resolution process, established by the Research Misconduct Policy on January 1, 2012. Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results. It also includes ordering, advising or suggesting that subordinates engage in research misconduct. The misconduct must depart significantly from accepted practices of the relevant research community and must be committed intentionally, knowingly, or recklessly. It does not include honest error or differences of opinion.

For addressing claims of faculty misconduct that do not involve research, see ([FH Section 7.2.3](#)) below. For addressing claims or research misconduct (as described in the paragraph above), please refer to the [Research Misconduct Policy in the Policy Library](#).

Approved by the Faculty Senate on 3/6/2012; Approved by the president and provost on 4/10/2012.

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 or threats 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 Unacceptable Performance of Duty

These procedures are intended only in cases for which dismissal for unacceptable performance of duty may be contemplated after reasonable documented efforts have been made by department, college and University officers to resolve concerns about unacceptable performance according to the University's policies governing faculty performance.

A faculty member's performance of duty may be deemed unacceptable if there has been, for a significant period of time (most recent three to five years), substantial, persistent and manifest neglect of faculty duties as presented in the faculty member's position responsibility statement and as reflected in the written record. The written record will include the position responsibility statement, annual evaluations, current curriculum vitae, and at least one completed post-tenure review within the time frame in question. The written record may also include any written correspondence over the past five years between the department chair and the individual dealing with performance of duties and any written correspondence between the individual and the relevant dean or the senior vice president and provost dealing with performance of duties.

The college dean shall make a complaint of unacceptable performance of duty based on the written record.

To initiate the formal complaint procedure of unacceptable performance of duty, the college dean will file a written complaint with the Office of the Senior Vice President and Provost by setting forth in writing the specific findings of unacceptable performance of duty. The dean's notification shall include the entire written record and a review of the efforts that have been made to resolve the matter, including the use of any established post-tenure review procedures of the college and department(s) in question. Upon receipt of a complaint, the senior vice president and provost and the President of the Faculty Senate will immediately evaluate the complaint to determine whether the complaint has been properly filed. If filed properly, Faculty Conduct Policy ([FH Section 7.2.5.1.3](#)) (Initial steps by the senior vice president and provost) triggers the formal Complaint Review and Resolution procedures, ([FH Section 7.2.5.2](#)).

Approved by Faculty Senate (April 19, 2011); by president and provost (April 22, 2011).

7.2.2.5.2 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 senior vice president and provost upon recommendation of a Faculty Review Board if the faculty member fails to respond to a charge of abandonment.

7.2.2.5.3 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.

7.2.2.5.4 Acceptable Use of Information Technology Resources

Computational equipment has become a valuable tool for carrying out the mission of the institution. Faculty are expected to adhere to the university's policy on the [Acceptable Use of Information Technology Resources in the Policy Library](#). 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.

7.2.2.5.5 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, see [the Office of the Registrar policies](#).

7.2.2.5.6 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.

7.2.2.5.7 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 to 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.

7.2.2.5.8 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.

7.2.2.5.9 Discrimination

Consistent with the University's policy against discrimination, faculty may not engage in discriminatory conduct against members of the protected classes as defined in ([FH Section 7.2.2.2](#)), 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. See the [Discrimination and Harassment policy in the Policy Library](#).

7.2.2.5.10 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.

7.2.2.5.11 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. See policy on [Personal Use and Misuse of University Property in the Policy Library](#).

7.2.2.5.12 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.

7.2.2.5.13 Other Policies

Faculty must comply with all university policies, including but not limited to:

- Drug and Alcohol Free Workplace. ([FH Section 8.4.3](#))
- Occupational Safety Policy. ([FH Section 8.4.4](#))
- The [Board of Regents Policy Manual, Policy Library](#), and the Uniform Rules of Personal Conduct ([Iowa Administrative Code, section 681, Chapter 9](#)).

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 senior vice president and 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. If the complaint involves discrimination or harassment prohibited by the University's Discrimination and Harassment Policy, the administrator must notify the Office of Equal Opportunity upon the receipt and resolution of the

complaint to ensure responsiveness and consistent enforcement. 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 Voluntary Mediated Process ([FH Section 7.2.4](#)) or the Formal Process ([FH Section 7.2.5](#)) delineated in this document, or informally through the Ombuds Office. The Voluntary 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 ([FH Section 9](#)).

7.2.4 Voluntary 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 the Office of the Senior Vice President and Provost in writing. 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. As discussed below in ([FH Section 7.2.5.1.3](#)), the senior vice president and provost may also initiate the mediation process in certain cases.

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 voluntary 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 senior vice president and 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 senior vice president and 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 Senior Vice President and Provost; and
- Discrimination complaints, including those involving sexual, racial, ethnic or other harassment may be filed with the Office of Equal Opportunity. The Office of Equal Opportunity will inform the senior vice president and provost of discrimination complaints against a faculty member within one day.

7.2.5.1.3 Initial Steps by Senior Vice President and Provost.

Upon receipt of a complaint, the senior vice president and provost and the president of the Faculty Senate will immediately evaluate the complaint to determine whether the complaint is properly filed under this chapter. If they conclude the case is a grievance they will refer the case to the Faculty Senate Council on Judiciary and Appeals.

If a complaint is determined to be properly filed under this chapter, the senior vice president and provost will immediately evaluate, in consultation with the respondent's chair, and in appropriate

cases, the Equal Opportunity 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 senior vice president and 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.

After evaluating a formal complaint and prior to calling for the formation of a Faculty Review Board, the senior vice president and provost may direct the parties to participate in mediation, recognizing that not all cases will be appropriate for mediation. If the senior vice president and provost calls for mediation, the timelines in this chapter shall be suspended pending the outcome of mediation.

7.2.5.1.4 Interim Action

There may be instances in which the senior vice president and provost needs to take interim action pending investigation of the case. The senior vice president and 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.
- There is a need to protect the working or educational environment of affected co-workers or students.
- There is a need to protect against liability of the University or its employees.

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 senior vice president and provost will notify ORI for consideration of reporting to the relevant agency.

Except in cases of emergency, the senior vice president and 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 senior vice president and 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 senior vice president and provost. As indicated below, the Faculty Review Board will review all interim action.

The senior vice president and provost will assist the chair and the dean in ensuring that the interim action will have as little disruption of the teaching, research, or outreach activities of the department as possible. The chair and/or dean will not limit a faculty member's electronic access to university computer systems or email as part of interim action without the express approval of the senior vice president and provost.

7.2.5.2 Complaint Review and Resolution

7.2.5.2.1 Faculty Review Board

The senior vice president and provost will call for the formation of a Faculty Review Board. If the senior vice president and provost does not direct the parties to mediate the complaint, the senior vice president and provost will take such action within two days after consulting with the Faculty Senate President. If the senior vice president and provost receives notice that mediation was unsuccessful, the senior vice president and provost will take such action within two days after receiving such notification. 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 senior vice president and provost. The Faculty Senate President will review the complaint as filed and any additional pertinent information provided by the senior vice president and provost before making the nominations. The President of the Faculty Senate and the senior vice president and 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 senior vice president and 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 senior vice president and 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 senior vice president and provost will jointly name the chair of the Faculty Review Board.

The Faculty Review Board will assess any interim action taken by the senior vice president and provost and will confer on whether this action should continue and/or whether any further or additional action is needed. The Faculty Review Board may make recommendations to the senior vice president and provost regarding interim action.

The Faculty Review Board and the senior vice president and provost will decide on the nature and scope of the investigation and on the individual(s) who will carry out the investigation. The Faculty Review Board may investigate the complaint itself or will work in conjunction with the investigator, appointed through the senior vice president and provost and approved by the Faculty Review Board. 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 senior vice president and provost the suspension of salary for the duration of the proceedings.

An investigation report will be prepared by the party conducting the investigation within 30 days of the first meeting of the Faculty Review Board. If the Faculty Review Board is working with an investigator, the investigator shall submit the investigation report to the chair of the Faculty Review Board. Extensions of this 30-day period may be granted only for a fixed period and only for specific reasons. The party conducting the investigation 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 senior vice president and provost and the President of the Faculty Senate, who will jointly decide whether the extension should be granted. If the Faculty Review Board is conducting its own investigation, the chair shall submit the request for extension to the senior vice president and provost and the President of the Faculty Senate. If an extension is granted the chair of the Faculty Review Board will inform all relevant parties. All subsequent timelines and deadlines will necessarily be extended by the granting of this or any extension.

The senior vice president and 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

Once the Faculty Review Board has reviewed and is satisfied with the investigative report, the Faculty Review Board will submit the report to the senior vice president and 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. The Faculty Review Board shall review the responses from the parties and consider whether changes to the investigative report are necessary. If changes are made to the investigative report, the Faculty Review Board will not seek additional comments or responses from the parties unless it is warranted under the circumstances. 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 based on a simple majority vote: 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 senior vice president and 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 senior vice president and provost along with their reasons for making the recommendation. If the Faculty Review Board recommends that any portion of the complaint warrants review by a Major Sanction Committee, the entire complaint shall be heard through that process. If at any time the Faculty

Review Board concludes there is need for further interim action, they shall make a recommendation to the senior vice president and provost. If the senior vice president and 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. The Faculty Review Board may, in its discretion, allow alternate forms of witness testimony. 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 is presented, whether related or unrelated to the original charge, the Faculty Review Board shall consult with the senior vice president and provost on the question of whether this additional misconduct shall be included in the current case or whether a separate complaint shall be made. In such cases, the senior vice president and provost shall have the authority to approve additional charges and to reasonably extend deadlines if necessary to investigate the additional charges.

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 senior vice president and provost impose a minor sanction or that nondisciplinary corrective action be taken. The Faculty Review Board shall recommend the minor sanction to be imposed.
- 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 senior vice president and 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 senior vice president and 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 of the first meeting of the FRB. 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 senior vice president and provost and the President of the Faculty Senate.

7.2.5.2.3 Response of the Senior Vice President and Provost

The senior vice president and provost will have 15 days to respond to the Faculty Review Board report. The senior vice president and provost will review the results of the previous investigation and the recommendation from the Faculty Review Board and will decide whether to accept that recommendation. If the senior vice president and provost disagrees with the recommendation of the Faculty Review Board, the senior vice president and provost must meet with the Faculty Review Board to discuss the reasons for the disagreement before taking any action. If the senior vice president and provost is issuing the final decision in a minor sanction case, the senior vice president and provost's report will describe what sanction is to be imposed, or the nature of any nondisciplinary corrective action to be taken.

The senior vice president and 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. 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 senior vice president and provost.

The senior vice president and provost will inform the chair and dean of the disposition of the case. When appropriate, the senior vice president and 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 senior vice president and 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. If the complaint is dismissed the senior vice president and 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 the senior vice president and provost accepts the recommendation of the complaint to a Major Sanction Committee, the entire complaint shall be heard through this process. The Major Sanction Process shall begin when the senior vice president and provost files a Statement of Charges with the Office of the President, with a copy to the respondent and the respondent's chair and dean.

The Major Sanction Process involves a new peer review committee, described below. The complaint will be pursued and presented by the senior vice president and provost or designee. The Major Sanction Process is administered by the Office of the President.

At the same time the senior vice president and provost files the Statement of Charges, the senior vice president and 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.

7.2.5.3.1 Appointment of Major Sanction Committee.

If the respondent elects to have the complaint heard by a Major Sanction Committee, or after five days of notifying the respondent of the choice of procedures without response, the senior vice president and provost will call for the formation of a Major Sanction Committee to review the complaint. The Office of the President shall promptly impanel the Major Sanction Committee of seven members. The Committee is chosen from the faculty pool provided by the Faculty Senate President and confirmed by the President of the University. Members of the Major Sanction Committee should have no real or apparent conflict of interest with the respondent. The senior vice president and provost and the respondent faculty member each have the option of one preemptory challenge from the list so committee membership may vary from five to seven 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 president 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 consult as needed with the parties 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 senior vice president and 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 senior vice president and 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.

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 Review and Hearing.

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 entire 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

alternate means. 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:
 - Preliminary Matters, including comments by the Major Sanction Committee, discussion of order of witnesses, and exchange of documents (if not completed before the hearing);
 - Opening statement of the senior vice president and provost's representative
 - Opening statement of the respondent
 - Witnesses and evidence of the senior vice president and provost's representative
 - Witnesses and evidence of the respondent
 - Rebuttal witnesses and other evidence of the senior vice president and provost's representative
 - Rebuttal witnesses and other evidence of the respondent
 - Closing statement of the senior vice president and provost's representative
 - 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.

If the parties reach a resolution of the charges after the hearing has begun, the parties must present the proposed resolution in writing to the Major Sanction Committee, which shall review the proposed resolution within five working days and forward its recommendation to the president.

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, including the recommended sanction if applicable. The Major Sanction Committee has three options, decided by simple majority vote:

- 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. The president will present to the chair of the Major Sanction Committee, the senior vice president and provost, 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 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 Office of the Senior Vice President and Provost 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 senior vice president and provost's response, the Major Sanction Committee report, the response of the respondent and the complainant, the senior vice president and provost's response to the report, and the president's report. At the close of a case, members of the Faculty Review Board and, if applicable, the Major Sanction Committee, shall turn their records over to the senior vice president and provost. 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 senior vice president and provost may be appealed in writing to the president within 20 days following receipt of the senior vice president and 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 respondent is limited to one request for re-opening the entire case. The request must be submitted in writing. 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 senior vice president and 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 senior vice president and 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 on the Faculty Senate website](#). This includes individuals simultaneously holding faculty rank and administrative positions. All faculty members who hold administrative appointments whose titles contain the term president, senior vice president and 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 senior vice president and 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 senior vice president and 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.

Chapter 7 contains changes approved by the Faculty Senate on September 11, 2007, and the president and senior vice president and provost on September 18, 2007.

Chapter 7 with revisions:

7.2.2.5.2 Abandonment of Position

Faculty members who substantially fail to perform ~~any duties~~ their position responsibilities and show disregard and lack of care for the accomplishment of their responsibilities ~~and who do not respond to inquiries regarding their status~~ have abandoned their positions. Failure to timely address reasonable requests to perform position responsibilities in a timely manner, especially those related to schedule-driven responsibilities such as teaching and extension/outreach, shall be regarded as evidence of abandonment of position. In cases of abandonment, salary may be suspended by the senior vice president and provost upon recommendation of a Faculty Review Board ~~if the faculty member fails to respond to a charge of abandonment~~ as provided under Section 7.2.5.1.4.

7.2.2.3 Academic and Research 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 support and maintain a climate of ~~academic~~ integrity. It is important to recognize that academic and research misconduct cannot be excused or wrongly protected under the guise a claim of academic freedom.

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

7.2.2.3.1 Academic Misconduct

Examples of aAcademic misconduct ~~consists of any of~~ include 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 when it occurs other than in the course of research ~~one's own~~
- Failure to follow required protocols in conducting research, such as adhering to procedures for the protection of human or animal 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.

7.2.2.3.2 Research Misconduct

Research misconduct consists of any of the following:

- Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results;
- Plagiarism, the representation of another's work as one's own when it occurs in the course of research
- It also includes ordering, advising or suggesting that subordinates engage in any practice that is interpreted as constituting research misconduct.
- The Research misconduct must depart significantly from accepted practices of the relevant research community and must be committed intentionally, knowingly, or recklessly.
- Failure to follow required protocols in conducting research, such as adhering to procedures for the protection of human or animal subjects of research

Research misconduct must depart significantly from accepted practices of the relevant research community and must be committed intentionally, knowingly, or recklessly. It does not include honest error or differences of opinion. If a faculty member is alleged to have engaged in research misconduct, then the procedures set forth in the University's Research Misconduct Policy [\[hyperlink\]](#) shall be followed unless determined otherwise by the research integrity officer (RIO).

7.2.2.3.1 Research Misconduct

Research misconduct is a subject of academic misconduct that has its own reporting and resolution process, established by the Research Misconduct Policy on January 1, 2012. Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results. It also includes ordering, advising or suggesting that subordinates engage in research misconduct. The misconduct must depart significantly from accepted practices of the relevant research community and must be committed intentionally, knowingly, or recklessly. It does not include honest error or differences of opinion.

For addressing claims of faculty misconduct that do not involve research, see FH Section 7.2.3 below. For addressing claims of research misconduct (as described in the paragraph above), please refer to the [Research Misconduct Policy in the Policy Library](#).

Approved by the Faculty Senate on 3/6/2012; Approved by the president and provost on 4/10/2012.

7.2.3 Addressing Claims of Faculty Misconduct

Conflicts or concerns that arise during the day-to-day functioning of the university are usually addressed through administrative channels. This and involves bringing the concern(s) to the attention of the appropriate administrator charged with responsibility for that academic unit (e.g., chair, dean, or senior vice president and provost). Any 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 appropriate administrative actions to resolve concerns. If the complaint involves discrimination or harassment activities which are prohibited by the University's

[Discrimination and Harassment Policy](#), the administrator must notify the Office of Equal Opportunity (OEO) upon the receipt and resolution of the complaint to ensure responsiveness and consistent enforcement. 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 Voluntary Mediated Process ([see FH Section 7.2.4](#)) or the Formal Process ([see FH Section 7.2.5](#).) delineated in this document, or informally through the [Ombuds Office](#). The Voluntary Mediated Process is used to consider and resolve ~~misconduct the~~ ~~issue-s~~ through mediated discussion with ~~the-all~~ 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-misconduct~~ issues identified in this policy and are not intended to address grievances ([FH Chapter 9](#)).

[If an individual has a concern that research misconduct has occurred, the individual is encouraged to report such misconduct to the University's research integrity officer RIO in accordance with the University's Research Misconduct Policy.](#)

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 [of a formal complaint](#) is to determine the truth and to recommend and apply remedies and sanctions in keeping with the freedoms and responsibilities of ~~the~~ academic [freedom and the university](#) 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 [alleged mis](#)conduct, or a pattern of [alleged mis](#)conduct, ~~may should~~ be consolidated into a single complaint.

[The complainant may be ~~either an individual affected by the alleged misconduct, or an administrator or other person to whom an affected individual has referred information regarding the alleged misconduct. For purposes of the Faculty Conduct Policy, an affected individual who referred the complaint who~~ allegedly harmed by the conduct, but is not the complainant shall be known as "the referring party."](#)

7.2.5.1.1 Content of Formal Complaints

The complaint should include:

- [The name, address, and telephone number of the complainant;](#)
- [The name of the referring party, if any;](#)
- The name and office of the individual(s) alleged to have engaged in misconduct;
- A short, plain statement [describing of](#) the alleged misconduct;

- The approximate date(s) on which the ~~act(s)~~[misconduct](#) 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 ~~by the~~ [alleged misconduct](#);
- Any other information which will assist in the [peer](#) investigation and resolution of the complaint; ~~and~~
- The signature of the complainant.

Complaints may also ~~indicate~~ [suggest](#) 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 [alleged](#) misconduct may be filed with the Office of the Senior Vice President and Provost; ~~and~~
- [Complaints involving alleged research misconduct \(See Section 7.2.2.3 above\) may be filed with the research integrity officerRIO.](#)
 - [If the complaint is found to involves issues other than research misconduct, the research integrity officerRIO will must inform the senior vice president and provost within one day; and](#)
- Discrimination complaints, including those involving sexual, racial, ethnic or other harassment may be filed with the Office of Equal Opportunity.
 - The Office of Equal Opportunity ~~will~~ [must](#) inform the senior vice president and provost of discrimination complaints against a faculty member within one day.

7.2.5.1.3 Initial Steps ~~to be taken~~ by ~~the~~ Senior Vice President and Provost

Upon receipt of a complaint, the senior vice president and provost and the ~~president~~ [President](#) of the Faculty Senate will immediately evaluate the complaint to determine whether the complaint is properly filed under this chapter. If they conclude the case is a grievance ~~as described in~~ [under Chapter 9 of the Faculty Handbook](#), they will ~~decline to consider the case as alleged misconduct and the complainant will be directed to appropriate channels to seek resolution of the complaint.~~ ~~refer the case to the Faculty Senate Council on Judiciary and Appeals.~~

~~Complaints of alleged research misconduct, as defined by Section 7.2.2.3, will be referred to the research integrity officerRIO to be handled under the Research Misconduct Policy. If the research integrity officerRIO determines, as a result of an assessment of the complaint, that the matter should not proceed under the Research Misconduct Policy, the research integrity officerRIO shall then refer the matter back to the senior vice president and provost indicating the reason that the Research Misconduct Policy should not be invoked. If appropriate, the complaint will then be handled as a faculty conduct complaint as provided below.~~

~~In the case of complaints deemed to require a research misconduct inquiry, but which also involve other types of misconduct, the senior vice president and provost and research integrity officerRIO will meet and issue a determination as to handling of the issuescomplaint. The senior vice president and provost may delegate issuescomplaints -of combined alleged research and academic~~

~~misconduct that include alleged academic misconduct to the research integrity officerRIO for handling in accordance with the Research Misconduct Policy (Section 7.2.2.3.2).~~

If a complaint is determined to be properly filed under this chapter, the senior vice president and provost will immediately evaluate, in consultation with the respondent's chair, and in appropriate cases, the Equal Opportunity Officer (for discrimination complaints) or the ~~research integrity officerRIO- Officer For Research Integrity (ORI)~~ (for research misconduct cases) whether interim action should be taken in accordance with the following section on interim action (Section 7.2.5.1.4).

The senior vice president and 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.

After evaluating a formal complaint and prior to calling for the formation of a Faculty Review Board, the senior vice president and provost may direct the parties to participate in mediation, recognizing that not all cases will be appropriate for mediation. If the senior vice president and provost ~~calls for~~ recommends mediation of the issue(s), the timelines detailed in this chapter shall be suspended pending the outcome of mediation.

7.2.5.1.4 Interim Action

There may be instances in which the senior vice president and provost needs to take interim action pending investigation of the case. The senior vice president and 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-preserve evidence ~~is preserved~~ or to prevent improper influence of witness testimony;
- There is a need to protect the working or educational environment of affected co-workers or students; ~~or~~
- There is a need to protect against liability of the University or its employees.

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~~ respondent. ~~It is~~ The interim action should not be considered ~~not~~ in and of itself a sanction. Interim action may include:

- Restrictions on contact with persons involved in the complaint;
- Limitation on access to certain areas of the campus;
- Reassignment of duties;

- Partial or total administrative leave with pay;
- Directives to preserve or grant access to evidence or records related to the allegations;
- Direction on conduct of activities;~~or~~
- Restrictions on university-related travel.

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

~~Except in cases of emergency or the need to preserve evidence or records, the senior vice president and provost shall make a good faith effort to implement interim action through discussion with the complainant and, if appropriate, the referring party and the faculty member respondent prior to taking any interim action. If an agreement with the respondent is not reached, the senior vice president and provost may nevertheless impose interim actions. The senior vice president and provost~~provost~~ will inform the chair and dean of the respondent faculty member of any interim action that is being taken. The senior vice president and provost~~provost~~ will assist the chair and the dean in ensuring that the interim action will have as little disruption of the teaching, research, or outreach activities of the department as possible. The chair and/or dean will not limit a faculty member's electronic access to university computer systems or email as part of interim action without the express approval of the senior vice president and provost~~provost~~.~~

~~If a faculty Faculty review Review board Board has not been appointed, the faculty member against whom interim action has been taken may request a review by the senior vice president and provost. As indicated below, the Faculty Review Board will review all interim action.~~

~~When the faculty member has been charged with abandonment of position (Section 7.2.2.5.2) and has not presented him- or herself as ready to perform duties, the Faculty Review Board may recommend to the senior vice president and provost~~provost~~ the suspension of salary for the duration of the proceedings~~process~~.~~

~~The senior vice president and provost will assist the chair and the dean in ensuring that the interim action will have as little disruption of the teaching, research, or outreach activities of the department as possible. The chair and/or dean will not limit a faculty member's electronic access to university computer systems or email as part of interim action without the express approval of the senior vice president and provost.~~

7.2.5.2 Complaint Review and Resolution

7.2.5.2.1 Faculty Review Board

The senior vice president and provost will call for the formation of a Faculty Review Board (FRB). ~~If the senior vice president and provost does not direct the parties to mediate the complaint, the senior vice president and provost will take such action~~ within two days after consulting consultation with the Faculty Senate President. If mediation had been~~was recommended and~~ the senior vice president and provost receives notice that mediation was unsuccessful, the senior vice president and provost will call for the formation of a Faculty Review Board ~~take such action~~ within two days after receiving such notification. The Faculty Review Board will consist of three members nominated from the faculty pool by the President~~president~~ of the Faculty Senate and

confirmed by the senior vice president and provost. The Faculty Senate ~~President-president~~ will review the complaint ~~as filed~~ and any additional pertinent information provided by the senior vice president and provost before making the ~~faculty~~ nominations ~~to serve on the FRB~~. The ~~President of the Faculty Senate-Senate president~~ and the senior vice president and provost will seek an objective ~~Board-FRB~~ with sufficient depth of expertise and experience to understand ~~and objectively act upon~~ the issues ~~detailed~~ in the ~~casecomplaint~~. The ~~FRB~~ members should not have any real or apparent conflict of interest in the ~~casecomplaint~~. At least two of the three ~~FRB~~ members must be of an equal or ~~greater-higher~~ rank than that of the respondent. In the unusual circumstance that appropriate ~~FRB~~ membership is not available from the faculty pool, the ~~President of the Faculty Senate president~~ will nominate additional members from the tenured faculty for confirmation by the senior vice president and provost ~~to serve on the FRB~~. The complainant and the respondent have the right to challenge the nominees to the ~~Faculty Review BoardFRB~~. Challenges must be made in writing ~~in~~ no more than two days following the naming of the nominees. The ~~President of the Faculty Senate president~~ and the senior vice president and provost will determine the standing of the challenges. If nominees are successfully challenged ~~the President of the Faculty Senate president~~ will submit additional ~~FRB~~ nominees until three members are confirmed. The Faculty Senate ~~President-president~~ and the senior vice president and provost will jointly name the chair of the ~~Faculty Review BoardFRB~~.

The ~~Faculty Review BoardFRB~~ will assess any interim action taken by the senior vice president and provost and will confer on whether this action should continue and/or whether any further or additional ~~interim~~ action is needed. The ~~Faculty Review BoardFRB~~ may make recommendations to the senior vice president and provost regarding ~~further and additional~~ interim action.

7.2.5.2.2 Investigation of the eCase

The Faculty Review Board and the senior vice president and provost will decide on the nature and scope of the investigation and on the individual(s) who will carry out the investigation. The ~~Faculty Review BoardFRB~~ may investigate the complaint itself or ~~will~~ work in conjunction with ~~one or more university or external the~~ investigators, appointed through the senior vice president and provost and approved by the ~~Faculty Review BoardFRB~~. ~~When the faculty member has been charged with abandonment of position (Section 7.2.2.5.2) and has not responded to the charge, the Faculty Review BoardFRB may recommend to the senior vice president and provost the that the suspension of salary of respondent be suspended for the duration of the proceedingsprocess.~~

An investigati~~ve on~~ report will be prepared by the party ~~or parties~~ conducting the investigation within ~~thirty (30)~~ days of the first meeting of the ~~Faculty Review BoardFRB~~. If the ~~Faculty Review BoaFRBrd~~ is working with ~~one or more an~~ investigators, the investigators shall submit the investigati~~ve on~~ report to the chair of the ~~Faculty Review BoardFRB~~. Extensions of this ~~thirty-day 30-day~~ period may be granted only for a fixed period ~~of time~~ and only for specific ~~detailed~~ reasons. The party ~~or parties~~ conducting the investigation may submit a ~~written~~ request for an extension of this ~~thirty-30~~ day period to the chair of the ~~Faculty Review Board-FRB~~ who will transmit the request along with his/her recommendation to the senior vice president and provost and the ~~President of the Faculty Senate president~~, who will jointly decide whether the extension should be granted. If the ~~FFaculty Review BoardRB is conductingconducts~~ its own investigation, the chair shall submit the ~~written~~ request for extension to the senior vice president and provost and the ~~President of the Faculty Senate president~~. If an extension is granted, the ~~FRB~~ chair ~~of the Faculty~~

~~Review Board~~ will inform all relevant parties ~~of the extension.~~ All subsequent timelines and deadlines will necessarily be extended by the granting of this or any ~~other~~ extension.

~~The senior vice president and 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.~~

7.2.5.2.2-3 Review of the Investigative Report and Hearing by the the Faculty Review Board

Once the Faculty Review Board has reviewed and is satisfied with the investigative report, the ~~Faculty Review Board FRB~~ will submit the report to ~~the senior vice president and provost,~~ the complainant, and the respondent for comments. All parties will have a period of seven (7) days to provide a response, ~~if any,~~ to the ~~Faculty Review Board FRB~~. The ~~Faculty Review Board FRB~~ shall review the responses from the parties and ~~consider whether changes tchange o~~ the investigative report ~~are as deemed~~ necessary. If changes are made to the investigative report, the ~~Faculty Review Board FRB~~ will not seek additional comments or responses from the ~~parties complainant and respondent~~ unless it is warranted under the circumstances. ~~After the~~ Upon receipt of responses from all parties, or after seven (7) days, the ~~Faculty Review Board FRB~~ will meet and will ~~issue a report making take~~ one of three ~~recommendations for~~ actions ~~by the senior vice president and provost~~ based on a simple majority vote: (1) to dismiss the charges and hold no hearing, (2) to hold a ~~mMinor sSanction hHearing~~, or (3) to recommend that the complaint be referred to a Major Sanction Committee. The report shall be issued within the earlier of 10 days of receipt of responses, or the completion of the seven (7) day period for responses.

If the ~~Faculty Review Board FRB~~ decides to ~~recommend~~ dismissal ~~of~~ the charges without a hearing, it will summarize its reasons, ~~as a part of its report to the senior vice president and provost;~~ A recommendation to dismiss the decision against a hearing is only possible-permissible if the ~~Faculty Review Board FRB~~ finds no violation of the Faculty Conduct Policy by the respondent. If the ~~Faculty Review Board FRB~~ ~~recommends holding~~ ~~decides to hold~~ a minor sanction hearing, ~~and the senior vice president and provost accepts the recommendation, the FRB they~~ will inform all relevant parties and schedule the hearing. If the ~~Faculty Review Board FRB~~ ~~decides to~~ recommends that the complaint be referred to a Major Sanction Committee, they will submit this recommendation to the senior vice president and provost along with their reasons for ~~making~~ the recommendation. If the ~~Faculty Review Board FRB~~ recommends that any portion of the complaint warrants review by a Major Sanction Committee, the entire complaint shall be heard through that process. If at any time the ~~Faculty Review Board FRB~~ concludes there is need for further interim action, they shall make a recommendation to the senior vice president and provost. If the senior vice president and provost disagrees, they may make a recommendation to the president ~~of the~~ University.

7.2.5.2.4 Minor Sanction Hearing

In conducting a ~~mMinor sSanction hHearing~~, 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 ~~S~~sanction ~~h~~hearings will be closed to the public. During the hearing, the ~~Faculty Re~~FRB ~~view Board~~ may receive additional evidence ~~related to the charges for which the hearing is being held~~ from the respondent ~~or and~~ the complainant, will hear rebuttals of evidence presented by either party, ~~and~~ may call and question witnesses ~~(including the referring party, if any)~~ on its own behalf. During the hearing all questions, comments, or statements will be addressed to the ~~Faculty Review Board~~FRB. The ~~Faculty Review Board~~FRB may, ~~in at~~ its discretion, allow alternate forms of witness testimony. 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 ~~a support person present at the hearing~~~~the advice of counsel~~, but ~~the support person~~ ~~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~~FRB shall determine the relevance of all evidence. If evidence of additional instances of misconduct is presented, whether related or unrelated to the original charge, the ~~Faculty Review Board~~FRB shall consult with the senior vice president and provost on the question of whether this additional misconduct shall be included in the current case or whether a separate complaint shall be made. In such cases, the senior vice president and provost shall have the authority to approve additional charges and to reasonably extend deadlines if necessary to investigate the additional charges.

7.2.5.2.5 Post-hearing report

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

- If ~~they decidethe FRB decides~~ that the evidence is not credible or does not sufficiently support the charge ~~they the FRB~~ may recommend that the case be dismissed.
- If ~~they decidethe FRB decides~~ that the evidence is credible and that it supports the case, ~~they the FRB~~ may recommend the minor sanction to be imposed ~~recommend resulting in that~~ the senior vice president and provost impose inge the a minor sanction or sanctions or that non-disciplinary corrective action be taken. ~~The Faculty Review Board shall recommend the minor sanction to be imposed.~~
- If ~~they decidethe FRB decides~~ that the evidence is credible and that there is a clear and compelling case to warrant a major sanction or sanctions, ~~they the FRB~~ may recommend that the senior vice president and provost refer the complaint to a Major Sanction Committee.

~~In their post-hearing report~~ ~~t~~The ~~Faculty Review Board~~FRB will articulate in the post-hearing report their reasons for making their recommendation. The ~~Faculty Review Board~~FRB may also make a recommendation about interim actions during the remainder of the process. The ~~Faculty Review Board~~FRB post-hearing report will be sent to the respondent and the complainant, who will have ten days to respond. The Faculty Review BoardFRB shall review the responses from the

~~parties, if any, and consider whether changes to the post-hearing report are necessary. If changes are made to the post-hearing report, the Faculty Review Board~~FRB will not seek additional comments or responses from the parties unless it is warranted under the circumstances. After receipt of the responses, or after ten days, the ~~Faculty Review Board~~FRB will submit their final post-hearing report and any responses received from the complainant and respondent to the senior vice president and provost. The respondent and the complainant will receive copies of the final post-hearing report from the senior vice president and provost. The chair and dean of the respondent will also be notified by the senior vice president and provost that ~~the~~ the final post-hearing report has been submitted.

The ~~Faculty Review Board~~FRB will issue their final post-hearing report within 60 days of the first meeting of the FRB. ~~The Faculty Review Board~~FRB 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 senior vice president and provost and the ~~President of the~~ Faculty Senate president.

7.2.5.2.3 56 Response of the Senior Vice President and Provost to the Final Post-Hearing Report

The senior vice president and provost will have fifteen (15) days to respond to the final post-hearing Faculty Review Board report. The senior vice president and provost will review the results of the ~~previous~~ investigation and the recommendation of from the ~~Faculty Review Board~~FRB and will decide whether to accept ~~the~~ at recommendation. If the senior vice president and provost disagrees with the ~~FRB~~ recommendation ~~of the Faculty Review Board~~, the senior vice president and provost must meet with the ~~Faculty Review Board~~FRB to discuss the reasons for the disagreement before taking any action. If the senior vice president and provost is issuing the final decision in a minor sanction case, the senior vice president and provost's report will describe what sanction ~~(s) is~~ are to be imposed, or the nature of any non-disciplinary corrective action to be taken.

The senior vice president and provost will ~~communicate~~ submit to the chair ~~Fof the Faculty~~RB ~~Review Board~~, the respondent, ~~and~~ the complainant, and the referring party, if any, a final report containing his or her decision, and the reasons underlying that decision. The respondent and complainant or referring party (as appropriate) shall be informed of the option to appeal as provided in Faculty Handbook Section 7.2.6.1. No public statement about the hearing or about the ~~Faculty Review Board~~FRB's recommendations will be disseminated. Public announcement of the findings and recommendations will be made at the discretion of the senior vice president and provost.

The senior vice president and provost will inform the chair and dean of the disposition of the case. ~~When appropriate, the senior vice president and 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 senior vice president and provost will undertake all reasonable measures to prevent retaliation against the complainant, the referring party, if any, individuals who filed the complaint or individuals who assisted in or participated in the misconduct complaint process.

All proceedings will be confidential to preserve the integrity of the investigation and those involved. If the complaint is dismissed the senior vice president and 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.

When appropriate, the senior vice president and provost will submit a report to the research integrity officer RIO 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.

7.2.5.3 Major Sanction Process.

If the senior vice president and provost accepts the recommendation ~~that the of the~~ complaint should be sent to a Major Sanction Committee, the entire complaint shall be heard through this process. The Major Sanction Process shall begin when the senior vice president and provost files a Statement of Charges with the Office of the President, with a copy sent to the complainant, the referring party, if any, the respondent and the respondent's chair and dean.

The Major Sanction Process involves a new peer review committee, described below. The complaint will be pursued and presented by the senior vice president and provost or designee. The individual presenting the case for discipline shall be known as "the complainant." The complainant shall inform and consult with the referring party (if the any referring party wishes to participate) during the process. The Major Sanction Process is administered by the Office of the President.

At the same time the senior vice president and provost files the Statement of Charges, the senior vice president and 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 notify the senior vice president and provost provost of the 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.

7.2.5.3.1 Appointment of Major Sanction Committee.

If the respondent elects to have the complaint heard by a Major Sanction Committee, or after five days of notifying the respondent of the choice of procedures without response, the senior vice president and provost will notify the -P president of the University who will call for the formation of a Major Sanction Committee to review the complaint. The Office of the President shall promptly impanel the Major Sanction Committee of seven qualified faculty members. The Committee is chosen from the faculty pool provided by the Faculty Senate ~~President~~ president and confirmed by the ~~President~~ president of the University. Members of the Major Sanction Committee should have no real or apparent conflict of interest with the respondent. The complainant or referring party, if any, senior vice president and provost and the respondent faculty member each have the option of one preemptory challenge from the list so Major Sanction e Committee membership may vary from five to seven 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-higher 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 president and the ~~President~~ president of the ~~University~~ university shall jointly appoint the chair of the Major Sanction Committee.

The president 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 consult as needed with the parties 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 ~~senior vice president and provost~~ president 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 senior vice president and provost will assist the chair and dean in ensuring that there will be as little disruption of the teaching, research, extension or outreach activities of the department as possible.

The respondent shall be given a period of 20 days from the date of issuance of the charges in which to complete-file a written 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 Review and Hearing.

The Major Sanction Committee will review the charge against the faculty member, the results of the investigation of this charge, the final post-hearing report of the Faculty Review Board who presided over the Minor Sanction Hearing, 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 entire Major Sanction Committee shall hold a hearing. If the respondent waives his or her right to a formal hearing, the ~~committee~~ Major Sanction Committee shall determine an appropriate recommendation on the basis of available information.

The Major Sanction Committee shall apprise the president and when appropriate, the research integrity officer RIOORI, 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 Major Sanction 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~~ The Major Sanction 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~~ The referring party 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 alternate means~~
 - ~~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:
 - Preliminary Matters, including comments by the Major Sanction Committee, discussion of order of witnesses, and exchange of documents (if not completed before the hearing);
 - Opening statement of the ~~senior vice president and provost's representative complainant~~
 - Opening statement of the respondent
 - Witnesses and evidence of the ~~senior vice president and provost's representative complainant~~
 - Witnesses and evidence of the respondent
 - Rebuttal witnesses and other evidence of the ~~senior vice president and provost's representative complainant~~
 - Rebuttal witnesses and other evidence of the respondent
 - Closing statement of the ~~senior vice president and provost's representative complainant~~
 - 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.

If the parties reach a resolution of the charges after the [Major Sanction Committee](#) hearing has begun, the parties must present the proposed resolution in writing to the Major Sanction Committee, which shall review the proposed resolution within five days and forward its recommendation to the president.

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, including the recommended sanction(s) if applicable. The Major Sanction Committee has three options, decided by simple majority vote:

- 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 one or more a-minor sanctions or that non-disciplinary 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-one or more major sanctions.

The Major Sanction committee report will contain a description of the findings of fact and recommendations, together with a transcript of the record-record, if requested by the complainant and/or the respondent. The report will be sent to the respondent and the complainant, who will have ten days to respond in writing to the report. The Major Sanction Committee shall review the

responses from the parties and consider whether changes to the report are necessary. If changes are made to the report, the Major Sanction Committee will not seek additional comments or responses from the parties respondent and complainant unless it is warranted under the circumstances. After receipt of the responses, or after ~~ten~~ 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 of the respondent that the report has been submitted. The president must meet with the Major Sanction committee-Committee to discuss the recommendation.

Should the entire investigation, deliberation, and ~~m~~Major ~~s~~Sanction Committee 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 ~~ORRI-office of research integrity ORI~~ officer of any extension, if applicable. 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 to Major Sanction Committee rReport-

The president will have 15 days to respond to the Major Sanction Committee report. The president will present to the chair of the Major Sanction Committee, the ~~senior vice president and provost~~complainant, the respondent, the referring party if any, and, where appropriate, the ~~ORRI-research integrity officer, ORIRIO~~ 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 dean, and the chair of the respondent of the action being taken. If the faculty appointment is terminated ~~T~~the president shall set the effective date of any sanction termination. The respondent and referring party shall be informed of the option to appeal as provided under the Regents Procedural Policy Manual, Chapter 10. The president shall have the power to continue interim action pending the effective date, and 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 Office of the Senior Vice President and Provost shall maintain ~~detailed documentation~~ the record of the case for a minimum of three years. The record shall include the complaint, the report of the investigation, the Faculty Review Board Minor Sanction Hearing report, the senior vice president and provost's response, the Major Sanction Committee report, the response of the respondent and the complainant, and referring party if any, the senior vice president and provost's response to the Major Sanction Committee report, correspondence from the respondent, and complainant, referring party, if any, the statement of charges in a Major Sanction Case, and the president's report in a Major Sanction case, and appeal to the president, response to the appeal, recommended decision by a person designated to review the appeal and

[decision upon an appeal](#). At the close of a case, members of the Faculty Review Board and, if applicable, the Major Sanction Committee, shall turn ~~their all records documents~~ over to the senior vice president and provost. ~~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. [Persons hearing appeals have the discretion ~~not to not~~ review concerns about the hearing procedures not raised during the initial hearing process.](#) Simultaneous appeals cannot be made on the same case.

7.2.6.1 Appeals to the President

~~Disciplinary~~ [The final decision of action taken by](#) the senior vice president and provost may be appealed [by the respondent, and the complainant, or referring party, if any, \(as appropriate\)](#) in writing to the president within 20 days following receipt of the senior vice president and 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.

[The respondent may request the president to delay imposition of the sanction by the senior vice president and provost~~provost~~. The request for delay must be included in the respondent's appeal and be accompanied by statement of the reasons for the request. If the delay is granted, the president may continue interim action in place, or may impose interim action appropriate to the circumstances.](#)

7.2.6.2 Appeals to the Board of Regents

[Final](#) ~~Decisions~~ of the president may be appealed to the Board of Regents [under appropriate section of the Regents Policy Manual, Chapter 10.](#)

~~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

[Final](#) ~~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;
- 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 respondent is limited to one request for re-opening the entire case. The request must be submitted in writing. 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 senior vice president and 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 senior vice president and 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.

Final with Changes Accepted:

7.2.2.5.2 Abandonment of Position

Faculty members who substantially fail to perform their position responsibilities and show disregard and lack of care for the accomplishment of their responsibilities have abandoned their positions. Failure to address reasonable requests to perform position responsibilities in a timely manner, especially those related to schedule-driven responsibilities such as teaching and extension/outreach, shall be regarded as evidence of abandonment of position. In cases of abandonment, salary may be suspended by the senior vice president and provost upon recommendation of a Faculty Review Board as provided under Section 7.2.5.1.4.

7.2.2.3 Academic and Research Misconduct

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

Academic and research misconduct include any and all practices that seriously deviate from those commonly accepted in the academic community for teaching, research, extension, administration, professional practice and service.

7.2.2.3.1 Academic Misconduct

Examples of academic misconduct include the following:

- Plagiarism, the representation of another's work as one's own when it occurs other than in the course of research. Failure to follow required protocols in conducting research, such as adhering to procedures for the protection of human or animal subjects of research;
- Falsification of one's credentials
- Retaliation against persons who file claims of academic misconduct
- Falsification or intentional misrepresentations of truth in teaching.

7.2.2.3.2 Research Misconduct

Research misconduct consists of any of the following:

- Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results
- Plagiarism, the representation of another's work as one's own when it occurs in the course of research
- Ordering, advising or suggesting that subordinates engage in any practice constituting research misconduct.

Research misconduct must depart significantly from accepted practices of the relevant research community and must be committed intentionally, knowingly, or recklessly. If a faculty member is

alleged to have engaged in research misconduct, then the procedures set forth in the University's [Research Misconduct Policy](#) shall be followed unless determined otherwise by the research integrity officer (RIO).

7.2.3 Addressing Claims of Faculty Misconduct

Conflicts or concerns that arise during the day-to-day functioning of the university are usually addressed through administrative channels and involves bringing the concern(s) to the attention of the appropriate administrator charged with responsibility for that academic unit (e.g., chair, dean, or senior vice president and provost). Any 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 appropriate administrative action to resolve concerns. If the complaint involves activities which are prohibited by the University's [Discrimination and Harassment Policy](#), the administrator must notify the Office of Equal Opportunity (OEO) upon the receipt and resolution of the complaint to ensure responsiveness and consistent enforcement. 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 Voluntary Mediated Process ([see FH Section 7.2.4](#)) or the Formal Process ([see FH Section 7.2.5](#).) delineated in this document, or informally through the Ombuds Office. The Voluntary Mediated Process is used to consider and resolve misconduct issues through mediated discussion with all 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 misconduct issues identified in this policy and are not intended to address grievances ([FH Chapter 9](#)).

If an individual has a concern that research misconduct has occurred, the individual is encouraged to report such misconduct to the RIO in accordance with the University's [Research Misconduct Policy](#).

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 of a formal complaint is to determine the truth and to recommend and apply remedies and sanctions in keeping with the freedoms and responsibilities of academic freedom and the university environment.

7.2.5.1 Filing Formal Complaints

To initiate the formal complaint, the complainant will file a written complaint with the appropriate administrative officer as indicated below. Multiple complaints arising out of the same alleged misconduct, or a pattern of alleged misconduct, should be consolidated into a single complaint.

The complainant may be an individual affected by the alleged misconduct, or an administrator or other person to whom an affected individual has referred information regarding the alleged

misconduct. For purposes of the Faculty Conduct Policy, an affected individual allegedly harmed by the conduct, but is not the complainant shall be known as “the referring party.”

7.2.5.1.1 Content of Formal Complaints

The complaint should include:

- The name, address, and telephone number of the complainant
- The name of the referring party, if any
- The name and office of the individual(s) alleged to have engaged in misconduct
- A short, plain statement describing the alleged misconduct
- The approximate date(s) on which the misconduct 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 by the alleged misconduct
- Any other information which will assist in the peer investigation and resolution of the complaint
- The signature of the complainant.

Complaints may also suggest 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 alleged misconduct may be filed with the Office of the Senior Vice President and Provost
- Complaints involving alleged research misconduct (See Section 7.2.2.3 above) may be filed with the RIO.
 - If the complaint is found to involve issues other than research misconduct, the RIO must inform the senior vice president and provost within one day
- Discrimination complaints, including those involving sexual, racial, ethnic or other harassment may be filed with the Office of Equal Opportunity.
 - The Office of Equal Opportunity must inform the senior vice president and provost of discrimination complaints against a faculty member within one day

7.2.5.1.3 Initial Steps to be taken by the Senior Vice President and Provost

Upon receipt of a complaint, the senior vice president and provost and the President of the Faculty Senate will immediately evaluate the complaint to determine whether the complaint is properly filed under this chapter. If they conclude the case is a grievance as described in Chapter 9 of the Faculty Handbook, they will decline to consider the case as alleged misconduct and the complainant will be directed to appropriate channels to seek resolution of the complaint.

Complaints of alleged research misconduct, as defined by Section 7.2.2.3, will be referred to the RIO to be handled under the Research Misconduct Policy. If the RIO determines, as a result of an

assessment of the complaint, that the matter should not proceed under the Research Misconduct Policy, the RIO shall then refer the matter back to the senior vice president and provost indicating the reason that the Research Misconduct Policy should not be invoked. If appropriate, the complaint will then be handled as a faculty conduct complaint as provided below.

In the case of complaints deemed to require a research misconduct inquiry, but which also involve other types of misconduct, the senior vice president and provost and RIO will meet and issue a determination as to handling of the complaint. The senior vice president and provost may delegate complaints of combined alleged research and academic misconduct to the RIO for handling in accordance with the [Research Misconduct Policy](#).

If a complaint is determined to be properly filed under this chapter, the senior vice president and provost will immediately evaluate, in consultation with the respondent's chair, and in appropriate cases, the Equal Opportunity Officer (for discrimination complaints) or the RIO (for research misconduct cases) whether interim action should be taken in accordance with the following section on interim action (Section 7.2.5.1.4).

The senior vice president and 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.

After evaluating a formal complaint and prior to calling for the formation of a Faculty Review Board, the senior vice president and provost may direct the parties to participate in mediation, recognizing that not all cases will be appropriate for mediation. If the senior vice president and provost recommends mediation of the issue(s), the timelines detailed in this chapter shall be suspended pending the outcome of mediation.

7.2.5.1.4 Interim Action

There may be instances in which the senior vice president and provost needs to take interim action pending investigation of the case. The senior vice president and 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
- There is a need to preserve evidence or to prevent improper influence of witness testimony
- There is a need to protect the working or educational environment of affected co-workers or students
- There is a need to protect against liability of the University or its employees

Interim action taken must be appropriate to the interests protected, and reasonably limited so as not to have an undue damaging effect on the respondent. The interim action should not be considered in and of itself a sanction. Interim action may include:

- Restrictions on contact with persons involved in the complaint
- Limitation on access to certain areas of the campus
- Reassignment of duties
- Partial or total administrative leave with pay
- Directives to preserve or grant access to evidence or records related to the allegations
- Direction on conduct of activities
- Restrictions on university-related travel

In cases of emergency or the need to preserve evidence or records, the senior vice president and provost shall make a good faith effort to implement interim action through discussion with the complainant and, if appropriate, the referring party and the respondent prior to taking any interim action. If an agreement with the respondent is not reached, the senior vice president and provost may nevertheless impose interim actions. The senior vice president and provost will inform the chair and dean of the respondent faculty member of any interim action that is being taken. The senior vice president and provost will assist the chair and the dean in ensuring that the interim action will have as little disruption of the teaching, research, or outreach activities of the department as possible. The chair and/or dean will not limit a faculty member's electronic access to university computer systems or email as part of interim action without the express approval of the senior vice president and provost.

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 senior vice president and provost. As indicated below, the Faculty Review Board will review all interim action.

When the faculty member has been charged with abandonment of position (Section 7.2.2.5.2) and has not presented him- or herself as ready to perform duties, the Faculty Review Board may recommend to the senior vice president and provost the suspension of salary for the duration of the process.

7.2.5.2 Complaint Review and Resolution

7.2.5.2.1 Faculty Review Board

The senior vice president and provost will call for the formation of a Faculty Review Board (FRB) within two days after consultation with the Faculty Senate President. If mediation was recommended and the senior vice president and provost receives notice that mediation was unsuccessful, the senior vice president and provost will call for the formation of a Faculty Review Board within two days after receiving such notification. 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 senior vice president and provost. The Faculty Senate president will review the complaint and any additional pertinent information provided by the senior vice president and provost before making the faculty nominations to serve on the FRB. The Faculty Senate president and the senior vice president and provost will seek an objective FRB with sufficient depth of

expertise and experience to understand and objectively act upon the issues detailed in the complaint. The FRB members should not have any real or apparent conflict of interest in the complaint. At least two of the three FRB members must be of an equal or higher rank than that of the respondent. In the unusual circumstance that appropriate FRB membership is not available from the faculty pool, the Faculty Senate president will nominate additional members from the tenured faculty for confirmation by the senior vice president and provost to serve on the FRB. The complainant and the respondent have the right to challenge the nominees to the FRB. Challenges must be made in writing no more than two days following the naming of the nominees. The Faculty Senate president and the senior vice president and provost will determine the standing of the challenges. If nominees are successfully challenged the Faculty Senate president will submit additional FRB nominees until three members are confirmed. The Faculty Senate president and the senior vice president and provost will jointly name the chair of the FRB.

The FRB will assess any interim action taken by the senior vice president and provost and will confer on whether this action should continue and/or whether any further or additional interim action is needed. The FRB may make recommendations to the senior vice president and provost regarding further and additional interim action.

7.2.5.2.2 Investigation of the Case

The Faculty Review Board and the senior vice president and provost will decide on the nature and scope of the investigation and on the individual(s) who will carry out the investigation. The FRB may investigate the complaint itself or work in conjunction with one or more university or external investigators, appointed through the senior vice president and provost and approved by the FRB.

An investigative report will be prepared by the party or parties conducting the investigation within thirty (30) days of the first meeting of the FRB. If the FRB is working with one or more investigators, the investigators shall submit the investigative report to the chair of the FRB. Extensions of this thirty-day period may be granted only for a fixed period of time and only for specific detailed reasons. The party or parties conducting the investigation may submit a written request for an extension of this thirty-day period to the chair of the FRB who will transmit the request along with his/her recommendation to the senior vice president and provost and the Faculty Senate president, who will jointly decide whether the extension should be granted. If the FRB conducts its own investigation, the chair shall submit the written request for extension to the senior vice president and provost and the Faculty Senate president. If an extension is granted, the FRB chair will inform all relevant parties of the extension. All subsequent timelines and deadlines will necessarily be extended by the granting of this or any other extension.

7.2.5.2.3 Investigative Report

Once the Faculty Review Board has reviewed and is satisfied with the investigative report, the FRB will submit the report to the complainant and the respondent for comments. All parties will have a period of seven (7) days to provide a response, if any, to the FRB. The FRB shall review the responses from the parties and change the investigative report as deemed necessary. If changes are made to the investigative report, the FRB will not seek additional comments or responses from the complainant and respondent unless it is warranted under the circumstances. Upon receipt of

responses from all parties, or after seven (7) days, the FRB will meet and will issue a report making one of three recommendations for actions by the senior vice president and provost based on a simple majority vote: (1) to dismiss the charges and hold no hearing, (2) to hold a Minor Sanction Hearing, or (3) to recommend that the complaint be referred to a Major Sanction Committee. The report shall be issued within the earlier of 10 days of receipt of responses, or the completion of the seven (7) day period for responses.

If the FRB decides to recommend dismissal of the charges without a hearing, it will summarize its reasons. A recommendation to dismiss is only permissible if the FRB finds no violation of the Faculty Conduct Policy by the respondent. If the FRB recommends a minor sanction hearing, and the senior vice president and provost accepts the recommendation, the FRB will inform all relevant parties and schedule the hearing. If the FRB recommends that the complaint be referred to a Major Sanction Committee, they will submit this recommendation to the senior vice president and provost along with their reasons for the recommendation. If the FRB recommends that any portion of the complaint warrants review by a Major Sanction Committee, the entire complaint shall be heard through that process. If at any time the FRB concludes there is need for further interim action, they shall make a recommendation to the senior vice president and provost. If the senior vice president and provost disagrees, they may make a recommendation to the president of the university.

7.2.5.2.4 Minor Sanction Hearing

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 FRB may receive additional evidence related to the charges for which the hearing is being held from the respondent and the complainant, will hear rebuttals of evidence presented by either party, and may call and question witnesses (including the referring party, if any) on its own behalf. During the hearing all questions, comments, or statements will be addressed to the FRB. The FRB may, at its discretion, allow alternate forms of witness testimony. 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 a support person present at the hearing, but the support person 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 FRB shall determine the relevance of all evidence. If evidence of additional instances of misconduct is presented, whether related or unrelated to the original charge, the FRB shall consult with the senior vice president and provost on the question of whether this additional misconduct shall be included in the current case or whether a separate complaint shall be made. In such cases, the senior vice president and provost shall have the authority to approve additional charges and to reasonably extend deadlines if necessary to investigate the additional charges.

7.2.5.2.5 Post-hearing report

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

- If the FRB decides that the evidence is not credible or does not sufficiently support the charge the FRB may recommend that the case be dismissed
- If the FRB decides that the evidence is credible and that it supports the case, the FRB may recommend the minor sanction to be imposed resulting in the senior vice president and provost imposing the minor sanction or sanctions or that non-disciplinary corrective action be taken
- If the FRB decides that the evidence is credible and that there is a clear and compelling case to warrant a major sanction or sanctions, the FRB may recommend that the senior vice president and provost refer the complaint to a Major Sanction Committee.

The FRB will articulate in the post-hearing report the reasons for making their recommendation. The FRB may also make a recommendation about interim actions during the remainder of the process. The FRB post-hearing report will be sent to the respondent and the complainant, who will have ten days to respond. The FRB shall review the responses from the parties, if any, and consider whether changes to the post-hearing report are necessary. If changes are made to the post-hearing report, the FRB will not seek additional comments or responses from the parties unless it is warranted under the circumstances. After receipt of the responses, or after ten days, the FRB will submit the final post-hearing report and any responses received from the complainant and respondent to the senior vice president and provost. The respondent and the complainant will receive copies of the final post-hearing report from the senior vice president and provost. The chair and dean of the respondent will also be notified by the senior vice president and provost that the final post-hearing report has been submitted.

The FRB will issue their final post-hearing report within 60 days of the first meeting of the FRB. The FRB 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 the senior vice president and provost and the Faculty Senate president.

7.2.5.2.6 Response of the Senior Vice President and Provost to the Final Post-Hearing Report

The senior vice president and provost will have fifteen (15) days to respond to the final post-hearing Faculty Review Board report. The senior vice president and provost will review the results of the investigation and the recommendation of the FRB and will decide whether to accept the recommendation. If the senior vice president and provost disagrees with the FRB recommendation, the senior vice president and provost must meet with the FRB to discuss the reasons for the disagreement before taking any action. If the senior vice president and provost is issuing the final decision in a minor sanction case, the senior vice president and provost's report will describe what sanction(s) are to be imposed, or the nature of any non-disciplinary corrective action to be taken.

The senior vice president and provost will submit to the chair FRB, the respondent, the complainant, and the referring party, if any, a final report containing his or her decision, and the reasons underlying that decision. The respondent and complainant or referring party (as appropriate) shall be informed of the option to appeal as provided in Faculty Handbook Section 7.2.6.1. No public statement about the hearing or about the FRB recommendations will be disseminated. Public announcement of the findings and recommendations will be made at the discretion of the senior vice president and provost.

The senior vice president and provost will inform the chair and dean of the disposition of the case. The senior vice president and provost will undertake all reasonable measures to prevent retaliation against the complainant, the referring party, if any, or individuals who assisted in or participated in the misconduct complaint process.

All proceedings will be confidential to preserve the integrity of the investigation and those involved. If the complaint is dismissed the senior vice president and 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.

When appropriate, the senior vice president and provost will submit a report to the RIO 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.

7.2.5.3 Major Sanction Process.

If the senior vice president and provost accepts the recommendation that the complaint should be sent to a Major Sanction Committee, the entire complaint shall be heard through this process. The Major Sanction Process shall begin when the senior vice president and provost files a Statement of Charges with the Office of the President, with a copy sent to the complainant, the referring party, if any, the respondent and the respondent's chair and dean.

The Major Sanction Process involves a new peer review committee, described below. The complaint will be pursued and presented by the senior vice president and provost or designee. The individual presenting the case for discipline shall be known as "the complainant." The complainant shall inform and consult with the referring party (if any referring party wishes to participate) during the process. The Major Sanction Process is administered by the Office of the President.

At the same time the senior vice president and provost files the Statement of Charges, the senior vice president and 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 notify the senior vice president and provost of the 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.

7.2.5.3.1 Appointment of Major Sanction Committee

If the respondent elects to have the complaint heard by a Major Sanction Committee, or after five days of notifying the respondent of the choice of procedures without response, the senior vice president and provost will notify the president of the University who will call for the formation of a Major Sanction Committee to review the complaint. The Office of the President shall promptly impanel the Major Sanction Committee of seven qualified faculty members. The Committee is chosen from the faculty pool provided by the Faculty Senate president and confirmed by the president of the University. Members of the Major Sanction Committee should have no real or apparent conflict of interest with the respondent. The complainant or referring party, if any, and the respondent faculty member each have the option of one preemptory challenge from the list so Major Sanction Committee membership may vary from five to seven 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 higher rank to respondent and, except in unusual circumstances, no member of the respondent's department shall serve on this committee. The Faculty Senate president and the president of the university shall jointly appoint the chair of the Major Sanction Committee.

The president 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 consult as needed with the parties 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 president 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 senior vice president and provost will assist the chair and dean in ensuring that there will be as little disruption of the teaching, research, extension or outreach activities of the department as possible.

The respondent shall be given a period of 20 days from the date of issuance of the charges in which to file a written 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 Review and Hearing.

The Major Sanction Committee will review the charge against the faculty member, the results of the investigation of this charge, the final post-hearing report of the Faculty Review Board who presided over the Minor Sanction Hearing, 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 entire Major Sanction Committee shall hold a hearing. If the respondent waives his or her right to a formal hearing, the Major Sanction Committee shall determine an appropriate recommendation on the basis of available information.

The Major Sanction Committee shall apprise the president and when appropriate, the RIO, 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 Major Sanction 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 Major Sanction 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
 - The referring party 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 alternate means
 - 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:
 - Preliminary Matters, including comments by the Major Sanction Committee, discussion of order of witnesses, and exchange of documents (if not completed before the hearing)
 - Opening statement of the complainant
 - Opening statement of the respondent
 - Witnesses and evidence of the complainant
 - Witnesses and evidence of the respondent
 - Rebuttal witnesses and other evidence of the complainant
 - Rebuttal witnesses and other evidence of the respondent
 - Closing statement of the complainant
 - 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

If the parties reach a resolution of the charges after the Major Sanction Committee hearing has begun, the parties must present the proposed resolution in writing to the Major Sanction Committee which shall review the proposed resolution within five days and forward its recommendation to the president.

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, including the recommended sanction(s) if applicable. The Major Sanction Committee has three options, decided by simple majority vote:

- 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 one or more minor sanctions or that non-disciplinary 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 one or more major sanctions

The Major Sanction committee report will contain a description of the findings of fact and recommendations, together with the record, if requested by the complainant and/or the respondent. The report will be sent to the respondent and the complainant, who will have ten days to respond in writing to the report. The Major Sanction Committee shall review the responses from the parties and consider whether changes to the report are necessary. If changes are made to the report, the Major Sanction Committee will not seek additional comments or responses from the respondent and complainant unless it is warranted under the circumstances. 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 of the respondent that the report has been submitted. The president must meet with the Major Sanction Committee to discuss the recommendation.

Should the entire investigation, deliberation, and Major Sanction Committee 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 office of research integrity (ORI) of any extension, if applicable. 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 to Major Sanction Committee Report

The president will have 15 days to respond to the Major Sanction Committee report. The president will present to the chair of the Major Sanction Committee, the complainant, the respondent, the referring party if any, and where appropriate, the RIO 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 dean and the chair of the respondent of the action being taken. The president shall set the effective date of any sanction. The respondent and referring party shall be informed of the option to appeal as provided under the [Regents Policy Manual, Chapter 10](#). The president shall have the power to continue interim action pending the effective date, and will undertake 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 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 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 Office of the Senior Vice President and Provost shall maintain the record of the case for a minimum of three years. The record shall include the complaint, the report of the investigation, the Faculty Review Board Minor Sanction Hearing report, the senior vice president and provost response, the Major Sanction Committee report, the response of the respondent and the complainant, and referring party if any, the senior vice president and provost response to the Major Sanction Committee report, correspondence from the respondent, complainant, referring party, if any, the statement of charges in a Major Sanction Case, the

president report in a Major Sanction case, and appeal to the president, response to the appeal, recommended decision by a person designated to review the appeal and decision upon an appeal. At the close of a case, members of the Faculty Review Board and, if applicable, the Major Sanction Committee, shall turn all documents over to the senior vice president and provost.

7.2.6 Processes for Appeal

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. Persons hearing appeals have the discretion to not review concerns about the hearing procedures not raised during the initial hearing process. Simultaneous appeals cannot be made on the same case.

7.2.6.1 Appeals to the President

The final decision of the senior vice president and provost may be appealed by the respondent, the complainant, or referring party, if any, in writing to the president within 20 days following receipt of the senior vice president and provost decision. The appeal should include a statement of reasons for the appeal, with references to the evidence that supports the appeal.

The respondent may request the president to delay imposition of the sanction by the senior vice president and provost. The request for delay must be included in the respondent appeal and be accompanied by statement of the reasons for the request. If the delay is granted, the president may continue interim action in place, or may impose interim action appropriate to the circumstances.

7.2.6.2 Appeals to the Board of Regents

Final decisions of the president may be appealed to the Board of Regents under appropriate section of the [Regents Policy Manual, Chapter 10](#).

7.2.6.3 Appeals to the Courts

Final 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
- 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 respondent is limited to one request for re-opening the entire case. The request must be submitted in writing. 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 senior vice president and 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 senior vice president and 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.