## ARTICLE XIII - FACULTY MISCONDUCT

## Section A - Responsibility and Conduct of the Faculty Member

Faculty members are expected to conduct themselves in a professional manner at all times. Abrogation of academic responsibility will subject the faculty member to appropriate sanctions. The UNTHSC will not pay wages and salaries to any person who, without proper cause, chooses to withhold any of the services for which he/she is employed. Also, department chairs will report the precise details of any unauthorized faculty or graduate assistant absence from class. Such a report should be made to the appropriate dean.

## Section B - Good Cause Defined

The definition of good cause may include, but should not be limited to, the following:

- 1. Professional incompetence (examples of which are lack of knowledge or ability to impart knowledge); physical mistreatment of students; serious lack of cooperation required to effectively teach; inability to conduct research, or work in the UNTHSC; persistent, repeated, or gross negligence.
- 2. Mental, physical or emotional disablement of a continuing nature adversely affecting, to a material and substantial degree, the performance of duties or the meeting of responsibilities to the institution or to students or associates. While the UNTHSC recognizes that mental, physical or emotional disablement may not be categorized as misconduct, such disablement still may provide justification for and be subject to sanctions, when reasonable accommodations cannot be made.
- 3. Deliberately, willfully or knowingly violating Board of Regents orders or reasonable administrative orders, rules or regulations.
- 4. Conduct unbecoming a member of the faculty includes but is not limited to absences without authorization; violation of ethical standards of the medical and teaching profession; commission of a misdemeanor involving moral turpitude or a felony; willful destruction of UNTHSC property or violent disruption of the orderly operation of the campus; accepting or soliciting gifts that might tend to influence the discharge of one's professional responsibilities; engaging in potential financial conflicts-of-interest of the UNTHSC without the written approval of the appropriate chair, dean, provost and President, knowing or intentional misuse or misappropriation of State property, State funds, or funds held by a faculty member.

The following sanctions for misconduct of a faculty member may be imposed by the UNTHSC for good cause only:

- reprimand;
- salary reduction or withholding of salary;
- demotion;
- 4. suspension with or without pay before the expiration of the term of an employment contract of any faculty member or suspension with or without pay of a tenured faculty member; and/or
- 5. termination before the expiration of the term of an employment contract of any faculty member or termination of a tenured faculty member. A tenured faculty member who is subject to termination on the basis of periodic evaluation must be given the opportunity for referral of the matter to nonbinding alternative dispute resolution, to the extent require by Section 51.942 of the Texas Education Code and in compliance with applicable UNTHSC policies and procedures for alternative

dispute resolution, prior to the appeal of the proposed sanctions of the Faculty Grievance and Appeal Committee.

In addition to the above sanctions in this Section B of Article XIII, the appropriate administrative officer may impose an interim suspension (with or without pay) on a faculty member pending the outcome of the process outlined in Section C of Article XIII, if the appropriate dean determines any of the following:

- (i) the imposition of any suspension, restriction, or limitation by any governmental authority to such an extent that the faculty member cannot perform faculty member's services including debarment by a governmental authority, or suspension, limitation, revocation or cancellation of a professional license; or
- (ii) a threat by the faculty member to the health, safety, or welfare to himself/herself or to the members of the UNTHSC faculty, staff, students or patients; or
- (iii) the faculty member is convicted of a felony.

## **Section C - Due Process for Faculty Misconduct**

- 1. Personal Conference, Faculty Upon notification of misconduct of a faculty member as described in Section B above, the chair of the department in which the faculty member is appointed, or the appropriate administrative officer, shall, if possible, have a conference with the faculty member and shall discuss the reasons for the proposed sanction. If the faculty member wishes to challenge the proposed sanction, he/she shall, within five (5) working days, request a conference with the appropriate dean. If the faculty member is dissatisfied with the decision of the appropriate dean he/she shall, within five (5) working days, request a hearing before the faculty grievance and appeal committee. Unless the faculty member receives an interim suspension without pay in accordance with Section B of Article XIII, the faculty member will be paid his or her salary until (i) a determination by the provost as outlined in paragraph three (3) of Section C of Article XIII or (ii) if the faculty member appeals termination of tenure to the Board of Regents, then the faculty member's salary will continue until the final determination by the Board of Regents.
- 2. Hearing by the Faculty Grievance and Appeal Committee The faculty grievance and appeal committee shall hear all cases of alleged faculty misconduct. No member of the committee shall consider or introduce any evidence or testimony which he/she has acquired from outside the actual hearing. The composition of the committee shall be as described in Article XVIII Section D. The faculty grievance and appeal committee shall adhere to the following procedures when hearing a case:
  - a. At least twenty-one (21) calendar days prior to the hearing, the accused faculty member, appropriate chair and dean shall be informed of the time, place and procedures for the hearing.
  - b. The faculty member shall also be presented with a concise statement of the charges made against him/her, a list of witnesses to be called by the committee, and a brief summary of other evidence against him/her that may be presented at the hearing. (This procedure, 2.b., shall apply only to faculty misconduct and shall not apply to denial of reappointment, tenure, promotion or termination for financial exigency or phasing out of programs.)
  - c. Either the faculty member or UNTHSC may challenge in writing to the chair of the committee the ability of a member(s) to serve fairly or objectively no later than ten (10) working days before date of the hearing. The committee shall

not include any accuser of the faculty member. The member of the committee will determine whether or not he or she can serve with fairness and objectively. Neither the faculty member, not UNTHSC shall have the right to disqualify a member from service who is in good standing as a faculty member. If the member voluntarily disqualifies himself or herself, then the provost will appoint a substitute member from the full-time faculty having a rank of associate professor or professor.

- d. The burden of proof rests on the UNTHSC to establish by the greater weight of the credible evidence good cause for imposing sanctions against a faculty member for misconduct.
- e. The hearing may be open if desired by both parties. Otherwise, the hearing shall be restricted to the principals, the advisors and the witnesses called by the committee.
- f. By mutual consent of the parties, no public statements may be made concerning the case. However, in any event, public statements shall be avoided, as far as possible, until the proceedings have been concluded.
- g. The chair of the committee will rule as to the admissibility of evidence, whose decision shall be final.
- h. The appropriate dean shall appoint a faculty member from any department or an administrative official to represent and produce evidence for the UNTHSC.
- i. During the hearing, each of the parties shall have the right to confront, crossexamine and rebut all witnesses.
- j. Each party may submit oral and written testimony, briefs, qualified expert opinions, and other evidence as long as such evidence is relevant as determined by the chair, whose decision shall be final.
- k. The accused faculty member may be represented by an advisor of his/her own choosing from UNTHSC.
- Only evidence relevant to the charge shall be heard. Formal rules of evidence shall not apply in these proceedings. The decision as to the admissibility of evidence shall be determined by the chair of the committee, whose decision shall be final.
- m. The faculty member shall have the right to testify and may be required to do so by the committee chair.
- n. A verbatim audio account of the proceedings should be filed with the provost and made available to the President. An audio copy of such account shall be available to the accused faculty member without cost, at his/her request which must be made prior to the proceedings. The verbatim account may be transcribed for the accused faculty member at a reasonable cost to the accused.
- o. The hearing committee, by a majority of the total membership present at the hearing, shall make written findings on the material facts and a recommendation of the appropriate sanction or sanctions to the President through the provost. The hearing committee, by a majority of its membership present at the hearing, may make any supplementary suggestions it deems proper concerning the disposition of the case. The original of such findings and the basic recommendation, together with any supplementary suggestions and the tape recording or transcript of the hearing, shall be delivered to the President through the provost and a copy thereof to the faculty member.

- p. The chair of the faculty grievance and appeal committee, in his/her sole discretion, may develop procedures to implement the process of the items listed in paragraph 2 of Section C of Article XIII.
- Review of the Recommendations from the faculty grievance and appeal committee 3. and appeal to the Board of Regents - Based on the record before him/her and on any additional written briefs which either party may wish to submit, and based on the recommendation of the provost, the President shall approve, reject or amend such findings, recommendations and suggestions of the hearing committee or may recommit the report to the hearing committee to hear additional evidence and reconsider its findings, recommendations and suggestions. Reasons for approval, rejection or amendment of such findings, recommendations and suggestions shall be stated in writing and communicated to the accused faculty member. No appeal shall be allowed from the decision of the President except where the sanction imposed by the President is termination of tenure. In those cases, the faculty member may appeal the termination of tenure through the chancellor to the Board of Regents. The original of such findings and recommendations, or suggestions, if any, and the record and exhibits shall be delivered to the UNT System Board of Regents; a copy of all shall be delivered to the accused faculty member and to the president of UNTHSC. If minority findings, recommendations or suggestions are made, they shall be similarly delivered. The UNT System Board of Regents, by a majority of the total membership present, will approve, reject, or amend such findings, recommendations, and suggestions; or will recommit the report to the faculty grievance and appeal committee for hearing additional evidence and reconsidering its findings, recommendations, and suggestions, if any. Reasons for approval, rejection, or amendment of such finds, recommendations, or suggestions will be stated in writing and communicated to the accused faculty member and the president of UNTHSC.