

**A Proposed
Permanent Memorandum 46:
Dismissal for Cause for Faculty**

This PM provides procedures for dismissal for cause for faculty. These procedures must be followed in order to dismiss a tenured faculty member at any time, or to dismiss an untenured faculty member prior to the expiration of the term of appointment; in the latter case, dismissal for cause should not be confused with a decision not to reappoint upon expiration of the term of appointment.

The heart of the procedure is faculty driven, and consists of a hearing in which only faculty members are allowed to participate.

Each campus may adopt policies that further specify and regulate these procedures.

This PM occasionally refers to line officers, such as the Chair. In case the faculty member being considered for dismissal is a line officer, his/her immediate superior will assume the role described in this PM.

I Cause for Dismissal or Other Disciplinary Action

Cause for dismissal or other disciplinary action shall be any conduct seriously prejudicial to the University. Examples of such conduct include misconduct in research, moral turpitude, criminal behavior, gross and manifest incompetence, and serious non-performance of duties. The latter two examples refer to a situation in which the faculty member has not met, and does not give promise of meeting, the responsibilities of his/her position.

Exercise of academic freedom, including intellectual dissent, or advocacy of controversial ideas, and pursuit by an individual of his/her legal rights, shall not be grounds for dismissal or other disciplinary action.

II Elements of the Procedure

1. From the beginning, the faculty member being considered for dismissal (hereinafter known as the *Respondent*) will be informed that at every stage of the process, he or she may have a faculty *Advisor*, who may accompany the Respondent to, and participate in, any conferences in which the Respondent is allowed to participate pursuant to this PM. If, eventually, formal charges are made, and a hearing is held, the Advisor may also question any witnesses and present the Respondent's case during the hearing.

2. Any administrator who becomes aware of possible cause for dismissal of a faculty member in his or her unit will ask the faculty member's Chair (or other immediate superior) to communicate the concern, in writing and in a conference, to the faculty member. After the conference, the Chair will give the faculty member a written summary of his or her findings and recommendations. The faculty member may then respond in writing. The Chair will then inform the administrator who first raised the concern of the outcome of the conference.

3. If an administrator then concludes that dismissal proceedings are necessary, he or she will meet with the Chief Academic Officer of the campus, and provide him or her with all relevant documentation on the case. The Chief Academic Officer will make the above documentation available to the Respondent, and may wish to schedule a personal conference with the Respondent to discuss the charges. The Chief Academic Officer will then decide whether to ask the Chancellor to commence dismissal proceedings. In that case, the Chief Academic Officer will appoint a *Faculty Presenter* to present the university's case during the hearing (see paragraph 5 below); the Chief Academic Officer may also, if appropriate, suspend the Respondent with pay, or reassign his or her duties, for the duration of the proceedings.

4. If the Chancellor is asked to commence dismissal proceedings, he or she will notify the Respondent, and appoint a *Committee* of at least five members. The latter will be selected from a larger list of nominees provided by the appropriate elected representative(s) of the Faculty Council, and, if appropriate, by the local AAUP chapter. Nominees must be tenured faculty members with rank at least as

high as that of the Respondent, and must not hold an administrative position at the level of Chair or higher. The Respondent may challenge the inclusion of any committee members for cause (such as conflict of interest or lack of objectivity), and up to two more members without stating cause.

5. The Committee Chair may hold pre-hearing conferences to schedule the disclosure of exhibits and names of witnesses to be presented by each party. The schedule will be sufficiently flexible to allow the Respondent a chance to review the University's exhibits and names of witnesses before having to disclose his or her own exhibits and names of witnesses. The Respondent may be advised by his or her attorney; in that case, and only in that case, the University may provide its Faculty Presenter with an attorney, and the Committee with a separate attorney. Attorneys may advise their respective clients, but may not question the witnesses or address the committee. At any time during the hearing, the Committee, at the request of either party or on its own initiative, is obligated to request relevant evidence, including, if appropriate, personnel records; but no party may disclose the contents of confidential records outside the hearing. The Committee will seek the whole truth about any issue properly before it.

6. The Committee will arrive at its findings and recommendations by majority vote. The evidence against the Respondent must be clear and convincing in order for the Committee to recommend dismissal or other disciplinary action. The Committee will communicate its findings and recommendations, including minority opinions, in writing, to the Chancellor.

7. The Chancellor will make his preliminary recommendation, which either party may ask the Chancellor to reconsider. If, after any such request (or appeal), the Chancellor recommends that the LSU System President dismiss or discipline the Respondent, the Respondent may appeal that final recommendation to the President.

8. The final decision to dismiss or discipline a faculty member rests with the President of the LSU System, and must be confirmed by the Board of Supervisors.

9. If the Committee finds no disciplinary action is necessary, the University will take steps to restore the reputation of the Respondent.

Comment: PM-46 is based on PS-104 on the LSU A&M campus. In particular, like PS-104, this PM does not define what constitutes "serious non-performance of duties."