

**Rationale of proposed removal ALJ step from
FH 7.2.5.3 Major Sanction Process (first sentence and last paragraph) and
FH 7.2.5.3.1 Appointment of Major Sanction Committee (part of first sentence)**

The Administrative Procedure Act (APA) hearing reviewed by an Administrative Law Judge (ALJ) is not a peer-reviewed process. By removing this step, it becomes a better process for the faculty member(s) involved. Most all aspects of our ISU faculty culture, from hiring to tenure and promotion, are based on peer-review. By following the major sanction committee process, it provides a more consistent and fair course of action with a review of peers. In addition, there is less expense (the ALJ process requires legal counsel) and the committee process is less confrontational. Additionally, since there is no control over which ALJ is assigned to the case, there is no guarantee that the ALJ assigned will have any direct knowledge of academic culture and peer review processes. Finally, the timeline is predictable through the major sanction committee process of 40 days. The APA hearing reviewed by an ALJ process is outside of university governance and thus usually takes much longer and unpredictable which may result in more time and cost.

Removing this step from this part of the Faculty Handbook does not eliminate the option. The APA hearing reviewed by an ALJ is still an option at the end of the Major Sanction Process. Once the University President rules on the findings, if the faculty member is not agreeable with the results, they can appeal to the Board of Regents where they can choose to have their case reviewed by ALJ instead of Board staff. In all cases, the faculty member can take the case to District Court after exhausting internal processes.

Both the University of Iowa and University of Northern Iowa do not have this step in their Faculty Handbook.

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.~~

Approved as revised by the Faculty Senate on 1/21/2014; by the president on 2/2/14; and by the senior vice president and provost on 1/30/14.

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~~

~~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.

Approved as revised by the Faculty Senate on 1/21/2014; by the president on 2/2/14; and by the senior vice president and provost on 1/30/14.