ARTICLE 12 TERMINATION OF SERVICE OF FACULTY AND DISCIPLINE OF FACULTY FOR JUST CAUSE

- A. Termination of service of a tenured faculty member or of an appointment of a tenure-track faculty member before the end of its specified term may be made only for retirement, just cause, or retrenchment.
- B. Discipline/Dismissal of Tenured and Tenure-Track Faculty for Just Cause
- 1. As used in this Agreement, "dismissal" shall refer to the discharge of a tenured or tenure-track faculty member due to the faculty member's dereliction of duties, professional incompetence, grave misconduct or academic dishonesty. Dismissals of tenured or tenure-track faculty for financial, programmatic or other administrative considerations are covered by Article 13 and are not covered by the following "Just Cause" provisions of this Agreement.
- 2. As used in this Agreement, "discipline" shall include, but is not limited to: written letter of reprimand; ineligibility for sabbaticals and professional development funds; and, suspensions without pay of varying lengths. Discipline shall not include oral reprimands or oral counseling, so long as no written record is kept in the faculty member's official personnel file, nor shall it include performance evaluations; such matters are not grievable under this Agreement. When appropriate and justified, Temple may also require, as part of a disciplinary action, restitution, appropriate training or counseling, adjustment in assignments and responsibilities, or other remedial action.
- 3. As used in this Agreement, "just cause" means dereliction of duties, professional incompetence, grave misconduct or academic dishonesty in cases of dismissal. For imposition of discipline other than dismissal, "just cause" may also include, but is not limited to, willful, repeated or serious violations of University policies, insubordination, or other serious breaches of professional conduct, regardless of whether such conduct amounts to dereliction of duties, professional incompetence, grave misconduct or academic dishonesty.
- 4. It is understood that in any case involving discipline or dismissal under this Article, Temple bears the burden of proving just cause for such action.
- 5. A faculty member may ask for, and shall have the right to have, a TAUP representative present whenever the faculty member is asked to participate in an investigatory interview which he or she reasonably believes may result in disciplinary action or dismissal.
- 6. Pending resolution of the procedures for discipline/dismissal of tenured faculty, a faculty member may be suspended with pay by the Provost in cases where the continued active employment poses an unreasonable risk of harm to the safety of the faculty member or others or disruption of university programs and/or operations.
 - 7. All references to "days" in this Article shall mean "working days."
- 8. The following procedures, which may be initiated by faculty, Department Chairpersons, Deans, the Provost or other designated University officer, or the President, shall govern cases seeking dismissal or a suspension without pay of a tenured faculty member for more than forty-five (45) days for just cause:
- a. An attempt shall be made to resolve the matter informally through one or more personal conferences between the faculty member and appropriate administrative officers;
- b. If no resolution is reached informally as described in (a) above, an attempt shall be made to resolve the matter through mediation.
 - i. An internal, neutral mediator shall be selected by the University.
 - ii. In no case shall the combined processes in steps (a) and (b) above exceed 30 days.

- c. If the matter is not resolved within thirty (30) days, the Dean, in his/her discretion may refer the matter to a Faculty Responsibility Committee (FRC) for a brief investigation regarding the allegations. The FRC shall be constituted and function in accordance with the College's By-Laws, and shall conclude its work within forty-five (45) days of its creation. If an FRC is constituted, the faculty member shall be notified of this fact and the nature of the allegations being investigated. If the Dean does not refer the matter to the FRC, the Dean shall provide to the Faculty Senate Personnel Committee a written statement of the nature of the allegations brought against the faculty member. A copy of the Dean's written statement shall be provided to the faculty member at the time it is forwarded to the Faculty Senate Personnel Committee.
- d. If an FRC is not utilized, or if an FRC is utilized and the matter remains unresolved, within forty-five (45) days, the matter shall be referred to the Faculty Senate Personnel Committee for an informal inquiry to verify that the charges are reasonably supported. The Faculty Senate Personnel Committee shall within forty-five (45) days issue a report to the President stating whether the charges are reasonably supported. A copy of the Faculty Senate Personnel Committee report shall be delivered to the faculty member.
- e. Should the Faculty Senate Personnel Committee fail to issue a report within forty-five (45) days, the President may, at his/her discretion, either directly proceed with the initiation of formal disciplinary/dismissal proceedings enumerated in step "f" below or appoint an independent investigating officer who is not currently an employee of the University to conduct a preliminary hearing and issue a report stating whether the charges against the faculty member are reasonably supported.
- f. When the Faculty Senate Personnel Committee or investigating officer issues a report pursuant to steps "d" or "e" above, the President shall review the report and recommendation and supporting evidence, and initiate any such additional investigation as he/she deems appropriate. If the President determines that the preliminary evidence reasonably supports the charges of "just cause," the President may initiate formal disciplinary/dismissal proceedings by formulation of a written statement of the charges and supporting evidence, even if the recommendation of the Faculty Senate Personnel Committee or investigating officer is favorable to the faculty member. In the absence of extenuating circumstances, the President should complete his/her review and investigation, if any, and formulate his/her written statement within forty-five (45) days of receipt of the report of the Faculty Senate Personnel Committee or investigating officer.
- g. If the President initiates formal disciplinary/dismissal proceedings, he/she shall provide the faculty member and the Faculty Senate Personnel Committee with a copy of his/her written statement and also inform the faculty member that, if the faculty member requests, he/she shall be entitled to a hearing as set forth in sections "h" and "i" below. The President shall also advise the faculty member that failure to dispute the charges in accordance with Section 8.h.i. below shall indicate acceptance of dismissal/discipline in the President's discretion.
 - h. Pre-hearing procedures shall be as follows:
- i. Within fifteen (15) days of receipt of the President's written statement of charges, the faculty member shall provide a written response to the President as to whether he/she disputes the charges and requests a hearing. If a hearing is requested, the Faculty Senate Personnel Committee shall select a hearing committee composed of five (5) persons. The hearing committee shall select its own chairperson.
- ii. The hearing committee chairperson shall notify the faculty member in writing of the date, time, place and procedure for the hearing, and a list of proposed committee members and shall provide the faculty member with reasonable time, but in no event more than sixty (60) days, to prepare his/her defense. The faculty member shall have ten (10) days to challenge any proposed member for cause, which means actual or reasonable perceived bias or conflict of interest with respect to the faculty member or the matters at issue. The President or other designated University officer shall rule on any such challenges, and his/her decision shall be final. If the President or other designated University officer sustains any challenges, the Faculty Senate Personnel Committee shall name substitute committee members, and the same challenge process shall be followed until five committee members are selected.

- iii. The faculty member may be represented by legal counsel of his/her own choosing at his/her own expense, or by another faculty member, in connection with the hearing. The faculty member shall also be entitled to have a TAUP representative present at the hearing.
- iv. No fewer than fifteen (15) days before the date set for the hearing, the faculty member shall respond in writing to the charges in the President's written statement, and the faculty member and the University shall provide to each other through the committee chairperson a list of witnesses and documents they propose to introduce at the hearing, and a succinct summary of any testimony expected to be offered by such witnesses. The lists may be supplemented thereafter as necessary or desirable in the exercise of due diligence, provided that reasonable opportunity is given to the opposing party to respond, as determined by the committee chairperson.
 - i. Hearing procedures shall be as follows:
 - i. Consideration of the written charges and the faculty member's response.
- ii. Testimony of witnesses, if appropriate, and examination of documents and other pertinent evidence.
- iii. Each party, or the legal counsel or other representative of each party, shall be permitted to participate actively in the hearing proceedings, including a reasonable opportunity to confront and cross-examine witnesses.
- iv. The faculty member is permitted, but not required, to testify at the hearing. If the faculty member declines to testify or otherwise participate in the hearing, the committee should proceed on the basis of obtainable evidence.
- v. The hearing committee may, at its discretion, establish other rules or procedures for the conduct of the hearing consistent with paragraphs (i) through (iv) above.
- vi. Except in extenuating circumstances, the hearing should commence no more than seventy-five (75) days after the President provides the faculty member with a written statement of the charges.
- vii. Except in extenuating circumstances, the hearing should be concluded within thirty (30) days after its commencement.
- j. Following the hearing and its own deliberations, the hearing committee shall, within forty-five (45) days, submit its written recommendation and reasons therefore to the President and the faculty member. If the hearing committee recommends against discipline/dismissal, the President may (within thirty (30) days, except in extenuating circumstances) still discipline/dismiss the faculty member, but the faculty member may then utilize the grievance (2nd step) and arbitration provisions of this Agreement. If the President imposes discipline more severe than that recommended by the hearing committee, the faculty member may then utilize the grievance (2nd step) and arbitration provisions of this Agreement. If the President accepts and imposes the discipline/dismissal recommended by the hearing committee, the President's decision is final and the faculty member may not utilize the grievance (2nd step) and arbitration provisions of this Agreement, except to challenge the procedural regularity of the hearing.
- 9. In any case in which the University is seeking to impose as discipline anything other than dismissal, demotion in rank, or suspension without pay for greater than forty-five (45) days, the following procedures shall be used:
- a. An attempt shall be made to resolve the matter informally through one or more personal conferences between the faculty member and appropriate administrative officers;

- b. If no resolution is reached informally as described in (a) above, an attempt shall be made to resolve the matter through mediation.
 - i. An internal, neutral mediator shall be selected by the University.
 - ii. In no case shall the combined processes in steps (a) and (b) above exceed 30 days.
- 10. The Dean or designated University officer shall provide written notification to the faculty member that disciplinary action other than dismissal, demotion in rank or a suspension without pay for more than forty-five (45) days is being contemplated. Such statement shall include a summary of the basis for the contemplated action, and, when such basis includes allegations of violations of Temple policy or procedure, a reference to any such policy or procedure.
- 11. The faculty member shall be provided with an opportunity to formally respond to the allegations made by the Dean or designated University officer. Except in extenuating circumstances, such a response must be made within ten (10) days of receipt of the notification.
- 12. The faculty member shall be provided with an opportunity to meet with the Dean or designated University officer. The faculty member may be represented by legal counsel of his/her own choosing at his/her own expense, or by another faculty member. The faculty member shall also be entitled to have a TAUP representative present. The Dean or designated University officer may have an attorney present if they so desire. Except in extenuating circumstances, such a meeting shall be held within twenty (20) days of the notification.
- 13. Within seven (7) days following the meeting, the Dean or designated University officer shall notify the faculty member by letter of the final action taken, with a copy to the TAUP representative and/or attorney, if any, who accompanied the faculty member to the meeting.
- 14. Upon receipt of the letter indicating the University's final decision, the faculty member may exercise his/her rights under the grievance (2nd step) and arbitration provisions of this Agreement.
- C. Dismissal/Discipline of Nontenure-Track Faculty for Just Cause
 - 1. Just cause is defined in section B.3 above.
- 2. An attempt shall first be made to resolve the matter informally through personal conferences between the faculty member and appropriate administrative officers.
- a. If no resolution is reached as described in (2) above, an attempt shall be made to resolve the matter through mediation.
 - i. An internal, neutral mediator shall be selected by the University.
- ii. In no case shall the combined processes in steps in (2) and (2a) above exceed thirty (30) days.
- 3. If this fails to resolve the matter, the faculty member may be dismissed/disciplined by Temple, after consultation with the Department Chairperson.
- 4. A faculty member so dismissed/disciplined may utilize the grievance and arbitration provisions of this Agreement.