

Proposed Procedures Governing Sanctions Taken Against Members of the Faculty

To the University Community from the Provost

As recent events have shown, our current Just Cause process has proved to be very slow, cumbersome and somewhat ineffective. This is bad for the morale of all concerned, since it can leave a cloud of doubt over a faculty member or a school for months or even years. For that reason, in June 1992, Sheldon Hackney, President; David Hildebrand, Faculty Senate Chair; and I jointly appointed a Task Force to review both our Just Cause procedures and any other disciplinary procedures that pertain to the faculty. We asked the Task Force to try to simplify these procedures in order to allow for the prompt resolution of charges while ensuring due process and protecting faculty rights, and, if possible, to clarify and integrate our multiple disciplinary procedures into one.

There can be no more important undertaking than to articulate clear and understandable procedures that protect faculty rights while ensuring that those who do not live up to the standards of the University are dealt with in a fair and timely manner. For that reason, I would urge your very careful consideration of the revised procedures that have been proposed in the document that follows. It is important for all of us to have in place at Penn policies that we agree should be upheld and procedures by which we agree to abide.

— Michael Aiken, Provost

To the University Community from the Task Force

These procedures follow from the 14 meetings of the Senate Ad Hoc Committee for a Speedier Just Cause Procedure held between November 1991 and April 1992. Two of these were open meetings announced in *Almanac*. During this time, Professors Nancy Hornberger of education and James Ross of philosophy made major contributions. All other members of the Senate Ad Hoc Committee also served on the Task Force on the Revision of Just Cause and Other Personnel Procedures, which met 21 times between June 1992 and January 1993 and was helped by several subcommittees.

The Task Force now presents this proposed version for comments from the University community. We would be grateful to receive any suggestions concerning revision of this document within two weeks. Written comments may be sent to the chair at 163E Vet/6046.

Task Force on the Revision of Just Cause and Other Personnel Procedures

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Note to Faculty: Senate Chair David Hildebrand invites all faculty to an informational meeting on the *Proposed Procedures Governing Sanctions Taken Against Members of the Faculty*, to be held Wednesday, February 17, from 4 to 5:30 p.m. in the Faculty Senate Office, 15 College Hall.

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Summary

These procedures describe the processes for the imposition of major or minor sanctions following major and minor infractions of University behavioral standards. They replace the previous "Suspension or Termination of Faculty for Just Cause," "Procedures Regarding Misconduct in Research," and the "Procedures of the Senate Committee on Conduct" and provide a mechanism for dealing with actions or lapses caused by disability or incapacity.

Minor sanctions may be imposed by the Provost or a Dean, either acting alone or following the complaint of an alerter, on the basis of a report of a preliminary investigating committee of two tenured faculty members.

Major sanctions may only be imposed by the President following a recommendation by a University-wide Tribunal of six tenured faculty members. A decision by the President to impose increased or decreased sanctions requires the unanimous approval of the Chair, Chair-elect and Past Chair of the Faculty Senate.

Whereas major sanctions for misconduct in research require the recommendation of a Formal Investigating Committee, major sanctions following actions or lapses caused by disability or incapacity require the recommendations of the Disability Board.

A Group for Complaint may be created and act for a faculty when the Provost or a Dean has not initiated or acted on a complaint to the satisfaction of the faculty concerned.

The most important change is in processing major sanctions. In the procedures described in the *Handbook for Faculty and Academic Administrators, 1989, as revised 1991* hearings are held by the School Committee on Academic Freedom and Responsibility which makes recommendations to the Board of Trustees. Under the new procedure, hearings are held by a University Tribunal which makes recommendations to the President.

Proposed Procedures Governing Sanctions Taken Against Members of the Faculty

I. Introduction and Definitions

A. The imposition of a sanction on a faculty member of the University of Pennsylvania is a rare event. However, when situations that might lead to such an action arise, they must be handled fairly and expeditiously. It is essential to have a process that both protects the rights of faculty members and addresses the legitimate concerns of the University.

This document replaces the previously existing "Suspension or Termination of Faculty for Just Cause" and "Procedures Regarding Misconduct in Research" (*Handbook for Faculty and Academic Administrators 1989, as revised 1991*, pages 47-51 and 117-121, respectively) and also the "Procedures of the Senate Committee on Conduct" (*Almanac* October 31, 1989). In the latter case the following procedures are available to those students or faculty or staff members whose complaint has not been resolved through the informal mechanisms identified in the Racial and the Sexual Harassment Policies (*University Policies and Procedures, 1992-1994*, pages 6-8, and 8-9). Any procedures initiated after this document is in force, even if the alleged actions preceded its adoption, will be governed by the procedures described here.

This document simplifies the previous procedures in a major way and relates them to a Dean's procedures for imposing minor sanctions and to the disability procedures. The result is a more coherent and less cumbersome process. In addition, an important new principle is here enunciated, namely: charges of major infraction of University behavioral standards against a faculty member transcend the interests of any single School. Such charges, if true, reflect unfavorably upon the University as a whole; thus they demand consideration by a University-based process.

B. In this document, the terms given below shall have the meanings there stated.

1. *Alerter*: individual bringing to the attention of the Dean or Provost a situation that may call for a sanction [Definition No. 15] against a faculty member [Definition No. 6]. The alerter may be a student or faculty or staff member who believes that he or she has been subjected to racial, ethnic, or sexual harassment by a faculty member.

2. *Complainant*: either the Provost, a Dean, a Provost's or Dean's designee who shall be a faculty member of the University, or a Group for Complaint [Definition No. 7].

3. *Counsel*: an advisor, who may be an attorney, chosen by the advisee.

4. *Dean*: the Dean of one of the University's schools.

5. *Disability Board*: an independent committee described in the By-laws of the University Council (Sec. VI-2-d), as revised 1992.

6. *Faculty member*: a member of the standing faculty, standing faculty-clinician-educator or a member of the academic staff who is not a student.

7. *Group for Complaint*: an alternative complainant, elected by the standing faculty of a school, by a secret ballot, from its own tenured professors which by the fact of its election shall be empowered to take action involving the imposition of a major sanction [Definition No. 10] pursuant to these procedures. The size of the Group for Complaint shall be determined by the faculty but shall not be less than three.

8. *Hearing*: a formal consideration of both sides of a matter, usually with the parties allowed to appear or receive each other's submissions, with a taped, stenographic or other transcript, and aimed at a decision regarding a finding of fault or a recommendation.

9. *Major infraction of University behavioral standards*: an action involving flagrant disregard of the rules of the University or of the customs of scholarly communities, such as, but not exclusively, serious cases of the following: plagiarism; misuse of University funds; misconduct in research [Definition No. 13]; repeated failure to meet classes or carry out major assigned duties; harassment of, providing illegal drugs to, or physical assault upon, a member of the University community; violation of the University's conflict of interest policy or certain violations of law for derelictions such as, but not exclusively, convictions for murder or rape.

10. *Major sanction*: penalties that include, but are not limited to, termination; suspension [Definition No. 16]; reduction in base salary; reduction in total salary; zero salary increases stipulated in advance for a period of four or more years; removal of the right to submit specific research proposals internally or externally or the right to carry on specific external activities

for compensation; denial of use of University research facilities; and, in the case of disability or incapacity only, placing the faculty member in the University's disability income protection program.

(Note: We request that the Senate consider whether reduction in rank is ever an appropriate sanction.)

11. *Minor infraction of University behavioral standards*: an action involving disregard of the University's rules or of the customs of scholarly communities that is less serious than a major infraction.

12. *Minor sanction*: penalties less severe than those defined under major sanctions. Such penalties may include, but are not limited to, a private letter of reprimand; a public letter of reprimand; removal from or special monitoring of specific future research, teaching, supervision of students, or other activities; removal of library privileges; zero salary increases, for a period not to exceed three years; and assignment of special duties within the faculty member's capability.

13. *Misconduct in research*: fabrication, falsification, plagiarism, or deception in proposing, carrying out or reporting results of research; and deliberate, dangerous deviations from accepted practice in carrying out research. It does not include honest error or honest differences in interpretation or judgment in evaluating research methods or results. It does include failure to follow agreed-upon protocol if this failure results in unreasonable risk or harm to humans or other vertebrates.

14. *Respondent*: the faculty member complained against.

15. *Sanction*: one or more penalties imposed by the President, the Provost, or a Dean on a faculty member.

16. *Suspension*: cessation of all of a faculty member's University activity for a fixed period of time without salary or any other compensation by or through the University for that period and without those benefits that are based on such salary or compensation.

17. *Termination*: cancellation of a faculty member's appointment, as of a date certain, accompanied by permanent cessation of salary and any other compensation by or through the University and of all benefits not accrued prior to that date.

18. *University Just Cause Panel*: a University-wide Panel from which University Tribunals are chosen. This Panel shall be composed of tenured professors: four from the School of Arts and Sciences; four from the School of Medicine; two each from the School of Engineering and Applied Sciences, the School of Veterinary Medicine, and the Wharton School; and one from each of the remaining Schools of the University. They shall be appointed for staggered three-year terms that may be renewed except where an appointment is to complete the term of a person who retires from the panel early.

The Chair of the Faculty Senate, after consultation with the past-Chair and Chair-elect, has the responsibility for designating the members of the Panel from current or past members of the various School Committees on Academic Freedom and Responsibility. This shall be done in consultation with the current or past Chairs of the various School Committees on Academic Freedom and Responsibility, and with due regard for the need for appropriate diversity on University Tribunals [Definition 19]. It is also the responsibility of the Chair to inform the prospective members of the Panel about their responsibilities as members of a Tribunal.

19. *University Tribunal*: a body composed of six tenured professors created as needed. No more than two members of a Tribunal shall hold primary appointments in the same School. One and only one, of the members shall be from the School of the respondent. The Chair of the Faculty Senate, in consultation with the past-Chair and Chair-elect, shall choose the members of each Tribunal and its Chair from the members of the University Just Cause Panel with due regard for appropriate diversity. The Chair of the Tribunal shall conduct the Tribunal's business and preside at hearings but not cast votes except to break ties. Once having served as a member of a Tribunal, a faculty member is excused from further membership on the University Just Cause Panel. The Chair of the Faculty Senate in accordance with the process described in definition 18 shall designate a faculty member from the same School to serve the remainder of the term.

20. *Working days*: shall mean Mondays through Fridays except when the University is officially closed.

II. Preliminary Procedures

A. Four types of charges, governed by four separate but related processes are here introduced: misconduct in research, other major infractions of University behavioral standards, minor infractions of University behavioral standards, and disability or incapacity. In each situation, appropriate action shall be initiated promptly by a member of the University administration who shall normally be the Dean of the school in which the faculty member's primary appointment lies but who may, in unusual circumstances, be another Dean or the Provost. The Dean or Provost may act personally or through a delegate.

B. When the Dean or Provost has been alerted to a situation which may involve the types of charges mentioned above, he or she shall initiate a preliminary investigation after consultation with the Chair of the department. This investigation will usually be carried out by a committee consisting of two tenured faculty members whose primary appointments are not in the same department (for schools organized in departments) or school (for schools not organized in departments). However, in special circumstances, the preliminary investigation may be carried out by other agencies, such as the office of the ombudsman. In all cases, the Dean and the Provost shall consult with each other and with at least three members of the tenured faculty concerning the format of the investigation and the personnel carrying it out.

The investigative agency shall interview those concerned, engage in fact finding and summarize its work in a report sent to the Dean and Provost. During these proceedings, all parties shall make every effort to protect the identity of the individuals involved.

C. Having received the report of the Preliminary Investigating Committee, the Dean or Provost shall normally interview the faculty member in the presence of any department Chair concerned and afford opportunity for informal adjustment of the matter. If the matter is adjusted informally to the satisfaction of the complainant, the respondent and any alerter, no further proceedings shall be invoked. If the matter is not adjusted informally, the Dean or Provost shall consult with several tenured members of the University faculty, who are not currently members of the University Just Cause Panel. Relying on these conversations and on the report of the Preliminary Investigating Committee, the Dean or Provost shall decide whether to proceed to the formal investigation stage in a case involving misconduct in research, to invoke the just cause procedures in a case involving other major infractions of University behavioral standards, to

impose minor sanctions directly in a case involving minor infractions of University behavioral standards, to take the case to the Disability Board in a situation involving disability or incapacity, or to drop the matter. If the decision is to drop the matter, the Dean or Provost shall so notify the respondent and any alerter in writing.

D. If the Dean or Provost decides to drop the matter, no further proceedings shall be initiated with the single exception of the faculty's prerogative to form a Group for Complaint (Definition no. 7). If a faculty has by resolution requested its Dean to examine a situation possibly involving imposition of a major sanction, within fifteen working days, following the date such resolution was adopted, neither the Dean, another Dean, nor the Provost:

1. has initiated proceedings for imposition of a major sanction;
- or -
2. has provided reasons for not initiating such proceedings that are deemed satisfactory by the faculty;

then the faculty may elect from its own members a Group for Complaint. Members of the University Just Cause Panel shall withdraw from faculty meetings when these matters are considered and shall not be eligible for membership on the Group for Complaint. The Secretary of the Faculty shall record the minutes of this meeting and attach as appendices any written information upon which the faculty's vote to elect the Group was based. The Group, having received this material, shall promptly conduct an investigation and may initiate proceedings for imposition of a major sanction if it determines that there is substantial reason to believe that just cause exists therefor. A determination by the Group not to initiate further proceedings shall be reported to the faculty, the Dean, the Provost, the faculty member, and any alerter, with the Group's reasons for making such determination, and no further action shall be taken by the faculty. However, the Group for Complaint may request the Dean or Provost, where appropriate, to initiate an inquiry aimed at minor sanctions.

If a Dean, Provost or Group for Complaint (hereafter "complainant") then decides to pursue further the case against the faculty member (hereafter "respondent"), he or she shall initiate other proceedings as described in the remaining sections of this document.

III. Minor Sanction

A. When the Dean or Provost has received the report of the Preliminary Investigating Committee and consulted with the tenured faculty members, he or she may conclude that the situation involves neither misconduct in research, any other major infraction of University behavioral standards, nor disability or incapacity but instead represents a minor infraction of University behavioral standards. The Dean or Provost may then impose a minor sanction on the respondent. He or she shall then notify the respondent and any alerter of this decision and take the steps necessary to put the sanction into effect after a two week time period for the alerter to decide whether to initiate the mechanisms needed to create a Group for Complaint.

B. A faculty member judged to have committed a minor infraction of University behavioral standards must receive a minor sanction.

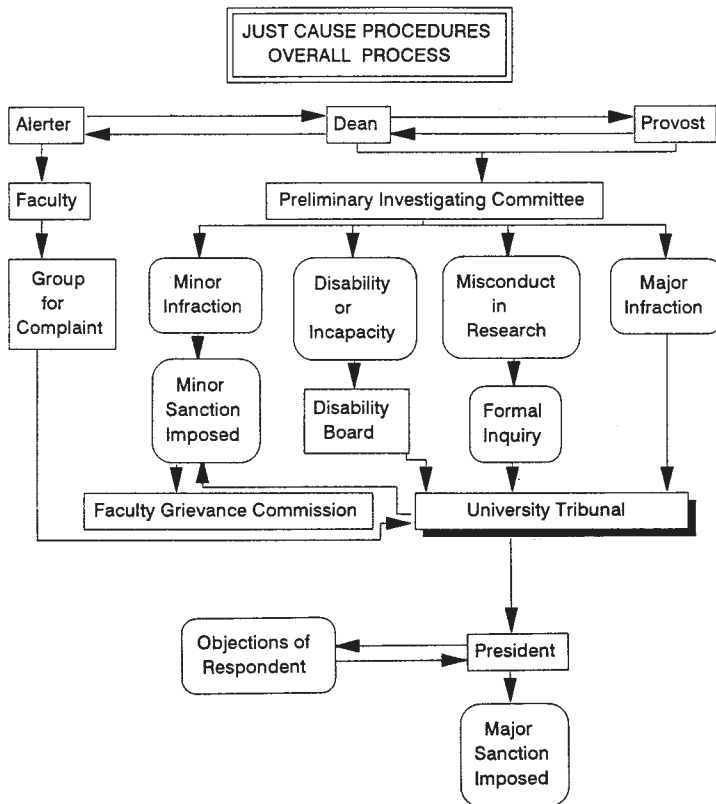
C. If a minor sanction has been imposed, the respondent may apply for relief to the Faculty Grievance Commission. However, subsequent formation of a Group for Complaint requires that the Grievance Commission permanently cease all activity regarding such relief.

IV. Actions Following Disability or Incapacity

(As in the past, faculty members may apply directly to the Disability Board for disability benefits and request placement in the University's Long Term Disability Plan.)

A. If the complainant, relying upon the report of the Preliminary Investigating Committee and the conversations with tenured faculty members, decides that the respondent is unable to carry out his or her University responsibilities and obligations because of disability or incapacity, including substance abuse that impinges upon performance, then the complainant shall promptly send to the Disability Board [DB] a written statement that sets forth in detail the grounds for removing the respondent's University responsibilities and obligations, and/or placing the respondent in the University's Long-Term Disability [LTD] plan.

B. The DB shall undertake a thorough review of the situation. It shall examine the report of the Preliminary Investigating Committee, conduct interviews with the complainant, the respondent, and with any others having relevant information. Summaries of these interviews shall be prepared,



provided for comment or revision to the party interviewed, and included as a part of the investigation file. The DB shall utilize the Health Evaluation Center of the University and the Faculty/Staff Assistance Program, if needed. During its proceedings, the DB shall be advised by legal counsel. When appearing before DB, the complainant and the respondent may each be accompanied by counsel. Counsel may advise the party in question but normally shall not participate further in the proceedings. The DB shall not conduct formal hearings, and, except in unusual cases, the parties shall not appear before the DB at the same time.

C. After its investigation is finished, the DB shall promptly submit a written report to the complainant with a copy, by certified mail, to the respondent. The report shall describe the proceedings in detail and provide full documentation of the DB's findings, including the nature and extent of any disability; it shall normally be received by the complainant within two months of the complainant's letter to the DB. If the DB concludes that the respondent is not disabled, the matters shall be dropped and the complainant shall have no further recourse. Otherwise, the DB shall recommend, for the reasons given in section IV.A, that the matter be referred to a University Tribunal for further action and/or that the respondent is eligible for the LTD plan.

D. If the DB concludes that the respondent is totally disabled, the respondent may agree to retire or enter the LTD plan. If the respondent objects to the conclusion of the DB, he or she shall so state by certified letter to the complainant within one month of being notified of the conclusion. Otherwise, the complainant shall assume that the respondent agrees to the change in status. If the complainant decides not to pursue the matter further, he or she shall so notify the respondent, the Dean and/or Provost, the DB, and any alerter, in writing.

E. Otherwise, the complainant shall proceed as indicated in Section VI.

V. Misconduct in Research

A. If the complainant, relying upon the report of the Preliminary Investigating Committee and the conversations with tenured faculty members, decides that misconduct in research has occurred, he or she shall initiate a formal investigation. The complainant shall inform the respondent of the nature of the charges, identify any alerter to the respondent and notify both parties and, if required by law, any external organization funding the research, that a formal investigation is being initiated.

B. The complainant shall then appoint a Formal Investigating Committee consisting of at least two persons, none of whom are members of the same department as, or collaborators with, the respondent, selected with the advice of the Chair, past Chair and Chair-elect of the Faculty Senate. The committee members should be unbiased and have appropriate backgrounds for judging the issues raised. At least one of them must be a member of the faculty of the University. The appointment of a Formal Investigating Committee will ordinarily be completed within fifteen working days of the complainant's receipt of the report of the Preliminary Investigating Committee. During the Committee's proceedings, all parties shall make every effort to protect the identities of the respondent and any alerter.

C. The Formal Investigating Committee shall undertake a thorough investigation of the charges including a review of all relevant research data, proposals, reports, financial records, publications, correspondence, memoranda of telephone calls, etc. and the report of the Preliminary Investigating Committee. Whenever possible, interviews shall be conducted with the complainant, the respondent and any alerter as well as with others having information of relevance. Summaries of these interviews shall be prepared, provided to the interviewed party for comment or revision and included as part of the investigation file. During its proceedings, the Committee shall be advised by legal counsel. When appearing before the Committee, the complainant and the respondent may each be accompanied by counsel. Counsel may advise the party in question but shall not participate otherwise in the proceedings. The Committee shall not conduct formal hearings. The complainant and the respondent shall not appear before the Committee at the same time, unless both parties agree to do so.

D. After its investigation is finished, the Formal Investigating Committee shall submit a written report to the complainant with copies to the respondent and to the Dean and/or Provost. The report shall describe the proceedings in detail and provide full documentation of the Committee's findings; it shall normally be received by the complainant within three months of the appointment of the Committee. The respondent will then be allowed to send a written commentary to the Provost within fifteen working days after the date the report was issued. The Provost shall promptly send

the report of the Formal Investigating Committee, along with any commentary from the respondent, to the complainant, the Chair of the Faculty Senate and, if required by law, to any external organizations funding the research in question. The formal investigation process shall be completed within four months from the date of the appointment of the Committee.

E. The Provost and the Dean, during the formal investigation, shall take appropriate administrative action to protect the funds supporting sponsored research and to ensure the purpose of any external funding. The Provost may apprise external funding organizations of any development during the formal investigation that may affect current or proposed funding of the respondent's research. If the formal investigation is terminated before completion, the Provost shall notify in writing any external funding organizations of this termination and the reasons therefor.

F. Having received the report of the Formal Investigating Committee, the complainant, relying primarily upon that document, but also noting the report of the Preliminary Investigating Committee, shall judge whether the charges are unfounded, or whether a major or minor infraction of university behavioral standards has occurred.

G. If the complainant concludes that the charges are unfounded, the matter shall be dropped and the respondent, any alerter, the Dean and/or Provost shall be notified; the administration then has the responsibility to attempt to repair any damage wrongly done to the reputation of the respondent or of any alerter, provided that the alerter acted in good faith. If the alerter did not appear to act in good faith, the administration has the responsibility to investigate and take appropriate action.

H. If the complainant concludes that the respondent has committed a minor infraction of university behavioral standards, the Dean or Provost shall impose a minor sanction on the respondent. The respondent may apply to the Faculty Grievance Commission for relief. However, if a Group for Complaint is formed, the Commission shall suspend consideration of the case.

I. If the complainant concludes that the respondent has committed misconduct in research—a major infraction of University behavioral standards—the complainant shall then proceed as indicated in Section VI.

J. Some forms of misconduct in research, such as failure to adhere to requirements for the protection of human subjects or to ensure the welfare of laboratory animals, are governed by specific federal regulations and are subject to the oversight of established University Committees. However, violations involving failure to meet these requirements may also be covered by the procedures discussed here or by other University Procedures when so determined by established committees or institutional officials.

VI. Major Sanction

A. A faculty member judged by the University Tribunal to have committed a major infraction of University behavioral standards must receive a major sanction. Only the President, after receiving a recommendation from the Tribunal, may impose a major sanction on a faculty member. Imposition of a major sanction, or threat thereof, may not be used to restrain or interfere with faculty members in the exercise of academic freedom or other faculty rights unless such limitation is a specific part of a sanction imposed by the process here described.

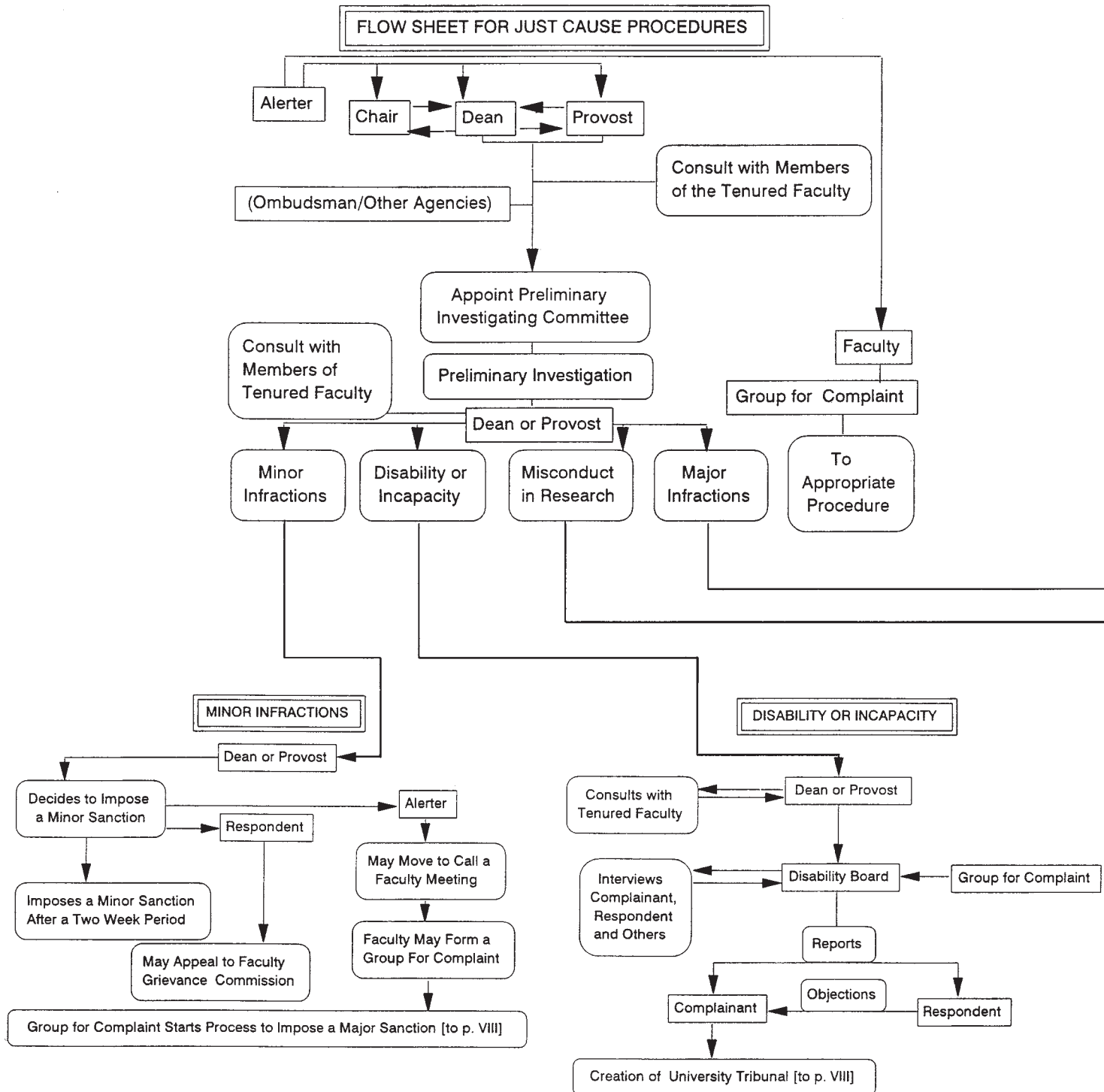
B. If the complainant concludes that a major infraction of University behavioral standards has occurred, the complainant shall promptly request that the Chair of the Faculty Senate appoint a University Tribunal and its Chair. The Chair of the Faculty Senate shall within five working days inform the complainant of the composition of the University Tribunal. The complainant shall then promptly send to the Chair of the Tribunal, the respondent and the Dean and/or Provost the report of the Preliminary Investigating Committee and a succinct written statement, based on the preliminary investigations, which summarizes the grounds for the complaint and recommends a major sanction. In the case of misconduct in research or of disability or incapacity, the report of the Formal Investigating Committee or of the DB shall be included. The notice to the respondent shall be by certified mail. The Tribunal shall immediately consider the statement from the complainant, consult the relevant documents including the records of previous Tribunals and respond within fifteen working days. In the process of arriving at its conclusion at this stage of the proceedings, the Tribunal shall afford the complainant opportunity to present oral and written argument, but shall not hold a hearing to receive evidence. If the Tribunal concludes that the grounds stated, if true, would clearly not constitute just cause for imposition of a major sanction, it shall issue a report to that effect, sending copies to the complainant, the President, any

alerter, and the respondent. In this case, no major sanction may be imposed. However, the Tribunal may recommend that the Dean or Provost impose a minor sanction on the respondent, and the Dean or Provost will normally implement that recommendation. If the Tribunal concludes that the grounds stated, if true, might constitute just cause for the imposition of a major sanction, it shall conduct further proceedings as hereinafter provided.

C. Whenever further proceedings are conducted, the Chair of the Tribunal shall send to the respondent, by certified mail, written notice that the respondent may request a hearing by submitting such request in writing to the Tribunal's Chair within fifteen working days from the respondent's receipt of such notice; and a summary statement of the evidence to be presented by the complainant, a list of witnesses to be called by the complainant, copies of

relevant extracts from the statutes and standing resolutions of the Trustees of the University of Pennsylvania, a copy of this document and copies of any other University documents that are relevant to the respondent's procedural rights in this matter. These documents shall have been supplied to the Chair of the Tribunal by the Dean or Provost. The Tribunal may, at its discretion and in exceptional circumstances, grant a short extension at the respondent's request and a showing of good cause by the respondent.

D. If the respondent does not request a hearing before the Tribunal, the complainant shall nevertheless present his or her testimony to the Tribunal. The Tribunal shall then make a written report of its findings, recommendations and reasons therefor and send a copy of its report and a transcript of the testimony (prepared as in Paragraph VI.G. below) to the



complainant and the respondent within twenty working days of receiving the complainant's testimony. If the Tribunal concludes that the complainant has not shown clear and convincing evidence of just cause for the imposition of a major sanction, no major sanction may be imposed. However, based on clear and convincing evidence, the Tribunal may recommend that the Dean or Provost impose a minor sanction and he or she will normally implement that recommendation. If the Tribunal concludes that the complainant has shown clear and convincing evidence of just cause for the imposition of a major sanction, the Tribunal shall promptly send to the President a transcript of the testimony and a copy of its report recommending the major sanction.

E. If the respondent requests a hearing before the Tribunal, he or she shall accompany this request with a written answer to the complainant's statement of the grounds for the proposed major sanction. Within five working days of the Tribunal's receipt of the respondent's request, the Chair of the Tribunal shall notify the complainant and the respondent in writing of the date and place of the hearing. The hearing shall be held at the earliest date that is agreeable to the respondent, complainant, and Tribunal, and ordinarily no more than three months from the notification date. Delay of the hearing beyond three months from the notification date shall require a written request to the Tribunal from the complainant and/or respondent, and be granted only when the Tribunal deems that more time is required to prepare.

F. The respondent and the complainant shall be entitled to move to disqualify for prejudice any member of the Tribunal. Such motion shall be in writing, which shall set forth the reasons therefor and shall be delivered to the Chair of the Tribunal not later than ten working days prior to the date set for the hearing. Such motion shall be decided by the remaining members of the Tribunal. If the remaining members decide that the disqualification is proper, an alternate shall be chosen from the University Just Cause Panel by the Chair of the Faculty Senate as described in I.B.22.

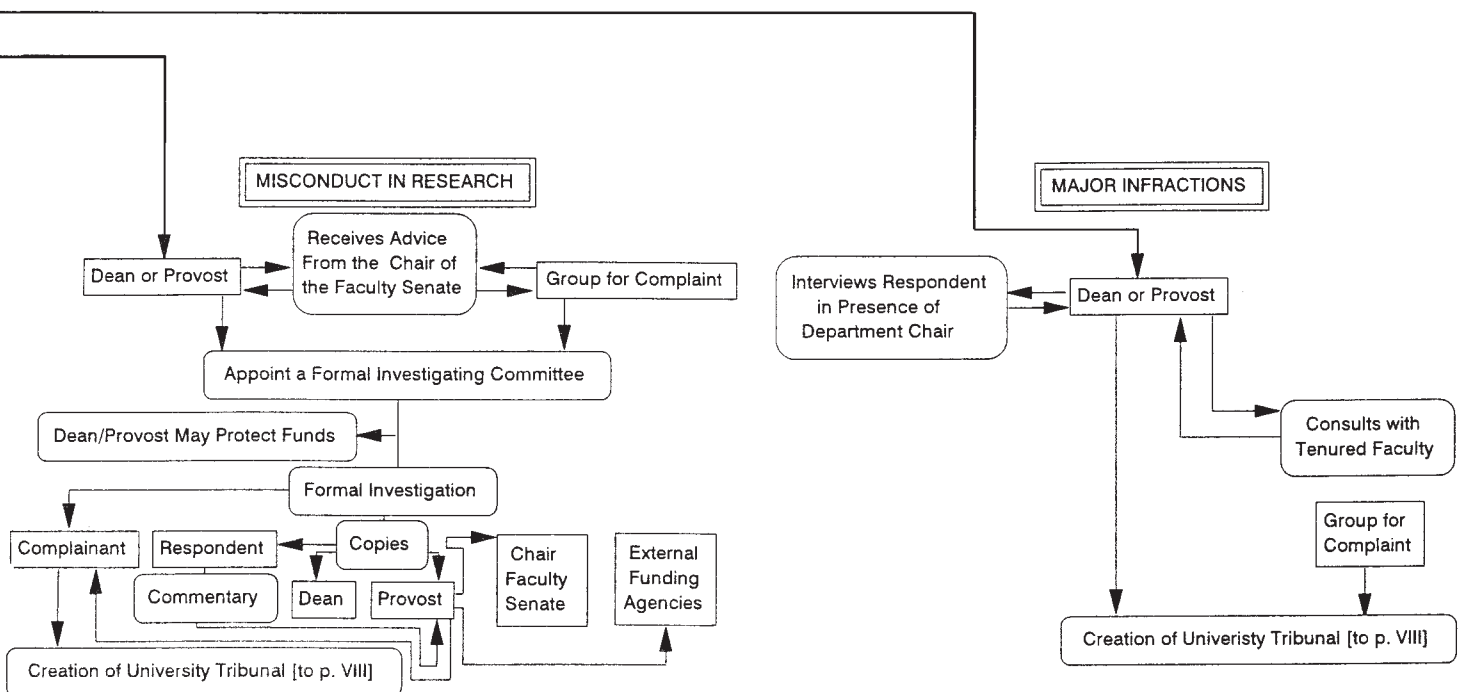
G. If a hearing is held at the request of the respondent, it shall be private with two exceptions. The respondent shall have the right to invite as observers representatives of national professional academic associations concerned with matters of academic freedom and tenure; other observers may be invited to attend if the complainant and the respondent mutually consent. A transcript of the hearing shall be taken by a stenographer furnished by the University. The complainant has the burden of proving by clear and convincing evidence that there is just cause for imposition of a major sanction against the respondent. Both the respondent and the complainant may appear personally throughout the hearing; both may have the assistance of counsel. The Tribunal shall afford the respondent and the complainant the opportunity to present oral and written argument. The respondent and the complainant shall have the right to confront the

witnesses and to question them personally or through counsel. He or she may call witnesses on his or her own behalf and shall receive the cooperation of the University administration in securing the attendance of such witnesses and the possession of such documents as may be relevant to the faculty member's defense. The relevance and extent of documentary production shall be determined solely by the Tribunal. The Tribunal may decide the appropriateness of telephone conference calls as a means for the appearance of witnesses.

H. After the hearing, the Tribunal shall deliberate privately. It shall recommend solely upon the basis of information adduced at the hearing whether or not the complainant has established by clear and convincing evidence that there exists just cause for the imposition of a major sanction and, if so, what that sanction should be. The Tribunal may also recommend a minor sanction - either in addition to or instead of a major sanction; the latter shall obtain only in cases where the Tribunal has determined that the complainant has failed to establish by clear and convincing evidence that just cause for a major sanction exists. The Tribunal shall reach its conclusions promptly and send to the President a transcript of the hearings, copies of any reports of the investigative committees and the DB, and a written report in which it shall set forth its findings and recommendations along with the reasons therefor. Copies of these documents shall also be sent to the respondent by certified mail, the complainant, and the Dean and/or Provost. The respondent may, within fifteen working days, send to the President an objection to the findings or recommendations of the Tribunal.

I. The President, relying on the materials forwarded by the Tribunal, and any objections prepared by the respondent, shall decide whether to

1. accept the Tribunal's recommendations;
- or -
2. with the unanimous consent of the Past Chair, Chair and Chair-elect of the Faculty Senate, discontinue the proceedings because the complainant has failed to prove, by clear and convincing evidence, the existence of just cause that warrants the recommended sanction. In this situation, the President shall send to the three Chairs all the documents received from the Tribunal and the respondent. The three Chairs shall then consult with the President before they make their decision. Should any of the three Chairs choose to be recused, the other two Chairs shall select a replacement from the available former Chairs of the Faculty Senate;
- or -
3. remand the matter to the Tribunal either because there has been a defect in procedure or because the President does not wish to accept the recommended sanction.



If the matter is remanded to the Tribunal, the President shall send to the Tribunal the respondent's objections, if any. The Tribunal shall reconvene, take steps to repair any procedural defects, and hold an additional hearing, if needed, granting to the parties those procedural rights provided in paragraph VI.G. The Tribunal shall then send a second report to the President, along with the transcript of any second hearing, with copies to the respondent by certified mail, the complainant, and the Dean and/or Provost.

J. The President, relying upon the two reports from the Tribunal, all accompanying documents, and any further objections prepared by the respondent shall then decide whether to

1. accept the Tribunal's recommendations;
- or -
2. with the unanimous consent of the past Chair, the Chair and the Chair-elect of the Faculty Senate, and following the procedures described in VI. I. 2, impose a different major sanction than that recommended by the Tribunal.

The President shall promptly furnish all parties in interest with a letter stating his or her decision and the reasons therefor. The President's decision is final within the University.

K. If the Tribunal recommends that the respondent's appointment be terminated, it shall also recommend a date of termination which cannot be more than one year beyond the date of the President's final action. Salary and benefits shall cease on that date. If the President accepts the Tribunal's recommendation to terminate the respondent's appointment, he or she must also accept the termination date recommended by the Tribunal. If the President decides to terminate the respondent's appointment without the recommendation of the Tribunal, the date of termination shall be one year from the date of the President's action.

L. On the completion of the case the Tribunal shall transfer all of its records to the office of the Faculty Senate. These records shall be stored in a locked file.

M. Public statements about these proceedings by persons within the University, whether parties to the proceedings or otherwise, must be avoided until the proceedings have been completed. After the President has made a final decision, and after consultation with the three Chairs of the Faculty Senate, the President shall publish in *Almanac* a statement describing, in appropriate detail, any case involving a major infraction of University behavioral standards and its disposition.

Aide Memoir I

The following statement shall be sent to the Chair of the Faculty Senate on approval of this document:

Initially, two of the four members of the University Just Cause Panel chosen from the School of Arts and Sciences shall serve for one year, one for two years and one for three years; one of the four members from the School of Medicine shall serve for one year, two for two years, and one for three years. The two members from the School of Engineering and Applied Sciences shall serve for two and three years respectively; the two members from the School of Veterinary Medicine shall serve for one and three years respectively; and the two members from the Wharton School shall serve for two and three years respectively; the members from the Annenberg School, the Graduate School of Fine Arts and the School of Social Work shall each serve for one year, from the Schools of Dental Medicine and of Law shall each serve for two years; and the members from the Graduate School of Education and the School of Nursing shall each serve for three years. Thereafter all appointments shall be for three year terms, except where appointments are made to complete the terms of persons who leave the panel before the end of their terms.

Aide Memoir II

The Task Force decided not to include recommendations for procedures to deal with partial disability or incapacity because of the extreme complexity of that situation and the need for involvement of many other University groups.

