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## Committee Members

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GRIEVANCE CASES: General Information and Hearing Procedures

GENERAL INFORMATION

Grievance cases are initiated by Senate members. (SBL 335.A.1)

Grievance cases are governed by Senate Bylaw (SBL) 335:
https://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart3.html#bl335

Appendix III of the Manual of the Irvine Division of the Academic Senate:
*Appendix III was removed by vote of the Divisional Senate Assembly March 16, 2021 and replaced with Policies and Procedures on Faculty Conduct and the Administration of Discipline

DEFINITIONS

Grievance: A complaint that a Senate member’s rights or privileges have been violated.

Prima Facie Case: A prima facie case shall be deemed established if the Committee on Privilege and Tenure (CPT) concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member’s rights and privileges. (SBL 335.B.2)

PERSONNEL REVIEW ISSUES

In cases of personnel review involving tenure, promotions or reappointment, a grievance can only be based on allegations that:

- the procedures were not in consonance with the applicable rules and requirements of the University or any of its Divisions; or
- the challenged decision was reached on the basis of impermissible criteria, including, but not limited to race, sex, sexual orientation, gender identity, or political conviction. (SBL 335.A.2)

PRELIMINARY PROCEDURES

EXHAUSTION OF ADMINISTRATIVE REMEDIES
Before considering the grievance, CPT can, at its discretion, require the grievant to exhaust all appropriate administrative avenues of redress, including, but not limited to, presenting the grievance along with a request for an administrative remedy to the department chair, dean or other appropriate academic administrator who has authority to investigate or offer a remedy. (SBL 335.A.1)
EARLY RESOLUTION EFFORTS

INFORMAL NEGOTIATIONS
Any party may attempt to resolve the grievance informally through negotiations. These negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of the grievance procedures. If a negotiated resolution is reached after a written grievance is filed, CPT should be given notice that the matter has been resolved. (SBL 335.C.1)

MEDIATION
The grievance may also be resolved through mediation in cases where mediation is acceptable to the administration and the grievant. With the consent of the administration and the grievant, CPT may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation. (SBL 335.C.2)

TIME LIMITATIONS
No grievance may be considered by CPT if more than three years have passed between the time the grievant knew or should have known about the violation of their rights and privileges and the resulting injury therefrom, and the filing of a grievance with the Committee. (SBL 335.B.6)

PRE-HEARING PROCEDURES

1. CPT receives a written grievance.

2. CPT reviews the grievance to see if more than three years have passed between the time the grievant knew or should have known about the violation of their rights and privileges and the resulting injury therefrom, and the filing of the grievance. Note: If more than three years have passed, CPT cannot consider the grievance. (SBL 335.B.6)

3. If the grievance was filed within the three-year period, and either the grievant has already exhausted all available administrative remedies, or CPT does not deem this to be necessary, then CPT reviews the written grievance only and determines whether the grievant has made a prima facie case. A prima facie case shall be deemed established if the Committee concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member's rights and privileges. (SBL 335.B.1 and 2)

   If the grievant has not made a prima facie case, CPT writes the grievant a letter stating the reasons for this conclusion. (SBL 335.B.4)

4. If the grievant has made a prima facie case, CPT may conduct a preliminary review of the evidence to determine if there is sufficient reason to believe that a right or privilege of the
grievant may have been violated.

- During the preliminary review, CPT must give the grievant an opportunity to discuss their allegations with the Committee, either orally or in writing.
- If either party appropriately shows a need, or on its own initiative, CPT can request files and documents from the administration.
- At the preliminary review stage, CPT may give notice of the grievance to the administrator with authority to offer a remedy and offer the administrator an opportunity to respond.
- During the preliminary review stage, CPT may also ask other persons involved in the events giving rise to the grievance to appear before CPT or to provide CPT with information. (SBL 335.B.3)

5. If CPT determines that after the preliminary review, there is not sufficient reason to believe that the grievant’s rights and privileges may have been violated, CPT writes the grievant a letter stating the reasons for this conclusion. (SBL 335.B.4)

6. If CPT determines that after the grievant has made a prima facie case of a violation of a right or privilege and that there is sufficient reason to believe that the grievant’s rights and privileges may have been violated:
   - CPT must advise the Chancellor’s designee of the grievance and the prima facie determination. (SBL 335.B.5)
   - CPT must also make an attempt to promote a resolution of the dispute. (SBL 335.B.5)

7. If no resolution can be reached, CPT must conduct a formal hearing. (SBL 335.B.5)

**FORMAL HEARING PROCEDURES**

**THE HEARING COMMITTEE**
CPT shall appoint a Hearing Committee for each grievance that is not resolved through a negotiation or mediation.

- The Hearing Committee should consist of at least three Division members, at least two of whom must be CPT members.
- One of the CPT members on the Hearing Committee shall chair the Hearing Committee.
- No member of the department or equivalent administrative unit of any of the parties may be appointed to the Hearing Committee.
- Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case, and must recuse themselves as appropriate.
- A quorum for the conduct of the hearing shall be at least half but not less than three members of the hearing Committee, including at least one member of CPT. (SBL 335.D.1)
PRE-HEARING CONFERENCE
Before the hearing, the Hearing Committee chair shall schedule a conference with the parties and/or their representatives to:

- Determine facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
- Define issues to be decided by the Hearing Committee.
- Set time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party before the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
- Specify whether pre-hearing and post-hearing briefs will be submitted by the parties, and the deadlines for those briefs.
- Attain agreement about whether any person other than the Chancellor, the Chancellor’s designee, the grievant, and their representatives may be present during all or any part of the hearing. To preserve confidentiality, persons whose presence is not essential to a determination of the facts, as a general rule, shall be excluded from the hearing.

(SBL 335.D.2.a-e)

POST-HEARING PROCEDURES
At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendations, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC Policy. The Hearing Committee may, however, and with the consent of the grievant, authorize release of the findings, conclusions, and recommendations to other individuals and entities, to the extent allowed by law. (SBL 335.D.8)

The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing. (SBL 335.D.10)
DISCIPLINARY CASES:
General Information and Hearing Procedures

GENERAL INFORMATION

Disciplinary cases are governed by Senate Bylaw (SBL) 336:
https://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart3.html#bl336

Appendix III of the Manual of the Irvine Division of the Academic Senate:
*Appendix III was removed by vote of the Divisional Senate Assembly March 16, 2021 and
replaced with Policies and Procedures on Faculty Conduct and the Administration of Discipline

RIGHT TO A HEARING

In cases of disciplinary action commenced by the administration against a member of the
Academic Senate, or against other faculty members in cases where the right to a hearing before
a Senate committee is given by Section 103.9 or 103.10 of the Standing Orders of The Regents
(Appendix I), proceedings shall be conducted before a Divisional Committee on Privilege and
Tenure (hereafter, the Committee). Under extraordinary circumstances and for good cause
shown, on petition of any of the parties and with concurrence of the other parties, the University
Committee on Privilege and Tenure may constitute a Special Committee composed of Senate
members from any Division to carry out the proceedings. (SBL 336.A)

TIME LIMITATION FOR FILING DISCIPLINARY CHARGES

The Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct
when it is reported to any academic administrator at the level of department chair or above or,
additionally, for an allegation of sexual violence or sexual harassment when the allegation is first
reported to the campus Title IX Officer. The Chancellor must file disciplinary charges by
delivering notice of proposed disciplinary action to the respondent no later than three years after
the Chancellor is deemed to have known about the alleged violation. There is no limit on the
time within which a complainant may report an alleged violation. (SBL 336.B)

PRE-HEARING PROCEDURES

1. The Chancellor or Chancellor’s designee shall deliver the disciplinary charges to the Chair
of the Committee on Privilege and Tenure, with a copy to the accused faculty member.
Along with a copy of the charges, the Chancellor or Chancellor’s designee shall provide
written notice to the accused of (i) the deadline for submitting an answer to the disciplinary
charges and (ii) the deadline for commencing the hearing. (SBL 336.C.1)

2. The accused shall have 14 calendar days from the date of receipt of the disciplinary charges
in which to file an answer in writing with the Committee on Privilege and Tenure. The
Committee on Privilege and Tenure shall immediately provide a copy of the answer to the Chancellor or Chancellor's designee.

3. Within five business days after receiving the disciplinary charges, the Chair of the Committee on Privilege and Tenure shall contact the accused, the Chancellor or Chancellor’s designee and/or their representatives in writing in order to schedule the hearing.
   - The Chair shall offer a choice of dates for the hearing and instruct the parties to provide their availability on the given dates within 14 calendar days.
   - Within five business days after receiving the availability information requested above from the parties, the Committee on Privilege and Tenure will schedule the hearing and notify the accused, the Chancellor or Chancellor’s designee and/or their representatives in writing of the date(s). The accused shall be given either in person or by email or overnight delivery service, at least ten calendar days’ notice of the time and place of the hearing.
   - All parties must give priority to the scheduling of a hearing and cooperate in good faith during the scheduling process. A hearing shall not be postponed because the accused faculty member is on leave or fails to appear.

EARLY RESOLUTION

1. The Chancellor or Chancellor's designee and the accused may attempt to resolve the disciplinary charges through negotiation. A negotiated resolution is permissible and appropriate at any stage of these disciplinary procedures. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee on Privilege and Tenure. However, such negotiation shall not extend any deadline in this Bylaw.

2. If a negotiated resolution is reached after disciplinary charges are filed, then the Chancellor or Chancellor’s designee is encouraged to consult with the Chair of the Committee on Privilege and Tenure prior to finalizing the settlement. The Chair of the Committee on Privilege and Tenure should make a request for such a consultation once disciplinary charges have been filed with the Committee on Privilege and Tenure. The Chancellor or Chancellor's designee should inform the Committee on Privilege and Tenure if the matter is resolved.

TIME FRAME FOR HEARING PROCESS IN DISCIPLINARY CASES

1. The hearing shall begin no later than 60 calendar days from the date disciplinary charges are filed with the Committee on Privilege and Tenure.

2. Any deadline in SenateBylaw 336 may be extended by the Chair of the Committee on Privilege and Tenure or the Chair of the Hearing Committee, but only for good cause shown, requested in writing in advance. Good cause consists of material or unforeseen circumstances sufficient to justify the extension sought. A request to delay the start of the hearing beyond the 60 days mandated by this Bylaw must include adequate documentation of the basis for the request.
3. Within three business days of receiving an extension request, the Chair of the Committee on Privilege and Tenure or the Chair of the Hearing Committee shall notify the accused, the Chancellor or Chancellor’s designee, and/or their representatives in writing of the approval or denial of the request. If the request is approved, the notification shall include the reason for granting it, the length of the extension, and the projected new timeline.

HEARING AND POSTHEARING PROCEDURES

1. The Chair of the Committee on Privilege and Tenure shall appoint a Hearing Committee for each case in which disciplinary charges have been filed. The Hearing Committee must include at least three members.
   • A majority of the Hearing Committee members shall be current or former members of the Committee on Privilege and Tenure, and the Chair of the Hearing Committee shall be a current member of the Committee on Privilege and Tenure. In exceptional circumstances, the Hearing Committee may include one member from another Divisional Academic Senate.
   • The Chair of the Committee on Privilege and Tenure may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee.
   • Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate.
   • A quorum for the conduct of the hearing shall consist of a majority of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.

2. Within two business days after the hearing has been scheduled the Chair of the Hearing Committee shall notify the accused, the Chancellor or the Chancellor’s designee, and/or their representatives in writing of the Hearing Committee’s decisions on the following prehearing matters:
   • The Hearing Committee’s initial determination of the issues to be decided at the hearing. The Chair of the Hearing Committee shall invite the parties to inform the Committee of any other issues they believe to be important. The final determination of the issues to be decided shall be made by the Hearing Committee.
   • The deadline for the parties to determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
   • The deadline for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names are disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
   • Whether prehearing and post-hearing briefs will be submitted by the parties and, if so, the deadline for submitting those briefs.
   • Whether any person other than the Chancellor, the Chancellor's designee, the accused, and their representatives, may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule,
be excluded from the hearing.

- After the prehearing letter has been sent, the Chair of the Hearing Committee may at their discretion schedule a conference with the accused, the Chancellor or Chancellor’s designee, and/or their representatives, to resolve any questions concerning the items above. Such a conference should take place as soon as possible. The scheduling of such a conference shall not result in an extension of the hearing date.

3. The Chancellor or Chancellor's designee, the accused, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony and to permit witnesses to testify by videoconferencing.

5. Prior discipline imposed on the same accused faculty member after a hearing or by negotiation may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter. Under these conditions, prior hearing reports and records of negotiated settlements are always admissible.

6. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee's notice of such matters.

7. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.

8. At the hearing, the Chancellor or Chancellor's designee has the burden of proving the allegations by clear and convincing evidence, except that for allegations of a violation of the University's policy on Sexual Violence and Sexual Harassment, the Chancellor or Chancellor's designee has the burden of proving the allegations by a preponderance of the evidence.

9. The Hearing Committee shall not have power to recommend the imposition of a sanction more severe than that proposed in the notice of proposed disciplinary action. In determining the appropriate sanction to recommend, the Hearing Committee may choose to consider previous charges against the accused if those charges led to prior
sanctions either after a disciplinary hearing or pursuant to a negotiated or mediated resolution.

10. The Hearing Committee shall make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation. These shall be forwarded to the parties in the case, the Chancellor or Chancellor’s designee, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure, not more than 30 calendar days after the conclusion of the hearing. The conclusion of the hearing shall be the date of the Committee’s receipt of (a) the written transcript of the hearing; or (b) if post-hearing briefs are permitted, the post-hearing briefs from the parties in the case, whichever is later. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.

11. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the court reporter as well as other costs associated with the hearing will be borne by the administration.

12. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

RELATION TO PRIOR GRIEVANCE CASES

A disciplinary Hearing Committee shall not be bound by the recommendation of another hearing body, including the findings of the Divisional Committee on Privilege and Tenure in a grievance case involving the same set of incidents. However, the Hearing Committee may accept into evidence the findings of another hearing body or investigative agency. The weight to be accorded evidence of this nature is at the discretion of the Hearing Committee and should take account of the nature of the other forum. In any case, the accused faculty member must be given full opportunity to challenge the findings of the other body.
EARLY TERMINATION CASES:
General Information and Hearing Procedures

GENERAL INFORMATION

Early termination cases are governed by Senate Bylaw (SBL) 337:
https://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart3.html#bl337

Appendix III, Section II of the Manual of the Irvine Division of the Academic Senate:
*Appendix III was removed by vote of the Divisional Senate Assembly March 16, 2021 and replaced with Policies and Procedures on Faculty Conduct and the Administration of Discipline

Early termination cases include the following situations:
1. Termination is proposed before the expiration of the Senate or non-Senate faculty member’s appointment, or
2. A tenured faculty member faces termination for incompetent performance, or
3. For other faculty members whose right to a hearing before a Senate committee is given under the Standing Orders of the Regents.¹

Early termination cases are initiated by the faculty member’s request for a hearing. (SBL 337.A)

Upon request, CPT shall conduct a hearing to determine whether, in its judgment, the proposed early termination is for good cause, and has been recommended in accordance with a procedure that does not violate the privileges of the faculty member. (SBL 337.A)

EARLY RESOLUTION EFFORTS

Resolution of the dispute, either through negotiation or mediation, is permissible and appropriate at any stage of these proceedings. Termination as a result of a disciplinary case pursuant to Bylaw 336 is not covered under Early Termination. (SBL 337.A)

TIME LIMITATIONS

No Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before the Divisional Privilege and Tenure Committee. So long as the faculty member requests a hearing before the end of their appointment, the Divisional Privilege and Tenure Committee shall appoint a Hearing Committee and proceed according to the procedures below. If the faculty member fails to request a hearing before the end date of the appointment in question, the faculty member may seek a grievance hearing by grieving the non-reappointment pursuant to Senate Bylaw 335 in the case of Senate

¹ While SBL 337.A. refers to Section 103.9 or 103.10 of the Standing Orders of The Regents (Appendix I), the Standing Orders of the Regents or Appendix I no longer lists 103.9 or 103.10. We will seek clarification.
HEARING, AND POST-HEARING PROCEDURES

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each early termination case for which a hearing is requested by a faculty member. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The committee may not appoint a member of the department or equivalent administrative unit of the faculty member facing early termination to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.

2. Prior to the formal hearing, the Chair of the Hearing Committee shall schedule a conference with both the faculty member and the Chancellor's designee, and/or their representatives. This conference should attempt to:
   - Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
   - Define the issues to be decided by the Hearing Committee.
   - Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
   - Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.
   - Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the faculty member, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.

3. The Chancellor's designee and the faculty member and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received and to select a representative who may act as counsel. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the
identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.

5. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee's notice of such matters.

6. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.

7. At the hearing, the Chancellor's designee has the burden of proving, by clear and convincing evidence, that there is good cause for early termination. In assessing the evidence for good cause, the Hearing Committee may consider evidence regarding whether correct procedures were followed in the case.

8. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the faculty member, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.

9. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.

10. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.
Pre-Hearing Procedures in Grievance Cases

Throughout the process, CPT may attempt to bring the parties together to seek a settlement.

¹Preliminary Review of the Evidence:
- During the preliminary review, CPT must give the grievant the opportunity to discuss their allegations with the Committee, either orally or in writing.
- If either party shows an appropriate need, or on its own initiative, CPT may ask for files and documents from the administration. Confidential documents shall remain confidential within the Committee unless disclosure is required by law.
- CPT may give notice of the grievance to the administrator with authority to offer a remedy, and offer the administrator an opportunity to respond.
- CPT may ask other persons involved in the events giving rise to the grievance to appear before CPT or to provide CPT with
Hearing and Post-Hearing Procedures in Grievance Cases

CPT shall appoint a Hearing Committee for each grievance not resolved through negotiation or mediation.

Before a hearing, the Hearing Committee shall schedule a conference with the parties and/or their representatives.

Hearing held in case.

Hearing Committee shall promptly make its finding of fact and recommendations and produce a final report.

The final report will be forwarded to the parties in the case, the Chancellor, the Chair of the Divisional CPT, and the Chair of the University Committee on Privilege and Tenure.

After formal hearing, upon notice of the Chancellor’s tentative decision to disagree with the Privilege and Tenure findings or recommendations, the Chair of CPT should either meet with the Chancellor or arrange for the full CPT to meet with the Chancellor.

Hearing Committee may reconsider case if either party presents, within a reasonable time, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.
Hearing and Post-Hearing Procedures in Disciplinary Cases

CPT shall appoint a Hearing Committee for each Disciplinary Case forwarded for review by the Executive Vice Chancellor & Provost.

Before a hearing, the Hearing Committee shall schedule a conference with the parties and/or their representatives.

Hearing held in case.

The Hearing Committee shall promptly make its finding of fact and recommendations and forward these to CPT for a decision.

The final report will be forwarded to the parties in the case, the Chancellor, the Chair of CPT, and the Chair of the University Committee on Privilege and Tenure.

Upon notice of the Chancellor’s tentative decision to disagree with CPT findings or recommendations, the Chair of CPT should either meet with the Chancellor or arrange for CPT to meet with the Chancellor.

The Hearing Committee may reconsider a case if either party presents, within a reasonable time, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.
Hearing and Post-Hearing Procedures in Early Termination Cases

CPT receives a request from a Senate or non-Senate faculty member to hold a hearing to determine whether the proposed early termination is (a) for a good cause, and (b) has been recommended in accordance with a procedure that does not violate the privileges of the faculty member.

CPT shall appoint a Hearing Committee.

Before a hearing, the Hearing Committee shall schedule a conference with the parties and/or their representatives.

Hearing held in case.

Hearing Committee shall promptly make its finding of fact and recommendations and forward these to CPT for a decision.

The final report will be forwarded to the parties in the case, the Chancellor, the Chair of CPT, and the Chair of the University Committee on Privilege and Tenure.

Upon notice of the Chancellor’s tentative decision to disagree with CPT findings or recommendations, the Chair of CPT should either meet with the Chancellor or arrange for CPT to meet with the Chancellor.

The Hearing Committee may reconsider a case if either party presents, within a reasonable amount of time, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

Note: If the hearing has not started by the end of the faculty member’s term of appointment, the faculty member no longer has a right to an early termination hearing pursuant to Senate Bylaw 337. Instead, the faculty member may seek a grievance hearing by grieving the non-reappointment pursuant to Senate Bylaw 335 in the case of Senate faculty or the Academic Personnel Manual in the case of non-Senate faculty.
## Chart Comparing Grievance, Disciplinary, and Early Termination Cases

<table>
<thead>
<tr>
<th>Initiation of Proceedings</th>
<th>GRIEVANCE</th>
<th>DISCIPLINARY</th>
<th>EARLY TERMINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By Senate member filing grievance with CPT</td>
<td>By Administration filing written charges with CPT</td>
<td>By Senate or non-Senate faculty member requesting a hearing before CPT</td>
</tr>
<tr>
<td>Time Limitations</td>
<td>Grievance can’t be considered if filed more than three years after grievant knew or should have known of the violation of rights and privileges and resulting injury</td>
<td>Disciplinary action cannot commence if more than three years have passed between the time when the Chancellor or Chancellor’s designee knew or should have known about the alleged violation of the Code of Conduct (APM 015)</td>
<td>If the hearing has not begun before the faculty member’s term of appointment ends, member loses the right to an early termination hearing and instead can file a grievance</td>
</tr>
<tr>
<td>Determination of prima facie case (and preliminary review)</td>
<td>Yes</td>
<td>No; Formal Investigation Committee (FIC) conducts preliminary review</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Burden of Proof</td>
<td>Borne by grievant</td>
<td>Borne by Chancellor or Chancellor’s Designee</td>
<td>Borne by Chancellor or Chancellor’s Designee</td>
</tr>
<tr>
<td>Standard of Proof</td>
<td>Preponderance of the evidence</td>
<td>Clear and convincing evidence (Preponderance of the evidence for SVSH cases)</td>
<td>Clear and convincing evidence</td>
</tr>
</tbody>
</table>
| Basic Issue(s) to be determined at the hearing | - Were Senate member’s rights or privileges violated  
- In cases involving tenure, promotion or reappointment, the only issues which may be reviewed are:  
  (a) whether the procedures were not in consonance with the applicable rules and requirements of the University or any of its Divisions, or  
  (b) whether challenged decision was on the basis of impermissible criteria, including race, sex, sexual orientation, gender identity, or political conviction | Whether Senate member or other qualifying faculty member violated the Faculty Code of Conduct (APM 015) | Whether the proposed early termination is for good cause and has been recommended in accordance with a procedure that does not violate the privileges of the faculty member |