TO: The Board of Regents

Academic Affairs

MEETING DATE: December 3, 2021

SUBJECT: Revisions and updates to the UNL Bylaws and the Academic Rights and Responsibilities Committee Procedures

RECOMMENDED ACTION: Approve revisions and updates to the UNL Bylaws and the Academic Rights and Responsibilities Committee Procedures

PREVIOUS ACTION: October 8, 2021 – The proposed revisions and updates to the UNL Bylaws and the Academic Rights and Responsibilities Committee Procedures were presented for information only in accordance with the requirements of Section 1.11 of the Bylaws of the Board of Regents.

EXPLANATION: The revisions to the UNL Bylaws Section 3.1.5.2 entail identifying the Academic Rights and Responsibilities Committee as the duly elected faculty committee that will be consulted when an administrative officer is seeking to impose an administrative leave on a member of the academic staff. This change is necessary to accommodate on the UNL campus the recently approved revisions to Section 4.7 of the Bylaws of the Board of Regents pertaining to the new procedures for administrative leave of academic staff members.

The Academic Rights and Responsibilities Committee has recommended revisions and updates to the Academic Rights and Responsibilities Committee Procedures (including the Academic Freedom and Tenure-A Procedures, the Professional Conduct-A, the Grievance Procedures, and the Academic Freedom and Tenure-B Procedures) with input from the Faculty Senate Executive Committee. The Faculty Senate approved the revisions and updates at their meeting on November 6, 2018, and on November 3, 2020, approved changes related to the Bylaws of the Board of Regents, which were amended on April 9, 2021. The proposed revisions and updates have the full support of the UNL administration.

SPONSOR: Ronnie D. Green, Chancellor
University of Nebraska-Lincoln

RECOMMENDED: Walter E. Carter, President
University of Nebraska System

DATE: November 5, 2021
**UNL Bylaw explanation and proposed changes**

*Summary of Changes:* We propose changes to Section 3.1.5.2 of UNL Bylaws, which outline “Other Responsibilities of the ARRC.” The overall change to this section entails identifying the ARRC as the duly elected faculty committee that will be consulted when an administrative officer is seeking to impose an administrative leave on a member of the academic staff. This change is necessary to accommodate on the UNL campus the proposed revisions to BOR Bylaws pertaining to the new procedures for administrative leave of academic staff members as outlined in the proposed revisions to Section 4.7 of Regent Bylaws. The ARRC is a logical committee to serve in this capacity. First, it is an existing elected committee that is already in place to quickly decide upon whether or not formal complaints filed with the ARRC are moved forward to a Special Committee (i.e., AFT-A, Grievance or Professional Conduct). Second, administrative leave may come to the ARRC as an initial step before filing a formal complaint with the ARRC seeking termination, which is automatically transmitted to an AFT-B Special Committee.

To accomplish this we are proposing revisions to parts B and C of Section 3.1.5.2 of UNL Bylaws. We revised section B in two ways. First, what was the last sentence of this section is now the first sentence. Second, we removed the specific information about suspension in anticipation of dismissal as well as cancellation of speakers and speak only generally about policies and processes concerned with academic freedom. Then, we added a new part C to explicitly identify the ARRC as the duly elected faculty committee that will review Administrative leaves. The remaining alphabetic ordering in Section 3.1.5.2 is simply adjusted to accommodate adding a new part C.

The proposed revisions shown as tracked-changes below were approved by ASUN and Faculty Senate last year – recent revisions to this document in order to accommodate final changes to Regent Bylaws are highlighted in yellow below:

**UNL BYLAWS PROPOSED REVISION**

**June 2021**

3.1.5 **Academic Rights and Responsibilities Committee.** The Academic Rights and Responsibilities Committee (ARRC) and its responsibilities are created by the University of Nebraska-Lincoln Faculty Senate as required by the University of Nebraska Regents Bylaws and are approved by the University of Nebraska Board of Regents. The ARRC has significant responsibility in ensuring that faculty members and administrators are appropriately apprised of rights, responsibilities, principles and procedures pertaining to matters of professional relationships.

3.1.5.1 The ARRC has primary responsibility to ensure and to arrange an appropriate investigation or hearing when concerns or problems arise between a faculty member and the university and/or when problems related to academic freedom and tenure, professional conduct, and other grievances occur in the
professional relationships among faculty members and others in the University community, as stated in the ARRC Syllabus and the Bylaws of the Board of Regents.

3.1.5.2 Other Responsibilities of the ARRC.

A. To determine whether and to what extent recommendations of Special Committees convened by the chair of ARRC to hear particular cases have been acted upon, and to report on the status of ARRC cases to the President of the Faculty Senate;

B. To act with respect to matters of general policies concerning academic freedom and tenure; To provide for an effective process in representing the academic rights and responsibilities of the faculty; but not limited to, those related to suspension in anticipation of dismal and cancellation of presentations by properly invited speakers; To act with respect to matters of general policies concerning academic freedom and tenure;

C. To serve as the informal inquiry elected faculty committee under procedures outlined in Board of Regent Bylaws section 4.7.813 when an administrative officer is seeking to impose an immediate suspension administrative leave of an professional academic staff member;

D. C. To recommend actions to appropriate bodies in order to ensure academic rights and responsibilities of faculty members;

E. D. To communicate to all members of the University community appropriate channels for conveying and dealing with concerns about actual or perceived violations of faculty rights and responsibilities;

F. E. To propose to the Faculty Senate changes in operating procedures and guidelines for each of the Special Committees in accord with relevant provisions of the Bylaws of the Board of Regents;

G. F. To submit committee minutes and make an annual report to the Faculty Senate, while maintaining confidentiality concerning individual cases.
3.1.5 Academic Rights and Responsibilities Committee. The Academic Rights and Responsibilities Committee (ARRC) and its responsibilities are created by the University of Nebraska-Lincoln Faculty Senate as required by the University of Nebraska Regents Bylaws and are approved by the University of Nebraska Board of Regents. The ARRC has significant responsibility in ensuring that faculty members and administrators are appropriately apprised of rights, responsibilities, principles and procedures pertaining to matters of professional relationships.

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3.1.5.2 Other Responsibilities of the ARRC.

A. To determine whether and to what extent recommendations of Special Committees convened by the chair of ARRC to hear particular cases have been acted upon, and to report on the status of ARRC cases to the President of the Faculty Senate;

B. To act with respect to matters of general policies concerning academic freedom and tenure; To provide for an effective process in representing the academic rights and responsibilities of the faculty;

C. To serve as the elected faculty committee under procedures outlined in Board of Regent Bylaws section 4.7 when an administrative officer is seeking to impose an administrative leave of an academic staff member;

D. To recommend actions to appropriate bodies in order to ensure academic rights and responsibilities of faculty members;

E. To communicate to all members of the University community appropriate channels for conveying and dealing with concerns about actual or perceived violations of faculty rights and responsibilities;

F. To propose to the Faculty Senate changes in operating procedures and guidelines for each of the Special Committees in accord with relevant provisions of the Bylaws of the Board of Regents;
G. To submit committee minutes and make an annual report to the Faculty Senate, while maintaining confidentiality concerning individual cases.
RESPONSIBILITIES OF THE ACADEMIC RIGHTS AND RESPONSIBILITIES COMMITTEE AND PROCEDURES FOR HANDLING MATTERS OF ACADEMIC FREEDOM AND TENURE, GRIEVANCE, AND PROFESSIONAL CONDUCT
University of Nebraska-Lincoln

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1. INTRODUCTION

1.1 Responsibilities of the Academic Rights and Responsibilities Committee. The Academic Rights and Responsibilities Committee (ARRC) and its responsibilities are created by the UNL Faculty Senate, are described in its Syllabus of Campus-Wide Committees, and are approved by the University of Nebraska Board of Regents. Its Foundational Instruction, set forth in Section 3.4.3.1.5 of the UNL Bylaws, gives the ARRC both informational and quasi-judicial responsibilities.

1.1.1 The ARRC has significant responsibility to ensure that faculty members and administrators are appropriately apprised of rights, responsibilities, principles, and procedures pertaining to matters of professional relationships.

1.1.2 The ARRC has primary responsibility to ensure and to arrange an appropriate investigation or hearing when concerns or problems arise between a faculty member and the University and/or when concerns or problems related to academic freedom and tenure, grievance, and professional conduct occur in the professional relationships between faculty members and others in the University community, as stated in the Syllabus of Campus-Wide Committees and the Bylaws of the Board of Regents (Section 2.12.1).

1.1.3 The ARRC has other responsibilities assigned from time to time by the Faculty Senate, including but not limited to those set forth in UNL Bylaw 3.4.1.2 3.1.5.2 “Other Responsibilities of the ARRC”.

1UNL Bylaw 3.4.1.2 3.1.5.2 sets forth these additional responsibilities:
3.4.1.2.1 A. To determine whether and to what extent recommendations of Special Committees convened by the chair of the ARRC to hear particular cases have been acted upon, and to report on the status of ARRC cases to the President of the Faculty Senate.
3.4.1.2.2 B. To provide for an effective process in representing the academic rights and responsibilities of the faculty including, but not limited to, those related to suspension in anticipation of dismissal and cancellation of presentations by properly invited speakers.
3.4.1.2.3 C. To act with respect to matters of general policies concerning academic freedom and tenure.
3.4.1.2.4 D. To recommend actions to appropriate bodies in order to ensure academic rights and responsibilities of faculty members.
3.4.1.2.5 E. To communicate to all members of the University community appropriate channels for conveying and dealing with concerns about actual or perceived violations of faculty rights and responsibilities.
3.4.1.2.6 F. To propose to the Faculty Senate changes in operating procedures and guidelines for each of the Special Committees in accord with relevant provisions of the Bylaws of the Board of Regents.
3.4.1.2.7 G. To submit committee minutes and make an annual report to the Faculty Senate, while maintaining confidentiality concerning individual cases.
Chapter 4 of the Regents’ Bylaws authorizes the faculty governing agency of each major administrative unit to create a faculty Grievance Committee, a faculty Committee on Academic Freedom and Tenure, and a faculty Professional Conduct Committee. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special Committees established under the aegis of the ARRC. A description of the committees can be found in the Syllabus of Campus-Wide Committees of the Faculty Senate, available from the Faculty Senate Office and on the Faculty Senate website.

This document (“ARRC Procedures”) indicates how complaints are to be received by the ARRC, assessed by it for sufficiency and jurisdiction, and transmitted to a Special Committee.

Other documents indicate how a complaint is to be handled after it has been transmitted to a Special Committee. Those documents are:

1.2.1 **Code of Procedures for Special AFT-A Committees**, applicable to Special Academic Freedom and Tenure Committees considering complaints by a member of the professional staff alleging that action taken or threatened violates the complainant’s academic freedom or academic tenure;

1.2.2 **Code of Procedures for Special AFT-B Committees**, applicable to Special Academic Freedom and Tenure Committees considering complaints in which the President or the Board of Regents seeks to terminate a faculty member’s Continuous Appointment or a faculty member’s Special or Specific-Term Appointment prior to its termination date;

1.2.3 **Code of Procedures for Special PC-A PC Committees**, applicable to Special Professional Conduct Committees investigating complaints charging a member of the professional staff with professional misconduct other than misconduct as defined by Federal Misconduct in Science Regulations, complaints against UNL as an institution seeking institutional action as a remedy to alleged discrimination, and complaints alleging that the complaining member of the professional staff has been wrongly accused of professional misconduct;

1.2.4 **Code of Procedures for Special Grievance Committees**, applicable to Special Grievance Committees considering complaints by a faculty member alleging a grievance not governed by any of the Codes of Procedures identified in Sections 1.2.1 to 1.2.3.

1.2.5 **Allegation of Professional Misconduct in Science** should be submitted to the Office of the Vice Chancellor for Research and Economic Development. Charges of research misconduct are governed by the “University of Nebraska-Lincoln Policy on Procedures for Responding to Allegations of Research Misconduct” approved by the University of Nebraska Board of Regents, December 2, 2010.

The rules for determining applicability of these Codes of Procedures are set out in Section 5 of this document.

Any person contemplating filing a complaint with the ARRC should first consult not only this document, but also the Codes of Procedures for the various Special Committees, and, in appropriate circumstances, the relevant UNL policies pertaining to unlawful discrimination, sexual harassment, or other prohibited behavior “Policy and Procedures on Unlawful Discrimination, Sexual Harassment, or Other Prohibited Behavior” administered by the UNL Office of Institutional Equity and Compliance (IEC) or its successor if that office is renamed. Access and Diversity Programs (EAD).

All of these documents in their current form are available from the Faculty Senate Office and on the Faculty Senate website. For information and advice concerning these procedures, contact the Chair of the ARRC.
1.3 Academic Rights and Responsibilities. All professional staff (including administrators and faculty members) of the University of Nebraska are entitled to enjoy and to exercise, without penalty, all the rights of an American citizen and the rights of academic freedom as specified in Regents Bylaw 4.2. It is essential to the University that all administrators and professional staff exercise and respect the exercise of these rights by others, and uphold the attendant responsibilities outlined in Regents Bylaw 4.1.

1.4 Duty of University Officials to Investigate and To Take Action on Known or Alleged Discrimination. University officials have a duty promptly to investigate and to take appropriate action on all known or alleged incidents of illegal discrimination. University officials in this context shall be defined as any individual employed by UNL with job authority or responsibility to

1.4.1 supervise, hire, assign or reassign responsibilities;
1.4.2 recommend or grant promotion or demotion; and/or
1.4.3 recommend or take any disciplinary or corrective actions.

2. DEFINITIONS
As used in this document, unless the context otherwise requires:

2.1 Chancellor shall mean the Chancellor of UNL.

2.2 Days shall mean days on which University offices are open for business.

2.3 Business Days shall mean days on which University offices are open for business and are not marked as vacation or holiday days for students or faculty on UNL’s academic calendar.

2.34 EAD IEC shall mean the UNL Office of Institutional Equity and Compliance. Access and Diversity Programs

2.45 Faculty Member shall mean any staff member of UNL holding the academic rank of lecturer or above or equivalent rank (Regents’ Bylaws 3.1.1.1 and 4.4).

2.56 Federal Misconduct in Science Regulations shall mean regulations covering misconduct in federally sponsored scientific research, particularly, but not exclusively, that funded by the Public Health Service. The Office of the Vice Chancellor for Research and Economic Development provides guidance concerning which projects may be covered by these regulations and oversees cases involving allegations of research misconduct.

2.67 In Writing and Written, when used to describe a communication, shall mean that the communication so described shall be either a paper document signed by the sender or an electronic communication that can be readily accessed by the sender and by the recipient.

2.78 Parties shall mean the complainant(s) and the respondent(s).

2.89 President shall mean the President of the University of Nebraska and shall include the authorized representative of the President. The President shall not extend such authorization to the Chancellor or staff members of any campus of the University.

2.910 Professional Staff shall mean all UNL personnel defined as professional staff by Regents’ Bylaw 3.1.1.
2.11 **Academic Staff Member** shall be any individual holding an academic appointment. These appointments include faculty members holding the academic rank of assistant instructor and above, or other formally approved ranks, as referenced in Section 3.1.1.1 of Regents’ Bylaws, as well as other academic staff members with the rank of postdoctoral research associate, research associate, research assistant, graduate assistant, graduate teaching assistant, or teaching fellow as referenced in Section 3.1.1.2 of Regents’ Bylaws).

2.12 **Section**, unless otherwise noted, refers to a section of this document, ARRC Procedures.

2.13 **Vice Chancellor for Research** shall mean the Vice Chancellor for Research and Economic Development of UNL and shall include the authorized representative of the Vice Chancellor. The Vice Chancellor shall not extend such authorization to Deans with collegiate or divisional responsibility or to a staff member of any such college or division.

3. **THE ARRC AND THE ARRC PANEL**

3.1 **Membership of the ARRC.** The ARRC shall be composed of five tenured faculty members elected for staggered three-year terms by and from the Academic Assembly\(^\text{12}\), and if appointed by the President of the Faculty Senate in accordance with the Syllabus of Campus-Wide Committees, a non-voting liaison member. At the time of their election, no two members of the Committee shall have a primary academic appointment in the same college or division of UNL. No member of the faculty who holds any administrative appointment (including that of department chair or head or equivalent) shall be eligible to serve as a member of the Committee during the term of such administrative appointment. Committee members may succeed themselves. The Chair and Vice-Chair of the ARRC shall be elected annually by the ARRC.

3.1.1 **Voting.** The ARRC may take action only on concurrence of at least three members of the ARRC. The Chair of the ARRC may vote.

3.1.2 **Closed Meetings.** Meetings of the ARRC are not open to the public.

3.1.3 **Conflict of Interest for Members of the ARRC.** Conflict of interest occurs when a member of the ARRC

3.1.3.1 is in the same department or equivalent unit as a party; or
3.1.3.2 answers directly to a party; or
3.1.3.3 has a direct voice in the salary or working conditions of a party; or
3.1.3.4 has, or reasonably appears to have, a personal interest in the case or its outcome; or
3.1.3.5 has provided counsel or assistance to a party relating to the case; or
3.1.3.6 has participated in the efforts of an organization to provide counsel or assistance to a party relating to the case; or
3.1.3.7 has any other relationship with a party that might prevent impartiality.

When a member of the ARRC has a conflict of interest, the member shall voluntarily withdraw from participation in matters related to that case. When a member of the ARRC is alleged to have a conflict of interest and does not voluntarily withdraw, the other members of the ARRC shall review the allegation and, if a conflict of interest is found by a majority of the other members of the ARRC, shall bar that person from further participation in matters related to that case. If more than one member of the ARRC withdraws or is barred, the President of the Faculty Senate shall appoint experienced temporary replacements for matters related to that case.

\(^{12}\)Rules governing eligibility and representation are set forth in the Syllabus of Campus-Wide Committees of the Faculty Senate.
3.2 Membership of the ARRC Panel. Each year the Academic Assembly shall elect 12 faculty members to three-year terms on the ARRC Panel. Of the 36 panel members, 32 must be tenured faculty and 4 must be faculty extension educators with equivalent rank of associate or full professor. Panel members may succeed themselves.

Each year the Academic Assembly shall elect 12 faculty members to three-year terms on the ARRC Panel. Of the 36 panel members, 28 must be tenured faculty, 4 must be faculty extension educators with equivalent rank of associate or full professor, and 4 must be non-tenure track faculty other than extension educators with equivalent rank of associate or full professor. No member of the faculty who holds any administrative appointment (including that of department chair or head or equivalent) shall be eligible to serve as a member of the ARRC Panel during the term of such administrative appointment. Panel members may succeed themselves.

3.3 Membership of Special Committees and of the Special Resource Group.

3.3.1 The Chair of the ARRC is charged with selecting the members of any Special Committees that are convened. The members of these committees are chosen from the Academic Rights and Responsibilities (ARR) Panel. To the extent possible, assignment to Special Committees shall be based on a fair distribution of ARR Panel members by college, discipline, ethnicity, gender, and experience, taking account of recent service on past Special Committees. The Chair of the ARRC will determine which ARR Panel members are in their final year of service and communicate that information to the Faculty Senate Coordinator so that the Faculty Senate Committee on Committees can arrange an election for the succeeding year that will return an ARR Panel sufficiently diverse to ensure that Special Committees will be broadly representative of the faculty.

3.3.2 Special Committees convened as Special AFT-A or Special AFT-B Committees shall be composed only of tenured or tenure-leading faculty members.

3.3.3 If an extension educator is a party to a case being considered by a Special Grievance Committee or a Special Professional Conduct Committee, the Special Committee should include an extension educator from the ARR Panel, if possible. If one of the parties to a case before a Special Grievance Committee or a Special Professional Conduct Committee is a non-tenure-track faculty member other than an extension educator, the Special Committee should include a non-tenure-track faculty member other than an extension educator, if possible.

3.3.4 If a member of a Special Committee has to withdraw from the Committee because of illness, time-constraints, or other good cause, the Chair of the ARRC will identify an appropriate replacement among ARR Panel members who are not serving on another Special Committee at the time of the withdrawal.

3.3.5 Allegations of illegal discrimination and harassment should be submitted to the office of Institutional Equity and Compliance (IEC). Charges of illegal discrimination and harassment are governed by the UNL “Policy and Procedures on Unlawful Discrimination, Including Sexual and Other Prohibited Harassment” administered by the IEC. If a party to a case of illegal discrimination and harassment feels that the IEC has misinterpreted the relevant statutes or reached an inappropriate conclusion, that party may file a grievance with the ARRC as described in section 4 of these procedures.

Early in the fall semester of each academic year the ARRC shall designate six members of the ARRC Panel for each of four Special Committees, a reserve group to serve on special committees if needed and
for a Special Resource Group. At least one member of the Special Resource Group shall be an Extension Educator. To the extent possible, assignment to Special Committees and to the Special Resource Group shall be based on a fair distribution of ARRC Panel members by college, discipline, ethnicity, gender, and experience with cases involving academic freedom and tenure, grievance, or professional conduct. As soon as possible thereafter, the Chair of the ARRC shall determine which members of the ARRC Panel have terms that will expire at the end of the current year. The Chair of the ARRC shall then assess the distributional needs for constructing Special Committees and the Special Resource Group for the succeeding year as set forth in this Section 3.3.1, provide that information to the Chair of the Committee on Committees, and work with the Committee on Committees on behalf of the ARRC to ensure that the election for the succeeding year will return an ARRC Panel sufficiently diverse that Special Committees and the Special Resource Group will be broadly representative of the faculty.

3.3.2 Each Special Committee shall be assigned a number from 1 to 4. Cases shall be assigned to the Special Committees in numerical order. Only when the ARRC decides to convene a Special Committee as provided in Section 5 shall its membership be announced and its Chair and Vice Chair elected.

3.3.3 If a Special Committee to be convened as a Special AFT-A Committee or a Special AFT-B Committee includes an extension educator, that extension educator shall be ineligible to serve and shall be replaced on the Special Committee as provided in Section 3.3.5.

3.3.4 If a Special Committee to be convened as a Special Grievance Committee as a Special Professional Conduct-A Committee, to consider a case to which an extension educator is a party does not include an extension educator, the Chair of the ARRC shall by lot identify one member of the Special Committee to be replaced by an extension educator as provided in Section 3.3.5.

3.3.5 If any member of a Special Committee is ineligible or unable to serve, the Chair of the ARRC prior to the commencement of the Special Committee Hearing may appoint an eligible temporary substitute from the ARRC Panel. If no member of the ARRC Panel is available, the ARRC with the approval of the Executive Committee of the Faculty Senate may appoint an eligible temporary substitute from faculty members with experience as an elected member of ARRC or as a member of a Special Committee.

3.3.6 If a Special Committee to be convened as a Special PC-A Committee is to hear a discrimination complaint filed by other than a member of the Academic/Administrative or Other Academic Staff, the Special PC-A Committee shall be augmented by the addition of three members of the committee to which the complaint would have been referred had the complainant been formally charged under the UNL “Policy and Procedures on Unlawful Discrimination, Including Sexual and Other Prohibited Harassment.” If the additional members are to be students or staff members, the Chair of the ARRC shall consult with the chair of the committee from which the augmenting members are to be drawn before making the selections. Students or staff added to a Special PC-A Committee may participate fully in the opinion of the students or staff added to the Special PC-A Committee differs from that of the regular members of the Special PC-A Committee, their opinion and the rationale for that opinion shall be included in the report of the Special PC-A Committee.

3.4 Functions of the Special Resource Group. Members of the Special Resource Group may be appointed by the ARRC to perform the following functions:

3.4.1 to serve as Special Conciliators;
3.4.2 to serve as a resource when person seeking relief under these procedures need advice or help in focusing issues or drafting formal complaints;
3.4.3 to consult with the administration concerning possible summary suspensions under Section 7;
3.4 Other Functions of ARR Panel Members. ARR Panel members may be appointed by the ARRC to perform the following functions:

- 3.4.1 to serve as Special Conciliators or ARRC observers; or
- 3.4.2 to serve as a resource when persons seeking relief under these procedures need advice or help in focusing issues or drafting formal complaints;
- 3.4.3 to consult with the administration concerning possible summary suspensions under section 7.1.

3.5 Communications. The Chair of the ARRC receives communications for the ARRC and speaks for it. All communications with the ARRC shall be addressed or redirected to the Chair of the ARRC. Other members of the ARRC should discourage contacts outside the regular process, and should direct those who make them to the Chair of the ARRC.

3.6 Dissemination of Personnel Information. Service on the ARRC makes members privy to sensitive information and allegations involving the personal and professional lives of members of the University community. UNL Bylaw 2.9 2.10 describes limitations on the collection and dissemination of personnel information. In addition, Federal Regulations Governing Misconduct in Science require great care to protect the interests of informants and the accused. Some information received by members of the ARRC may be protected by this Bylaw and these regulations. Violators of these requirements could be subject to sanctions for professional misconduct.

3.7 General Responsibilities of the Chair of the ARRC. The responsibilities of the Chair of the ARRC include:

- 3.7.1 convening and presiding over meetings of the ARRC;
- 3.7.2 serving as contact person and spokesperson for the ARRC;
- 3.7.3 employing informal methods of dispute resolution under Section 4.1;
- 3.7.4 reporting results of ARRC and Special Committee elections, and reporting ARRC and Special Committee vacancies requiring replacements under Section 3.1.3 or Section 3.3.5 4, to the President of the Faculty Senate;
- 3.7.5 maintaining committee files and protecting confidential material;
- 3.7.6 reporting to the Committee on Committees which members of the ARRC Panel will be leaving the Panel, and working with the Committee on Committees on behalf of the ARRC to identify prospective nominees for the ARRC Panel who would satisfy the membership criteria set out in Section 3.3.1;
- 3.7.7 ensuring that Special Committees are properly instructed about hearing procedures at the beginning of a case;
- 3.7.8 appointing substitutes to serve on Special Committees when vacancies occur, as provided in Section 3.3.5 3.3.4;
- 3.7.9 advising persons alleging misconduct in science to make the allegation to the Vice Chancellor for Research and Economic Development. Select and appoint an ARRC Observer if a party to an inquiry into an incidence of scientific misconduct expresses a desire to have an ARRC Observer. The Chair of the ARRC also is a voting member of the Conflict of Interest in Research Committee (CIRC) in the Office of the Vice Chancellor for Research and Economic Development;
- 3.7.10 ensuring that the ARRC conducts the follow up activities specified in Section 8;
- 3.7.11 ensuring that the Faculty Senate Office and Faculty Senate website have available complete and current copies of the ARRC Procedures and the Codes of Procedures for the various Special Committees; and
3.7.12 keeping accurate records of expenditures for activities of the ARRC and arranging for reimbursements from the Chancellor’s office; and.

3.7.13 insuring that the chairs or heads and deans of faculty serving on Special Committees are informed of their faculty member’s service.

3.8 Observer. The ARRC may appoint an Observer to observe the process of a Special Committee and to report concerns to the Chair of the ARRC. The Chair of the ARRC may also be asked to appoint an ARRC Observer for cases of scientific misconduct being investigated by the Office of Research and Economic Development. The role of Observer is open to anyone who:

3.8.1 is a member of the UNL Professional Staff (Regents Bylaw 3.1.1) and eligible for election to the UNL Faculty Senate (UNL Bylaw 3.1.41);
3.8.2 does not serve in the same department or equivalent unit with any party, witness, or Special Committee member;
3.8.3 has no other relationship with a member of the Special Committee that might create, or reasonably appear to create, a conflict of interest for that Special Committee member;
3.8.4 does not answer directly to a party or a witness;
3.8.5 has no direct voice in the salary or working conditions of a party or a witness;
3.8.6 does not have, and does not reasonably appear to have, a personal interest in the case or in its outcome;
3.8.7 has not provided counsel or assistance to either party relating to the complaint; and
3.8.8 has no other relationship with a party, organization, or a witness that might interfere with the investigative process or prevent the person from impartially carrying out the duties of Observer.

3.8.9 The Role of the ARRC Observer in AFT, Professional Misconduct, and Grievance Cases: The ARRC Observer is expected to attend the pre-hearing conference and the hearing conducted under the procedures described in the ARRC documents for AFT, Professional Misconduct, and Grievance cases. The ARRC Observer should introduce himself or herself at the time of the pre-hearing conference and the hearing and explain that the role of the ARRC Observer is to act as a neutral observer of the proceedings and to report any irregularities or concerns to the chair of the ARRC. The ARRC Observer is not expected to participate in the discussions at the pre-hearing conference and hearing except as they pertain to scheduling or other non-substantive issues. During the hearing, the ARRC Observer will sit in the audience behind the two parties. The Chair of the Special Committee will include the ARRC Observer in the distribution of material and communications (including email messages) relevant to the proceedings prior to the commencement of the Special Committee deliberations. The ARRC Observer will observe all confidentiality requirements as stipulated in the ARRC procedures.

3.8.10 The Role of the ARRC Observer in Inquiries Concerning Scientific Misconduct (ORED): An ARRC Observer shall be present throughout the Inquiry and/or Investigation process, unless declined in writing by the respondent. The ARRC Observer shall not have voting rights, shall keep all information from the process confidential, and shall not participate in any way in the process. As a prerequisite to serving in this role, the ARRC Observer shall sign a written confidentiality agreement to ensure non-disclosure. The Observer is responsible for reporting any concerns about the process to the Research Integrity Officer (RIO) during the Research Misconduct process. After the entire process is complete, the ARRC Observer shall report to the ARRC Chair regarding completion and general information about the process to handle the allegation.

3.9 Members of ARRC, Special Committees, the Special Resource Group and Other Participants Protected by Regents’ Bylaw Section 6.8. Participation in the work of the ARRC, and the Special Committees shall be deemed part of the duties of faculty members and thus subject to the protections afforded by Section 6.8 of the Regents’ Bylaws. Special Committees, and the Special Resource Group shall
be deemed part of the duties of faculty members and thus subject to the protections afforded by Section 6.8 of the Regents Bylaws.

3.10 ARRC Attorney.

3.10.1 Because of potential conflicts of interest, the ARRC shall not seek or accept advice from anyone to whom a party is answerable or who may be in a position of giving advice or legal counsel to a party or to any person or body that may later act on a Report of a Special Committee.

3.10.2 The ARRC may select and hire an independent attorney, subject to the approval of the General Counsel of the University and the President of the Faculty Senate. Bills for the attorney’s services shall be processed through the office of the General Counsel of the University.

4. PROCEDURES FOR INITIATING ACTIONS BY THE ARRC

Initial contacts with the Chair of the ARRC usually are informal and confidential. However, the Chair of the ARRC may be obligated to report certain information, including, but not limited to known or alleged incidents of illegal discrimination and known or alleged violations of Federal Misconduct in Science Regulations.

The ARRC shall oversee the process of and render judgment pertaining to the imposition of an immediate suspension/administrative leave of absence by an administrative officer on an academic professional staff member. In all other instances, the ARRC itself shall not investigate the substance of complaints or conduct hearings. No formal action to initiate Special Committee proceedings shall be taken by the ARRC unless a Formal Written Complaint is filed by the person seeking relief and is approved by the ARRC under Section 4.6.

When initially approached by a complainant person seeking relief under these procedures, the Chair of the ARRC first shall determine whether the allegations potentially are governed by Federal Misconduct in Science Regulations, and if so, shall refer the complainant to the Vice Chancellor for Research and Economic Development.

4.1 Informal Efforts to Resolve Disputes.

4.1.1 If the allegations are not governed by Federal Misconduct in Science Regulations, the Chair of the ARRC shall explain available options for informal resolution of the problem. Because the formal dispute resolution procedures are time-consuming and burdensome, it is always better to find informal solutions rather than to follow the procedures for Formal Written Complaints. Informal efforts to resolve conflict may include, including the following:

4.1.1.1 With the permission of the complainant and after notice to the person(s) with whom conciliation is sought, the Chair of the ARRC may attempt an informal conciliation;

4.1.1.2 With the permission of the complainant and after notice to the person(s) with whom conciliation is sought, the ARRC may appoint a member of the Special Resource Group ARR Panel to attempt an informal conciliation;

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23Initial allegations of misconduct potentially governed by Federal Misconduct in Science Regulations should be made to the Vice Chancellor for Research and Economic Development. If someone instead approaches the Chair of the ARRC with allegations potentially governed by Federal Misconduct in Science Regulations, the Chair of the ARRC shall consult with the Vice Chancellor for Research and Economic Development to determine whether Federal Misconduct in Science Regulations apply. If they do apply, the Chair of the ARRC shall refer the person making the allegations to the Vice Chancellor for Research and Economic Development. The Vice Chancellor for Research and Economic Development is then obligated
to conduct an inquiry in accordance with the “University of Nebraska-Lincoln Policy and Procedures for Responding to Allegations of Research Misconduct.” The university policies and procedures concerning research misconduct are available from the Office of the Vice Chancellor for Research and Economic Development and are posted on the Faculty Senate website.

4.1.1.3 With the permission of the person seeking relief, complainant and the person against whom relief is sought, the ARRC may request that the Chancellor appoint a professional mediator (if the Chancellor approves the appointment of a paid mediator, the Chancellor shall designate funds for this service);

4.1.1.4 Where applicable, the person seeking relief, complainant may pursue the informal and formal procedures set forth in the relevant UNL policies pertaining to unlawful discrimination, sexual harassment, or other prohibited behavior “UNL Policy and Procedures on Unlawful Discrimination, Including Sexual and Other Prohibited Harassment”;

4.1.1.5 Where applicable, the person seeking relief, complainant may seek relief in another forum;

4.1.1.6 The person seeking relief, complainant may consult a university ombudsperson if such a person is available;

4.1.1.7 The person seeking relief, complainant may submit a Formal Written Complaint to the ARRC as provided in Section 4.2. When explaining this option to the person seeking relief, complainant, the Chair of the ARRC shall direct the attention of the person seeking relief, complainant to these ARRC Procedures and the Codes of Procedures of the various Special Committees, and shall offer to appoint a member of the Special Resource Group to assist the person seeking relief in focusing the issues and in preparing the Formal Written Complaint an adviser drawn from the ARR Panel to assist the person seeking relief, complainant in focusing the issue and in preparing the Formal Written Complaint.

4.1.2 Any other action under these procedures shall be suspended pending the outcome of any conciliation or mediation efforts undertaken under 4.1.1.1, 4.1.1.2, or 4.1.1.3. However, the person seeking relief may pursue the informal and formal procedures set forth in “UNL Policy and Procedures on Unlawful Discrimination, Including Sexual and Other Prohibited Harassment” either before or concurrently with any action under these procedures.

4.2 Formal Written Complaints.

4.2.1 Mandatory Elements of Formal Written Complaints. A Formal Written Complaint shall contain the following mandatory elements:

4.2.1.1 a clear and concise statement identifying each complainant and each complainant’s mailing address and telephone number;

4.2.1.2 a clear and concise statement identifying the person(s) against whom the complaint is made;

4.2.1.3 a clear and concise statement outlining the facts giving rise to the complaint;

4.2.1.4 a clear and concise statement identifying the relevant standards the complainant thinks should be used to evaluate the complaint;

4.2.1.5 a clear and concise statement identifying how the complainant thinks the relevant standards have been violated;

4.2.1.6 a clear and concise statement of the remedy, sanction, or other personal relief or institutional change the complainant seeks, and from whom;

4.2.1.7 a clear and concise statement of the type of Special Committee the complainant thinks to be appropriate; and

4.2.1.8 if the Formal Written Complaint is filed by the Vice Chancellor for Research and Economic Development alleging violation of Federal Misconduct in Science Regulations,
identification of the relevant Federal Regulations and the Federal procedures and deadlines the
Vice Chancellor for Research and Economic Development thinks to be applicable.

4.2.2 Jurisdiction of Special Committees to Hear Formal Written Complaints. The ARRC
Special Committees have jurisdiction to consider the following Formal Written Complaints:

4.2.2.1 A Formal Written Complaint filed with the Chair of the ARRC by a member of the
professional staff alleging that action taken, or threatened, violates the complainant’s academic
freedom or academic tenure (AFT-A);

4.2.2.2 A Formal Written Complaint filed with the Chair of the ARRC by the President or by the
Board of Regents under Regents’ Bylaw 4.14.2 seeking to terminate the appointment of a faculty
member (AFT-B);

4.2.1 Mandatory Elements of Formal Written Complaints. Formal Written Complaints must be
written clearly and concisely. Poorly written complaints that are confusing or unclear may lead to a
decision not to convene a special committee to hear the complaint. Formal Written Complaints shall
contain the following Mandatory Elements:

4.2.1.1 A clear and concise statement identifying each complainant and each complainant’s
mailing address and telephone number;

4.2.1.2 A clear and concise statement identifying the person(s) against whom the complaint is
made;

4.2.1.3 A clear and concise statement outlining the facts giving rise to the complaint;

4.2.1.4 A clear and concise statement identifying the relevant standards of the complainant
thinks should be used to evaluate the complaint;

4.2.1.5 A clear and concise statement identifying how the complainant thinks the relevant
standards have been violated;

4.2.1.6 A clear and concise statement of the remedy, sanction, or other personal relief or
institutional change the complainant seeks, and from whom;

4.2.1.7 A clear and concise statement of the type of Special Committee the complainant thinks
to be appropriate; and

4.2.1.8 If the Formal Written Complaint is filed by the Vice Chancellor for Research and
Economic Development alleging violation of Federal Misconduct in Science Regulations,
identification of the relevant Federal Regulations and the Federal procedures and deadlines the
Vice Chancellor for Research and Economic Development thinks to be applicable.

4.2.2 Jurisdiction of Special Committees to Hear Formal Written Complaints. The ARRC
Special Committees have jurisdiction to consider the following Formal Written Complaints:

4.2.2.1 A Formal Written Complaint filed with the Chair of the ARRC by a member of the
professional staff under Regents’ Bylaw 4.15.2(a) alleging that action taken, or threatened,
violates the complainant’s academic freedom or academic tenure (AFT-A);

4.2.2.2 A Formal Written Complaint filed with the Chair of the ARRC by the President or by the
Board of Regents under Regents’ Bylaw 4.14.2 seeking to terminate the appointment of a faculty
member or as authorized in Regents’ Bylaws 4.13.4.2 4.7.4.1 imposing an
administrative leave of absence through the end of an academic specific-term or special appointment period (AFT-B);

4.2.2.3 A Formal Written Complaint filed with the Chair of the ARRC under Regents’ Bylaw 4.16 charging a member of the professional staff with professional misconduct or unlawful discrimination, including sexual and other prohibited harassment (PC-A PC);

4.2.2.4 A Formal Written Complaint filed with the Chair of the ARRC by a member of the professional staff charging that the complainant has been wrongly accused of professional misconduct (PC-A PC);

4.2.2.5 Allegations of illegal discrimination and sexual misconduct should be submitted to the Office of Institutional Equity and Compliance (IEC). Charges of illegal discrimination and sexual misconduct are generally initially governed by the IEC. The IEC may forward an unlawful discrimination or sexual misconduct complaint against a professional staff member to the ARRC under Regents’ Bylaws Section 4.16 (PC). If a faculty member who is party to a case of illegal discrimination and sexual misconduct feels that the IEC has misinterpreted the relevant statutes or reached an inappropriate conclusion, that faculty member may file a complaint with the ARRC under Regents’ Bylaws Section 4.14 (Grievance).

4.2.2.5 A Formal Written Complaint filed with the EAD IEC and forwarded by that office to the Chair of the ARRC charging a member of the professional staff with professional misconduct or unlawful discrimination, including sexual and other prohibited harassment (PC-A PC);

4.2.2.6 A Formal Written Complaint filed with the Chair of the ARRC against UNL as an institution seeking institutional action as a remedy to alleged discrimination (PC-A PC);

4.2.2.7 A Formal Written Complaint against UNL as an institution which has been filed with the EAC IEC and forwarded by that office to the Chair of the ARRC, seeking institutional action as a remedy to alleged discrimination (PC-A PC);

4.2.2.8 A Formal Written Complaint filed with the Chair of the ARRC under Regents’ Bylaw 4.14 by a faculty member alleging any other grievance (Grievance).

4.3 Formal Written Complaints Stating a Claim or Claims within the Jurisdiction of More than One Special Committee. If the Formal Written Complaint states a claim or claims for which relief might be granted under more than one Code of Procedures, the following rules shall apply:

4.3.1 If the Formal Written Complaint was filed by the President or by the Board of Regents under Regents’ Bylaw 4.14.2 4.15.2 (b) seeking to terminate the appointment of a faculty member, the Formal Written Complaint shall be assigned to a Special AFT-B committee and the Code of Procedures for AFT-B shall be applicable;

4.3.2 If the Formal Written Complaint includes an allegation that action taken, or threatened, violates the complainant’s academic freedom or academic tenure under Regents’ Bylaw 4.15.2(a), the Formal Written Complaint shall be assigned to a Special AFT-A Committee and the Code of Procedures for AFT-A shall be applicable;

4.3.3 If the Formal Written Complaint includes a charge of professional misconduct against a member of the professional staff or a charge that a member of the professional staff has been wrongly accused of professional misconduct, but does not fall within Section 4.3.1 or 4.3.2, or 4.3.3, the Formal Written Complaint shall be assigned to a Special PC-A PC Committee and the Code of Procedures for Special PC-A PC Committees shall be applicable.

4.4 Discretion to Assign Two or More Complaints to a Single Special Committee. If two or more Formal Written Complaints before the ARRC at the same time involve common core issues that might efficiently and fairly be resolved in a single proceeding, the ARRC may, with the consent of all parties,
assign those Formal Written Complaints to a single Special Committee for resolution of the issues that are common to both and of those that are not.

4.5 Deadlines for ARRC Action on Formal Written Complaints.

4.5.1 If the Formal Written Complaint was filed by the President or by the Board of Regents under Regents Bylaw 4.14.2 4.15.2 (b) seeking to terminate the appointment of a faculty member, the ARRC immediately shall convene a Special AFT-B Committee as provided in Section 5.

4.5.2 If the Formal Written Complaint includes allegations of unlawful or unprofessional discrimination, the ARRC immediately shall:

4.5.2.1 provide a copy of the Formal Written Complaint to the EAD IEC for preliminary investigation of the allegations of discrimination; and

4.5.2.2 without waiting for the results of the EAD IEC preliminary investigation, decide whether to convene a Special Committee as provided in Section 4.5.4.6. In deciding whether to convene a Special Committee, the ARRC shall not consider the results of any EAD IEC preliminary investigation; if the ARRC decides to convene a Special Committee, the results of any EAD IEC investigation may be considered by the Special Committee.

4.5.3 Within 30 days after receipt of a Formal Written Complaint that does not fall within Sections 4.5.1 the ARRC shall either:

4.5.3.1 decide to convene a Special Committee as provided in Section 4.6 or decide not to convene a Special Committee as provided in Section 4.7, and notify each complainant in writing of its decision; or

4.5.3.2 determine that for good cause shown extenuating circumstances require a longer time for the decision requirement by Section 4.5.4.1 4.5.3, and notify each complainant in writing of its determination, of the reasons for the delay, and of the new deadline for taking the actions required by Section 4.5.4.1 4.5.3.

4.6 Decision to Convene a Special Committee under ARRC Bylaw Section 4.5.3. If the ARRC determines that the Formal Written Complaint that has been submitted to the ARRC for review:

4.6.1 satisfies the Mandatory Elements requirements of Section 4.2.1; and

4.6.2 states a claim within the jurisdiction of one or more Special Committees; and

4.6.3 states a claim which, if proven, could be sufficient to warrant a recommendation of relief or institutional change by an ARRC Special Committee; and

4.6.4 states a claim based in whole or in part on an alleged act or failure to act by a respondent that either

4.6.4.1 occurred within one year from the event(s) forming the basis of the Formal Written Complaint or before the complainant’s initial contact with the ARRC; or

4.6.4.2 could not with reasonable diligence have been discovered by a complainant more than within one year from the event(s) forming the basis of the Formal Written Complaint; year before the complainant’s initial contact with the ARRC; the ARRC shall convene an appropriate Special Committee as provided in Section 5.

4.7 Decision Not to Convene a Special Committee under ARRC Bylaw Section 4.5.3. If the ARRC determines that the Formal Written Complaint is unclear or confusing and

4.7.1 does not satisfy include clear and concise statements of the Mandatory Elements requirements of Section 4.2.1; or

4.7.2 does not state a claim within the jurisdiction of one or more Special Committees; or

4.7.3 does not state a claim which, if proven, could be sufficient to warrant a recommendation of relief or institutional change by an ARRC Special Committee; or
4.7.4 does not state a claim based in whole or in part on an alleged act or failure to act by a respondent
that either

4.7.4.1 occurred within one year from the event(s) forming the basis of the formal written
complaint, before the complainant’s initial contact with the ARRC, or

4.7.4.2 could not with reasonable diligence have been discovered by a complainant more than
within one year from the event(s) forming the basis of the formal written complaint: before the
complainant’s initial contact with the ARRC;

the ARRC shall not convene a Special Committee and shall notify each complainant in writing of its
decision and of the reasons for its decision, including feedback concerning suggested changes if the
complainant wishes to file an amended Formal Written Complaint.

4.8 Motions to Reconsider. A complainant dissatisfied with a decision of the ARRC not to convene a
Special Committee may, within 5 days after receipt of the decision, in writing request the ARRC to
reconsider.

4.8 Motions to Reconsider. A complainant dissatisfied with a decision of the ARRC not to convene a
Special Committee may, within 5 days after receipt of the decision, request in writing that request the
ARRC to reconsider. The request to reconsider should include justification for the request. The ARRC
shall complete its reconsideration within 30 days and notify each complainant in writing of its
decision and the reasons for the decision.

4.9 Amended Formal Written Complaints. If the ARRC decides not to convene a Special Committee on
the grounds that the Formal Written Complaint does not satisfy the Mandatory Elements requirements
of Section 4.2.1, it may, if requested by a complainant, appoint a member of the Special Resource
Group to assist the complainant in focusing the issues and in preparing an amended Formal Written
Complaint.

4.9 Amended Formal Written Complaints. If the ARRC decides not to convene a Special Committee on
the grounds that the Formal Written Complaint does not satisfy the Mandatory Elements requirements
of Section 4.2.1, it may, if requested by a complainant, appoint a member of the ARR Panel to assist the
complainant in focusing the issues and in preparing an amended Formal Written Complaint. Amended
Formal Written Complaints must be submitted within 30 days of receipt of the notice that the original
complaint does not satisfy the requirements in Section 4.2.1. They will be dealt with following the
procedures set out in Section 4.5.3, 4.6, 4.7, and 4.8.

*See Section 3.3. of the UNL Policy and Procedures on Unlawful Discrimination, Including Sexual and
Other Prohibited Harassment: Within 15 working days of the receipt of the complaint from either the
complainant or the hearing committee, the EAD shall determine through a preliminary investigation
whether if finds a basis for a complaint under this policy. The results of this investigation shall be
presented to the complainant, the respondent, and the hearing committee. The hearing committee may
consider the preliminary investigation report as evidence at the hearing.
4.10 Finality of ARRC Decisions n Not to Convene a Special Committee. If no complainant files an amended Formal Written Complaint or requests reconsideration, or if the ARRC decides not to convene a Special Committee after considering an amended Formal Written Complaint or a request for reconsideration, the decision not to convene a Special Committee shall be final.

5. CONVENING SPECIAL COMMITTEES

5.1 Convening a Special Committee. When the ARRC decides to convene a Special Committee, the Chair of the ARRC shall:

5.1.1 ascertain whether the predesignated potential members of the Special Committee satisfy the membership requirements for a Special Committee of that type; and if not, appoint substitutes as provided in Section 3.3.5;

5.1.2 ascertain from the predesignated member of the Special Committee whether they potential members of the Special Committee from the ARR Panel are available to serve and whether their participation would present a conflict of interest; a predesignated member of the Special Committee cannot serve, appoint a substitute as provided in Section 3.3.5;

5.1.3 convene the Special Committee, provide the applicable Code of Procedures to the members of the Special Committee and to the ARRC Observer, if any, discuss the applicable Code of Procedures with the Special Committee, preside over the election of the Chair of the Special Committee, and, without further commentary or discussion, present the complaint to the Special Committee;

5.1.4 forward names as follows:

5.1.4.1 If the Special Committee is an AFT-B Committee, forward the name of the Chair of the AFT-B Special Committee to the President of the University of Nebraska, to the Chancellor, and to the Faculty Senate President;

5.1.4.2 In all other instances, forward the names of the parties and their departments and the name of the Chair of the Special Committee to the Faculty Senate President and to the Chancellor, or if the Chancellor is a party, to the President of the University of Nebraska.

5.2 Agreement Reached Informally. If, after a matter is brought to the ARRC, it is resolved by mutual agreement among the parties, the complainant shall file a written notice that a resolution has been reached with the Chair of ARRC, and if a Special Committee has been convened, with the Chair of the Special Committee. Any party to a written agreement signed by each of the parties may file a copy of the written agreement with the Chair of the ARRC. The Chair of the ARRC shall deliver the written agreement to the Coordinator of the Faculty Senate for inclusion in the ARRC archives in the Faculty Senate Office under specified conditions of access.

5.3 Academic Advisors. Each party is entitled to, but not required to, have an Academic Advisor. Each party shall submit a request for an Academic Advisor, indicating who will serve in this capacity, to the Special Committee Chair. The purpose of an Academic Advisor is to accompany and consult privately with the party at the Pre-Hearing Conference and the Investigative Hearing. The Academic Advisor may also respond to questions from the Special Committee Chair, and may address procedural questions to the Special Committee Chair, but under ordinary circumstances may not otherwise participate in proceedings.

6. ADHERENCE TO PROCEDURES

6.1 If a party has good reason to believe that a Special Committee is out of compliance with applicable procedures, the matter should be brought to the attention of the Chair of the Special Committee. Procedural questions that the Chair of the Special Committee cannot resolve promptly and that are so important that failure to resolve them would undermine the credibility of the Special Committee may be referred by the Chair of the Special Committee or by a party to the ARRC for resolution. The ARRC shall resolve the issues after obtaining the views of the parties and of the Special Committee.
The Chair of the ARRC shall inform the parties and the Special Committee of the ARRC decision and direct them to follow the decision.

6.2 If a party has good reason to believe that the ARRC is out of compliance with these procedures, the matter should be brought to the attention of the Chair of the ARRC. If the Chair cannot resolve the question quickly and informally after consultation with all parties, it should be presented to the President of the Faculty Senate as the guarantor of the procedures.

7. ROLE OF ARRC IN ADMINISTRATIVE LEAVES OF ABSENCE SUMMARY SUSPENSIONS IN ANTICIPATION OF DISMISSAL AND SPEAKER CANCELLATIONS

7.1 Any suspension or administrative leave of absence of an professional academic staff member by an administrative officer not resulting from the outcome of a Special Committee hearing must be informally reviewed by the ARRC as specified under UNL Bylaws section 3.15.2 (e) 3.1.5.2 (c) in “Other Responsibilities of the ARRC.” What constitutes an immediate suspension administrative leave and under what circumstances an immediate suspension administrative leave of absence may be applied are outlined in Regents’ Bylaws Section 4.137 4.7 (“Administrative Leave of Absence, Sanctions, Suspensions, and/or Termination of a Professional Staff Member: Definition”). The role of the ARRC is to oversee and assess the validity of an imposed immediate suspension administrative leave of absence on an professional academic staff member by an administrative officer. The procedures for the ARRC to follow for reviewing an immediate suspension administrative leave of absence are specified under Regents Bylaw section 4.13.28 4.7.2 (“Procedures for Imposing Leave Procedures for Immediate Suspension of a Professional Staff Member”).

The ARRC must complete its review and make its recommendation about the leave within 10 business days after being notified of the immediate suspension administrative leave of absence. Following this review The ARRC Chair shall informs the administrative officer and the professional academic staff member of the committee’s recommendations and notifies the professional academic staff member of their right to due process. The ARRC must render a recommendation as to whether the leave is warranted given the circumstances, and whether any of the terms or conditions of the leave should be modified given the circumstances. The administrative officer shall fully inform the ARRC of everything that is known about the need for the leave. The ARRC is prohibited from disseminating this sensitive information in accordance with Section 3.6 of ARRC Procedures and UNL Bylaw 2.10 of UNL Bylaws.

Any suspension or suspension administrative leave of absence through the end of a contract or one that is indefinite is a termination and will be treated as such by the administration filing an AFT-B complaint with the ARRC. as defined in Regents Bylaws section 4.7.1 (“Suspension”). Therefore, the administrative officer must inform the ARRC if the professional academic staff member’s contract will expire prior to the 90 calendar day could expire during the potential duration of the leave. Regents’ Bylaw Section 4.13.4 4.7.4 of Regent Bylaws (“Reinstatement”) allows for the initial leave to last for 90 days as well as an additional 90-day extension of the leave. A leave may not extend beyond 180 days unless the administration files an AFT-B or PC complaint against the person put on leave. If the person’s contract will end during any part of this extended timeframe, then the administration is required to file an AFT-B complaint seeking termination for cause of the person placed on leave as specified in Regents’ Bylaws Section 4.13.4 4.7.4.1 (“Expiration of Appointment While on Leave”). If the individual would like to waive their right to a termination hearing, then they may do so in writing to the Chancellor and the Chair of the ARRC. immediate suspension limit or prior to the expected completion of a Special Committee hearing. In this instance, the ARRC should also rule as to whether a suspension through end of contract is appropriate or whether formal termination proceedings are warranted.
Suspension in anticipation of dismissal is appropriate only pending an AFT hearing. When a question arises concerning dismissal, faculty members shall not be suspended from duties assigned by their University appointment during the time needed to resolve the question, unless there is clear threat of physical harm or serious disruption of University programs by the person to be suspended. Before suspending the faculty member, the Chancellor (or the Vice Chancellor designated by the Chancellor) shall contact the Chair of the ARRC to arrange a meeting with three members of the Special Resource Group ARR Panel selected by the Chair of the ARRC. This meeting shall occur prior to suspension, if possible, but in any case within 48 hours to the suspension. The purpose of this procedure is three-fold: first, to ensure that less stringent action has been considered; second, to protect against claims of arbitrary or capricious action; and third, to ensure that the faculty member is informed of the right to due process. If possible, the Chancellor (or the designated Vice Chancellor) shall reassign the faculty member to other appropriate duties should suspension occur. Pursuant to Regents Bylaw 4.14.2(i), the suspended faculty member’s salary will continue during any period of suspension and an assignment to other duties shall not diminish the faculty member’s salary.

7.2 Canceling the presentation of a properly invited speaker is appropriate only if there is a clear threat of physical harm or a serious disruption of University programs if the presentation goes forward. Before such a cancellation, the Chancellor (or the Vice Chancellor designated by the Chancellor) shall contact the Chair of the ARRC to arrange a meeting with the ARRC to discuss the proposed cancellation. This meeting shall occur prior to the cancellation unless rare and compelling circumstances make that impossible; in the latter case, the meeting shall be held within 48 hours of the cancellation. The purpose of this meeting is to insure that less stringent alternatives for action have been considered and that when cancellation is imperative, alternative modes of presenting the material have been explored, and to protect against claims that the action was based on considerations inimical to academic freedom.

8. FOLLOW UP BY THE ARRC

8.1 Chancellor’s (or President’s) Response to Special Committee Recommendations. In response to recommendations made by a Special Committee, the Chancellor (or, if the Chancellor is a party or a witness, the President) shall within 30 days provide a written response to the Chair of the ARRC indicating:

8.1.1 the recommendations that have been accepted and the action taken;
8.1.2 the recommendations that have been rejected in part or completely; and
8.1.3 for each recommendation rejected, reasons responsive to the Committee’s rationale for proposing it.

The Chancellor (or President) shall decide upon Special Committee recommendations on the basis of the evidence submitted to the Special Committee and the report of the Special Committee. Unless clearly erroneous, the findings of fact made by the Special Committee shall be accepted. The Chancellor (or President) shall give the Special Committee's findings and conclusions due consideration, and shall take into account the fact that the Special Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Special Committee.

Copies of the Chancellor’s (or President’s) written response shall be sent to the parties concerned, the Special Committee, and to the Faculty Senate President. If the response rejects or changes the recommendations made by the Special Committee, the ARRC shall inform the President of the Faculty Senate who shall provide each member of the Senate Executive Committee with a copy of the Final Report and of the response, and shall put the matter on the agenda of the next Senate Executive Committee meeting for whatever action the Senate Executive Committee may deem appropriate. Members of the Senate Executive Committee will observe the confidentiality requirements described in Section 3.6, and 3.8.9, and 3.8.10 -of the procedures.
8.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of all Special Committees have been implemented, and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

8.3 ARRC Meeting with the Special Committee. After the Final Report has been filed, the ARRC shall meet with the Special Committee and any others considered appropriate by the Chair of the ARRC to thank the Special Committee for its work, to collect all copies of documents, and to hear from the Special Committee any suggestions about how the work of the ARRC and its Special Committees might be improved.
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CODE OF PROCEDURES FOR
SPECIAL ACADEMIC FREEDOM & TENURE - A (AFT-A) COMMITTEES
University of Nebraska-Lincoln

1 INTRODUCTION

1.1 Academic Rights and Responsibilities. All professional staff (including administrators and faculty members) of the University of Nebraska are entitled to enjoy and to exercise, without penalty, all the rights of an American citizen and the rights of academic freedom as specified in Regents Bylaw 4.2. It is essential to the University that all administrators and professional staff exercise these rights and respect their exercise by others, and uphold the attendant responsibilities outlined in Regents Bylaw 4.1.

1.2 Duty of University Officials to Investigate and to Take Action on Known or Alleged Discrimination. University Officials have a duty promptly to investigate and to take appropriate action on all known or alleged incidents of illegal discrimination. University officials in this context shall be defined as any individual employed by UNL with job authority or responsibility to

1.2.1 supervise, hire, assign or reassign responsibilities;
1.2.2 recommend or grant promotion or demotion; and/or
1.2.3 recommend or take any disciplinary or corrective actions.

1.3 Authority and Jurisdiction of Special AFT-A Committees.

1.3.1 Regents Bylaw 4.15.2(a) authorizes a Faculty Academic Freedom and Tenure Committee to consider complaints by any faculty member alleging any procedural or substantive grievance that constitutes an allegation that action taken, or threatened, violates the complainant’s academic freedom or academic tenure. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special AFT-A Committees established under the aegis of the Academic Rights and Responsibilities Committee (ARRC). A description of the committees can be found in the Syllabus of Committees of the Faculty Senate, available from the Faculty Senate Office and on the Faculty Senate website.

1.3.2 The Code entitled “Responsibilities of the Academic Rights and Responsibilities Committee and Procedures for Handling Matters of Academic Freedom and Tenure, Grievance and Professional Conduct” ("ARRC Procedures") indicates how complaints are to be received by the ARRC, assessed for sufficiency and jurisdiction, and transmitted to a Special Committee.
1.3.3 This “Code of Procedures for Special AFT-A Committees” indicates how a complaint is to be handled after the ARRC has transmitted it to a Special AFT-A Committee.

1.3.4 The ARRC Procedures and the Code of Procedures for Special AFT-A Committees in their current form are available from the Faculty Senate Office and on the Faculty Senate website. Any faculty member contemplating filing a complaint with the ARRC should first consult both documents. For information and advice concerning these procedures, contact the Chair of the ARRC.

2 DEFINITIONS

As used in this Code of Procedures for Special AFT-A Committees, unless the context otherwise requires:

2.1 Chancellor shall mean the Chancellor of UNL.

2.2 Days shall mean days on which University offices are open for business.

2.3 Faculty Member shall mean any staff member of UNL holding the academic rank of lecturer or above or equivalent rank (Regents Bylaws 3.1.1.1 and 4.4).

2.4 In Writing and Written, when used to describe a communication, shall mean that the communication so described shall be either a paper document signed by the sender or an electronic communication that can be readily accessed by the sender and by the recipient.

2.5 Parties shall mean the complainant(s) and the respondent(s).

2.6 President shall mean the President of the University of Nebraska and shall include the authorized representative of the President. The President shall not extend such authorization to the Chancellor or staff members of any campus of the University.

2.7 Section, unless otherwise noted, refers to a section of this Code of Procedures for Special AFT-A Committees.

3 GENERAL RULES GOVERNING SPECIAL AFT-A COMMITTEES

3.1 Quorum. Each Special AFT-A Committee has six tenured members. If a member of the Special AFT-A Committee withdraws or is barred prior to commencement of the Hearing, the Chair of the Special AFT-A Committee shall notify the Chair of the ARRC, and the Chair of the ARRC shall make every reasonable effort to appoint a suitable replacement as provided in Section 3.3.4 of the ARRC Procedures. In an emergency, and with the consent of the parties, a hearing may be conducted with one member absent, but a member absent from the hearing may not participate in subsequent
deliberations. In no case may the Special AFT-A Committee proceed with the Hearing with fewer than five members present.

3.2 **Voting.** The Special AFT-A Committee may take action only on concurrence of four members. The Chair may vote.

3.3 **Expiration of Term.** A member of the Special AFT-A Committee whose term on the ARR Panel expires during a case shall continue to serve until the case is concluded.

3.4 **Conflict of Interest.** Conflict of Interest occurs when a member of the Special AFT-A Committee

3.4.1 is in the same department or equivalent unit as a party or witness; or

3.4.2 answers directly to a party or witness; or

3.4.3 has a direct voice in the salary or working conditions of a party or witness; or

3.4.4 has, or reasonably appears to have, a personal interest in the case or its outcome; or

3.4.5 has provided counsel or assistance to a party relating to the grievance; or

3.4.6 has participated in the efforts of an organization to provide counsel or assistance to a party relating to the case; or

3.4.7 has any other relationship with a party that might prevent impartiality.

When a member of the Special AFT-A Committee discovers that the member has a conflict of interest, the member shall voluntarily withdraw from participation. When a member of the Special AFT-A Committee is alleged to have a conflict of interest and the member does not voluntarily withdraw, the ARRC shall review the allegation and, if a conflict of interest is found, shall bar that person from further participation.

3.5 **Communications.**

3.5.1 The Chair of the Special AFT-A Committee receives communications for the Committee and speaks for it. Both complainant and respondent shall address communications concerning the case only to the Chair of the Special AFT-A Committee. Special AFT-A Committee members should discourage contacts outside the regular process, and should direct those who make them to the Chair of the Special AFT-A Committee.

3.5.2 The Chair of the Special AFT-A Committee shall keep all parties informed of any substantive communications and contacts, including those that arise outside the normal process.

3.5.3 If the Chair of the Special AFT-A Committee has difficulty communicating with a party or other necessary participant, the Chair of the Special AFT-A Committee may consult with the Chair of the ARRC about ways to resolve the communication problem.
3.6 **Dissemination of Personnel Information.** Participation in Special AFT-A Committee proceedings makes participants privy to sensitive information and allegations involving the personal and professional lives of members of the University community. UNL Bylaw 2.10 describes limitations on the collection and dissemination of personnel information. Some information obtained as part of an AFT-A proceeding may be protected against broader dissemination by this Bylaw. Violators of this Bylaw could be subject to sanctions for professional misconduct.

3.7 **Open Hearings.** AFT-A Hearings, but not Pre-Hearing Conferences or other AFT-A proceedings, ordinarily are open to the public. However, the Special AFT-A Committee may order a Hearing closed if:

- 3.7.1 prior to the Pre-Hearing Conference, a party in writing requests that the Hearing be closed;
- 3.7.2 all parties consent; and
- 3.7.3 the Special AFT-A Committee determines that there is good cause why the Hearing should be closed.

If the Hearing is closed, only those persons identified in Section 6.1 may be present.

3.8 **Academic Advisors.** Each party may choose an Academic Advisor who may accompany and advise the party at the Pre-Hearing Conference and the Hearing. A party’s academic advisor may consult privately with that party. At the Pre-Hearing Conference and the Hearing, academic advisors may respond to questions from the Chair and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing. The role of Academic Advisor is open to any person who:

- 3.8.1 is a member of the UNL Academic Assembly (UNL Bylaw 3.3.1) or has emeritus faculty status at UNL;
- 3.8.2 is not in the same department or equivalent unit as a witness (other than the party being advised) -before or a member of the Special AFT-A Committee;
- 3.8.3 has no other relationship with a member of the Special AFT-A Committee that might create, or reasonably might seem to create, a conflict of interest for that Special AFT-A Committee member;
- 3.8.4 has no direct voice in the salary or working conditions of a party or witness; and
- 3.8.5 has no other relationship with a party, an organization, or a witness that might interfere with the investigative process.

3.9 **Counsel and Advice for the Special AFT-A Committee.**

- 3.9.1 Because of potential conflicts of interest, the Special AFT-A Committee shall not seek or accept advice from anyone to whom a party is answerable or who may be in a position of giving advice or legal counsel to a party or to any person or body that may later act on the Report of the Special AFT-A Committee.
- 3.9.2 The Special AFT-A Committee may receive advice from the ARRC attorney selected pursuant to section 3.10.2 of the ARRC Procedures.
3.9.3 Nothing in this Section 3.9 shall prevent full participation by a member of the Special AFT-A Committee who is also an attorney.

3.10 Termination of Pending AFT-A Proceedings.

3.10.1 If at any time all complainants in writing ask the Chair of the Special AFT-A Committee that the Formal Written Complaint be withdrawn, or all parties in writing notify the Chair of the Special AFT-A Committee that they have reached a settlement of the case, the Special AFT-A Committee shall terminate the proceedings and shall not deliver the Final Report described in Section 8. However, in such circumstances the Special AFT-A Committee may, on its own initiative, make written recommendations authorized by Sections 8.2.2 and 8.2.3:

3.10.1.1 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the grievance; and

3.10.1.2 concerning ways to correct any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the grievance.

Termination of the proceedings under this section shall not preclude the Special AFT-A Committee, or members of the Special AFT-A Committee, from making the “Communications Regarding Matters Outside the Scope of the Formal Written Complaint” authorized by Section 10.

Resignation from the University by any party shall not necessarily prevent the Special AFT-A Committee from completing its deliberations and delivering the Final Report described in Section 8.

3.11 Timely Completion. Unless the ARRC, for good cause shown, authorizes a longer period of time, the Special AFT-A Committee shall complete its investigation and deliver its report within 150 days of receiving the Formal Written Complaint from the Chair of the ARRC.

3.12 Adherence to Procedures.
If a party has good reason to believe that the Special AFT-A Committee is out of compliance with these procedures, the matter should be brought to the attention of the Chair of the Special AFT-A Committee. Procedural questions that the Chair of the Special AFT-A Committee cannot resolve promptly and that are so important that failure to resolve them would undermine the credibility of the Special AFT-A Committee may be referred by the Chair of the Special AFT-A Committee or by a party to the ARRC for resolution. The ARRC shall resolve the issues after obtaining the views of the parties and of the Special AFT-A Committee. The Chair of the ARRC shall inform the parties and the Special AFT-A Committee of the ARRC decision and direct them to follow the decision.
3.12.1 If a party has good reason to believe that the ARRC is out of compliance with these procedures or the ARRC Procedures, the party may invoke Section 6.2 of the ARRC Procedures.

4 GENERAL RESPONSIBILITIES OF THE CHAIR OF THE SPECIAL AFT-A COMMITTEE, NOTICE, RESPONSE, ALLEGATIONS OF CONFLICT OF INTEREST, AND CHALLENGES TO THE ELIGIBILITY OF PROPOSED ACADEMIC ADVISORS

4.1 General Responsibilities of the Chair of the Special AFT-A Committee. The responsibilities of the Chair of the Special AFT-A Committee include:

4.1.1 convening and presiding over meetings of the Special AFT-A Committee;
4.1.2 receiving communications for the Special AFT-A Committee and speaking for it;
4.1.3 ensuring that all substantive communications are made available to all parties;
4.1.4 maintaining a complete case file, including a record of all substantive communications, documents, verbatim transcripts of hearings, committee actions, and committee reports;
4.1.5 providing a copy of the Formal Written Complaint, the Formal Written Response, the current ARRC Procedures, and the current Code of Procedures for Special AFT-A Committees to each member of the Special AFT-A Committee, and to the ARRC Observer, if any;
4.1.6 arranging for accommodations for the Pre-Hearing Conference and for the Hearing, taking into account such factors as the time needed, the space needs of the Special Committee and parties and witnesses, the need for a separate accommodation for witnesses while waiting to testify, and access to other facilities that may be needed;
4.1.7 moving the proceedings toward a conclusion as expeditiously as reasonably possible while respecting the rights and needs of all participants;
4.1.8 notifying the Chair of the ARRC of any withdrawal from the Special AFT-A Committee to permit timely appointment of a substitute as provided in Section 3.3.4 of the ARRC Procedures;
4.1.9 reminding participants of limitations on the dissemination of personnel information set forth in Section 3.6;
4.1.10 arranging for timely consultation with the Chair of ARRC should procedural disputes arise;
4.1.11 keeping accurate records of expenditures for activities of the Special Committee and arranging for reimbursements from the Chancellor’s office; and
4.1.12 arranging for the court reporter and verbatim transcript required by Section 6.5.

4.2 Written Notice to the Parties. Within 7 days after the Special AFT-A Committee has been convened, the Chair of the Special AFT-A Committee shall send to each party
the following:

4.2.1 a copy of the Formal Written Complaint;
4.2.2 a copy of the current Procedures of the Academic Rights and Responsibilities Committee;
4.2.3 a copy of the current Code of Procedures for AFT-A Committees;
4.2.4 a list of the members of the Special AFT-A Committee;
4.2.5 the name of the ARRC Observer or, if no ARRC Observer has been appointed, notice to the parties that they are entitled to request that an ARRC Observer be appointed; and
4.2.6 notice of the deadlines established in Section 4.3 and 4.4.

4.3 Formal Written Responses from Respondents: Mandatory Elements and Deadline for Filing. Within 20 calendar days from the date of receipt of the Formal Written Complaint from the Chair of the Special AFT-A Committee, each respondent shall file a Formal Written Response with the Chair of the Special AFT-A Committee. In addition, if a Formal Written Complaint was filed by an attorney for a complainant, each respondent shall within 20 calendar days from date of receipt of the complaint mail a copy of the Formal Written Response to said attorney by regular United States mail with sufficient postage attached, properly addressed to said attorney.

4.3.1 Mandatory Elements. Each Formal Written Response shall contain a clear and concise statement indicating which, if any, of the facts alleged in the Formal Written Complaint the respondent wishes to contest and a clear and concise statement indicating any ameliorating or other additional facts the respondent wishes to allege. Under Sections 4.5 and 7.2, if a respondent fails to file a timely Formal Written Response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

4.3.2 Optional Elements. In addition, the Formal Written Response may include the following:

4.3.2.1 a clear and concise statement indicating which, if any, of the standards identified in the Formal Written Complaint the respondent wishes to contest;
4.3.2.2 a clear and concise statement of the standards, if any, the respondent believes to be appropriate for evaluating the complaint;
4.3.2.3 a clear and concise statement indicating which, if any, of the violations alleged in the Formal Written Complaint the respondent wishes to contest;
4.3.2.4 a clear and concise statement indicating which, if any, of the proposed remedies, sanctions, or other personal relief or prospective institutional change the respondent believes would be inappropriate.

The Chair of the Special AFT-A Committee may extend these deadlines for good cause shown.
4.4 Deadline for Requests from Any Party Requesting an Academic Advisor, an ARRC Observer, and for Allegations of Conflict of Interest. Within 15 days from the date of receipt of the Formal Written Complaint from the Chair of the Special AFT-A Committee,

4.4.1 any party wishing to be advised by an academic advisor shall file a written request with the Chair of the Special AFT-A Committee identifying the proposed academic advisor;
4.4.2 any party wishing to request that the ARRC appoint an ARRC Observer shall file a written request with the Chair of the Special AFT-A Committee;
4.4.3 any party wishing to allege that a member of the Special AFT-A Committee has a conflict of interest shall file a written statement with the Chair of the Special AFT-A Committee setting forth the basis for the challenge.

The Chair of the Special AFT-A Committee may extend these deadlines for good cause shown.

4.5 Procedure If No Respondent Files a Timely Formal Written Response. If no respondent files a timely Formal Written Response, the uncontested allegations of fact in the Formal Written Complaint shall be deemed to be true, and the Chair of the Special Committee shall so notify the parties and shall schedule a meeting of the Special AFT-A Committee to prepare the Final Report required by Section 8.

4.6 Procedure If a Respondent Files a Timely Formal Written Response. If any respondent files a timely Formal Written Response, the Chair of the Special AFT-A Committee shall

4.6.1 determine whether proposed academic advisors are eligible under Section 3.8, and if any party’s proposed academic advisor is not eligible, invite that party to propose an eligible academic advisor;
4.6.2 forward to each complainant and to each respondent a copy of each Formal Written Response and the names of proposed academic advisors; and
4.6.3 forward to the Chair of the ARRC any request that an ARRC Observer be appointed.

4.7 Party Challenges to Proposed Academic Advisors or ARRC Observer.

4.7.1 Any party may challenge the eligibility of a proposed academic advisor by delivering the challenge to the Chair of the Special AFT-A Committee within 7 days after receipt of the name of the proposed academic advisor. If a challenged proposed academic advisor does not voluntarily withdraw, the Chair of the Special AFT-A Committee shall determine whether the proposed academic advisor is eligible. If the proposed academic advisor is not eligible, the party may propose another academic advisor. If the new proposed academic advisor appears to be eligible, the Chair of the Special AFT-A Committee shall notify parties of the new proposed academic advisor and afford parties an opportunity to challenge the new proposed academic advisor.
4.7.2 Any party may in writing challenge the eligibility of a proposed ARRC Observer by delivering the challenge to the Chair of the Special AFT-A Committee within 7 days after receipt of the name of the proposed ARRC Observer. The Chair of the Special AFT-A Committee shall forward the challenge to the Chair of the ARRC. If a challenged ARRC Observer does not voluntarily withdraw, the Chair of the ARRC shall determine whether the proposed ARRC Observer is eligible. If the proposed ARRC Observer is not eligible, the ARRC may in writing propose another ARRC Observer to the Chair of the Special Committee. The Chair of the Special Committee shall in writing notify parties of the new proposed ARRC Observer and afford parties an opportunity to challenge the new proposed ARRC Observer.

5  PRE-HEARING CONFERENCE

5.1 Purpose. As soon as possible after giving notice of a Formal Written Response contesting any allegations of the Formal Written Complaint and resolving any issues involving conflicts of interest and eligibility of proposed academic advisors and ARRC Observers, the Chair of the Special AFT-A Committee shall arrange a Pre-Hearing Conference with all parties in attendance

5.1.1 to clarify the issues involved;
5.1.2 to identify uncontroverted facts;
5.1.3 to explore the possibility of a voluntary settlement of the case;
5.1.4 to explain procedures applicable to the Hearing;
5.1.5 to explain deadlines for identifying witnesses to be called and documents to be offered in accordance with Section 5.3; and
5.1.6 to establish procedures for setting the date, time, and place of the Hearing.

After the Pre-Hearing Conference, the Chair of the Special Committee will provide in writing to all parties and members of the Special Committee a list of the uncontroverted facts established in the Pre-Hearing Conference as well as a list of issues to be resolved during the Investigative Hearing by the Special Committee.

5.2 Persons Who May Attend and Participate in the Pre-Hearing Conference:

5.2.1 the Chair of the Special AFT-A Committee;
5.2.2 the parties;
5.2.3 each party’s attorney, if any;
5.2.4 each party’s academic advisor, if any;
5.2.5 the ARRC attorney, if requested by the Chair of the Special AFT-A Committee; and
5.2.6 the ARRC Observer, if any.

5.3 Notice of Hearing and Deadlines for Identification of Witnesses and Documents. As soon as possible after the conclusion of the Pre-Hearing Conference, the Chair of the Special AFT-A Committee shall in writing give notice of the deadlines for identification of witnesses and documents and of the
date, time, and place of the Hearing to

5.3.1 each party;
5.3.2 each member of the Special AFT-A Committee;
5.3.3 each party’s attorney, if any;
5.3.4 each academic advisor, if any;
5.3.5 the ARRC Observer, if any;
5.3.6 the Chair of the ARRC.

5.4 Identification of Witnesses and Documents. At least 10 calendar days before
the Hearing each complainant shall give written notice to all other parties and to the
Chair of the Special AFT-A Committee of the witnesses to be called and of documents
to be offered in evidence at the Hearing. At least 5 calendar days before the Hearing,
each respondent shall give written notice to all other parties and to the Chair of the
Special AFT-A Committee of the witnesses to be called and of documents to be offered
in evidence at the Hearing. No witnesses or documents not so listed shall be heard or
received at the Hearing, except in cases of surprise, or for the purpose of rebutting oral
testimony, or for other justifiable cause found to exist by the Special AFT-A Committee.

6 HEARING

6.1 Persons Who May Attend a Closed Hearing. AFT-A Hearings, but not the
Pre-Hearing Conference or other AFT-A proceedings, ordinarily are open to the public.
However, if the Special AFT-A Committee orders a Hearing closed under Section 3.7,
only the following persons may attend the Hearing:

6.1.1 members of the Special AFT-A Committee;
6.1.2 the parties;
6.1.3 each party’s attorney, if any;
6.1.4 each party’s academic advisor, if any;
6.1.5 the ARRC attorney, if requested by the Chair of the Special AFT-A
Committee;
6.1.6 the ARRC Observer, if any; and
6.1.7 the court reporter; and witnesses, but no witness shall be present except
when that witness is testifying and responding to questions.

6.2 Order of Hearing. The usual sequence of a Hearing is as follows:

6.2.1 introductions of all present (this will be repeated for each witness);
6.2.2 introduction of the case by the Chair of the Special AFT-A Committee;
6.2.3 complainant(s)’ presentation of the Formal Written Complaint and evidence
in support of the Formal Written Complaint, including all documentation and all
witnesses;
6.2.4 respondent(s)’ presentation of the Formal Written Response and evidence
in support of the Formal Written Response, including all documentation and all
witnesses;
6.2.5 presentation of documentation and testimony of witnesses requested by the
Special AFT-A Committee;
6.2.6 rebuttal in support of the Formal Written Complaint;
6.2.7 closing statement(s) by Complainant(s), followed by closing statement(s) by Respondent(s);
6.2.8 statement by the Chair of the Special AFT-A Committee thanking participants and explaining post-Hearing procedures.

This order may be varied if the Chair of the Special AFT-A Committee determines that a clearer way of exploring the issues can be achieved, and if the Special AFT-A Committee and the parties agree.

6.3 Evidence and Witnesses.

6.3.1 Testimony shall be taken under oath. Each party shall have the right to cross-examine witnesses who testify and shall have the right to submit rebuttal testimony. Witnesses may testify and evidence may be received not only concerning relevant facts but also concerning relevant standards.

6.3.2 Members of the UNL community shall cooperate with the Special AFT-A Committee in providing testimony or documents; however, a person shall not be required to give testimony or to produce documents in regard to any confidential communication for which the law provides a privilege. Refusal by anyone to provide documents or to testify in regard to any communication for which the law does not provide a privilege obstructs the process and shall be taken into consideration by the Special AFT-A Committee in its deliberations and in its preparation of the Final Report.

6.3.3 In the event any party to the proceedings desires the issuance of a subpoena, such subpoena shall be issued at the direction of the Corporation Secretary, and may be served in the manner provided for subpoenas in the Nebraska Court Rules of Discovery.

6.3.4 Witnesses not able to attend the hearing may present testimony taken by deposition in the manner provided for depositions in the Nebraska Courts.

6.3.4 6.3.5 The Special AFT-A Committee may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence; provided, that any party may file with the Committee at least 3 days before the hearing a written request that the rules of evidence followed by the District Courts in the State of Nebraska shall be applicable. If such a written request is filed, the Chair of the Special AFT-A Committee shall notify the parties that the proceedings shall comply with the principles of law with respect to proceedings in the District Courts in Nebraska, and all counsel and parties shall be bound by such rules and standards of ethics and codes of trial conduct as are applied
in the District Courts.

6.3.5 6.3.5 6.3.6 The Chair of the Special AFT-A Committee may in appropriate circumstances temporarily adjourn the Hearing.

6.4 Format of Presentations and Questions. To preserve orderly and civil proceedings, the Hearing shall be conducted by the Chair of the Special AFT-A Committee as follows:

6.4.1 No person shall speak without prior recognition by the Chair of the Special AFT-A Committee.

6.4.2 Each party and each witness may be questioned by members of the Special AFT-A Committee after the end of the presentation of that party or witness.

6.4.3 When the Special AFT-A Committee has finished questioning a party or witness, each party may question that party or witness; alternatively, the parties may submit questions to the Chair of the Special AFT-A Committee which the Chair of the Special AFT-A Committee may ask on their behalf.

6.4.4 The Chair of the Special AFT-A Committee may bar questions under Section 6.3.5. A party adversely affected by a decision to bar a question may appeal the decision of the Chair to the full Special AFT-A Committee.

6.4.5 A party’s academic advisor may consult privately with that party, may respond to questions from the Chair, and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing.

6.5 Record of Hearing
The Chair of the Special AFT-A Committee shall arrange for a court reporter to be present at the Hearing to produce a verbatim record of the Hearing. Bills for the court reporter’s services shall be processed through the office of the General Counsel of the University. The verbatim record shall be made available to the parties and to the Special AFT-A Committee prior to the deliberations and decision of the Special AFT-A Committee required by Section 7. The verbatim record also shall be made available for inspection by the public as set forth in Section 8.3.

7 DELIBERATIONS AND DECISION

7.1 All deliberations shall be conducted in executive session with no one present except members of the Special AFT-A Committee, and the ARRC attorney, if invited.

7.2 The complainant bears the burden of proving relevant facts by a preponderance
of the relevant evidence. If a respondent fails to file a timely written response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

7.3 Refusal by anyone to provide documents or to testify obstructs the process and shall be taken into consideration by the Special AFT-A Committee in its deliberations and preparation of the Final Report.

7.4 The standards against which the charges are to be judged include applicable state and federal law; University bylaws, rules and regulations; established policies of the relevant administrative unit; appropriate professional and discipline based standards; applicable contracts; and academic principles and tradition. In the event of conflict between different University bylaws, rules or regulations, those of the more inclusive administrative unit shall prevail.

8 THE FINAL REPORT

When the Special AFT-A Committee has completed its deliberations it shall prepare a Final Report setting forth the Special AFT-A Committee’s disposition of each grievance alleged in the Formal Written Complaint. Communications regarding matters outside the scope of the Formal Written Complaint shall be addressed in accordance with the rules set forth in Section 10 below. The Final Report shall be limited to the following mandatory and optional elements.

8.1 Mandatory Elements of the Final Report. The Final Report shall contain, with respect to each grievance alleged in the Formal Written Complaint:

8.1.1 specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based;
8.1.2 identification of the standards against which the grievance is being judged; and
8.1.3 the Special AFT-A Committee’s conclusions concerning whether applicable standards have been violated.

Before preparing the elements of the Final Report required by Sections 8.1.2 and 8.1.3, the Chair of the Special AFT-A Committee shall send to each party a copy of a provisional draft of the specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based required by Section 8.1.1. Each party shall have five days after receipt of the provisional draft to submit written comments to the Chair of the Special AFT-A Committee suggesting specific changes to correct specific alleged inaccuracies in the provisional draft. No changes based upon such comments shall be made to the provisional draft without first providing other parties an opportunity to respond to the comments. If the Special AFT-A Committee decides not to make changes suggested in a written comment, that written comment and the Special AFT-A Committee’s reasons for that decision shall be appended to the Final Report.
8.2 Optional Elements of the Final Report. In addition, the Final Report may contain one or more of the following:

8.2.1 Recommendations. The Final Report may include recommendations:

8.2.1.1 concerning ways to redress any complaint the Special AFT-A Committee has determined to be justified;
8.2.1.2 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the complaint;
8.2.1.3 concerning correction of any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the complaint.

8.2.2 Concurring or Dissenting Opinions. The Final Report may include concurring or dissenting opinions, or both, concerning any mandatory or optional element of the report.

8.3 Delivery and Archiving of Verbatim Record, Case File, and Final Report.

8.3.1 The Chair of the Special AFT-A Committee shall

8.3.1.1 deliver a copy of the Final Report, a copy of the verbatim record of the Hearing, and a copy of all exhibits to the Board of Regents;
8.3.1.2 deliver a copy of the Final Report to each party, to the Chancellor, to the President, to the Chair of the ARRC, and to the President of the Faculty Senate; and
8.3.1.3 deliver a copy of the Final Report and of the case file required by Section 4.1.4 to the Coordinator of the Faculty Senate.

8.3.2 The Coordinator of the Faculty Senate shall

8.3.2.1 obtain from the Corporate Secretary of the Board of Regents a copy of any committee report considered by the Board of Regents and a copy of the official record of the Board of Regents action;
8.3.2.2 deposit any committee report considered by the Board of Regents, the official record of the Board of Regents action, a second copy of the Final Report, and the case file in the Faculty Senate Office under specified conditions of access; and
8.3.2.3 deposit any committee report considered by the Board of Regents, the official record of the Board of Regents action, a second copy of the Final Report, and the case file in the University Archives under specified conditions of access.

9 FOLLOW UP TO THE REPORT

9.1 Chancellor’s (or President’s) Response to Recommendations. In response to recommendations made by the Special AFT-A Committee, the Chancellor (or, if the Chancellor is a party or witness, the President) shall within 30 days provide a written
response to the Chair of the ARRC indicating:

9.1.1 the recommendations that have been accepted and the action taken;
9.1.2 the recommendations that have been rejected in part or completely; and
9.1.3 for each recommendation rejected, reasons responsive to the Committee’s rationale for proposing it.

The Chancellor (or President) shall decide upon Special AFT-A Committee recommendations on the basis of the evidence submitted to the Special AFT-A Committee and the report of the Special AFT-A Committee. Unless clearly erroneous, the findings of fact made by the Special AFT-A Committee shall be accepted. The Chancellor (or President) shall give the Special AFT-A Committee’s findings and conclusions due consideration, and shall take into account the fact that the Special AFT-A Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Special AFT-A Committee. Copies of the Chancellor’s (or President’s) written response shall be sent to the parties, the Special Committee, to the President of the Faculty Senate, and to the Coordinator of the Faculty Senate for inclusion in the case files in the ARRC archives and in the University Archives.

If the final action taken response rejects or changes the recommendations made by the Special AFT-A Committee, the ARRC shall inform the President of the Faculty Senate who shall provide each member of the Senate Executive Committee with a copy of the Final Report and of the response and shall put the matter on the agenda of the next Senate Executive Committee meeting for whatever action the Senate Executive Committee may deem appropriate.

9.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of the Special AFT-A Committee have been implemented, and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

9.3 ARRC Meeting with the Special AFT-A Committee. After the Final Report has been filed, the ARRC shall meet with the Special AFT-A Committee and any others considered appropriate by the Chair of the ARRC to thank the Special AFT-A Committee for its work, to collect all copies of documents, and to hear from the Special AFT-A Committee any suggestions about how the work of the ARRC and its special committees might be improved.

10 COMMUNICATIONS REGARDING MATTERS OUTSIDE THE SCOPE OF THE FORMAL WRITTEN COMPLAINT

10.1 In the course of an investigation, one or more members of the Special AFT-A Committee may conclude that the Special AFT-A Committee has heard allegations or
otherwise discovered information which, though outside the scope of the Formal Written Complaint and thus not subject to full investigation and evaluation by the Special AFT-A Committee, nonetheless suggests that actions or decisions have been taken or may be taken in violation of law, University policy, or academic principle.

10.2 Such concerns shall not be addressed in the Final Report of the Special AFT-A Committee required by Section 8.0. However, the Special AFT-A Committee acting though its chair, or any member or members of the Special AFT-A Committee, may communicate those concerns in writing to the appropriate administrator for investigation and for whatever corrective action may be appropriate. In shaping the contents of and determining the recipients for such communications, those preparing the communications shall consult with the Chair of the ARRC.

10.3 A copy of any such communication to an administrator shall at the same time be sent to

10.3.1 the Chancellor; and
10.3.2 the Chair of the ARRC; and
10.3.3 any individual on whose actions, decisions, or practices the communication reflects; and
10.3.4 if the communication reflects on the actions, decisions, or practices of a committee or unit, the individual who heads that committee or unit;
10.3.5 if the communication reflects on the actions, decisions, or practices of the Chancellor, the President; and
10.3.6 if the communication includes concerns about alleged unlawful discrimination, including sexual or other prohibited harassment, the UNL Office of Institutional Equity, Access and Diversity Programs and Compliance or its successor if the office is renamed.

10.4 Such communications shall be deemed to be a part of the responsibility of Special AFT-A Committee members and, as such, to be subject to the same protections afforded all Special AFT-A Committee activities by Section 6.8 of the Regents Bylaws.
CODE OF PROCEDURES FOR
SPECIAL ACADEMIC FREEDOM & TENURE - B (AFT-B) COMMITTEES
University of Nebraska-Lincoln

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1 INTRODUCTION

1.1 Academic Rights and Responsibilities. All professional staff (including administrators and faculty members) of the University of Nebraska are entitled to enjoy and to exercise, without penalty, all the rights of an American citizen and the rights of academic freedom as specified in Regents Bylaw 4.2. It is essential to the University that all administrators and professional staff exercise these rights and respect their exercise by others, and uphold the attendant responsibilities outlined in Regents Bylaw 4.1.

1.2 Duty of University Officials to Investigate and to Take Action on Known or Alleged Discrimination. University Officials have a duty promptly to investigate and to take appropriate action on all known or alleged incidents of illegal discrimination. University officials in this context shall be defined as any individual employed by UNL with job authority or responsibility to

1.2.1 supervise, hire, assign or reassign responsibilities;
1.2.2 recommend or grant promotion or demotion; and/or
1.2.3 recommend or take any disciplinary or corrective actions.

1.3 Authority and Jurisdiction of Special AFT-B Committees.

1.3.1 Regents Bylaw 4.15.2(b) authorizes a Faculty Academic Freedom and Tenure Committee to consider complaints filed by the President or by the Board of Regents against any member of the faculty seeking to terminate his or her Continuous Appointment, Appointment for a Specific Term prior to the termination date stated in the appointment, or Special Appointment prior to its termination date. The imposition of an administrative leave of absence through the end of an academic specific-term or special appointment period is a termination for cause and also requires a hearing by the Faculty Academic and Freedom Tenure committee as described in Regent Bylaws Section 4.13.4.2 4.7.4.1. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special AFT-B Committees established under the aegis of the Academic Rights and Responsibilities Committee (ARRC). A description of the committees can be found in the Syllabus of Committees of the Faculty Senate, available from the Faculty Senate Office and on the Faculty Senate website.

1.3.2 The Code entitled “Responsibilities of the Academic Rights and Responsibilities Committee and Procedures for Handling Matters of Academic Freedom and Tenure, Grievance and Professional Conduct” ("ARRC Procedures") indicates how complaints are to be received by the ARRC, assessed for sufficiency and jurisdiction, and transmitted to a Special Committee.
This “Code of Procedures for Special AFT-B Committees” indicates how a complaint filed by the President or by the Board of Regents against any member of the faculty seeking to terminate his or her Continuous Appointment, Appointment for a Specific Term prior to the termination date stated in the appointment, or Special Appointment prior to its termination date, is to be handled after the ARRC has transmitted it to a Special AFT-B Committee.

1.3.3 The ARRC Procedures and the Code of Procedures for Special AFT-B Committees in their current form are available from the Faculty Senate Office and on the Faculty Senate website. For information and advice concerning these procedures, contact the Chair of the ARRC.

2 DEFINITIONS

As used in this Code of Procedures for Special AFT-B Committees, unless the context otherwise requires:

2.1 Chancellor shall mean the Chancellor of UNL.

2.2 Days shall mean days on which University offices are open for business.

2.3 Faculty Member shall mean any staff member of UNL holding the academic rank of lecturer or above or equivalent rank (Regents Bylaws 3.1.1.1 and 4.4).

2.4 In Writing and Written, when used to describe a communication, shall mean that the communication so described shall be either a paper document signed by the sender or an electronic communication that can be readily accessed by the sender and by the recipient.

2.5 Parties shall mean the complainant(s) and the respondent(s).

2.6 President shall mean the President of the University of Nebraska and shall include the authorized representative of the President. The President shall not extend such authorization to the Chancellor or staff members of any campus of the University.

2.7 Section, unless otherwise noted, refers to a section of this Code of Procedures for Special AFT-B Committees.

3 GENERAL RULES GOVERNING SPECIAL AFT-B COMMITTEES

3.1 Quorum. Each Special AFT-B Committee has six tenured members. If a member of the Special AFT-B Committee withdraws or is barred prior to commencement of the Hearing, the Chair of the Special AFT-B Committee shall notify the Chair of the ARRC, and the Chair of the ARRC shall make every reasonable effort to appoint a suitable replacement as provided in Section 3.3.4 of the ARRC Procedures. In an emergency, and
with the consent of the parties, a hearing may be conducted with one member absent, but
a member absent from the hearing may not participate in subsequent deliberations. In no case may the Special AFT-B Committee proceed with the Hearing with fewer than five members present.

3.23.1 Voting. The Special AFT-B Committee may take action only on concurrence of four members. The Chair may vote.

3.33.2 Expiration of Term. A member of the Special AFT-B Committee whose term on the ARR Panel expires during a case shall continue to serve until the case is concluded.

3.43.3 Conflict of Interest. Conflict of Interest occurs when a member of the Special AFT-B Committee

- 3.4.13.3.1 is in the same department or equivalent unit as a party or witness; or
- 3.4.23.3.2 answers directly to a party or witness; or
- 3.4.33.3.3 has a direct voice in the salary or working conditions of a party or witness; or
- 3.4.43.3.4 has, or reasonably appears to have, a personal interest in the case or its outcome; or
- 3.4.53.3.5 has provided counsel or assistance to a party relating to allegations contained in the complaint; or
- 3.4.63.3.6 has participated in the efforts of an organization to provide counsel or assistance to a party relating to the case; or
- 3.4.73.3.7 has any other relationship with a party that might prevent impartiality.

When a member of the Special AFT-B Committee discovers that the member has a conflict of interest, the member shall voluntarily withdraw from participation. When a member of the Special AFT-B Committee is alleged to have a conflict of interest and the member does not voluntarily withdraw, the ARRC shall review the allegation and, if a conflict of interest is found, shall bar that person from further participation.

3.53.4 Communications.

- 3.5.13.4.1 The Chair of the Special AFT-B Committee receives communications for the Committee and speaks for it. Both complainant and respondent shall address communications concerning the case only to the Chair of the Special AFT-B Committee. Special AFT-B Committee members should discourage contacts outside the regular process, and should direct those who make them to the Chair of the Special AFT-B Committee.

- 3.5.23.4.2 The Chair of the Special AFT-B Committee shall keep all parties informed of any substantive communications and contacts, including those that arise outside the normal process.

- 3.5.33.4.3 If the Chair of the Special AFT-B Committee has difficulty communicating with a party or other necessary participant, the Chair of the
Committee may consult with the Chair of the ARRC about ways to resolve the communication problem.

### 3.63.5 Dissemination of Personnel Information

Participation in Special AFT-B Committee proceedings makes participants privy to sensitive information and allegations involving the personal and professional lives of members of the University community. UNL Bylaw 2.9 2.10 describes limitations on the collection and dissemination of personnel information. Some information obtained as part of an AFT-B proceeding may be protected against broader dissemination by this Bylaw. Violators of this Bylaw could be subject to sanctions for professional misconduct.

### 3.73.6 Closed Hearings

AFT-B Hearings ordinarily are closed to the public. However, if the respondent prior to the conclusion of the Pre-Hearing Conference requests that the AFT-B Hearing be open to the public, the AFT-B Hearing shall be open to the public. If the Hearing is closed, only those persons identified in Section 6.1 may be present.

### 3.83.7 Academic Advisors

Each party may choose an Academic Advisor who may accompany and advise the party at the Pre-Hearing Conference and the Hearing. A party’s academic advisor may consult privately with that party. At the Pre-Hearing Conference and the Hearing, academic advisors may respond to questions from the Chair and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing. The role of Academic Advisor is open to any person who:

- **3.8.43.7.1** is a member of the UNL Academic Assembly (UNL Bylaw 3.3.1) or has emeritus faculty status at UNL;
- **3.8.23.7.2** is not in the same department or equivalent unit as a witness (other than the party being advised) before or a member of the Special AFT-B Committee;
- **3.8.33.7.3** has no other relationship with a member of the Special AFT-B Committee that might create, or reasonably might seem to create, a conflict of interest for that Special AFT-B Committee member;
- **3.8.43.7.4** has no direct voice in the salary or working conditions of a party or witness; and
- **3.8.53.7.5** has no other relationship with a party, an organization, or a witness that might interfere with the investigative process.

### 3.93.8 Counsel and Advice for the Special AFT-B Committee

- **3.9.43.8.1** Because of potential conflicts of interest, the Special AFT-B Committee shall not seek or accept advice from anyone to whom a party is answerable or who may be in a position of giving advice or legal counsel to a party or to any person or body that may later act on the Report of the Special AFT-B Committee.

- **3.9.23.8.2** The Special AFT-B Committee may receive advice from the ARRC attorney selected pursuant to section 3.10.2 of the ARRC Procedures.
3.9.33.8.3 Nothing in this Section 3.9 shall prevent full participation by a member of the Special AFT-B Committee who is also an attorney.

3.9.43.8.4

3.10.3 Termination of Pending AFT-B Proceedings.

3.10.13.9.1 If at any time all complainants in writing ask the Chair of the Special AFT-B Committee that the Formal Written Complaint be withdrawn, or all parties in writing notify the Chair of the Special AFT-B Committee that they have reached a settlement of the case, the Special AFT-B Committee shall terminate the proceedings and shall not deliver the Final Report described in Section 8. However, in such circumstances the Special AFT-B Committee may, on its own initiative, make written recommendations authorized by Sections 8.2.2 and 8.2.3

3.10.1.13.9.1.1 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the complaint; and

3.10.1.23.9.1.2 concerning ways to correct any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the complaint.

Termination of the proceedings under this section shall not preclude the Special AFT-B Committee, or members of the Special AFT-B Committee, from making the "Communications Regarding Matters Outside the Scope of the Formal Written Complaint" authorized by Section 10.

3.10.23.9.2 Resignation from the University by any party shall not necessarily prevent the Special AFT-B Committee from completing its deliberations and delivering the Final Report described in Section 8.

3.11 Timely Completion. Unless the ARRC, for good cause shown, authorizes a longer period of time, the Special AFT-B Committee shall complete its investigation and deliver its report within 150 days of receiving the Formal Written Complaint from the Chair of the ARRC.

3.12 Adherence to Procedures.

3.12.13.11.1 If a party has good reason to believe that the Special AFT-B Committee is out of compliance with these procedures, the matter should be brought to the attention of the Chair of the Special AFT-B Committee. Procedural questions that the Chair of the Special AFT-B Committee cannot resolve promptly and that are so important that failure to resolve them would undermine the credibility of the Special AFT-B Committee may be referred by the Chair of the Special AFT-B Committee or by a party to the ARRC for resolution. The ARRC shall resolve the issues after obtaining the views of the parties and of the Special AFT-B Committee.
The Chair of the ARRC shall inform the parties and the Special AFT-B Committee of the ARRC decision and direct them to follow the decision.
3.12.23.11.2 If a party has good reason to believe that the ARRC is out of compliance with these procedures or the ARRC Procedures, the party may invoke Section 6.2 of the ARRC Procedures.

4 GENERAL RESPONSIBILITIES OF THE CHAIR OF THE SPECIAL AFT-B COMMITTEE, NOTICE, RESPONSE, ALLEGATIONS OF CONFLICT OF INTEREST, AND CHALLENGES TO THE ELIGIBILITY OF PROPOSED ACADEMIC ADVISORS

4.1 General Responsibilities of the Chair of the Special AFT-B Committee. The responsibilities of the Chair of the Special AFT-B Committee include:

4.1.1 convening and presiding over meetings of the Special AFT-B Committee;
4.1.2 receiving communications for the Special AFT-B Committee and speaking for it;
4.1.3 ensuring that all substantive communications regarding the complaint are made available to all parties;
4.1.4 maintaining a complete case file, including a record of all substantive communications, documents, verbatim transcripts of hearings, committee actions, and committee reports related to the complaint;
4.1.5 providing a copy of the Formal Written Complaint, the Formal Written Response, the current ARRC Procedures, and the current Code of Procedures for Special AFT-B Committees to each member of the Special AFT-B Committee, and to the ARRC Observer, if any;
4.1.6 arranging for accommodations for the Pre-Hearing Conference and for the Hearing, taking into account such factors as the time needed, the space needs of the Special Committee and parties and witnesses, the need for a separate accommodation for witnesses while waiting to testify, and access to other facilities that may be needed;
4.1.7 moving the proceedings toward a conclusion as expeditiously as reasonably possible while respecting the rights and needs of all participants;
4.1.8 notifying the Chair of the ARRC of any withdrawal from the Special AFT-B Committee to permit timely appointment of a substitute as provided in Section 3.3.5 of the ARRC Procedures;
4.1.9 reminding participants of limitations on the dissemination of personnel information set forth in Section 3.6;
4.1.10 arranging for timely consultation with the Chair of ARRC should procedural disputes arise;
4.1.11 keeping accurate records of expenditures for activities of the Special Committee and arranging for reimbursements from the Chancellor’s office; and
4.1.12 arranging for the court reporter and verbatim transcript required by Section 6.5.
4.2 Written Notice to the Parties. Within 7 days after the Special AFT-B Committee has been convened, the Chair of the Special AFT-B Committee shall send to each party the following:

4.2.1 a copy of the Formal Written Complaint;
4.2.2 a copy of the current Procedures of the Academic Rights and Responsibilities Committee;
4.2.3 a copy of the current Code of Procedures for AFT-B Committees;
4.2.4 a list of the members of the Special AFT-B Committee;
4.2.5 the name of the ARRC Observer or, if no ARRC Observer has been appointed, notice to the parties that they are entitled to request that an ARRC Observer be appointed; and
4.2.6 notice of the deadlines established in Section 4.3 and 4.4.

4.3 Formal Written Responses from Respondents: Mandatory Elements and Deadline for Filing. Within 20 calendar days from the date of receipt of the Formal Written Complaint from the Chair of the Special AFT-B Committee, each respondent shall file a Formal Written Response with the Chair of the Special AFT-B Committee. In addition, if a Formal Written Complaint was filed by an attorney for a complainant, each respondent shall within 20 calendar days from date of receipt of the complaint mail a copy of the Formal Written Response to said attorney by regular United States mail with sufficient postage attached, properly addressed to said attorney.

4.3.1 Mandatory Elements. Each Formal Written Response shall contain a clear and concise statement indicating which, if any, of the facts alleged in the Formal Written Complaint the respondent wishes to contest and a clear and concise statement indicating any ameliorating or other additional facts the respondent wishes to allege. Under Sections 4.5 and 7.2, if a respondent fails to file a timely Formal Written Response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

4.3.2 Optional Elements. In addition, the Formal Written Response may include the following:

4.3.2.1 a clear and concise statement indicating which, if any, of the standards identified in the Formal Written Complaint the respondent wishes to contest;
4.3.2.2 a clear and concise statement of the standards, if any, the respondent believes to be appropriate for evaluating the complaint;
4.3.2.3 a clear and concise statement indicating which, if any, of the violations alleged in the Formal Written Complaint the respondent wishes to contest;
4.3.2.4 a clear and concise statement indicating reasons, if any, why termination would be inappropriate.
The Chair of the Special AFT-B Committee may extend these deadlines for good cause shown.

4.4 **Deadline for Requests from Any Party Requesting an Academic Advisor, an ARRC Observer, and for Allegations of Conflict of Interest.** Within 15 days from the date of receipt of the Formal Written Complaint from the Chair of the Special AFT-B Committee,

4.4.1 any party wishing to be advised by an academic advisor shall file a written request with the Chair of the Special AFT-B Committee identifying the proposed academic advisor;
4.4.2 any party wishing to request that the ARRC appoint an ARRC Observer shall file a written request with the Chair of the Special AFT-B Committee;
4.4.3 any party wishing to allege that a member of the Special AFT-B Committee has a conflict of interest shall file a written statement with the Chair of the Special AFT-B Committee setting forth the basis for the challenge.

The Chair of the Special AFT-B Committee may extend these deadlines for good cause shown.

4.5 **Procedure If No Respondent Files a Timely Formal Written Response.** If no respondent files a timely Formal Written Response, the uncontested allegations of fact in the Formal Written Complaint shall be deemed to be true, and the Chair of the Special Committee shall so notify the parties and shall schedule a meeting of the Special AFT-B Committee to prepare the Final Report required by Section 8.

4.6 **Procedure If a Respondent Files a Timely Formal Written Response.** If any respondent files a timely Formal Written Response, the Chair of the Special AFT-B Committee shall

4.6.1 determine whether proposed academic advisors are eligible under Section 3.8, and if any party=s proposed academic advisor is not eligible, invite that party to propose an eligible academic advisor;
4.6.2 forward to each complainant and to each respondent a copy of each Formal Written Response and the names of proposed academic advisors; and
4.6.3 forward to the Chair of the ARRC any request that an ARRC Observer be appointed.

4.7 **Party Challenges to Proposed Academic Advisors or ARRC Observer.**

4.7.1 Any party may in writing challenge the eligibility of a proposed academic advisor by delivering the challenge to the Chair of the Special AFT-B Committee within 7 days after receipt of the name of the proposed academic advisor. If a challenged proposed academic advisor does not voluntarily withdraw, the Chair of the Special AFT-B Committee shall determine whether the proposed academic advisor is eligible. If the proposed academic advisor is not eligible, the party may
propose another academic advisor. If the new proposed academic advisor appears to be eligible, the Chair of the Special AFT-B Committee shall notify parties of the new proposed academic advisor and afford parties an opportunity to challenge the new proposed academic advisor.

4.7.2 Any party may in writing challenge the eligibility of a proposed ARRC Observer by delivering the challenge to the Chair of the Special AFT-B Committee within 7 days after receipt of the name of the proposed ARRC Observer. The Chair of the Special AFT-B Committee shall forward the challenge to the Chair of the ARRC. If a challenged ARRC Observer does not voluntarily withdraw, the Chair of the ARRC shall determine whether the proposed ARRC Observer is eligible. If the proposed ARRC Observer is not eligible, the ARRC may in writing propose another ARRC Observer to the Chair of the Special Committee. The Chair of the Special Committee shall in writing notify parties of the new proposed ARRC Observer and afford parties an opportunity to challenge the new proposed ARRC Observer.

5 PREREHEARING CONFERENCE

5.1 Purpose. As soon as possible after giving notice of a Formal Written Response contesting any allegations of the Formal Written Complaint and resolving any issues involving conflicts of interest and eligibility of proposed academic advisors and ARRC Observers, the Chair of the Special AFT-B Committee shall arrange a Pre-Hearing Conference with all parties in attendance:

5.1.1 to clarify the issues involved;
5.1.2 to identify uncontroverted facts;
5.1.3 to explore the possibility of a voluntary settlement of the case;
5.1.4 to explain procedures applicable to the Hearing;
5.1.5 to explain deadlines for identifying witnesses to be called and documents to be offered in accordance with Section 5.3; and
5.1.6 to establish procedures for setting the date, time, and place of the Hearing.

After the Pre-Hearing Conference, the Chair of the Special Committee will provide in writing to all parties and members of the Special Committee a list of the uncontroverted facts established in the Pre-Hearing Conference as well as a list of issues to be resolved during the Investigative Hearing by the Special Committee.

5.2 Persons Who May Attend and Participate in the Pre-Hearing Conference:

5.2.1 the Chair of the Special AFT-B Committee;
5.2.2 the parties;
5.2.3 each party’s attorney, if any;
5.2.4 each party’s academic advisor, if any;
5.2.5 the ARRC attorney, if requested by the Chair of the Special AFT-B Committee; and
5.2.6 the ARRC Observer, if any.
5.3 **Notice of Hearing and Deadlines for Identification of Witnesses and Documents.** As soon as possible after the conclusion of the Pre-Hearing Conference, the Chair of the Special AFT-B Committee shall in writing give notice of the deadlines for identification of witnesses and documents and of the date, time, and place of the Hearing to

5.3.1 each party;
5.3.2 each member of the Special AFT-B Committee;
5.3.3 each party’s attorney, if any;
5.3.4 each academic advisor, if any;
5.3.5 the ARRC Observer, if any;
5.3.6 the Chair of the ARRC.

5.4 **Identification of Witnesses and Documents.** At least 10 calendar days before the Hearing each complainant shall give written notice to all other parties and to the Chair of the Special AFT-B Committee of the witnesses to be called and of documents to be offered in evidence at the Hearing. At least 5 calendar days before the Hearing, each respondent shall give written notice to all other parties and to the Chair of the Special AFT-B Committee of the witnesses to be called and of documents to be offered in evidence at the Hearing. No witnesses or documents not so listed shall be heard or received at the Hearing, except in cases of surprise, or for the purpose of rebutting oral testimony, or for other justifiable cause found to exist by the Special AFT-B Committee.

6 **HEARING**

6.1 **Persons Who May Attend a Closed Hearing.** Only the following persons may attend a Closed Hearing:

6.1.1 members of the Special AFT-B Committee;
6.1.2 the parties;
6.1.3 each party’s attorney, if any;
6.1.4 each party’s academic advisor, if any;
6.1.5 the ARRC attorney, if requested by the Chair of the Special AFT-B Committee;
6.1.6 the ARRC Observer, if any; and
6.1.7 the court reporter; and
6.1.8 witnesses, but no witness shall be present except when that witness is testifying and responding to questions.

6.2 **Order of Hearing.** The usual sequence of a Hearing is as follows:

6.2.1 introductions of all present (this will be repeated for each witness);
6.2.2 introduction of the case by the Chair of the Special AFT-B Committee;
6.2.3 complainant(s)’ presentation of the Formal Written Complaint and evidence in support of the Formal Written Complaint, including all documentation and all witnesses;
6.2.4 respondent(s)’ presentation of the Formal Written Response and evidence in support of the Formal Written Response, including all documentation and all witnesses;
6.2.5 presentation of documentation and testimony of witnesses requested by the Special AFT-B Committee; rebuttal in support of the Formal Written Complaint;
6.2.6 closing statement(s) by Complainant(s), followed by closing statement(s) by Respondent(s);
6.2.7 statement by the Chair of the Special AFT-B Committee thanking participants and explaining post-Hearing procedures.

This order may be varied if the Chair of the Special AFT-B Committee determines that a clearer way of exploring the issues can be achieved, and if the Special AFT-B Committee and the parties agree.

6.3 Evidence and Witnesses.

6.3.1 Testimony shall be taken under oath. Each party shall have the right to cross-examine witnesses who testify and shall have the right to submit rebuttal testimony. Witnesses may testify and evidence may be received not only concerning relevant facts but also concerning relevant standards.

6.3.2 Members of the UNL community shall cooperate with the Special AFT-B Committee in providing testimony or documents; however, a person shall not be required to give testimony or to produce documents in regard to any confidential communication for which the law provides a privilege. Refusal by anyone to provide documents or to testify in regard to any communication for which the law does not provide a privilege obstructs the process and shall be taken into consideration by the Special AFT-B Committee in its deliberations and in its preparation of the Final Report.

6.3.3 In the event any party to the proceedings desires the issuance of a subpoena, such subpoena shall be issued at the direction of the Corporation Secretary, and may be served in the manner provided for subpoenas in the Nebraska Court Rules of Discovery.

6.3.4 Witnesses not able to attend the hearing may present testimony taken by deposition in the manner provided for depositions in the Nebraska Courts.

6.3.5 The Special AFT-B Committee may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence; provided, that any party may file with the Committee at least 3 days before the hearing a written request that the rules of evidence followed by the District Courts in the State of Nebraska shall be applicable. If such a written request is filed, the Chair of the Special AFT-B Committee shall notify the parties that the proceedings shall comply with the principles of law with respect to proceedings in the District Courts in Nebraska, and
all counsel and parties shall be bound by such rules and standards of ethics and codes of trial conduct as are applied in the District Courts.

6.3.6 The Chair of the Special AFT-B Committee may in appropriate circumstances temporarily adjourn the Hearing.

6.3.7 In cases where the grounds for termination of an appointment are based in whole or in part on questions of professional competence, the report of the meeting of tenured faculty of the respondent’s unit required by Regents Bylaw 4.14.(b)(2) shall be made a part of the record. Relevant testimony concerning professional competence from individual colleagues, students, and others also may be admitted.

6.4 Format of Presentations and Questions. To preserve orderly and civil proceedings, the Hearing shall be conducted by the Chair of the Special AFT-B Committee as follows:

6.4.1 No person shall speak without prior recognition by the Chair of the Special AFT-B Committee.

6.4.2 Each party and each witness may be questioned by members of the Special AFT-B Committee after the end of the presentation of that party or witness.

6.4.3 When the Special AFT-B Committee has finished questioning a party or witness, each party may question that party or witness; alternatively, the parties may submit questions to the Chair of the Special AFT-B Committee which the Chair of the Special AFT-B Committee may ask on their behalf.

6.4.4 The Chair of the Special AFT-B Committee may bar questions under Section 6.3.5. A party adversely affected by a decision to bar a question may appeal the decision of the Chair to the full Special AFT-B Committee.

6.4.5 A party’s academic advisor may consult privately with that party, may respond to questions from the Chair, and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing.

6.5 Record of Hearing

The Chair of the Special AFT-B Committee shall arrange for a court reporter to be present at the Hearing to produce a verbatim record of the Hearing. Bills for the court reporter’s services shall be processed through the office of the General Counsel of the University. The verbatim record shall be made available to the parties and to the Special AFT-B Committee prior to the deliberations and decision of the Special AFT-B Committee.
required by Section 7. The verbatim record also shall be made available for inspection by
the public as set forth in Section 8.3.

7 DELIBERATIONS AND DECISION

7.1 All deliberations shall be conducted in executive session with no one present except
members of the Special AFT-B Committee, and the ARRC attorney, if invited.

7.2 The complainant bears the burden of proving relevant facts by a preponderance of
the relevant evidence. If a respondent fails to file a timely written response or otherwise
fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to
be true.

7.3 Refusal by anyone to provide documents or to testify obstructs the process and shall
be taken into consideration by the Special AFT-B Committee in its deliberations and
preparation of the Final Report.

7.4 The standards against which the charges are to be judged include applicable state
and federal law; University bylaws, rules and regulations; established policies of the
relevant administrative unit; appropriate professional and discipline based standards;
applicable contracts; and academic principles and tradition. In the event of conflict
between different University bylaws, rules or regulations, those of the more inclusive
administrative unit shall prevail.

7.5 Pursuant to Regents Bylaw 4.15.2(j)-4(j), the Special AFT-B Committee shall have
the power to consider a request filed by any person, board or committee that alleges
that a faculty member should be subject to sanctions less severe than appointment
termination, and power to recommend in any case sanctions less severe than appointment
termination where less severe sanctions seem appropriate.

8 THE FINAL REPORT

When the Special AFT-B Committee has completed its deliberations it shall prepare a Final
Report setting forth the Special AFT-B Committee’s disposition of each charge alleged in
the Formal Written Complaint. Communications regarding matters outside the scope of the
Formal Written Complaint shall be addressed in accordance with the rules set forth in
Section 10 below. The Final Report shall be limited to the following mandatory and
optional elements.

8.1 Mandatory Elements of the Final Report. The Final Report shall contain, with
respect to each charge in the Formal Written Complaint:

8.1.1 specific findings of relevant fact and reference to the evidentiary foundations
upon which those findings are based;
8.1.2 identification of the standards against which the charge is being judged;
8.1.3 the Special AFT-B Committee’s conclusions concerning whether applicable standards have been violated; and
8.1.4 if the Special AFT-B Committee concludes that applicable standards have been violated, whether termination or some lesser sanction is warranted.

Before preparing the elements of the Final Report required by Sections 8.1.2 and 8.1.3, the Chair of the Special AFT-B Committee shall send to each party a copy of a provisional draft of the specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based required by Section 8.1.1. Each party shall have five days after receipt of the provisional draft to submit written comments to the Chair of the Special AFT-B Committee suggesting specific changes to correct specific alleged inaccuracies in the provisional draft. No changes based upon such comments shall be made to the provisional draft without first providing other parties an opportunity to respond to the comments. If the Special AFT-B Committee decides not to make changes suggested in a written comment, that written comment and the Special AFT-B Committee’s reasons for that decision shall be appended to the Final Report.

8.2 Optional Elements of the Final Report. In addition, the Final Report may contain one or more of the following:

8.2.1 Recommendations. The Final Report may include recommendations:
8.2.1.1 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the complaint;
8.2.1.2 concerning correction of any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the complaint.

8.2.2 Concurring or Dissenting Opinions. The Final Report may include concurring or dissenting opinions, or both, concerning any mandatory or optional element of the report.

8.3 Delivery and Archiving of Verbatim Record, Case File, and Final Report.

8.3.1 The Chair of the Special AFT-B Committee shall
8.3.1.1 deliver a copy of the Final Report, a copy of the verbatim record of the Hearing, and a copy of all exhibits to the Board of Regents;
8.3.1.2 deliver a copy of the Final Report to each party, to the Chancellor, to the President, to the Chair of the ARRC, and to the President of the Faculty Senate; and
8.3.1.3 deliver a copy of the Final Report and of the case file required by Section 4.1.4 to the Coordinator of the Faculty Senate.

8.3.2 The Coordinator of the Faculty Senate shall
8.3.2.1 obtain from the Corporate Secretary of the Board of Regents a copy of any committee report considered by the Board of Regents and a copy of the official record of the Board of Regents action;
8.3.2.2 deposit any committee report considered by the Board of Regents, the official record of the Board of Regents action, a second copy of the Final Report, and the case file in the FacultySenate Office under specified conditions of access; and
8.3.2.3 deposit any committee report considered by the Board of Regents, the official record of the Board of Regents action, a second copy of the Final Report, and the case file in the University Archives under specified conditions of access.

9 FOLLOW UP TO THE REPORT

9.1 Chancellor’s (or President’s) Response to Recommendations. In response to recommendations made by the Special AFT-B Committee, the Chancellor (or, if the Chancellor is a party or a witness, the President) shall within 30 days provide a written response to the Chair of the ARRC indicating:

9.1.1 the recommendations that have been accepted and the action taken;
9.1.2 the recommendations that have been rejected in part or completely; and
9.1.3 for each recommendation rejected, reasons responsive to the Committee’s rationale for proposing it.

Copies shall be sent to the parties, to the President of the Faculty Senate, and to the Coordinator of the Faculty Senate for inclusion in the case files in the ARRC archives and in the University Archives. If the response rejects or changes the recommendations made by the Special AFT-B Committee, the ARRC shall inform the President of the Faculty Senate who shall provide each member of the Senate Executive Committee with a copy of the Final Report and of the response and shall put the matter on the agenda of the next Senate Executive Committee meeting for whatever action the Senate Executive Committee may deem appropriate.

9.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of the Special AFT-B Committee have been implemented, and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

9.3 ARRC Meeting with the Special AFT-B Committee. After the Final Report has been filed, the ARRC shall meet with the Special AFT-B Committee and any others considered appropriate by the Chair of the ARRC to thank the Special AFT-B Committee for its work, to collect all copies of documents, and to hear from the Special AFT-B Committee any suggestions about how the work of the ARRC and its special committees might be improved.

10 COMMUNICATIONS REGARDING MATTERS OUTSIDE THE SCOPE OF THE FORMAL WRITTEN COMPLAINT
10.1 In the course of an investigation, one or more members of the Special AFT-B Committee may conclude that the Special AFT-B Committee has heard allegations or otherwise discovered information which, though outside the scope of the Formal Written Complaint and thus not subject to full investigation and evaluation by the Special AFT-B Committee, nonetheless suggests that actions or decisions have been taken or may be taken in violation of law, University policy, or academic principle.

10.2 Such concerns shall not be addressed in the Final Report of the Special AFT-B Committee required by Section 8.0. However, the Special AFT-B Committee acting though its chair, or any member or members of the Special AFT-B Committee, may communicate those concerns in writing to the appropriate administrator for investigation and for whatever corrective action may be appropriate. In shaping the contents of and determining the recipients for such communications, those preparing the communications shall consult with the Chair of the ARRC.

10.3 A copy of any such communication to an administrator shall at the same time be sent to

10.3.1 the Chancellor; and
10.3.2 the Chair of the ARRC; and
10.3.3 any individual on whose actions, decisions, or practices the communication reflects; and
10.3.4 if the communication reflects on the actions, decisions, or practices of a committee or unit, the individual who heads that committee or unit;
10.3.5 if the communication reflects on the actions, decisions, or practices of the Chancellor, the President; and
10.3.6 if the communication includes concerns about alleged unlawful discrimination, including sexual or other prohibited harassment, the UNL Office of Institutional Equity - Access and Diversity Programs and Compliance or its successor if the office is renamed.

10.4 Such communications shall be deemed to be a part of the responsibility of Special AFT-B Committee members and, as such, to be subject to the same protections afforded all Special AFT-B Committee activities by Section 6.8 of the Regents Bylaws.
CODE OF PROCEDURES FOR
SPECIAL GRIEVANCE COMMITTEES
University of Nebraska-Lincoln

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1 INTRODUCTION

1.1 Academic Rights and Responsibilities. All professional staff (including administrators and faculty members) of the University of Nebraska are entitled to enjoy and to exercise, without penalty, all the rights of an American citizen and the rights of academic freedom as specified in Regents Bylaw 4.2. It is essential to the University that all administrators and professional staff exercise these rights and respect their exercise by others, and uphold the attendant responsibilities outlined in Regents Bylaw 4.1.

1.2 Duty of University Officials to Investigate and to Take Action on Known or Alleged Discrimination. University Officials have a duty promptly to investigate and to take appropriate action on all known or alleged incidents of illegal discrimination. University officials in this context shall be defined as any individual employed by UNL with job authority or responsibility to

1.2.1 supervise, hire, assign or reassign responsibilities;
1.2.2 recommend or grant promotion or demotion; and/or
1.2.3 recommend or take any disciplinary or corrective actions.

1.3 Authority and Jurisdiction of Special Grievance Committees.

1.3.1 Regents Bylaws 4.8 and 4.14 authorize a Faculty Grievance Committee to consider complaints by any faculty member alleging any grievance. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special Grievance Committees established under the aegis of the Academic Rights and Responsibilities Committee (ARRC). A description of the committees can be found in the Syllabus of Committees of the Faculty Senate, available from the Faculty Senate Office and on the Faculty Senate website.

1.3.2 The Code entitled “Responsibilities of the Academic Rights and Responsibilities Committee and Procedures for Handling Matters of Academic Freedom and Tenure, Grievance and Professional Conduct” ("ARRC Procedures") indicates how complaints are to be received by the ARRC, assessed for sufficiency and jurisdiction, and transmitted to a Special Committee.

1.3.3 This “Code of Procedures for Special Grievance Committees" indicates how a complaint is to be handled after the ARRC has transmitted it to a Special Grievance Committee.
1.3.4 The ARRC Procedures and the Code of Procedures for Special Grievance Committees in their current form are available from the Faculty Senate Office and on the Faculty Senate website. Any faculty member contemplating filing a complaint with the ARRC should first consult both documents. For information and advice concerning these procedures, contact the Chair of the ARRC.

2 DEFINITIONS

As used in this Code of Procedures for Special Grievance Committees, unless the context otherwise requires:

2.1 Chancellor shall mean the Chancellor of UNL.

2.2 Days shall mean days on which University offices are open for business.

2.3 Faculty Member shall mean any staff member of UNL holding the academic rank of lecturer or above or equivalent rank (Regents Bylaws 3.1.1.1 and 4.4).

2.4 In Writing and Written, when used to describe a communication, shall mean that the communication so described shall be either a paper document signed by the sender or an electronic communication that can be readily accessed by the sender and by the recipient.

2.5 Parties shall mean the complainant(s) and the respondent(s).

2.6 President shall mean the President of the University of Nebraska and shall include the authorized representative of the President. The President shall not extend such authorization to the Chancellor or staff members of any campus of the University.

2.7 Section, unless otherwise noted, refers to a section of this Code of Procedures for Grievances.

3 GENERAL RULES GOVERNING SPECIAL GRIEVANCE COMMITTEES

3.1 Quorum. Each Special Grievance Committee has six members. If a member of the Special Grievance Committee withdraws or is barred prior to commencement of the Investigative Hearing, the Chair of the Special Grievance Committee shall notify the Chair of the ARRC, and the Chair of the ARRC shall make every reasonable effort to appoint a suitable replacement as provided in Section 3.3.4 of the ARRC Procedures. In an emergency, and with the consent of the parties, a hearing may be conducted with one member absent, but a member absent from the hearing may not participate in subsequent deliberations. In no case may the Special Grievance Committee proceed with the Investigative Hearing with fewer than five members present.
3.2 **Voting.** The Special Grievance Committee may take action only on concurrence of four members. The Chair may vote.

3.3 **Expiration of Term.** A member of the Special Grievance Committee whose term on the ARR Panel expires during a case shall continue to serve until the case is concluded.

3.4 **Conflict of Interest.** Conflict of Interest occurs when a member of the Special Grievance Committee

3.4.1 is in the same department or equivalent unit as a party or witness; or
3.4.2 answers directly to a party or witness; or
3.4.3 has a direct voice in the salary or working conditions of a party or witness; or
3.4.4 has, or reasonably appears to have, a personal interest in the case or its outcome; or
3.4.5 has provided counsel or assistance to a party relating to the grievance; or
3.4.6 has participated in the efforts of an organization to provide counsel or assistance to a party relating to the case; or
3.4.7 has any other relationship with a party that might prevent impartiality.

When a member of the Special Grievance Committee discovers that the member has a conflict of interest, the member shall voluntarily withdraw from participation. When a member of the Special Grievance Committee is alleged to have a conflict of interest and the member does not voluntarily withdraw, the ARRC shall review the allegation and, if a conflict of interest is found, shall bar that person from further participation.

3.5 **Communications.**

3.5.1 The Chair of the Special Grievance Committee receives communications for the Committee and speaks for it. Both complainant and respondent shall address communications concerning the case only to the Chair of the Special Grievance Committee. Special Grievance Committee members should discourage contacts outside the regular process, and should direct those who make them to the Chair of the Special Grievance Committee.

3.5.2 The Chair of the Special Grievance Committee shall keep all parties informed of any substantive communications and contacts, including those that arise outside the normal process.

3.5.3 If the Chair of the Special Grievance Committee has difficulty communicating with a party or other necessary participant, the Chair of the Special Grievance Committee may consult with the Chair of the ARRC about ways to resolve the communication problem.
3.6 Dissemination of Personnel Information. Participation in Special Grievance Committee proceedings makes participants privy to sensitive information and allegations involving the personal and professional lives of members of the University community. UNL Bylaw 2.109 describes limitations on the collection and dissemination of personnel information. Some information obtained as part of a Grievance proceeding may be protected against broader dissemination by this Bylaw. Violators of this Bylaw could be subject to sanctions for professional misconduct.

3.7 Closed Hearings. Grievance proceedings, including the Pre-Hearing Conference and the Investigative Hearing, are considered to be investigative in nature. They are not open to the public, nor to witnesses except while they are presenting evidence and responding to questions.

3.8 Academic Advisors. Each party may choose an Academic Advisor who may accompany and advise the party at the Pre-Hearing Conference and the Investigative Hearing. A party’s academic advisor may consult privately with that party. At the Pre-Hearing Conference and the Hearing, academic advisors may respond to questions from the Chair and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing. The role of Academic Advisor is open to any person who:

- 3.8.1 is a member of the UNL Academic Assembly (UNL Bylaw 3.3.1) or has emeritus faculty status at UNL;
- 3.8.2 is not in the same department or equivalent unit as a witness (other than the party being advised) before or a member of the Special Grievance Committee;
- 3.8.3 has no other relationship with a member of the Special Grievance Committee that might create, or reasonably might seem to create, a conflict of interest for that Special Grievance Committee member;
- 3.8.4 has no direct voice in the salary or working conditions of a party or witness; and
- 3.8.5 has no other relationship with a party, an organization, or a witness that might interfere with the investigative process.

3.9 Counsel and Advice for the Special Grievance Committee.

- 3.9.1 Because of potential conflicts of interest, the Special Grievance Committee shall not seek or accept advice from anyone to whom a party is answerable or who may be in a position of giving advice or legal counsel to a party or to any person or body that may later act on the Report of the Special Grievance Committee.

- 3.9.2 The Chair of the Special Grievance Committee may receive advice from the ARRC attorney selected pursuant to section 3.10.2 of the ARRC Procedures, but may not have an attorney present at the Investigative Hearing.

- 3.9.3 Nothing in this Section 3.9 shall prevent full participation by a member of the Special Grievance Committee who is also an attorney.
3.10 Termination of Pending Grievance Proceedings.

3.10.1 If at any time all complainants in writing ask the Chair of the Special Grievance Committee that the Formal Written Complaint be withdrawn, or all parties in writing notify the Chair of the Special Grievance Committee that they have reached a settlement of the case, the Special Grievance Committee shall terminate the proceedings and shall not deliver the Final Report described in Section 8. However, in such circumstances the Special Grievance Committee may, on its own initiative, make written recommendations authorized by Sections 8.2.2 and 8.2.3

3.10.1.1 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the grievance; and

3.10.1.2 concerning ways to correct any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the grievance.

Termination of the proceedings under this section shall not preclude the Special Grievance Committee, or members of the Special Grievance Committee, from making the “Communications Regarding Matters Outside the Scope of the Formal Written Complaint” authorized by Section 10.

3.10.2 Resignation from the University by any party shall not necessarily prevent the Special Grievance Committee from completing its deliberations and delivering the Final Report described in Section 8.

3.11 Timely Completion. Unless the ARRC, for good cause shown, authorizes a longer period of time, the Special Grievance Committee shall complete its investigation and deliver its report within 150 days of receiving the Formal Written Complaint from the Chair of the ARRC.

3.12 Adherence to Procedures.

3.12.1 If a party has good reason to believe that the Special Grievance Committee is out of compliance with these procedures, the matter should be brought to the attention of the Chair of the Special Grievance Committee. Procedural questions that the Chair of the Special Grievance Committee cannot resolve promptly and that are so important that failure to resolve them would undermine the credibility of the Special Grievance Committee may be referred by the Chair of the Special Grievance Committee or by a party to the ARRC for resolution. The ARRC shall resolve the issues after obtaining the views of the parties and of the Special Grievance Committee. The Chair of the ARRC shall inform the parties and the Special Grievance Committee of the ARRC decision and direct them to follow the decision.
If a party has good reason to believe that the ARRC is out of compliance with these procedures or the ARRC Procedures, the party may invoke Section 6.2 of the ARRC Procedures.

### 4 GENERAL RESPONSIBILITIES OF THE CHAIR OF THE SPECIAL GRIEVANCE COMMITTEE, NOTICE, RESPONSE, ALLEGATIONS OF CONFLICT OF INTEREST, AND CHALLENGES TO THE ELIGIBILITY OF PROPOSED ACADEMIC ADVISORS

#### 4.1 General Responsibilities of the Chair of the Special Grievance Committee.

The responsibilities of the Chair of the Special Grievance Committee include:

- **4.1.1** convening and presiding over meetings of the Special Grievance Committee;
- **4.1.2** receiving communications for the Special Grievance Committee and speaking for it;
- **4.1.3** ensuring that all substantive communications regarding the grievance are made available to all parties;
- **4.1.4** maintaining a complete case file, including a record of all substantive communications, documents, committee actions, and committee reports related to the grievance;
- **4.1.5** providing a copy of the Formal Written Complaint, the Formal Written Response, the current ARRC Procedures, and the current Code of Procedures for Special Grievance Committees to each member of the Special Grievance Committee, and to the ARRC Observer, if any;
- **4.1.6** arranging for accommodations for the Pre-Hearing Conference and for the Investigative Hearing, taking into account such factors as the time needed, the space needs of the Special Committee and parties and witnesses, the need for a separate accommodation for witnesses while waiting to testify, and access to other facilities that may be needed;
- **4.1.7** moving the proceedings toward a conclusion as expeditiously as reasonably possible while respecting the rights and needs of all participants;
- **4.1.8** notifying the Chair of the ARRC of any withdrawal from the Special Grievance Committee to permit timely appointment of a substitute as provided in Section 3.3.5 of the ARRC Procedures;
- **4.1.9** reminding participants of limitations on the dissemination of personnel information set forth in Section 3.6;
- **4.1.10** arranging for timely consultation with the Chair of ARRC should procedural disputes arise; and
- **4.1.11** keeping accurate records of expenditures for activities of the Special Committee and arranging for reimbursements from the Chancellor’s office.

#### 4.2 Written Notice to the Parties.

Within 7 days after the Special Grievance Committee has been convened, the Chair of the Special Grievance Committee shall send to each party the following:

- **4.2.1** a copy of the Formal Written Complaint;
4.2.2 a copy of the current Procedures of the Academic Rights and Responsibilities Committee;
4.2.3 a copy of the current Code of Procedures for Grievances;
4.2.4 a list of the members of the Special Grievance Committee;
4.2.5 the name of the ARRC Observer or, if no ARRC Observer has been appointed, notice to the parties that they are entitled to request that an ARRC Observer be appointed; and
4.2.6 notice of the deadlines established in Section 4.3 and 4.4.

4.3 Formal Written Responses from Respondents: Mandatory Elements and Deadline for Filing. Within 15 days from the date of receipt of the Formal Written Complaint from the Chair of the Special Grievance Committee, each respondent shall file a Formal Written Response with the Chair of the Special Grievance Committee.

4.3.1 Mandatory Elements. Each Formal Written Response shall contain a clear and concise statement indicating which, if any, of the facts alleged in the Formal Written Complaint the respondent wishes to contest and a clear and concise statement indicating any ameliorating or other additional facts the respondent wishes to allege. Under Sections 4.5 and 7.2, if a respondent fails to file a timely Formal Written Response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

4.3.2 Optional Elements. In addition, the Formal Written Response may include the following:

4.3.2.1 a clear and concise statement indicating which, if any, of the standards identified in the Formal Written Complaint the respondent wishes to contest;
4.3.2.2 a clear and concise statement of the standards, if any, the respondent believes to be appropriate for evaluating the complaint;
4.3.2.3 a clear and concise statement indicating which, if any, of the violations alleged in the Formal Written Complaint the respondent wishes to contest;
4.3.2.4 a clear and concise statement indicating which, if any, of the proposed remedies, sanctions, or other personal relief or prospective institutional change the respondent believes would be inappropriate.

The Chair of the Special Grievance Committee may extend these deadlines for good cause shown.

4.4 Deadline for Requests from Any Party Requesting an Academic Advisor, an ARRC Observer, and for Allegations of Conflict of Interest. Within 15 days from the date of receipt of the Formal Written Complaint from the Chair of the Special Grievance Committee,
4.4.1 any party wishing to be advised by an academic advisor shall file a written request with the Chair of the Special Grievance Committee identifying the proposed academic advisor;
4.4.2 any party wishing to request that the ARRC appoint an ARRC Observer shall file a written request with the Chair of the Special Grievance Committee;
4.4.3 any party wishing to allege that a member of the Special Grievance Committee has a conflict of interest shall file a written statement with the Chair of the Special Grievance Committee setting forth the basis for the challenge.

The Chair of the Special Grievance Committee may extend these deadlines for good cause shown.

4.5 Procedure If No Respondent Files a Timely Formal Written Response. If no respondent files a timely Formal Written Response, the uncontested allegations of fact in the Formal Written Complaint shall be deemed to be true, and the Chair of the Special Committee shall so notify the parties and shall schedule a meeting of the Special Grievance Committee to prepare the Final Report required by Section 8.

4.6 Procedure If a Respondent Files a Timely Formal Written Response. If any respondent files a timely Formal Written Response, the Chair of the Special Grievance Committee shall

4.6.1 determine whether proposed academic advisors are eligible under Section 3.8, and if any party=s proposed academic advisor is not eligible, invite that party to propose an eligible academic advisor;
4.6.2 forward to each complainant and to each respondent a copy of each Formal Written Response and the names of proposed academic advisors; and
4.6.3 forward to the Chair of the ARRC any request that an ARRC Observer be appointed.

4.7 Party Challenges to Proposed Academic Advisors or ARRC Observer.

4.7.1 Any party may in writing challenge the eligibility of a proposed academic advisor by delivering the challenge to the Chair of the Special Grievance Committee within 7 days after receipt of the name of the proposed academic advisor. If a challenged proposed academic advisor does not voluntarily withdraw, the Chair of the Special Grievance Committee shall determine whether the proposed academic advisor is eligible. If the proposed academic advisor is not eligible, the party may propose another academic advisor. If the new proposed academic advisor appears to be eligible, the Chair of the Special Grievance Committee shall notify parties of the new proposed academic advisor and afford parties an opportunity to challenge the new proposed academic advisor.
4.7.2 Any party may in writing challenge the eligibility of a proposed ARRC Observer by delivering the challenge to the Chair of the Special Grievance Committee within 7 days after receipt of the name of the proposed ARRC Observer. The Chair of the Special Grievance Committee shall forward the challenge to the Chair of the ARRC. If a challenged ARRC Observer does not voluntarily withdraw, the Chair of the ARRC shall determine whether the proposed ARRC Observer is eligible. If the proposed ARRC Observer is not eligible, the ARRC may in writing propose another ARRC Observer to the Chair of the Special Committee. The Chair of the Special Committee shall in writing notify parties of the new proposed ARRC Observer and afford parties an opportunity to challenge the new proposed ARRC Observer.

5 PRE-HEARING CONFERENCE

5.1 Purpose. As soon as possible after giving notice of a Formal Written Response contesting any allegations of the Formal Written Complaint and resolving any issues involving conflicts of interest and eligibility of proposed academic advisors and ARRC Observers, the Chair of the Special Grievance Committee shall arrange a Pre-Hearing Conference with all parties in attendance

5.1.1 to clarify the issues involved;
5.1.2 to identify uncontroverted facts;
5.1.3 to explore the possibility of a voluntary settlement of the case;
5.1.4 to explain procedures applicable to the Investigative Hearing; and
5.1.5 to establish procedures for setting the date, time, and place of the Investigative Hearing.

At the Pre-Hearing Conference each party shall provide every other party and the Chair of the Special Grievance Committee with a copy of any documentation to be introduced by the party at the Investigative Hearing and with a list of any witnesses to be called by the party at the Investigative Hearing. Also, the Chair of the Special Committee will provide in writing to all parties and members of the Special Committee a list of the uncontroverted facts established in the Pre-Hearing Conference as well as a list of issues to be resolved during the Investigative Hearing by the Special Committee.

5.2 Persons Who May Attend and Participate in the Pre-Hearing Conference:
5.2.1 the Chair of the Special Grievance Committee;
5.2.2 the parties;
5.2.3 each party’s academic advisor, if any;
5.2.4 the ARRC attorney, if requested by the Chair of the Special Grievance Committee; and
5.2.5 the ARRC Observer, if any.

5.3 Meeting of the Special Grievance Committee after the Pre-Hearing Conference and Before the Investigative Hearing.
5.3.1 As soon as possible after the conclusion of the Pre-Hearing Conference, the Chair of the Special Grievance Committee shall provide each member of the Special Grievance Committee with the following:

- A copy of the Formal Written Complaint and a copy of each Formal Written Response;
- A copy of each party’s written list of witnesses to be called and documentation to be introduced at the Investigative Hearing;
- A written summary of matters decided at the Pre-Hearing Conference.

5.3.2 After a reasonable time to permit members of the Special Grievance Committee to review these materials, the Chair of the Special Grievance Committee shall convene a meeting of the Special Grievance Committee, with only members of the Special Grievance Committee present, to determine whether the Special Grievance Committee wishes to call any additional witnesses or request any additional documentation. If the Special Grievance Committee decides to call any additional witnesses or request any additional documentation, the Chair of the Special Grievance Committee shall notify the parties in writing and shall make arrangements for the additional witnesses and documentation to be presented at the Investigative Hearing.

5.4 Notice of Investigative Hearing. As soon as possible after the conclusion of the meeting of the Special Grievance Committee in accordance with Section 5.3, the Chair of the Special Grievance Committee shall in writing give notice of the date, time, and place of the Investigative Hearing to:

- Each party;
- Each member of the Special Grievance Committee;
- Each academic advisor, if any;
- The ARRC Observer, if any;
- The Chair of the ARRC.

6 INVESTIGATIVE HEARING

6.1 Persons Who May Attend the Investigative Hearing:

- Members of the Special Grievance Committee;
- The parties;
- Each party’s academic advisor, if any;
- The ARRC Observer, if any;
- Witnesses, but no witness shall be present except when that witness is testifying and responding to questions.

6.2 Order of Investigative Hearing. The usual sequence of an Investigative Hearing is as follows:

- Introductions of all present (this will be repeated for each witness);
- Introduction of the case by the Chair of the Special Grievance Committee;
6.2.3 complainant(s)' presentation of the Formal Written Complaint and evidence in support of the Formal Written Complaint, including all documentation and all witnesses;
6.2.4 respondent(s)' presentation of the Formal Written Response and evidence in support of the Formal Written Response, including all documentation and all witnesses;
6.2.5 presentation of documentation and testimony of witnesses requested by the Special Grievance Committee;
6.2.6 rebuttal in support of the Formal Written Complaint;
6.2.7 closing statement(s) by Complainant(s), followed by closing statement(s) by Respondent(s);
6.2.8 statement by the Chair of the Special Grievance Committee thanking participants and explaining post-Investigative-Hearing procedures.

This order may be varied if the Chair of the Special Grievance Committee determines that a clearer way of exploring the issues can be achieved, and if the Special Grievance Committee and the parties agree.

6.3 Evidence and Witnesses.

6.3.1 The Special Grievance Committee may direct the parties, faculty members, and other officers of the University to produce specific relevant documents (including personnel and student records) for introduction at the Investigative Hearing.

6.3.2 Members of the UNL community shall cooperate with the Special Grievance Committee in providing testimony or documents; however, a person shall not be required to give testimony or to produce documents in regard to any confidential communication for which the law provides a privilege. Refusal by anyone to provide documents or to testify in regard to any communication for which the law does not provide a privilege obstructs the process and shall be taken into consideration by the Special Grievance Committee in its deliberations and in its preparation of the Final Report.

6.3.3 Witnesses may testify and evidence may be received not only concerning relevant facts but also concerning relevant standards. The Chair of the Special Grievance Committee may bar the introduction of documents, evidence, questions, and testimony reasonably deemed irrelevant, immaterial, not incompetent, or unduly repetitious. The Chair of the Special Grievance Committee also may bar the introduction of documents, evidence, and testimony if introduction would unfairly surprise another party and if the documents, evidence, or testimony could, with reasonable diligence, have been discovered or produced before the Pre-Hearing Conference. A party adversely affected by a decision
bar the introduction of evidence may appeal the decision of the Chair to the full Special Grievance Committee.

6.3.4 The Chair of the Special Grievance Committee may in appropriate circumstances temporarily adjourn the Investigative Hearing.

6.4 Format of Presentations and Questions. To preserve orderly and civil proceedings, the Investigative Hearing shall be conducted by the Chair of the Special Grievance Committee as follows:

6.4.1 No person shall speak without prior recognition by the Chair of the Special Grievance Committee.

6.4.2 Each party and each witness may be questioned by members of the Special Grievance Committee after the end of the presentation of that party or witness.

6.4.3 When the Special Grievance Committee has finished questioning a party or witness, each party may question that party or witness; alternatively, the parties may submit questions to the Chair of the Special Grievance Committee which the Chair of the Special Grievance Committee may ask on their behalf.

6.4.4 The Chair of the Special Grievance Committee may bar questions under Section 6.3.3. A party adversely affected by a decision to bar a question may appeal the decision of the Chair to the full Special Grievance Committee.

6.4.5 A party’s academic advisor may consult privately with that party, may respond to questions from the Chair, and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Investigative Hearing.

7 DELIBERATIONS AND DECISION

7.1 All deliberations shall be conducted in executive session with no one present except members of the Special Grievance Committee, and the ARRC attorney, if invited.

7.2 The complainant bears the burden of proving relevant facts by a preponderance of the relevant evidence. If a respondent fails to file a timely written response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

7.3 Refusal by anyone to provide documents or to testify obstructs the process and shall be taken into consideration by the Special Grievance Committee in its deliberations and preparation of the Final Report.
7.4 The standards against which the charges are to be judged include applicable state and federal law; University bylaws, rules and regulations; established policies of the relevant administrative unit; appropriate professional and discipline based standards; applicable contracts; and academic principles and tradition. In the event of conflict between different University bylaws, rules or regulations, those of the more inclusive administrative unit shall prevail.

8 THE FINAL REPORT

When the Special Grievance Committee has completed its deliberations it shall prepare a Final Report setting forth the Special Grievance Committee’s disposition of each grievance alleged in the Formal Written Complaint. Communications regarding matters outside the scope of the Formal Written Complaint shall be addressed in accordance with the rules set forth in Section 10 below. The Final Report shall be limited to the following mandatory and optional elements.

8.1 Mandatory Elements of the Final Report. The Final Report shall contain, with respect to each grievance alleged in the Formal Written Complaint:

8.1.1 specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based;

8.1.2 identification of the standards against which the grievance is being judged; and

8.1.3 the Special Grievance Committee’s conclusions concerning whether applicable standards have been violated.

Before preparing the elements of the Final Report required by Sections 8.1.2 and 8.1.3, the Chair of the Special Grievance Committee shall send to each party a copy of a provisional draft of the specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based required by Section 8.1.1. Each party shall have five days after receipt of the provisional draft to submit written comments to the Chair of the Special Grievance Committee suggesting specific changes to correct specific alleged inaccuracies in the provisional draft. No changes based upon such comments shall be made to the provisional draft without first providing other parties an opportunity to respond to the comments. If the Special Grievance Committee decides not to make changes suggested in a written comment, that written comment and the Special Grievance Committee’s reasons for that decision shall be appended to the Final Report.

8.2 Optional Elements of the Final Report. In addition, the Final Report may contain one or more of the following:

8.2.1 Order of Reconsideration Under Regents Bylaw 4.14.2 4.13.2. If the grievance alleged that inadequate consideration was given to relevant matters by the person or body that took the action or made the decision that led to the grievance, and if the Special Grievance Committee has determined that inadequate consideration of the relevant matters occurred, the Final Report of the Special Grievance
Committee shall state the facts found and the respects in which the consideration was inadequate. The Special Grievance Committee shall not substitute its judgment on the merits for that of the person, group, or groups that previously considered the decision. The Special Grievance Committee may order the matter reconsidered by the appropriate person, group, or groups, or recommend that other rectifying action be taken. Any such order of reconsideration shall indicate the person or unit that is to begin the reconsideration ordered by the Special Grievance Committee,¹ shall indicate reasonable time limits within which the reconsideration shall occur, and shall include the requirement that the file used for the reconsideration include the full Final Report of the Special Grievance Committee and any relevant further evidence submitted for the reconsideration.²

8.2.2 Recommendations. The Final Report may include recommendations:

8.2.2.1 concerning ways to redress any grievance the Special Grievance Committee has determined to be justified;
8.2.2.2 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the grievance;
8.2.2.3 concerning correction of any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the grievance.

8.2.3 Dissenting Opinions. The Final Report may include concurring or dissenting opinions, or both, concerning any mandatory or optional element of the report.

8.3 Delivery and Archiving of Final Report.

8.3.1 The Chair of the Special Grievance Committee shall

8.3.1.1 deliver a copy of the Final Report to each party, to the Chancellor (or, if the Chancellor is a party or witness, to the President), to the Chair of the ARRC, and to the President of the Faculty Senate; and
8.3.1.2 deliver a copy of the Final Report and of the case file required by Section 4.1.4 to the Coordinator of the Faculty Senate.

¹ Under Regents Bylaw 4.8(a), the complainant may exercise the right to designate that reconsideration begin at an earlier stage than that designated by the Special Grievance Committee, and may exercise the right to offer evidence for the reconsideration; a complainant who exercises these rights shall be deemed to have fully exercised the complainant’s rights to reconsideration under that Bylaw.

² If a person or unit ordered to reconsider a decision does not thereafter correct procedural errors in the original consideration or refuses to consider all relevant information, the complainant may request that the ARRC reconvene the Special Grievance Committee as a Special Professional Conduct Committee.
8.3.2 The Coordinator of the Faculty Senate shall
8.3.2.1 place one copy of the Final Report and of the case file in ARRC archives in the Faculty Senate Office under specified conditions of access; and
8.3.2.2 deposit a second copy of the Final Report and of the case file in the University Archives under specified conditions of access.

9 FOLLOW UP TO THE REPORT

9.1 Chancellor's (or President's) Response to Recommendations. In response to recommendations made by the Special Grievance Committee, the Chancellor (or, if the Chancellor is a party or witness, the President) shall within 30 days provide a written response to the Chair of the ARRC indicating:
9.1.1 the recommendations that have been accepted and the action taken;
9.1.2 the recommendations that have been rejected in part or completely; and
9.1.3 for each recommendation rejected, reasons responsive to the Committee's rationale for proposing it.

The Chancellor (or President) shall decide upon Special Grievance Committee recommendations on the basis of the evidence submitted to the Special Grievance Committee and the report of the Special Grievance Committee. Unless clearly erroneous, the findings of fact made by the Special Grievance Committee shall be accepted. The Chancellor (or President) shall give the Special Grievance Committee's findings and conclusions due consideration, and shall take into account the fact that the Special Grievance Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Special Grievance Committee.

Copies of the Chancellor's (or President's) written response shall be sent to the parties, to the Special Grievance Committee, to the President of the Faculty Senate, and to the Coordinator of the Faculty Senate for inclusion in the case files in the ARRC archives and in the University Archives. If the response rejects or changes the recommendations made by the Special Grievance Committee, the ARRC shall inform the President of the Faculty Senate who shall provide each member of the Senate Executive Committee with a copy of the Final Report and of the response and shall put the matter on the agenda of the next Senate Executive Committee meeting for whatever action the Senate Executive Committee may deem appropriate.

9.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of the Special Grievance Committee have been implemented, and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

9.3 ARRC Meeting with the Special Grievance Committee. After the Final Report has been filed, the ARRC shall meet with the Special Grievance Committee and any others considered appropriate by the Chair of the ARRC to thank the Special Grievance
Committee for its work, to collect all copies of documents, and to hear from the Special Grievance Committee any suggestions about how the work of the ARRC and its special committees might be improved.

10 COMMUNICATIONS REGARDING MATTERS OUTSIDE THE SCOPE OF THE FORMAL WRITTEN COMPLAINT

10.1 In the course of an investigation, one or more members of the Special Grievance Committee may conclude that the Special Grievance Committee has heard allegations or otherwise discovered information which, though outside the scope of the Formal Written Complaint and thus not subject to full investigation and evaluation by the Special Grievance Committee, nonetheless suggests that actions or decisions have been taken or may be taken in violation of law, University policy, or academic principle.

10.2 Such concerns shall not be addressed in the Final Report of the Special Grievance Committee required by Section 8.0. However, the Special Grievance Committee acting though its chair, or any member or members of the Special Grievance Committee, may communicate those concerns in writing to the appropriate administrator for investigation and for whatever corrective action may be appropriate. In shaping the contents of and determining the recipients for such communications, those preparing the communications shall consult with the Chair of the ARRC.

10.3 A copy of any such communication to an administrator shall at the same time be sent to:

10.3.1 the Chancellor; and
10.3.2 the Chair of the ARRC; and
10.3.3 any individual on whose actions, decisions, or practices the communication reflects; and
10.3.4 if the communication reflects on the actions, decisions, or practices of a committee or unit, the individual who heads that committee or unit;
10.3.5 if the communication reflects on the actions, decisions, or practices of the Chancellor, the President; and
10.3.6 if the communication includes concerns about alleged unlawful discrimination, including sexual or other prohibited harassment, the UNL Office of Institutional Equity and Compliance Access and Diversity Programs, or its successor if the office is renamed.

10.4 Such communications shall be deemed to be a part of the responsibility of Special Grievance Committee members and, as such, to be subject to the same protections afforded all Special Grievance Committee activities by Section 6.8 of the Regents Bylaws.
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1 INTRODUCTION

1.1 Academic Rights and Responsibilities. All professional staff (including administrators and faculty members) of the University of Nebraska are entitled to enjoy and to exercise, without penalty, all the rights of an American citizen and the rights of academic freedom as specified in Regents Bylaw 4.2. It is essential to the University that all administrators and professional staff exercise these rights and respect their exercise by others, and uphold the attendant responsibilities outlined in Regents Bylaw 4.1.

1.2 Duty of University Officials to Investigate and to Take Action on Known or Alleged Discrimination. University Officials have a duty promptly to investigate and to take appropriate action on all known or alleged incidents of illegal discrimination. University officials in this context shall be defined as any individual employed by UNL with job authority or responsibility to

   1.2.1 supervise, hire, assign or reassign responsibilities;
   1.2.2 recommend or grant promotion or demotion; and/or
   1.2.3 recommend or take any disciplinary or corrective actions.

1.3 Authority and Jurisdiction of Special PC Committees.

   1.3.1 Regents Bylaws 4.16 authorizes a Faculty Professional Conduct Committee to consider complaints by any person charging a member of the professional staff with professional misconduct. The UNL Faculty Senate, with the approval of the University of Nebraska Board of Regents, has vested that authority in Special Professional Conduct Committees established under the aegis of the Academic Rights and Responsibilities Committee (ARRC). A description of the committees can be found in the Syllabus of Committees of the Faculty Senate, available from the Academic Senate Office and on the Faculty Senate website.

   1.3.2 The Code entitled “Responsibilities of the Academic Rights and Responsibilities Committee and Procedures for Handling Matters of Academic Freedom and Tenure, Grievance and Professional Conduct” (‘ARRC Procedures”) indicates how complaints are to be received by the ARRC, assessed for sufficiency and jurisdiction, and transmitted to a Special Committee.

   1.3.3 This “Code of Procedures for Special PC Committees” indicates how a complaint alleging professional misconduct other than Federal Misconduct in Science is to be handled after the ARRC has transmitted it to a Special PC Committee. Complaints alleging violation of Federal Misconduct in Science Regulations should be directed to the Office of the Vice Chancellor for Research and Economic Development for resolution under the “University of Nebraska-Lincoln Policies and Procedures for Responding to Allegations of Research Misconduct.”

   1.3.4 The ARRC Procedures and the Code of Procedures for Special PC Committees in their current form are available from the Faculty Senate Office and on the Faculty Senate website. Any faculty member contemplating filing a complaint with the ARRC should first consult both documents. For information and advice concerning these procedures, contact the Chair of the ARRC.
2 DEFINITIONS

As used in this Code of Procedures for Special PC Committees, unless the context otherwise requires:

2.1 Chancellor shall mean the Chancellor of UNL.

2.2 Days shall mean days on which University offices are open for business.

2.3 Faculty Member shall mean any staff member of UNL holding the academic rank of lecturer or above or equivalent rank (Regents Bylaws 3.1.1.1 and 4.4).

2.4 Federal Misconduct in Science Regulations shall mean regulations covering misconduct in federally sponsored scientific research, particularly, but not exclusively, that funded by the Public Health Service. Consult the Office of the Vice Chancellor for Research to determine projects covered by these regulations.

2.5 In Writing and Written, when used to describe a communication, shall mean that the communication so described shall be either a paper document signed by the sender or an electronic communication that can be readily accessed by the sender and by the recipient.

2.6 Parties shall mean the complainant(s) and the respondent(s).

2.7 President shall mean the President of the University of Nebraska and shall include the authorized representative of the President. The President shall not extend such authorization to the Chancellor or staff members of any campus of the University.

2.8 Section, unless otherwise noted, refers to a section of this Code of Procedures for Special PC-A PC Committees.

2.9 Vice Chancellor for Research shall include the authorized representative of the Vice Chancellor. The Vice Chancellor shall not extend such authorization to Deans with collegiate or divisional responsibility or to a staff member of any such college or division.
3 GENERAL RULES GOVERNING SPECIAL PC COMMITTEES

3.1 Quorum.

3.1.1 Each Special PC Committee has six faculty members.

3.1.2 If a member of the Special PC Committee withdraws or is barred prior to commencement of the Investigative Hearing, the Chair of the Special PC Committee shall notify the Chair of the ARRC, and the Chair of the ARRC shall make every reasonable effort to appoint a suitable replacement as provided in Section 3.3.4 of the ARRC Procedures. In an emergency, and with the consent of the parties, a hearing may be conducted with one faculty member absent, but a faculty member absent from the hearing may not participate in subsequent deliberations. In no case may the Special PC Committee proceed with the Investigative Hearing with fewer than five faculty members present.

3.2 Voting. The Special PC Committee may take action only on concurrence of four faculty members. The Chair may vote.

3.3 Expiration of Term. A member of the Special PC Committee whose term on the ARR Panel expires during a case shall continue to serve until the case is concluded.

3.4 Conflict of Interest. Conflict of Interest occurs when a member of the Special PC Committee

3.4.1 is in the same department or equivalent unit as a party or witness; or
3.4.2 answers directly to a party or witness; or
3.4.3 has a direct voice in the salary or working conditions of a party or witness; or
3.4.4 has, or reasonably appears to have, a personal interest in the case or its outcome; or
3.4.5 has provided counsel or assistance to a party relating to the professional misconduct allegation; or
3.4.6 has participated in the efforts of an organization to provide counsel or assistance to a party relating to the case; or
3.4.7 has any other relationship with a party that might prevent impartiality.

When a member of the Special PC Committee discovers that the member has a conflict of interest, the member shall voluntarily withdraw from participation. When a member of the Special PC Committee is alleged to have a conflict of interest and the member does not voluntarily withdraw, the ARRC shall review the allegation and, if a conflict of interest is found, shall bar that person from further participation.

3.5 Communications.

3.5.1 The Chair of the Special PC Committee receives communications for the Committee and speaks for it. Both complainant and respondent shall address communications concerning the case only to the Chair of the Special PC Committee. Special PC Committee members should discourage contacts outside the regular process, and should direct those who make them to the Chair of the Special PC Committee.

3.5.2 The Chair of the Special PC Committee shall keep all parties informed of any substantive communications and contacts, including those that arise outside the normal process.

3.5.3 If the Chair of the Special PC Committee has difficulty communicating with a party or other necessary participant, the Chair of the Special PC Committee may consult with the Chair of the ARRC about ways to resolve the communication problem.

3.6 Dissemination of Personnel Information. Participation in Special PC Committee proceedings makes participants privy to sensitive information and allegations involving the personal and professional lives of members of the University community. UNL Bylaw 2.10 describes limitations on the collection and dissemination of personnel information. Some information obtained as part of a PC proceeding may be protected against broader dissemination by this Bylaw. Violators of this Bylaw could be subject to sanctions for professional misconduct.

3.7 Closed Hearings. PC hearings ordinarily are closed to the public. If the Investigative Hearing is closed to the public, then only those persons identified in Section 6.1 may be present. When an administrative officer is the complainant, then the Investigative Hearing shall be open to the public if requested to be so by the respondent prior to the conclusion of the Pre-Hearing Conference.

3.8 Academic Advisors. Each party may choose an Academic Advisor who may accompany and advise the party at the Pre-Hearing Conference and the Investigative Hearing. A party’s academic advisor may consult privately with that party. At the Pre-Hearing Conference and the Hearing, academic advisors may respond to questions from the Chair and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Hearing. The role of Academic Advisor is open to any person who:

3.8.1 is a member of the UNL Academic Assembly (UNL Bylaw 3.3.1) or has emeritus faculty status at UNL;

3.8.2 is not in the same department or equivalent unit as a witness (other than the party being advised) before or a member of the Special PC Committee;
3.8.3 has no other relationship with a member of the Special PC Committee that might create, or reasonably might seem to create, a conflict of interest for that Special PC Committee member;

3.8.4 has no direct voice in the salary or working conditions of a party or witness; and

3.8.5 has no other relationship with a party, an organization, or a witness that might interfere with the investigative process.

3.9 Counsel and Advice for the Special PC Committee.

3.9.1 Because of potential conflicts of interest, the Special PC Committee shall not seek or accept advice from anyone to whom a party is answerable or who may be in a position of giving advice or legal counsel to a party or to any person or body that may later act on the Report of the Special PC Committee.

3.9.2 The Chair of the Special PC Committee may receive advice from the ARRC attorney selected pursuant to section 3.10.2 of the ARRC Procedures but may not have an attorney present at the Investigative Hearing.

3.9.3 Nothing in this Section 3.9 shall prevent full participation by a member of the Special PC Committee who is also an attorney.

3.10 Termination of Pending PC Proceedings.

3.10.1 If at any time all complainants in writing ask the Chair of the Special PC Committee that the Formal Written Complaint be withdrawn, or all parties in writing notify the Chair of the Special PC Committee that they have reached a settlement of the case, the Special PC Committee shall terminate the proceedings and shall not deliver the Final Report described in Section 8. However, in such circumstances the Special PC Committee may, on its own initiative, make written recommendations authorized by Sections 8.2.2 and 8.2.3

3.10.1.1 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the filing of the complaint; and

3.10.1.2 concerning ways to correct any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the complaint.

Termination of the proceedings under this section shall not preclude the Special PC Committee, or members of the Special PC Committee, from making the “Communications Regarding Matters Outside the Scope of the Formal Written Complaint” authorized by Section 10.

3.10.2 Resignation from the University by any party shall not necessarily prevent the Special PC Committee from completing its deliberations and delivering the Final Report described in Section 8.

3.11 Timely Completion. Unless the ARRC, for good cause shown, authorizes a longer period of
time, the Special PC Committee shall complete its investigation and deliver its report within 150 days of receiving the Formal Written Complaint from the Chair of the ARRC.

3.12 Adherence to Procedures.

3.12.1 If a party has good reason to believe that the Special PC Committee is out of compliance with these procedures, the matter should be brought to the attention of the Chair of the Special PC Committee. Procedural questions that the Chair of the Special PC Committee cannot resolve promptly and that are so important that failure to resolve them would undermine the credibility of the Special PC Committee may be referred by the Chair of the Special PC Committee or by a party to the ARRC for resolution. The ARRC shall resolve the issues after obtaining the views of the parties and of the Special PC Committee. The Chair of the ARRC shall inform the parties and the Special PC Committee of the ARRC decision and direct them to follow the decision.

3.12.2 If a party has good reason to believe that the ARRC is out of compliance with these procedures or the ARRC Procedures, the party may invoke Section 6.2 of the ARRC Procedures.

4 GENERAL RESPONSIBILITIES OF THE CHAIR OF THE SPECIAL PC COMMITTEE, NOTICE, RESPONSE, ALLEGATIONS OF CONFLICT OF INTEREST, AND CHALLENGES TO THE ELIGIBILITY OF PROPOSED ACADEMIC ADVISORS

4.1 General Responsibilities of the Chair of the Special PC Committee. The responsibilities of the Chair of the Special PC Committee include:

4.1.1 convening and presiding over meetings of the Special PC Committee;
4.1.2 receiving communications for the Special PC Committee and speaking for it;
4.1.3 ensuring that all substantive communications regarding the PC are made available to all parties;
4.1.4 maintaining a complete case file, including a record of all substantive communications, documents, verbatim transcripts of the investigative hearing (if applicable), committee actions, and committee reports;
4.1.5 providing a copy of the Formal Written Complaint, the Formal Written Response, the current ARRC Procedures, and the current Code of Procedures for Special PC Committees to each member of the Special PC Committee, and to the ARRC Observer, if any;
4.1.6 arranging for accommodations for the Pre-Hearing Conference and for the Investigative Hearing, taking into account such factors as the time needed, the space needs of the Special
Committee and parties and witnesses, the need for a separate accommodation for witnesses while waiting to testify, and access to other facilities that may be needed;
4.1.7 moving the proceedings toward a conclusion as expeditiously as reasonably possible while respecting the rights and needs of all participants;
4.1.8 notifying the Chair of the ARRC of any withdrawal from the Special PC Committee to permit timely appointment of a substitute as provided in Section 3.3.5 of the ARRC Procedures;
4.1.9 reminding participants of limitations on the dissemination of personnel information set forth in Section 3.6;
4.1.10 arranging for timely consultation with the Chair of ARRC should procedural disputes arise;
4.1.11 keeping accurate records of expenditures for activities of the Special Committee and arranging for reimbursements from the Chancellor’s office; and
4.1.12 when the complainant is an administrative officer, arranging for the court reporter and verbatim transcript required by Section 6.5.

4.2 Written Notice to the Parties. Within 7 days after the Special PC Committee has been convened, the Chair of the Special PC Committee shall send to each party the following:
4.2.1 a copy of the Formal Written Complaint;
4.2.2 a copy of the current Procedures of the Academic Rights and Responsibilities Committee;
4.2.3 a copy of the current Code of Procedures for Special PC Committees;
4.2.4 a list of the members of the Special PC Committee;
4.2.5 the name of the ARRC Observer or, if no ARRC Observer has been appointed, notice to the parties that they are entitled to request that an ARRC Observer be appointed; and
4.2.6 notice of the deadlines established in Section 4.3 and 4.4.

4.3 Formal Written Responses from Respondents: Mandatory Elements and Deadline for Filing. Within 20 calendar days from the date of receipt of the Formal Written Complaint from the Chair of the Special PC Committee, each respondent shall file a Formal Written Response with the Chair of the Special PC Committee.
4.3.1 Mandatory Elements. Each Formal Written Response shall contain a clear and concise statement indicating which, if any, of the facts alleged in the Formal Written Complaint the respondent wishes to contest and a clear and concise statement indicating any ameliorating or other additional facts the respondent wishes to allege. Under Sections 4.5 and 7.2, if a respondent fails to file a timely Formal Written Response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

4.3.2 Optional Elements. In addition, the Formal Written Response may include the following:
4.3.2.1 a clear and concise statement indicating which, if any, of the standards identified in the Formal Written Complaint the respondent wishes to contest;
4.3.2.2 a clear and concise statement of the standards, if any, the respondent believes to be appropriate for evaluating the complaint;
4.3.2.3 a clear and concise statement indicating which, if any, of the violations alleged in
4.3.2.4 a clear and concise statement indicating which, if any, of the proposed remedies, sanctions, or other personal relief or prospective institutional change the respondent believes would be inappropriate.

The Chair of the Special PC Committee may extend these deadlines for good cause shown.

4.4 Deadline for Requests from Any Party Requesting an Academic Advisor, an ARRC Observer, and for Allegations of Conflict of Interest. Within 15 days from the date of receipt of the Formal Written Complaint from the Chair of the Special PC Committee,

- any party wishing to be advised by an academic advisor shall file a written request with the Chair of the Special PC Committee identifying the proposed academic advisor;
- any party wishing to request that the ARRC appoint an ARRC Observer shall file a written request with the Chair of the Special PC Committee;
- any party wishing to allege that a member of the Special PC Committee has a conflict of interest shall file a written statement with the Chair of the Special PC Committee setting forth the basis for the challenge.

The Chair of the Special PC Committee may extend these deadlines for good cause shown.

4.5 Procedure If No Respondent Files a Timely Formal Written Response. If no respondent files a timely Formal Written Response, the uncontested allegations of fact in the Formal Written Complaint shall be deemed to be true, and the Chair of the Special Committee shall so notify the parties and shall schedule a meeting of the Special PC Committee to prepare the Final Report required by Section 8.

4.6 Procedure If a Respondent Files a Timely Formal Written Response. If any respondent files a timely Formal Written Response, the Chair of the Special PC Committee shall

- determine whether proposed academic advisors are eligible under Section 3.8, and if any party’s proposed academic advisor is not eligible, invite that party to propose an eligible academic advisor;
- forward to each complainant and to each respondent a copy of each Formal Written Response and the names of proposed academic advisors; and
- forward to the Chair of the ARRC any request that an ARRC Observer be appointed.

4.7 Party Challenges to Proposed Academic Advisors or ARRC Observer.

- Any party may in writing challenge the eligibility of a proposed academic advisor by delivering the challenge to the Chair of the Special PC Committee within 7 days after receipt of the name of the proposed academic advisor. If a challenged proposed academic advisor does not voluntarily withdraw, the Chair of the Special PC Committee shall determine whether the proposed academic advisor is eligible. If the proposed academic advisor is not eligible, the party may propose another academic advisor. If the new proposed academic advisor appears to be eligible, the Chair of the Special PC Committee shall notify parties of the new proposed
academic advisor and afford parties an opportunity to challenge the new proposed academic advisor.

4.7.2 Any party may in writing challenge the eligibility of a proposed ARRC Observer by delivering the challenge to the Chair of the Special PC Committee within 7 days after receipt of the name of the proposed ARRC Observer. The Chair of the Special PC Committee shall forward the challenge to the Chair of the ARRC. If a challenged ARRC Observer does not voluntarily withdraw, the Chair of the ARRC shall determine whether the proposed ARRC Observer is eligible. If the proposed ARRC Observer is not eligible, the ARRC may in writing propose another ARRC Observer to the Chair of the Special Committee. The Chair of the Special Committee shall in writing notify parties of the new proposed ARRC Observer and afford parties an opportunity to challenge the new proposed ARRC Observer.

5 PRE-HEARING CONFERENCE

5.1 Purpose. As soon as possible after giving notice of a Formal Written Response contesting any allegations of the Formal Written Complaint and resolving any issues involving conflicts of interest and eligibility of proposed academic advisors and ARRC Observers, the Chair of the Special PC Committee shall arrange a Pre-Hearing Conference with all parties in attendance

5.1.1 to clarify the issues involved;
5.1.2 to identify uncontroverted facts;
5.1.3 to explore the possibility of a voluntary settlement of the case;
5.1.4 to explain procedures applicable to the Investigative Hearing; and
5.1.5 to establish procedures for setting the date, time, and place of the Investigative Hearing.

At the Pre-Hearing Conference each party shall provide every other party and the Chair of the Special PC Committee with a copy of any documentation to be introduced by the party at the Investigative Hearing and with a list of any witnesses to be called by the party at the Investigative Hearing. No witnesses or documents not so provided shall be heard or received at the Investigative Hearing, except in cases of surprise, or for the purpose of rebutting oral testimony, or for other justifiable cause found to exist by the Special PC Committee.

5.2 Persons Who May Attend and Participate in the Pre-Hearing Conference:

5.2.1 the Chair of the Special PC Committee;
5.2.2 the parties;
5.2.3 each party’s attorney, if any;
5.2.4 each party’s academic advisor, if any;
5.2.5 the ARRC attorney, if requested by the Chair of the Special PC Committee; and
5.2.6 the ARRC Observer, if any.

After the Pre-Hearing Conference, the Chair of the Special PC Committee will provide in writing to all parties a list of the uncontroverted facts established in the Pre-Hearing Conference as well as a list of issues to be resolved during the Investigative Hearing by the Special PC Committee.
5.3 Meeting of the Special PC Committee after the Pre-Hearing Conference and Before the Investigative Hearing.

As soon as possible after the conclusion of the Pre-Hearing Conference, the Chair of the Special PC Committee shall provide each member of the Special PC Committee with the following:

5.3.1.1 a copy of the Formal Written Complaint and a copy of each Formal Written Response;
5.3.1.2 a copy of each party’s written list of witnesses to be called and documentation to be introduced at the Investigative Hearing;
5.3.1.3 a written summary of matters decided at the Pre-Hearing Conference.

5.3.2 After a reasonable time to permit members of the Special PC Committee to review these materials, the Chair of the Special PC Committee shall convene a meeting of the Special PC Committee, with only members of the Special PC Committee present, to determine whether the Special PC Committee wishes to call any additional witnesses or request any additional documentation. If the Special PC Committee decides to call any additional witnesses or request any additional documentation, the Chair of the Special PC Committee shall notify the parties in writing and shall make arrangements for any additional witnesses and documentation to be presented at the Investigative Hearing.

5.4 Notice of Investigative Hearing. As soon as possible after the conclusion of the meeting of the Special PC Committee in accordance with Section 5.3, the Chair of the Special PC Committee shall in writing give notice of the date, time, and place of the Investigative Hearing to

5.4.1 each party;
5.4.2 each member of the Special PC Committee;
5.4.3 each party’s attorney, if any;
5.4.4 each academic advisor, if any;
5.4.5 the ARRC Observer, if any;
5.4.6 the Chair of the ARRC.

6 INVESTIGATIVE HEARING

6.1 Persons Who May Attend the Investigative Hearing:
6.1.1 members of the Special PC Committee;
6.1.2 the parties;
6.1.3 each party’s attorney, if any;
6.1.4 each party’s academic advisor, if any;
6.1.5 the ARRC Observer, if any;
6.1.6 the court reporter, if applicable;
6.1.7 witnesses, but no witness shall be present except when that witness is testifying and responding to questions.

6.2 Order of Investigative Hearing. The usual sequence of an Investigative Hearing is as follows:
6.2.1 introductions of all present (this will be repeated for each witness);
6.2.2 introduction of the case by the Chair of the Special PC Committee;
6.2.3 complainant(s)' presentation of the Formal Written Complaint and evidence in support of the Formal Written Complaint, including all documentation and all witnesses;
6.2.4 respondent(s)' presentation of the Formal Written Response and evidence in support of the Formal Written Response, including all documentation and all witnesses;
6.2.5 presentation of documentation and testimony of witnesses requested by the Special PC Committee;
6.2.6 rebuttal in support of the Formal Written Complaint;
6.2.7 closing statement(s) by Complainant(s), followed by closing statement(s) by Respondent(s);
6.2.8 statement by the Chair of the Special PC Committee thanking participants and explaining post-Investigative-Hearing procedures.

This order may be varied if the Chair of the Special PC Committee determines that a clearer way of exploring the issues can be achieved, and if the Special PC-A PC Committee and the parties agree.

6.3 Evidence and Witnesses.

6.3.1 The Special PC Committee may direct the parties, faculty members, and other officers of the University to produce specific relevant documents (including personnel and student records) for introduction at the Investigative Hearing. The parties shall be afforded an opportunity to obtain necessary witnesses and documentary evidence. All parties will cooperate with the Special PC Committee in securing witnesses and in making available documentary and other evidence.

6.3.2 Members of the UNL community shall cooperate with the Special PC Committee in providing testimony or documents; however, a person shall not be required to give testimony or to produce documents in regard to any confidential communication for which the law provides a privilege. Refusal by anyone to provide documents or to testify in regard to any communication for which the law does not provide a privilege obstructs the process and shall be taken into consideration by the Special PC Committee in its deliberations and in its preparation of the Final Report.

6.3.3 Testimony shall be taken under oath. Each party shall have the right to cross-examine witnesses who testify and shall have the right to submit rebuttal testimony. Witnesses may testify and evidence may be received not only concerning relevant facts but also concerning relevant standards. Witnesses not able to attend the hearing may provide testimony in writing. In cases where the grounds for professional misconduct are based in whole or in part on questions of professional competence, relevant testimony concerning professional competence from individual colleagues, students, and others from this, or other institutions may also be admitted.

6.3.4 The Special PC Committee will not be bound by strict rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. Every
possible effort will be made to obtain the most reliable evidence available. The Chair of the Special PC Committee may bar the introduction of documents, evidence, questions, and testimony reasonably deemed irrelevant, immaterial, not-competent or unduly repetitious. The Chair of the Special PC Committee also may bar the introduction of documents, evidence, and testimony if introduction would unfairly surprise another party and if the documents, evidence, or testimony could, with reasonable diligence, have been discovered or produced before the Pre-Hearing Conference. A party adversely affected by a decision to bar the introduction of evidence may appeal the decision of the Chair to the full Special PC Committee.

6.3.5 The Chair of the Special PC Committee may in appropriate circumstances temporarily adjourn the Investigative Hearing.

6.4 Format of Presentations and Questions. To preserve orderly and civil proceedings, the Investigative Hearing shall be conducted by the Chair of the Special PC Committee as follows:

6.4.1 No person shall speak without prior recognition by the Chair of the Special PC Committee.

6.4.2 Each party and each witness may be questioned by members of the Special PC Committee after the end of the presentation of that party or witness.

6.4.3 When the Special PC-A PC Committee has finished questioning a party or witness, each party may question that party or witness; alternatively, the parties may submit questions to the Chair of the Special PC-A PC Committee which the Chair of the Special PC Committee may ask on their behalf.

6.4.4 The Chair of the Special PC Committee may bar questions under Section 6.3.3. A party adversely affected by a decision to bar a question may appeal the decision of the Chair to the full Special PC Committee.

6.4.5 A party’s academic advisor may consult privately with that party, may respond to questions from the Chair, and may address procedural questions to the Chair, but under ordinary circumstances may not otherwise participate in the Investigative Hearing.

6.5 Record of Hearing

When the complainant is an administrative officer, the Chair of the Special PC Committee shall arrange for a court reporter to be present at the Investigative Hearing to produce a verbatim record of the Investigative Hearing. Bills for the court reporter’s services shall be processed through the office of the General Counsel of the University. The verbatim record shall be made available to the parties and to the Special PC Committee prior to the deliberations and decision of the Special PC Committee required by Section 7. The verbatim record also shall be made available for inspection by the public as set forth in Section 8.3.
7 DELIBERATIONS AND DECISION

7.1 All deliberations shall be conducted in executive session with no one present except members of the Special PC Committee, and the ARRC attorney, if invited.

7.2 The complainant bears the burden of proving relevant facts by a preponderance of the relevant evidence. If a respondent fails to file a timely written response or otherwise fails to contest an allegation of fact, the uncontested allegations of fact shall be deemed to be true.

7.3 Refusal by anyone to provide documents or to testify obstructs the process and shall be taken into consideration by the Special PC Committee in its deliberations and preparation of the Final Report.

7.4 The standards against which the charges are to be judged include applicable state and federal law; University bylaws, rules and regulations; established policies of the relevant administrative unit; appropriate professional and discipline based standards; applicable contracts; and academic principles and tradition. In the event of conflict between different University bylaws, rules or regulations, those of the more inclusive administrative unit shall prevail.

7.5 Students or staff added to a Special PC Committee pursuant to Section 3.3.6 of the ARRC Procedures may participate fully in discussions, hearings, and deliberations of the Special PC Committee, but may not vote. If the opinion of students or staff added to the Special PC Committee differs from that of the regular members of the Special PC Committee, their opinion and the rationale for that opinion shall be included in the report of the Special PC Committee.

8 THE FINAL REPORT

When the Special PC Committee has completed its deliberations it shall prepare a Final Report setting forth the Special PC Committee’s disposition of each charge of professional misconduct in the Formal Written Complaint. Communications regarding matters outside the scope of the Formal Written Complaint shall be addressed in accordance with the rules set forth in Section 10 below. The Final Report shall be limited to the following mandatory and optional elements.

8.1 Mandatory Elements of the Final Report. The Final Report shall contain, with respect to each charge of professional misconduct alleged in the Formal Written Complaint:

8.1.1 specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based;

8.1.2 identification of the standards against which the charge of professional misconduct is being judged;

8.1.3 the Special PC Committee’s conclusions concerning whether applicable standards have been violated; and

8.1.4 if the opinion of students or staff added to the Special PC Committee pursuant
to Section 3.3.6 of the ARRC Procedures differs from that of the regular members of the Special PC Committee, their opinion and the rationale for that opinion.

Before preparing the elements of the Final Report required by Sections 8.1.2 and 8.1.3, the Chair of the Special PC Committee shall send to each party a copy of a provisional draft of the specific findings of relevant fact and reference to the evidentiary foundations upon which those findings are based required by Section 8.1.1. Each party shall have five days after receipt of the provisional draft to submit written comments to the Chair of the Special PC Committee suggesting specific changes to correct specific alleged inaccuracies in the provisional draft. No changes based upon such comments shall be made to the provisional draft without first providing other parties an opportunity to respond to the comments. If the Special PC Committee decides not to make changes suggested in a written comment, that written comment and the Special PC Committee’s reasons for that decision shall be appended to the Final Report.

8.2 Optional Elements of the Final Report. In addition, the Final Report may contain one or more of the following:

8.2.1 Recommendations. The Final Report may include recommendations:

8.2.1.1 concerning appropriate sanctions for a respondent found to have committed professional misconduct, including but not limited to

8.2.1.1.1 formal censure,
8.2.1.1.2 restitution;
8.2.1.1.3 non-reappointment at the end of the respondent’s specific term appointment,
8.2.1.1.4 removal from an administrative position,
8.2.1.1.5 reduction in salary or adjustment in responsibilities,
8.2.1.1.6 recommendation by the Chancellor to the President that the respondent be terminated under Regents Bylaws 4.14; 4.7, 4.8, 4.9, 4.11, or 4.12;

8.2.1.2 concerning ways to redress the consequences of any professional misconduct by the respondent;

8.2.1.3 concerning ways to prevent recurrence of acts, decisions, or circumstances which may have contributed to the professional misconduct by the respondent;

8.2.1.4 concerning correction of any deficiencies or anomalies found in the substance or application of bylaws, rules, regulations, policies, procedures, or customs which may have contributed to the filing of the charge of professional misconduct against the respondent.

8.2.2 Concurring or Dissenting Opinions. The Final Report may include concurring or dissenting opinions, or both, concerning any mandatory or optional element of the report.

8.3 Delivery and Archiving of Verbatim Record (if applicable), Case File, and Final Report.

8.3.1 The Chair of the Special PC Committee shall

8.3.1.1 deliver a copy of the Final Report to each party, to the Chancellor (or, if the Chancellor is a party, to the President), to the Chair of the ARRC, and to the President of the Faculty Senate;
8.3.1.2 if the allegations of professional misconduct included allegations of unlawful discrimination, including sexual and other prohibited harassment, deliver a copy of the Final Report to the Office of Institutional Equity and Compliance, Access and Diversity Programs; and

8.3.1.3 deliver a copy of the Final Report, a copy of all exhibits, and a copy of the case file required by Section 4.1.4 to the Coordinator of the Faculty Senate.

8.3.2 The Coordinator of the Faculty Senate shall

8.3.2.1 obtain a copy of the official record of actions taken against the respondent(s), if any;

8.3.2.2 place one copy of the Final Report, a copy of all exhibits, and a copy of the case file required by section 4.1.4, and the official record of action taken (if any) in ARRC archives in the Faculty Senate Office under specified conditions of access; and

8.3.2.1 deposit a second copy of the Final Report, a copy of all exhibits, and a copy of the case file required by section 4.1.4, and the official record of action taken (if any) in the University Archives under specified conditions of access.

9 FOLLOW UP TO THE REPORT

9.1 Chancellor's (or President's) Response to Recommendations. In response to recommendations made by the Special PC Committee, the Chancellor (or, if the Chancellor is a party or witness, the President) shall within 30 days provide a written response to the Chair of the ARRC indicating:

9.1.1 the recommendations that have been accepted and the action taken;

9.1.2 the recommendations that have been rejected in part or completely; and

9.1.3 for each recommendation rejected, reasons responsive to the Committee's rationale for proposing it.

The Chancellor (or President) shall decide upon Special Professional Conduct Committee recommendations on the basis of the evidence submitted to the Special Professional Conduct Committee and the report of the Special Professional Conduct Committee. Unless clearly erroneous, the findings of fact made by the Special Professional Conduct Committee shall be accepted. The Chancellor (or President) shall give the Special Professional Conduct Committee's findings and conclusions due consideration, and shall take into account the fact that the Special Professional Conduct Committee is a representative committee of the faculty and had the opportunity to see and hear the witnesses who testified personally before the Special Grievance Committee.

Copies of the Chancellor’s (or President’s) written response shall be sent to the parties, to the Special Professional Conduct Committee, to the President of the Faculty Senate, and to the Coordinator of the Faculty Senate for inclusion in the case files in the ARRC archives and in the University Archives. If the response rejects or changes the recommendations made by the Special PC Committee, the ARRC shall inform the President of the Faculty Senate who shall provide each member of the Senate Executive Committee with a copy of the Final Report and of the response and shall put the matter on the agenda of the next Senate Executive Committee meeting for whatever action the Senate Executive Committee deems appropriate.

As Approved by Board of Regents March 2, 2012
Committee may deem appropriate.

9.2 ARRC Review of Implementation of Recommendations. The ARRC shall determine the extent to which recommendations of the Special PC Committee have been implemented, and shall report its findings to the President of the Faculty Senate and in its annual report to the Senate.

9.3 ARRC Meeting with the Special PC Committee. After the Final Report has been filed, the ARRC shall meet with the Special PC Committee and any others considered appropriate by the Chair of the ARRC to thank the Special PC Committee for its work, to collect all copies of documents, and to hear from the Special PC Committee any suggestions about how the work of the ARRC and its special committees might be improved.

10 COMMUNICATIONS REGARDING MATTERS OUTSIDE THE SCOPE OF THE FORMAL WRITTEN COMPLAINT

10.1 In the course of an investigation, one or more members of the Special PC Committee may conclude that the Special PC Committee has heard allegations or otherwise discovered information which, though outside the scope of the Formal Written Complaint and thus not subject to full investigation and evaluation by the Special PC Committee, nonetheless suggests that actions or decisions have been taken or may be taken in violation of law, University policy, or academic principle.

10.2 Such concerns shall not be addressed in the Final Report of the Special PC Committee required by Section 8.0. However, the Special PC Committee acting through its chair, or any member or members of the Special PC Committee, may communicate those concerns in writing to the appropriate administrator for investigation and for whatever corrective action may be appropriate. In shaping the contents of and determining the recipients for such communications, those preparing the communications shall consult with the Chair of the ARRC.

10.3 A copy of any such communication to an administrator shall at the same time be sent to

10.3.1 the Chancellor; and
10.3.2 the Chair of the ARRC; and
10.3.3 any individual on whose actions, decisions, or practices the communication reflects; and
10.3.4 if the communication reflects on the actions, decisions, or practices of a committee or unit, the individual who heads that committee or unit; and
10.3.5 if the communication reflects on the actions, decisions, or practices of the Chancellor, the President; and
10.3.6 if the communication includes concerns about alleged unlawful discrimination, including sexual or other prohibited harassment, the UNL Office of Institutional Equity and Compliance or its successor if the office is renamed.

10.4 Such communications shall be deemed to be a part of the responsibility of Special PC Committee members and, as such, to be subject to the same protections afforded all Special PC Committee activities by Section 6.8 of the Regents Bylaws.